The Belt and Road initiative
Investment laws in key BRI countries
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The Belt and Road Initiative
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Introduction

The Belt and Road Initiative
Much has been written about the Belt and Road Initiative (BRI); it is almost certainly the largest global infrastructure programme this generation will see, with an estimated $1.3tn a year being spent on infrastructure along the route\(^1\). Yet it is so much more than an infrastructure programme – indeed, while the initiative is open to everyone, it has identified 65 countries along the Belt and Road which cover 65% of the world’s population, it is a compelling statement of engagement with the world by China.

The initiative is, however, more than an infrastructure play. President Xi sees it as a vehicle by which China will seek to achieve policy, infrastructure, trade, financial, and people-to-people connectivity to build a new platform for international cooperation to create new drivers of shared development.

It is a vast and exciting opportunity for both Chinese businesses, and for the many economies along the routes. Eversheds Sutherland has put BRI at the heart of its global strategy on infrastructure, and is deeply engaged with the organisations and markets that will be so central to BRI’s success over the coming years.

The Chinese market is unique in its requirements and expectations. Chinese investors are capable of strategic decision making and investments of ambitious scale, which few other economies can match. It is also a market where a cultural understanding of the market and its decision making processes is critical to being able to advise clients effectively. For this reason, we have Chinese transactional advisory capabilities for those involved in BRI, in both Beijing, Hong Kong, Singapore and London.

When supporting our clients on BRI projects, we focus on providing a combination of local expertise in each market, with international infrastructure capability that delivers consistent quality and robust investment protection for the long term.

Typically BRI markets offer significant commercial opportunity, but with that, commercial and political risks attached. Structuring projects in a way that mitigates those risks whilst realising the commercial opportunity, is central to our own approach.

Many of our clients, when first considering a project in a BRI market, have some fundamental legal questions about corporate and commercial structures in that market. This guide seeks to answer those questions in a number of BRI markets Eversheds Sutherland has particular experience and capability, and where we get the most questions from our clients. It has been put together in co-ordination with the input of both our local offices and many valued relationship firms. Crucially, it also identifies key points of contact in each market, who would be well-placed to help take your project forwards.

We hope you find it a useful tool in your investment planning. If you would like to discuss further do not hesitate to get in touch, you will find our contact details below.

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The Belt and Road Initiative
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## The Belt and Road Initiative country comparison table

<table>
<thead>
<tr>
<th>Market</th>
<th>Country Risk Ranking* (Euler Hermes)*</th>
<th>Local Finance Partner Requirement</th>
<th>Member of New York Convention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>D3</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Egypt</td>
<td>C3</td>
<td>Dependent on sector</td>
<td>Yes</td>
</tr>
<tr>
<td>Pakistan</td>
<td>D4</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Brunei</td>
<td>BB2</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Singapore</td>
<td>AA2</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Malaysia</td>
<td>BB2</td>
<td>Dependent on sector</td>
<td>Yes</td>
</tr>
<tr>
<td>Russia</td>
<td>C4</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Philippines</td>
<td>B1</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*Report by Euler Hermes:

Medium term risk: the scale comprises 6 levels: AA represents the lowest risk, D the highest.
Short term risk: the scale comprises 4 levels: 1 represents the lowest risk, 4 the highest.
<table>
<thead>
<tr>
<th>Number of bilateral and multilateral treaties</th>
<th>Special Economic Zones</th>
<th>Requirement for local partner in corporate structuring</th>
</tr>
</thead>
<tbody>
<tr>
<td>54</td>
<td>55</td>
<td>No</td>
</tr>
<tr>
<td>111</td>
<td>10</td>
<td>Only for LLCs</td>
</tr>
<tr>
<td>26</td>
<td>8</td>
<td>No</td>
</tr>
<tr>
<td>50</td>
<td>1 (in development)</td>
<td>No</td>
</tr>
<tr>
<td>92</td>
<td>0</td>
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<td>71</td>
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<td>63</td>
<td>16</td>
<td>No</td>
</tr>
<tr>
<td>76</td>
<td>11</td>
<td>No</td>
</tr>
</tbody>
</table>
The Belt and Road Initiative route map

Six economic corridors

- China-Mongolia-Russia Corridor
- New Eurasian Land Bridge
- China-Central Asia-West Asia Corridor
- China-Pakistan Corridor
- Bangladesh-China-India-Myanmar Corridor
- Indochina Peninsula Corridor
The Belt and Road Initiative
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Bangladesh

Bangladesh is the world’s eighth largest country by population. With over 6% annual growth sustained over the past 25 years; a large, young and hard-working workforce and vibrant private sector, the country offers the most liberal foreign direct investment regime in South Asia.

The Belt and Road Initiative: Bangladesh has a key geopolitical position within the Belt and Road Initiative given its proximity to India and the Bay of Bengal. This is important because 80% of China’s energy imports go through the Malacca straits via the Indian Ocean.

Entering the market

Regulations
All investment into Bangladesh is subject to the Foreign Investment (Promotion and Protection) Act 1980. Foreign banks looking to invest in the country require approval from the Board of Investment of Bangladesh. If the loan is in a foreign currency then separate approvals from Bangladesh Bank are required.

In order to establish industrial projects/factories/plants/infrastructure, it is essential to form a company and incorporate it locally or abroad and register it with the Registrar of Joint Stock Companies in Bangladesh. An encashment certificate is required to incorporate a foreign company and is issued by the bank.

Foreign investment in the following sectors is restricted:

- arms and ammunitions and other military equipment and machinery
- nuclear power
- security printing and minting
- forestation and mechanized extraction within the boundary of reserved forest
- banks, insurance companies and other financial institutions

Further limitations apply to 17 sectors listed as controlled by NCID. Respective line ministries/authorities need to provide a prior permission before allowing foreign direct investment to the following sectors:

- fishing in the deep sea
- bank/financial institution in the private sector
- insurance company in the private sector
- generation, supply and distribution of power in the private sector
- exploration, extraction and supply of natural gas/oil
- exploration, extraction and supply of coal
- exploration, extraction and supply of other mineral resources
- large-scale infrastructure project (e.g. flyover, elevated expressway, monorail, economic zone, inland container depot/container freight station)
- crude oil refinery (recycling/refining of lube oil used as fuel)
- medium and large industry using natural gas/condensed and other minerals as raw material
- telecommunication service (mobile/cellular and land phone)
- satellite channel
- cargo/passenger aviation
- sea-bound ship transport
- sea-port/deep sea-port
- VOIP/IP telephone
The Belt and Road Initiative
Investment laws in key BRI countries

Protecting your investment in infrastructure projects

Local investment legislation
The Foreign Investment (Promotion and Protection) Act 1980 ensures equal treatment for local and foreign investors and gives legal protection to foreign investment against nationalization and expropriation. It also guarantees repatriation of dividend and capital at the exit of business.

New York Arbitration Convention
On a national level, Bangladesh is a party to the New York Arbitration Convention, which applies to the recognition and enforcement of foreign arbitral awards and the referral by court to arbitration.

Investment treaties and trade agreements
Bangladesh has also signed investment treaties with 54 countries including Austria, China, Denmark and Malaysia. The country also benefits from a Cooperation Agreement with the European Union, and trade agreements including the Asia-Pacific Trade Agreement, South Asian Free Trade Area and Bay of Bengal Initiative for Multi-Sectoral, Technical and Economic Cooperation.

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Corporate structures
Foreign investors are permitted to form a private limited company, public limited company, company limited by guarantees or unlimited company. They also have the option to operate in foreign direct investment (FDI) form, wholly owned subsidiaries, branch offices, or joint ventures. FDI approval needs to be granted by the Bangladesh Investment Development Authority and notification given to the Bangladesh Bank.

There is one restriction in relation to real estate. According to the Constitution of Bangladesh Article 42, only a citizen of Bangladesh can acquire real property and land in Bangladesh. A foreign investor can only acquire land under the capacity of its company’s name and not under his/her personal name.

Local finance requirements
Bangladesh does not present any requirements to include local finance in infrastructure projects. Besides the restricted sectors mentioned before, foreign investors are free to carry out business in any of the corporate structures displayed above.

Incentives for infrastructure projects
There are a number of incentive regimes in place to support foreign investment into Bangladesh. These incentives include:
- Tax Holiday Facility (THF)
- Tax exemption
- Depreciation allowance
- Avoidance of double taxation

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Brunei Darussalam

In 2018, for the third year running, World Bank’s Doing Business report named Brunei Darussalam the most improved economy in the world in terms of ease of doing business. Overall the Sultanate was ranked 11th in Asia Pacific, ahead of both China and India.

The Belt and Road Initiative: Brunei is located on the north coast of the island of Borneo, facing the South China Sea and surrounded by East Malaysia. It has been working closely with China for 25 years and has been named by the Chinese President as key to strengthening China-ASEAN relations.

Entering the market

Regulations
The Investment Incentive Order 2001 and Income Tax Order are the main pieces of legislation governing foreign investment in Brunei. In addition, all businesses must be registered with the Registry of Companies and Business Names at the Ministry of Finance.

There are few restrictions on owning companies in Brunei but only locals can own property. Foreigners and permanent residents can hold properties under long-term leases. Subsequently, most banks are reluctant to grant housing loans to foreigners.

Sector restrictions
Brunei’s state-owned enterprises (SOEs) lead key sectors of the economy and receive preferential treatment when tendering for lucrative government contracts. The government does not publish a list of SOEs but priority business sectors are identified as:

- halal (pharmaceuticals and health supplements, aquaculture, agriculture, food processing/manufacturing and distribution, cosmetics)
- business services (transportation and logistics, financial services, business process outsourcing)
- technology and creative industries
- tourism
- downstream oil and gas

Corporate structures
There is no restriction on total foreign ownership of companies incorporated in Brunei. The Companies Act requires locally incorporated companies to have at least one of the two directors—or if more than two directors, at least two of them—to be ordinarily resident in Brunei. The rate of corporate income tax is the same whether the company is locally or foreign owned and managed.

All businesses in Brunei must be registered with the Registry of Companies and Business Names at the Ministry of Finance. Foreign investors can fully own incorporated companies, foreign company branches, or representative offices, but not sole proprietorships and partnerships. FDI from multinational corporations may not require a local partner in setting up a subsidiary in Brunei if at least one company director is a Brunei citizen or permanent resident.

Brunei Darussalam has put in place a FDI fast-track system to ensure investors obtain all the necessary government permits, licenses and approvals, including amongst others, development and construction approvals, and recruitment of foreign labour.

The Brunei Economic Development Board (BEDB) as a frontline agency to promote and facilitate foreign investment into the country will work closely with investors to understand their business needs and aspirations, and will also work in tandem with the Invest in Brunei Darussalam FDI Action and Support Centre (FAST) to evaluate investment proposals, liaise with government agencies and obtain project approvals.
A Dedicated Account Manager will be assigned to each investor as a single focal point and liaison officer.

The rate of corporate income tax is the same whether the company is locally or foreign owned and managed.

Mortgages are recognized and enforced in Brunei; however, only Bruneians can own land property in Brunei. Foreigners and permanent residents can only hold properties under long-term leases. Most banks are reluctant to grant housing loans to foreigners and permanent residents. According to the International Monetary Fund (IMF) Brunei country report, Brunei did not attract any Foreign Direct Investment for real estate, rentals, and business activity in 2011 (latest data available). Brunei’s Department of Economic Planning and Development do not publish FDI data for real estate. The country is currently ranked 135 out of 190 economies for Registering Property in the World Bank’s Doing Business Report; this is because every transfer of ownership in Brunei Darussalam requires the approval of “His Majesty in Council” which is a council of officials representing the Sultan. This process can be lengthy and at times opaque.

Amendments to the Land Code are being considered to ban past practices of proxy land sales to foreigners and permanent residents using power of attorney (PA) and trust deeds (TD). PAs and TDs are no longer recognized as mechanisms in land transactions involving non–citizens. The proposed laws will also be retroactive, converting all existing property owned through PAs and TDs into 60-year leases. The government may grant temporary occupation permits over state land to applicants, for licenses to occupy land for agricultural, commercial, housing or industrial purposes. These licenses are not registered, and are granted for renewable annual terms.
Local content requirements
In 2012 the Brunei Government launched a Local Business Development Framework to help the country maximize the economic benefits from its energy sector activities. The framework puts in place a sliding scale of local requirements, from ‘best endeavours’ for local content and employment for highly specialized work to targeting 70% local content and 90% local employment for ‘basic’ work.

Incentives for infrastructure projects
Under the Investment Incentives Order 2001, tax and other related incentives and reliefs are available to those working in:

- pioneer industries, pioneer service companies, established enterprises producing exports in an “approved industry”
- international trade
- warehousing and servicing industries
- investment in new technology companies, overseas investment and venture capital undertaking

Tax relief runs to 11 years for companies that have been granted a pioneer certificate or eight years for non-pioneers. Sole proprietorships and partnerships are not subject to tax.

Brunei’s main seaport is an established Free Trade Zone called the Muara Export Zone (MEZ), which was established to promote Brunei as a trade hub of the region. In Brunei’s 2017 Legislative Council session, the government announced that a 96-hectare area near Muara Port will be designated as another Free Trade Zone.

For companies involved with exportation of agriculture, forestry and fishery products they can apply for tax relief on export profits. For non-pioneer enterprises, tax relief is 8 years and up to 11 years for pioneer enterprises. Also, sole proprietorships and partnerships are not subject to tax.

A SIGNIFICANT Memorandum of Understanding (MoU) was signed last month to set up a strategic public-private partnership (PPP) for the development of a Special Economic Zone (SEZ) in Brunei Darussalam.

The MoU was signed between CFLD (Singapore) Investment Pte Ltd, the government of Brunei Darussalam and Darussalam Assets Sdn Bhd (DA) in a signing ceremony that took place at the Empire Hotel and Country Club on May 3.

Under the MoU, the parties will jointly co-invest and develop a Special Economic Zone – an area spanning approximately 40-square kilometres in the Jerudong waterfront and Tungku region to be developed under CFLD (China Fortune Land Development International)’s flagship new industry city model.

This will provide a substantive contribution to Brunei Darussalam’s diversification plan for the development of the service sector, tourism, industries and would seek to reduce the country’s dependence on the oil and gas sector, whilst building the potential to attract foreign direct investment and generate strategic economic development, thus having an impact on citizens and residents of Brunei Darussalam through the generation of employment and business opportunities for local entrepreneurs and traders.

Protecting your investment in infrastructure projects
Investment treaties and trade agreements
Brunei has bilateral investment treaties with Bahrain, China, Germany, India, the Republic of Korea, Kuwait, Oman, and Ukraine. Also, as a member of ASEAN, Brunei has free trade agreements with Australia, New Zealand, South Korea and a comprehensive economic partnership agreement with Japan.

New York Arbitration Convention
Brunei is party to the New York Arbitration Convention, which applies to the recognition and enforcement of foreign arbitral awards and the referral by court to arbitration.

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The Belt and Road Initiative
Investment laws in key BRI countries
Egypt

Egypt is one of the top five FDI destinations in Africa, according to the UNCTAD 2016 World Investment Report. Investors are attracted by a large, young and well-trained workforce; low labour costs, large energy reserves and the work of The General Authority for Investment (GAFI), which aspires to process approvals for new investments within 72 hours.

The Belt and Road Initiative: Egypt benefits from a strategic location that links the Middle East, Europe, Africa and Asia.

Entering the market

Regulations
Investment into Egypt is subject to New Investment Law 17, which came into force on 12 March 2015.

The Banking Law allows branches of foreign banks to deal in Egyptian currency and guarantees them the same treatment as national banks. Unlimited amounts of foreign currency may be purchased from any of the authorized banks or dealers, which may sell foreign currency either in cash or via wire transfers to individuals or private or public sector companies.

Other regulatory requirements include:

- preparing, reviewing and authenticating the company’s Article of Association from the General Authority For Investment and Free Zones (GAFI)
- preparing and submitting the security check application for foreign shareholders/partners/board members/managers
- notarizing the Article of Association

In most sectors there is no legal difference between foreign and domestic investors. However, there are special requirements for foreign investment in some sectors, such as upstream oil and gas, where joint ventures are required. Sector restrictions are also in place for banking, which is exclusively run by the state, and telecommunications, where there is only one fixed-line operator: Telecom Egypt.

Corporate structures
Egyptian Companies Law does not set any limitation on foreigners as shareholders or as managers/board members. The only exception to this is for Limited Liability Companies, where the one of the managers needs to be an Egyptian national. Shares can only be issued after receiving the approval of the Egyptian Financial Supervisory Authority (‘EFSA’) and may be registered with the Stock Exchange, subject to certain requirements.

Any foreigner who acquires ownership of vacant land is obliged to commence construction within five years from notarization of the land purchase agreement.

Local finance requirements
There are no longer any local content requirements for setting up assembly projects. However, according to Article 6 of Decree 420/2000, companies who meet a minimum local content requirement (30%) will benefit from customs tariff reductions on imported industrial inputs. As the percentage of local content rises, so does the tariff reduction. In certain cases, a minister can grant tariff reductions of up to 40% in advance without waiting to reach a corresponding percentage of local content.

Source: [www.export.gov/article?id=Egypt-Performance Requirements](http://www.export.gov/article?id=Egypt-Performance Requirements)
Protecting your investment in infrastructure projects

Investment treaties and trade agreements

Despite the immense political upheaval since the revolution in 2011, Egypt continues to honor its pre-revolution treaties and trade agreements. It has signed bilateral investment treaties with 111 countries including most of the European Union, the United States and several African countries, the Middle-East and Asia. Egypt is also a member of the World Trade Organization (WTO), the Common Market for Eastern and Southern Africa (COMESA) and the Greater Arab Free Trade Area (GAFTA).

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Incentives for infrastructure projects

There are a number of incentive regimes in place to support foreign investment into Egypt. These incentives can be related to:

- reduced customs rates
- reduced sales tax rates
- additional non-tax incentives for certain businesses
- discharge of liabilities upon liquidation
- land acquired as part of a business activity under the law
- potential deferral of payment for land
- free land
- low cost land

NB GAFI has the right to terminate the land acquired if progress is not made with the project.
Malaysia

Malaysia is one of the highest recipients of foreign direct investment in the ASEAN region. Investors are attracted by competitive costs, attractive incentives, established infrastructure and a highly skilled English-speaking workforce.

The Belt and Road Initiative: Malaysia is strategically located in the heart of South East Asia and already benefits tremendously from Chinese investment, particularly in the manufacturing sector.

Entering the market

Regulations
The main law governing foreign investors in Malaysia is the 1965 Companies Act. Incorporation requirements are relatively simple and are the same for domestic and foreign companies. They include registering with the Companies Commission of Malaysia and filing a memorandum and articles of association, a declaration of compliance and a statutory declaration.

Under the 1975 Industrial Coordination Act, an investor seeking to engage in manufacturing will also need a license if the business has capital of MYR 2.5 million (approximately US$690,000) or employs at least 75 full-time staff.

The acquisition of land in Malaysia by foreign investors is subject to prior approval by the relevant state authority.

Generally, both residents and non-residents are free to buy or sell Malaysian Ringgits against foreign currency with licensed onshore banks.

Corporate structures
Foreign investors can set up corporations which are either private limited or public limited and are wholly-owned subsidiaries. They can also establish a branch office or a representative office, although they cannot conduct any commercial activity and only serve to channel business opportunities to their foreign principal offices.

Sole proprietorships and partnerships are regulated by the Registrar of Businesses, companies are regulated by the Registrar of Companies and Limited Liability Partnerships are regulated by the Companies Commission of Malaysia.

Local content requirements
There are no specific local content requirements. However, such use is encouraged and incentivised through import restrictions or import duties on imports.

Incentives for infrastructure projects
The Government of Malaysia established the Malaysia Investment Development Authority (MIDA) to attract foreign investment and serve as a focal point for legal and regulatory questions. As part of a desire to make Malaysia into a gateway to the ASEAN market, MIDA offers incentives to foreign companies including:

- **Pioneer Status** – gained via application to MIDA, Pioneer Status allows companies income tax exemption of 70-100% of statutory income for five to ten years.

In addition, the Petroleum Development Act 1974 only allows foreign participation in the form of product sharing contracts and a restriction to 49% equity stake in the oil and gas sector.
- **Investment Tax Allowance** – also granted via application to MIDA. Investment Tax Allowance provides an allowance of 60-100% on qualifying capital expenditure (factory, plant, machinery or other equipment used for the approved project) within five to ten years from the date the first qualifying capital expenditure is incurred.

- **Reinvestment Allowance** – granted by MIDA to manufacturing companies which have been in operation for at least 12 months for expanding or modernizing production facilities, diversifying into related products or automating their production facilities. The allowance is 60% of qualifying capital expenditure incurred for 15 consecutive years and can be utilised to offset against 70% of the statutory income in the year of assessment. In promoted areas such as Perlis, Sabah, Sarawak or the Eastern Corridor of Peninsular Malaysia, 100% of statutory income may be offset.

**Other incentives include:**

- green incentives for high technology and strategic projects
- double deduction of expenses incurred for promotion of exports
- training
- approved international procurement centre and regional distribution centre
- incentives for agricultural projects
- research and development
- in-bound tour operators
- approved overseas investments
- overseas construction projects
- exports of products manufactured in Malaysia and export of approved services
- healthcare and wellness
- operational Headquarters
- use of the Labuan International Offshore Finance Centre
- special economic corridors

**Protecting your investment in infrastructure projects**

**Investment treaties and trade agreements**

Malaysia has bilateral investment treaties in place with 36 countries as well as bilateral investment guarantee agreements and double taxation agreements with 70 countries.

In addition, Malaysia is in the process of negotiating a Regional Comprehensive Economic Partnership (RCEP), which is a free trade agreement between the ten ASEAN members and six countries where ASEAN have existing FTAs. The RCEP members are: Australia, Brunei, Cambodia, China, India, Indonesia, Japan, Laos, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, South Korea, Thailand and Vietnam.

**New York Arbitration Convention**

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Pakistan

Pakistan is ranked 128th by the World Bank in its **Ease of Doing Business Index**, higher than India and Bangladesh. Strengths of the market include a young and growing population of around 186 million, a strong business and consumer base and the fact it is the ninth largest English speaking country.

**The Belt and Road Initiative:** Located in the middle of Asia, Pakistan is a gateway to northern India, Afghanistan, Tajikistan, Kyrgyzstan, Uzbekistan, Kazakhstan and western China and provides China with a potential corridor through the Karakoram Highway to the seaport at Gwadar in Baluchistan on the Indian Ocean. China plans to spend at least $60 billion on infrastructure developments in Pakistan.

**Entering the market**

**Regulations**

The **Foreign Private Investment Promotion and Protection Act 1976** provides that foreign investment will not be subject to higher income tax than investments of similar levels made by Pakistani citizens.

This act and the **1992 Economic Reforms Act** are the primary statutory safeguards for the rights of foreign investors. While Pakistan’s legal framework and economic strategy do not discriminate against foreign investment, contract and other legal enforcement can be problematic given the domestic court system’s inefficiency and lack of transparency.

Pakistan’s **Board of Investment (BOI)** is the primary government entity that assists foreign investors in understanding applicable laws, procedures, and reporting requirements. The **Board of Investment Ordinance 2001** established the BOI to promote, encourage and facilitate local and foreign investment inflow in Pakistan.

To address investors’ concerns about visa delay and uncertainty, the **Securities & Exchange Commission of Pakistan (SECP)** introduced a provisional **Certificate of Incorporation (COI)** in 2013. This can be issued prior to the final No Objection Certificate (NOC) as part of the incorporation process and provides that company shares can be transferred to another shareholder, if the foreign shareholder(s) and/or director(s) fail to obtain a NOC.

Foreign companies that are in compliance with the **Companies Ordinance 1984**, **Competition Act 2010**, and the laws of Pakistan do not require any separate approvals for their investments, with the exception of certain banking, finance, and insurance sectors as the foreign investors. Acquiring or merging with a company operating within Pakistan are required to apply to the **Competition Commission of Pakistan** and follow the procedures under the **Companies Ordinance 1984**.

Requirements for approvals of branch, representative, or liaison offices of foreign companies are permitted by BOI. The application process takes seven weeks after giving other relevant agencies opportunity for consultation. If comments from agencies are not received within the allocated period, the application is considered approved on a “no objection” basis. Approvals are granted for a period of maximum five years and renewals/extensions are granted after fulfillment of all requirements involved in the rules, BOI charges the fee on rendering of the services.

Permission for opening of branches of foreign banks is granted by the **State Bank of Pakistan**.
Sector restrictions
All sectors and activities are open for foreign investment unless specifically prohibited or restricted for reasons of national security and public safety.

Specified restricted industries include arms and ammunitions; high explosives; radioactive substances; securities, currency, and mint; and consumable alcohol. There is no minimum requirement for the amount of foreign equity investment in any sector. There is no upper limit on the share of foreign equity except in specific sectors including airline, banking, agriculture and media.

Foreign investors in any sector shall at any time repatriate profits, dividends, or any other funds in the currency of the country from which the investment was originated. As per clause 6 of the Foreign Private Investment (Promotion & Protection) Act 1976, and subject to procedural requirements set under the Foreign Exchange Manual 2002 of the State Bank of Pakistan.

In the social and infrastructure sectors, 100% foreign ownership is allowed, with a minimum investment requirement of US$300,000.

There are no specific regulations regarding land lease or acquisition by foreign or non-resident investors, with the exception of the agricultural sector, in which foreign ownership is limited to 60%.

Investors need to obtain licenses from the Pakistan Telecommunication Authority in order to start a cellular operation network and only Pakistanis can invest in small scale mining valued at less than Rs. 300 million.
A fundamental issue for foreign investors is their freedom to enter a market and conduct business without burdensome restrictions. Historically, since 1997, Pakistan has established and maintained an open investment regime, which serves as a strong advantage compared to regional competitors.

In order to increase its competitiveness as an investment destination, the Investment Policy 2013, maintains the open policies and continues to expand the opening and liberalization process to all sectors and generalizes the policies across all sectors to have uniformity and openness across the economy.

**Protecting your investment in infrastructure projects**

**Investment treaties and trade agreements**
Pakistan has signed Bilateral Investment Treaties (BITs) with 47 countries, of which 26 are in force. A further 27 are under negotiations. It is also a member of the South Asian Free Trade Area (SAFTA) and party to the New York Arbitration Convention, which applies to the recognition and enforcement of foreign arbitral awards and the referral by court to arbitration.

**New York Arbitration Convention**
Pakistan is a member of the International Centre for the Settlement of Investment Disputes (ICSID) and signed the New York Arbitration Convention on 30th December 1958. On 14th July, 2005 Pakistan ratified the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).

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**Corporate structures**
Various corporate structures are available for setting up a business in Pakistan, although most overseas companies are private limited companies operating as a local subsidiary. These can be incorporated by a minimum of two shareholders and two directors registering the charter documents (Memorandum & Articles of Association) with the SECP.

You can also enter the market by:

- exporting directly from home country
- setting up an agency
- appointing a distributor
- franchising
- form a joint venture or manufacture under license agreement with a Pakistani company

Foreign investors are entitled to lease land without limitation under the rules & regulations of the concerned authority. There is no limitation on the transfer of any land held by a foreign investor unless contractually specified in an agreement between the land holder and subject to the Federal or Provincial regulations.

Restrictions on foreign real estate developers have been removed and now they are subject to the same rules and treatment as domestic real estate developers.

**Local content requirements**
Local content requirements have been eliminated in all sectors as policies have been brought in line with the World Trade Organization’s Trade Related Investment Measures (TRIMS) agreements.

**Incentives for infrastructure projects**
The Government of Pakistan welcomes foreign investment and offers incentives to attract new capital inflow including tax exemptions, reduced tariffs and infrastructure and investor facilitation services in designated special economic zones.

BOI has undertaken an incremental process aiming at reducing the cost of doing business. Investment opportunities and information vital to start business in Pakistan and online visa registration has been introduced.
The Belt and Road Initiative
Investment laws in key BRI countries
Russia

Russia is the largest country in the world, with an area of 17.1 million square kilometers. It boasts significant natural resources and a skilled workforce but its foreign investment potential remains largely untapped.

The Belt and Road Initiative: Russia, which shares a 4,209.3 km border with China, is considered to be a major partner and key driver of the The Belt and Road Initiative.

Entering the market

Regulations

There is a slew of legislation dedicated to foreign investment into Russia. Recent additions such as the Federal Law No. 155-FZ1 and Federal Law No. 165-FZ2 introduced amendments to the Law on Foreign Investments, as well as the Law on Investments in Strategic Companies, which reinforce the state’s control over the transactions of foreign investors.

The Law on Foreign Investments states that foreign investors and investments will be treated no less favourably than domestic investors and investments, subject to certain wide-ranging exceptions. This includes protecting the Russian constitutional system; the morality, health and rights of third parties and ensuring state security or defence.

Foreign investment is permitted in most sectors of the Russian economy, including portfolios of government securities, stocks and bonds; direct investment in new businesses; the acquisition of existing Russian owned companies and joint ventures. Foreign investors are protected against nationalisation or expropriation, unless this is provided for by federal law. In these cases, foreign investors are entitled to receive compensation for their investment and other losses.

Foreign banks cannot open branch offices in Russia. However, a local subsidiary or representative office may be established.

Any credit organization lending to corporate entities in Russia must also take a number of issues into consideration. First, in Russia, the parties to a transaction with a foreign element may choose foreign law as the law governing their contractual relationship. So, if a foreign bank provides financing to a Russian company, the loan agreement would be governed by foreign law (usually English law with LMA-style agreements). The choice of governing law for security documents is generally determined by where the proposed collateral is situated or created.

In addition, Russian law does not recognize the concept of a trust. Therefore, alternative structures would need to be used in syndicated secured financing in place of a security trustee.

Although most of the currency control restrictions were removed in 2007, foreign banks should still take into account some of those regulations when lending to Russian corporate borrowers. These include the necessity of opening a transaction passport and repatriation of funds from export proceeds.

Finally, payments by a Russian borrower to a foreign lender under a loan agreement may be characterized as Russian source income. In this instance, the payments by the Russian borrower may be subject to Russian profits withholding tax at the rate of 20%, subject to reduction or elimination in line with the terms of any applicable tax treaty.
The Belt and Road Initiative
Investment laws in key BRI countries

**Sector restrictions**
Under the Law on Investments in Strategic Companies, 45 sectors of the economy have been defined as strategic. These include:

- military technology, nuclear power, aircraft and the space industry
- natural monopolies, such as pipelines, the maintenance of ports and airports (with limited exceptions)
- companies with a dominant market position in certain markets in Russia
- communication services, including fixed-line telecommunications but excluding Internet access services
- television and radio broadcasting
- subsoil use

The Law on Investments in Strategic Companies does not affect foreign investments which are already governed by other federal laws or by international conventions ratified by Russia. However, when a foreign investor intends to acquire control over a Russian company engaged in a strategic activity, the acquisition requires preliminary approval from the Government Commission. In this instance, control means having a minimum shareholding as well as rights to appoint governing bodies and otherwise determine the company’s activity.

There are also specific restrictions in place relating to oil and gas. Under the Subsoil Law, foreign companies are prohibited from obtaining licences to use strategic blocks of federal significance. These include:

- those containing deposits with the following reserves, as evidenced by the state register of reserves:
  - recoverable oil reserves of 70m tons or more
  - gas reserves of 50bn cubic meters or more
  - subsoil plots located in the inland sea waters, territorial sea waters, or on the continental shelf of the Russian Federation (the so called ‘offshore blocks’)
  - subsoil plots that can only be developed using land used for defence or security purposes

In addition, a number of countries have imposed sanctions targeting Russian entities and individuals, as well as certain sectors of the Russian economy, in spheres such as finance, energy and defence.
Corporate structures
Foreign investors in Russia typically use a limited liability company or private joint-stock company. Either way, the Federal Law on Registration of Legal Entities and Sole Entrepreneurs establishes a single procedure for the registration of legal entities, regardless of their organisational form and the type of business activities they conduct.

Any legal entity or individual may own private land in Russia, subject to certain restrictions which regulate the legal status of the land plot. Generally speaking, foreign nationals and legal entities enjoy the same rights to land plots as their Russian counterparts.

However, regarding ownership of land, foreign investors may not:
- own land in certain border territories or other territories specifically designated in the Land Code or federal laws (such as, for instance, land located within the boundaries of sea ports)
- own agricultural land. This rule also applies to Russian companies with more than 50% of charter capital owned by foreign companies. Foreign investors can only lease agricultural land

Local content requirements
Local content requirements have been an issue for investors in Russia for some time. As it never signed the WTO’s Government Procurement Agreement, Russia has been able to implement localization requirements without contravening international commitments. Currently as high as 40% in industries such as renewables – and timetabled to rise further in the coming years – local content provides a significant barrier to entry into the Russian market.

Incentives for infrastructure projects
Special investment contracts (SPICs) have been introduced recently to incentivize investment in manufacturing. Under a SPIC, a private investor agrees to create, modernize or operate a production facility in Russia, while the Russian federal (or regional) government provides them with benefits, such as a stable and preferential tax regime, to facilitate product manufacturing. SPICs are concluded for a maximum term of ten years and have so far been issued in the pharmaceuticals, chemicals, healthcare, machinery, light industry and electronics industries.

Another prominent example of investment incentives are regional investment projects (RIPs). RIPs see participants agreeing to invest in the production of goods within a certain territory in return for tax benefits. Initially, RIPs were designed to promote investments in the economies of the Russian Far East and Eastern Siberia but investors can now implement RIPs in any region of Russia.

Other potential incentives include:
- special economic zones
- the Skolkovo Innovation Centre
- territories of advanced social and economic development
- the free port of Vladivostok
Russia became a full member of the WTO in 2012, signing the General Agreement on Trade in Services (GATS) in the process. As part of the Commonwealth of Independent States, it is part of a free trade agreement with Belarus, Ukraine, Moldova, Tajikistan, Armenia, Kazakhstan, Kyrgyzstan and Uzbekistan. However, the agreement with Ukraine has been suspended in light of political tension between the two countries.

Many of those countries are also part of the Eurasian Economic Union, which incorporated the regulations previously set forth in the Russia-Kazakhstan-Belarus Customs Union (CU) and expands the tariff provisions to cover services and establishes unified standards and labelling requirements.

In total, Russia has 69 treaties in force which contain investment provisions, including a raft of bilateral trade agreements with individual countries. Russia has 63 bilateral investment treaties (BITs) in force. Russia signed, but did not ratify, BITs with such countries as: Poland, Slovenia, Croatia, Cyprus, Portugal and Thailand.

New York Arbitration Convention

Russia is party to the New York Arbitration Convention, which applies to the recognition and enforcement of foreign arbitral awards and the referral by court to arbitration.

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Singapore

According to the UNCTAD 2016 World Investment Report, Singapore is the seventh largest recipient of FDI in the world and the third largest among the East and Southeast Asian countries. It is currently ranked number two on World Bank’s Ease of Doing Business rankings.

The Belt and Road Initiative: An active proponent of China’s growth since opening up, Singapore is already feeling the benefit: 30% of China’s investment into Belt and Road Initiative so far has been in Singapore.

Entering the market

Regulations
As a heavily trade-dependent economy, Singapore has an open investment regime. That means foreign investors are subject to the same basic laws as their local counterparts and are not required to enter into joint ventures or cede management control to local interests, hence there is no specific legislation regulating foreign investment. However, under Singapore law, articles of incorporation may include shareholding limits that restrict ownership in corporations by foreign investors.

In terms of real estate, foreign companies can lease or buy privately or publicly held land but there are some restrictions on foreign ownership of property (including public housing or buying all units in an apartment block). There are no restrictions on foreign ownership of industrial and commercial real estate.

Foreigners are free to open and maintain bank accounts in foreign currency but overseas banks require licenses to operate in the country.

Sector restrictions
Despite Singapore’s general openness to foreign investment, restrictions do apply in certain sectors. These include telecommunications, broadcasting, the domestic news media, financial services, legal and accounting services, ports and airports and property ownership.

Also, in some sectors businesses may have to apply for special licenses from government departments in order to do business. These include:

- Monetary Authority of Singapore
- Ministry of Law
- Ministry of Health
- Infocomm Development Authority of Singapore
- Media Development Authority
- Agri-Food and Veterinary Authority of Singapore
- Hotels Licensing Board

Corporate structures
Anyone doing business in Singapore must do so under the Business Registration Act or the Companies Act, which governs the procedures for establishing an entity entitled to trade. Typically businesses in Singapore are set up as a locally incorporated company, branch of a foreign company, sole proprietorship, partnership, limited partnership or limited liability partnership.
Local content requirements
Singapore has no local content requirements for manufacturing goods or technology. The government does not require investors to buy from local sources or specify a percentage of output for export.

However, in recent years, the government has tightened policies regarding the number of foreign workers. In 2016 the Ministry of Manpower introduced measures to put companies on a watch list and suspend work pass privileges for firms found not to have a “healthy Singaporean core.”

Incentives for infrastructure projects
The Economic Development Board (EDB) of Singapore offers various grants and tax incentives for businesses with plans to upgrade their capability or grow through conducting high value and substantive activities in Singapore. These include:

- **The Finance and Treasury Centre Incentive** - aims to encourage companies to grow treasury management capabilities and use Singapore as a base for conducting strategic finance and treasury management activities.

- **The Land Intensification Allowance** - aims to promote the intensification of industrial land use towards more land-efficient and higher value-added activities.

In addition, Singapore has ten free trade zones, as well as free ports and trade facilitation.

Protecting your investment in infrastructure projects
Investment treaties and trade agreements
Singapore has signed 82 avoidance of double taxation agreements and has 35 bilateral investment treaties in force, with a further eight signed but not in force. The country also has 12 bilateral and nine regional free trade agreements (FTAs) in force including, as a member of the ASEAN free trade area, with Australia and New Zealand, China, India, South Korea, and a comprehensive economic partnership agreement with Japan. Singapore also has a trans-pacific strategic economic partnership agreement with Brunei, Chile, and New Zealand.

New York Arbitration Convention
Singapore is party to the New York Arbitration Convention, which applies to the recognition and enforcement of foreign arbitral awards and the referral by court to arbitration.

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The Philippines

The fifth largest English speaking country in the world, the Philippines benefits from a skilled workforce, cultural alignment with the US and a strategic geographic location. It is currently in the process of liberalizing some of its laws to encourage more foreign investment.

The Belt and Road Initiative: The Philippines occupies a strategic location at the Asian gateway.

Entering the market

Regulations

Under the Foreign Investments Act (Republic Act No. 7042), the general rule is that there are no restrictions on the extent of foreign ownership of Philippine enterprises. However, there are certain cases in which the Constitution or other applicable law imposes ceilings on the amount of permissible foreign equity. The Negative List which is published and updated on a regular basis pursuant to the Foreign Investments Act sets out the areas of investment which are subject to ceilings on foreign ownership. As of December 2017, the latest Negative List was issued on May 29, 2015 and may be viewed at this link:


There are other statutes that provide for certain fiscal incentives (e.g., income tax holiday) to enterprises (including those funded by foreign investment), subject to certain conditions. These include the Omnibus Investments Code (Executive Order No. 226, as amended), the Special Economic Zone Act (Republic Act No. 7916, as amended), and the Bases Conversion and Development Act (Republic Act No. 7227, as amended).

Non-resident banks may extend loans to Philippine residents without being subject to local licensing and doing business requirements, provided that in doing so, care is taken to minimize contacts with such Philippine residents and the transactions are perfected and performed offshore. In general terms, this means that non-resident banks should avoid sending their representatives to the Philippines as much as possible and limit communications with local residents to phone calls and email, the disbursement and settlement accounts for transactions should be established offshore, and transaction documents should be signed offshore (or if signed locally by a Philippine resident, the documentation should stipulate that it does not form a binding contract until accepted and signed by the non-resident bank offshore). Note, however, that this issue has not yet been specifically ruled upon by the Supreme Court.

Sector restrictions

Under the Constitution, the ownership of land is reserved for Philippine nationals or companies at least 60% of whose capital is owned by Philippine nationals. Neither may foreign nationals lease land which is still public land and which has not been converted to private land. This will have an impact on structuring the land ownership component of infrastructure projects.

The Constitution also provides that the operation of public utilities is reserved for Philippine nationals or companies at least 60% of whose capital is owned by Philippine nationals. Public utilities include the transmission of electricity, public telecommunications entities, and mass transit.

There is no restriction on obtaining foreign funding for infrastructure projects (note, however, that if a foreign bank wishes to engage in business in the Philippines, it will be subject to local licensing requirements).
Corporate structures
Foreign companies are typically structured as a:

- branch
- subsidiary
- regional headquarters
- regional operating headquarters
- representative office

Only Filipinos, corporations or associations organised under the laws of the Philippines and with at least 60% Filipino-owned capital can own private lands and occupy public lands. Under the Investors’ Lease Act of 1994, foreign investors are allowed to lease private land for 50 years, renewable once for 25 years, subject to certain requirements. They can also lease private buildings. Enterprises which export at least 60% of their production – and domestic corporations with at least 60% Filipino equity (except for specific industries where a different amount is fixed by law) – are required to have a minimum paid-in capital of just PHP5,000.

Small and medium-sized domestic market enterprises and domestic corporations with more than 40% foreign equity are required to have a paid-in equity capital of US$200,000. However, paid-in capital of US$100,000 will be sufficient if the company is involved in advanced technology or employs at least 50 people direct.

For retail trade enterprises which have a paid-up capital of US$2.5 million or more, 100% foreign equity ownership is allowed provided that:

- investments for establishing a store are not less than US$830,000
- those which specialise in high end or luxury products have a paid-up capital of not less than US$250,000 per store

Local content requirements
There are no local content requirements in project finance or otherwise.
The Belt and Road Initiative
Investment laws in key BRI countries

Incentives for infrastructure projects
The Investments Code provides incentives through registration with the BOI. In addition, businesses situated in special economic zones can apply for incentives, which are provided under the laws and regulations governing the creation of those zones.

More significantly, an Investment Priorities Plan, aimed at further promoting foreign investment into the Philippines, was agreed earlier this year. It has identified ten preferred activities:

- all qualified manufacturing activities including agri-processing
- agriculture, fishery and forestry
- strategic services including integrated circuit design; creative industries/knowledge-based services; maintenance, repair and overhaul (MRO) of aircraft; charging/refuelling stations for alternative energy vehicles; industrial waste treatment; telecommunications; state-of-the-art engineering, procurement and construction (EPC)
- health care services including drug rehabilitation centres
- mass housing with reduced price ceiling for mass housing units to P2 million from P3 million previously. Except for in-city low-cost housing for lease, only projects outside Metro Manila may qualify for incentives
- infrastructure and logistics including local government unit public-private partnerships (LGU-PPPs)
- innovation drivers such as research & development (R&D) activities; conduct of clinical trials (including drug trials); establishment of Centres of Excellence; business incubation hubs; fabrication laboratories; commercialization of new and emerging technologies and products of the Department of Science and Technology or government-funded R&D
- inclusive business models including business activities of medium and large enterprises in the agribusiness and tourism sectors that provide business opportunities to MSMEs as part of their value chains. These projects may qualify for pioneer status
- environment or climate change-related projects
- power generation projects utilizing conventional fuels, waste heat and other wastes and establishment of battery energy storage systems

The BOI is in the process of finalizing the policies and guidelines for these preferred investment activities and any connected incentives.

Protecting your investment in infrastructure projects

Investment treaties and trade agreements
The Philippines has bilateral investment agreements with 38 countries: Argentina, Australia, Austria, Bangladesh, Belgium and Luxembourg, Cambodia, Canada, Chile, China, Czech Republic, Denmark, Finland, France, Germany, India, Indonesia, Iran, Italy, Kuwait, Mongolia, Myanmar, Netherlands, Pakistan, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Spain, Sweden, Switzerland, Syria, Taiwan, Thailand, Turkey, United Kingdom, and Vietnam.

In addition, the Philippines is a member of four ASEAN free trade agreements that include an investment chapter with trading partners Australia, New Zealand, Republic of Korea and China. It also has an investment agreement with Japan under the Japan-Philippines Economic Partnership Agreement and a free trade agreement with the European Free Trade Association.

New York Arbitration Convention
The Philippines is party to the New York Arbitration Convention, which applies to the recognition and enforcement of foreign arbitral awards and the referral by court to arbitration.

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