# Business Friendly Bahrain is Open for Business

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Bahrain is currently going through a period of transformation in terms of its regulatory and business environment. Like many countries in the Gulf Co-operation Council ("GCC"), Bahrain is tax free for most private companies (except for those in the oil and gas exploration, refining and production sectors). However, unlike many countries in the GCC, Bahrain allows 100% ownership of business assets in certain sectors and in which, the entire country is effectively a free zone.

Over the years, Bahrain has been making a conscious effort to attract investment onto its shores and is consistently ranked as one of the top open economies for doing business. Bahrain has traditionally been known for its well regulated financial services sector and has recently introduced various innovative laws to enable further investment and growth in that sector.

Bahrain was one of the first countries in the region to have a trusts law and to recognise the concept of trusts. The earlier trusts law was introduced in 2006 but has been replaced by Decree 23 of 2016 ("Trusts Law"). The Trusts Law creates a legal framework for the creation of a trust and its liabilities, and allows the establishment of trusts for charitable and non-charitable purposes, as well as 'Purpose Trusts'.

Law 22 of 2016 relating to Protected Cell Companies ("PCC") introduces PCC's in Collective Investment Undertaking, Private Investment Undertaking and insurance captives. Under this law, investors are able to separate their private assets from the company running their chosen fund allowing investors to set-up and liquidate cells more efficiently. In addition to the law regarding PCC's, Bahrain is the first GCC country to introduce an Investment Limited Partnership Law (Law 18 of 2016). This law enables investors to utilise new financing structures in order to raise capital and establish financial investment funds.

Bahrain has also recently opened the Bahrain Investment Market, which is an equity market for growing business ventures in both Bahrain and the MENA region. It supports companies who are looking to raise capital to fund future growth, such as entrepreneurial ventures and mature family businesses.

Further recent initiatives introduced by the Bahrain government include regulations relating to Crowdfunding and a Regulatory Sandbox.

A further innovation includes the announcement relating to the launch of the Bahrain FinTech Bay ("BFB"), which will be the largest FinTech Hub in the Middle East. BFB, with an area of over 10,000 square feet of usable space, will be located in the Arcapita building in the capital of Manama, overlooking the waters of Bahrain Bay and the Arabian Gulf. Scheduled to open on 21$^{st}$ February 2018, it will comprise co-working spaces, communal areas, workstations, hot desks, and a variety of other shared infrastructure. It will also act as the platform from which Bahrain will develop its fintech ecosystem further. BFB is being founded together with a number of regional and international founding partners, strong support and partnership with the Bahrain Economic Development Board, Central Bank of Bahrain, other government entities, financial institutions, educational institutions and others.

Fintech Consortium, the ecosystem builder based out of Singapore, New York and now Bahrain, will be the operator of BFB. Fintech Consortium will apply physical and digital solutions in BFB and integrate it into its platforms including blockchain, insurtech and regtech. This initiative further supports Bahrain's lure for investors and innovators.
All companies looking to carry out business in Bahrain essentially need to have a licensed business

presence in Bahrain. A commercial company established in accordance with the Commercial Companies Law (21 of 2001) (as amended) ("CCL") is the most common form of business vehicle used in the Kingdom. As mentioned, it is possible for foreign investors to have 100% legal interest in particular Bahraini business vehicles but there are sector-related restrictions which can apply.

It is important to consider this a little more closely and the impact that this may have on potential foreign investors. Some sectors and activities are only allowed to be carried out by Bahrainis or entities fully owned by them and some are only open to Bahrainis and GCC nationals. Further, some business activities may require a minimum Bahraini investment, such as 51%.

The sectors in which a business vehicle cannot be 100% foreign owned generally include construction, press, publishing and distribution, car and motorbike rental, fishing, foreign manpower supply, land transportation of goods and passengers, trading, small businesses, foreign manpower, commercial agencies, certain real estate services, gas bottling and distribution and gas cylinder distribution.

Notwithstanding the above, there are many industry sectors which allow for 100% foreign investment such as but not limited to, technology and manufacturing, although these have to be considered separately and may be subject to other restrictions.

Minimum capital requirements for incorporating a company have also been reduced in most sectors making it more cost effective and attractive to incorporate in Bahrain.

It is worth considering the types of business vehicles that are commonly used in Bahrain. Certain business vehicles cannot be used in certain sectors, for example, businesses looking to engage in banking and insurance activities in Bahrain, can generally only do so through Public and Closed Joint Stock Companies and Foreign Branch Companies. These companies are also subject to approvals and regulations of the Central Bank of Bahrain.

This form of company consists of a minimum of seven shareholders and the shareholders are liable for the company's debts and obligations only to the extent of the value of their shares. The minimum share capital required is BHD1 million and there must be a minimum of five directors. The shares can be offered to the public and any offering of shares to the public must be subject to approval from the Central Bank of Bahrain and in compliance with the CBB's new Offering of Securities Module (Volume 6 of the CBB Rulebook) and subject to approval of the Ministry of Industry and Commerce.

This is commonly known as a Closed Joint Stock Company and consists of a minimum of two shareholders. Shares in these companies cannot be offered for sale to the public and as is the case with public shareholding companies, shareholders are liable for the company's debts and obligations only to the extent of the value of their shares and the minimum number of directors is three. A Closed Joint Stock Company can be 100% foreign owned but this is dependent on the business activity of the company.

Both Joint Stock Companies and Closed Joint Stock Companies must adhere to the Corporate Governance Code issued by the Ministry of Industry and Commerce. There are further regulatory requirements on companies licensed or regulated by the Central Bank of Bahrain which may, amongst other things, increase the minimum share capital requirement and board composition.

A With Limited Liability Company ("WLL") is comparable to a Limited Liability Company in the UAE and is the most common form of business vehicle. WLL's must consist of a minimum of two and a maximum of 50 shareholders who are natural or legal persons. The shareholders are responsible for the company's debts and obligations only to the extent of their respective share in the capital. WLL's are required to appoint at least one general manager who has the same obligations, duties and responsibilities as a director in a Joint Stock Company. The company cannot issue public shares and can be 100% foreign-owned, again depending on the business activity.

A Single Person Company ("SPC") is a company which is fully owned by a single natural or corporate person. The owner is liable for the company’s debts and obligations only to the extent of the value of his capital investment in the company. There must be at least one director and foreign and non-GCC nationals can set up an SPC provided that there are no restrictions on the business activity.

In very broad terms, the concept of residency tax does not exist in Bahrain. Further, employees are not required to pay income tax to Bahraini authorities and there is no wealth tax, tax on capital gains or inheritance tax. There are also no corporate taxes on companies carrying out business in Bahrain and no withholding tax. However, taxes are payable in relation to the profits earned by companies engaged in oil, gas or petroleum exploration, production and refining in Bahrain.

Employers must pay social security contributions in relation an employee’s monthly salary to the Social Insurance Organisation. This applies to both Bahraini and non-Bahraini employees, although the percentage payable differs.

Bahrain has no exchange control restrictions on repatriation of capital, profits or dividends, which allows them to be fully transferred. The Bahraini dinar is pegged to the United States dollar at a fixed rate of US$1 to BHD 0.377. Bahrain has not yet introduced value added tax like the UAE and Saudi Arabia but it is understood that it will do so later in 2018.

The above is a brief overview of the recent developments concerning the Bahrain legal landscape for investors. Bahrain is also in the process of considering a variety of amendments to its other laws, including  its bankruptcy law. These will no doubt go some way towards making Bahrain a more investor friendly business jurisdiction.