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Specifics of Setting Up and Registering Companies in the AIFC

Organizational Legal Forms of Legal Entities Being Set Up

The AIFC participants are registered (including recognized companies and redomiciliated companies) legal entities. As of 11 February 2021, the AIFC has 658 registered participants.

A legal entity (hereinafter, the "LE") may be organized and registered in the AIFC territory in one of the following organizational legal forms (hereinafter, the "OLF").

Private Company: a company limited by shares, the liability of which is limited to the amount (if any) that remains held unpaid on the shares by the shareholder (517 participants and 51 recognized companies registered)

Public Company: a company limited by shares, the liability of which is limited to the amount (if any) that remains held unpaid on the shares by the shareholder. Public Company is allowed to offer its Securities to the Public (1 participant registered)

Investment Company: investment activities, provision of depository and trust services; such activities fall within the prudential requirements (1 participant registered)

Restricted Scope Company: used by professional investors, state structures, family offices and a limited number of institutions. Characterized by a lesser scope of regulation and greater confidentiality

Special Purpose Company: for the implementation of a specific project on structured financing (including Islamic financing), specifically, securitization transactions (15 participants registered)

Limited Partnership: this is a LE composed of at least 1 participant liable for the debts of such partnership and 1 participant whose liability is limited to a contribution (1 participant registered)

General Partnership: for joint business by two or more persons who enter into a Partnership Agreement on the principles of joint and several liability (1 participant registered)

Limited Liability Partnership: must have at least 2 participants whose liability for the partnership's debts is limited by their contributions to the capital. The partnership participants may act on behalf of the partnership as its agents, and liability of the participants and the partnership for such activities is joint and several (41 participants registered)

Foundation: does not carry out commercial activities and is normally set up for charitable purposes (2 participants registered)

Non-Profit Incorporated Organization: organization whose primary purpose of activities is not to derive income and which does not distribute the received net income among its participants (28 participants registered)

Key distinction between private and public companies is that public companies may publicly offer their securities for purchase, in which connection public companies fall within a number of additional requirements (significant charter capital, reporting, presence of a certain number of directors, presence of a corporate secretary, etc.).

To date, the most popular OLF is the form of a private company (517 of 658 registered organizations as of 31 August 2020), which can be explained by a relatively simple setting up procedure and low costs (possibility to register a company with 1 shareholder, possibility for new shareholders to join the company is determined by the current shareholders, minimum regulatory burden, absence of requirements on the minimum charter capital), including flexibility and optionality of corporate rules (possibility to itself keep the register of shareholders, issue shares of different classes, flexible approach to powers of management bodies, etc.). Furthermore, if setting up a special purpose company, it is not necessary to have an office in the AIFC, there is no requirement on mandatory annual meetings of shareholders, etc.

Process of Registration as an AIFC Participant

Based on our own experience in registration of private and recognized companies, please see below the following algorithm of actions. For more information about the registration procedure, please visit the AIFC website [\[1\]](#).

Step 1 Preparation: (a) Select the organizational legal form; (b) Consult with the AIFC group on business development and fill out an application for regulated or market activities, or ancillary services in the AIFC; (c) Prepare a business plan; (d) Decide on the legal address; (e) Appoint a Director and a person liable for compliance with the CLPFT rules.

Step 2 Filing of an application and other forms: (a) Log in on the self-service portal; (b) Fill out an application and attach the documents; and (c) Pay the registration fee (USD 300).

Step 3 Obtainment of ready-to-use documents: Obtain the certificate of incorporation or recognition.

A company must have its legal address within the boundaries of the AIFC. Furthermore, the AIFC participants support office may provide a temporary legal address.

If a foreign national is appointed as a company Director, he / she must obtain an individual identification number (IIN), for which purpose he / she must apply to the special Expat Center.

The form of application for the company registration can be found on the AIFC self-service portal. In addition to application, it is also necessary to submit some other documents (depending on the contemplated types of activities). Documents issued by a foreign country do not require apostil and translation into the Russian / Kazakh language and must be submitted to the AIFC in English.

After submitting the set of documents, it is necessary to pay a fee for the registration / incorporation in the amount of USD 300.

To date, the term of registration is not determined by the AIFC Acts; however, in practice, this process takes about 2 weeks.

Registration is deemed to have been accomplished after issuing certificate of incorporation of a private / public company or certificate of recognition for a recognized company containing the name, BIN and date of registration (for redomiciliated companies - certificate of continuation).

The only constitution document for companies is the Articles of Association. It is also allowed to use the model Articles of Association, which may be amended or supplemented subject to requirements of the AIFC Acts.

We previously mentioned that no minimum charter capital (share capital) is established for private companies. The minimum charter capital for public companies is USD 100,000. Each company share must be of fixed nominal value. Please note that the registrar demands from a founder in case of a public company incorporation to confirm the presence of the said amount on the founder's personal account.

In the event of transactions with shares, a company must submit to AFSA a notice of transfer of shares, register of shareholders, resolution on the sale and acquisition of shares, document confirming the transfer of shares, including information on the beneficial owner. The registrar considers the submitted documents and information, performs registration and notifies the justice authority to update the data at the National Register of Business Identification Numbers.

[\[1\]](#) Points to consider before registration: <https://afsa.aifc.kz/consider-before-opening-business/>; Guidance on Registration in the AIFC: <https://afsa.aifc.kz/files/pages/2152/documents/1/guidance-on-registration-in-the-aifc.pdf>

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