

KEY LICENSING REQUIREMENTS FOR INVESTMENT ACTIVITIES UNDER THE LAW ON INVESTMENT 2020 OF VIETNAM

Investors Licensing requirements	100% Vietnamese domestic investors	Investors being FIE >50% ⁱ	Investors being FIE ≤ 50% ⁱⁱ	Foreign investors
1. Investment licensing requirements for new investment projects (green-field investment)				
IPDⁱⁱⁱ	Mandatory if an investment project falls under cases provided in Articles 30, 31, and 32 of the Law on Investment 2020 ^{iv}			
IRC^v	Optional ^{vi}	Mandatory ^{vii}	Optional ^{viii}	Mandatory ^{ix}
ERC^x	Mandatory if the new investment project is associated with the establishment of a project company	Mandatory if the new investment project is associated with the establishment of a project company	Mandatory if the new investment project is associated with the establishment of a project company	Mandatory if the new investment project is associated with the establishment of a project company
Project specific permits	Specific permits may be required depending on the business lines of the project company	Specific permits may be required depending on the business lines of the project company	Specific permits may be required depending on the business lines of the project company	Specific permits may be required depending on the business lines of the project company
2. Investment licensing requirements for M&A transactions (including share/capital acquisition and share subscription/capital contribution)				
2.1. Acquisition of > 50% of interests at the target company^{xi}				
M&A Approval^{xii}	Not required	Mandatory ^{xiii}	Not required	Mandatory ^{xiv}
Amendments to existing permits set out in Section 1	May be required subject to the changes to the target company's corporate information and to the project's specific information	May be required subject to the changes to the target company's corporate information and to the project's specific information	May be required subject to the changes to the target company's corporate information and to the project's specific information	May be required subject to the changes to the target company's corporate information and to the project's specific information



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Investors Licensing requirements	100% Vietnamese domestic investors	Investors being FIE >50% ⁱ	Investors being FIE ≤ 50% ⁱⁱ	Foreign investors
2.2. To acquire ≤ 50% of interests at the target company^{xv}				
M&A Approval	Not required	Must obtain if: (i) the acquisition leads to an increase in the foreign ownership in the target company having business lines subject to market restrictions for foreign investors, ^{xvi} or (ii) the project of the target company involved in land use in sensitive areas ^{xvii}	Not required	Must obtain if: (i) the acquisition leads to an increase in the foreign ownership in the target company having business lines subject to market restrictions for foreign investors, or (ii) the project of the target company involved in the use of land in certain sensitive areas
Amendments to existing permits set out in Section 1	May be required subject to changes to the target company's corporate information and to the project's specific information	May be required subject to changes to the target company's corporate information and to the project's specific information	May be required subject to changes to the target company's corporate information and to the project's specific information	May be required subject to changes to the target company's corporate information and to the project's specific information

Please contact us if you are interested in discussing any issues relating to the relevant licensing requirements for investment projects in Vietnam.

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- ⁱ “FIE >50%” means a foreign invested enterprise which has more than 50% of its charter capital held by foreign shareholders. Under Article 23.1(a) of the Law on Enterprises 2020, an investor being FIE >50% is treated similar to a foreign investor.
- ⁱⁱ “FIE ≤50%” means a foreign invested enterprise which has up to 50% of its charter capital held by foreign shareholders. Under Article 23.1(b) of the Law on Enterprises 2020, an investor being FIE ≤50% is treated similar to a Vietnamese local investor.
- ⁱⁱⁱ “IPD” means Investment Policy Decision (in Vietnamese, *‘chấp thuận chủ trương đầu tư’*). It is an approval issued by the pertinent licensing authorities regarding the objectives, location, scale, schedule and duration of a project; investor or form of selection of investor and special mechanisms or special policies (if any) to execute an investment project.
- ^{iv} These are generally projects involving certain sensitive businesses, projects using land, and projects required special treatments.
- ^v “IRC” means Investment Registration Certificate (in Vietnamese, *‘giấy chứng nhận đăng ký đầu tư’*). It is a document issued by the pertinent licensing authorities bearing information registered by an investor about an investment project. As a matter of practice, other than the addition of a project code, it generally has similar contents to the IPD.
- ^{vi} Articles 37.2(a) and 37.4 of the Law on Investment 2020.
- ^{vii} Articles 37.1(b) and Article 23.1 of the Law on Investment 2020.
- ^{viii} Articles 37.2(b) and 37.4 of the Law on Investment 2020.
- ^{ix} Article 37.1(a) of the Law on Investment 2020.
- ^x “ERC” means Enterprise Registration Certificate (in Vietnamese, *‘giấy chứng nhận đăng ký doanh nghiệp’*). It is a document issued by the pertinent business registration authorities bearing enterprise registration information provided for an enterprise. It is treated similarly as the certificate of incorporation of a company in other countries.
- ^{xi} This captures an acquisition that leads to an increase in the foreign ownership in the target company (i) from 50% or below to more than 50% or (ii) from above 50% up to 100%.
- ^{xii} M&A approval is the process in which a foreign investor will register with the local Department of Planning and Investment its capital contribution or share acquisition at an enterprise (in Vietnamese, *‘thủ tục đăng ký góp vốn, mua cổ phần, mua phần vốn góp của tổ chức kinh tế’*). The underlying M&A transaction may only be completed after the this process is completed and an approval has been issued.
confirmation.
- ^{xiii} Article 26.2(b) of the Law on Investment 2020.
- ^{xiv} Article 26.2(b) of the Law on Investment 2020.
- ^{xv} This captures an acquisition that does not lead to an increase in the foreign ownership in the target company (i) from 50% or below to more than 50% or (ii) from above 50% up to 100%.
- ^{xvi} Article 26.2(a) of the Law on Investment 2020.
- ^{xvii} Under Article 26.2(c) of the Law on Investment 2020, this captures cases where the target company has land use rights certificate to use land on (i) an island, (ii) border area, (iii) commune area, or (iv) in another area that affects national defense and security.