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# LEGAL ALERT

## No. 04 | August 2026

# New Regulations on Investment Capital Accounts: Key Updates for Investors

On 31 July 2026, the State Bank of Vietnam issued Circular No. 38/2026/TT-NHNN ("**Circular 38/2026**") governing foreign exchange management for foreign investment activities in Vietnam, replacing Circular No. 06/2019/TT-NHNN ("**Circular 06/2019**"). Circular 38/2026 will take effect from 18 August 2026 and introduces several significant changes that foreign investors and enterprises operating as members of the Vietnamese International Financial Center ("**VIFC**") should be aware of when opening and using investment capital accounts.

## 1. Change in the concept of "investment capital account"

One of the fundamental changes under Circular 38/2026 is the replacement of the concept of a "*direct investment capital account*" with a broader concept of "*foreign investment capital account in Vietnam*" (also referred to as an "**Investment Capital Account**" or "**ICA**"). Under this new definition, the scope is no longer limited to direct investment activities but applies to all inflow and outflow transactions related to foreign investment activities in Vietnam, including investments from the VIFC into the rest of Vietnam.[1]

## 2. Expansion of entities required to open ICAs

In addition to entities previously required to open ICAs, Circular 38/2026 significantly expands the scope to include: (i) Economic organizations with foreign investment capital **("FIEs")** established by VIFC member enterprises[2]; (ii) FIEs in which VIFC member enterprises hold more than 50% of charter capital through capital contribution, share acquisition, or capital purchase; (iii) PPP project enterprises established by foreign investors; (iv) VIFC member enterprises participating in BCC contracts; and (v) Contractors that are foreign investors in oil and gas activities.[3]

Notably, for the first time, VIFC member enterprises are, in addition to foreign investors, recognized as relevant entities that are required to open ICAs. The inclusion of foreign contractor-investors in oil and gas activities also completes the foreign exchange management framework for special investment structures such as PPP, BCC, and oil & gas.

## 3. Permission to open ICAs prior to investment project approval

Circular 38/2026 allows enterprises, for the first time, to open an ICA before obtaining an Investment Registration Certificate ("**IRC**"). During this pre-licensing stage, the ICA may only be used for: receiving capital contributions, paying investment preparation expenses, receiving interest; and refunding capital if the project is not approved.[4]

Once the IRC is issued, the enterprise may continue using the same ICA and open additional ICAs in other foreign currencies as needed.

[1] Article 3.3 of Circular 38/2026

[2] Excluding enterprises that are commercial banks or foreign bank branches

[3] Article 6 of Circular 38/2026

[4] Article 7.3 of Circular 38/2026

## 4. Clarification of the payment process for transfers

| Case | Through ICA | Not through ICA |
|---|---|---|
| *(1) Pay for transfer of shares or capital contributions in enterprises* | ▪ Between VIFC member enterprises and resident investors;<br>▪ Between non-resident investors and resident investors. | ▪ Between non-resident investors;<br>▪ Between VIFC member enterprises;<br>▪ Between VIFC member enterprises and non-resident investors; or<br>▪ Between resident investors. |
| *(2) Pay for transfer of investment projects under BCC contracts* | ▪ Between VIFC member enterprises and non-resident investors;<br>▪ Between VIFC member enterprises and resident investors;<br>▪ Between non-resident and resident investors;<br>▪ Between non-resident investors; or<br>▪ Between VIFC member enterprises. | |
| *(3) Pay for transfer of investment projects under PPP arrangements* | ▪ Between non-resident investors; or<br>▪ Between non-resident investors and resident investors directly implementing the PPP project. | |
| *(4) Pay for transfer of investment projects, participating interests, or contractor rights and obligations under oil and gas contracts* | Between non-resident investors and resident investors. | |

Compared to previous regulations, Circular 38/2026 provides clearer guidance and supplements rules on transfer payments in oil and gas contracts, while also expanding the range of transferring parties to include VIFC member enterprises.[5]

[5] Article 10 of Circular 38/2026

5. **An investor's capital or profits may be transferred to a payment account if not remitted abroad**

Under Circular 38/2026, if capital, profits, or lawful revenues are remitted abroad or transferred into the VIFC, such transactions must be conducted via the ICA. Conversely, if such amounts are not remitted abroad or transferred into the VIFC, investors and enterprises may transfer funds from the ICA to their payment accounts to finance other investment projects or activities in Vietnam.[6]

6. **Investors must complete the opening/closure of their ICAs within 12 months from the effective date of Circular 38/2026.**

Circular 38/2026 allows foreign investors in oil and gas activities operating before its effective date (i.e., before 18 August 2026) to open ICAs for their investment activities in Vietnam. Existing payment accounts may continue to be used until ICA opening is completed, but such opening must be finalized within **12 months** from the effective date.[7]

The same 12-month deadline applies for closing ICAs of FIEs established by foreign investors or VIFC member enterprises where: (i) there are no longer any foreign investors or VIFC member enterprises holding shares or capital contributions; or (ii) the IRC is not granted or amended and capital contributions have been refunded to foreign investors or VIFC member enterprises.[8]

[6] Articles 11 and 12 of Circular 38/2026
[7] Article 19.2 of Circular 38/2026
[8] Article 19.3 of Circular 38/2026

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