

client alert

MEASURES RELATED TO INVESTMENT | ALGERIA |

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PUBLICATION OF THE TEXTS IMPLEMENTING THE INVESTMENT LAW

In a move to improve the Algerian business climate, the texts implementing Law No. 16-09 on the promotion of investment (the "Investment Law") published in August 2016 were adopted on 5 March 2017. This Client Alert summarises the key measures of those decrees.

DECREE 17-101: THE MAIN IMPLEMENTING TEXT

Decree 17-101 specifies the three main aspects of the Investment Law, namely:

"Negative lists"

Decree 17-101 lays down the list of activities, goods and services excluded from the advantages provided by the Investment Law (for example, import activities or cement plants: grey cement, etc.).

Eligibility thresholds for the transfer guarantee

As a reminder, the transfer guarantee is the right for any foreign investor to transfer in foreign currency the dividends and other revenues resulting from its investment (subject to certain conditions being met).

Article 25 of the Investment Law made the benefit of this transfer guarantee conditional upon the satisfaction of certain thresholds which had to be fixed by regulation.

Article 16 of Decree 17-101 defines the minimum thresholds provided for in Article 25 of the Investment Law for the benefit of the transfer guarantee calculated in instalments on the basis of the foreign shareholding's share in the total cost of the investment, as follows:

- **30%** when the investment amount is lower than or equal to DZD 100 million (approx. EUR 850,000);
- **15%** when the investment amount is in excess of DZD 100 million (approx. EUR 850,000) and is lower than or equal to DZD 1 billion (approx. EUR 8.5 million);
- **10%** when the investment amount is in excess of DZD 1 billion (approx. EUR 8.5 million).

Additionally, foreign shareholders' share of financing in the total investment cost is proportional to the share they hold in the company's capital.

It should be noted that certain concepts such as the "*foreign shareholding's share in the total cost of the investment*" should be clarified.

Investment incentive regimes

Decree 17-101 specifies the arrangements for implementing the investment incentive regimes, namely:

- the advantages applicable to the extension and rehabilitation investments;
- the exceptional advantages;
- the other advantages granted depending on the investment's location;
- the advantages for any investment exceeding DZD 5 billion (approx. EUR 42 million); and
- the advantages for projects of particular interest to the national economy.

OVERVIEW OF THE OTHER DECREES

DECREE 17-100

Decree 17-100 modernises the powers, organisation and operation of the National Agency of Investment Development ("**ANDI**").

It specifies in particular the concept of "decentralised one-stop shop". It is broken down into four centres, each enjoying specific powers:

- the advantages management centre;
- the formalities completion centre;
- the new businesses support centre;
- the territorial promotion centre.

DECREE 17-102

Decree 17-102 establishing the registration procedures for investments and the form and effects of the related certificate provides that the registration of an investment is made on the basis of a form furnished by the ANDI equivalent to the registration certificate.

With the exception of the investments which amount is equal or higher than five billion Algerian dinars (approx. 42 million euros) and of investments of a particular interest for the national economy, the effect of registration is to automatically provide an investment with the advantages under the project's implementation phase without any further formalities (which covers the ordinary advantages and the additional advantages benefiting the privileged and/or job-creating activities).

DECREE 17-103

Decree 17-103 establishes the amount and conditions with regards to the collection of the fee for processing the investment files; those fees vary depending on the type of investment without exceeding DZD 200,000 (approx. EUR 1,700).

DECREE 17-104

Decree 17-104 sets the conditions for monitoring investments and the applicable sanctions in case of non-compliance with the obligations and commitments accepted by the investor in return for the advantages granted.

In terms of monitoring, the investor shall draw up a progress report of its investment that shall be sent to the ANDI on a yearly basis.

In case of non-compliance with this annual progress report, the ANDI is entitled to suspend the advantages granted to the investor. The ANDI then summons the investor so that it may submit the supporting documents for this failure to comply. The investor must rectify its situation within one month. Otherwise, it incurs cancelation of its registration certificate and loss of its rights, with a reimbursement of all the advantages received and payment of penalties set by law.

DECREE 17-105

Decree 17-105 establishes the terms and conditions for granting the operational advantages to investments creating more than one hundred (100) jobs located outside the South areas, the High Lands and other areas, whose development requires a specific contribution from the State.

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