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IMPLEMENTATION OF LAW ON USE OF CAPITAL IN STATE ENTERPRISES IN VIETNAM: CURRENT SITUATION AND SOLUTIONS

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Abstract

State-owned enterprises have always been one of the important components in the national economy of Vietnam up to now. The issue of using capital in state-owned enterprises has always received special attention from the Government, the subjects in the economy and the people, because after all, capital in state-owned enterprises come from the state budget and from people's contributions. In order to clarify the contents of capital use in state-owned enterprises, this article analyzes a number of limitations on the laws and practices of using capital in state enterprises. On the basis of that, proposes some solutions to improve the efficiency of capital use in state enterprises.

Key words

state-owned enterprises; state budget; use of capital in the enterprises.

1. Introduction

Economic function is one of the most important ones of the State. To perform this function, the State not only organizes, manages and regulates the macro economy, but also participates in the economy as an investment entity. State capital investment activities in enterprises have formed the concept of state capital invested in enterprises and enterprises invested by the State are called State-invested enterprises. Like many other countries, in Vietnam state capital investment in businesses is quite a complex issue.

In Vietnam, the notion of the state economy is quite broad; the state economic sector consists of those belong to the ownership of the State and of the entire people to which the State is assigned to represent the owner with unified

management including SOEs (State-Owned Enterprises). Thus, the state economy not only means state-owned enterprises, but throughout the development of Vietnam's economy, the state-owned enterprise sector has always played a central role in the national economic development strategies, playing the leading role of the state economy. The Party and State's guidelines and policies are to develop a system of state-owned enterprises to become the core, an *"important material force for the State to guide and regulate the economy, create an environment and facilitate economic sectors to develop together"*¹.

State capital investment in an enterprise is the use of capital from the state budget or capital from funds managed by the State to invest in an enterprise (Clause 3, Article 3)². Throughout the history of Vietnam, state-owned enterprises have always affirmed their role and status among the state economic sectors in particular and the country's economy in general. Currently, the number of state-owned enterprises is not much, but state-owned enterprises are always pioneering in the industrialization and modernization of the country; plays an important role in a number of key industries of the economy such as telecommunications, coal, electricity, petroleum, mining, finance, banking and other essential public services to ensure the demand of consumption, production domestically and for export. Therefore, when the state allocates its investment budget and forms a state-owned enterprise, the operation of state-owned enterprises as well as the use of capital by state-owned enterprises is a major concern of the Government and the people. In this context, researching issues related to the use of capital in state-owned enterprises such as the target of capital use; capital allocation; efficient use of capital; governance of state enterprises ... is very meaningful in both theory and practice.

2. Methodology

Document research: The assessment of the current situation of the law on the use of capital in State-owned enterprises in Vietnam is conducted on the basis of analysis and study of current legal documents and research documents, articles in magazines, newspapers, reports on the use of capital in State-owned enterprises in Vietnam recently.

Practical observations: the researchers conducted practical observations on the access to legal regulations on the use of capital in state-owned enterprises in Vietnam to draw experiences and lessons learnt.

In this study, the author has used a number of research methods such as: synthesis method, statistical method; legal analysis method, methods of analyzing practical situations; comparative method ... to clarify the situation of using capital in state-owned enterprises such as the purpose of using capital; the issues of

¹Document of the Tenth National Congress, Publishing House. National politics, Hanoi, 2006, p. 83

²The National Assembly, the Socialist Republic of Vietnam, the Law on Management and Use of State Capital Invested in Business and Production in Enterprises in 2014

capital preservation and development; capital management associated with the principles of corporate governance. From analyzing and assessing the situation, the researchers suggest some solutions to improve the efficiency of capital use in state enterprises (Agrawal et al., 2020).

3. Discussion

Situation of using capital in state-owned enterprises in Vietnam

Theoretically, the use of capital in state-owned enterprises in Vietnam currently meets the following three requirements: Firstly, the use of capital in state-owned enterprises must be consistent with the objectives, strategies and social, economic development plans. Unlike other business entities that the investment and use of capital focus on profit, state-owned enterprises operate not only for profit but also for ensuring political, security, social and cultural objectives. Secondly, the use of capital in state-owned enterprises must ensure the requirements of capital preservation and development. Capital business activities are potentially risky but the greater significance of capital and profit is not only for the business itself but also for the development of the state economy. This motivates the state-owned enterprises to be more dynamic to confirm themselves in a fiercely competitive environment in order to survive and develop. For the state, the production and business results of enterprises reflect the production efficiency of the economy. Thirdly, using state capital in SOEs ensures the principle of openness, transparency and accountability. This is one of the core principles of corporate governance for state-owned enterprises; this principle needs to be applied more rigorously because SOEs' capital sources come from the state budget and from people's contributions (Anand et al., 2021; Arjuna et al., 2020).

Ensuring the use of capital in state-owned enterprises is an indispensable and objective requirement in the operation of state-owned enterprises, regardless of whether the State participates as a manager or investor. However, practical implementation shows that state-owned enterprises do not always fully meet these requirements. The use of capital in state-owned enterprises still faces many difficulties and shortcomings such as:

Firstly, the allocation of capital in state-owned enterprises is scattering in multidisciplinary and multi-fields

In terms of *the state owner*, the State is a special subject, the State itself is a legal entity with a diverse and complex structure, vast management apparatus, including many agencies with various functions including *Owners' representatives agencies are agencies and organizations assigned by the Government to exercise the rights and responsibilities of state ownership representatives over enterprises established under their decisions or established by the Government assignment of management and exercise of rights and responsibilities with regard to the State capital invested in joint-stock companies and multiple-member limited liability companies;*

The representative of the direct owner in an enterprise with 100% of the charter capital of the State (hereinafter referred to as the direct owner representative) is an individual appointed by a competent state agency to the Members' Council, the chairman of the company to exercise rights and responsibilities of state ownership representative in enterprises (Item 1, Clause 4, Article 3)³.

The State has two basic functions: the function of administrative management (the basic function of the State) and the direct management function of assets and investment capital under its ownership (the function of the investor). Therefore, it is difficult to distinguish clearly between the function and the purpose of general management in the role of leading organization, social management and function, the purpose when playing the role of owner of investment capital in the enterprises. As a special socio-political organization, the State has not only economic objectives but also social, political, cultural and security objectives ... (multi-purposes). In terms of *ownership of the State*, in the name of the State, it has full ownership rights with a wide and diverse ownership objects. In Vietnam, the issue of state ownership still has many open questions, such as the lack of clarity in determining what belong to state ownership and what to the ownership of the entire population, especially for properties such as land, natural resources, etc. Therefore, only the "motto" is given: The State of Vietnam is the representative of the owner of property owned by the entire people⁴. And in fact *"land, forests, rivers, lakes, water resources, underground resources, resources in the sea, continental shelf and airspace, the capital and assets invested by the State in enterprises ... which is prescribed by law, belong to the entire people"*⁵.

Despite being a special subject, state-owned enterprises share the common difficulties of the business market and the economy. The struggle to preserve capital to ensure their life urges SOEs to find ways to transform themselves. That transformation sometimes deviates from its original established goals and missions. According to statistics, most state-owned enterprises actively choose a multidisciplinary business strategy without relying on their core competencies. Many state corporations invested in risk areas such as banking, stocks, real estate, insurance, etc. at 30% of total capital in the period of 2010-2012. The 2019 White Paper of the Ministry of Planning and Investment provided a lot of information on the state capital management and use in SOEs. Regarding the research purpose of this thesis, the followings summarize some key points about this issue. By December 31, 2017, there were 2,486 SOEs nationwide operating effectively (of which 100% state-owned enterprises had 1,204 enterprises), accounting for 0.4% of enterprises, decreased by 6.6% compared to the same period in 2016. In the period of 2016-2017, the number of SOEs was 2,574 enterprises, accounting for 0.5% of the number of enterprises nationwide, down 17.4% compared to the period of 2011-2015.

³The National Assembly, the Socialist Republic of Vietnam, the Law on Management and Use of State Capital Invested in Business and Production in Enterprises in 2014

⁴Article 198, Civil Code 2015.

⁵ Article 53, Article 54, 2013 Constitution; Article 4, 2013 Land Law.

First of all, it can be affirmed that multidisciplinary, multi-field business is not always a bad idea. If multidisciplinary is in a value chain, SOEs are easy to localize costs, thereby reducing costs. In many cases, the corporations boost their own resources, take advantage of opportunities to achieve high efficiency and have advantages in scale ... However, when state-owned enterprises are too focused on the business that are not in line with the tasks assigned by the State, it causes many negative consequences. Because the management capacity of state-owned enterprises has not kept pace with business expansion, multi-sector businesses then become risky. The risks are higher when investing in the fields of finance, banking, stocks or real estate. The period of 2005 -2008 was the "peak" of the "movement" of multi-sector business investment of state-owned enterprises. With the ambition to become the "chea bol" of Vietnam, many state-owned corporations stepped up their investments in many fields and industries, of which the most attractive ones are securities, real estate, financial investment, etc. Not long after, tens of thousands of billion dongs of state-owned corporations invested out of their business line were swept into the spiral of crisis and decline of economic recession, causing capital losses, creating a burden of bad debts for businesses and the economy.

Table 1: Number of active SOEs with production and business results by type of enterprise in the period (2010-2017)

Year	2010	2014	2015	2016	2017
Total	279360	402326	442485	505059	560417
Enterprises with 100% state capital	1801	1470	1315	1276	1204
Enterprises with over 50% state capital	1480	1578	1520	1386	1282
Non - state enterprises	268831	388232	427710	488395	541753
Foreign invested enterprises	7248	11046	11940	14002	16178

Source: According to the Statistical Yearbook 2018.

According to data of the Ministry of Finance, by the end of 2010, state-owned economic groups invested nearly 22,000 billion VND in industries out of their business lines, including VND 3,576 billion in securities, VND 2,236 billion in insurance, and 5,379 billion in real estate, 495 billion in investment fund; especially the banking sector stood out with VND 10,128 billion. Notably, insurance business, securities, banking, capital investment funds are unrelated businesses with the main functions and actual capacities of these state-owned enterprises. Besides, the "huge" capital invested by state corporations to invest outside their main business lines, the bad debt ratio and capital loss rate of these units are equally enormous. The report of the State Audit Office published in July 2012 shows that: High proportion of appropriated capital, increasing overdue debts and bad debts, widespread of investment outside the industries unformulated salary planning etc.

were problems in many state-owned enterprises. The total receivable debt of 21 groups and corporations by the end of 2010 was 56,656 billion dong, receivable debt on the total assets was 9.7% and on equity was over 36%. Due to the ineffective debt recovery measures and the effects of the economic downturn, many businesses had high rates of capital appropriation, overdue debts and bad debts (Duong Thu Phuong, 2012).

In the period of 2015-2020, the introduction of Decree No. 32/2018/ND-CP dated March 8, 2018 on amending and supplementing a number of articles of Decree No. 91/2015/ND-CP of October 13/2015 about investing state capital in enterprises and managing capital and assets at enterprises; Circular No. 59/2018/TT-BTC of the Minister of Finance dated July 16, 2018 on amending and supplementing a number of articles of Circular No. 219/2015/TT-BTC on state capital investment in enterprises and manage capital and assets at the enterprise; Decree No. 51/2016/ND-CP and Decree No. 52/2016/ND-CP dated June 13, 2016 replace Decree No. 50/2013 / ND-CP and Decree No. 51/2013 / ND- Stocks on salaries, remuneration, and bonuses in SOEs ... these have gradually closed the door of outside industry investment of state-owned enterprises, but the consequences and remnants of multi-sector capital investment of State-owned enterprises in the previous period have not been thoroughly solved.

Secondly, the efficiency of capital use by state-owned enterprises is low, not commensurate with the size of capital invested in enterprises.

The policy of restructuring State-owned enterprises through equitization, divestment, merger ... started in 1990 and lasted slowly for nearly 30 years, making state-owned enterprises in Vietnam somewhat compact more in quantity. Although the number has decreased, state-owned enterprises still hold an enormous amount of assets, capital and resources.

Table 2. Scale of equity, net revenue, profit before tax of state-owned enterprises compared to the average of the entire enterprise sector in the period (2010-2017)

Unit: thousand billion

Target	2010	2017
Total equity of the entire business sector	10841,1	30704,5
Total equity of state-owned enterprises	3701,8	9088,7
Net revenue of state-owned enterprises	7487,7	20664,3
Profit of state-owned enterprises	2033,5	3126,3
Profit before tax throughout business sector	356,3	876,6

Source: Author synthesized according to 2018 Statistical Yearbook.

Up to December 31, 2017, the average business capital of state-owned enterprises increased by 2.83 times from 3701.8 trillion dong in 2010 to 9088.7 trillion in 2017. Although actual book value of the size of assets and owner's equity

of state-owned enterprises does not include the value of natural resources, minerals and land allocated to state-owned enterprises, the official figures in the table above show the overall picture of the huge capital size that SOEs were holding. However, compared to non-state enterprises, the growth rate of SOEs was much lower. the proportion of the size of capital and assets was inversed with the level of contribution to the state budget by state-owned enterprises; it tends to decrease. While SOEs played a leading role of the state economy, the contribution to the state budget of the state economy in the period 2010-2017 decreased significantly.

Table 3: Statistics of contribution to state budget revenue in the period 2010-2016

Unit: (%)

	2010	2011	2012	2013	2014	2015	2016
State economy	45.4	43.9	45.0	42.5	38.1	37.1	32.3
FDI	26.3	26.8	26.0	29.5	32.5	32.8	34.4
Non-state economy	28.3	29.3	29.0	28.0	29.4	30.1	33.2

Source: Central Institute for Economic Management Report 2019

It is worth noting that, in fact, net revenue, profit before tax and the contribution of state-owned enterprises to the budget depend mainly on the operation of state-owned corporations and corporations such as: Electricity of Vietnam (EVN); Vietnam National Coal - Mineral Industry Group (TKV); Vietnam National Oil and Gas Group (PVN); Vietnam Post Corporation; Military Telecom Corporation (Viettel) ... (Ministry of Finance, 2019). The level of revenue and large profits are concentrated in state enterprises holding dominant positions in a number of industries such as electricity, coal, oil and gas, telecommunications, water, aviation ... so these enterprises also holding exclusive right or dominance in those economic sectors.

Thirdly, there are still many violations in the use of state capital invested in state enterprises.

In general, in the period of 2010-2017, state-owned enterprises gradually shifted towards focusing more on key industries and sectors of the economy or in areas where enterprises of other economic sectors do not participate, continuing to play an important role in the socio-economic development of the country. In terms of profit, remittance to the state budget, preservation and capital growth, the business efficiency of state-owned enterprises achieved positive results ... However, in the operation of using state capital in the State-owned enterprises, there still have some limitations.

According to the National Assembly Standing Committee's report on the management and use of state capital and assets in enterprises, there have been some errors in using state capital invested in state enterprises such as: (1) Violating the

principle of legal compliance in business; many SOEs carry out procedures for investment, bidding, and procurement of assets in contravention of regulations; mobilizing, managing and using scattered, arbitrary and outside investment capital in industries or outside enterprises in contravention of regulations. Some non-core investment projects have low profitability and high capital loss such as oil and gas corporation, mineral coal group, chemical group and electricity group. (2) In violation of market principles, some businesses do not base on supply-demand relationship, do not anticipate changes in the market. For example, gas price was in the out-of-sales agreement for power plants according to long-term contracts signed with investors, the preferential electricity selling price for private enterprises is much lower than the average selling price. (3) Violation of corporate governance principles, especially the violation of financial management principles keeps occurring. Some state-owned enterprises have made errors in accounting of assets, capital sources, turnover and expenses through audits, so the increase or decrease of assets, capital sources, turnover and expenses, charges and obligations to the state budget must be adjusted as well. The management and use of state capital and assets at enterprises are still not tight, resulting in overdue receivables, bad debts lasting in many years with large amounts not yet recovered; large, prolonged domestic debts have not yet resolved ... (4) There is no clear separation between the state management function and the function of ownership representative of State-owned enterprises; there is still a lack of transparency in pricing and trading of assets of state-owned enterprises. The operational efficiency of state-owned enterprises is not commensurate with the positions and resources assigned to manage and use. A number of large-scale investment projects are implemented slowly, ineffectively, loss and waste; investment activities outside the main business lines, investment abroad are generally low efficiency⁶.

4. Findings

Some suggested solutions to improve the efficiency of capital use in state enterprises in Vietnam.

The role of state-owned enterprises in the economy cannot be denied, so improving the efficiency of capital use in state-owned enterprises always receives the attention of the Government and the whole society. In order to do so, the following solutions are suggested:

Firstly, it is essential to have an accurate and appropriate view of state-owned enterprises.

According to the current law, if the state investment makes up only part of the total charter capital, the State is one of the co-owners of the enterprise, and if the state investment makes up 100% of the charter capital, the State will be the

⁶Report on supervision results No. 16 / BC-DGS dated May 25, 2018 of the National Assembly Supervision Delegation on the implementation of policies and laws on the management and use of state capital and assets at enterprises and equitization of state enterprises in the period of 2011 - 2016.

sole owner of the enterprise and that enterprise is called a state-owned enterprise⁷. Conceptually, the 2014 Enterprise Law stipulates that *"State-owned enterprises are enterprises with 100% of charter capital owned by the State"*, this definition explains how Vietnamese state-owned enterprises are different from the interpretation on state-owned enterprises of international organizations as well as of many countries in the world. For example, the CPTPP Agreement to which Vietnam is a member states: *"A state-owned enterprise is an enterprise in which the state owns more than 50% of the capital, or controls more than 50% of the voting rights, or holds the right to appoint the majority of board members or any other equivalent management apparatus "*. Vietnam has signed the CPTPP and must revise the concept of a state enterprise to comply with the terms of this agreement. Thus, redefining state-owned enterprises in a law in the near future forces us to have reassessments on the use of state capital in enterprises. Accordingly, the above actual statistics only reflect a part of the SOE system.

Secondly, clearly define the goal of state capital investment in the enterprises.

In terms of developing a market economy, the strong participation of the private sector and the FDI sector gives us another perspective to redefine the role of state-owned enterprises. Especially, it is necessary to review the goal of using state-owned enterprises as a tool for macro-economic regulation and socio-political goals.

It is not appropriate to promote the macro-regulatory role of the economy, especially when it is impossible to use SOEs as a price stabilization tool or to ensure the great balance of the economy. As the State gathers capital to SOEs to stabilize prices, curb the inflation, it will lead to the following consequences: Firstly, SOEs occupy monopoly or almost monopoly positions. Second, prices are distorted, making allocation of resources inefficient. Third, to curb inflation, the State will have to subsidize SOEs and bear huge losses or transfer burdens to other businesses and consumers with successive price increases, as demonstrated in electricity and petroleum industry (Pham Duy Nghia, 2014). The fact has proved that the State's sponsorship to enterprises for which the State invests capital will lead to weak performance of SOEs, non-competitive enterprises, reduced working motivation. In addition, it is necessary to consider the use of state-owned enterprises to achieve socio-political goals such as undertaking the fields in difficult areas with significant social values; hold particularly important industries to security and defense ...

It is undeniable the state-owned enterprises' contributions in leading and paving the way to participate in new fields, but if there is no mechanism to clearly separate economic goals from political and social goals in the operation of state-owned enterprises, it will lead to the backfire in the use of state capital invested in

⁷Clause 8, Article 4, Law on Enterprises 2014.

enterprises: creating monopoly industries, or simply inefficient or even unprofitable operations, becoming a burden for the state budget with a good reason that operating for socio-political goals. The evaluation of the effectiveness of the management, preservation and development of state capital in enterprises must go through specific criteria, but now, whenever being criticized for inefficiency, the State enterprises immediately cite the political and social responsibilities that they have to shoulder as the main cause of this inefficiency. Therefore, except for some special cases, it is necessary to minimize the socio-political responsibility for SOEs.

Because of these above reasons, there should be a clear mechanism in the law to separate the economic goals of SOEs from other goals. It is worth noting that regardless of the circumstances and conditions, the economic objectives of the enterprises should be placed first. The objective of state capital investment to make profit is important and should be associated with the functions and tasks of any enterprises, including state enterprises. If state-invested enterprises are required to perform macroscopic and political tasks, they do jobs of other state agencies, which is contrary with the economic mission of the business itself.

Thirdly, clearly defining the fields and industries that need state capital investment to avoid spreading investment.

The actual performance of SOEs in recent years shows that State capital invested enterprises is spread. In general, SOEs seem to be present in all industries, large and small. For each SOE, in practice, it is true that it operates in many industries even in irrelevant ones, the SOE acts as a "multipurpose" economist. The price for this "multipurpose" is the ineffective production development of SOEs due to the lack of market linkage and lack of a reasonable investment strategy, while the state budget is limited, it continues to bear the economic burden when State-owned enterprises run after diffuse investment in industries and sectors. Moreover, one of the most important characteristics of state capital invested in enterprises is that it is difficult to identify the true owners. Therefore, the more spread the state capital invested in enterprises is, the more "intermediaries" owners will appear, the easier for them to generate profits, the less efficient the operation of state enterprises gets and the more capital will be lost and waste. A typical example to illustrate this problem is that Vinashin, along with state-owned corporations and groups are investing in non-core sectors into real estate and finance. At the local government level, it is the opening of economic zones, industrial parks, airports and deep-water ports ...

Thus, in order to improve the efficiency of management, preservation and development of state capital invested in enterprises, the State's laws need to clearly identify the industries and fields that require state capital investment in enterprises. Basically, the State needs to invest in some of the following key domains and trades: national security and defense; exploitation of important and non-renewable strategic resources; build important national infrastructure; ensure large balances of the economy; high-tech sector requiring large scale that other

economic sectors cannot work. In addition, when the State invests in businesses of other fields, it must ensure effective investment principles. That is, the state continues to invest in those that bring high profits, while those are inefficient, the State withdraws investment capital. These investment industries should be more clearly specified.

Fourthly, the solution to separate state management and owner management for state capital in enterprises.

The facts have shown that the ambiguity between state management and owner management of state capital in enterprises, especially the dual mechanism in management and administration, will lead to many consequences. Therefore, the State should issue specific and detailed legal documents quickly to separate the two functions of state management of economy and the function of representing the owner of state capital. In which the followings should be paid attention to:

- Clearly delineate the rights and obligations of owners among state representative agencies such as the National Assembly, the Government, ministries, provincial People's Committees, and boards of directors of state-invested enterprises.

- There should be a regulation specifying the State's ownership of state capital invested in the enterprises after equitization, clearly stating the rights, responsibilities, benefits of the representative of the state capital.

- In parallel with the process of reorganizing SOEs, it is necessary to merge the clues, reduce the authorization of functional ministries in acting as owner representatives, and resolutely abolish the owner managing mechanism.

For state-owned monopoly enterprises, it is necessary to consider the specific separation such as: (1) enterprises under specialized management (performing national defense and security tasks, etc.), still allowing the management of ministries and branches to ensure the operational objectives of the enterprise; (2) Enterprises associated with public services in the territory (water supply, drainage, sanitation, farmers ...) should turn back to the locality where they provide products, public service management. At the same time, there should be strict regulations on supervision of the process of management, preservation and development of capital in these enterprises. Economic monopoly is understood as "the phenomenon of a few people monopolizing the market, where there is no free competition on the supply side" (Dao Ngoc Bau, 2004).

For enterprises with state capital operating for business purposes, the ministries and provincial-level People's Committees should not directly act as owners' representatives but gradually transfer them to professional organizations to perform the owner's functions.

For large-scale enterprises of the type of corporations, economic groups, it is required to assign specialized organizations to represent the owners, gradually abolishing the management regime. However, it is necessary to develop a suitable procedure for abolishing this governing mechanism.

In addition to overcoming the limitations in separation between state management and management of the owner representative in the enterprise in general, it is necessary to consider the limitations of state management of the owner's representative. A typical state capital ownership is SCIC. The transfer of state capital from ministries and branches to a corporation to separate enterprise management from state management is a right policy. However, in order to avoid the limitations, it is necessary to deal with obstacles in the process of transferring state capital to SCIC by developing and implementing the steps in the procedure, and strengthening the monitoring in doing this.

Fifthly, management, preservation and development of capital in state enterprises should ensure good corporate governance.

According to the overall assessment, the legal framework on corporate governance in general and state enterprise management in particular in Vietnam has basically followed international practices. This is one of the achievements to prove efforts to improve the legal framework for corporate governance in Vietnam for nearly 30 years. However, legal regulations need to be linked to the practice of SOE governance. Accordingly, the core issues of governance are: fairness, transparency, accountability and responsibilities to explain should be improved and enhanced the effectiveness of implementation. In addition, Vietnam needs to focus on inspecting and supervising the use of state capital in enterprises and building appropriate mechanisms for handling violations.

Agencies should manage and closely supervise the mobilization and use of capital by State enterprises, especially foreign loans, domestic and foreign investment projects, capital sources for purchase, sale and wax enter business; urgently hand over the state capital currently under their management to the competent agencies assigned to manage state capital and assets at enterprises; review and handle enterprises that violate the law, lose and waste capital, state assets and investment projects which are behind schedule, inefficient, and suffer from prolonged losses; strictly implement the provisions of law in order to improve the effectiveness and efficiency of state management, overcome the limitations and weaknesses in the recent period; promptly handle proposals and proposals of enterprises⁸.

5. Conclusion

In order to survive and become powerful, The State as well as other legal entities should participate in economic activities, so the existence of state-owned enterprises is an indispensable requirement of every country in the world including Vietnam. When the State invests capital in an enterprise, the state has become an investor of the enterprise and the State must fulfill its responsibilities and interests as an investor. The practice of using capital in state-owned enterprises shows many

⁸Complete the legal policy on state capital management in enterprises, <https://bnews.vn/hoan-thien-chinh-sach-phap-luat-ve-quan-ly-von-nha-nuoc-tai-doanh-nghiep/134531.html>

shortcomings and limitations on capital allocation; the efficiency of using capital of state enterprises is low, not commensurate with the scale of capital invested in enterprises; there are still many violations in the use of capital in state-owned enterprises. In order to overcome these limitations, comprehensive solutions are required from legal regulations to practical implementation, such as clearly identifying the objectives of state capital investment in enterprises; clearly identify the fields and branches in which the State needs to invest capital to avoid spreading investment; separate state management and owner management of state capital in enterprises; and improve the efficiency of SOE governance.

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