

Legal Alert

May 2022



[Did You Know?] Foreign invested enterprises may be subject to administrative penalties and other legal consequences if failing to comply with periodic investment reporting requirements

According to Decree No. 31/2021/NĐ-CP dated 26 March 2021 guiding the Law on Investment 2020 and Decree No. 29/2021/NĐ-CP dated 26 March 2021 guiding the supervision of investment activities, foreign invested enterprises ("FIEs") are required to submit certain investment reports to the relevant investment registration authorities on a periodic basis. Failure to comply with this reporting requirement may result in many legal consequences for the FIEs as highlighted below.

What kind of investment reports do FIEs need to complete?

FIEs are required to submit the following 2 types of investment reports to the relevant investment management authorities:

No.	Name of the report	Form of submission	Deadline
1	Report on implementation of the investment project	Online via the National Portal of Foreign Investment (https://fdi.gov.vn/)	<ul style="list-style-type: none"> Quarterly report: by the 10th day of the first month of the following quarter Annual report: by 31st March of the following year
2	Report on supervision, evaluation of the investment project	Direct submission to the provincial investment registration authorities and agencies in charge of investment supervision	<ul style="list-style-type: none"> Bi-annual report: by 10th July of the reporting year Annual report: by 10th February of the following year

What are the implications if FIEs fail to comply with the investment reporting requirements?

- Administrative penalties:** FIEs failing to comply with investment reporting requirements may be imposed with administrative penalties of up to **VND30 million – VND50 million** (equivalent to **US\$1,300 - US\$2,100**). The penalty amounts were increased significantly from 01 January 2022 in accordance with Decree No. 122/2021/NĐ-CP dated 28 December 2021 guiding the administrative penalties in the investment and planning area, comparing to the amount of VND1 million to VND10 million previously stipulated in Decree No. 50/2016/NĐ-CP on the same subject matter.
- Other implications:** Failure to comply with investment reports requirements may prolong licensing timeline when FIEs apply to amend their investment projects. In particular, if FIEs have not completed and submitted the investment reports on time while applying for amendment of the investment registration certificates, the relevant authorities may request the FIEs to complete and submit such reports and impose administrative penalties on the FIEs before proceeding with the application dossiers.

From our observation of the investment licensing practice, following the instructions of the Ministry of Planning and Investment, the investment registration authorities are now tightening the FIEs' compliance of investment reports. Accordingly, the competent authorities could also conduct inspection at the non-compliant FIEs with the inspection scope even larger than the common reporting compliance liabilities.

How KPMG can help

KPMG can support FIEs in the preparation and submission of the investment reports to the competent authorities as well as provide advice relating to these requirements and any other compliance-concerning matters. Please contact us should you need our assistance in this regard.

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