

# Vietnam Capital Flows: Structuring for Compliance and Control

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## Understanding and Implementing Requirements for Capital Flows for Foreign Investors in Vietnam

Vietnam remains one of the most attractive investment destinations in Southeast Asia. This is supported by strong economic growth, reasonable operating costs, and a legal framework that is becoming more developed. The law clearly recognizes foreign investors' rights to invest, transfer profits abroad, and exit their investments.

When capital flow problems occur, they are usually not caused by strict regulations. Instead, they often result from a mismatch between business plans and legal structuring at the early stage of the investment. Based on our experience, most of these issues can be predicted and avoided with realistic planning and proper compliance from the beginning.

### Capital Inflows: Structuring for Compliance and Control

In Vietnam, capital flows are generally affected less by legal restrictions and more by how investments are structured and implemented from the start. Common compliance risks include confusion between different types of capital, registering more capital than can actually be contributed, contributing capital late, and using the wrong bank accounts.

To be legally recognized, capital must be transferred through the correct investment accounts and come from clear and traceable sources. Problems at the "money in" stage often do not affect daily operations, but they usually become serious when investors want to remit profits or exit the investment.

There are four common mistakes in capital inflows that result from poor structuring for compliance and control:

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### **Charter Capital vs. Project Investment Capital: Two Distinct Legal Concepts**

Firstly, foreign investors often confuse charter capital with project investment capital, even though they have different legal meanings and compliance requirements.

Charter capital is the amount of capital committed and actually contributed by the owners or shareholders of a company. It shows the investor's financial responsibility and is mainly regulated by the Law on Enterprises. As a general rule, charter capital must be fully contributed within 90 days from the date the Enterprise Registration Certificate (ERC) is issued. In real terms, this deadline cannot be extended. If charter capital is not contributed by investors on time, the company may be required to reduce its charter capital, pay administrative fines, and face higher inspection risks. It may also affect future licensing, restructuring, or regulatory procedures.

Project investment capital, on the other hand, is the total capital needed to carry out an investment project. This may include contributed capital, mobilised capital (loans and other mobilized funds), and retained earnings. The contribution schedule is stated in the Investment Registration Certificate (IRC) and can extend over a longer period, depending on the approved project plan. Unlike charter capital, this schedule can be amended, making it more flexible. However, this flexibility does not exempt the company from regulatory inspections or administrative penalties if contribution obligations are not properly complied with. In this circumstance, the investors should therefore carefully determine the realistic contribution timeline based on the specific project.

### **Over Registration of Capital: A Preventable Compliance Risk**

Secondly, at the licensing stage, investors are only required to register capital, not to contribute it immediately. However, capital registration creates binding legal obligations once licenses are issued. A common risk, particularly for newly established companies, is registering capital that exceeds the investor's actual contribution capacity, based on the assumption that capital can be injected gradually or adjusted later.

Like late capital contribution, failure to fully and timely contribute registered capital may result in mandatory capital reduction, penalties, inspection risk, and adverse regulatory consequences. It is noted that subsequent capital increase may only be carried out after the violation has been formally rectified and the relevant amendments completed.

### **Choosing the Correct Banking Channel: DICA, Indirect Investment Account, and Current Account**

Thirdly, Vietnam's foreign exchange control regime places particular emphasis on the banking channels used for capital movements. As a general rule, companies with foreign ownership, or Vietnamese companies in which foreign investors hold 51% or more of charter capital, must use a Direct Investment Capital Account (DICA). Foreign investors conducting indirect investment activities, typically where ownership is 50% or below, or where the company is a listed or trading registered public company, are generally required to use an Indirect Investment Capital Account.

Current (operating) accounts are intended for day to day business transactions, such as supplier payments, payroll, operating expenses, and receipt of business revenues, and are not designed for capital transactions. Funds transferred through current accounts may not be recognized as lawful investment capital, potentially creating difficulties for future profit remittance or capital repatriation.

In practice, capital is sometimes transferred through operating accounts instead of the required investment capital accounts. While funds may reach the company, misrouting often results in delays, re transfers, or prolonged review by banks. Early coordination between advisors and banks, taking into account ownership structure and investment objectives, is therefore critical.

### **Ensuring Clarity of Funding Sources**

Lastly, although third party funding arrangements are not absolutely prohibited from a commercial perspective, Vietnamese law and banking practice place strong emphasis on transparency and traceability of capital sources. Under enterprise law, only individuals or organizations that lawfully own, or have lawful rights to use, contribution assets may use those assets for capital contribution. In fact, banks expect capital to be transferred directly from the licensed investor's own account, with clear transfer descriptions confirming the nature of the payment. Where funding structures are complex, early clarification and proper documentation are essential to avoid rejection or extended review.

## Value Repatriation: When Structures Are Put To The Test

Issues related to profit distribution, capital repayment, or outbound remittances are often seen as late-stage matters, to be dealt with only after the business becomes profitable or an exit decision is made. In reality, problems with transferring money out of Vietnam rarely arise at the final stage.

In most cases, three common issues create serious obstacles to outbound transfers:

### Unsettled Tax and Financial Obligations

The first and most obvious obstacle is unresolved tax and financial issues. Any profit distribution, capital repayment, or outbound remittance must be properly declared and finalized with the tax authority. Incomplete corporate income tax finalization, differences between accumulated losses and profit distribution plans, or unresolved tax risks from previous years will almost always delay or prevent outbound transfers.

From a banking and regulatory perspective, profits and capital can only be transferred abroad after the investor has fully met all financial obligations to the Vietnamese State. If tax matters are unclear, banks are usually unwilling to process outbound transfers without further confirmation or corrective actions, regardless of business urgency.

### Inconsistencies Between Legal Records and Actual Cash Flows

Even when tax obligations have been settled, differences between legal documents and actual cash movements often lead to extended review by banks. These differences may include mismatches between registered and contributed capital, inconsistencies between licensed contribution schedules and bank records, or differences between accounting treatment and legal classification of funds.

Such differences do not need to involve large amounts to cause problems. Even minor inconsistencies can result in repeated clarification requests, additional documents, or internal review within banks, leading to delays and uncertainty for investors.

### Incoming Funds Not Conforming to the Correct Legal Form

A third, and often decisive, risk arises when funds were brought into Vietnam in a way that did not follow the required legal form from the beginning. Common examples include late capital contributions, use of incorrect bank accounts, or confusion between different types of capital. Although these issues may seem technical at the time of investment, they directly affect whether the funds are legally recognized. When investors later try to remit profits or repatriate capital, funds that were not properly classified and recorded at entry may no longer be accepted for outbound transfer, even if the business reason is clear.

From this perspective, outbound transfers do not create new legal or compliance risks. Instead, they reveal problems that already existed at the money in stage but remained hidden during normal business operations. The practical lesson is that recovering value from Vietnam should not be treated as a final administrative step. It should be planned as part of a continuous money in and money out framework, where capital structure, timing, licensing, and banking arrangements are aligned from the start. When this alignment is achieved, outbound transfers are usually processed smoothly and predictably. When it is not, exit transactions often become complicated, time consuming, and uncertain.

## A Market That Rewards Good Planning

Vietnam is not a market where capital is constrained by policy, but one where outcomes are shaped by structure and execution. In practice, the ability to repatriate profits or exit smoothly is determined long before the remittance stage, by how capital is structured, contributed, and documented from the outset. Investors who align capital levels, licensing, and banking flows early are typically rewarded with predictable and operational money out outcomes.

*For any further questions or assistance, please reach out to us at [vietnam@alitim.com](mailto:vietnam@alitim.com)*

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