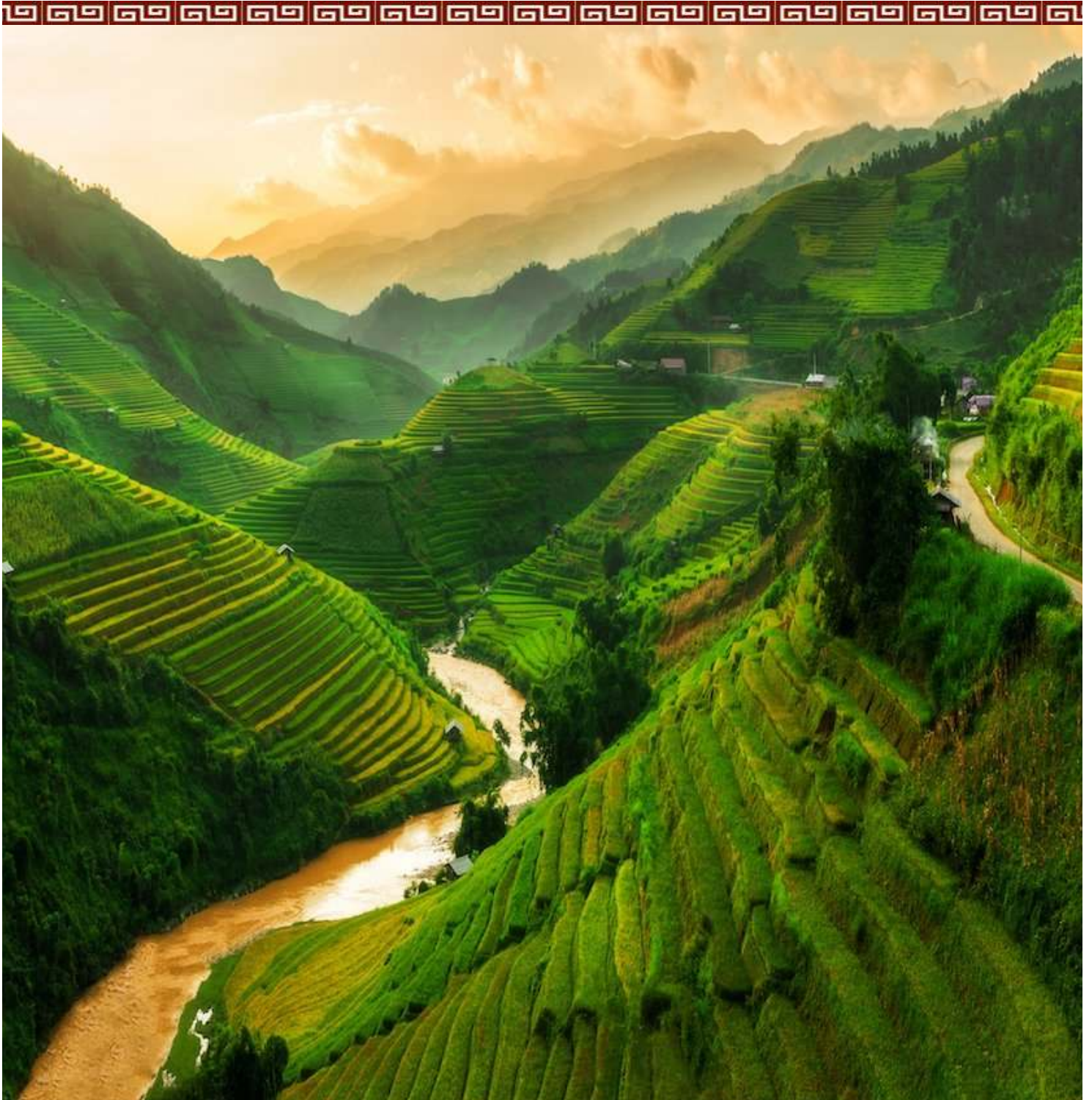


NDTC & Partners

# LEGAL NEWSLETTER

January 2019



1. Decree 165/2018/ND-CP: Regulations on Electronic transactions in financial operations.
2. Decree No. 143/2018/ND-CP: elaborating on law on social insurance and law on occupational safety and hygiene regarding statutory social insurance for foreign employees working in Vietnam.
3. Circular No. 36/2018/TT-NHNN: Lending regulations for overseas investment.
4. Vietnam Macroeconomic Performance, December 2018

# LEGAL UPDATE

January 2019

## 1. DECREE 165/2018/ND-CP: REGULATIONS ON ELECTRONIC TRANSACTIONS IN FINANCIAL OPERATIONS

-HIEU HO-

*The Government has recently issued Decree 165/2018/ND-CP (Decree 165) providing the regulations on Electronic transaction in financial operations. Accordingly, agencies, organizations and individuals participating in e-transactions in financial operations must comply with the principles stipulated in Article 5 of the Law on E-Transactions; and provisions of specialized laws and relevant legal provisions. Set out below is the notable points of the new decree.*

- E-transactions in financial operations subject to administrative procedures must comply with the law on administrative procedures and online public services.

- E-documents are valid as originals when being implemented by one of the following measures: (1) They are digitally signed by the entities that create e-documents unless otherwise provided by the specialized law provisions and/or (2) The information system has measures to ensure the security of e-documents in the process of transmission, receipt and storage on the system

It is noted that the verification shall include digital certificates, biometric method, and verification from two or more elements including elements of one-time authentication code or random authentication code and/or (3) other measures that collectively agreed by the parties involved in the transaction.

- E-documents converted from paper documents shall have the same validity as paper documents. Accordingly, for the shift form, the paper documents are shifted to e-documents by copying and converting into files on the information system, or the contents of paper documents are converted to data to save in the system and the e-documents have the same validity as the physical form of copies.

The Decree took effect on February 10th 2018



## 2. DECREE NO. 143/2018/ND-CP: ELABORATING ON LAW ON SOCIAL INSURANCE AND LAW ON OCCUPATIONAL SAFETY AND HYGIENE REGARDING STATUTORY SOCIAL INSURANCE FOR FOREIGN EMPLOYEES WORKING IN VIETNAM

-HA NGUYEN-

*The Vietnamese Government has issued Decree 143 on October 15th 2018, providing rights and obligations on participating in statutory social insurance for foreign employees working in Vietnam. Accordingly, this Decree focuses on employees who are foreigners working legally in Vietnam under (i) work permit; (ii) practice license or practice certifications. These employees shall join labor contracts with employers in Vietnam with the term of at least one year. This provision will be excepted for these following employees:*

- Who are temporarily internally transferred from the holding companies to work in its commercial presence in Vietnam (with at least one year working for the holding companies before being assigned to Vietnam)
- Who are at the retirement age under Vietnam laws and regulations (60 for men and 55 for women)



Initially, after December 1st, 2018, foreign employees shall be subjected to the social insurance regimes including sickness, maternity, and occupational diseases and accidents. In addition, employers are due to contribute the social insurance for employees based on their salary.



Particularly, an amount of 3.5 percent of employee's salary shall be used for employers to contribute to those mentioned social insurance. Also, from January 1st, 2022, employers will deduct another 14 percent of employee's salary for contributing to retirement and death funds. Thus, in total, from January 1st, 2022, an amount of 17,5 percent of employee's salary will be used for all statutory social insurance.

In case employees do not work and do not receive salary from 14 working days or more in one month, such employee will not contribute in social insurance for that month.

recipient country; (ii) purchasing a part or wholly shares/equity capital of an offshore company to participate in managing and carrying out investment activities; (iii) contributing capital to perform BCCs overseas; (iv) capital needs to carry out overseas investment in other forms by the law of the recipient country.

The Circular also provides conditions for lending such as: (i) Have legal capability; (ii) having been granted an offshore investment registration certificate and their investment activities have been approved or licensed by the authority of the recipient country; (iii) having an offshore investment project/plan which has been evaluated by the credit institution as feasible and investors may repay such loans; (iv) having at least 2 consecutive years without bad debts up to the time of loan application. Additionally, Circular 36 regulates that the lending rates should be agreed by parties but shall not exceed 70% of the investors' investment capital.

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### **3. CIRCULAR NO. 36/2018/TT-NHNN: LENDING REGULATIONS FOR OVERSEAS INVESTMENT**

*-LY PHAM-*

*The State Bank of Vietnam has issued Circular No. 36/2018/TT-NHNN dated December 25th 2018, regulating the lending operations for overseas investment. Circular 36 shall become effective on February 15th, 2019.*

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The State Bank of Vietnam has issued Circular No. 36/2018/TT-NHNN dated December 25th 2018, regulating the lending operations for overseas investment. Circular 36 shall become effective on February 15th, 2019.

In comparison with the old regulations, Circular 36 specifies more clearly that credit institutions consider lending to investors having capital demands include: (i) Contributing capital to establish a company abide by the law of the



# VIETNAM MACROECONOMIC PERFORMANCE

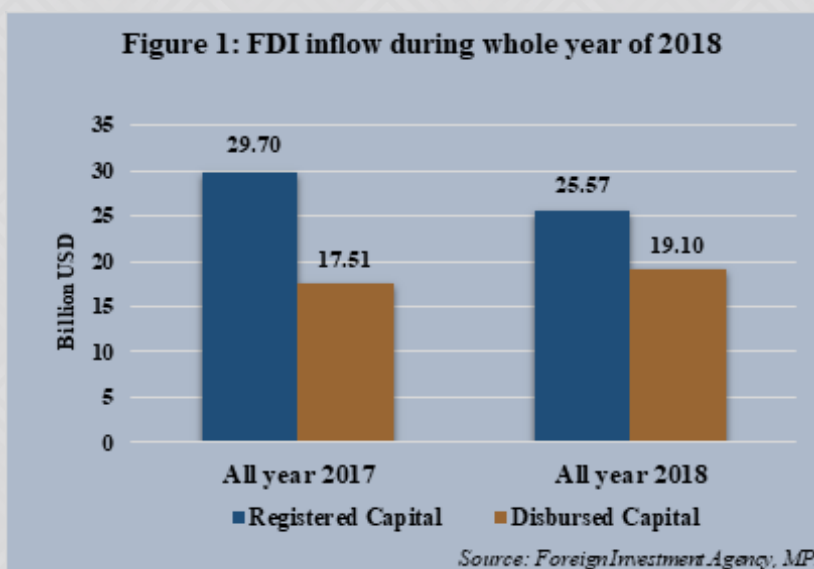
December 2018

By Dzung Dinh

*The legal framework updates would influence the investment environment and national economy. Thus, in following section, NDTC & Partners would briefly describe herewith some highlights regarding most significant variations of macroeconomic indicators during December and the whole year of 2018.*

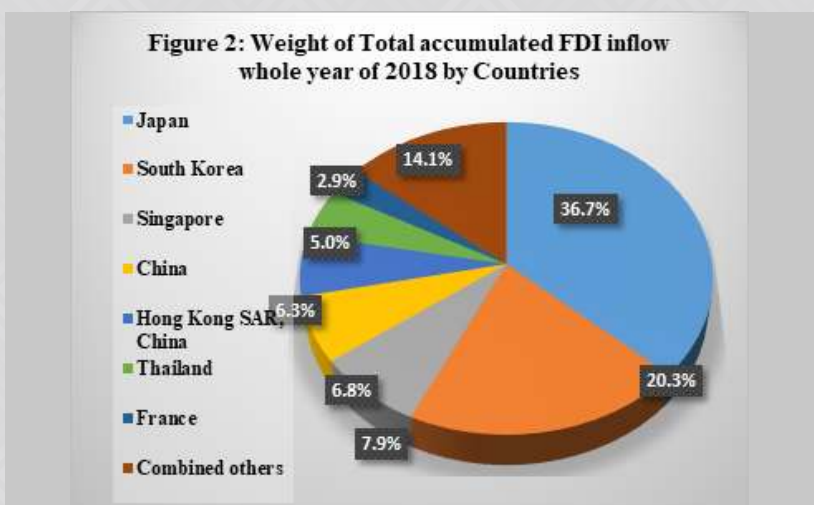
GDP growth for the whole year is recorded at 7.08% y-o-y, highest rate since 2008, contributed the most by industrial and construction sector (growth by 8.85%), followed by service sector (by 7.03%) and agriculture, forestry and fishery (by 3.76%).

Accumulative registered FDI inflow during the year recorded a considerable reduction of 13.9% y-o-y, whereas accumulated disbursed capital witnessed an opposing trend of 9.1% increase y-o-y (Figure 1).



Following the previous momentum, Japan and South Korea keep their leading positions of accumulated FDI inflow during the whole year of combined weight of 57% total accumulated FDI inflow, combining and leveling at an accumulative value of around 10.3 billion USD (Figure 2).

Real estate and manufacturing keeps being the most interested sectors for foreign investors during the year, accounting for approximately 80% of total accumulated FDI inflow, leveling at 5.22 billion USD and 9.07 billion USD, respectively.



Industrial Production Index (IPI) recorded a growth of 10.2 % y-o-y during the whole year of 2018, with manufacturing sector in general still being the main growth driver, albeit confronting deceleration trend, following by power generation and distribution sector (Figure 3).

In brief, macroeconomic growth has been still majorly driven by the FDI groups while domestic counterparts remained unenergetic.

Trade balance of each month has been fluctuating since August last year, reaching a trough in last December and peak this March (Figure 4).

Aggregate Export turnover for the whole year of 2018 is estimated at USD 244.72 billion (+13.8% y-o-y to 2017's) whilst aggregate import turnover leveled at USD 237.51 billion (+11.5% y-o-y to 2017's). The slight trade surplus during the period mainly came from export acceleration of FDI corporates at a higher rate than import acceleration of domestic businesses.

Weighted aggregate Inflation rate has continuously decelerated since last June (at 4.15% CPI) until this April (at 2.80% CPI), then slightly accelerated in the past months to 3.54% in December (Figure 5).

Core inflation has remained under 2% since last June, aggregately reached 1.48% in this December (% y-o-y change to 2017's).

Figure 3: Industrial Production Index whole year of 2018 (% y-o-y to 2017's)

|                                    |         |   |        |
|------------------------------------|---------|---|--------|
| Coal & lignite                     | 9.1 %   | Rubber & plastic products                             | 3.3 %  |
| Crude oil & natural gas            | (5.4) % | Non-metal mineral products                            | 10.9 % |
| Food products                      | 8.5 %   | Metals  | 25.1 % |
| Beverages                          | 7.9 %   | Prefabricated metal products                          | 11.8 % |
| Tobacco                            | 8.9 %   | Electronic, computing & optical products              | 11.3 % |
| Textile                            | 12.7 %  | Electric equipment                                    | 6.7 %  |
| Clothes                            | 11.1 %  | Motor vehicles  | 16.8 % |
| Leather & related products         | 10.8 %  | Furniture   | 13.7 % |
| Paper & paper products             | 14.0 %  | Power generation & supply                             | 10.0 % |
| Chemical & chemical products       | 8.2 %   | Water extraction, treatment & supply                  | 7.6 %  |
| Medicine, pharmaceutical chemistry | 20.0 %  | Waste collection, treatment & destruct; waste cycling | 3.1 %  |

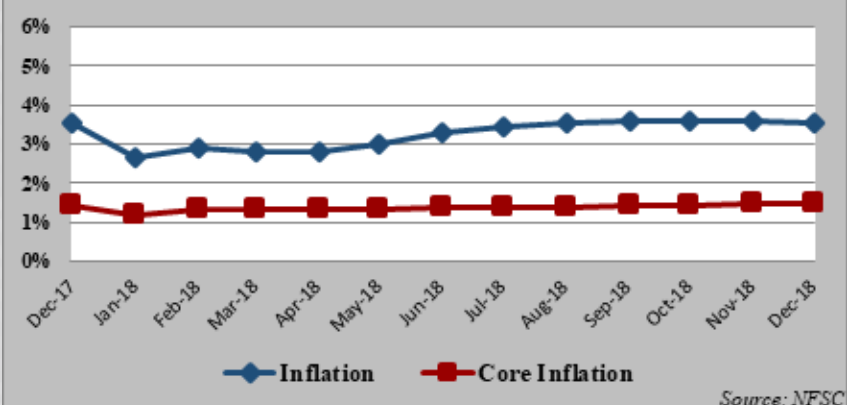
Source: Government Statistics Office (GSO, MPI)

Figure 4: Exports - Imports and Trade Balance, December 2018



Source: GSO, MPI

Figure 5: Weighted Aggregate Inflation and Core Inflation by December 2018, % y-o-y change to 2017's



Source: NFSC



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