

The Executive Rules of the Foreign Investment Act

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First: Definitions

Article 1:

For the purpose of implementing these Executive Rules the following terms and expressions shall have the meanings indicated opposite thereto, unless the context requires otherwise:

The Council

The Supreme Economic Council

The Board of Directors

The Board of Directors of the Saudi Arabian General Investment Authority

The Chairman of the Board of Directors

The Chairman of the Board of Directors of the Saudi Arabian General Investment Authority

The Governor

The Governor of the Saudi Arabian General Investment Authority

The Authority

The Saudi Arabian General Investment Authority

Foreign Investor

A natural person who is not a Saudi national, or a corporate entity, partners thereof are not Saudi nationals

Foreign Investment

Investment of Foreign Capital in an activity licensed under the Act and the rules

Foreign Capital

For purposes of the Act and the Rules, Foreign Capital shall mean, but is not limited to, the following assets and rights so long as they are held by a Foreign Investor:

1. Cash, securities and commercial papers.

2. Foreign Investment profits if reinvested to increase capital expand existing investment entities or establish new ones.
3. Machinery, equipment, fixtures, spare-parts, means of transportation and production requirements related to the investment.
4. Intangible rights such as licenses, intellectual property rights, technical know-how, administrative skills and production techniques.

The Act

The Foreign Investment Act

Products Facilities

Projects for the production of industrial and agricultural products (crops and livestock)

Service Facilities

Service and contracting projects

The Rules

The executive Rules of Foreign Investment Act

The Center

Investors Service Center Stipulated in Article (9) of the Saudi Arabian General Investment Authority's Act

Second: The Fields of Investment

Article 2:

The Authority is authorized to issue a license for foreign capital investment in the Kingdom for any investment activity whether permanent or temporary with the exception of the activities excluded under the third article of the Act.

Article 3:

The Board of Directors shall periodically review the list of activities excluded from foreign investment in order to shorten it and submit it to the Council to consider its approval.

Article 4:

Foreign Investments licensed under the provisions of The Act and The Rules may be in either of the following forms:

- 1- Entities jointly owned by a national and a foreign investor.
- 2- Entities wholly owned by a foreign investor.

Third: Benefits, Incentives and Guarantees

Article 5:

Foreign Investment projects shall enjoy all the benefits, incentives and guarantees extended to national projects, including the following:

1. The incentives stipulated in the Protection and Promotion of National Industries Act issued by Royal Decree No. 50 dated 23.12.1381 H.
2. Ownership of real estate required to carry out the investor's licensed activity or for his residence and his staff housing according to the provisions of the Regulation of Ownership and Investment in Real Estate by Non-Saudis issued by Royal Decree No. M/15 dated 17.04.1421 H.
3. The benefits ensuing from agreements of avoiding double taxation and agreements of promotion and protection of Investment which are signed by the Kingdom.
4. Prohibition of any full or partial confiscation of investment without a court order or subjecting them to expropriation wholly or partly except for the public interest and against fair compensation.
5. Foreign investors are entitled to repatriate their share that is derived from the sale of his equity, from surplus of liquidation or the profits generated by the entity and to dispose of it by any legal obligations. He is also entitled to transfer required amounts to fulfill any contractual obligations in respect of the project.
6. Shares can be freely exchanged amongst partners and others.
7. The licensed entity is entitled to sponsor the foreign investor and his non-Saudi staff.
8. The licensed entity is entitled to obtain industrial loans in accordance with the regulations of The Saudi Industrial Development Fund.

9. The losses incurred by the entity may be carried forward to the following years and will not be calculated at tax settlement of the years during which the entity reaps profits.

Fourth: Licensing Conditions and Criteria

Article 6:

The conditions for granting a Foreign Investment license by The Authority shall include the following:

1. The investment activity to be licensed should not be in the List of Excluded activities from Foreign Investment.
2. The intended Product should comply with the Kingdom's rules and regulations, or the laws of the European Union or the United States of America in the absence of those laws, in terms of standards and specifications, raw materials and production processes.
3. The license applicant should be a natural or nominal person who has come to the Kingdom for investment.
4. The Foreign Investor should not have been convicted in the past for substantial violations of the provisions of The Act.
5. The Foreign Investor should not have been convicted in the past of financial or commercial violations whether in the Kingdom or in other countries.
6. The grant of a license shall not result in the breach of any international or regional agreement to which the Kingdom is a party.

Article 7:

The Foreign Investor may obtain more than one license to practice the same activity or a different activity(s) subject to the following conditions:

1. The conditions set forth under Article (6) of The Rules must be satisfied.
2. Licensing applications to practice the same activity submitted by natural or moral persons shall be considered as expansion of established projects applications.
3. The Board of Directors will reconsider these conditions periodically or when deemed necessary.

Article 8:

The Foreign Investor may purchase local or foreign investment entities or shares thereof subject to the conditions set forth in Article (5) and Article (6) of The rules.

Fifth: Licensing Procedures

Article 9:

The Authority shall prepare an investment guide containing a description of the procedures for obtaining both permanent and temporary licenses and their modifications, as well as the forms, required documents to obtain the licenses and any information needed by the investor. The guide shall also list the incentives, benefits and guarantees to be enjoyed by The Foreign Investor. In addition, the guide must contain substantial information about the following:

1. Foreign Investment Act, its rules and supplementary decisions.
2. The Statute of the General Investment Authority and the Executive Rules of the General Investment Authority
3. The Regulation of Ownership and Investment in Real Estate by Non-Saudis
4. Protection and Promotion of National Industries Act.
5. Labor and Workmen Act and Social Insurance Act.
6. Zakat, Tax and Customs Regulations.
7. Legal Sharia Procedures Act.
8. Penal Procedures Act.
9. Legal Profession Act.
10. Companies Regulations (Commercial Register, Trade Fraud, Banks Monitoring).
11. Intellectual Property Protection Regulations (Trade Marks Act, Copyrights Protection Act, Patents Act).
12. Residence Act.

The guide shall also contain special sections on the customs and traditions observed in the Kingdom and shall be updated regularly.

Article 10:

Applications to obtain a foreign investment license shall be submitted to the Applications Reception Unit of The Center, using the designated form. The application must contain all the necessary information; satisfy all documentation requirements cited therein and be signed by the applicant or his duly authorized representative. The Center shall notify the license applicant by a written or electronic receipt note including the number of the application record and its date.

Article 11:

The Authority may accept complete licensing applications and the required attached documents that are delivered by post, e-mail or fax. The licensing decision may be issued accordingly; provided that it will be delivered to the applicant only after The Authority receives the original documents when deemed necessary.

Article 12:

Decisions on submitted applications are subject to the provisions of The Act, The Rules and the resolutions of The Board of Directors. The Governor, or his assigned delegate, shall sign the licensing decisions within thirty days. National holidays shall be excluded from the mentioned period.

Article 13:

The Center shall notify the investor, by hand delivery, registered mail, e-mail or any other means, of the final decision issued with respect to his application.

Article 14:

If The Authority rejects the application for a new license or the modification of an existing license, its rejection shall be justified. The foreign Investor may object to the rejection decision before The Board of Directors within thirty days effective from the date on which he is notified of the rejection decision.

Article 15:

The Board of Directors shall consider the objection and reach a decision on it within thirty days from the date of its submittal. If the objection was rejected, the license applicant shall have the right to challenge the rejection decision before the Board of Grievances.

Sixth: Obligations of the Foreign Investor

Article 16:

The licensed investor shall start the practical steps required for setting up the entity in accordance with the time schedule submitted by him to The Authority. The Authority shall, if The Foreign Investor shows adequate reasons for delays in the implementation procedures, extend the period specified in the schedule, provided that the extensions shall not exceed one year in total. The extension shall not exceed one year unless a decision to that effect is made by The Board of Directors.

Article 17:

When The Authority does not approve the extension requests specified by the time table, and if The Foreign Investor is found not to be diligent after the extension, The Board of Directors may then revoke the license. A Foreign Investor whose license is revoked under this Article shall bear the consequences of revocation.

Article 18:

Licensed entities must abide by the conditions and primary objectives upon which the licenses are issued. No modifications shall be made unless approved by The Authority.

Article 19:

Owners of licensed entities shall adopt an accredited accounting system and a budget for their entities approved by an authorized accounting office. Upon request, owners of licensed entities shall provide The Authority with statistics or information in respect of their entities.

Seventh: Violations

Article 20:

Authority officials, empowered by a written mandate by The Governor or his designated representative, shall have the right to monitor the implementation of the provisions of The Act and The Rules. For this purpose, they have the right to examine records and all documents relating to the investment activity and shall pinpoint violations and submit necessary reports to The Governor or his designated representative. The assigned officials shall maintain the confidentiality of the information and documents they examine.

Article 21:

The Board of Director shall issue a list of violations and penalties pertaining to the violation of the provisions of The Act, The Rules, the licensing conditions and the rules of their implementation and the implementation of the penalties therein.

Article 22:

The Authority shall notify the Foreign Investor in writing regarding any violation of the provisions of The Act, The Rules and the licensing conditions; and shall allow a suitable period of time, as specified by the list of violations and penalties, to correct them. If the Foreign Investor fails to implement the necessary corrections, he shall be subject to any of the penalties provided for in the list of violations and penalties.

Article 23:

The Board of Directors shall form a committee consisting of at least three members, one of whom shall be a legal counselor and shall develop rules and procedures for its functioning. The responsibilities of the committee shall be to review violations of the provisions of The Act provisions and The Rules and the licensing conditions. The committee shall hear the parties accused thereof, to consider their defenses and to suggest what it sees according to what specified by The Act and the list of violations and penalties. The Board of Directors shall render the penalty decision.

Article 24:

The Foreign Investor with to whom the penalty decision is issued according to Article 23 of The Rules may object to the rejection decision before the Board of Directors within thirty days effective from the date on which he is notified of the rejection decision.

Article 25:

The Board of Directors shall consider the objection and make a decision on it within thirty days from the date of its submittal. If The Board of Directors confirms the penalty the license applicant shall have the right to challenge the rejection decision before the Board of Grievances within 60 days effective from the date on which he was notified of the decision.

Eighth: Disputes Settlement Committee

Article 26:

The Board of Directors shall form, subject to Article 13, paragraph 2 of The Act, a committee composed of at least a chairman and two members to be named The Investment Disputes Settlement Committee. This committee shall consider the disputes arising between the Foreign Investor and his Saudi partners in respect of a licensed investment under The Act. The committee shall work to settle the dispute amicably. In case an amicable settlement could not be reached, the dispute shall be settled through arbitration according to the Arbitration Act and its executive rules issued by Royal Decree No. (46) Dated 12.7.1403 H. This committee is the competent body to consider the dispute as stipulated in the Arbitration Act.