Notable new points of the amended Enterprise Law

Vision & Associates
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On 17 June 2025, the National Assembly passed Law No. 76/2025/QH15, amending a number of articles of Law on Enterprises ("**Amended LoE 2025**"). The Amended LoE 2025 will take effect on 1 July 2025, and is expected to bring about important changes to enhance transparency and accountability of enterprises as well as their legal representatives and to be in line with international commitments and practices.

In this article, we would like to highlight some significant amendments of the Amended LoE 2025 as follows:

1. More subjects to establish and manage enterprises

Once prohibited under the provisions of Law No. 59/2020/QH14 passed by the National Assembly on 17 June 2020 ("**LoE 2020**"), now the Amended LoE 2025 allows cadres, public officials and public servants to participate in establishing and managing enterprises in the fields of science, technology, innovation, and digital transformation.

This provision is intended to be consistent with the Law on Science and Technology and Resolution 193/2025/QH15 of the National Assembly on piloting a number of special mechanisms and policies to create breakthroughs in the development of science, technology, innovation, and national digital transformation. At the same time, this provision opens up opportunities for experts (regardless of cadres, public officials and public servants) in the field of technology to do business and promote innovation. Technology companies from different economic sectors (including domestic private and foreign-invested sectors) are expected to benefit from this amendment.

2. Personal liability of the enterprise's legal representative

Previously, the LoE 2020 only stipulated that an enterprise's legal representative would be personally liable for damages caused to his/her enterprise in certain violations specified in Clause 1, Article 13 of the LoE 2020 (for example, failing to properly perform rights and obligations in an honest, careful, and best manner to ensure the legitimate interests of the enterprise; failing to promptly notify of related interests) without detailing the basis for determining his/ her personal liability in such violation cases. Now, the Amended LoE 2025 expressly clarifies that personal liability for damages caused by an enterprise's legal representative to his/ her enterprise due to violations of his/ her responsibilities in such violation cases will be determined based on **the provisions of the laws**.

On the one hand, this provision aims to enhance the legal representative's accountability, ensuring that he/ she is always aware and acts honestly, carefully, and in the best interests of the enterprise, in all cases. On the other hand, this provision is also expected to create a clearer legal basis, i.e. just based on **the provisions of the laws**, when determining the legal representative's personal liability and dealing with his/ her violations. Companies (including foreign-invested enterprises) are recommended to review their charters, clearly define the rights and obligations of their legal representatives to determine specific responsibilities, especially for those having more than one legal representative.

3. Declaration, notification, and retention of information on beneficial owners

For the first time, the Amended LoE 2025 introduces the definition of *"**beneficial owner** of an enterprise with legal status"*, who **is an individual** who has **actual ownership** of the charter capital or has **control** over that enterprise. This provision is intended to meet international commitments

on preventing and combating money laundering and terrorist financing, especially in response to the requirements of the Financial Action Task Force (or **FATF** in short) and the Asia-Pacific Group on Money Laundering (or **APG** in short), while contributing to reducing anonymous ownership, tax evasions or commercial frauds. This provision is guided more specifically in Decree No. 168/2025 dated 30 June 2025 on enterprise registration. According to Decree No. 168, **actual ownership** is defined as 25% or more of the charter capital or 25% or more of the total number of voting shares of the enterprise, regardless of whether the beneficial owner holds directly or indirectly (through another organization) the ownership. Meanwhile, the **control** is represented by the right that the beneficial owner has to control the approval of at least one of the following issues of the enterprise: appointment, dismissal or removal of the majority or all members (including Chairperson) of the Board of Directors, Chairperson of the Members' Council; legal representative, director (or general director); amendment to the charter; change of the management structure; reorganization and dissolution of the enterprise.

With the above-mentioned additional provision, enterprises need to pay attention to the following obligations:

- To collect, update, and retain information on beneficial owners of the enterprise; to provide information to competent State agencies to identify their beneficial owners upon request;
- To notify the business registration authority when there is a change in information about beneficial owners, except for listed companies and companies registered for securities trading;
- To keep the list of beneficial owners of the enterprise (if any) at the head office or another location specified in the charter; the retention period shall comply with the provisions of law.

For enterprises newly registered after the Amended LoE 2025 taking effect, in addition to the information and documents required by the LoE 2020, the enterprise registration dossier must include additional information and documents related to the beneficial owner of the enterprise (if any). For enterprises that were established before the effective date of the Amended LoE 2025, the declaration of additional information about the beneficial owner of the enterprise (if any) will be made at the same time as the procedures to be carried out by enterprises for registering or notifying changes to the enterprise registration contents as soon as the Amended LoE 2025 comes into effect, unless otherwise the enterprise requests to do so earlier.

4. Declaration of enterprise registration/ enterprise registration amendment, charter capital and valuation of contributed assets

In addition to the prohibited acts when declaring for enterprise registration/ amendment to enterprise registration, the Amended LoE 2025 adds certain prohibited acts, including:

- Falsifying the contents of dossiers; and
- Falsely declaring charter capital through the act of not contributing the full amount of charter capital as registered without registering for charter capital adjustment according to the provisions of law.

Compared to the LoE 2020, the Amended LoE 2025 emphasizes the requirement on registration of charter capital adjustment if the committed capital is not contributed in full (this provision is only mentioned in Decree No. 122/2021/ND-CP on administrative sanctions in the field of planning and investment), and at the same time, more tightly controls the valuation of contributed assets. This provision aims to increase transparency and honesty in declaring for enterprise registration/ amendment to enterprise registration in general and capital declaration in particular, contributing to overcome the situation of enterprises *"inflating"* their charter capital to create false reputation. Regarding this content, enterprises are recommended to use independent and objective appraisal

mechanisms (for example, hiring an independent valuer) to ensure transparency, objectivity and honesty.

5. Debt limit and conditions for issuing corporate bonds

The Amended LoE 2025 adds the "*debt-to-equity ratio*" to conditions for enterprises to privately issue their corporate bonds. Specifically, according to the Amended LoE 2025, the total debt of the issuing organization (including the value of the bonds planned to be issued) must not exceed 5 times the owner/ shareholder equity of that issuing organization, based on the audited financial statements of the year immediately preceding the year of issuance. This provision applies to enterprises that are joint stock companies but are not public companies, in order to control bond payment risks. However, this provision does not apply to issuers that are State-owned enterprises, enterprises issuing bonds to implement real estate projects, credit institutions, insurers, reinsurers, insurance brokers, securities companies, and securities investment fund management companies, because these entities will comply with the provisions of other relevant laws.

During the transition period, the Amended LoE 2025 stipulates that private corporate bond offerings that have submitted pre-offering information disclosure to the Stock Exchange before the effective date of the Amended LoE 2025 will continue to be implemented in accordance with the previous provisions of the LoE 2020 and other relevant provisions.

In addition to the above notable provisions, the Amended LoE 2025 also amends certain other provisions to clarify or create more favourable conditions for enterprises in their organization and operation, including:

- List of shareholders entitled to attend the General Meeting of Shareholders

  The Amended LoE 2025 add a provision that the list of shareholders entitled to attend the General Meeting of Shareholders ("**GMS**") shall be made not only based on the Shareholder Register as required by the former regulations but also on the Securities Owner Register, to be consistent with the current practice of joint stock companies.

- Shareholders' right to convene meetings

  For joint stock companies of which management structure does not have a Supervisory Board, the Amended LoE 2025 clarifies that if the Board of Directors does not convene a GMS as stipulated; then, within the next 30 days, shareholders or groups of shareholders owning 5% or more of the total number of common shares (or a smaller percentage as stipulated in the company charter) will have the right to convene a GMS, in order to overcome the shortcomings of the LoE 2020 in practical implementation for the model of joint stock companies without a Supervisory Board when it is necessary to convene a GMS.

- Responsibility of shareholders when requesting to convene a General Meeting of Shareholders

  The Amended LoE 2025 adds a provision that shareholders or groups of shareholders are fully responsible before the laws for the accuracy and honesty of documents and evidence(s) provided to competent authorities when requesting to convene a GMS, in order to increase transparency and accountability of shareholders or groups of shareholders when requesting to convene a GMS.

- Dissolution of enterprises

The Amended LoE 2025 includes the word “shareholder” next to the word “member”, to overcome the shortcomings of the LoE 2020 when it only stipulated the case of an enterprise being dissolved when there is no longer enough minimum number of members (but ignored the case of an enterprise being dissolved when there is no longer enough minimum number of shareholders) as required by the LoE within 6 consecutive months without completing procedures to convert the type of enterprise.

Hanoi Office	Ho Chi Minh City Office
Add: Unit 308-310, Floor 3, Hanoi Towers 49 Hai Ba Trung St., Cua Nam Ward, Hanoi, Vietnam Tel: +84-24-3934 0629 Fax: +84-24-3934 0631 Email: vision@vision-associates.com	Add: Unit 905, Floor 9, CitiLight Tower 45 Vo Thi Sau St., Tan Dinh Ward, HCMC, Vietnam Tel: +84-28-3823 6495 Fax: +84-28-3823 6496 Email: hcmvision@vision-associates.com

Website: http://www.vision-associates.com