

Vietnamese higher education: Opportunities and challenges for foreign institutions

22 January 2018

The emerging education market in Vietnam is attracting interest from foreign higher education institutions and investors. Increasing disposable income, rapid urbanization, and rising living standards are driving local demand for advanced education. At the same time, a shortage of quality local universities, and a substantial increase in the number of school age children make the sector ripe for investment. The Vietnamese government has acknowledged shortcomings in the current education system and recently changed its tone on foreign participation in local education. Efforts are afoot to pave the way for foreign involvement, evidenced most recently by the introduction of concrete proposals to soften existing restrictions on foreign investment into the sector.

Foreign institutions in Vietnam must be cautious. Vietnam is a single-party socialist republic; education is regulated heavily and dominated by State-funded public education. The State's ideological oversight often fuses curriculum to politics. And, by western standards, Vietnamese law can be bureaucratic and bewildering.

We offer here an overview of the Vietnamese education system and the applicable regulatory framework. We also touch on key considerations for foreign institutions contemplating education sector opportunities in Vietnam.

1. Features of Vietnam's emerging education sector

- **Budget.** Approximately 20 percent of Vietnam's national budget, or US\$10 billion, is devoted to education.
- **Population.** Roughly 24 percent of Vietnam's population (approximately 22.5 million people) is under the age of 15, with an additional 14.5 million people between the ages of 15 and 24.
- **Schools.** There are 445 universities and colleges in Vietnam; 357 are public. Public university education consists of national universities (which are more prestigious, receive more State investment and generally have greater autonomy) and regional universities. University-level programs also occur at senior colleges and institutes, which generally have a narrower subject-matter focus.

- **Private sector.** In addition to public institutions, private universities are permitted to operate and charge tuition. Currently, the private sector accounts for approximately 20 percent of schools. Some observers perceive private higher education to be lower quality than public institutions.
- **Enrollment.** Enrollment in higher education has grown dramatically over the last decade, with the national gross enrollment ratio (university/college enrollment as a percentage of the total university/college-age population) standing at around 25 percent. The number of potential students far exceeds available classroom seats.
- **Underdeveloped education facilities.** Public universities have rudimentary teaching materials and facilities and a shortage of skilled instructors and faculty who cannot devote time to research.
- **Supervision and legal.** The Ministry of Education and Training (MOET) largely regulates the education system. Bureaucratic licensing procedures include the need for clearance prior to certain curriculum modifications or facility improvements.
- **Planned growth.** The Vietnamese government introduced plans under a program called the New Model University Project to significantly increase the total number of universities by 2020.

2. Does Vietnamese higher education want foreign investment?

Both government and business acknowledge the challenges in Vietnamese higher education. The list of issues includes lack of capacity, unqualified instructors, nepotistic faculty appointments, and declining teaching standards at public universities, all of which restrict educational quality and the availability of competent human resources in Vietnam.

In response to these issues, the Vietnamese government liberalized private sector involvement in education and plans to augment these efforts by privatizing some public universities. Foreign investment is recognized as a potentially rapid solution for what is seen as an urgent higher education problem. Foreign higher education institution establishment, foreign-backed joint venture universities and collaboration programs between Vietnamese and foreign institutions are among the possibilities openly discussed.

While foreign investment is both needed and encouraged, challenges remain. The most attractive investment opportunities are in the private education market, but this sector is relatively small in Vietnam as compared with other Southeast Asian markets. Public funding leads to dramatic differences between public and private tuition costs, which also places the private sector at a comparative disadvantage where tuition is concerned.

3. What opportunities does Vietnamese higher education offer foreign investors?

Foreign higher education institutions may enter the Vietnam market through:

- establishing a university or college in Vietnam (which may be either wholly or partially foreign owned);

- collaborating with local public or private universities; or
- joining with Vietnamese public universities pursuant to an inter-governmental agreement.

At this stage, the number of foreign-owned higher education institutions is relatively limited. RMIT University Vietnam (part of Melbourne-based RMIT university) was established in 2000 and was the first wholly foreign-owned institution in Vietnam. Others (either wholly or partly foreign-owned) followed, including The British University Vietnam, Kent International College, Cetana PSB Intellis International College, American University in Vietnam, Tokyo Human Health Sciences University Vietnam, and, most recently, Fulbright University Vietnam.

Vietnamese law prescribes several forms of university-to-university collaboration, including student exchange and research cooperation. One potential collaborative model for foreign universities is the ‘education association’ concept – otherwise known as a twinning program (further described below) – which allows foreign universities to partner with Vietnamese universities to establish programs that grant foreign degrees or certificates to students in Vietnam.

Examples of collaboration pursuant to inter-governmental agreements include the University of Science and Technology of Hanoi (in collaboration with France), the Vietnamese-German University (in collaboration with Germany) and the Vietnam-Japan University (in collaboration with Japan), all developed under the New Model University Project which aims to establish international research universities ranked in the top 200 by 2020.

Foreign higher education institutions may also establish representative offices in Vietnam which, while not permitted to engage directly in commercial (i.e. profit-making) activities, may explore opportunities and undertake market research such as meeting with potential Vietnamese collaborators. A representative office allows for local employment and a local bank account, and it may also be used for marketing.

4. Can you tell us more about twinning programs?

Vietnam defines a twinning program as a collaborative ‘education association’ between a Vietnamese and foreign higher education institution, which does not involve establishing a new legal entity, for the purpose of issuing degrees or certificates which are typically those of the foreign institution. Both parties deliver the curriculum which is taught wholly in Vietnam or partially in Vietnam and partially overseas. MOET must approve all such programs at the undergraduate and post-graduate levels, but key national universities such as Vietnam National University, Thai Nguyen University, Hue University, and Da Nang University may self-approve such programs. A twinning program may be licensed for a term of up to five years.

Institutions from countries including Australia, Canada, the United Kingdom, and the United States have entered into twinning programs with Vietnamese institutions.

5. What is the legal framework for higher education?

Higher education institutions in Vietnam must comply with the Law on Education 2005 and the Law on Higher Education 2012. The Law on Education 2005 establishes the centrality of MOET’s overall role in the education system and describes the basic structure of the education system in

Vietnam and the qualifications a student must meet to enter each level. The Law on Higher Education 2012 covers issues not previously included in the Law on Education, such as institutional autonomy and accountability, quality assurance, university roles in research, science and technology, private universities, and university classification and ranking. It also provides a legislative basis for twinning programs and other types of collaboration agreements.

Decree 73/2012ND-CP (Decree 73) applies to foreign investment in education (including foreign higher education institutions) and regulates foreign collaboration projects and twinning programs. Introduced as part of an effort to improve standards and protect students from sub-standard foreign schools, Decree 73 covers everything from school names to classroom size. Salient requirements for establishing a foreign-owned degree-granting campus in Vietnam include:

- **Duration.** Foreign higher education institutions can apply to operate in Vietnam for up to 50 years which, subject to government approval, can be extended for a further 20 years.
- **Capital.** Higher education institutions must invest at least VND150 million (approximately US\$6,700) per student, excluding land costs, with a total minimum investment of not less than VND300 billion (approximately US\$13.5 million).
- **Facilities.** A higher education institution applying to operate for more than 20 years must build its own facilities on land issued to it by the government (although it may lease facilities for the first five years of operation to allow time for construction). Those applying to operate for less than 20 years face no such restriction and may lease their premises and facilities.
- **Enrollment of Vietnamese students.** Although Decree 73 caps the number of Vietnamese students who can be enrolled in foreign K-12 schools in Vietnam, there are no limitations on enrollment in foreign higher education institutions or collaboration programs.
- **Teaching staff.** University faculty must hold a post-graduate qualification and have at least five years' experience in the discipline they teach. For all higher education institutions, the proportion of lecturers who hold post-graduate degrees must be at least 80 percent of the total number of lecturers, with not less than 35 percent of all lecturers holding a doctorate degree.
- **Curriculum.** Foreign higher education institutions may use either a Vietnamese or a foreign curriculum that is provided in conjunction with a Vietnamese collaboration partner. A foreign curriculum may also be used without such a collaboration, so long as the institution also teaches certain subjects that are compulsory in Vietnam. If a foreign qualification is to be awarded, the curriculum must be taught in a language other than Vietnamese.

6. Are there new legal developments in the pipeline?

Decree 73 has been criticized as a regulatory barrier to foreign investment in education. In an effort to boost competitiveness and encourage foreign investors to enter the market, the government has drawn up a replacement to Decree 73, but as of December 2017, no timeline has been provided for its passage.

In its current form, the draft decree proposes to clarify and simplify licensing procedures and relax existing restrictions on foreign investment, such as by removing the requirement for a foreign institution to build its own facilities. The draft also expressly allows a foreign investor to enter the market by acquiring an existing institution (rather than having to establish a new institution).

More controversial is the proposal to increase the minimum investment amount for establishing a new higher education institution from US\$13.5 million to US\$45 million, which is intended to ensure only reputable investors and educational institutions enter the market. This increased investment amount is much debated, with concerns raised by both industry professionals and some government officials that it might have the unintended consequence of acting as a barrier to the sort of investors the government wishes to attract. The draft decree is currently at the public consultation stage and it remains to be seen what its final form will be.

7. What other laws affect foreign investment in education?

The Law on Investment regulates all foreign investment and the applicable licensing procedures. Although open to foreign investment, higher education is classified as a 'conditional' sector, meaning that foreign investment generally attracts greater scrutiny and is subject to a stricter licensing regime than in non-conditional sectors.

The Law on Enterprise, Vietnam's corporate law, sets out the types of legal entities that can be established to conduct business (e.g. joint stock company, limited liability company).

Vietnam's land laws, primarily set out in the Law on Land and the Law on Real Estate Business, also affect investors. Private ownership of land is not permitted in Vietnam, with the concept of a 'land owner' replaced by that of a 'land user' who is issued with 'land use rights' over a specified plot of land. Under Decree 73, foreign higher education institutions with an operation term of more than 20 years must obtain land use rights from the government by way of an allocation or lease of land use rights. This process can be time-consuming and requires investors to first undergo a government-led appraisal process.

All entities operating in Vietnam must also consider Labor Code requirements. Vietnamese labor laws are designed to protect the interests of employees. There is no at-will employment, and restrictions are imposed on an employer's ability to unilaterally terminate an employment contract, even for cause. Other employee protections include maximum working hours, minimum salary levels and minimum holiday periods. Foreigners generally need a work permit or work permit exemption to work in Vietnam.

8. Current investment and future expansion

Several foreign higher education institutions are currently engaged in collaborations with Vietnamese universities. The most comprehensive courses combine online classes provided by the foreign institution with in-person instruction at the local campus of the Vietnamese collaborator, with degrees issued by the foreign university. Other collaborations have been established to offer technical and vocational training or provide assistance in medical research and instruction.

Despite the headwinds, there is mounting interest in Vietnam, with an ever-increasing number of foreign institutions establishing collaboration programs or local campuses. The government is more receptive than ever before to measures that liberalize the higher education sector and simplify foreign investment, and senior officials in both the Vietnamese and U.S. administrations have identified the education sector as one of the top projected growth sectors in Vietnam over the coming years. During a government sponsored program on Vietnam–U.S. investment prospects held in Hanoi in May 2017, Vietnam President Tran Dai Quang specifically appealed for greater U.S. investment in Vietnam’s education and training sector. Vietnam’s increasing wealth combined with government encouragement and consumer desire for quality education are setting the table for increased foreign investment in Vietnam’s higher education sector.

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