Decree No. 103/2026/ND-CP:

The Shift Towards a More Flexible Outbound Investment Regime

Legal Update | May 2026

On 31 March 2026, the Government issued Decree No. 103/2026/ND-CP on outbound investment (***Decree 103***), which took effect on 3 April 2026. This Decree replaces Chapter VI on outbound investment under Decree No. 31/2021/ND-CP of the Government dated 26 March 2021 providing detailed guidance for the implementation of the Law on Investment (***Decree 31***)[1].

Decree 103 sets out a comprehensive regulatory framework for the implementation of Law No. 143/2025/QH15, entitled the Law on Investment, passed by the National Assembly on 11 December 2025 (***the Law on Investment 2025***), governing outbound investment activities for business purposes, including licensing procedures and state management mechanisms.

This legal update outlines the key changes introduced by Decree 103 and their practical implications for Vietnamese investors engaging in outbound investment.

1. Exemption from Outbound Investment Registration Certificate

Under the previous regime of Decree 31 and Law No. 61/2020/QH14, entitled the Law on Investment, passed by the National Assembly on 17 June 2020 (***the Law on Investment 2020***), all outbound investment projects were required to obtain an Outbound Investment Registration Certificate (***OIRC***), regardless of scale or sector. This resulted in a significant administrative burden, particularly for small-scale investments.

The Law on Investment 2025 and Decree 103 adopt a differentiated approach, exempting outbound investment projects from the OIRC requirement where they fall within one of the following cases:

(i) Small-scale projects where the investment capital is below VND7 billion (approximately US$264,150) and the project does not fall within a conditional sector (such as banking, insurance, securities, press, broadcasting and television, or real estate business). This removes a key administrative barrier for enterprises, particularly small and medium-sized enterprises, and is expected to encourage outbound private investment from Vietnam in pursuit of new markets, technologies, and resources;

(ii) Defence and security projects implemented under intergovernmental agreements;

(iii) Projects of state-owned corporations listed in Decree 366/2025/ND-CP; or

(iv) Outbound investment projects undertaken by certain economic organisations that do not require approval from the Prime Minister may qualify for an exemption, provided that four (4) key conditions are met:

1. It is classified as large scale according to Decree 90/2025/ND-CP;
2. it is funded using self-owned foreign currency;
3. the enterprise has been profitable for two (2) consecutive years; and
4. it has at least two (2) profitable foreign investment projects with profits repatriated to Vietnam.

That said, exemption from obtaining an OIRC does not equate to a full exemption from legal obligations. Under Decree 103, investors are still required to declare project information on the National Investment Information System and complete foreign exchange registration procedures with State Bank of Vietnam prior to remitting capital abroad.

Furthermore, where a project initially falls outside the OIRC requirement but subsequently undergoes an increase in investment capital that meets the threshold

[1] Decree 31 ceased to be effective in its entirety on 31 March 2026.

for OIRC issuance, the investor is required to apply for an OIRC in accordance with Decree 103.

2. Expanded Share Swap Mechanism for Establishing Overseas Economic Organisations

While Decree 31 already contained provisions on the share swap mechanism, Decree 103 introduces an important new development by further supplementing and clarifying the framework for Vietnamese investors undertaking outbound investment through share swap or asset swap arrangements. In particular, in addition to the existing ability to use shares, capital contributions or domestic investment projects, Decree 103 further permits Vietnamese investors to use profits derived from overseas economic organisations for acquiring shares, capital contributions, or investment projects of foreign economic organisations, in accordance with applicable laws.

Accordingly, Decree 103 sets out several conditions and principles governing such transactions, including:

(i) the investor must complete the relevant outbound investment procedures in accordance with applicable law prior to implementing the swap transaction;
(ii) the transaction must be supported by valuation documentation based on market principles and must comply with regulations on taxation, anti-money laundering, counter-terrorism financing, transfer pricing, and other relevant laws;
(iii) the transaction results in a foreign investor acquiring shares, capital contributions, or an investment project in Vietnam, such foreign investor must comply with applicable investment and enterprise procedures under Vietnamese law; and
(iv) the transaction must comply with laws on investment, enterprises, competition, banking, and other relevant regulations, and must not give rise to unlawful ownership or control structures or be used for transfer pricing, tax evasion, money laundering, or other illegal purposes.

These provisions appear to address practical issues arising from debt set-off arrangements with foreign counterparties, for which no clear legal basis previously existed. They also establish a clear framework for the use of overseas profits for reinvestment, enhance transparency in outbound capital flows, and support business expansion abroad and integration into global value chains.

3. Projects Subject to Prime Minister's Approval

Decree 103 specifies the categories of outbound investment projects that must be submitted to the Prime Minister for approval prior to the issuance of an OIRC. In particular, this requirement applies to:

(i) projects with outbound investment capital of VND1,600 billion (approximately US$60.4 million) or more; or

(ii) projects proposing the application of special policy or regulatory mechanisms.

This threshold is twice the level previously applicable under the Law on Investment 2020 (VND800 billion (approximately US$30.2 million)), which served as the benchmark for projects requiring policy approval.

The increase in the threshold reflects a policy direction towards greater decentralisation and delegation of authority in investment management, thereby reducing the number of projects requiring Prime Minister's approval, shortening processing timelines, and facilitating outbound investment activities.

4. Narrowing Circumstances Requiring Amendment of OIRC

In addition to retaining existing cases requiring amendment of an OIRC under the Law on Investment 2020 (e.g. changes in investor, investment form, location, or primary objectives), Decree 103 limits the circumstances in which amendments are required in relation to changes in investment capital.

Specifically, amendment of the OIRC is now required only in cases involving:

(i) an increase in outbound investment capital; or

(ii) the use of overseas profits to increase investment capital.

Previously, under the Law on Investment 2020, any change in investment capital, or even the use of overseas profits to continue capital contribution where the registered capital had not yet been fully contributed, would require the investor to amend the OIRC.

Furthermore, for projects with outbound investment capital of VND1,600 billion (approximately US$60.4 million) or more, or projects subject to special policy approval by the Prime Minister, certain adjustments are no longer subject to re-approval, including:

(i) changes in investment location within the same host country or territory;

(ii) the first capital increase not exceeding 10% of the approved total investment capital and not altering the project's primary objectives;

(iii) the reinvestment of profits generated from the overseas project into the same project;

(iv) a reduction of investment capital for repatriation; and

(v) other changes that do not affect the project's core objectives or scale or do not involve special policy mechanisms.

5. Revised Rules on Profit Repatriation

Decree 103 revises the rules on repatriation of profits from overseas investments. Under the new framework, the timeline for repatriation is determined by reference to the date on which profits are distributed to the investor. Accordingly:

(i) profits must be repatriated within twelve (12) months from the date of distribution; and

(ii) a one-time extension of up to an additional twelve (12) months may be granted, provided that prior notification is made to the Ministry of Finance and the State Bank of Vietnam.

This amendment addresses practical difficulties faced by investors where overseas entities had completed tax finalisation but had not yet distributed profits, thereby preventing timely repatriation under the previous rules which were tied to the completion of tax finalisation rather than actual profit distribution.

6. Additional Conditions for Economic Organisations with more than 50% Foreign Capital

For economic organisations in which foreign investors hold more than 50% of charter capital, Decree 103 imposes additional conditions when conducting outbound investment. Specifically, such entities must:

(i) use capital derived from equity (excluding capital contributed for domestic investment projects);

(ii) have recorded profits for two (2) consecutive years; and

(iii) comply with specific procedures in cases involving capital increases for outbound investment.

In summary, Decree 103 represents a significant step in modernising Vietnam's legal framework on outbound investment. By introducing a more proportionate licensing regime, facilitating alternative investment structures such as share swaps, and clarifying key procedural aspects, Decree 103 enhances both regulatory transparency and operational flexibility. These changes are expected to reduce administrative procedural burdens, encourage overseas expansion by Vietnamese enterprises, and align Vietnam's outbound investment regime more closely with international standards. Investors are advised to closely monitor the implementation of Decree 103 and assess its implications for their outbound investment strategies to ensure timely compliance and optimise investment efficiency.

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