working
Image not found or type unknown

Foreign Investors Restrictions and Currency Exchange Controls

Download Chatbot

Restrictions on Ownership of Companies by Foreign Investors

When structuring the project company for any PPP project, particular attention should be paid to laws in the host country which may limit foreign ownership of key aspects of the project.

Foreign investment legislation has two general purposes:

- to control and to encourage/promote foreign investment within its territory. In countries actively seeking foreign investment because of a shortage of local capital and technology, the legislative framework tends to emphasize the promotion aspect. In countries which are wary of private participation, the emphasis is more on control than encouragement.
- Regulations may limit the level of foreign ownership of any domestic company or in the project company being granted a specific concession. Such constraints will concern a foreign investor if it prevents it from having management control of the project company. The investor may be able to limit this risk by mechanisms such as weighted voting rights or rights of veto on key areas, that can be built into the constitution and/ or shareholder agreement.

Currency Exchange Controls

Concerns about balance of payment difficulties of host countries and their need to conserve foreign exchange to pay for essential goods and services reduce their ability and willingness to grant foreign investors an unrestricted right to make monetary transfers. Host countries restrict monetary transfers through regulation of:

- currency convertibility, limiting the extent to which local currency can be converted into foreign currency;
- conversion rate, controlling the rate that can be obtained for such a transaction;
- the types of currencies with which payments may be made;
- transferability of a currency off-shore and repatriation of profits off-shore.

Where a PPP company is receiving payments in local currency but has to incur costs in a foreign currency to service foreign debt, purchase materials that are only available abroad or pay expatriate workers in foreign currency, it will be concerned to ensure that exchange-control laws of the host country will not prevent the company from meeting its foreign currency liabilities. Where foreign investors are involved they will also be concerned to ensure that they can repatriate profits off-shore.

Related Content

- **Laws and Regulations**

- **PPP Legal Foundations - Further Reading**

- **Legislation and Laws - General and Sector Specific**

- **Regulatory Systems and Sector Overview**

- **Country Profiles**

Additional Resources

- Financial Intermediaries
- Country Profiles
- Innovative Revenues for Infrastructure (IRI)

Disclaimer: *The resources on this site is usually managed by third party websites. The World Bank does not take responsibility for the accuracy, completeness, or quality of the information provided, or for any broken links or moved resources. Any changes in the underlying website or link may result in changes to the analysis and recommendations set forth on the* Public-Private Partnership Resource Center. *The inclusion of documents on this website should not be construed as either a commitment to provide financing or an endorsement by the World Bank of the quality of the document or project. If you have any comments on any of the links provided on the* Public-Private Partnership Resource Center, *please get in touch here*