

Vietnam: Impact of and Potential Challenges Presented By the New Guidance on Vietnam's Beneficial Owner Regulations

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I Introduction

Vietnam has recently promulgated Law No. 76/2025/QH15 Amending the Law on Enterprises (together with Law No. 59/2020/QH14 on Enterprises, “**LOE 2025**”) as a step toward strengthened corporate governance and transparency. LOE 2025 introduces the new concept of beneficial owners (“**BO**”) to the enterprise registration framework. In a previous newsletter, we discussed the rationale behind and notable points of the BO framework in LOE 2025 ([Asia Newsletter \(June 30, 2025\)](#)).

Since LOE 2025 does not establish the criteria to determine BO, the government has issued Decree No. 168/2025/ND-CP (“**Decree 168**”), and Circular No. 68/2025/TT-BTC (“**Circular 68**”) to fill the gap, both of which became effective 1 July 2025. This newsletter will discuss the detailed guidance on BO in Decree 168 and Circular 68, and also consider some issues to note when identifying BO under the new regulations and how these requirements may impact various stakeholders, including enterprises, investors, and BO.

II Summary of BO Regulations

1. Definition of BO

LOE 2025 defines BO as “individuals who (i) have actual ownership of the charter capital or (ii) have the right to control the enterprise, except for cases of the direct owner representative at an enterprise in which the State holds 100% of the charter capital and the representative of the State capital invested in a joint stock company or a multi-member limited liability company according to the law on management and investment of State capital in enterprises.”¹ Similar to the recommendations of the Financial Action Task Force (“**FATF Recommendations**”), in Vietnam BO means exclusively individuals (natural persons).

Decree 168 clarifies that the criteria for BO are as follows:²

¹ LOE 2025, Article 4.35.

² Decree 168, Article 17.

- To pass the ownership test (i), an individual needs to hold at least 25% of the charter capital or the total voting shares of the relevant enterprise, either directly or indirectly (i.e., via another organization); or
- To pass the control test (ii), an individual needs to have the right to control one of the following matters:
 - the appointment, dismissal, or removal of the majority or all of the board of management;
 - the appointment, dismissal, or removal of chairman of the members' council or the board of management, the legal representative, or the general director;
 - amendments or supplements to the enterprise's charter;
 - changes to the enterprise's organizational and managerial structure; or
 - reorganization or dissolution of the enterprise.

Decree 168 makes it clear that the ownership and control tests can be applied and verified in parallel. In other words, the identification of an individual as a BO based on the ownership test does not relieve an enterprise of its obligation to identify BO via the control test. In many cases, the true power within an enterprise lies not with those who hold significant equity interests, but with those who influence strategic decisions through other means.

Although LOE 2025 expressly exempts individuals acting as State representatives of wholly State-owned enterprises or State capital investments from the scope of BO, it is silent with regard to individuals who represent the equity interests of investors in private enterprises.³ It seems that those individuals always trigger BO obligations, as explained in Section II.3 below.

2. Applicable Entities

New regulations governing BO apply to most enterprises that have legal person status,⁴ including single-member limited liability companies, multi-member limited liability companies, joint stock companies, and partnerships.

3. New Obligations Imposed By the BO Regulations

(1) Disclosure Obligations

Timing of disclosure:

³ LOE 2025, Article 4.35.

⁴ LOE 2025, Article 4.35.

Initial disclosure:

- Enterprises established on and after 1 July 2025 must declare BO information at the time of incorporation.⁵
- Existing enterprises must declare BO information the next time (after 1 July 2025) they apply for changes to the details of their enterprise registrations.⁶

Subsequent disclosures:

- All enterprises, except for public companies, must update their BO information within 10 days of the relevant changes.⁷

Information to be disclosed:

LOE 2025 requires disclosure of information about BO, as well as information the authorities can use to identify BO. Specifically, enterprises are required to disclose:

- The full name, date of birth, gender, nationality, identification document details, and contact address of each individual owner or each individual member or shareholder who is deemed to be a BO based on either the ownership test or the control test.⁸

While LOE 2025 clearly defines the ownership test for BO based on both direct and indirect ownership, Decree 168 and Circular 68 indicate that disclosure is required only for BO with direct equity ownership.

- The name, enterprise registration information, headquarters, and specific shareholding level of each organizational shareholder that holds at least 25% of the total voting shares.⁹ LOE 2025 does not impose an equivalent obligation on limited liability companies with multiple members.

(2) Record-Keeping Obligations

All enterprises are responsible for keeping an up-to-date list of the BO they have declared to the Vietnamese authorities, in paper/hard copy or electronic form.¹⁰

The FATF Recommendations state that when no individual can be identified as a BO by ownership or control, a senior managing official of the legal person must be identified and recorded as the BO for due diligence

⁵ Law No. 76/2025/QH15 Amending and Supplementing a Number of Articles of Law on Enterprises, Article 3.1.

⁶ Law No. 76/2025/QH15 Amending and Supplementing a Number of Articles of Law on Enterprises, Article 3.1..

⁷ LOE 2025, Article 31.1; Decree 168, Article 52.

⁸ Decree 168, Article 18; Circular 68, Template No. 10.

⁹ Decree 168, Article 18.3.

¹⁰ LOE 2025, Article 8.5a; Decree 168, Article 19.

purposes.¹¹ However, LOE 2025 contains no such requirement, so the BO record-keeping obligations for Vietnamese enterprises may be limited purely to individuals who clearly pass the ownership test or the control test.

4. Consequences of Failure to Comply with BO Obligations

For the time being, due to a lack of sanctioning regulations, the legal and practical consequences of a violation of the BO obligations remain uncertain. However, in the spirit of Decision No. 194/QĐ-TTg, promulgated by the Prime Minister, dated February 23, 2024, which assigns the Ministry of Planning and Investment (now the Ministry of Finance) to “[...] *apply appropriate, effective, proportionate, and deterrent measures against violations,*” regulations on penalties should be issued in the near future.

Until specific penalties are promulgated, violations may be handled pursuant to the general administrative rules on enterprise registration; for example, an enterprise can be fined around VND 20–30 million for submitting false or inaccurate information or for failing to give notice of changes within the required timeframe.¹²

III Potential Challenges to Identifying BO

1. Different Levels of Commitments and Interests for Enterprises and Other Stakeholders

The BO obligations in LOE 2025 are imposed exclusively on enterprises, rather than their owners, members, shareholders or BO. For that reason, there may be a lack of legal basis, as well as practical incentives, for other stakeholders to cooperate with enterprises’ efforts to comply with BO obligations, especially when the obligations relate to issues of a confidential nature, such as indirect ownership of interests or contractual arrangements pursuant to which BO possess control rights. Moreover, the fact that information about BO may be protected, or otherwise governed, by data privacy legislation raises concerns as to how, and whether, enterprises may obtain the relevant information from stakeholders, as well as the data protection obligations that may arise for the enterprise thereafter.

2. Unclear Scope and Implications of the Control Test


The scope and implications of the control test are more uncertain than those of the ownership test. Neither LOE 2025 nor its guiding regulations confirm whether or not individuals who fall within any of the following circumstances may satisfy the control test.

(1) Veto Powers, Obtained by Law or by Contract

“Veto power” refers to the ability of an individual to block or prevent certain decisions unilaterally, which effectively grants that individual the right to exercise negative control over the affairs of an enterprise. Typical

¹¹ FATF (2023), “Beneficial Ownership Information,” *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris, sec. 33, p.15, available at: <http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legal-persons.html> (accessed August 1, 2025).

¹² Decree No. 122/2021/ND-CP, Article 43.



instruments that may grant or contain veto powers include charters, shareholder agreements, and joint venture agreements. When applying new regulations, Vietnamese authorities tend to be cautious, and thus they are likely to treat veto powers in the same manner as positive control rights. If that is the case, any individual who holds veto power, either contractually or statutorily, will be deemed a BO. That said, as mentioned in Section III.1 above, enterprises may not be in a good position to confirm whether or not their stakeholders hold contractual veto powers.

(2) Authorized Representatives of Capital, Company Presidents, Members of a Members' Council or Board of Management

LOE 2025 expressly excludes only representatives of State capital, who automatically are not deemed BO.¹³ Other authorized representatives of capital, typically including company presidents and members of the members' councils of limited liability companies or the boards of management of joint stock companies, may satisfy the control test, thereby triggering the enterprise's BO obligations, even though their decision-making powers can be exercised only on behalf of other major organizational stakeholders.

The FATF Recommendations note that individuals in high-level management roles who are “responsible for strategic decisions that fundamentally affect business practices” can be considered BO in some circumstances, depending on how actively they exercise control over the affairs of the relevant legal entity.¹⁴ Therefore, individuals in senior management positions who actually exercise substantial control over an entity should be identified and recorded as BO.¹⁵ That said, since Vietnamese law has not adopted an open-ended approach in its definition of BO, the concern arises mainly with regard to company presidents and members of members' councils or boards of management of Vietnamese enterprises.

(3) Substantial Influence Over an Enterprise and Key Personnel Other Than Those Specifically Listed in Decree 168

LOE 2025 provides that a BO is an individual who either owns or controls an enterprise, but does not expressly refer to “influence” or other informal arrangements. Compared to the drafts preceding Decree 168 that expanded “control” to include event decision-making powers over “certain key business activities as defined in the charter,” it appears that the Vietnamese authorities now deliberately adopt a clear-cut approach, so the control test is limited to the specific issues listed in Section II.1 above. There also are no provisions that expressly cover situations in which an individual exerts *de facto* influence over an enterprise, for example, through family ties, reputation, personal ties, advisory status, or other informal arrangements.

¹³ LOE 2025, Article 4.35.

¹⁴ FATF (2023), “Beneficial Ownership through Control/Other Means (“beyond the threshold”),” *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris, sec. 45, p.18-19, available at: <http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legal-persons.html> (accessed August 1, 2025).

¹⁵ FATF (2023), “Beneficial Ownership Information,” *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris, sec. 33, p.15, available at: <http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legal-persons.html> (accessed August 1, 2025).

By contrast, the FATF Recommendations¹⁶ makes it clear that informal means of control, such as family relationships or trusted influence, can result in an individual being a BO, when they result in effective control over the enterprise.

(4) Joint Control of an Enterprise

Vietnamese law is relatively silent on the issue of joint or collective control, and seem to define BO as a singular individual who meets either the ownership test or the control test on his or her own. Neither LOE 2025 nor its guiding regulations expressly discuss scenarios in which multiple individuals wield control jointly or in the aggregate. For example, if two or three individuals each hold 20% of a company and have an verbal agreement to vote their shares in concert, it appears that none of them would be considered a BO under current Vietnamese law.

For reference, the FATF Recommendations expressly contemplate joint control, and state that relying exclusively on a fixed percentage threshold can miss situations of dispersed ownership.¹⁷ Crucially, the FATF Recommendations acknowledge that multiple shareholders can exercise control collectively even if none of them has a dominant position alone. In plain terms, if control is shared, each of the controlling parties should be identified as a BO.

IV Impact on Stakeholders

1. From the Perspective of Enterprises


Current legal provisions only indicate that non-compliance with BO declaration obligations may lead to administrative procedures being stalled for enterprises. Even with regulations on sanctions being issued soon, a major question remains concerning the extent to which enterprises should be liable for identifying their BO. This is because the law simply establishes criteria through which enterprises can "self-identify" BO, without providing an additional legal basis to mandate cooperation from other concerned stakeholders. It is unclear whether legislators expect enterprises merely to declare information within the limits of their knowledge and ability to identify BO, or if they intend for enterprises to undertake all necessary measures to identify BO accurately and promptly. If the latter, enterprises may not have sufficient legal grounds to verify and monitor BO information on their own, as mentioned in Section III.1 above.

In the absence of clear regulations, it is uncertain how enterprises will balance legal compliance, the threat of sanctions, and avoiding undue burdens on themselves and other stakeholders.

From the enterprise perspective, one option is to issue an internal policy requiring all owners, members, or shareholders to provide sufficient information for the enterprise to comply with BO obligations under LOE 2025.

¹⁶ FATF (2023), "Beneficial Ownership Information," *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris, sec. 133, p.48-49, available at: <http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legal-persons.html> (accessed August 1, 2025).

¹⁷ FATF (2023), "Beneficial Ownership Information," *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris, fn. 27, p.15, available at: <http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legal-persons.html> (accessed August 1, 2025).



However, even in this situation, many issues will require careful consideration, such as the duties targets of disclosure may have under these internal policies, the ability to make the internal policy binding, and the consequences if stakeholders refuse to comply.

2. From the Perspective of Investors

Vietnamese law currently does not impose any obligations to disclose BO information on stakeholders other than enterprises, and imposes no duties on stakeholders to facilitate an enterprise's compilation of BO information. Therefore, individuals and enterprises other than those expressly subject to the disclosure requirements will not be subject to legal penalties or liabilities for non-compliance.

However, as suggested above, investors should consider the potential impact of noncompliance with an enterprise's internal policy that compels information disclosure, or with direct requests for information. In particular, the approaches taken may vary widely, particularly between major stakeholders (whose interests basically will be in line with that of the enterprise) and minor stakeholders (who may not necessarily support the enterprise's attempts to collect information).

BO regulations also will be an important factor for consideration when structuring M&A transactions for the investors. Examples include investors acquiring equity interests in family-owned businesses, wishing to implement investment entrustment agreements with an individual, or seeking to infuse investment capital through layered structures. Depending on the specific circumstances, the BO regulations may lead to additional administrative procedures, and inquiries from Vietnamese authorities about the investment structure and regulatory compliance issues.

3. From the Perspective of BO


In order to protect their legitimate interests, individuals should be aware of, and understand, the BO regulations and other relevant regulations, including those governing the protection of personal data. In particular, individuals should disclose information to relevant authorities only to the extent required by law. In exchange, they should pursue those enterprises to collect, use and protect their information as designated.

BO also should also understand the importance of disclosing BO information responsibly and accurately, as it may be retained by and circulated among State authorities for various purposes, including verification of the BO's corporate affiliation, and in efforts to fight money laundering.

V Conclusion and Recommendations

Vietnam's beneficial ownership regime from an enterprise law perspective is still in a formative stage, with many unresolved practical and legal questions. A prudent approach, paired with ongoing monitoring of legal developments, remains the best practice when identifying and documenting information about BO.

While Vietnam's BO requirements in LOE 2025 aim to address the FATF Recommendations, some differences remain. Therefore, it is advisable for enterprises, investors, and BO to follow the regulatory development in this



sector closely, to ensure prompt updates on the law and on the manner in which the authorities are managing compliance with BO obligations.

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