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DECREE 96/2026/ND-CP: OPPORTUNITIES AND LEGAL CONSIDERATIONS FOR FOREIGN INVESTORS

On March 31, 2026, the Government issued Decree 96/2026/ND-CP providing details and guidelines for the implementation of certain provisions of the Law on Investment (**Decree 96**), effective from the date of issuance, replacing Decree 31/2021/ND-CP. This Decree introduces and refines numerous provisions, offering greater procedural flexibility for investment activities while also clarifying market access conditions and targeted investment incentive policies. The following highlights the key changes under Decree 96 that investors should be aware of when implementing investment activities in Viet Nam.

First, Decree 96 permits the establishment of an economic organization before obtaining an Investment Registration Certificate

Under the Law on Investment 2020, foreign investors were required to obtain an Investment Registration Certificate (**IRC**) before establishing an economic organization, except in cases where an IRC application was not required. The Law on Investment 2025 and Decree 96 introduce a more flexible mechanism, allowing foreign investors to first establish an economic organization and subsequently apply for the IRC.

However, this mechanism comes with specific conditions and limitations: (i) at the time of registration, the investor must commit to meeting the market access conditions applicable to foreign investors; (ii) within 12 months from the date of issuance of the Enterprise Registration Certificate, the economic organization must complete the IRC application procedures and can only supplement the business lines after the IRC has been issued; and (iii) the investment project can only be implemented after the IRC has been duly issued or adjusted.

Under the new regulations, upon issuance of the

Enterprise Registration Certificate, the economic organization immediately acquires legal personality to undertake necessary preparatory activities such as entering into contracts, recruiting personnel, and preparing assets and physical infrastructure, while simultaneously proceeding with the IRC application. This mechanism significantly shortens the market entry timeline for foreign investors, though it retains strict conditions and procedural requirements. Investors are advised to proactively plan for their IRC application from the time of filing the enterprise registration documents in order to avoid pressure from the 12-month deadline. They should also clearly define the scope of activities during the transitional period from the outset, given that the addition of business lines is restricted until the IRC is obtained.

Second, Decree 96 expands the entities eligible for special investment incentives in strategic technology and semiconductor sectors

Article 21 Decree 96 significantly expands and clarifies the categories of entities eligible for special investment incentives and support, as compared to Decree 19/2025/ND-CP, with a focus on strategic technology, semiconductors, and digital infrastructure. This represents an important step toward quantifying clear financial and technical criteria to attract large-scale, high-value-added projects. The main eligible categories include:

- Strategic technology infrastructure and innovation: Projects involving the establishment or expansion of innovation centers, research and development (R&D) centers, big data infrastructure, cloud computing, 5G and above mobile infrastructure, and digital infrastructure in the strategic technology sector. Eligibility condition: total investment of 3,000 billion Vietnamese Dong or more, with a minimum disbursement of 1,000 billion Vietnamese Dong within 3 years from the date of licensing.
- Semiconductors, artificial intelligence, and key digital technology: Encompassing the entire semiconductor value chain (from research, design, manufacturing, packaging to testing), construction of AI data centers, and manufacturing of key digital technology products. Eligibility condition: total investment of 6,000 billion Vietnamese Dong or more, with a minimum disbursement of 6,000 billion Vietnamese Dong within 5 years from the date of licensing.
- Large-scale, specially incentivized investment projects: Projects in specially incentivized sectors with a total investment of 30,000 billion Vietnamese Dong or more and a minimum disbursement of 10,000 billion Vietnamese Dong within 3 years from the date of licensing.

Notably, the Prime Minister is empowered to determine the level and duration of special investment incentives based on criteria such as the degree of high technology applied, capacity for technology transfer, extent of participation in the value chain, and proportion of domestic production value – rather than applying a fixed rate as previously.

Technology investors should carefully review the eligibility conditions for each project category and develop a feasible financial plan and disbursement schedule from the preparatory stage. Any failure to maintain the committed disbursement timeline may result in the loss of incentives and trigger associated legal consequences.

Third, Decree 96 adjusts the list of conditional market access sectors for foreign investors

Decree 96 revises the list of conditional market access sectors for foreign investors in the direction of controlled liberalization, while also updating the list to align with Viet Nam’s specialized legislation and international commitments. Specifically, notable adjustments include:

- Addition of construction activities by foreign contractors;
- Exclusion of printing services of packages that do not include product labeling, and removal of valuation services from the list;
- Replacement of the e-commerce sector with specific business lines covering the management and operation of intermediary e-commerce platforms, social networks conducting e-commerce activities, and integrated e-commerce platforms.

Foreign investors currently operating in or planning to expand into such sectors as e-commerce, construction, printing, or valuation should review their scope of operations to promptly identify any compliance risks or new market access opportunities arising from these adjustments.

Overall, Decree 96 marks an important shift in Viet Nam’s investment policy - broadening opportunities for market entry and access to incentives, particularly in technology sector, while also requiring investors to adopt a

strategic approach that goes beyond mere procedural compliance. Thorough preparation of documentation, well-structured business model design, and systematic compliance management will be key factors in effectively leveraging policy opportunities while mitigating legal risks during project implementation. Should clients and readers wish to discuss in greater detail the provisions of Decree 96 or other investment-related legal matters for specific projects, NHQuang&Associates is available to provide support and tailored legal advice.

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