

# NEW PRIVATE INVESTMENT LAW

*The private investment framework applies to foreign investments of any amount.*

The new Private Investment Law (NLIP), approved by Law 14/15, of 11 August, was recently published in the Official Gazette.

## SCOPE

The private investment framework applies to **foreign investments** of any amount and to **domestic investments** amounting or exceeding Kz. 50,000,000.00.

The following investments remain excluded from the scope of the NLIP: (i) private investments made by private entities owned by the State or other public entities holding a stake corresponding or exceeding 50% (ii) private investment related to oil business, minerals, financial institutions and other sectors defined in the law.

## MAIN CHANGES

The main changes to the private investment framework introduced by the NLIP are the following:

**(a) (a) Possibility of making foreign investments without being subject to the former minimum investment amount**

NLIP does not contain the previous rule that stated the minimum investment amount, which means that foreign investors are allowed to submit investment projects below USD 1,000,000.00.

## **(b) Mandatory partnerships in specific sectors**

Foreign investment relating to (i) electricity and water, (ii) hotels and tourism, (iii) transport and logistics, (iv) civil construction, (v) telecommunications and IT and (vi) media requires local partnership with Angolan citizens, state-owned companies or Angolan private companies and additionally requires that the Angolan investor holds at least 35% of the share capital and has effective participation in the management as per a shareholders' agreement.

For the purposes of the NLIP, the concept of "**Angolan company**" comprises companies and single owned companies with registered office in Angola having its share capital held by Angolan citizens in at least 51%.

**(c) New rules on indirect investment and shareholders' loans**

Two of the major innovations of the NLIP consist in (i) the global amount of indirect investment shall not exceed the amount of direct investment and (ii) shareholders' loans are limited to an amount corresponding to 30% of the value of the investment made by the local incorporated company and may only be repaid 3 years later.

***Dividends and distributed profits shall now be subject to a surtax on capital investment.***

**(d) The right to transfer dividends and profits and the new surtax on capital investment**

According to the new private investment framework, once the investment project has been implemented and upon proof of its execution, foreign investors have the right to repatriate profits, dividends and other amounts connected to the project as set forth in the law, regardless of the amount of the investment.

In return, dividends and distributed profits shall now be subject to a surtax on capital investment, on the exceeding part of the investors' equity. The rates vary between 15% and 50%.

Dividends or profits reinvested in Angola shall not be subject to this surtax.

***Dividends or profits reinvested in the country are not subject to this surtax.***

**(e) Other changes**

NLIP provides for new rules on the requirements for the granting of **tax incentives and benefits**. Nevertheless, it remains to be determined in detail the terms and conditions under which the tax incentives and benefits should be granted.

Foreign investments amounting to less than USD 1,000,000.00 and domestic investments below USD 500,000.00 are not eligible for purposes of tax incentives and benefits.

Unlike the previous rules, the NLIP does not contain special rules relating to the incorporation and transformation of companies in the context of private investment projects or the winding-up and liquidation of companies incorporated under the private investment framework, since the same shall be governed by the general corporate framework. Neither does it contain any rules on the assignment of the investors' contractual position.

Follow-up and supervision rules on the implementation and execution of duly approved investment projects are not regulated in the NLIP.

***NLIP entered into force on 11 August 2015, however its effective application requires additional regulation but there are no estimates as to when such regulation will be approved.***

**PROCEDURE RULES**

Investments remain subject to contract negotiation. It is still required a negotiation between the investor and the relevant government bodies. The procedure shall be deemed concluded after the execution of a private investment contract between the investor and the Angolan State, represented by a government body designated by the Holder of Executive Powers. Apparently ANIP - National Agency for Private Investment - no longer holds immediate jurisdiction over private investment projects. In any event, it is still necessary to confirm which body will effectively be responsible for the approval of investment projects.

**EFFECTIVE DATE**

NLIP entered into force on 11 August 2015, however its effective application requires additional regulation but there are no estimates as to when such regulation will be approved.

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