

FOREIGN INVESTMENT PROMOTION AND PROTECTION ACT

Chapter One
Definitions

Article 1: The terms and expressions used in the present Act shall have the meanings specified below:

Act: Foreign Investment Protection and Promotion Act Foreign

Investor: Any natural or legal non Iranian or Iranian person utilizing capital of foreign origin having obtained the Investment License referred to in Article 6.

Foreign Capital: All types of capital, including cash or non cash that has been imported into the country by the Foreign Investor and includes the following:

- a. Sums in cash entering the country in the form of convertible currency through the banking system or other means of transfer approved by the Central Bank of the Islamic Republic of Iran
- b. Equipment and machinery
- c. Spare parts and tools, raw material, manufacturing parts, additives and auxiliary material
- d. Patent rights, technical know-how, trade names, trademarks and specialized services
- e. Transferable dividends belonging to the Foreign Investor
- f. Other authorized cases with the approval of the Council of Ministers.

Foreign Investment: The utilization of Foreign Capital in an existing or newly established economic firm upon obtaining an Investment License.

Investment License: A license to be issued in conformity with Article 6 of this Act for each case of Foreign Investment.

Organization: The Organization for Investment, Economic and Technical Assistance of Iran (OIETA) subject of Article 5 of the Law on Establishment of Ministry of Economic Affairs and Finance (1974).

Board: Foreign Investment Board subject of Article 6 of this Act.

Chapter Two
General Criteria for Admission of Foreign Capital

Article 2: Admission of Foreign Investment under this Act and in compliance with other current laws and regulations of the county must be for development and productive

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activities in the fields of industries, mines, agriculture and services shall be based on the following criteria:

- a. Shall lead to economic growth, promote technology, promote quality of productions, increase employment opportunities and increase exports
- b. Does not jeopardize national security and public interest, harm the environment, disrupt the national economy, or disturb productions dependent on domestic investments
- c. Shall not involve the granting of concession by the government to Foreign Investors; concession means distinctive rights that place foreign investors in an exclusive and monopolistic position
- d. The proportion of the value of goods and services produced by Foreign Investment under this Act in comparison with the value of goods and services supplied in the domestic market at the time of issuance of Investment License, in each economic sector, shall not exceed 25% and in each economic sub-sector shall not exceed 35%. The determination of sub-sectors and amount of investment in each will be pursuant to regulations ratified by the Council of Ministers.

Foreign Investment for production of goods and services for exports except for crude oil shall be exempt from such proportions.

Note: The Law Pertaining to Ownership of Immovable Property by Foreign National approved on June 6, 1931 remains applicable. The ownership of any type of land in any amount in the name of the Foreign Investors is not permitted within the framework of this Act.

Article 3: Foreign investments admitted in compliance with the provisions of this Act shall enjoy and facilities and protections of this Act. These investments may be admitted by the following means:

- a. Direct foreign investment in those fields that private sector activity is authorized
- b. Foreign investments in all sectors within the frameworks of "civil partnership", "buy back", and "build, operate and transfer (BOT)" where the return of principal and profit arises solely through the economic activity of the same investment project and does not rely on any guarantee by the government or banks or government companies.

Note: While Foreign Investment or the interest thereof invested through the "build, operate and transfer" scheme according to clause (b) of the present Article is not fully amortized, imposition of ownership rights by the Foreign Investor onto the investment project firm in proportion with retained share capital shall be permissible.

Article 4: Investment in the Islamic Republic of Iran by foreign government(s) shall be approved by the Islamic Consultative Assembly on a case by case basis. Investments by foreign government companies shall be treated as private investment.

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Chapter Three Decision Making Bodies

Article 5: The Organization is the only official body in the country for encouragement of foreign investments and pursuing all the relevant affairs of foreign investment and all requests by foreign investors pertaining to the relevant matters such as admission, entry, utilization, and export of capital shall be submitted to the Organization.

Article 6: In order to review and decide upon the requests subject of Article 5, a board referred to as the "Foreign Investment Board" shall be set up to be presided over by the Deputy Minister of Economic Affairs and Finance as the head of the Organization and shall consist of Deputy of Minister of Foreign Affairs, Vice-Chairman of the State Management and Planning Organization, Vice-Chairman of the Central Bank of Iran, as well as the deputies of other ministries concerned, as the case may be.

Concerning the request of admission, the Investment Licenses shall be issued upon approval of the Board and confirmation and signature of the Minister of Economic Affairs and Finance.

When accepting Foreign Investment, the Board shall be obliged to observe the criteria set forth in Article 2 of this Act.

Note: Within a maximum of 15 days from the date of application, the Organization shall complete preliminary examination and recommend its decision to the Board. The Board must within one month of receiving the application, examine and announce in writing its final decision in regards to the application.

Article 7: As a matter of facilitation and acceleration of matters of acceptance and activity of foreign investments in the country, all relevant organizations including the Ministry of Economic Affairs and Finance, the Ministry of Foreign Affairs, the Ministry of Commerce, the Ministry of Labor and Social Affairs, the Central Bank of the Islamic Republic of Iran, Islamic Republic of Iran Customs, Office for Company Registration and Industrial Ownership and the Environment Protection Organization, are required to introduce a fully authorized representative, certified by the highest official of the entity, to the Organization. The nominated representatives will be recognized act as intermediaries and coordinators of all relevant affairs of that entity and the Organization.

Chapter Four Guarantee and Transfer of Foreign Capital

Article 8: Foreign investments subject to this Act shall enjoy the same rights, protections and facilities available to domestic investments in a non-discriminatory manner.

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Article 9: Foreign Investment shall not be expropriated or nationalized unless for the public interest, through a legal process, in a non discriminatory manner, and against payment of appropriate compensation based on the real value of that investment immediately before the expropriation.

Note 1: Requests for compensation must be submitted to the Board within a maximum of one year following the expropriation or nationalization.

Note 2: Disputes resulting from expropriation or nationalization will be settled according to Article 19 of the present Act.

Article 10: Transfer of all or part of the Foreign Capital to a domestic investor or upon the approval of the Board and confirmation of Minister of Economic Affairs and Finance, to another Foreign Investor shall be permissible. In case of transfer to another Foreign Investor, the transferee, who shall have at least the qualifications of the original investor, will replace and/or become partners with the original investor for the purposes of the regulations of the present Act.

Chapter Five

Regulations Pertaining to Admission, Import and Export of Foreign Capital

Article 11: Foreign Capital may enter the country and be covered under this Act through one or a combination of the following:

- a. Cash sums converted to Rials
- b. Cash sums not converted to Rials to be used directly for purchases and orders related to the Foreign Investment
- c. Non-cash items upon completion of the evaluation process by the competent authorities

Note: The executive by-laws of the present Act shall specify the relevant procedure for evaluation and registration of Foreign Capital.

Article 12: The applicable foreign exchange rate at the time of entry or exit of Foreign Capital as well as all foreign exchange transfers shall in the case of applicability of a unified exchange rate be that rate prevailing in the country's official network and otherwise the daily free market rate as recognized by the Central Bank of Iran.

Article 13: The principal and interest of Foreign Capital or any portion of the capital remaining in the country may be transferred abroad with a three-month notice to the Board upon fulfillment of all outstanding obligations, payment of legal deductions and the approval of the Board and confirmation of Minister of Economic Affairs and Finance.

Article 14: The profits of Foreign Investment may be transferred abroad upon deduction of taxes, duties and legal reserves with the approval of the Board and confirmation of the Minister of Economy and Finance.

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Article 15: Payments for the principal part of financial facilities and related expenses of Foreign Investors, contracts related to patent-right, know-how, technical and engineering, trade name and trademark, management and other similar contracts within the framework of Foreign Investment may be transferred abroad pursuant approval of the Board and confirmation of the Minister of Economic Affairs and Finance.

Article 16: Transfers subject of Articles 13, 14 and 15 shall be done in compliance with provisions of clause (b) of Article 3.

Article 17: Acquisition of foreign exchange for transfers subject of Articles 13, 14 and 15 is possible through the following methods:

- a. Purchase of foreign exchange from the banking system
- b. Using the foreign currency earned through the export of commodities produced, and/or the foreign currency earned through providing services of the economic firm in which the Foreign Capital is utilized
- c. Export of authorized goods as per a list to be approved for implementation of this clause, by the Council of Ministers with due regard to relevant laws and regulations.

Note 1: Application of one or a combination of the above methods shall be provided for in the Investment License.

Note 2: In the case of investments subject of clause (b) of Article 3 of this Act, should laws or government regulations lead to prohibition or cessation of approved financial agreements within the framework of this Act, then the government shall procure and pay the resulting damages with the ceiling being the matured and due installments. Limits of the reimbursable undertakings according to this Act shall be approved by Council of Ministers.

Note 3: The Central Bank of the Islamic Republic of Iran is obligated to procure and provide the foreign currency equivalent of transferable sums mentioned in Clause (a) above to the Foreign Investor with the approval of the Organization and confirmation of the Minister of Economic Affairs and Finance.

Note 4: If the Investment License is based on clauses (b) and (c) of this Article, the said license shall be regarded as an export license.

Article 18: The repatriation of the part of Foreign Capital which is imported into the country within the framework of the Investment License but remains unused, shall not be subject to any foreign exchange or imports-exports' laws and regulations.

Chapter Six Settlement of Disputes

Article 19: Any disputes between the government and foreign investors related to the investments subject of this Act which can not be settled through negotiations, shall be

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examined by domestic courts of law, unless another mode of settlement of disputes has been agreed upon within a law on bilateral investment agreement with the government of the Foreign Investor.

Chapter Seven Final Regulations

Article 20: The relevant executive bodies are required to accommodate the requests of the Organization in matters concerning issuance of visas, residence permits, issuance of work and employment permits on a case by case basis which shall be required for foreign investors, managers and/or experts working of the private sector and connected to foreign investments subject to this Act and for their next of kin.

Note: Disputes between the Organization and executive bodies will be settled according to the decision of the Minister of Economic Affairs and Finance.

Article 21: The Organization is required to facilitate public accessibility to all information pertaining to investment and foreign investors, investment opportunities, Iranian partners for the related activity and other information available to the Organization.

Article 22: All ministries and government companies and organizations as well as those public institutes that the applicability of law to them requires specific mention are required to provide the Organization with all information needed for foreign investment and reports on foreign investments made, so that the Organization could act upon according to the above Article.

Article 23: The Minister of Economic Affairs and Finance is required to provide the relevant Islamic Consultative Assembly commissions with a report on the performance of the Organization with respect to Foreign Investment subject of this Act every six months.

Article 24: As of the date of approval of this Act and its executive by-laws, the former Law on Attraction and Protection of Foreign Investment -- approved on October 29, 1955 -- and the relevant by-laws are repealed. All foreign capital subject to the former law will be covered by this Act. The provisions of this Act will be repealed or modified by any subsequent and upcoming laws and statutes only if a specific provision shall be stipulated in them reiterating such nullification or modification.

Article 25: The executive by-laws of the present Act shall be prepared by the Ministry of Economic Affairs and Finance and subsequently approved by the Council of Ministers within 2 months.

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