

NEW LAW GOVERNING PRIVATE INVESTMENT IN ANGOLA - FCB&A

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The 2011 foreign investment law of Angola was repealed on 11 August, 2015 and a new foreign

investment law entered into force on the same day. Law 14/15, of 11 August – the New Angolan Private Investment Law (NPIL) – is now the governing act.

The NPIL was enacted to adapt the rules of private investment to the new reality of the Angolan market and to channel private investment towards the country's real needs by means of clearly favouring investment in certain areas with the aim of diversifying the Angolan economy.

This new law is applicable to both domestic and foreign private investments and no threshold is mentioned for foreign investments, replacing the previous threshold of \$1 million.

Although private investments continue to be subject to a contract with the Angolan government, the Angolan National Private Investment Agency (ANIP) is no longer stated in the NPIL as the entity with which the contract will have to be entered into. In fact, the NPIL seems to imply that several governmental agencies may be involved depending on the delegation of powers that the President of the Republic will issue.

The NPIL also seems to put a greater emphasis on the negotiation of terms and conditions of investment contracts, as a number of legal requirements that appeared in the 2011 law seem to have been deleted. An obvious absence is the former mandatory waiting-period of three years before investors could start to repatriate dividends.

Another significant absence is the possibility of registering a branch of a foreign company as a means of making the investment. The NPIL also distinguishes between direct and indirect forms of making investments and creates a threshold of 50 per cent maximum value for indirect investments against the value of direct investments. As an example, for foreign investors, supplementary capital contributions, know-how and transfer technology are deemed as indirect forms of making investments.

A further threshold is created for shareholder loans by the NPIL, which creates a cap of 30 per cent of the value of the investment for this form of funding and imposes a mandatory waiting-period of three years before investors can start to get repayments.

The NPIL also creates an express sectorial limitation for foreign investors, imposing a local ownership requirement regarding investments made in certain sectors, such as electricity and water, hotels and tourism, transportation and logistics, civil construction, telecoms and information technology and media.

It is important to note that investments below \$1 million will not be entitled to any tax benefits, although investors will still be granted repatriation rights to its dividends. Under the NPIL, tax benefits will continue to be not automatically granted to the investor and will be granted on a case-by-case basis depending on the quality of the investment, i.e., on the amount, location and duration of the investment, the creation of partnerships between Angolan and foreign entities and the social and economic impact of the investment.

From a strictly procedural point of view, the NPIL does not itself introduce changes, but we remain expectant as to how the presidential delegation of powers will be made to the agencies which will negotiate future investment contracts and how such agencies regulate the process.

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