

Real estate business conditions for foreign investors

What conditions which foreign investors must meet to deal in real estate in Vietnam?

To be permitted for investing in real estate projects in Vietnam, foreign investors must satisfy the conditions prescribed by the Law on Investment, Law on Enterprises, Law on Real Estate Business, and documents guiding the implementation of these laws, specifically as follows:

Firstly, foreign investors from member states of treaties or bilateral agreements to which Vietnam is a contracting party are required to comply with such treaties or agreements.

For example:

+ Investors from countries being WTO members or members of free trade agreements that wish to deal in real estate in Vietnam are subject to no conditions under the Schedule of Commitments. In other words, for sectors not yet specified in the Schedule of Commitments, competent agencies may base themselves on the Vietnamese mechanisms and regulations as well as practical conditions of foreign investors to grant or refuse to grant investment licenses.

+ Real estate investment projects under the Vietnam-Japan Bilateral Investment Treaty need to be approved by the Vietnamese Government. Within 45 days after receiving a complete and valid dossier, the investment licensing agency will consider granting an investment license to the investor or request dossier revision in case it finds the dossier invalid. The licensing agency may refuse to grant an investment license if the investor fails to make amendments or supplementations to the dossier.



An Gia Investment's Board of Directors Chairman Nguyen Ba Sang introduces a real estate project to Toshihiko Muneyoshi, President of Japan's Creed Group__Photo: Internet

Secondly, regarding compliance with the Vietnamese regulations:

In case no treaties or bilateral agreements are involved, foreign investors wishing to do business in the real estate sector must satisfy the following requirements prescribed the Vietnamese law:

Regarding form of real estate business

A foreign-invested enterprise may deal in real estate in one of the following forms:

- Leasing houses or construction works for sub-lease;
- Building houses for lease; building houses or construction works other than houses for sale, lease or hire-purchase on land leased by the State;
- Receiving the whole or part of a real estate project transferred from the project owner to build houses or construction works for sale, lease or hire-purchase;
- Building houses for sale, lease or hire-purchase on land allocated by the State;
- Building houses or construction works for commercial operation in line with land use purposes, on leased land in industrial parks or clusters, export processing zones, hi-tech parks or economic zones.

In addition, a foreign-invested enterprise may also provide real estate brokerage services, operate real estate exchanges, provide real estate consultancy or perform real estate management if fully satisfying the conditions prescribed in the Investment Law, Law on Real Estate Business and other specialized legal documents.

Conditions for conducting real estate business

Foreign investors dealing in real estate are required to establish enterprises or cooperatives having a legal capital of at least VND 20 billion, except for real estate service providers. In addition, they must also have practice certificates as required when practicing in real estate brokerage or real estate valuation.

At present, foreign investors are prohibited from doing business in (i) division of land parcels into smaller construction ground lots for sale or investment in the construction of technical infrastructure facilities of cemeteries and graveyards in order to transfer the land use rights associated with such technical infrastructure facilities; and (ii) purchase of houses or construction works for re-sale, lease or hire-purchase. Foreign investors may only rent such houses or works for sub-lease.

In order to achieve the highest investment efficiency from real estate projects, foreign investors should acquire sufficient information about the sector as well as mechanisms and regulations of Vietnam and invest in one of the fields eligible for investment incentives so as to enjoy such incentives.- (VLLF)