

FAQ: INVESTING IN ETHIOPIA

CHANGES ARE COMING TO THE ETHIOPIA INVESTMENT CODE. ARE YOU READY?

Thank you to Aspen Network of Development Entrepreneurs (ANDE) and Thomson Reuters Foundation (TrustLaw) and Global Affairs Canada for partnering with RENEW on this event. Here are some answers to frequently asked questions about investing in Ethiopia.

1. What are the areas that are open for foreign investment?

As the current investment law employs a positive listing approach, only sectors that are open for foreign investors are listed under the investment regulation. A sector that is not mentioned under the investment regulation is not open for foreign investment. However, the Government of Ethiopia is working on a new investment law, which is expected to come into effect by the end of 2019. This new law will shift the approach to a negative listing in which a few sectors that are not allowed for foreign investors will be specifically mentioned and anything outside this list will be open for foreign investment.

2. Is the financial sector open for foreign investment?

In both the current as well as the draft investment laws, the financial sector is reserved for domestic investors. There is a positive development made recently in which Ethiopian Diasporas (foreign nationals of Ethiopian origin), can invest in the financial sector. With that exception, the sector is expected to remain closed for foreign investors.

3. What are the forms of business foreigners may establish?

Foreign investors can structure their investment in any of the following structures:

- Sole proprietorship;
- Branch office;
- Subsidiary in the form of private limited company (PLC); and
- Subsidiary in the form of share company

Even though the following are not considered as investments, foreign entities could establish their presence in Ethiopia as a project office (for international companies winning a bid in Ethiopia for a specific project) or commercial representative office (for international companies wanting to promote their products in Ethiopia)

4. What is the minimum capital requirement for foreign investors?

The minimum capital requirement that foreign investors are required to meet while investing in Ethiopia is as follows:

- \$200K - if the foreign investor is investing independently or with other foreign investors;
- \$150K - if the foreign investor is investing jointly with a domestic investor;
- \$100K - if the foreign investor is investing independently or with other foreign investors in areas of architectural engineering works or related consultancy services;
- \$50K - if the foreign investor is investing jointly with a domestic investor in areas of architectural engineering works or related consultancy services;
- No minimum capital requirement - if the foreign investor already has a venture in Ethiopia and it is re-investing the profits or dividends generated from that venture.

Under the new investment laws, the minimum capital requirement is expected to remain the same with the exceptions that it will not be applicable for institutional investors investing in small start-ups, innovators and SMEs owned by Ethiopians and having development potential.

5. Does the Ethiopian Investment Commission (EIC) provide aftercare support for investors?

Currently, EIC only provides support for foreign investors during the pre-implementation and implementation phase of the investment project through the One Stop Shop Service (OSSS). Once an investor gets a business license, which is an indication that the company has started operation, the custody will be transferred to the Ministry of Trade and Industry. Under the draft investment law, the OSSS is expected to continue to be provided under the EIC.

6. What are the rules in relation to an exit?

As a foreign investor, you have the right to make the following remittances out of Ethiopia in a convertible foreign currency at the prevailing exchange rate:

- Profit and dividends accruing from your investment
- Principal and interest payments on the loans you make to the company, if any (loans to your own company are highly regulated)
- Proceeds from the sale or liquidation of the enterprise/your investment;

The enjoyment of these rights require the successful registration of the investment by the National Bank of Ethiopia at the initial stage of investment. You are only allowed to take out the return on your registered investment. Once you ensure your right to take out the return on your investment, there are some practical challenges. One of these being the challenge associated with shortage of forex in the country.

7. What are the rules in relation to ADR and enforcement of foreign arbitral awards?

The Civil Procedure Code of Ethiopia provides for the rules for Alternative Dispute Resolution (ADR) mechanisms. In relation to foreign arbitral awards, Ethiopia is not a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. However, Ethiopia has inbuilt rules under the Civil Procedure Code in relation to enforcement of foreign arbitral awards. Foreign arbitral awards are enforceable in Ethiopia subject to the following conditions:

- The execution of Ethiopian arbitral awards is allowed in the country in which the award to be executed was given;
- The award has been made following a regular arbitration agreement or other legal act in the country where it was made;
- The parties have had equal rights in appointing the arbitrators and they have been summoned to attend the proceeding;
- The arbitration tribunal was regularly constituted;
- The award does not relate to matters which under the provisions of Ethiopian laws could not be submitted to arbitration or is not contrary to public order or morals; and
- The award is of such nature as to be enforceable on the condition laid down in Ethiopian laws.

8. Have more questions?

Contact us through www.renewstrategies.com, www.andeglobal.org and www.trust.org.

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