

## EVALUATION OF THE 2020 INVESTMENT LAW IN VIETNAM

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### ABSTRACT

*The study investigates the 2020 Investment Law in Vietnam. The study employs a set of aggregated data from previous studies, the results of a survey of 135 lecturers and lawyers. At the same time, the study also receives comments from experts experienced in the research field. We used qualitative research methods and quantitative research methods to evaluate and measure new contents in the 2020 Investment Law in Vietnam, which focuses on such contents as: Fundamental reforms in investment procedures, emphasizing the transparency of conditional business investment portfolios, the list of prohibited investment sectors, shortening the time view investment projects, apply information technology in investment procedures with foreign investment projects, etc. The results show that new contents in the 2020 Investment Law in Vietnam is highly appreciated. The paper has the significant contribution for firms, for foreign investor and economics development of Vietnam.*

**Keywords:** Investment Law, new contents, firms, Vietnam

### INTRODUCTION

In order to implement the Resolution of the 12th National Party Congress and the 2013 Constitution, the National Assembly has promulgated or amended and supplemented many important laws, such as: Investment Law, Enterprise Law and some Laws related to investment and business. These laws have contributed to removing barriers in investment and business activities that are not in line with the market economy and Vietnam's commitment to integration. As a result, a legal basis is created for improving the investment and business environment towards becoming more favorable, transparent and equal among investors and enterprises of all economic sectors.

The 2020 Investment Law in Vietnam is considered a breakthrough in the regulation of investment activities in Vietnam. Regulations gradually remove unnecessary administrative procedures in investment management, thereby contributing to the reform of administrative procedures. In addition, the amended Investment Law is supportive for start-up investment projects, foreign investment projects in start-up activities in Vietnam, so the process of carrying out the activities of the investors also becomes easier. On the other hand, a number of areas related to the Land Law, the Law on Real Estate Business and a number of other relevant Laws have been regulated and amended in the 2020 Investment Law, thereby contributing to the improvement of the law.

Vietnam is a member of international economic organizations such as the Association of Southeast Asian Nations (ASEAN), the Asia-Pacific Economic Cooperation (APEC), the World Trade Organization (WTO), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the ASEAN Economic Community (AEC), and the Free Trade Agreement (FTA), etc. which has promoted Vietnam's profound and broad international economic integration, leading to more opportunities and challenges for industries. Therefore, Vietnam is making great efforts to reform its institutional and investment environment so that Vietnam can make use of the own country's advantages and attract more external resources (Tung, 2015).

The remainder of this paper is structured as follows. Section 2 presents the relevant literature review and theoretical basis. Section 3 describes the data sample collection and methodology employed in the research. Section 4 sets out a key result. and the discussion, while Section 5 concludes the paper.

### THEORETICAL BACKGROUND AND LITERATURE REVIEW

#### Theoretical background of the 2020 Investment Law

Definition of investment law: (i) In a broad sense: Investment law in a broad sense is a field of law, containing regulations of many different branches of law, regulating the process of organizing and conducting investment activities; (ii) In the narrow sense: Investment law is a system of legal regulations promulgated or recognized by the state, regulating social relations arising in the process of organizing, implementing and managing investment and business activities.

On June 17, 2020, at the 9th session of the XIV National Assembly, there was an announcement that the 2020 Investment Law took effect from January 1, 2021 and replaced the 2014 Investment Law.

According to <https://thuvienphapluat.vn> (2020), the new highlights in the 2020 Investment Law applicable from 2021 include:

- (i). Officially prohibit debt collection service business (Article 6)
- (ii). Decrease the number of conditional business investment lines to 227
- (iii). Add many industries and professions eligible for investment incentives (Clause 1, Article 16)
- (iv). More subjects to enjoy investment incentives (Clause 1, Article 15)
- (v). New points on preferential policies and special investment support (Article 20)
- (vi). The list of industries and trades with restrictions on market access for foreign investors will be promulgated (Article 9)
- (vii). Conditions for establishing economic organizations in Vietnam by foreign investors (Article 22)

- (viii). New point on the ratio of holding charter capital of foreign investors in economic organizations conducting investment activities (Article 23)
  - (ix). Conditions for foreign investors to contribute capital, purchase shares or purchase capital contributions of economic organizations in Vietnam (Article 24)
  - (x). There are only 4 cases where investors do not have to make a deposit to secure the implementation of an investment project (Article 43).
  - (xi). More beneficiaries of investment incentives (Article 15)
  - (xii). New point on places to submit investment project documents (Articles 34, 35, 36)
  - (xiii). Conditions for issuance of the Investment Registration Certificate for investment projects that are not subject to approval of investment policies (Article 38)
  - (xiv). Industries that are prohibited from investing abroad (Article 53)
  - (xv). Lines of conditional investment abroad (Article 54)
- According to <https://phapluatdoanhnghiep.vn/> (2021), the 2020 Investment Law has the following new points:
- (i). Prohibit debt collection service business (Article 6)
  - (ii). Change of conditional business lines;
  - (iii). Add many industries with investment incentives;
  - (iv). Regulations on more subjects to enjoy investment incentives;
  - (v). Ratio of holding charter capital of foreign investors in economic organizations conducting investment activities;
  - (vi). Conditions for foreign investors to contribute capital, purchase shares or purchase capital contributions of economic organizations in Vietnam;
  - (vii). The case that the investor does not have to make a deposit to secure the implementation of the investment project;
  - (viii). Extend the implementation schedule of investment projects;
  - (ix). New point on the place of investment project submission;
  - (x). Conditions for issuance of the Investment Registration Certificate for investment projects that are not subject to approval of investment policies;
  - (xi). Industries that are prohibited from investing abroad (Article 53);
  - (xii). Regulations on industries with conditional outward investment (Article 54);

From the perspective of lawyer Ha (2021 - <https://lsvn.vn>), the 2020 Investment Law has 22 new points, of which 11 are important and noteworthy:

- (i). Give the definition of "Creative start-up investment project",
- (ii). Determine principles and conditions for business investment;
- (iii). Add more forms of investment incentives;
- (iv). Expand more beneficiaries of investment incentives;
- (v). Stricter regulations for M&A activities;
- (vi). To concretize the selection of investors according to bidding procedures in the provisions of the Bidding Law;
- (vii). Amendment of investment portfolio and projects approved by the Prime Minister and Provincial People's Committee;
- (viii). Specification on the issue of investment extension;
- (ix). Re-regulation on the deposit to secure the project implementation;
- (x). The conditions for extending the project implementation time limit;
- (xi). Additional cases of investment projects being terminated by competent state agencies.

## LITERATURE REVIEW

Tung (2015) researched the impacts of the 2014 Investment Law on attracting foreign direct investment to Vietnam. The paper focuses on illustrating the fundamental reforms in investment procedure in the 2014. Investment Law. This includes increased transparency through the creation of a list for conditional business activities and prohibited business activities, shortened approval time for investment projects and technology application in investment procedure for foreign projects. By examining these features, the paper points out the impacts of the reforms in investment procedure on attracting foreign capital with the goal of economic development and improved investment environment. The paper also suggests some changes that can be made to further improve the legal system for investment and to attract more FDI to Vietnam. These suggestions are based on the existing problems in determining the legal status of foreign investors, in providing information for data transferring and in the cooperation among state agencies in investment management.

According to Giang (2017) The Law on Enterprises and the 2014 Investment Law in Vietnam were developed with a strong reform spirit. As a result, they lead to giving more autonomy to investors and enterprises, increasing flexibility, proactiveness in business management and administration, placing higher requirements on transparency, publicity of information, protecting owners, and above all, continuing to improve and perfect the business investment environment in a favorable and open direction for business investment activities in Vietnam today.

Cao and Trong (2019) mentioned some limitations and shortcomings in the Investment Law 2014 in terms of theory and practical implementation. At the same time, the paper gives solutions to improve the provisions of the law on investment, first of all the provisions in the Law on Investment 2014 before the requirement of mobilizing according to the trend of international economic integration, in line with law on world investment.

Thang and Chinh (2019) discusses some issues related to the content of the Draft of amending and supplementing some articles of the Law on Investment 2014. This paper is expected to perfect the law to effectively regulate investment relations and promote the socio-economic development of our country. The authors said that, the Law on Investment 2014 importantly contributes to

create a clear legal corridor for Vietnam to attract investment, build a transparent investment environment, ensure the interests of entities in investment activities and brings the highest benefits for the socio-economic development of our country. However, the 4-year implementation of the Law on Investment 2014 in practice has revealed some shortcoming and legal overlaps of the law and posed a necessity of amending the law in order to create a transparent investment environment to attract more foreign investment and promote domestic investment.

The prior studies above have presented the 2014 Investment Law in Vietnam. However, limitations have been shown in a number of studies such as methodologies (many studies only used the qualitative research), the scope (time, contents), and sample size in the context of a stable economy. Besides, the the 2020 Investment Law in Vietnam should be discovered. Inheriting the above studies, and the results of expert interviews, we synthesize the attributes of new contents in the 2020 Investment Law in Vietnam (see table 1).

**Table 1.** Attributes of new contents in the 2020 Investment Law in Vietnam

Code	Attributes	Sources
New contents in the 2020 Investment Law (NCIL)		
NCIL1	Officially prohibit debt collection service business	https://thuvienphapluat.vn (2020); https://phapluatdoanhnghiep.vn (2021); Ha, 2021 - https://lsvn.vn and Interviewed experts
NCIL2	Change of conditional business lines	
NCIL3	Add many industries and professions eligible for investment incentives	
NCIL4	Regulations on more subjects to enjoy investment incentives, more subjects to enjoy investment incentives	
NCIL5	New points on preferential policies and special investment support	
NCIL6	The list of industries and trades with restrictions on market access for foreign investors will be promulgated	
NCIL7	Conditions for establishing economic organizations in Vietnam by foreign investors	
NCIL8	New point on the ratio of holding charter capital of foreign investors in economic organizations conducting investment activities	
NCIL9	Conditions for foreign investors to contribute capital, purchase shares or purchase capital contributions of economic organizations in Vietnam	
NCIL10	There are only 4 cases where investors do not have to make a deposit to secure the implementation of an investment project	
NCIL11	More beneficiaries of investment incentives	
NCIL12	New point on places to submit investment project documents	
NCIL13	Conditions for issuance of the Investment Registration Certificate for investment projects that are not subject to approval of investment policies	
NCIL14	Industries that are prohibited from investing abroad	
NCIL15	Lines of conditional investment abroad	

## METHODOLOGY

### Data collection

Based on the literature review and expert interview results, a survey questionnaire was built. The data collection tool in the study is a detailed questionnaire. The author conducted direct and indirect surveys of the lecturer in law and lawyer in firms in law office with many forms such as sending questionnaires directly or emailing from September to October in 2022. The content of the detailed questionnaire includes information about people surveyed, detailed information about the enterprises or organization, and information on the scales related to the measurement of new contents in the 2020 Investment Law (NCIL) including 15 observed variables (table 1). The observed variables (scales) are measured on a 5-point Likert scale from 1 "strongly disagree" to 5 "totally agree". The number of votes given out is 150, the number of votes collected is 135. After cleaning, 125 votes are left and used to perform the next steps. The sample size in this study is 125. The size of this sample was consistent with study of Hair et al. (1998) that the research sample must be at least 5 times the total number of indicators in the scales. The questionnaire of this study included fifteen (15) indicators, and therefore, the minimum sample size to be achieved is  $5 * 15 = 75$  observations.

### Data processing

Then, data from these 125 questionnaires was cleaned and coded with the necessary information in the questionnaires, inputted the software.

Based on the theories and scales inherited from previous studies, the authors tested the reliability and value of the scale through descriptive statistics and Cronbach 'Alpha analysis. This study used SPSS22 software to process data.

**RESEARCH RESULTS****Descriptive statistics**

Information of data collected is shown in Table 2. It shows that among the 125 respondents, about 48.0% were male while the remaining 65 (52%) were female. Of these, 48.0% of the participants are lecturer in law, and the participants are lawyer accounted for 52.0%.

**Table 2.** Respondents by gender and profession

	Frequency	Percent	Cumulative Percent
<b>Gender</b>			
Male	60	48.0	48.0
Female	65	52.0	100.0
<b>Profession</b>			
Lecturer in law	60	48.0	48.0
Lawyer	65	52.0	100.0
<b>Total</b>	<b>125</b>	<b>100.0</b>	

Next, Table 3 indicates that the respondents agree with the dependent variables of “new contents in the 2020 Investment Law in Vietnam” where fifteen (15) attributes were quite high with an average of 3.82 compared with the highest of the Likert 5-point scale. All 15 attributes were rated at an average of 3.38 or higher.

**Table 3.** Descriptive Analysis of Attributes of new contents in the 2020 Investment Law in Vietnam

	N	Minimum	Maximum	Mean	Std. Deviation
NCIL1	125	2	5	3.56	0.734
NCIL2	125	2	5	3.39	0.728
NCIL3	125	2	5	3.42	0.721
NCIL4	125	2	5	3.54	0.778
NCIL5	125	2	5	4.02	0.647
NCIL6	125	2	5	4.10	0.645
NCIL7	125	2	5	3.91	0.752
NCIL8	125	2	5	3.96	0.777
NCIL9	125	2	5	4.02	0.653
NCIL10	125	2	5	4.09	0.752
NCIL11	125	2	5	3.79	0.873
NCIL12	125	2	4	3.38	0.645
NCIL13	125	2	5	3.97	0.792
NCIL14	125	3	5	4.06	0.776
NCIL15	125	3	5	4.12	0.768
Valid N (listwise)	125			<b>3.82</b>	

Thus, the vast majority of university lecturers and lawyers of enterprises and law offices participating in the survey assumed that Vietnam's Investment Law 2020 has 15 new points. The main reason for this assessment is that they have real evidence about applying investment law to the work of enterprises and the economy. The 2020 Investment Law positively affects business activities of enterprises and the economy, promoting the attraction of FDI capital into Vietnam.

**Cronbach's Alpha**

New contents in the 2020 Investment Law in Vietnam have been measured by the Cronbach's Alpha. Results of testing Cronbach's alpha of attributes are presented in Table 4 below. The results also show that attributes of the dependent variables have Cronbach's Alpha coefficients that are greater than 0.6; and the correlation coefficients of all attributes are greater than 0.3 excepted for 2 attributes NCIL3, NCIL4. So, 13 attributes of the dependent variables are statistically significant (Hair et al, 2010; Trong & Ngoc, 2008).

**Table 4.** Results of Cronbach's Alpha Testing of Attributes

Cronbach's Alpha	N of Items			
.800	15			
	Scale Mean if Item Deleted	Scale Variance if Item Deleted	Corrected Item-Total Correlation	Cronbach's Alpha if Item Deleted
NCIL1	53.78	29.111	0.339	0.794
NCIL2	53.94	29.327	0.314	0.796
NCIL3	53.91	29.823	0.253	0.800

NCIL4	53.80	29.548	0.258	0.801
NCIL5	53.32	28.542	0.488	0.784
NCIL6	53.23	28.728	0.462	0.786
NCIL7	53.42	28.520	0.405	0.789
NCIL8	53.38	28.607	0.376	0.791
NCIL9	53.31	28.555	0.481	0.784
NCIL10	53.25	28.172	0.451	0.785
NCIL11	53.54	27.734	0.418	0.789
NCIL12	53.95	28.369	0.517	0.782
NCIL13	53.37	27.815	0.466	0.784
NCIL14	53.28	28.203	0.429	0.787
NCIL15	53.22	27.526	0.524	0.780

Two attributes (scales) NCIL3, NCIL4 have not been statistically significant, possibly because the sample size is not large enough; or the surveyors have not fully and accurately understood the content of those two attributes. These two properties are analyzed as follows:

NCIL3: Adding many industries and professions eligible for investment incentives: The 2020 Investment Law adds a number of industries and professions eligible for investment incentives, including: Higher education; Producing products formed from scientific and technological results in accordance with the law on science and technology; Producing products on the List of supporting industry products prioritized for development; Preservation of drugs, production of medical equipment; Producing goods, providing services to create or participate in value chains, industry clusters.

NCIL4: Regulating more subjects to enjoy investment incentives, adding more forms of investment incentives: Investment incentives applied from January 1, 2021 include:

- i. Corporate income tax incentives, including the application of a lower corporate income tax rate than the normal tax rate for a definite term or for the entire duration of the investment project; tax exemption, tax reduction and other incentives in accordance with the law on corporate income tax;
- ii. Exemption from import tax on goods imported to create fixed assets; raw materials, supplies and components imported for production in accordance with the law on import and export tax;
- iii. Exemption or reduction of land use levy, land rent, and land use tax;
- iv. Accelerated depreciation, increasing deductible expenses when calculating taxable income

## CONCLUSION

Vietnam's Investment Law 2020 has many new points, has significantly reformed investment incentive industries and professions; beneficiaries of investment incentives and forms of investment incentives; preferential policies and special investment support. There is also an improvement in investment procedures to ensure that the law on investment and business is consistent with the contents demonstrating Vietnam's commitment when joining the Association of Southeast Asian Nations (ASEAN), Asia-Pacific Economic Cooperation (APEC), World Trade Organization (WTO), Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), ASEAN Economic Community (AEC), Free Trade Agreement free trade (FTA)... However, the above research results also show that Vietnam's 2020 investment law still has some problems.

The paper focuses in Vietnam is needed because investment law plays an important role in attracting foreign investment into Vietnam.

The paper has significant contribution such as, contributing to the clarification of Vietnam's investment law, many new contents of the Investment Law are more suitable and easier to apply, thereby creating favorable conditions for firms and foreign investors. Further research on determinants influencing the new contents of the 2020 Investment Law; the impacts of the 2020 Investment Law on attracting foreign direct investment to Vietnam in the context of developing countries like Vietnam is identified and discussed.

This study has some limitations such as the research sample is not large and the scope of research on contents includes only the 2020 Investment Law in Vietnam.

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