Gulf Cooperation Council Countries Continue to Offer Favourable Environments for Foreign Investment

by Gary Watts - g.watts@tamimi.com - Dubai Maze Tower
Sarah Hasnani - s.hasnani@tamimi.com -

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The Gulf Cooperation Council (GCC) countries continue to offer favourable environments for foreign investment.

The member countries of the GCC are Saudi Arabia, the United Arab Emirates (UAE), Kuwait, Qatar, Bahrain and Oman. Although the slide in the oil prices over the past year and the political unrest in neighbouring countries have caused slightly subdued GDP growth in the short term, the GCC economies are expected to recover on the back of supportive fiscal policies and continued growth in non-hydrocarbon sectors.

Upcoming world class events such as the Dubai World Expo 2020 in the UAE and FIFA World Cup 2022 in Qatar will provide a major boost to the region's tourism industry, along with the increasing numbers of the faithful travelling to Saudi Arabia to perform rites of religious pilgrimage.

Additionally, the GCC countries are heavily investing in transportation and logistics infrastructure. The GCC rail network is already under construction and will be worth USD 128 billion at completion targeted for 2018. The rail network, which will be approximately 1,350 miles long (approximately the distance from New York City to Dallas, Texas), will offer passenger and freight services running at about 135 miles and 75 miles per hour respectively. The rail will run from Kuwait, through Saudi Arabia, UAE, Oman with branches linking Qatar and Bahrain.

In the medium term at least, it is clear that despite the deficits reported by the GCC governments, it is unlikely that the resource-rich GCC governments (i.e. all GCC governments except Bahrain and Oman) will cut back on the ongoing levels of spending and will instead utilize the large fiscal reserves to fund infrastructures projects to prepare for the major upcoming events and insulate their social structures against the wider regional unrest.

Legal and Practical Aspects of M&A Deals in the Gcc

The GCC continues to be an attractive destination for global investors, and in particular those partnering with existing business or taking advantage of the increasing growth in the tourism sector to introduce more international brands in the GCC.

Although the region's legal systems, to some extent, have been influenced by common law practices, the legal framework of most of the GCC countries remains deeply rooted in civil law principles due to the influence of the French dating back to 1798, as Napoleonic Civil Code was adapted by Egypt and then the GCC countries.

Foreign investment rules in all GCC countries are intended to protect national entrepreneurs and to limit the circumstances in which foreigners are able to take full ownership of companies. Foreign investors usually have two options:

pursue the path of joint venture – the investor identifies a local company which will contribute to the business, share any financial risk and facilitate business development and operations on the ground; or

conclude arrangements with a local businessman (or company) who will become a partner in name only; even where such a local partner owns majority of the company, the foreign investor will put in place side agreements which allow the foreign partner to retain almost all the profit, carry all the risk and exercise full control over the business.

Both types of arrangements are extremely common throughout the region.

Due Diligence in the Gcc

Although Western lawyers and investors are accustomed to company information (i.e. corporate registers, real estate registers, court registers, and credit checks) being easily accessible in the public domain, it is difficult to identify targets for acquisition or partnership in the Middle East, let alone conduct detailed due diligence on targets. In the GCC countries, not much information is recorded on public registers, there is no accessible credit reporting system (except in Bahrain) and most of the information maintained is not available is not available to the public or to any third party.

Saudi Arabia

Deals in Saudi Arabia: Opportunities And Headwinds

Saudi Arabia is the biggest economy and market in the GCC. So it offers the greatest rewards but also presents significant challenges in making investments. Politically, Saudi Arabia is stable at present and business activity is strong, although regional strife and Saudi involvement in fighting Yemen is affecting sentiments and confidence. The gatekeeper of foreign investment is the Saudi Arabian General Investment Authority ("SAGIA"), a regulatory body which must approve any foreign investment application from outside the GCC countries.

SAGIA was established in 2000 and administers a foreign investment regime dependent on the issue of foreign investment licences by SAGIA. For those foreign businesses wanting to carry on a business activity in Saudi Arabia, they can only do so if they have a legal presence in Saudi Arabia and they have a foreign investment licence which authorises that activity to be conducted.

Foreign investors may acquire ownership of business in all sectors of the economy subject to some activities reserved to nationals (e.g. oil exploration and production).

After a liberal beginning to the SAGIA administration about three years ago there was a change in leadership at SAGIA which led to a tightening of foreign investment rules. SAGIA is now selective about the applications it approves. Nevertheless, for many business activities it is feasible to achieve foreign ownership up to 75% and in some cases up to 100% of the capital of the enterprise. However, there are some business activities where at least some level of Saudi ownership would be required.

Under the current region it is easier to secure approval if your investment is large; or is viewed as bringing new technology or significant job creation to Saudi Arabia.

The United Arab Emirates

Deals in the UAE: Business Remains Positive

Business sentiment remains relatively positive with the approach of the Dubai World Expo 2020.

Dubai has reinforced its position as the leading financial centre in the region as a result of its superior lifestyle and infrastructure, coupled with its unequalled air transport connections with the region and the rest of the world. Dubai is a major beneficiary of the difficulties elsewhere in the Middle East. It is now the major tourist destination and focus for property investment in the region.

The Brookings Institution has ranked Dubai the fifth fastest growing city in the world for 2014, up from the 18th position in 2013, this is due to the 4.7% annual rise in employment and a 4.5% rise in GDP per head.

The economy of Abu Dhabi, the capital of the UAE, grew at an estimated rate of 2.2% in 2014, and non-oil activities increased to 49.5% of GDP last year from 38.7% in 2004. Construction has a 9.6% share of non-oil GDP, while finance and insurance accounted for 7.2%. Abu Dhabi is second only to Dubai in terms of infrastructure and its tourism is also growing and will be boosted again upon completion of world class cultural attractions such as the Abu Dhabi Louvre Museum.

With the looming end of sanctions against Iran, there is a further upsurge to the UAE economy predicted which is expected to add USD 13 billion to UAE's economy between now and 2018 according to IMF. Moreover, UAE and India have agreed to set up a USD 75 billion infrastructure investment fund in an aim to boost two-way trade between the two countries by 60% over the next five years.

Kuwait

Deals in Kuwait: Building Infrastructure and Direct – Investment are the Keys

Of all the GCC countries, Kuwait is closest geographically to the serious ongoing violence in the region, as it has a long land border with Iraq. However, the GCC's only parliamentary democracy remains relatively stable and prosperous. It retains significant oil reserves.

Infrastructure Projects – Ppp/Iwpp

The government of Kuwait has vast foreign assets, but much local infrastructure is overdue for overhaul and enhancement. Over the past two years significant progress has been made in Kuwait to enhance its infrastructure through the closing of its first public-private partnership projects (PPP) / independent water and power project (IWPP) project and recent changes to Kuwait's PPP legal regime. The New PPP Law, codified some of the techniques applied in the Kuwait's first IWPP project, Az-Azour North IWPP Phase 1. New finance and security techniques can be used such as allowing investors to assign government proceeds and assets to lenders and the pledging of shares prior to the two-year lock-out period in order to provide security to lenders.

The Kuwait Authority for Private Partnerships (KAPP), which is the authority tasked with governing Kuwait's PPP and IWPP projects, has introduced a pipeline of large infrastructure projects to be carried out through the PPP/IWPP regimes, including, the Az Zour North Phase II IWPP, Umm Al Hayman Waste Water Project, Al Khairan IWPP, Al Abdaliyah Integrated Solar Combined Cycle Project, Kabd Municipal Solid Waste Treatment Facility and the Kuwait Metropolitan Rapid Transit System. Kuwait is one of the richest project environments in the GCC.

Direct Investment

Kuwait has recently taken a big step forward in the realm of direct investment and has introduced legislation that seeks to place Kuwait in the forefront of foreign and local direct investment in the GCC. One of the main provisions and concepts of the Direct Investment Law is the ability of foreign companies to apply for a license to own up to 100% of a Kuwait onshore legal entity (the law also identifies the sectors that will not be available to foreigners for investment).

Qatar

Deals in Qatar: World Cup Stimulates Acitivty

Qatar is the wealthiest country in the GCC per capita and enjoys vast gas reserves. Notwithstanding lower oid and gas prices the major stimulus to activity in Qatar remain the major infrastructure which must be built to permit the staging of the 2022 World Cup.

The World Cup infrastructure has an implacable deadline for completion, so significantly increased activity is now underway. The Qatar railway project has seen significant progress and Doha metro project, with an estimated cost of USD 15.2 billion is expected to be completed by 2019. The Msheireb “Downtown Doha” project re-vamping the old central business district has also made significant progress; and development of the new Doha satellite city of Lusail is underway with some government tenants already beginning to occupy the first completed office blocks.

Attraction of industrial activity to the country remains slow. Difficulties with registration of businesses with over 49% foreign-ownership and slow paced industrial licensing and corporate registrations are proving to be significant hurdles and the under-developed state of industrial zones are not conducive to attracting bigger players in the manufacturing industry. The Ministry of Economy and Commerce has now through the vehicle of the new Commercial Companies Law set itself goals of creating a one-stop shop registration process and even embedded in that law a provision setting down a requirement for efficient processing.

Oman

Deals in Oman: An Oasis Of Opportunity

M&A and general commercial activity in Oman remains buoyant despite the low oil price environment. Real GDP rose by 3.6% and inflation remained at comfortably low levels. Over the next few years, multinational companies can expect solid growth albeit with lower Government spending. As part of its diversification strategy, the Omani government has, in conjunction with Saudi Arabia, made huge investment in the maritime sector to develop the commercial port of Duqm which is located on the east of Oman hosting the Arabian Sea. The port of Duqm will act as a hub to serve traders from the east and improve the efficiency, volume and variety of goods entering and moving through Oman. Independent studies have shown that Duqm should propel Oman to one of the top 10 logistics hubs in the world in the coming years and double the contribution made by the logistics sector to Oman’s GDP by 2020. The mining sector will be boosted following the discovery of gold, iron and zinc as well as additional reserves of copper in the interior region of Oman. While copper, limestone and gypsum have been mined in Oman for many years, companies are now being granted exploration licences for other metals and minerals. Deals are already been concluded in this sector as investors line themselves up to maximise the opportunity and prepare operations ahead of the next upturn in the commodities cycle.

Bahrain

Deals in Bahrain: Lower Oil Prices Raise Concerns

The continuing low price of oil together with stretched government finances raise concerns for Bahrain’s historically vibrant banking sector. Key GDP contributor Alba (the aluminium producer) increased net income to $79m in the second quarter of 2015 from $40.2m in the second quarter of 2014. However, the value of crude oil and natural gas produced by Bahrain declined by 44% in the first quarter of 2015 to $1.1bn as against $2bn in first quarter of 2014. With oil prices expected to remain relatively weak through to next year, the banking sector, another key sector of Bahrain’s economy, is likely to experience a decline in deposit growth. Overall economic growth is expected to fall to about 2% in 2015, down from 4.5% in 2014.

With an estimated break-even price of more than $126 per barrel, Bahrain is more exposed than most GCC countries to low oil and gas revenues. In response to the continuing low oil price, the government has suspended many local projects in a bid to rein in public spending. This move has proved controversial.

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