

**THE GOVERNMENT**

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No.: 38/2018/ND-CP

**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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*Hanoi, March 11, 2018*

## **DECREE**

### **INVESTMENTS IN SMALL AND MEDIUM-SIZED STARTUP COMPANIES**

*Pursuant to the Law on Government Organization dated June 19, 2015;*

*Pursuant to the Law on Enterprises dated November 16, 2014;*

*Pursuant to the Law on Investment dated November 26, 2014;*

*Pursuant to the Law dated November 26, 2014 on management and utilization of state capital invested in the enterprises' manufacturing and business operations;*

*Pursuant to the Law on State Budget dated June 25, 2015;*

*Pursuant to the Law on assistance for small and medium-sized enterprises dated June 12, 2017;*

*At the request of the Minister of Planning and Investment;*

*The Government promulgates a Decree providing for the investments in small and medium-sized startup companies.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope and regulated entities**

##### **1. Scope:**

This Decree provides guidelines for investments in small and medium-sized startup companies (hereinafter referred to as “startups”), the establishment, management and operation of venture capital funds, and use of local government budgets to make investments in startups.

##### **2. Regulated entities:**

a) Entities making investments in startups as prescribed in Clause 1 Article 18 of the Law on assistance for small and medium-sized enterprises;

b) Startups as defined in Clause 2 Article 3 of the Law on assistance for small and medium-sized enterprises;

c) Authorities, organizations and individuals involved in the implementation of this Decree.

## **Article 2. Interpretation of terms**

For the purposes of this Decree, the terms below are construed as follows:

1. “venture capital” refers to financing that investors provide to do business via contribution of capital to establishment of startups or purchase of shares or stakes of startups which are not public companies.
2. “venture capital fund” means the fund which is established from investments made by private investors to invest in startups.
3. “paid-in capital” means the total amount of assets contributed by investors to the venture capital fund.
4. “fund management company” refers to the company which is established under the law on enterprises and engages in management of venture capital funds.

## **Article 3. Venture capital**

1. Investors prescribed in Clause 1 Article 18 of the Law on assistance of small and medium-sized enterprises are entitled to make investments in startups under the forms stipulated by law, including:

- a) Contribution of capital to establishment of startups, or purchase of shares or stakes of startups;
- b) Establishment or contribution of capital to establishment of venture capital funds to make investments.

2. Enterprises are entitled to use their science and technology development funds to invest in startups in accordance with regulations of the Law on technology transfer and regulations herein. State-owned enterprises shall make investments in startups in accordance with regulations on management and utilization of state capital invested in enterprises’ manufacturing and business operations, and relevant laws.

3. Venture capitalists must ensure that the money they use to make investments is legal and in consistent with Vietnamese and international laws on anti-money laundering.

## **Article 4. Enterprises making investments in startups**

1. Enterprises that are established under the Law on enterprises are entitled to make investments in startups in accordance with regulations herein.

2. When making investments in startups, these enterprises must apply for registration of additional business sectors regarding venture capital in accordance with the law regulations on company registration.

3. Company registration offices shall consider the validity of applications and certify the registration for venture capital by enterprises in accordance with the law regulations on company registration.

## **Chapter II**

### **VENTURE CAPITAL FUNDS**

#### **Article 5. Venture capital funds**

1. A venture capital fund is not considered a juridical person and established by capital contributed by not more than 30 investors according to the fund's Charter. A venture capital fund is not entitled to make investments in other venture capital funds.

2. 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.

3. Portfolio and investments of a venture capital fund include:

a) Deposits at commercial banks as prescribed by law;

b) Total investment made in a startup shall not exceed 50% of its charter capital after receiving investments.

4. Total paid-in capital and assets of investors at a venture capital fund must be recorded separately from those of the fund management company.

5. Investors that contribute capital to a venture capital fund shall themselves reach an agreement on the power to make decision on investment portfolio which must be specified in the fund's Charter and the contract signed with the fund management company (if any).

#### **Article 6. Charter of the venture capital fund**

1. The charter of the venture capital fund must be approved by all investors.

2. The fund's Charter includes the following main contents:

a) Name of the fund, date of establishment, operating period, and the fund management company;

- b) Objectives of the fund, investment fields, principles for operating the fund, and operating period of the fund;
- c) The fund's paid-in capital and regulations on increase and decrease in paid-in capital;
- d) Rights and obligations (including salaries, bonuses and expenses) of the fund management company, fund's Board of representatives and Director; cases of change of the fund management company, fund's board of representatives and manager;
- dd) Regulations on General meeting of investors;
- e) Regulations on the power to make decision on the investment portfolio;
- g) Regulations on retention of the fund's register of investors;
- h) Regulations on profit distribution;
- i) Regulations on settlement of conflicts of interest;
- k) Regulations on reporting;
- l) Regulations on fund dissolution and liquidation;
- m) Regulations on transfer of capital contributions between investors;
- n) Procedures for amending the fund's Charter;
- o) Other contents (if any),

3. The fund's objective specified in its charter must include the following precautions: This fund aims to invest in startups. Only investors that are ready to face high risks from the fund's investments should contribute capital to this fund. Investors should carefully consider before contributing capital or make investments in this fund.

#### **Article 7. Management of venture capital funds**

1. A venture capital fund shall be managed under at least one of the following models:
  - a) General meeting of investors, the fund management company;
  - b) General meeting of investors, the fund's Board of representatives or Director, the fund management company;
  - c) General meeting of investors, the fund's Board of representatives and Director, the fund management company.

2. 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 law regulations on company registration when taking charge of managing the venture capital fund.
3. The management of the venture capital fund prescribed herein shall be done according to the fund's Charter and agreements or contracts signed with the fund (if any), and not be governed by regulations of the Law on securities.
4. 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 on the following contents:
  - a) The fund's investment portfolio, including total investment made in each startup.
  - b) The investment plan and divestment plan (if any).
  - c) The administration costs and bonuses (if any) paid to the fund management company, the fund's Board of representatives or Director and other service charges as regulated in the fund's Charter that arise during the reporting period.
  - d) Other contents at the request of the fund's Board of representatives or Director.
5. Transfer of shares of a founding shareholder of the fund management company shall be made in accordance with regulations of the Law on enterprises.

#### **Article 8: General meeting of investors**

1. The General meeting of investors shall include all investors who pay capital to the fund and be the highest decision-making body of the fund. The General meeting of investors shall make decisions on the following contents:
  - a) Amendments to the fund's Charter or changes to the contract signed with the fund management company;
  - b) Changes in the fund's policies or objectives; change of the fund management company, the fund's Board of representatives or Director;
  - c) The fund dissolution; increase or decrease in the fund's paid-in capital; extension of the fund's operating period;
  - d) Decisions about contracts or transactions as prescribed in Article 10 herein;

dd) Approval for the selection of accredited audit firm to conduct audits of annual financial statements of the fund, and independent valuation firm (if any); approval for annual financial statements, reports on asset flows, and profit and loss statements of the fund;

e) Consideration and actions against the violations which have been committed by the fund management company and cause damage to the fund;

g) Other issues within the authority of the General meeting of investors as prescribed in the fund's Charter.

2. Resolutions of the General meeting of investors shall be approved by voting, or giving written opinions, or in other forms as regulated in the fund's Charter. The number of votes an investor has corresponds to the percentage of capital he contributed to the fund.

3. The General meeting of investors shall be convened in accordance with regulations in the fund's Charter.

4. The fund management company shall convene extraordinary general meeting of investors on the requisition of the fund's Board of representatives or Director or an investor or a group of investors owning more than 10% of the total paid-in capital for a period of at least 06 months or a smaller percentage of the total paid-in capital as prescribed in the fund's Charter in the following cases:

a) There is a well-founded conclusion that the fund management company infringes the investor's rights, or fails to discharge its obligations, or makes a decision beyond its authority prescribed in the fund's Charter, or delegated by the General meeting of investor, resulting in damage to the fund; or

b) Other cases prescribed in the fund's Charter.

5. The extraordinary general meeting of investors shall be held within 30 days from the date on which the fund management company receives a requisition thereof. At least 15 days before the extraordinary general meeting of investors, the fund management company must send written meeting program, which must specify the reasons and objectives of the meeting, and relevant documents to all investors.

6. In case the fund management company refuses to convene the General meeting of investors as prescribed in Clause 4 and Clause 5 of this Article, it shall assume responsibility under the law and make compensation for any damage caused to the fund.

## **Article 9. The fund's Board of representatives and Director**

1. The fund's Board of representatives or Director is elected by the General meeting of investors to represent investors. Rights and obligations of the fund's Board of representatives or Director are specified in the fund's Charter.

2. Resolutions of the fund's Board of representatives shall be approved by voting in the meeting, or giving written opinions, or in other forms as regulated in the fund's Charter. Each member of the fund's Board of representatives has one vote of equal weight.

3. Unless otherwise specified in the fund's Charter, the fund's Board of representatives or Director shall discharge the following duties:

a) Inspect the compliance, rationality, legality, truthfulness and carefulness in the operation of the fund management company;

b) Appraise the adequacy, legality and truthfulness of reports submitted by the fund management company;

c) Review, inspect and evaluate the efficiency of performance of the fund management company, risk management and precautions for investors.

#### **Article 10. Transactions requiring approval from General meeting of investors and notification of related interests**

1. The following transactions must be approved by the General meeting of investors before they are carried out:

a) 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. Investor having related interests cannot vote on such case. A contract or transaction is considered approved when at least 65% of votes are "yes" votes;

b) Other transactions prescribed in the fund's Charter.

2. Unless otherwise specified in the fund's Charter, the fund management company shall take charge of informing the fund's Board of representatives or Director within 07 days from the occurrence of the event, and report in the annual general meeting of investors the following contents:

a) The list of individuals related to the fund management company;

b) Name, registration number and head office's address of the enterprise the shares or paid-in capital of which is owned by a member of the Member Board (or the Management Board), or the Director (or General Director) of the fund management company; percentage and time of owning such shares or paid-in capital.

3. Related parties (or individuals) shall be determined in conformity with regulations in Article 4 of the Law on enterprises.

#### **Article 11. Notice of establishment of venture capital fund**

1. Within 05 working days from the date of establishment of the venture capital fund, the fund management company must submit the notice of establishment which is prepared according to the forms No. 01a and 01b enclosed herewith to the company registration office at the place where the fund's head office is located. Such notice must be enclosed with the following documents:

a) The fund's Charter;

b) Service contract signed with the fund management company (if any);

c) The bank's certification of paid-in capital;

d) Certified copies of ID cards or Passports or citizen's identity cards of individual investors; or certified copies of establishment decisions or company registration certificates or documents of equivalent validity of institutional investors;

dd) The minutes and resolution of the General meeting of shareholders or the Management Board, or decision of the Member Board or of the owner in conformity with regulations in the Charter of the institutional investor, that contributes capital to the fund, on the appointment of its official to represent its capital contributed to the fund, enclosed with personal profiles of this authorized official.

2. The company registration office shall consider the validity of the notice and enclosed documents received within a period of 15 working days from the receipt of the notice.

3. If the notice and enclosed documents are valid, the company registration office shall send a certification of establishment to the fund management company. If the notice and enclosed documents are invalid, the company registration office shall send a written response which specifies the reasons and contents to be modified (if any) to the fund management company.

4. Within 05 working days from the receipt of certification of the notice of establishment of the venture capital fund, the fund management company shall publish information about the establishment of the venture capital fund on its website or portal and send the copy of the notice of the fund establishment to the Ministry of Planning and Investment for publishing on the National SMEs support portal. The fund shall begin its operations after the fund-related information has been published on the National SMEs support portal.

5. The fund management company shall assume responsibility before the law for the truthfulness and accuracy of contents of the notice of establishment and enclosed documents. The company registration office shall assume responsibility for the validity of the notice of establishment and enclosed documents, and not assume responsibility for violations against the law committed by the fund management company or investors.

6. The company registration office shall not settle disputes that arise among investors, or between an investor and the fund management company or another organization or individual.



7. The following changes must be reported to the company registration office at the place where the fund's head office is located for publishing on the National Business Registration Portal: Increase or decrease in the fund's paid-in capital; extension of operating period of the fund; the fund liquidation or dissolution; transfer of capital contributions between investors.

#### **Article 12. Increase and decrease in the paid-in capital of the venture capital fund**

1. Any increase or decrease in the paid-in capital of the venture capital fund must comply with the following provisions:

a) The fund's Charter has regulations on the increase and decrease in its paid-in capital;

b) The increase or decrease in the fund's paid-in capital has been approved by the General meeting of investors.

2. The venture capital fund's paid-in capital may be raised from existing investors or new investors. In such cases, the number of investors contributing money to the fund must be ensured as regulated in Article 5 herein.

3. In case of decrease in the fund's paid-in capital, assets distributed to investors may be cash or other assets as prescribed by the General meeting of investors. The fund management company shall fairly distribute assets to investors according to the capital contribution percentage of each investor. The conveyance or registration for ownership of assets for investors as well as tax liabilities to the Government shall be carried out in accordance with relevant laws.

4. Within 07 days after the completion of increase or decrease in the fund's paid-in capital, the fund management company must report the company registration business on such increase or decrease in the fund's paid-in capital as follows:

a) The notice of the increase or decrease in the paid-in capital of the venture capital fund made according to the form No. 02 enclosed herewith;

b) The minutes and resolution of the General meeting of investors on the capital increase or decrease and relevant documents;

c) The amended Charter;

d) The written agreement on capital contribution and the list of investors contributing capital, contributed capital amounts and contribution percentage of each investor before and after the increase or decrease in the fund's paid-in capital;

dd) The certificate of additional paid-in capital and the list of assets contributed to the fund made by the fund management company. In case of capital decrease: The Certificate of distribution of assets to each investor which is made by the fund management company and specifies the list of assets distributed to investors.

5. The procedures for notice of increase or decrease in the fund's paid-in capital and responsibilities of the fund management company shall be the same as those for notice of establishment of venture capital fund specified in Clauses 2, 3, 4, 5 and 6 Article 11 herein.

### **Article 13. Notification of extension of operating period of the venture capital fund**

1. The operating period of a fund shall be extended according to the resolution of the General meeting of investors.

2. At least 15 days before the end of operating period of the fund, the fund management company must notify the company registration office at the place where the fund's head office is located of the extension of the fund's operating period. A notification of the extension of the fund's operating period includes the following documents:

a) The notice of extension of the fund's operating period made according to the form No. 03 enclosed herewith;

b) The minutes and resolution of the General meeting of investors of the extension of the fund's operating period, specifying the extended operating period;

c) The investment portfolio and report on the fund's net asset value made on the latest valuation date;

d) Changes in investors and the fund's Charter (if any).

3. The procedures for notice of extension of the fund's operating period and responsibilities of the fund management company shall be the same as those for notice of establishment of venture capital fund specified in Clauses 2, 3, 4, 5 and 6 Article 11 herein.

### **Article 14. Fund dissolution**

1. A fund shall be liquidated or dissolved in the following cases:

a) The operating period specified in the fund's Charter ends;

b) The General meeting of investors decides to dissolve the fund before the end of its operating period specified in the fund's Charter;

c) The fund management company is dissolved, or declared bankrupt, or has its company registration certificate revoked but the fund's Board of representatives is unable to establish a new fund management company within 02 months from the date on which one of such events occurs;

d) Other cases as prescribed in the fund's Charter.

2. Within 30 days from the date on which the fund is dissolved as prescribed in Points b, c, d Clause 1 of this Article, or at least 03 months prior to the fund dissolution as prescribed in Point a Clause 1 of this Article, the fund management company shall convene the General meeting of investors to consider giving approval for the plan of fund dissolution.

3. The General meeting of investors shall have the right to select an independent audit firm to supervise the liquidation, valuation and distribution of the fund's assets to its investors; or appoint the existing Board of representatives or Director of the fund to supervise the liquidation and distribution of the fund's assets.

4. The fund management company shall carry out the liquidation and distribution of assets to investors according to the dissolution plan approved by the General meeting of investors.

5. The General meeting of investors shall vote on the dissolution date. Since the dissolution date, the fund management company shall not:

a) Make investments or purchase assets for the fund;

b) Give or donate fund's assets to other organizations and individuals;

c) Perform other transactions for the purposes of illegally liquidating the fund's assets.

6. The assets of the fund being dissolved include:

a) The assets and asset-related rights of the fund existing at the time of compulsory dissolution;

b) The profits, assets and asset-related rights that the fund will obtain from transactions made before the dissolution date.

7. The proceeds from the liquidation of the fund's assets and remaining assets shall use for:

a) Fulfilling financial obligations to the State;

b) Making payment for amounts payable to the fund management company and the fund's Board of representatives or Director, other amounts payable and dissolution expenses. In case the fund is dissolved according to Point c Clause 1 of this Article, the fund shall not pay contractual fees to the fund management company, the fund's Board of representatives or Director from the date on which the dissolution event occurs;

c) The rest of assets shall be distributed to the fund's investors according to the capital contribution percentage of each investor.

8. Liquidation results must be certified by the fund management company and approved by the fund's Board of representatives or Director in charge of supervising the liquidation process.

## **Article 15. Notification of fund dissolution**

1. Within 07 days from the date on which the fund dissolution is approved by the General meeting of investors, the fund management company must send a notice of fund dissolution using the form No. 04 enclosed herewith to the company registration office at the place where the fund's head office is located.
2. The notification of the fund dissolution and liquidation shall include:
  - a) The minutes and resolution of the General meeting of investors on the fund dissolution, enclosed with the plan of liquidation and distribution of the fund's assets approved by the General meeting of investors, which must specify the principle of asset valuation made at the dissolution date and time-limit for asset distribution in conformity with the law regulations, the fund's Charter and valuation manual; the methods of distributing assets to investors and providing information concerning asset liquidation and distribution for investors.
  - b) The written commitment signed by the legal representative of the fund management company on the completion of the procedures for asset liquidation.
3. The procedures for notice of the fund dissolution and liquidation, and responsibilities of the fund management company shall be the same as those for notice of establishment of venture capital fund specified in Clauses 2, 3, 4, 5 and 6 Article 11 herein.
4. The asset liquidation and the time-limit for completing asset liquidation shall be performed according to the dissolution plan approved by the General meeting of investors provided that the liquidation of assets must be completed within one year from the date on which the fund dissolution is published. During the liquidation of assets, the administration costs, supervisions costs and other costs shall be paid according to the cost levels approved by the General meeting of investors. Since the dissolution date, the fund management company must monthly provide investors with information about the payment rate for each proportion of paid-in capital, expenses incurred in the period, the remaining net asset value and value of assets distributed to investors. The information provided for investors must be also provided for the company registration office for monitoring.
5. Within 05 working days from the completion of fund dissolution, the fund management company shall publish information concerning the completion of asset liquidation and distribution, and fund dissolution on its website, and at the same time, submit reports on fund dissolution results to the company registration office and the Ministry of Planning and Investment for publishing on the National SMEs support portal.
6. In case the notification of fund dissolution contains inaccurate information or forged documents, the fund management company and relevant organizations/individuals shall be jointly responsible for paying outstanding debts and bear liability before the law for any consequences arising within 03 years from the date on which the reports on the fund dissolution results are sent to the company registration office.

## **Article 16. Dividend payment**

1. Investors shall receive dividend income according to the regulations on profit distribution specified in the fund's Charter and the dividend payment plan approved by the latest General meeting of investors. Dividend payment must be made according to the following principle:

a) The fund shall pay dividends to its investors only when its investment is lucrative and after it has adequately fulfilled tax liability and other financial obligations as regulated by law;

b) Dividend payment shall be made in conformity with the regulations on profit distribution specified in the fund's Charter;

c) The dividend rate shall be subject to the decision made by the General meeting of investors in conformity with the fund's investment objectives and regulations on profit distribution specified in the fund's Charter.

2. At least 15 days before the date of dividend payment, the fund management company must send notifications to investors according to their registered addresses.

#### **Article 17. Transfer of capital contributions between investors**

1. Unless otherwise specified in the fund's Charter or relevant laws, each investor has the right to freely transfer his/her capital contributions at the fund. An investor may partially or entirely transfer his/her capital contribution at the fund provided that total number of investors of the fund, after completion of transfer, must be ensured as regulated in Article 5 herein.

2. Within 15 days from the completion of transfer procedures, the fund management company is required to send a report on such transfer of capital ownership between investors to the company registration office. Such report includes:

a) The notice of transfer of capital contribution between investors, which is made according to the Form No. 05 stated in the Appendix enclosed herewith and includes information about related parties, ownership percentages of the parties (before and after transfer of capital ownership), and total capital contribution to be transferred;

b) The copy of the written contract for transfer of capital contribution between investors, which must be certified by the fund management company.

#### **Article 18. Reporting and inspection of operations of venture capital funds**

1. Enterprises providing venture capital and companies in charge of managing venture capital funds, by January 15 every year, shall submit statements of operations, made according to the Form No. 06 stated in the Appendix enclosed herewith, to the Ministry of Planning and Investment for publishing on the National SMEs support portal.

2. Company business offices have the right to directly, or request competent authorities to, conduct inspections of fund management companies in terms of contents of notice of

establishment of venture capital fund, changes in fund and relevant documents as regulated herein.

### **Article 19. Accounting and financial policies**

1. Enterprises providing venture capital, fund management companies and venture capital funds shall assume responsibility to comply with law regulations on accounting.
2. Transfer of investments or profits into or out of the territory of Vietnam by foreign investors who provide capital for startups shall be made in compliance with regulations on investment and foreign exchange management.

## **Chapter III**

### **USE OF LOCAL GOVERNMENT BUDGETS TO MAKE INVESTMENTS IN STARTUPS**

#### **Article 20. Regulations on use of local government budgets to make investments in startups**

1. Based on the reality of local government budget, each Provincial People's Committee shall request the People's Council of the same level to consider designating the local financial agency to make investments in startups.
2. If the local financial agency is organized and operates in the form of an extra-budgetary fund, assigning duties and providing charter capital for this fund shall comply with Clause 11 Article 8 of the Law on state budget.
3. If the local financial agency is organized and operates in the form of an enterprise, the provision of additional charter capital for this enterprise must comply with regulations in Article 4, Article 13, Article 14 and Article 15 of the Law on management and utilization of state capital invested in the enterprises' manufacturing and business operations.
4. The local financial agency shall make investments in startups in conformity with regulations in Clause 4 Article 18 of the Law on assistance for small and medium-sized enterprises.
5. The local financial agency shall exercise the rights and fulfill responsibilities of the agency representing state capital contributed to a startup.
6. Information concerning investments in startups with funding from local government budgets must be published on the website of relevant Provincial People's Committee.

#### **Article 21. Selection of venture capital fund to jointly make investments**

1. The local financial agency shall select venture capital funds to jointly make investments. A venture capital fund to be selected must:

- a) make a commitment with the local financial agency to jointly make investments in startups;
- b) have at least 01 year of experience in investing in startups;
- c) be financially capable of making investments; and
- d) satisfy other requirements (if any).

2. The local financial agency shall annually evaluate, amend and publish the list of selected venture capital funds on its website and the website of Provincial People's Committee.

### **Article 22. Invested enterprises**

1. An enterprise invested by the local financial agency must be a startup that:

- a) operates in priority industries or sectors; and
- b) is invested by at least one venture capital fund prescribed in Article 21 herein.

2. The local financial agency shall quarterly update and publish the list of invested enterprises on its website and the website of Provincial People's Committee.

### **Article 23. Investment form and method**

1. Venture capital funds prescribed in Article 21 herein shall evaluate and propose the plan on selection of potential startups to the local financial agency for consideration.

2. If the local financial agency is organized and operates in the form of a state-owned enterprise, procedures and formalities for investment in startups and management of state funding contributed shall be performed in compliance with regulations in Article 28 and Article 30 of the Law on management and utilization of state capital invested in the enterprises' manufacturing and business operations.

3. If the local financial agency is organized and operates in the form of an extra-budgetary fund, procedures and formalities for investment in startups and management of state funding contributed shall be performed in compliance with specific organizational and operational regulations of that fund and the Law on management and utilization of state capital invested in the enterprises' manufacturing and business operations.

4. Decision on investments in startups by a venture capital fund shall be independent from that of the local financial agency.

5. Total investment made by the local financial agency in a startup as prescribed in Article 22 herein shall not exceed 30% of total investments jointly made by venture capital funds in that startup.

#### **Article 24. Investment term**

The term of an investment with funding from local government budget shall exceed 05 years from the investment date. The investment date is the date on which the investment agreement is entered into between the local financial agency and the invested startup.

#### **Article 25. Transfer of invested capital**

1. Within 05 years from the investment date, the local financial agency may carry out procedures for transfer of its shares or stakes in the invested startup to a private investor. Venture capital funds that jointly make investments in a startup and existing shareholders of the invested startups shall be given priority to such transfer of invested capital.
2. Transfer of investments shall be performed in compliance with regulations in Article 31 of the Law on management and utilization of state capital invested in the enterprises' manufacturing and business operations.
3. All proceeds from the transfer of invested capital, after payment for transfer fees and taxes (if any), shall be paid to state budget.

#### **Article 26. Reserve fund**

The local financial agency must set aside the reserve fund for its investments in startups in conformity with financial management policies applicable to local financial agencies.

#### **Article 27. Investment performance evaluation**

Each local financial agency shall evaluate performance of its investments in startups with funding from local government budget and submit reports thereof to the Provincial People's Committee and Ministry of Planning and Investment in accordance with regulations in Article 31 of the Law on assistance for small and medium-sized enterprises.

### **Chapter IV**

#### **STATE MANAGEMENT OF VENTURE CAPITAL AND IMPLEMENTATION OF THIS DECREE**

#### **Article 28. Responsibility of Ministry of Planning and Investment**

Take charge and cooperate with relevant ministries and Provincial People's Committees to monitor and evaluate the implementation of this Decree, and propose any amendments or supplements to this Decree.

#### **Article 29. Responsibility of Ministry of Finance**



Provide guidelines on accounting for enterprises making investments in startups, companies in charge of managing venture capital funds and venture capital funds.

### **Article 30. Responsibility of each Provincial People's Committee**

1. Perform state management of investments in startups in the province; conduct inspections of operations of fund management companies and venture capital funds.
2. Announce investments in startups with funding from local government budget and assume responsibility for violations within its management as regulated by law when assigning the local financial agency to make investments in startups.
3. Send annual and unexpected reports to the Ministry of Planning and Investment and the Ministry of Finance on performance and status of investments in startups in compliance with regulations herein.
4. Propose solutions for dealing with difficulties that arise during the investment in startups with funding from local government budget; propose amendments or supplements to policies on investments in startups.

### **Article 31. Responsibility of each local financial agency**

1. Exercise the rights and discharge obligations of the agency representing state capital invested in startups in accordance with regulations of the Law on management and utilization of state capital invested in the enterprises' manufacturing and business operations.
2. Propose solutions for dealing with difficulties that arise during the investment in startups.

### **Article 32. Responsibility of every invested startup**

1. Provide accurate information during its capital mobilization.
2. Prudently use capital mobilized in conformity with terms and provisions of agreements signed with investors.

### **Article 33. Implementation**

1. This Decree comes into force as from the date on which it is signed.
2. During the implementation of this Decree, the Government shall take charge of reviewing and making necessary amendments.
3. Ministers, heads of ministerial-level agencies, heads of the Government's affiliates, Chairpersons of Provincial People's Committees, Chairpersons of management councils and Directors of local financial agencies, heads of relevant agencies or organizations shall implement this Decree.

**ON BEHALF OF THE  
GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**