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SHORTCOMINGS OF THE NEW TEMPLATE OF THE INVESTMENT REGISTRATION CERTIFICATE


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INTRODUCTION:

On 15 May 2026, the Ministry of Finance promulgated **Circular No. 55/2026/TT-BTC** prescribing standard forms of documents and reports relating to investment activities and investment promotion in Vietnam, which took effect on the date of signing (the "**Circular 55**"). However, practical implementation has revealed several shortcomings in these standard forms, most notably the template of the **Investment Registration Certificate** ("**IRC**").

Specifically, according to Circular 55, Article 1.6 of the IRC template provides that: *"Capital contributions in cash must be made through a direct investment capital account opened at a licensed bank".* This provision is incorporated into the IRC template applicable to all cases of initial issuance, amendment, re-issuance and correction of an IRC.

At first glance, this requirement appears to be consistent with Vietnam's foreign exchange regulations applicable to foreign direct investment enterprises. In practice, however, its unconditional inclusion in every IRC, without any exception, has created significant practical difficulties for investors and enterprises.

1. NOT EVERY ENTERPRISE OR INVESTOR HOLDING AN IRC IS REQUIRED TO OPEN A DIRECT INVESTMENT CAPITAL ACCOUNT ("DICA")

Circular No. 06/2019/TT-NHNN of the State Bank of Vietnam on foreign exchange administration in respect of foreign direct investment activities in Vietnam ("**Circular 06**") provides that: *"Capital contributions in cash by both* ***foreign and Vietnamese investors*** *must be made by bank transfer into a DICA"*. In which, a *"foreign investor"* includes both foreign individuals and entities established under foreign laws conducting foreign direct investment activities in Vietnam.

Furthermore, not all cases where foreign investors invest in Vietnam require capital contributions in cash to be made through a DICA. Rather, only foreign investors investing in foreign-invested enterprises falling within the cases prescribed in Clause 2, Article 3 of Circular 06 *(namely, enterprises having foreign investors as members/shareholders upon their establishment, or enterprises in which foreign investors hold more than 50% of the charter capital)* are required to remit their capital contributions through the DICA of such foreign-invested enterprise.

Meanwhile, the subjects eligible for the issuance of an IRC are not limited to investors being foreign individuals or entities established under foreign laws, but also include other subjects, such as "F2" investors *(i.e., economic organizations established in Vietnam whose members or shareholders are foreign-invested economic organizations)*. In fact, in practice, certain enterprises without any foreign-invested capital may also be granted an IRC.

The provision set out in Article 1.6 of the IRC template promulgated under Circular 55 contains no limitation, qualification or exception, such as *"unless otherwise provided by specialized legislation"* or *"in accordance with the laws on foreign exchange administration"*. Consequently, the provision may be construed as requiring every cash capital contribution made by an investor or enterprise holding an IRC to be affected through a DICA. This has, in effect, expanded the scope of application of the obligation to open a DICA beyond that prescribed under Circular 06.

Although the above inconsistency may be recognized, in the absence of any official guidance from the competent authorities, the Departments of Finance in certain localities have been applying this provision rather rigidly by retaining such wording when issuing IRCs for projects/investors that are not required to the obligation to open a DICA under Circular 06. Consequently, certain projects implemented by domestic investors or "F2" investors are also faced with the requirement to make capital contributions through a DICA as stipulated in their IRCs. This has given rise to considerable practical difficulties during project implementation.

2. INVESTORS ARE PLACED IN AN "IMPOSSIBLE COMPLIANCE" SITUATION

Notably, Article 29.3 of the Law on Investment 2025 requires investors to comply with the contents recorded in their IRCs. However, in practice, where an F2 investor requests a commercial bank to open a DICA to comply with the IRC, many commercial banks have refused such requests on the grounds that the enterprise is not eligible to open a DICA under Circular 06. Some banks have even requested that the crediting of the investor's capital contribution be postponed until competent authorities clarify whether the receiving account should comply with the IRC or with Circular 06.

Consequently, investors/enterprises are placed in an *"impossible compliance"* position, where they are unable to comply simultaneously with the requirements stipulated in the IRC and the regulations on capital contribution under Circular 06. This exposes investors to the risk of failing to complete capital contributions within the statutory time limit under the Law on Enterprises 2025, potentially resulting in reductions of charter capital, changes to ownership structure, additional compliance costs, or even administrative penalties for late capital contributions.

3. THE NEED FOR PROMPT REGULATORY GUIDANCE

At a time when Vietnam is striving to reduce administrative burdens on businesses and attract foreign investment, the IRC template should function solely as a documentary instrument recording investment information rather than creating substantive legal obligations beyond those prescribed by law. Pending a formal amendment to the IRC template, an official guidance from competent authorities directing licensing authorities to adopt a more flexible approach is necessary. The determination of whether an investor is required to contribute capital through a DICA should be based on the regulations issued by the State Bank of Vietnam, rather than leaving the Departments of Finance and commercial banks to interpret and apply the IRC template rigidly to all cases without regard to the specific characteristics of each investment project and each investor.

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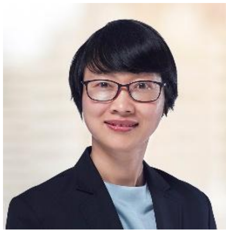

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Chúng tôi giữ quyền sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này hoặc bất kỳ phần nào của bản tin mà không thông báo trước. Chúng tôi không chịu bất kỳ trách nhiệm nào về các sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này.

Nếu bạn có vấn đề nào cần tư vấn, hãy liên hệ với chúng tôi hoặc yêu cầu luật sư của bạn tư vấn về vấn đề đó cho bạn.

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