

LEGAL NEWSLETTER

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In a socialist-oriented market economy, ensuring property rights and freedom of business is not only an objective requirement for development, but also a measure of the quality of a modern rule-of-law state, by the people and for the people. These are the remarks of **Mr. Nguyen Hung Quang, Managing Partner of NHQuang&Associates**, in his interview titled **“Resolution 68-NQ/TW: Protecting Property Rights and Freedom of Business”**, published in the Policy Effects section of **Business Forum Magazine** No. 41 (Wednesday, May 21, 2025).

In the interview, Mr. Quang emphasized that Resolution 68 underscores the urgent need to reaffirm the protection of ownership rights, property rights, and business freedom amid the ongoing process of building a rule-of-law state. These rights have been determined in the Constitution, the Civil Code, and various specialized laws such as the Law on Intellectual Property, the Law on Land, and the Law on Real Estate Business. They are also affirmed in international treaties to which Vietnam is a party, including the TRIPS Agreement, CPTPP, EVFTA, and EVIPA. Mr. Quang also offered several recommendations for institutional reform to better safeguard these rights for both individuals and businesses. These measures aim to promote fair competition, mobilize private resources, foster a secure business environment, and encourage long-term investment and broader market participation.

The interview was also featured in the **News Review – Good Morning** program on **VTV1** on May 21, 2025. To read the full interview, please visit the [**Business Forum Magazine website**](#).

NGHỊ QUYẾT 68-NQ/TW:

Bảo vệ quyền tài sản và quyền tự do kinh doanh

Trong nền kinh tế thị trường định hướng xã hội chủ nghĩa, việc bảo đảm thực chất quyền tài sản và quyền tự do kinh doanh không chỉ là yêu cầu khách quan của sự phát triển mà còn là thước đo cho chất lượng của một nhà nước pháp quyền hiện đại, do dân và vì dân.

[YẾN NHUNG thực hiện]



luật chuyên ngành như Luật Sở hữu trí tuệ, Luật Đất đai, Luật Kinh doanh bất động sản, Luật Nhà ở... cùng các điều ước quốc tế mà Việt Nam đã ký kết có liên quan đến quyền tài sản như Hiệp định TRIPS về sở hữu trí tuệ, CPTPP, EVFTA, EVIPA... Cùng với đó, Nhà nước cũng đã có nhiều nỗ lực cải cách thủ tục hành chính, xóa bỏ rào cản liên quan đến hoạt động kinh doanh (như Nghị quyết 30 của Thủ tướng Chính phủ, chuỗi Nghị quyết 19, Nghị quyết 02).

quyền tự do kinh doanh thực chất và hiệu quả?

Đối với quyền tài sản, cần sửa đổi các quy định pháp luật liên quan đến đất đai, địa điểm kinh doanh, đầu tư và sở hữu trí tuệ theo hướng cụ thể hóa chính sách hỗ trợ, ưu đãi cho doanh nghiệp khu vực KTTN, đặc biệt là doanh nghiệp nhỏ, khởi nghiệp sáng tạo và doanh nghiệp công nghệ. Cần tạo điều kiện thuận lợi hơn cho mô hình kinh doanh linh hoạt và rút ngắn thủ tục đăng ký, bảo hộ tài

WHAT INCENTIVES APPLY TO ENTERPRISES OPERATING AT THE VIETNAM NATIONAL INNOVATION CENTER?

DANG HUYEN THU

On May 5, 2025, the Government issued Decree 97/2025/ND-CP stipulating incentives and policies for the Vietnam National Innovation Center (NIC) (**Decree 97**). The Decree was issued when several regulations on incentives and policies for the NIC, organizations, and individuals operating at the NIC needed a breakthrough to promote creative startup and innovation activities. Decree 97 takes effect from the date of issuance and replaces Decree 94/2020/ND-CP, which stipulates the same content.

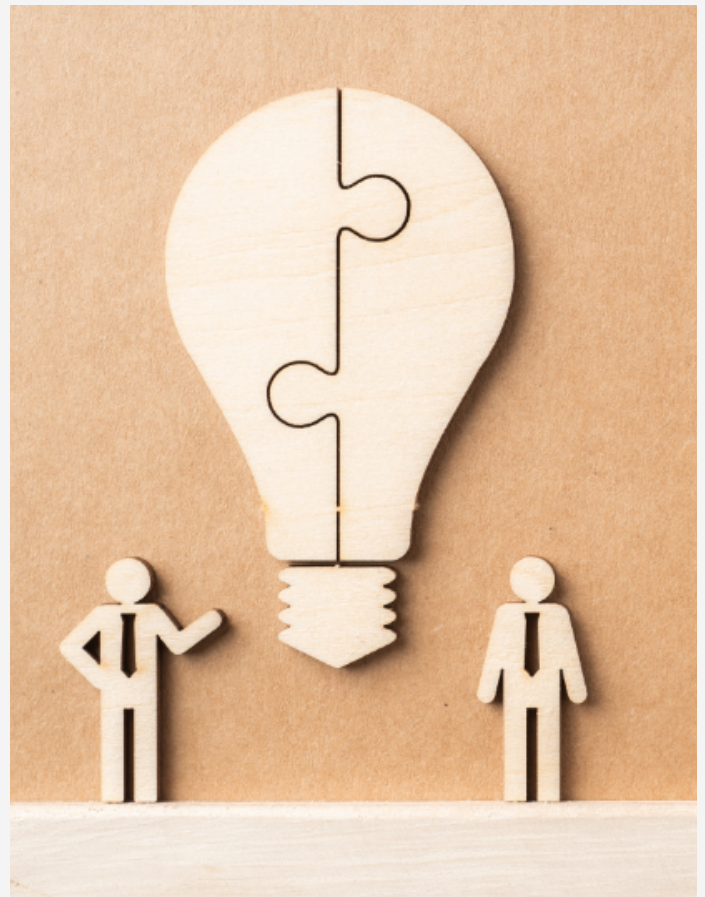
Regarding the incentives and policies for enterprises operating at the NIC, Decree 97 generally **inherits** the provisions of Decree 94/2020/ND-CP while **removing** certain unnecessary clauses already stipulated in other decrees, such as the provisions on bidding incentives for creative startups. Below are some outstanding preferential policies and support mechanisms applied for creative startups and innovative enterprises operating at the NIC:

- **Investment credit incentives:** Investment projects subject to the list of projects eligible for State investment credit loans may access such loans if they fully meet the loan conditions. They are also eligible to receive funding, support, loans, and loan guarantees from non-budgetary state financial funds and financial institutions (applicable to creative startups).
- **Support from the NIC:** They may receive supports from the NIC in several activities such as carrying out administrative procedures in the process of research, investment, business and commercialization of their products and services; conducting procedures on entry visas, work permits, residence permits; advertising, promoting investment and connecting with the innovation and

startup ecosystem; setting up offices, research and production areas, technology display areas and using laboratories, testing facilities, inspection facilities, other facilities and utilities of the NIC.

- **Business registration and establishment of industrial property rights:** When registering to establish a business, the enterprises are granted the business registration within one working day from the date when the business registration authority receives the valid business registration dossier; they are given priority to carry out procedures for establishing industrial property rights ahead of schedule upon request.
- **Some other incentives and policies:** The enterprises are allowed to mobilize and receive funding from research and innovation funding programs of the State, domestic and foreign enterprises, organizations, and individuals under the law to implement ideas based on the utilization of intellectual property assets, technologies, and new business models with high growth potential. They may also enjoy incentives, policies and favorable administrative procedures under the law to carry out innovation and startup activities.

In addition to the provisions on incentives and policies, Decree 97 also **replaces/supplements some terms** that have not been defined in relevant legal documents or have been defined but are not clear or consistent, thereby creating a basis for determining subjects



entitled to policies and incentives. Specifically, instead of only stating the definition of “creative startups” as in the previous decree, Decree 97 has replaced it with the definition of creative startups operating at the NIC to further emphasize the subjects applied with the policies and incentives related to the NIC. Decree 97 also supplements the definition of an innovative enterprise operating at the NIC, which is “*an enterprise operating at the NIC with new or improved products, services or production and business processes [...]*”, thereby clearly separating the subjects entitled to particular incentives and policies. Furthermore, Decree 97 **supplements several new incentives and policies for the NIC** as compared to the previous regulations, for example: (i) Foreigners working at the NIC are exempt from obtaining a work permit in some specific cases; (ii) The NIC is allowed to utilize public assets to provide services for incubation, consulting, training, investment networking, startup support, etc. according to its assigned functions and tasks.

It can be seen that Decree 97 has continued to improve the incentives and policies to encourage startup and innovation activities in Decree 94/2020/ND-CP, creating a more favorable legal basis for the NIC's operations, promoting the formation and development of startups in Viet Nam. To ensure their rights and interests, individuals and organizations operating at the NIC, especially creative startups and innovative enterprises, should study the provisions of Decree 97, work and discuss further with the NIC as well as relevant agencies and units (if necessary) to enjoy the most available incentives and policies in the process of implementing their creative startup and innovation activities.



NEW REGULATIONS ON REGISTRATION AND CANCELLATION OF PUBLIC COMPANY STATUS: TOWARD A TRANSPARENT AND SUSTAINABLE SECURITIES MARKET

PHAN THI HOANG HAI

On May 5, 2025, the Ministry of Finance issued Circular 19/2025/TT-BTC (**Circular 19**) providing regulations on the registration of public companies, cancellation of public company status, and audited report on contributed charter capital. Circular 19 provides detailed guidelines on certain provisions of the Law on Securities 2019, as amended and supplemented by Law 56/2024/QH15 (**Law on Securities**), and replaces certain articles of Circular 118/2020/TT-BTC providing guidelines on public offerings and issuance of securities, tender offers, share repurchases, registration of public companies and cancellation of public company status (**Circular 118**). Below are some key highlights of Circular 19.

Firstly, Circular 19 provides detailed regulations on the preparation of the audited report on contributed charter capital – one of the required documents in the application dossier for public company registration. Accordingly, it must satisfy the following conditions:

- The report on contributed charter capital must be prepared in accordance with the template provided in Appendix No. 01 attached to Circular 19.
- The reporting period for the contributed charter capital must be at least 10 years up to the time of public company registration.
 - In the case that the organization applying for public company registration has operated for less than 10 years, the reporting period shall be calculated from the date of establishment.
 - In the case of a joint-stock company equitized from a state-owned enterprise and has operated for less than 10 years, the reporting period shall be calculated from the date of the first enterprise registration certificate for the joint-stock company.
- The audit of the report on contributed charter capital must be conducted in accordance with applicable legal provisions to provide opinions on the honesty and reasonableness of the owner's contributed capital indicator.
- The auditor's opinion on the report must be an unqualified opinion. If the unqualified opinion includes an emphasis of matter or other matters, the organization applying for public company registration must provide an explanation with confirmation from the independent audit organization.

These new regulations aim to ensure accurate determination of a company's actual paid-in capital and clarify the

process of capital contribution, capital increases, and capital use prior to its registration as a public company, thereby enabling the State Securities Commission of Vietnam (**SSC**) to accurately assess whether the company meets the charter capital requirements for public company registration or not. In addition, the audited report on contributed charter capital also applies to the dossier for initial public offerings.

Secondly, Circular 19 adjusts the document templates required for public company registration dossiers. In addition to the newly introduced template for the audited report on contributed charter capital, Circular 19 also issues new or revised templates for the registration dossier with some noteworthy points as follows:

- Supplementing the Public Company Registration Form and the Shareholders List Form.
- Replacing the previous form of Public Company Information Disclosure Statement prescribed in Circular 118. The new version adds some notable updates, such as a list of individuals responsible for the content of the public company disclosure statement; the company's commitment to the legality, accuracy, truthfulness, and completeness of the dossier.

Thirdly, Circular 19 supplements detailed provisions on SSC's proactive authority to consider the cancellation of public company status. Specifically, in the case where a public company fails to fulfill its obligation to submit relevant dossier or reports to SSC after no longer meeting the requirements regarding capital or shareholder under point a, clause 1, Article 32 of the Law on Securities (The company must have the contributed charter capital of at least VND 30 billion, owner's equity of at least VND 30 billion and at least 10% of its voting shares held by at least 100 investors other than major shareholders), SSC shall proactively consider cancelling the company's public status as follows:

- In cases where the company **no longer meets the shareholder requirements**: Upon receipt of the shareholder list from the Vietnam Securities Depository and Clearing Corporation showing that the company no longer meets the shareholder requirements, SSC shall notify the public company about its failure to satisfy the public company conditions. After one year from the date that the company fails to meet the shareholder requirements, if the company still does not meet the condition for public companies based on the shareholder list provided by the Vietnam Securities Depository and Clearing Corporation, within 15 days, SSC shall consider cancelling its public company status, notify such cancellation to the company and the Stock Exchange where the company's securities are listed or registered for trading, and simultaneously disclose such cancellation on SSC's information disclosure platform.
- In cases where the company **no longer meets the capital requirements**: Based on the latest audited financial statements of the public company, if it fails to meet the capital requirements, SSC shall notify the company stating that it no longer qualifies as a public company. After one year from the date of no longer meeting the capital requirements, if the company's latest audited financial statements continue to show that it does not meet the required capital conditions, within 15 days, SSC shall consider cancelling the public company status, notify such cancellation to the company and the Stock Exchange where the company's securities are listed or registered for trading, and simultaneously disclose such cancellation on SSC's information disclosure platform.

Additionally, Circular 19 provides detailed provisions regarding the SSC's responsibilities in cancelling a company's public status in the case where that public company **(i)** fails to disclose its audited annual financial statements for two consecutive years; **(ii)** fails to disclose the resolutions of its annual General Meetings of Shareholders for two consecutive years; **(iii)** fails to comply with the regulations on the registration of shares with the Vietnam Securities Depository and Clearing Corporation, fails to list the securities or to register trading of stocks on the securities trading system.

Circular 19 was enacted to improve the legal framework governing the registration and cancellation of public company status in the context of recent amendments and supplements to the Law on Securities at the end of 2024, which contributes to strengthening state supervision and enhancing corporate accountability in securities market activities. In addition to the aforementioned provisions, Circular 19 also sets out provisions on the procedures for registering a public company, as well as the registration dossier required for companies formed through corporate division, separation, or merger. Circular 19 takes effect from May 5, 2025; therefore, enterprises intending to register as public companies, as well as existing public companies, should promptly update the new provisions introduced in Circular 19. Should you wish to gain a deeper understanding of the regulations and practical implementation of the procedures for registration or cancellation of public company status, NHQuang&Associates is ready to provide further legal clarification, support, and related legal consultancy services.

NEW HIGHLIGHTS ON OPENING AND USING VIETNAMESE DONG ACCOUNTS FOR FOREIGN INDIRECT INVESTMENT ACTIVITIES IN VIET NAM

NGUYEN THI KIEU TRINH

To upgrade and develop the Vietnamese stock market, simplify procedures and dossier, and facilitate foreign investors when participating in the stock market, on April 29, 2025, the State Bank of Viet Nam promulgated Circular 03/2025/TT-NHNN regulating the opening and use of Vietnamese Dong accounts for foreign indirect investment activities in Viet Nam (**Circular 03**), replacing Circular 05/2014/TT-NHNN (**Circular 05**). Circular 03 takes effect from June 16, 2025 and will directly affect foreign investors, including organizations established under foreign law and individuals of foreign nationality who are non-residents engaging in foreign indirect investment activities in Viet Nam. This Circular has some notable new points which investors should be aware of as follows:

Firstly, one of the key new points of Circular 03 is the *simplification of procedures for opening indirect investment accounts*, which contributes to removing barriers and facilitates foreign investors' foreign indirect investment activities in Viet Nam. Specifically, before the promulgation of Circular 03, all activities related to the opening and use of Vietnamese Dong accounts for the purpose of foreign indirect investment activities in Viet Nam must comply with the regulations on opening and using payment accounts and other relevant legal provisions. Accordingly, Circular 17/2024/TT-NHNN is the document directly governing the opening and use of payment accounts of organizations and individuals at payment service providers, which **requires consular legalization** of documents issued by competent foreign authorities in the payment account opening dossier.

However, **Circular 03 no longer requires consular legalization** for foreign-language documents, information, and data, or documents issued by competent foreign authorities in the dossier for opening indirect investment accounts to carry out investment in the Vietnamese securities market for foreign investors. Specifically, such documents must be notarized or



certified in accordance with the provisions of Vietnamese or foreign laws within 12 months from the date the licensed bank receives applications from foreign investors. The licensed bank may make an agreement with the client on whether or not to translate the documents into Vietnamese, but it must ensure that foreign-language documents, information, and data shall be translated upon request by competent authorities; the translation thereof shall be certified by an authorized person of the licensed bank or be notarized or certified.

Secondly, Circular 03 amends and supplements some principles when opening and using Vietnamese Dong accounts for foreign indirect investment activities in Viet Nam on the basis of inheriting the provisions of Circular 05 with some adjustments for consistency with other contents in Circular 03. Accordingly, Circular 03 retains certain principles from Circular 05 such as: (i) Receipt and payment transactions related to indirect investment activities by foreign investors must be carried out through indirect investment accounts, which are Vietnamese Dong accounts of foreign investors opened at licensed banks, or (ii) The balance in indirect investment accounts of foreign investors cannot be transferred to term deposits and savings deposits. Additionally, Circular 03 has supplemented a provision prohibiting foreign investors from **opening joint indirect investment accounts** (accounts jointly held by two or more parties) for conducting foreign indirect investment activities in Viet Nam. Furthermore, remittance orders related to foreign indirect investment in Viet Nam by foreign investors must **clearly state the purpose of the money transfer** so that the licensed banks have a basis for checking, verifying, retaining records, and executing the transactions.

In addition to the aforementioned new points, Circular 03 also supplements provisions on several **exceptional cases** in which foreign investors are allowed to **open an additional indirect investment account corresponding to each securities trading code issued at one licensed bank** for foreign indirect investment activities in Viet Nam. For example, a foreign investor being a foreign securities company may open 2 indirect investment accounts corresponding to 2 securities trading codes: 1 indirect investment account for its proprietary trading activities and 1 indirect investment account for its securities brokerage activities. This is also a prominent new point of this Circular compared to the previous Circular 05.

Circular 03 is issued to facilitate foreign investors' engagement in the Vietnamese securities market in the context that some provisions in Circular 05 are no longer suitable for the current situation and the legal basis for issuing Circular 05 has been replaced by new regulations. While implementing the provisions in Circular 03, foreign investors conducting foreign indirect investment activities in Viet Nam should pay attention to its implementation provisions for appropriate compliance, ensuring their legitimate rights and interests. In the event that the esteemed Clients and readers wish to gain a more comprehensive understanding of opening and using Vietnamese Dong accounts to carry out foreign indirect investment activities in Viet Nam, NHQuang&Associates stands ready to provide further clarification, support, and relevant legal counsel.

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