

## **Branch Registration in Iraq: Not Impossible Anymore**

Good news for companies looking to register their business in Iraq: under certain conditions, foreign companies can now register branches in Iraq even without signing a contract with an Iraqi government entity.

The Iraqi Registry of Companies in Baghdad ('Registry') issued in April 2017 a new set of regulations (Registry Instructions No. 2/2017) for regulating the establishment of foreign companies in Iraq. The new regulations were introduced to support the economic growth of Iraq.

1- In summary, these are the new conditions for registering a branch in Iraq:

i- The foreign company establishing a branch in Iraq must have been registered in any foreign jurisdiction for more than two years. If this condition is not met, the foreign company cannot establish a branch in Iraq even if its audited financial statements show that it had been posting profit.

ii- The foreign company must not be engaged in a business activity exclusively reserved by law for Iraqi companies or individuals. Such activities include, inter alia, commercial agencies and real estate.

iii- The foreign company must provide a no objection letter from the relevant sectoral quarter (government ministry or authority) if requested by the Registry. This will be mainly required should the Registry have some uncertainties whether it is possible for the foreign company to operate in a specific sector or whenever there is a need to provide such a letter to comply with local regulations.

iv- The foreign company must be engaged with the private sector on projects amounting at least to USD 1 million. In this respect, the foreign company must submit a feasibility study prepared by a reputable third party, proving the existence and the value of the project.

2- Additional conditions to be met post-incorporation to maintain the validity of the registration include:

i- All branches need to annually submit financial statements. The Registry reserves the right to deregister any branch (ex officio and without notice) which does not submit any financial statements for two consecutive years.

ii- Any branch which submits financial statements reflecting losses for four consecutive years will be considered as unable to compete on the local market and the Registry will be able to proceed ex officio with its deregistration.

3- Finally, the following should be noted as well:

i- All foreign companies are still subject to the security clearance procedure imposed by the Iraqi National Security Department and according to which any entity (parent company or subsidiary) having a non-Iraqi shareholder need to be vetted. This usually takes around 2 months from the completion of the registration.

ii- All branches still must comply with previous instructions issued by the Registry, as well as with the provisions of the Iraqi Company Law No. 21 of 1997 (as amended).

iii- The Registry does not seem to be accepting the registration of representative offices anymore. This will be clarified over the next two weeks, and if confirmed, a substantial inconvenience can be caused for foreign companies that are seeking to establish a local presence simply to promote their business or to supervise the activities of their local distributors.

iv- Registry Instructions No. 2/17 are not applicable in the Kurdistan Region in which the Company Registries have been allowing the registration of branches without any particular restrictions since 2007 (except in some specific cases where additional proofs have been requested for parent companies incorporated in offshore jurisdictions).