WEST BAY INTERNATIONAL
Lawyers & Consultants

Foreign Investment Vehicles

legal & regularity framework

Executive introduction

Qatar has developed its National Vision for the year 2030. The National Vision targets the development of several sectors and the provision of a high standard of living by the year 2030. The National Vision aims at the development of four interconnected sectors being the human, social, environmental, and economic sectors.

The Qatari legislator duly noticed the increasing desire of doing business in Qatar and, accordingly, developed the legislative and procedural structure in several sectors while focusing on the investment and corporate models. This strategy aims to build major infrastructure projects, which will have a positive impact on the growth of the Energy sector, Information and Communication Technology, environment, and durable development.

As result of recent development in investment laws and Public Private Partnership (PPPs) regulations recently adopted, the foreign investors are looking to expand their business in Qatar through Mixta Economic Vehicles. Through this article, we are focusing on legal frame for foreign investment Vehicles which aiming to enter the Qatari market with national entities. Also, will focus on main features of business vehicle models, these models to be formed between the national and foreign entities, to executing the infrastructure projects in major pillars sectors ex, Energy, Technology, Construction, Sustainable and Environment Projects etc.

The Business Environment

Qatar is moving towards a knowledge-based economy and is making investments in mega infrastructure projects in line with the Qatar National Vision 2030. These efforts will enable Qatar to position itself as one of the leading dynamic and fast-growing economies in the region. Government strategy focuses on key legal requirements of operating businesses and investment climate to enhance and diversify their activities towards a robust and diversified economy.

Foreign investors can launch their business in Qatar through several vehicles. As a well-experienced law firm in this field, we will shed light on the most common business vehicles adapted by investors as well as their provisions and restrictions. The concerned department at the Ministry of Commerce and Industry may permit foreign investors to exceed their contribution to a company's capital by over 49% up to 100%.

According to the Foreign Investment Law No. 01 of 2019 that came into effect on January 24, 2019, the permission is not limited to any sectors of the national economy except commercial agencies, banking, insurance, besides other sectors that may be added by the Council of Ministers.

However, the Council may grant exceptions to non-Qatari insurance companies and banks enabling them to contribute to a company's capital over 49% up to 100%.

The Minister of Commerce and Industry's Decision No. 44 of 2020 on the Implementing Regulations of the Foreign Investment Law came into effect on June 08, 2020. The decision specified the conditions required by non-Qatari individuals, entities and investment projects to contribute in a company's capital over 49% up to 100%. For an individual, he/she shall not be convicted by a final judgment in a felony or crime of turpitude or dishonesty, unless he/she has been legally rehabilitated.

Concerning entities, the requirements are to be a company established in accordance with the law of the state in which it has its headquarters and the activity in which the investment is requested shall be compatible with its purposes.

In all cases, non-Qatari entities must submit evidence of the fulfillment of the conditions, according to documents authenticated and certified by the competent authority in the state wherein the entities' headquarters is located and by the Qatari Ministry of Foreign Affairs.

Regarding non-Qatari investment projects, the project activity shall be among the list of activities approved by the Minister of Commerce and Industry, based on the proposal of the competent department in the Ministry. The non-Qatari investor shall provide a description of the activity, business plan and financial plan of the project. In addition, the non-Qatari investor shall submit a written commitment to bear all the obligations arising from the project, and to commence the project no later than the period specified by the competent department, otherwise the decision approving the project shall be considered null and void.

In conclusion, the Qatari law shall not require the national capital in the shares of the project company, which will meet its objectives and comply with the philosophy of issuing the Qatari PPP law which is came into effect in 2019.

Business Vehicles Models

Foreign investors can launch their business in several forms as provided for under the applicable laws in Qatar. However, we will focus on "JVs" as may be the most appropriate business model and efficient way created between the national and foreign entities to deliver these types of projects.

What are Joint Ventures referred to?

The term joint venture can describe a range of different commercial arrangements between two or more separate entities. in most cases a separate entity as a Special Purpose Vehicle (SPV) may be called a "Project Company" is created by two businesses solely to carry out for a particular project.

SPVs are commonly used to facilitate development projects by high-value investors such as Banks and other Corporations, in which the parties collaborate and share the risks and benefits associated with the project. A party may provide land, capital, intellectual property, experienced staff, equipment, or any other form of asset.

Each generally has an expertise or know-how which is central to the development and success of the new business which they intend to create together. It is also vital that the parties have a 'shared vision' about the objectives for the project.

<u>When is a Joint Venture appropriate?</u>

JV model may be most effective way to execute the infrastructure projects are need a huge budget and know-how, which required integrated resources and cooperation between national and foreign entities within the project company. JV is unlikely to be the best structure to use by the government companies and public sector in Energy projects.

Typically, the purpose of the JV would stem from one, or a combination of the following objectives:

- Value capture
- Route to market
- Service delivery program

<u>What is the structure of Joint Venture (JV)?</u>

It is important to distinguish the formation of a JV entity as project company will take charge of a project from purely contractual arrangements, such as alliance arrangements and consortium agreement whereby created for specific purpose. According to applicable laws there are many possible JV structures, limited liability company is the most common one, in addition to, limited partnerships and limited liability partnerships, the member or participants shall conclude legal form of their JV as a Shareholder Agreement or Partnership Agreement whatever the structure of the project company created.

<u>What are the key steps in establishing Joint Venture (JV) model?</u>

In the certain projects awarded in the Energy industry, the project company is a new entity with specific defined objectives which meet the needs of the public sector entity (the JV) is a suitable delivery vehicle.

Initial planning (Ensure Value for Money (VFM)

Option appraisal (the contracting parties carried out an appropriate investment appraisal and feasibility study to consider other potential delivery models)

Business case and detailed planning (in this stage should outline some of the more detailed considerations relating to the ownership, control and financial treatment of the JV, resources assets, initial & ongoing findings, legal structure of JV.

Selection of JV partner(s) in this phase: call for final tenders to identify preferred partner(s), as Bidders undertake due diligence.

Launch and manage JV after final business case approval.