**LEGAL FRAMEWORK FOR VENTURE CAPITAL FUNDS IN VIET NAM**

In recent years, Viet Nam has become an emerging regional startup hub. In this context, Vietnamese government has also introduced new regulations to pave the development of startup wave in Viet Nam. Alongside the effect of the Law on Supporting Small and Medium-Sized Enterprises in 2018, in the same year, the government also issued Decree No.38/2018/ND-CP on investment in SMEs and startups, as well as innovative businesses, which outlined solutions to create favorable conditions for them to access venture capital. The legal framework for venture capital funds under the Decree 38 creates an attractive investment climate and opens capital channels into early stage startups in Viet Nam.

Under Decree 38, a venture capital fund (as Innovative investment fund under the wording of Decree 38) means a fund which is formed from investments of private investors to invest in innovative startups. The fund is established by investment made from no more than 30 investors. Investors may make contributions to a venture capital fund by VND cash, gold, land-use rights and other assets which may be valued in VND. Investors are not entitled to contribute borrowed capital to a venture capital fund. Especially, the Decree requires that total investment made in a startup shall not exceed 50% of the startup's charter capital after receiving investments.

The other concern is the ability for foreign investors to invest in venture capital funds. Respect to this, Decree 38 does not have any specific regulation. Generally, foreign investors who seek opportunities to invest in venture capital must comply with the same regulations (and limitations) on market-access restrictions for foreign investors investing in a Vietnamese company as provided by investment laws, such as limitations under Viet Nam's WTO Commitments related to business lines closed to foreign investors or conditional sectors. Due to lacking of clear regulations, the question is that, regarding the foreign investment into venture capital funds, if the current investment licensing procedures and regulations on foreign currency management are applied?

The fund’s investors may either establish or hire a company to take charge of managing the venture capital fund. The fund management company shall carry out procedures for establishment of the venture capital fund and apply for registration of its additional business sector, which is management of venture capital fund, in accordance with the regulations on company registration.

To provide protections for venture capital investors, Decree 38 requires all venture capital investors enter into an agreement controlling the governance of the fund. Unless otherwise specified in the fund’s charter, the fund management company shall submit reports to the fund’s Board of representatives/ Director on a three-month basis. Besides, the venture capital fund’s charter must state that the purpose of the fund is engaging in high-risk investment. To control transactions between related parties, the consent of investors is required in transactions between the venture capital fund and a startup whose legal representative is related to the investor who owns at least 35% of the fund’s paid-in capital or a smaller percentage thereof prescribed in the fund’s charter.

Regulatory trends show that the government is trying to create favorable conditions for the development of startups community. Although some of topical areas such as fintech, e-commerce, high tech agriculture will need specific legislations to rapidly grow, the introduction legal framework for operation of venture capital funds will be the first key step to speed up the startup environment in Viet Nam.