

Client Alert: New Regulations Abolish Government Contract Requirement for Foreign Branch Offices in Iraq

By Ahmed Al-Janabi and Daniel Heintel

A recent decision issued by the Council of Ministers in Iraq has overhauled the rules for branch offices and representative offices of foreign companies. The new foreign branches regulation 2/2017 substantially changes the rules for foreign companies operating branches in central Iraq. The regulation does not apply to branch and representative offices registered or to be registered in the Kurdistan Region of Iraq.

Registration of a branch office of a foreign company is now a fast-tracked process. Once the application is submitted, the Companies Registrar must issue its decision to approve or refuse a foreign company request to open a branch in Iraq within thirty business days from the application date. Thereafter, the Branch must publish the decision in a local newspaper within fifteen days and the Companies Registrar have to issue the final registration license within seven days as of the last publication date;

The other significant changes are as follows:

- representative offices of foreign companies have been abolished (requiring existing representative offices to change their status, as explained below);
- any company can open a branch office in Iraq, even if it has no contract with the government - which was previous the requirement for registering such an office;
- a certificate of establishment issued to a branch office will not be considered as a license to conduct commercial activities in Iraq, and license for doing business must be obtained separately by the official body which is specialized in such activities in Iraq.

Commercial Approvals

A branch office of a foreign company will be able to carry out business in Iraq if it obtains the necessary approvals, such as if the branch office meets any of the following conditions:

- Signs a contract with one of the Iraqi government and/or public and mixed sector bodies;
- Obtains an investment license in conformity with valid investment laws in Iraq;
- Obtains a business license from any legally authorized Iraqi authority; or
- Having a transaction with the private sector in Iraq provided that the contract amount or the project value must not be less than USD1,000,000.

Existing Representative Offices in Iraq

The regulations require that all representative offices convert their offices into branch offices. In order to do that, the representative office must file a request to the Companies Registrar and update the file in accordance with the new requirements. Once all the requirements are fulfilled, the registrar will issue the new certificate for the company.

The Companies Registrar has not yet announced a deadline for this conversion but all representative offices should make the change as soon as possible.

Summary of Branch Office Housekeeping Requirements

In the following we would like to reiterate the corporate housekeeping requirements for a branch office in central Iraq:

- The appointment of a lawyer who is a member of the Iraqi Bar Association must be appointed on retainer as the statutory legal advisor of the branch office. This advisor must receive a minimum salary set by the Iraqi Bar Association of US\$2,545 per year. The appointment must be re-confirmed every year.
- An auditor who must be a member of the Iraqi Accountant and Auditor Union must be appointed. The appointment must be re-confirmed every year.
- The lease of the branch office in Iraq must be legalized and submitted to the municipality, or otherwise have the lease confirmed by the municipality.
- The branch office must have a bank account in a local Iraqi bank.
- Audited accounts for the branch office and the foreign parent company must be submitted to the Companies Registrar for approval, and then submitted to the Iraqi Accountants and Auditors Syndicate for certification, and then the General Commission for Taxation. This must be completed within six months of the end of the financial year.
- The branch must also submit an annual report to the Companies Registrar on basic corporate information and a plan for the coming year's activities, and list all branch employees.
- The branch office must register with the social security office for all its employees.
- The branch office must pay all of its taxes and obtain tax clearance certificate.

A branch office will be liquidated if it does not file the accounts for two consecutive years or if it has no commercial activities for four years.

If you would like more information about this topic then please contact us. An English translation of the regulations are available to our clients and friends upon request.

Ahmed Al-Janabi
Partner
Baghdad / Basra
aj@amereller.com

Daniel Heintel
Partner
Munich / Erbil
heintel@amereller.com

BAGHDAD | MENA Associates in association with Amereller | Kawakeb Building (opposite Rabat Hall) | Maghreb Street | Baghdad | Iraq | t: +964 743 530 1761

BASRA | MENA Associates in association with Amereller | Sayid Ameen Street | Bradeya | Basra | Iraq
t: +964 780 000 8383 | t: +1 801 839 2403

ERBIL | MENA Associates in association with Amereller | Gulan Street English Village House No. 56 | Erbil | Kurdistan Region of Iraq | t: +964.750.346.0444

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