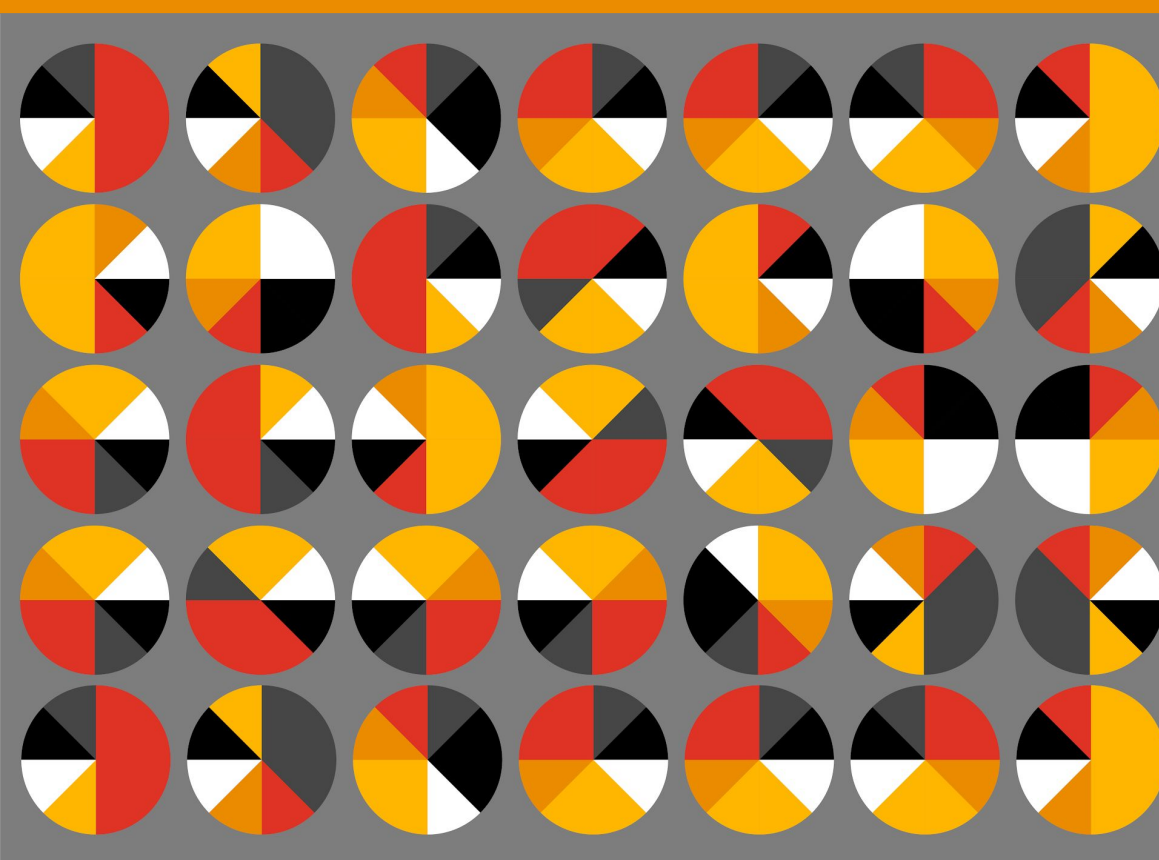


# Oman: New Foreign Capital Investment Law and Executive Regulations

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## In brief

The new Foreign Capital Investment Law (the New FCIL) was published in July 2019, effective from 1 January 2020, and replaced the earlier Foreign Capital Investment Law issued by Decree 102/1994 (the Old FCIL). The New FCIL has significantly relaxed the rules and restrictions on foreign investment, streamlined the registration and licensing procedures for foreign investors and aligned foreign investors' rights and incentives to those given to local investors. One of the biggest changes in the New FCIL was allowing 100% foreign ownership in number of sectors.

In June 2020, the Ministry of Commerce and Industry, Oman (MOCI) has issued the Executive Regulations of the new FCIL, specifying provisions in relation to registration of the foreign investment projects, benefits available to specified projects, allocation of land for investment purposes and inspection of the projects by the competent authority, etc.

## In detail

Under the old FCIL, foreign investors were not allowed to conduct any commercial activity in or from Oman without having a formal presence by way of a legal entity (commercial company or a branch office) or a local commercial agent. Further, as per the provisions of the Old FCIL, the maximum ceiling of foreign ownership was restricted to 49% of the share capital of a commercial company. Upon Oman's accession to the World Trade Organisation (the "WTO"), this was relaxed to a maximum of 70% of the share capital of a commercial company.

The New FCIL has removed such restrictions on foreign investors (both natural and juridical persons) and hence there is no mandatory requirement of having an Omani shareholder. Foreign investors are now allowed to have 100% ownership in a wide range of permissible businesses, except for few business activities prescribed by MOCI in which foreign investment is prohibited.

### Investment projects under the New FCIL

As per the New FCIL, an investment project refers to any economic activity established in Oman by a foreign investor individually, or in partnership with another foreigner or an Omani. As per the Executive Regulations, the competent authority is required to prepare a register listing all licensed investment projects, approval, permits and licenses, along with their investment details, which shall be updated once a year.

### Procedure for obtaining a license for an investment project

As prescribed under the Executive Regulations, foreign investors are intended to provide services through electronic system (the Investment Services Centre of the MOCI) which would allow the electronic exchange of the application and investment details between the investors and the competent authority.

In order to obtain a license for the investment project, foreign investors are required to make an online application along with the prescribed documents. The terms and conditions, procedures and deadlines for issuing approvals, permits, and licenses related to investment projects are set out in the Executive Regulations.

Furthermore, foreign investors are provided with an option to entrust their representatives (licensed and accredited bank or legal or administrative or financial consulting offices) to examine their application for an investment license and submit a certification in this regard to the competent authority on their behalf. The competent authority has the right to object to the certification within 10 days from submission, stating the grounds of objection. Such objection / termination should be monitored by the representatives.

## **In detail (contd...)**

### **Procedure for obtaining a license for an investment project (contd...)**

The application for obtaining an investment license shall be submitted to the competent authority. The competent authority shall study the request for approval, permits and licenses and issue a decision of acceptance / rejection of request, within 14 days from submission. Lapse of this period without a decision implies acceptance of the request. Within three days from obtaining all approvals, permits and licenses, the investment license shall be issued.

**Note – Certain projects could be granted a single approval for establishment, operation and management subject to fulfillment of the conditions prescribed in the Executive Regulations.**

### **Incentives available to specified investment projects**

Investment projects set up in less developed governorates could be granted certain benefits, subject to fulfillment of the prescribed conditions and application to the competent authority in the prescribed manner. Such benefits include exemption from the land rental value (for maximum period up to 5 years), exclusion from Omanisation (for 2 years), exemption from payment of specified fees etc..

Specified investment projects are granted exemption from taxes, customs fees and non-customs duties, and the exemption takes effect from the date of the actual operation of the project.

### **Allocation of land and real estate for investment projects**

As stipulated in the Executive Regulations, the allocation of lands and real estate for the investment project will be by way of a long-term lease or by granting the right to use. The competent authority shall lease or grant the right to use land post the examination of the application submitted by the investors. The period of the lease or use of lands or real estate will be fifty years, which will be renewable with the approval of the concerned authority.

### **Inspection and monitoring by the competent authority**

The Executive Regulations mandate the competent authority to follow up the performance of the investment project and submit a report thereof to the concerned Minister every six months. The report should include relevant details affirming compliance with the terms of the investment license, such as an economic feasibility study, environmental protection requirements, work ethics, maintaining general health and safety norms etc. Additionally, the foreign investor shall provide the competent authority with an annual report within 60 days from the end of each fiscal year (including the audited financial statements, audit report, details of the workers, etc.).

It further empowers the competent authority to carry out the monitoring and inspection of the investment projects in order to ensure that the investor complies with terms and condition of investment licenses. Moreover, the competent authority can enter into the offices/headquarters of the investors and access investment records, electronic systems etc. In the case of non-compliance of the terms and conditions of the investment license, the competent authority can take prescribed disciplinary actions, such as suspension of the commercial activity and cancellation of the investment license.

## The takeaway

The new FCIL and its Executive Regulations have provided an environment which is attractive for foreign investment. Furthermore, this has created appropriate conditions for investment in Oman.

Relevant businesses should analyse potential investment opportunities and consider the following steps:

- Analyse wide range of permissible businesses in Oman and explore the possible business opportunities;
- Obtain an understanding of the procedural aspects, including application to the competent authority, for an investment project, including documentation requirements and application for land rights, etc;
- Determine the eligibility of incentives under the new FCIL, if any; and
- Understand the compliance requirements under the new FCIL.

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## Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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