



RHTLaw Vietnam

LEGAL UPDATE

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FOREX REGISTRATION UNDER SIMPLIFIED OVERSEAS INVESTMENT REGIME

The traditional outward investment procedures normally involve, among others, the registration of outward investment (“**Outward Investment Registration**”) with the investment authorities and the registration of foreign exchange transactions (“**Forex Registration**”) with the State Bank of Vietnam (“**SBV**”).

It is notable that the outward investment regime has recently been significantly simplified, and accordingly, certain projects may now be exempt from the Outward Investment Registration. This necessitates amendments to the foreign exchange regime currently governed by Circular No. 12/2016/TT-NHNN (“**Current Circular**”).

Below is a summary of the notable points across the various investment stages under the draft new Circular (“**Draft**”) released by the SBV.



Generally, the Draft inherits the Current Circular and further clarifies, among others, the Forex Registration and mechanism for remittance of money in case where the Outward Investment Registration is not required.

OVERVIEW OF FOREX REGISTRATION PROCEDURES

In Case Outward Investment Registration Required

Conventionally, the investment authorities will review the investment related dossier and grant a certificate of Outward Investment Registration. An investor will then submit to SBV such certificate of Outward Investment Registration at the Forex Registration stage.

Generally, an application dossier for Forex Registration will normally include:

- a certificate of Outward Investment Registration;
- approval to the overseas investment granted by the host investment country, or otherwise, documents evidencing the right to invest in the host country such as certificate of enterprise registration, certificate of tax registration, charter, shareholders agreement, share purchase agreement, etc.;
- confirmation issued by the Vietnamese licensed bank on opening the capital account and money remitted overseas at the planning stage.

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In Case Outward Investment Registration Not Required

In this case, investors will just declare their investment projects on the national investment database and obtain investment project codes; thereafter, they can proceed with the Forex Registration.

Remarkably, the review of investment related dossiers will not be entirely removed. Such tasks, which are conventionally carried out by the investment authorities, will now be allocated to the SBV during the Forex Registration process. Accordingly, SBV will additionally require, among others, documents regarding the investors' legal status, their overseas investment projects, fulfilment of tax liabilities and other relevant documents, and consult relevant authorities on case-by-case basis.

REMITTING MONEY OVERSEAS AT PLANNING STAGE

It is allowed to remit money overseas to cover the costs of project development such as market survey, hiring of consultants for project evaluation, organization of seminars, payment of deposits, contract negotiation and other permitted activities.

Each investor will open a bank account for each outward investment project at a licensed bank in Vietnam for money remittance. Investors may continue using those bank accounts for execution stage.

Money can be remitted in foreign currency in addition to VND and shall not exceed the maximum quota permitted by law.

In case where any certificate of Outward Investment Registration or Forex Registration is not issued,

investors will remit back to Vietnam the remaining money and close the relevant bank accounts.

REMITTING MONEY OVERSEAS AT EXECUTION STAGE

The execution stage commences upon the issuance of a certificate of Outward Investment Registration or, in cases where the Outward Investment Registration is not required, an investment project code. Investors may thereafter proceed with the Forex Registration. Any changes in the issued certificate of Forex Registration must be notified to or registered with the SBV.

Money will be remitted pursuant to the granted certificate of Forex Registration for permitted purposes such as funding the overseas investment project, extending loans to or collecting principal and interest from the overseas companies, making payments under a guarantee, receiving profits, etc.

UTILIZING OVERSEAS PROFITS

Investors may remit to Vietnam profit generated from their overseas investment projects, or may use the profit for reinvesting in the current project or developing a new one. Investors may be required to apply for amending the issued certificates of Outward Investment Registration and/or Forex Registration, as the case may be, or apply for new certificate(s).



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