



Special Alert

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Foreign cooperation and investment in the education sector

Foreign Investors in Vietnam treat education as an attractive sector for investment. Seeing the need for a more effective regulatory legal framework in this field to attract more foreign investment, the Government promulgated Decree No. 86/2018/ND-CP, dated 6 June 2018 (“**Decree 86**”), which will go into effect on 1 August 2018. Decree 86 regulates foreign cooperation and investment in the education sector comprising: education and training in cooperation with foreign parties; educational institutions with foreign invested capital; and foreign educational representative offices in Vietnam.

Decree 86 repeals Decree No. 73/2012/ND-CP, dated 26 September 2012 (“**Decree 73**”). In comparison with Decree 73, Decree 86 gives more facilities for foreign investment through major amendments. Below are some key changes from Decree 86:

Conditions, procedures and forms of foreign investment

Regarding foreign short-term training institutions the sequence for obtaining permission for establishment is simplified. In particular, a decision on approval of establishment will no longer be required. What is required instead is the issuance of (i) the investment registration certificate and (ii) the decision permitting the educational operation and announcement of such decision on the website of the licensing agency.

It is also worth noting that while Decree 73 regulates foreign direct investment only, by way of setting up either a 100% foreign owned company or a joint venture company, the indirect investment form of purchasing shares or an equity acquisition by foreign investors in local companies (with domestic invested capital) which were already established in Vietnam will be allowed under Decree 86. Procedures for contributing capital and for purchasing shares or capital contribution portions are implemented in accordance with the Law on Investment.

Besides the above facilities, Decree 86 also provides a stricter regulation on investment capital. The minimum investment capital to set up a foreign-invested university will be VND1,000 billion (excluding land-use fees). The investor must prove its financial capacity in accordance with the Law on Investment and as at the time of evaluation to provide permission to establish the university, the investment capital amount must be above VND500 billion.

New regulations on educational program for integration purpose

Integrated educational programs (curriculum) means a Vietnamese educational program which is integrated with a foreign educational program, ensuring the objectives of the Vietnamese educational program and without overlapping contents and knowledge.

An integrated educational program can be used if it satisfies the following requirements:

1. Such curriculum must be a program the educational quality of which has been verified in the foreign country or recognized by a competent educational agency or organization in such foreign country;
2. An integrated curriculum must ensure that it meets the objectives of the Vietnamese curriculum and also satisfies the requirements of the foreign curriculum;
3. Students must not be forced to study the same contents all over again, ensuring stability of all study levels and interconnection between such grades in the interests of the students;
4. Ensuring voluntary participation and not overloading the students;
5. Integrated curriculum must be approved by the competent agency, specific regulations on integration of Vietnamese curriculum with foreign curriculum will be provided by the Minister of Education and Training; and
6. The size of classrooms and the material facilities must satisfy the requirements of the integrated curriculum and must not adversely affect the general teaching activities of the Vietnamese educational institutions participating in the educational curriculum.

Enrolling Vietnamese students

Decree 73 provided that the number of Vietnamese pupils in an educational institution with foreign invested capital should not exceed 10% of the total number of pupils of such school for primary and secondary school levels. It is not to exceed 20% for high school levels. This regulation will no longer exist under Decree 86. This means that educational institutions with foreign invested capital will be allowed to decide the proportion of Vietnamese students.

Pursuant to the defunct Decree 73, a foreign investor was not allowed to set up an establishment in

the preschool educational level to serve Vietnamese pupils but only to target foreign pupils and to follow foreign curriculum. Under Decree 86, educational institutions with foreign invested capital in a form of preschool will be able to serve Vietnamese pupils to study foreign educational programs.

However, the number of Vietnamese students studying a foreign curriculum in preschool, primary school, secondary school and high school must be less than 50% of the total number of students studying the foreign curriculum.

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