

Legal Alert May 2021

V&A would like to update your Esteemed Company on certain newly-issued guidance relating to foreign-invested enterprises' community.

New guidance on intra-corporate transferees being foreign citizens issued by Ministry of Labour, War Invalids and Social Affairs:

Though an offshore parent company sends its employee being foreign citizen to work at a branch or representative office of a subsidiary established by this very parent company, there is no way for foreigner to be considered an intra-corporate transferee. Thus, there is no chance for this foreigner to be considered as being exempted from work permit.

For the avoidance of doubt, under Decree No. 152/2020/ND-CP dated 30 December 2020, if a foreign enterprise (the parent company), which has established a commercial presence in Vietnam, sends an employee (i.e. a manager, executive director, expert or technician who was employed by this foreign enterprise at least 12 consecutive months prior to such secondment) to work at its commercial presence in Vietnam (the subsidiary), such employee shall be exempted from work permit if the subsidiary's business lines fall within 11 sectors in the schedule of commitments in services between Vietnam and World Trade Organization (WTO), including: business services, communication services, construction services, distribution services, educational services, environmental services, financial services, health services, tourism services, recreational and cultural services, and transport services.