



**DRAFT LAW ON BUSINESS INVESTMENT:  
SIMPLIFICATION OF PROCEDURES IN BUSINESS INVESTMENT**

The Law on Investment 2020, during its implementation in practice, has revealed certain limitations and difficulties, particularly concerning investment and business procedures; the right to business freedom, conditional business lines; as well as policies on investment incentives and support. In light of the urgent demand for a renewed investment environment, the Draft Law on Business Investment, prepared by the Ministry of Finance, is oriented towards simplifying administrative procedures, removing obstacles and legal “bottlenecks,” and improving a transparent and equitable investment environment. This is consistent with the Resolution of the Party on the development of a socialist-oriented market economy and the promotion of the private sector, thereby facilitating domestic and foreign investors. Notably, the renaming from “Law on Investment” to “Law on Business Investment” reflects more accurately the nature and scope of regulation concerning investment activities associated with business.

Without addressing provisions inherited from the previous legislation or those repealed and delegated to the Government for regulation through guiding instruments, this article by ATA Legal Services shall focus on analyzing the new and outstanding provisions of the Draft Law on Business Investment and providing a preliminary assessment of their potential impact on individuals and enterprises in the near future.

## I. REMOVAL OF NUMEROUS SECTORS FROM THE LIST OF CONDITIONAL BUSINESS LINES

The Draft supplements and clarifies the concept of ***conditional business investment requirements***, defined as requirements regarding capacity, professional qualifications, human resources, facilities, and management systems that individuals and organizations must satisfy in order to conduct business investment activities in conditional business lines and sectors, excluding technical regulations and standards issued by competent authorities concerning product and service quality.

A major change is that the List of conditional business lines and sectors will be issued by the Government, allowing flexibility and proactivity in controlling the promulgation of conditional business sectors and promptly adapting to socio-economic changes.

Of particular note, the Draft proposes abolishing 16 business lines/sectors from the list of conditional business lines, specifically:

- + *Accounting services business;*
- + *Rice export;*
- + *Temporary import and re-export of frozen food;*
- + *Goods trading and related activities conducted directly by foreign service suppliers in Vietnam;*
- + *Employment service business;*
- + *Labor subleasing service business;*
- + *Automobile warranty and maintenance services;*
- + *Construction, conversion, repair, and restoration of inland waterway vessels;*
- + *Shipbuilding, conversion, and repair services;*
- + *Research, manufacture, testing, repair, and maintenance of unmanned aircraft, other flying vehicles, aircraft engines, propellers, and related equipment;*
- + *Construction activities by foreign contractors;*
- + *Management and operation of cremation facilities;*
- + *Overseas study consultancy services;*
- + *Film distribution services;*
- + *Performing arts, fashion shows, beauty contests, and modeling contests;*
- + *Printing and minting money.*

In general, the abolition of certain conditional business lines is based on criteria such as:

- + Business lines that are not directly related to, or do not directly affect, national defense, national security, social order and safety, social morality, or public health;
- + Business lines already managed through technical regulations and standards;
- + Business lines where output quality is determined by the market and consumers, rendering conditional business requirements unnecessary;
- + Business lines providing public utility products or services that can be controlled through state bidding or ordering mechanisms.

In addition, ATA Legal Services proposes the following removals and adjustments:

- (i) Proposal to abolish or narrow the scope of the printing services business, applying only to large-scale printing facilities or those associated with specific publications/materials they produce (currently only packaging is exempted). Basis of proposal:
  - + The State's objective in imposing conditions on this sector is to control the content of publications and printed materials. Accordingly, current Vietnamese law already integrates compliance requirements in publishing, printing, and cultural management legislation;
  - + Imposing conditions such as security and order certificates on small printing facilities that only print simple materials or outsourced orders from publishing houses responsible for content development is unnecessary;
  - + Fire prevention and safety conditions applicable to printing facilities are already governed by construction-related laws.
- (ii) Proposal to narrow the scope of the animal feed and aquatic feed business, specifically by removing "trading of animal feed and aquatic feed" from conditional business activities.

In practice, animal and aquatic feed must comply with technical regulations and be subject to standard and conformity announcements before circulation on the market. Current law only requires production activities to be licensed as conditional businesses, while distribution activities are not regulated.

Therefore, the Draft should be adjusted to reflect actual practice.

## **II. ENHANCING FLEXIBILITY AND EMPHASIZING THE ROLE OF THE GOVERNMENT AND PRIME MINISTER IN DETERMINING AND APPLYING INVESTMENT INCENTIVES AND SUPPORT**

### ***a. Beneficiaries and forms of investment incentives***

The Draft amends the law to avoid rigid provisions and instead stipulates the principle that: "Investment *projects of importance, large-scale capital projects, or labor-*

*intensive projects as decided by the Prime Minister*” shall be eligible for investment incentives. This ensures alignment with the orientation of the Law, which should only provide fundamental principles and frameworks under the competence of the National Assembly, while giving the Government discretion to determine sectors eligible for investment incentives in each period. It also establishes a mechanism for Ministries to review and narrow the scope of incentivized sectors, ensuring focus and efficiency.

The forms of investment incentives remain consistent with the current law (e.g., corporate income tax incentives, import tax exemptions, land use fee reductions), but the Draft adds ***“other investment incentives as prescribed by the Government/Prime Minister”***. This highlights the central role of the Government and the Prime Minister in economic governance.

## ***b. Incentivized sectors and geographical areas***

### ***(i) Incentivized sectors:***

The Draft removes the rigid lists of incentivized sectors/locations, instead defining incentivized sectors as those prioritized for investment attraction to achieve the following objectives:

- + Development of science, technology, innovation, and digital transformation;
- + Development of the green economy, circular economy, sharing economy, digital economy, and new economic models;
- + Development of industry clusters, value chains, attraction of high-value, modern management investments with spillover effects and integration into global supply chains;
- + Development of agriculture, forestry, and environmental and natural resource protection;
- + Development of infrastructure;
- + Development of education, training, healthcare, elite sports, and national culture;
- + Other objectives as prescribed by the Government.

### ***(ii) Incentivized locations:***

Previously, the Law only broadly defined incentivized locations (difficult or especially difficult socio-economic areas; industrial zones, export-processing zones, high-tech parks, economic zones). The Draft specifies clear criteria consistent with the Land Law and Planning Law, including:

- Areas with especially difficult socio-economic conditions;
- + Mountainous communes, ethnic minority areas, border areas, and islands as prescribed by the Government/Prime Minister;

- + Island communes of strategic national defense and security significance or with unique natural conditions;
- Areas with difficult socio-economic conditions: those not falling into the above category and not classified as urban areas of special grade or grades I, II, III.

### *c. Special investment incentives and support*

Previously, the Law listed specific projects eligible for special incentives (e.g., new innovation centers, R&D centers, data centers, cloud computing infrastructure, 5G infrastructure, projects with investment capital of 30,000 billion VND or more). The Draft, however, shifts to a principles-based approach, assigning the Government discretion to decide which projects are eligible.

Key principle: priority is given to large-scale, strategic projects with spillover effects. The Government will specify the capital thresholds and disbursement schedules applicable to such projects, tailored to each sector.

This legislative-technical shift reinforces the role of the Government and Prime Minister in steering the economy and selectively choosing projects with significant socio-economic impact, innovation potential, and transformative effects. Accordingly, special investment incentives will be applied selectively, aligned with strategic objectives, ensuring effective investment allocation and sustainable development.

Overall, the Draft Law on Investment and Business 2025 demonstrates a significant shift in the principles of investment incentive policies, built on three pillars:

- + Flexibility – adaptability – avoidance of rigidity;
- + Strengthened policy-making role of the Government and Prime Minister;
- + Unified and centralized legal framework for investment incentives.

This approach is consistent with institutional reform, international integration, and the goal of improving investment quality toward sustainable development and growth model transformation.

## **III. CHANGES IN THE LICENSING SEQUENCE FOR FOREIGN INVESTORS ESTABLISHING ECONOMIC ORGANIZATIONS TO IMPLEMENT INVESTMENT PROJECTS**

Under the current Law on Investment, foreign investors (“FIs”) are required to obtain an Investment Registration Certificate before proceeding with the establishment of an economic organization to implement the project (except in cases of establishing start-up small and medium-sized enterprises and start-up investment funds, as provided by law).

However, the Draft reverses this sequence: FIs shall first establish the enterprise and subsequently apply for an Investment Registration Certificate. This adjustment reflects practical realities, as the entity actually implementing the project is not the FI directly, but rather the enterprise established or contributed to by the FI. Accordingly, allowing the enterprise to act as the applicant for investment licensing procedures is more convenient and appropriate.

This revision is expected to create a more favorable framework for FIs in carrying out relevant procedures and to serve as a basis for expanding foreign investment in Vietnam.

#### **IV. PRINCIPLE-BASED APPROACH IN DETERMINING INVESTMENT PROJECTS REQUIRING INVESTMENT POLICY APPROVAL AND DELEGATION TO THE GOVERNMENT FOR DETAILED REGULATION**

Similar to the treatment of conditional business lines, the Draft Law on Investment and Business does not provide an exhaustive list of projects subject to investment policy approval. Instead, it establishes guiding principles and general criteria (such as project scale, land origin, and investment/business sector), except for certain special projects or projects of significant importance, which must necessarily undergo appraisal prior to licensing (e.g., betting, casino projects, nuclear power plants).

Specifically, the Draft provides as follows:

##### ***a. Projects subject to investment policy approval by the Prime Minister***

- + Projects requiring conversion of land use purposes for: Special-use forests, watershed protection forests, or border protection forests from 50 hectares or more; Windbreak, sand-shielding, or sea-dyke protection forests from 500 hectares or more; Production forests from 1,000 hectares or more.
- + Projects requiring conversion of land use purposes for paddy land with two or more rice crops, with an area of 500 hectares or more.
- + Projects requiring resettlement of 20,000 or more people in mountainous areas, or 50,000 or more in other areas.
- + Projects involving betting or casino business (excluding prize-winning electronic games for foreigners).
- + Projects falling within protected areas under cultural heritage law, regardless of land size or population, if located in Zone I of a monument recognized as a special national relic or part of the World Heritage List.
- + Nuclear power plants.

- + Projects by foreign investors in sectors such as telecommunications infrastructure, afforestation, publishing, and press.
- + Projects requiring special mechanisms or policies not yet provided for by law, or projects under directives of the Politburo, the Party Secretariat, or the Government Party Committee. In such cases, the Prime Minister shall approve the investment policy only after approval by the Standing Committee of the National Assembly.
- + Other projects within the authority of the Prime Minister under applicable law.

***b. Projects subject to investment policy approval by Chairpersons of Provincial People's Committees***

- + Projects where the State allocates or leases land without auction, bidding, or transfer of land use rights and attached assets.
- + Projects requesting conversion of land use purposes, except for cases where households or individuals apply and no provincial-level approval is required under land law.
- + Projects involving important infrastructure, projects of large scale or significant impact, projects affecting the environment, national defense, or security, and other projects as prescribed by the Government.
- + Projects implemented on islands, in border communes/wards/towns, coastal communes/wards/towns, or other areas with implications for defense and security.
- + Projects requesting allocation of sea areas by the State.

**V. PRINCIPLES FOR DETERMINING PROJECTS NOT SUBJECT TO INVESTMENT POLICY APPROVAL**

Apart from projects falling under the categories above, the Draft Law provides guiding principles to determine projects exempt from investment policy approval, including:

- + Projects already defined in detail under national or provincial sectoral plans with respect to project name, scale, objectives, location, investor (if any), timeline, and duration.
- + Projects implemented by investors who win land-use rights auctions or project bidding procedures (including cases of investor designation, or where the land use purpose differs before and after auction/bidding).
- + Projects by investors winning mineral exploitation rights auctions.
- + Projects by investors assigned to develop industrial cluster infrastructure under applicable industrial cluster management laws.
- + Other projects as prescribed by the Government.

## **VI. NARROWING THE SCOPE OF CASES REQUIRING ADJUSTMENT OF APPROVED INVESTMENT POLICIES**

The Draft limits the situations requiring adjustment of investment policy approval as follows:

- + Change of investment objectives: only when the principal objective is changed, or when additional objectives are added that fall within the scope of projects subject to policy approval.
- + Change of land use scale: only applicable where there is an increase in land area allocated or leased by the State without auction/bidding, or where land use purposes are altered.
- + Eliminating requirements for adjustment in cases of change of project location, total investment capital, or technology.

These changes are designed to reduce administrative procedures and facilitate investor operations.

## **VII. ADDITIONAL GROUNDS FOR TERMINATION OR PARTIAL TERMINATION OF INVESTMENT PROJECTS**

Under the current Law on Investment, projects are terminated (wholly or partly) by the investment registration authority primarily in cases of land recovery due to failure to use land or delayed use in breach of land law. This implies that termination only occurs where land-use violations exist.

In practice, however, many economic organizations implementing projects are subject to land recovery for reasons of national defense, security, or socio-economic development under the Land Law, even where no investor fault exists.

The Draft harmonizes the Investment Law with the Land Law by providing that investment projects may be wholly or partly terminated whenever land is recovered, regardless of the reason.

Nevertheless, such provisions could negatively affect investor confidence and legitimate expectations, as termination may occur even absent investor fault. Accordingly, ATA recommends that lawmakers consider incorporating mechanisms for compensation or indemnification in either the Draft Law on Investment and Business or the amended Land Law, applicable where projects are terminated due to land recovery unrelated to investor misconduct or prior to achieving investment objectives.

In addition, the Draft supplements two further grounds for project termination:

- + Dissolution, bankruptcy, or cessation of operations of the economic organization under enterprise registration laws;
- + Investor being a natural person who has died or been judicially declared dead under civil law without leaving a will.

## **VIII. EXEMPTION FROM OUTBOUND INVESTMENT REGISTRATION FOR PROJECTS WITH CAPITAL UNDER VND 20 BILLION**

Under the 2020 Law on Investment, all outbound investment projects, regardless of capital size, are required to obtain an Outbound Investment Registration Certificate. This procedure is time-consuming, complex, and entails stringent conditions. In practice, many SMEs engaging in cross-border partnerships, joint ventures, or small-scale business operations with foreign partners resort to using nominee arrangements or alternative methods to circumvent these requirements, thereby complicating regulatory oversight and increasing operational risks.

To encourage enterprises, particularly SMEs, to expand internationally in line with Resolution 68, the Draft Law requires outbound investment registration only for projects with capital of VND 20 billion (approx. USD 760,000) or more. For projects below this threshold, enterprises will merely need to register foreign exchange transactions with the State Bank of Vietnam for capital transfer abroad.

This constitutes a positive administrative reform aligned with global best practices in facilitating enterprise activity. Nonetheless, additional safeguards and monitoring mechanisms will be necessary to prevent financial risks, abuse, or regulatory evasion.

**According to ATA Legal Services, the Draft Law on Investment introduces reforms, innovations, and significant facilitation for investors, specifically as follows:**

### ***(1) The Draft reflects a new legislative mindset and approach, oriented toward greater flexibility***

- + The Draft Law on Investment and Business has been revised toward transparency, consistency, and reduction of overlaps with other laws such as the Law on Enterprises, the Law on Investment, the Land Law, the Environmental Law, etc.
- + It clearly demonstrates the shift from ex ante (pre-control) to ex post (post-control) management, particularly through the removal of certain conditional business lines, allowing foreign investors to establish economic organizations prior to obtaining investment project approval, and eliminating the requirement to obtain outbound investment certificates for small-scale projects.
- + It reflects a change in legislative thinking and methodology in a more flexible direction: the Law provides only general principles and a basic legal framework

with long-term orientation, while delegating detailed regulatory authority to the Government and the Prime Minister. This allows for timely and flexible adjustments in response to practical requirements of each period. This approach is consistent with the Party and State's policy of promoting decentralization and delegation of authority, ensuring flexibility and responsiveness to domestic and international economic fluctuations, while enhancing the effectiveness of state management in the investment sector.

***(2) The Draft integrates numerous changes aligned with current trends and responsive to the needs of enterprises and the legal community***

- + Reduction of conditional investment and business lines: A number of business lines are proposed to be removed or amended to create favorable conditions for start-ups and SMEs.
- + Promotion of a more open investment environment: The Draft supplements and clarifies projects exempt from the procedure of investment policy approval, reduces cases subject to amendment of approved investment policies, and narrows the scope of projects required to obtain outbound investment approval. These new provisions help reduce administrative procedures and enable enterprises to save time, costs, and procedural risks.

***(3) Remaining gaps and potential high-risk issues***

- + The Law on Investment and Business merely provides the list of conditional investment and business lines, whereas the specific conditions applicable to such lines are regulated under specialized legislation. This may cause confusion for enterprises and investors during implementation. The Government needs to provide centralized, unified guidance to enable enterprises and investors to easily access and comply with the applicable requirements.
- + The Draft does not yet establish mechanisms to protect investors' rights in cases where policy changes result in damages to investors — for example, where land recovery requires termination of an ongoing investment project. This is a matter of particular concern for investors who seek assurance before committing to projects.
- + The Draft lacks transitional provisions for cases where legal changes occur during the licensing or implementation phase of investment projects, potentially creating legal gaps or obstacles for investors and projects.
- + While the Draft reflects progressive and flexible legislative thinking in line with the trends of integration and institutional reform, alongside the facilitation measures, it

is also necessary to establish mechanisms for supervision and impact assessment in order to mitigate risks during implementation.

## ABOUT US

ATA Global Legal Limited Company (**ATA Legal Services**) is established and operated by acknowledged and experienced lawyers. Our operational goal is to become a law firm providing flexible and comprehensive legal services to both organizations and individuals, and both local and international clients. Of which, one of our core service is in-depth corporate consultancy.

All partners, lawyers, advisors, consultants, and even paralegals of ATA Legal Services are well-trained and have years of experience in the areas they are in charge of. In particular, the partners of ATA Legal Services have all consulted for and worked with renowned economic groups, banks or securities companies such as Vingroup, FLC, DNP, Tasco, Techcombank, SHB, SHS, VPS, etc.

With a serious and professional working attitude along with the dedication of the team always trying to put ourselves in the position of clients to understand their needs and aspirations, we are committed to bringing the most effective and appropriate services for Valued Clients.

# ATA LEGAL SERVICES

- Hotline: 091.4645.112
- Email: [contact@ata-legal.com](mailto:contact@ata-legal.com)
- Website: <https://ata-legal.com>
- Address: 184 Nguyen Tuan street,  
Thanh Xuan ward, Hanoi