

Saudi Arabia

Formation of a ministerial committee and amendment of Article (Third) of the Foreign Investment Law (2021)

Unofficial translation

Note

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

Contents

The Council of Ministers, after reviewing the transaction received from the Royal Court No. 2827 dated 1/16/1442 AH, which included the telegram of His Excellency the Minister of Investment No. 132 dated 1/14/1442 AH, regarding the study of setting standards to preserve and develop leading Saudi companies, and reviewing the rules and procedures for disposing of their shares or stocks.

After reviewing Paragraph (2) of Article (24) of the Council of Ministers' System, issued by Royal Order No. (A/13) dated 3/3/1414 AH.

After reviewing the Foreign Investment System, issued by Royal Decree No. (M/1) dated 1/5/1421 AH.

After reviewing Royal Order No. (54939) dated 11/26/1438 AH.

After reviewing Cabinet Resolution No. (264) dated 5/16/1440 AH.

After reviewing Minutes No. (454) dated 7/18/1442 AH, and Memorandum No. (2163) dated 11/28/1442 AH, prepared by the Board of Experts at the Council of Ministers.

After reviewing the recommendation prepared by the Council of Economic and Development Affairs No. (36-42/50/D) dated 12/26/1442 AH.

After reviewing the recommendation of the General Committee of the Council of Ministers No. (654) dated 1/20/1443 AH.

Decides as follows:

First:

Forming a permanent ministerial committee called the "Permanent Ministerial Committee for Foreign Investment Review," chaired by His Excellency the Minister of Investment, and including His Excellency the Minister of Commerce, His Excellency the Minister of Economy and Planning, His Excellency the Minister of Communications and Information Technology, His Excellency the Chairman of the Board of Directors of the Local Content and Government Procurement Authority, His Excellency the Chairman of the Board of Directors of the Saudi Authority for Intellectual Property, His Excellency the Chairman of the Board of Directors of the Capital Market Authority, His Excellency the Chairman of the Saudi Data and Artificial Intelligence Authority, His Excellency the Governor of the General Authority for Foreign Trade, His Excellency the Governor of the General Authority for Competition, and the CEO of the Hedging Program. This committee will review, evaluate, and adjudicate foreign investment applications based on criteria related to security or public order. To achieve this, the committee will:

1. Identify sensitive and strategic sectors that directly or indirectly affect security or public order, and update these sectors continuously.
2. Determine the maximum percentage of direct and indirect foreign investor ownership in shares or stocks of Saudi companies operating in sensitive and strategic sectors, or in instruments and securities convertible into capital issued by these companies—in coordination with the relevant authorities—in a manner that does not conflict with relevant regulatory provisions and the Kingdom's international obligations.
- 3- Establishing the necessary controls, conditions, and procedures for deciding on foreign investors' requests to own shares or stocks in Saudi companies operating in sensitive and strategic sectors, or instruments and securities convertible into capital issued by these companies, provided that these controls, conditions, and procedures take into account the potential impact of the ownership request on security or public order.
- 4- Deciding on a foreign investor's request to own shares or stocks in Saudi companies operating in sensitive and strategic sectors, or instruments and securities convertible into capital issued by these companies, either by approval, rejection, or conditional approval, in accordance with the provisions of the controls, conditions, and procedures referred to in paragraph (3) of this clause, and provided that a representative from the authority responsible for regulating the activity related to the ownership request participates in discussing and voting on these requests.
- 5- Establishing and updating a list of individuals or companies prohibited from investing in the Kingdom for security or public order considerations, in coordination with the relevant authorities.
- 6- Requesting any information, data, reports, statistics, or opinions—from all ministries and other government agencies—required by the nature of their work.
- 7- Inviting any government agency and seeking assistance from specialists and consultants to attend

7- Inviting any government agency, and seeking assistance from specialists and consultants, to attend its meetings without having the right to vote.

8- Forming the committees and working groups it deems necessary and granting them the powers necessary to accomplish the tasks assigned to them.

Second:

The committee referred to in Clause (First) of this Resolution shall agree with the Capital Market Authority to establish the necessary controls, procedures and conditions for the manner and mechanism of examining investment applications in securities listed on the financial market issued by Saudi companies operating in sensitive and strategic sectors, in the event that approval of the application would lead to owning a controlling stake in any of those companies, provided that these controls, procedures and conditions are agreed upon and implemented within a period not exceeding (two years) from the date of commencement of the Committee's work.

Third:

The committee referred to in Clause (First) of this resolution shall meet periodically, and whenever necessary, as determined by the committee chairman, or if requested by at least one-third of its members. The invitation to the meeting shall be sent by the committee chairman in writing at least three days prior to the meeting date, provided that the invitation includes the agenda. For the meeting to be valid, the presence of at least a majority of the members, including the committee chairman or his/her representative, is required. Decisions shall be issued by a majority vote of at least those present, and in the event of a tie, the side with which the chairman voted shall prevail.

The committee may hold its meetings and vote on decisions remotely using technology. Decisions may be taken by circulating them among the members and signing them, indicating that all members are aware of them. Decisions issued in this manner shall be deemed valid with the approval of at least a majority of the members' votes.

Fourth:

The Ministry of Investment shall establish the necessary procedures to ensure it obtains information about the beneficial owner of the investment it licenses.

Fifth:

Amending Article (Three) of the Foreign Investment Law, issued by Royal Decree No. (M/1) dated 1/5/1421 AH, amended by Cabinet Resolution No. (264) dated 5/16/1440 AH, to read as follows: "The Permanent Ministerial Committee for Examining Foreign Investments shall be responsible for issuing a list of the types of activities excluded from foreign investment."

Sixth:

The committee referred to in Clause (First) of this resolution shall submit an annual report to the Prime Minister on its work, the obstacles it faced, and proposals regarding them.