

Special Alert

DECREE NO. 103/2026/ND-CP: A RISK-BASED APPROACH TO OUTWARD INVESTMENT MANAGEMENT

April 2026

On 31 March 2026, the Government of Vietnam promulgated Decree No. 103/2026/ND-CP (“**Decree 103**”) regulating outward investment activities. The Decree took effect on 3 April 2026 and replaces Chapter VI of Decree No. 31/2021/ND-CP, implementing the outward investment regime under the Law on Investment 2025.

Decree 103 marks a meaningful recalibration of Vietnam’s regulatory philosophy on outbound investment. Rather than applying a uniform approval-heavy framework, the new Decree adopts a risk-based, differentiated management approach, designed to both encourage legitimate overseas expansion by Vietnamese Companies and preserve fiscal discipline, capital control, and macro-economic stability.

In this context, Decree 103 simultaneously reduces procedural burdens for low-risk, small-scale projects while tightening scrutiny over capital sources, taxation compliance, and post-licensing supervision, especially for foreign-controlled Companies operating in Vietnam.

Transition to a Risk-Based Regulatory Framework

A core reform introduced by Decree 103 is the formal transition from a one-size-fits-all approval model to a risk-calibrated management regime.

Under the new framework, outward investment projects with a total investment capital of less than VND7 billion (approximately US\$270,000), provided they do not fall within conditional or restricted sectors, are exempt from the requirement to obtain an Outward Investment Registration Certificate. Instead, investors are only required to complete foreign-exchange registration procedures according to the regulations of the State Bank of Vietnam (SBV).

This exemption is expected to significantly reduce administrative burdens for Companies engaging in small-scale and

low-risk outbound investment activities, typically including pilot overseas projects, establishment of small overseas subsidiaries, exploratory joint ventures, and overseas market testing or representative activities.

From a policy perspective, the Government appears to recognize the strategic importance of enabling Vietnamese enterprises to incrementally internationalize operations without being encumbered by disproportionate regulatory hurdles.

However, it is important to note that larger-scale projects or investments in regulated sectors remain subject to full evaluation and approval, ensuring continued regulatory oversight where financial exposure or national interests may be implicated.

Enhanced Conditions Applicable to Foreign-Controlled Companies

Decree 103 introduces stricter eligibility conditions applicable to economic organizations in Vietnam where foreign investors hold more than 50% of charter capital.

In addition to the general outward investment conditions, such companies must now:

- Using equity capital for overseas investment, excluding capital contributions for investment activities in Vietnam;
- Having profitable business operations for two consecutive years immediately preceding the year of registration for overseas investment, as determined by audited financial statements; and
- In the case of using additional capital contributions for overseas investment, the procedure for obtaining an Outward Investment Registration Certificate as prescribed in this Decree must be carried out first, followed by the procedure for increasing capital and contributing the full charter capital in Vietnam before transferring the investment capital abroad.

These heightened requirements reflect the Government's policy intent to mitigate risks associated with capital flight, thin capitalization, and indirectly channeling foreign capital out of Vietnam through domestic legal structures.

From a compliance perspective, foreign-controlled companies must proactively align outbound investment strategies with:

- financial reporting history,
- capital structure planning,
- dividend policy and retained earnings management.

Failure to anticipate these restrictions could significantly delay transaction timelines or undermine deal feasibility.

Strengthened Tax Compliance and Capital Control Mechanisms

Another notable shift under Decree 103 lies in reinforced tax and foreign-exchange controls. Accordingly, investors are now required to obtain confirmation from Vietnamese tax authorities that all tax obligations have been fully discharged, with such confirmation issued within three months prior to the submission of the outward investment dossier. This

requirement ensures that outward investment is not conducted at the expense of domestic tax compliance.

Moreover, post-licensing obligations have been expanded, including:

- detailed reporting on capital transfers abroad,
- periodic disclosure of overseas business operations,
- reporting and repatriation of profits back to Vietnam in accordance with approved plans.

These provisions significantly enhance the State's capacity to monitor outward investment throughout its lifecycle rather than solely at the approval stage, aligning with international best practices on cross-border capital flow supervision.

Digitalization and Enhanced Post-Licensing Supervision

Consistent with Vietnam's broader administrative modernization agenda, Decree 103 mandates increased utilization of the National Investment Information System for submission, processing, and management of outward investment dossiers.

At the same time, regulatory emphasis clearly shifts toward post-licensing supervision, with expanded audit, inspection, and sanction authority vested in competent authorities. In practice, this means that while initial procedures may be simplified, compliance risks do not diminish after approval and may, in fact, intensify over time.

Companies must therefore ensure robust internal compliance systems, particularly with respect to:

- reporting accuracy,
- capital movement tracking,
- alignment between approved investment objectives and actual overseas operations.

Practical Implications and Key Takeaways

Decree 103 sends a clear policy signal that Vietnam supports outward investment as part of economic internationalization, while maintaining firm oversight over capital discipline and fiscal integrity.

For investors, the key implications include:

- improved procedural efficiency for small-scale and low-risk projects;
- heightened scrutiny for foreign-controlled Companies and larger transactions;
- increased importance of tax compliance, profitability history, and capital source planning; and
- greater exposure to post-licensing compliance and regulatory audits.

Companies contemplating outward investment from Vietnam should reassess their investment structures, internal approval processes, and compliance frameworks in light of Decree 103, and seek early legal and financial advisory support to mitigate regulatory risk.

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