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# FDI laws in Libya: a stark reminder of the fluidity of the legal and practical landscape

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As the only international law firm operating in Libya we fully understand and appreciate that we work in an environment in which a divergence between law and practice is commonplace. A recent example of this divergence is the application of Law No 9 of 2010 (the **Investment Law**) in the context of the foreign ownership restrictions set out in Decree 207 of 2012 (**Decree 207**).

## Further information

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In short, Decree 207 states that non-Libyans can only hold up to 49% in a company in Libya. The Investment Law, however, provides that under certain circumstances (eg value of project etc) non-Libyans can own up to 100% in a Libyan company.

In the past it was very clear that the Privatisation & Investment Board (**PIB**) is primarily responsible for applications under the Investment Law, whereas the Ministry of Economy (**MOE**) is primarily responsible for applications not made pursuant to the Investment Law.

In post revolution Libya, this line has been blurred and, in short, the MOE is now exercising more control over the PIB.

As a result, the PIB has been instructed to apply the foreign ownership restrictions set out in Decree 207 when considering the application of the Investment Law.

This has a major impact on companies wishing to invest in Libya as this reduces the attractiveness of pursuing inward investment through the Investment Law (a law which was designed to facilitate investment).

We do not expect this practice to continue in the medium / long term, but it is a stark reminder about the importance of keeping abreast of developments in Libya.

In other, and more positive developments, as a matter of practice (and not as a matter of law) the restrictions on the minimum number of shareholders that a Joint Stock Company requires and their maximum percentage shareholding (previously at 10% per person) has now been lifted, which makes market entry into Libya via a Joint Stock Company more appealing and less burdensome.

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