



GUIDE TO GOING GLOBAL CORPORATE

Saudi Arabia



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INTRODUCTION

Welcome to the 2023 edition of DLA Piper's *Guide to Going Global – Corporate*.

GUIDE TO GOING GLOBAL SERIES

To compete and be successful today, companies need to develop and scale their businesses globally. Each country presents its own set of unique laws, rules and regulations and business practices that companies must understand to be successful. In order to help clients meet the opportunities and challenges of expanding internationally, we have created a handy set of global guides that cover the basics companies need to know when going into and doing business in new countries. The *Guide to Going Global* series reviews business-relevant corporate, employment, intellectual property and technology, executive compensation, and tax laws in key jurisdictions around the world.

CORPORATE

The *Guide to Going Global – Corporate* has been created based on our research, our experience and feedback we have received from clients in both established and emerging businesses that have expanded internationally. We hope it will be a helpful resource for you.

The *Guide to Going Global – Corporate* covers corporate basics in 54 key jurisdictions across the Americas, Asia Pacific, Europe and the Middle East. We touch on a wide range of corporate issues for companies expanding internationally, including establishing a corporate presence and choice of entity, liability considerations, tax presence and tax filings, capital requirements, the formation process, director, officer and shareholder requirements, registration processes, office lease processes and possible exit strategies.

With more than 600 lawyers, DLA Piper's global Corporate group is one of the largest in the world, with one of the widest geographical footprints of any global law firm and experience across the legal areas companies need as they expand internationally. With both global experience and local knowledge, we partner with our clients wherever they do business to find solutions and manage their risk in relation to their challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to seek advice regarding the specific matters that concern you. If you wish to speak to any of our contributors, you may find their contact details at the end of the guide.

We hope you find this guide valuable, and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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SAUDI ARABIA



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FORM OF ENTITY

Limited liability company

A limited liability company is a popular corporate vehicle among foreign investors in Saudi Arabia. The personal liability for each of the partners/shareholders is limited to the individual partner's contribution to the company's share capital.

ENTITY SET UP

Limited liability company (LLC)

- LLC is one of the most common forms of legal entity chosen by foreign investors in the Kingdom of Saudi Arabia (KSA)
- Establishing an LLC is a multistep process. Incorporating an LLC may take up to several months from the date of submission of application to the Ministry of Investment of Saudi Arabia (MISA)
- The Ministry of Commerce (MOC) subsequently issues a commercial registration certificate before the LLC is considered fully registered in KSA
- After the incorporation, various governmental files and documents must be applied for in order for the LLC to be fully operational. This post-incorporation phase can take a couple up to several months

Branch of a foreign company

- Foreign investors may also choose to establish a branch instead of an LLC to do business in the KSA
- A branch operates on behalf of the parent company (foreign registered company) and has no separate legal existence in KSA
- Registration of a branch in relation to issuance of the foreign investment license by MISA and the commercial registration certificate by MOC follows the same general procedure as that of an LLC

- Incorporation of a branch may take up to several months from the date of submission of application to MISA (subject to any delays caused by government authorities)
- The parent company of the branch has liability for the branch's activities that it undertakes in KSA
- The paid-up capital for a branch does not confer limitation of liability as compared to an LLC. The capital in a branch simply serves as a security for the Saudi market and
- With regard to tax and a number of other matters, a permanent branch is treated in the same manner as a 100 percent foreign-owned LLC
- After the registration, various governmental files and documents must be applied for in order for the branch to be fully operational. This post-registration phase can take up to a couple to several months

For future consideration, please note that an LLC can add shareholders if the company intends to expand in KSA. On the other hand, a branch cannot add shareholders as it is an extension of its foreign parent company.

MINIMUM CAPITAL REQUIREMENT

Limited liability company

Although there is no statutory minimum capital requirement, in practice, MISA often requires foreign LLCs to have a capital of at least SAR500,000. In certain types of activities, specific minimum capital is prescribed by MISA:

- Service/property investment project: SAR30 million
- Service/property financing projects SAR200 million with 40 percent Saudi shareholding
- Service/transport: SAR500,000
- Contracting: SAR500,000 (but have revenue/asset value requirements)
- Commercial (with minimum 25 percent Saudi partner): a minimum contribution from the foreign shareholder of SAR20 million and a pro rata contribution from the Saudi shareholder
- Commercial (100 percent foreign): SAR30 million and commitment to invest at least SAR200 million – SAR300 million (subject to certain criteria) over the first 5 years.

LEGAL LIABILITY

Limited liability company

Shareholders of an LLC are generally not liable for the debts of a corporation aside from their financial contribution to the corporation. Certain circumstances may pierce this limitation of liability.

TAX PRESENCE

Limited liability company

A 15- percent value-added tax (VAT) is currently applied on most goods and services. Depending on the circumstances, corporate income tax, zakat, capital gains tax and withholding tax may also be applicable.

INCORPORATION PROCESS

Limited liability company

Foreign investors are required to obtain a foreign investment license from MISA and then complete the incorporation process at MOC and other government departments. Incorporation process also includes notarization of the company's articles of association at the local notary public in Saudi Arabia. Specific licenses are required for certain activities.

BUSINESS RECOGNITION

Limited liability company

Well regarded and widely used.

SHAREHOLDER MEETING REQUIREMENTS

Limited liability company

Required to hold at least one annual meeting for LLCs within 4 months after the closing date of the financial year of the LLC.

BOARD OF DIRECTOR MEETING REQUIREMENTS

Limited liability company

There is no requirement for a board of directors or with regard to the nationality of directors. The company may be managed by a General Manager or by a Board of Directors. If a board of directors is formed, there is no requirement for frequency of meetings.

ANNUAL COMPANY TAX RETURNS

Limited liability company

Required to annually file tax returns at the Zakat, Tax and Customs Authority.

BUSINESS REGISTRATION FILING REQUIREMENTS

Limited liability company

LLCs have to renew their foreign investment license issued by MISA and their commercial registration certificate issued by MOC upon expiry, and renew subscription to chamber of commerce annually.

BUSINESS EXPANSION

Limited liability company

An LLC cannot have more than 50 shareholders, in which case it will have to be converted into a joint-stock company.

EXIT STRATEGY

Limited liability company

Appointment of a liquidator either from shareholders or third parties to carry out dissolution.

ANNUAL CORPORATE MAINTENANCE REQUIREMENTS

Limited liability company

A shareholder meeting shall be convened at least once a year. Managers of the company shall prepare company's financial statements, a report on its operations and financial position, and their proposal for appropriation of net profits within 3 months from the end of the financial year (Report). The managers shall also be prepared to submit a copy of their report to MOCI within 1 month of the date of preparation of the Report.

DIRECTOR / OFFICER REQUIREMENTS

Limited liability company

Shareholders may appoint a manager, executive managers and/or a board of directors.

For more information on directors' duties, see our [Global Guide to Directors' Duties](#).

LOCAL CORPORATE SECRETARY REQUIREMENT

Limited liability company

No local corporate secretary requirement.

LOCAL LEGAL OR ADMIN REPRESENTATIVE REQUIREMENT

Limited liability company

None beyond the required managers or directors.

LOCAL OFFICE LEASE REQUIREMENT

Limited liability company

A local office lease and local address is required.

OTHER PHYSICAL PRESENCE REQUIREMENTS

Limited liability company

Not applicable for this jurisdiction.

SUFFICIENCY OF VIRTUAL OFFICE

Limited liability company

A virtual office is not sufficient.

PROVISION OF LOCAL REGISTERED ADDRESS BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Limited liability company

Registered address must be an address where the office is leased by the company.

PROVISION OF LOCAL DIRECTOR OR CORPORATE SECRETARY BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Limited liability company

Use of local law firm for incorporation is common. Companies usually conduct their own secretarial functions once established.

NATIONALITY OR RESIDENCY REQUIREMENTS FOR SHAREHOLDERS, DIRECTORS AND OFFICERS

Limited liability company

The general manager needs to be a resident in the KSA. Directors are not required to be nationals or residents. There are specific requirements regarding the nationality of shareholders in certain activities such as:

- Trading activities: Saudi partner to own at least 25 percent of shareholding (unless the foreign investor meets the qualification to set up a 100 percent foreign owned trading company)
- Services/transport Saudi shareholding requirements – bus 30 percent / metro 25 percent
- Property financing projects 40 percent
- Communications value added – 30 percent Saudi shareholding requirement
- Insurance and reinsurance – 40 percent Saudi shareholding requirement
- Engineering design and professional consultancy: Saudi partner to own at least 25 percent of shareholding

There are certain types of activities that are reserved for Saudi nationals only. The list is issued by MISA and amended from time to time.

RESTRICTIONS REGARDING APPOINTMENT OF NOMINEE SHAREHOLDERS OR DIRECTORS

Limited liability company

Restrictions apply as described in [Nationality or residency requirements](#).

SUMMARY OF DIRECTOR'S, OFFICER'S AND SHAREHOLDER'S AUTHORITY AND LIMITATIONS THEREOF

Limited liability company

Directors are appointed by shareholders, either in the company's Articles of Association or a separate contract. Directors have the required authority to run day-to-day operations to the extent granted to them by the shareholders in a shareholders resolution or the Articles of Association.

PUBLIC DISCLOSURE OF IDENTITY OF DIRECTORS, OFFICERS AND SHAREHOLDERS

Limited liability company

There is no requirement to publicly disclose the identity of directors and shareholders (although such information may be available through searches at MOC)

MINIMUM AND MAXIMUM NUMBER OF DIRECTORS AND SHAREHOLDERS

Limited liability company

At least one shareholder is required for an LLC, up to a maximum of 50 shareholders. Directors: There is no minimum or maximum requirement.

MINIMUM NUMBER OF SHAREHOLDERS REQUIRED

Limited liability company

At least one shareholder is required for an LLC.

REMOVAL OF DIRECTORS OR OFFICERS

Limited liability company

Company may remove directors appointed in the Articles of Association or a separate contract without prejudice to the officers' right to compensation if required.

REQUIRED AND OPTIONAL OFFICERS

Limited liability company

An LLC must have a resident general manager.

BOARD MEETING REQUIREMENTS

Limited liability company

If a board of directors was formed, requirements will be as provided in the Articles of Association of the company.

QUORUM REQUIREMENTS FOR SHAREHOLDER AND BOARD MEETINGS

Limited liability company

Quorum requirements will be as provided in the Articles of Association of the company.

MUST A BANK ACCOUNT BE OPENED PRIOR TO INCORPORATION, AND MUST THE BANK ACCOUNT BE LOCAL?

Limited liability company

Opening a local bank account to deposit the capital is a requirement, although can occur after issuance of the commercial registration certificate.

AUDITING OF LOCAL FINANCIALS. IF SO, MUST THE AUDITOR BE LOCATED IN LOCAL JURISDICTION, AND MUST THE COMPANY'S BOOKS BE KEPT LOCALLY?

Limited liability company

Company's accounts must be audited annually by an auditor licensed to operate in KSA and filed with MOC.

REQUIREMENT REGARDING PAR VALUE OF STOCK

Limited liability company

Shares have to be equal in value.

INCREASING OF CAPITALIZATION IF NEEDED

Limited liability company

Effectuated by amending the Articles of Association and the MISA license. A unanimous consent of shareholders is required.

SUMMARY OF HOW FUNDS CAN BE REPATRIATED FROM YOUR JURISDICTION (IE DIVIDENDS OR REDEMPTION)

Limited liability company

Funds to be taken as dividends, subject to statutory requirements to maintain a reserve, and local tax.

RESTRICTIONS ON TRANSFERABILITY OF SHARES

Limited liability company

There is a statutory right of first refusal on the transfer of shares to parties other than the shareholders.

OBTAINING A NAME AND NAMING REQUIREMENTS

Limited liability company

The proposed name must be approved by MOC.

SUMMARY OF "KNOW YOUR CLIENT" REQUIREMENTS

Limited liability company

Not required by law.

APPROVAL REQUIREMENTS FOR AMENDING CHARTER DOCUMENT

Limited liability company

Amendments have to be approved by a majority of shareholders representing at least 3/4 of the capital. However, amending the company's nationality and increasing shareholders financial obligations need a unanimous vote from all shareholders.

LICENSES REQUIRED TO CONDUCT BUSINESS IN JURISDICTION

Limited liability company

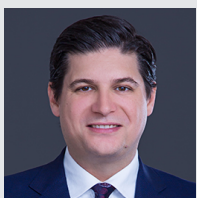
Foreign companies or companies with foreign shareholders must obtain a license from MISA. Certain types of activities require specific licensing from the relevant government departments. For example, pharmaceutical companies require a license from the Saudi Food and Drug Association.

PROCESS OF PURCHASING AND UTILIZING A SHELF COMPANY

Limited liability company

Shelf companies are not common in Saudi Arabia due to the difficulty and time consuming purchasing process.

KEY CONTACTS



Tim Sunar

Partner
DLA Piper
tim.sunar@dlapiper.com
T: +966 13 813 9966
[View bio](#)



Dr. Ehab Elsonbaty

Chair, US/Middle East Initiative
DLA Piper
ehab.elsonbaty@dlapiper.com
T: +1 212 335 4835
[View bio](#)

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