

Renewed Interest in Iraq's Capital Markets; a Focus on IPOs

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The majority of investors, both small and large, tend to face the same concerns in starting up and/or expanding their businesses; namely recourse to the funding necessary to achieve the same. In Iraq, a country plagued by years of political unrest and continued warfare, encouraging investors to chance the uncertainty underlying Iraq's market is no easy task; and yet, as Iraq and in turn Iraq's market and economy begin to reinstate themselves in the international scene, corporate interest in Iraq continues to grow at an outstanding rate; in particular, interest in Iraq's capital markets has never been greater. At the forefront of this, is a renewed interest in IPOs and the opportunities created by the same.

But what does the IPO process itself entail?

1. Joint-Stock Companies

The Iraqi Companies Law No.21 of 1997 (as amended) (the "Companies Law") defines a joint-stock company generally as a company composed of not less than 5 persons; whose shareholders subscribe in its shares through a public offering and whose responsibility for the debts of the company is limited to the value of the shares they subscribe for.

The Companies Law recognizes two such types of companies; the private joint-stock company ("PJSC") and the mixed joint-stock company; wherein to qualify as a mixed company, the contribution of the public sector in the same must not be less than 25% of the share capital. A mixed-joint stock company is subject to numerous governmental regulations and requirements, and which are outside the scope of this Article.

Registering a Joint-Stock Company

A joint-stock company must be registered with the Companies Control Department of the Ministry of Trade ("MoT"). In general, in order to register with the MoT, the company must fulfil the following:

- Fill out application form and Articles of Association for the PJSC;
- Submit subscription document of PJSC signed by the founders;
- Provide a statement from a licensed bank in Iraq confirming that the capital has been deposited. It is important to note that the minimum capital required to register a PJSC is IQD 2,000,000 (approximately USD 1,700) divided into 2,000,000 equal shares, with a nominal value of IQD 1;
- Contract with a specialized body to conduct a technical and economic feasibility study on the PJSC; and
- Obtain the relevant sector's approvals (if any).

2. Public Subscription of Shares

In addition to registration with the MoT, the PJSC must obtain the approval of the Iraqi Securities & Exchange Commission (the "Commission") in order to undergo an IPO. It is important to note that the founders of a PJSC are required to subscribe for not less than 20% of its nominal capital, the remainder to be offered to the public. Public subscription of shares shall take place at a bank licensed to operate in Iraq in a form bearing the name of the PJSC; and which shall be responsible for the soundness of the subscription process, as well as undertaking the following responsibilities:

- Closing the subscription at the end of the subscription period, and undertaking the required notifications;

- Handling the money received by the subscribers; and
- Returning any surplus funds to subscribers within 15 days from the distribution of shares among the subscribers.

The subscription period in Iraq shall not be less than 30 days, and not exceeding 60 days. It is, however possible to extend the subscription period for a further 60-day in certain circumstances.

3. Listing on the Iraq Stock Exchange ("ISX")

The related instructions provide a number of requirements/conditions which a PJSC must satisfy before it can list on the ISX, including (among others) to:

- To obtain the approval of the Commission to list its shares on the ISX;
- To submit a report highlighting the performance of the company and main issues regarding the same, as well as other information relating to the company in accordance with the said Instruction;
- For the shareholders rights in the company to be not less than 100% of the paid-up capital of the PJSC;
- Evaluation by the Commission;
- To comply with the applicable Banking, Companies, and Securities Laws in force, and for its Board of Directors to sign a number of undertakings confirming that it will continue to do so; and
- To comply with various reporting and accounting obligations provided for in the said Instructions.

Conclusion

Following a challenging period of unrest in Iraq, the introduction of a series of measures by the Iraqi government aimed at reviving the Iraqi market, are hoped to help create a more stable, more competitive, economy in Iraq in line with international commercial practices. In particular, this latest requirement by the government to see a number of Iraq's main industries undergoing an IPO, is likely to have profound implications on the revival of Iraq's local capital market, a market, which, until recently, has been dormant for many years now.