

STREAMLINING ADMINISTRATIVE PROCEDURES FOR INVESTORS THROUGH THE APPLICATION OF THE SPECIAL INVESTMENT PROCEDURE

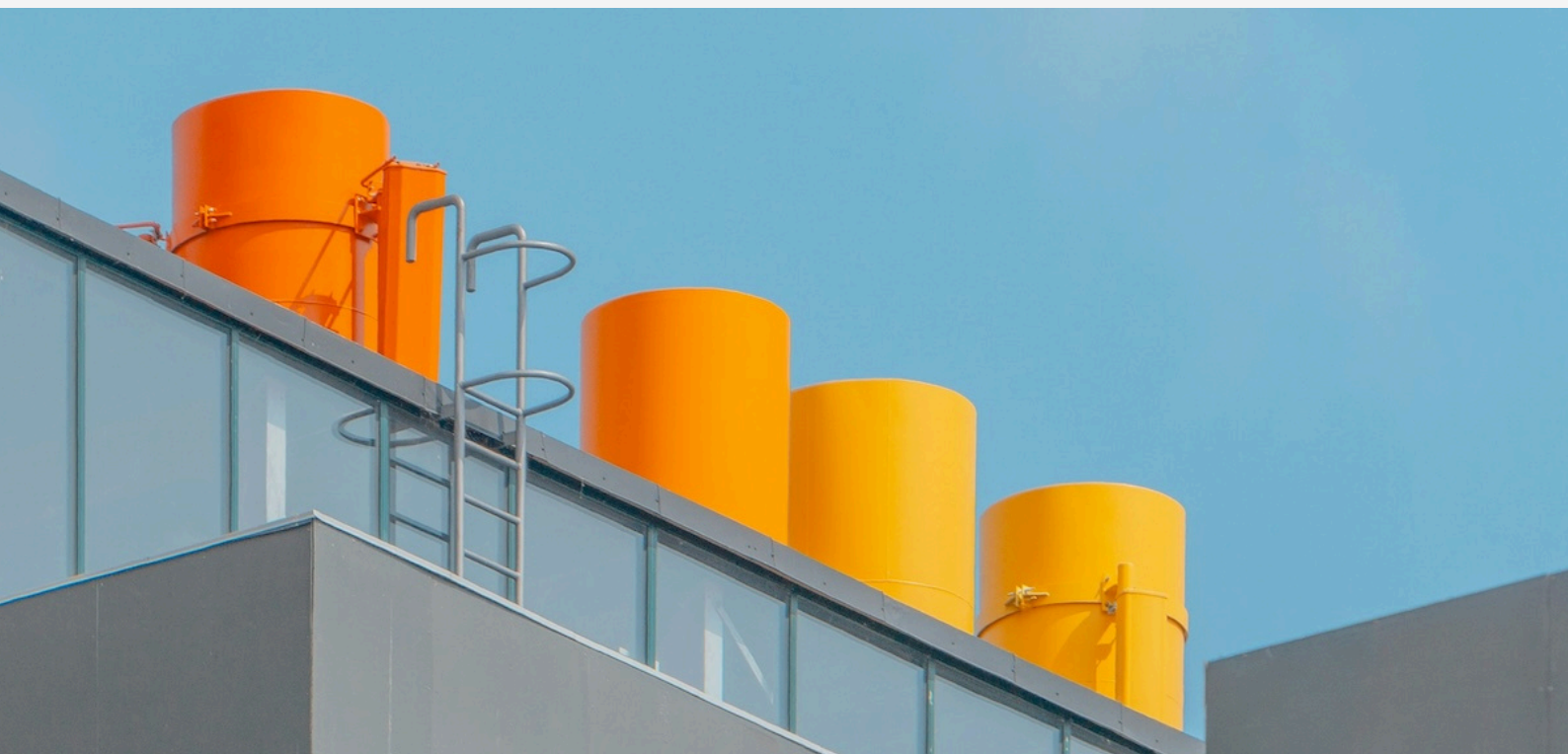
TANG MY NGAN

Within the scope of the Law on Investment 2020 amended in 2024, Article 36a has been updated to stipulate the groups of investment projects eligible for registering under special procedure upon satisfaction of specific conditions. Accordingly, from January 15, 2025, investors implementing projects regulated by the new procedure will be entitled to more preferential policies as many licenses and administrative procedures related to investment policy approval, environment, construction planning, fire prevention and fighting, and a number of other procedures under law are eliminated. Special investment procedure is applied to projects in industrial parks, export processing zones, high-tech parks, concentrated information technology parks, free trade zones and functional areas in economic zones in the following fields (except for projects under Article 30 of the Law on Investment 2020):

- (i) Investing in building innovation centers, research and development (R&D) centers;
- (ii) Investing in semiconductor integrated circuit industry, design technology, manufacture of components, integrated circuits (IC), flexible electronics (PE), chips, semiconductor materials;
- (iii) Investing in high-tech fields which are given priority in investment development, in manufacture of products in the list of high-tech products encouraged for development according to the Prime Minister's decision. Investment projects in high-tech zones must meet the principles and criteria for projects implementing high-tech activities according to the Law on High Technology and the Government's regulations on high-tech zones.

In order to provide specific guidance for implementation of the above regulations, on February 10, 2025, Decree 19/2025/ND-CP detailing the Law on Investment regarding special investment procedure (**Decree 19**) was issued with effectiveness from the date of issuance. Some notable contents related to special investment procedure set forth in Decree 19 include:

Firstly, Decree 19 stipulates the implementation of the registration procedure for investment certificates of investment projects under special investment procedure. According to the normal investment registration procedure in the Law on Investment 2020, when applying for an investment certificate, investors



need to implement administrative procedures on environment, construction, and fire prevention and fighting. The special investment procedure simplifies the implementation of the above administrative procedures, only requiring the investors to commit to meeting the conditions, standards, and relevant technical regulations pursuant to the provisions of the law on construction, environmental protection, fire prevention and fighting, not to performing acts prohibited by relevant laws in these fields, and to taking full responsibility in case of failure to implement the commitment properly. The commitment content is stated in the written proposal for implementation of the investment project.

To apply for an Investment Registration Certificate, the investor shall submit one set of application dossier for Investment Registration Certificate to the Management Board of the relevant industrial park, export processing zone, high-tech zone, economic zone (hereinafter referred to as the Management Board). Within 15 days from the date of receipt of the dossier, the Management Board shall evaluate and issue the Investment Registration Certificate.

Secondly, in addition to the obligations to guarantee the implementation of investment projects in Article 43 of the Law on Investment 2020, Article 25, Article 26, Decree 31/2021/ND-CP, an investor following special investment procedure needs to carry out a number of additional procedures to guarantee the implementation of projects according to Decree 19 as follows:

The investor chooses to implement one of two methods (i) make the required deposit or (ii) submit a guarantee commitment from a credit institution to guarantee the fulfillment of deposit-related obligations. The time when the guarantee is made will be flexible depending on each case: (i) The investor does not make any advanced payment of compensation, support and residential resettlement costs; (ii) The investor has made advanced payment of compensation, support and residential resettlement costs; (iii) The project is located in a land area appropriated by the State after having made full payment of compensation, support and residential resettlement costs.

The refund of amounts paid for guarantee of project implementation obligations is divided into 2 phases as follows:

(i) At the time the investor sends the Management Board a notice on commencement of construction and the documents stipulated under clause 8 Article 36a of the Law on Investment 2020, amended and supplemented in 2024: 50% of the deposit amount will be refunded; or the sum in the guarantee for fulfillment of deposit-related obligations shall be reduced by 50%;

(ii) At the time the investor sends the Management Board the acceptance minutes of construction work completion, the remaining deposit amount and any interest thereon will be refunded; or the guarantee for fulfillment of deposit-related obligations shall cease.

Thirdly, investors need to pay attention to notify and implement a number of procedures before and during the implementation of investment projects according to the special procedure in a number of specific cases, specifically as follows:

(i) Sending notices on commencement of construction together with the Economic - Technical Report on Construction Investment, Report on the appraisal results of the Economic - Technical Report on Construction Investment to the local competent state agency on construction order management and the Management Board at least 30 days before commencement of construction: applied to investment projects with construction components.

(ii) Implementing procedure for obtaining an Environmental License (if required) before starting construction at the competent state agency: the relevant order and procedure shall comply with the provisions of the law on environmental protection applicable to investment projects that are not subject to environmental impact assessment.

In general, the new provisions of the law on investment have created a premise for projects in the group entitled to special investment procedure to shorten the time for project implementation in practice by streamlining many component procedures during the investment process. According to the assessment of the Ministry of Planning and Investment, the time limit for registration procedure of investment projects under special investment procedure is only 15 days, 260 days shorter than that for normal investment registration procedure. This is considered a breakthrough in investment licensing, expected to attract investors in the high-tech sector.

Therefore, enterprises planning to implement investment projects in the fields eligible for the application of special investment procedure need to update the provisions of Decree 19 so as to implement investment projects more effectively, quickly. Moreover, it is necessary to pay attention to the transitional provisions in Article 9 of the Decree related to the settlement of investment project dossier received before January 15, 2025 but without results for compliance with the regulations. In the case that you have any queries or concerns regarding the new regulations of Decree 19, contact NHQuang&Associates for advice and assistance.