Appetite for Iranian Uncertainty

In light of the Turkish Prime Minister's recent visit to Iran, the removal of sanctions is opening up new opportunities for Turkey; with other nations following suit


Writers: Pelin Baysal, Partner of Corporate and M&A Department of Gün+Partners and Görkem Bilgin, Senior Associate in Corporate and M&A Department of Gün+Partners

Upon confirmation from the International Atomic Energy Agency that Iran has completed the necessary preparatory steps to start the implementation of the Joint Comprehensive Plan of Action on January 16, 2016, both the US and the EU announced that certain economic and financial sanctions had been lifted.

On the other hand, multilateral and national economic and financial sanctions on Iran's nuclear programme have been broadly lifted particularly for the EU. In this respect, transactions are now allowed by the EU with regard to the following financial activities including their sub-associated services: financial, banking and insurance measures; oil, gas and petrochemical sectors; shipping, shipbuilding and transport sectors; gold, other precious metals, banknotes and coinage and software.

Even though all may not benefit from the lifting of sanctions, it is certain that Iran is more attractive for the Turkish companies and enterprises, especially for US companies and US-related EU companies. Turkish Prime Minister, Ahmet Davutoğlu recently reaffirmed during his visit to Tehran: "We believe that Turkey-Iran relations will gain significant momentum in the economic field with the removal of embargoes."

Iran's population of approximately 80 million people and high unemployment rate among the young and educated workforce may be tempting for Turkish enterprises. Along with the lifting of sanctions, Iran will now have access to its frozen billions of dollars which can be spent for investment, modernisation of the country and economic growth requiring goods and services to be imported from abroad. In addition, Government officials in Iran are now inviting foreign investors to invest in a bid to stabilise the economy and incentivise through methods including tax exemptions.

Enter, the foreign investor

Currently, incorporation of Iranian companies and investment by foreigners are regulated under Iran's Foreign Investment Promotion and Protection Act (FIPPA). Legally speaking,

This article was originally published in Middle East Outlook. The online version can be found here.

FIPPA introduces many incentives and protections for foreign investors such as exchange rate securities, money transfer guarantees, arbitration as a dispute resolution method and fair compensation in case of any expropriation/nationalisation.

In order to enjoy such incentives and protections, foreign investors need to apply for a Foreign Investment License, which requires a large amount of documentation and paperwork. The application process has two stages. First of all, the investor candidate has to identify and choose its investment project with consideration of the general principles of the FIPPA. Then, the investor candidate shall preliminary permit from the relevant Iranian organisation/ministry considering the nature of the project as to submit such permit to the Organisation for Investment, Economic and Technical Assistance of Iran (OIETA) for their material and further evaluation on granting the Foreign Investment License.

Upon receipt of such permit and completion of other requirements, the application for Foreign Investment License can be filed before OIETA. Even in case of obtaining a permit from the relevant organisation/ministry, the admissions for Foreign Investment License are still subject to several conditions. The investor may be required to sufficiently document its purpose of development and promotion of producing activities, mining, agriculture and services, and shall convince OIETA that its investment will result in economic growth, upgraded technology and/or increased employment opportunities.

Furthermore, the value of the goods and services procured by foreign investment shall not have a market share of more than a quarter in the relevant economic sector and more than 35 percent in the relevant subsector or field. Once the Foreign Investment License is obtained, then the incorporation procedures may commence and the incentives and protections become applicable.

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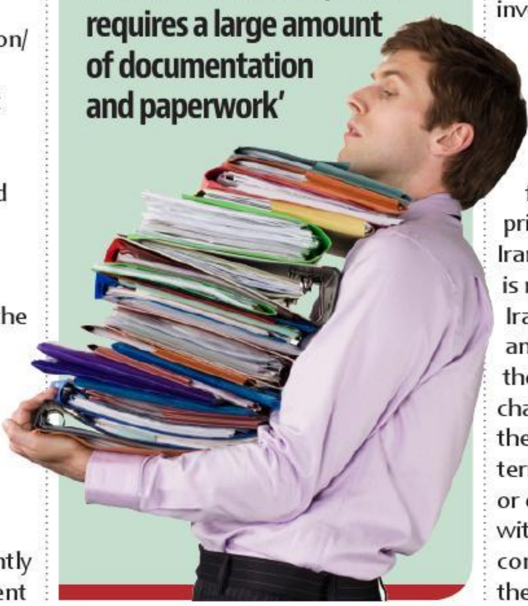

As implied, the procedure is compelling and conditional at the discretion of OIETA. Normally, if everything goes well, the evaluation of any application shall not pass 45 days but it is difficult to determine how long it would take to complete all documents including detailed feasibility studies and to get permits from the relevant organisations and ministries. Such delays are challenging for the investors' investment expectations.

Without following the process, it is possible to incorporate joint stock and limited liability companies which will be subject to Iranian laws and cannot benefit from the foreign investment privileges. In accordance with the Iranian Commercial Code (ICC), there is no restriction applicable to non-Iranians to incorporate companies and to manage the same. Since these enterprises will not have any chance to benefit from the FIPPA, the investors may face some risks in terms of transferring money abroad or expropriation or nationalisation without fair compensation. But still, considering that Iran may enable the establishment of commercial

companies as regulated under the ICC, any possible pros-cons list may direct an incentive to incorporate without Foreign Investment License as the procedure may be easier and risks can be deemed hypothetical.

Immovable asset appeal

Another point to be considered for any potential investor will certainly be the conditions to buy an immovable asset in Iran. Existence as a legal form in Iran is essential if it is planning to purchase any fixed asset. In accordance with current Iranian laws, only Iranian natural persons and legal entities are entitled to buy immovable assets under their names. Iranian shopping malls have been welcoming Turkish brands, especially the food, furniture and textile companies, to enter into the market as of the preferential trade agreement between the two countries, which has been in effect since the beginning of 2015. In addition, various other sectors have been deemed attractive for Turkish enterprises such as the tourism, banking, petrochemicals, telecommunications, automotive and transportation sectors. Iran plans to spend some of their unfrozen assets on airports and aircraft which would offer opportunities to Turkish construction companies to start constructions for installation of airports, highways and buildings.

With the biggest combined energy deposits in the world, one of the largest oil reserves and the second highest in gas, Iran is becoming a shining star for enterprises in energy sector. Since the production efficiency is getting lower and lower, it is known that investment is required to modernise and lead the way to Iran becoming one of the biggest energy markets, which also means energy companies can expect better agreement terms.

Last but not least, Iran's Minister of Industry has recently expressed their expectations for the mining sector as well. Accordingly, Iran will need a further US$20 billion of investment by 2025 for the exploration and development of mines.

Although all these opportunities would reveal that there is a paradise waiting for the investors to make their investments in this area, when the subject is Iran, there is always a 'but'. So, it should be first kept in mind that Iran should be giving investors more confidence and taking solid steps to realise the expected promises. For instance, one of the loudly spoken complaints is Iran's current intellectual property protection regime which may result in companies defenceless against IPR infringements and unfair competition matters. Iran is not completely bound by World Trade Organisation's (WTO) international trade principles since it is not a full member of WTO. But it has been said that when the economic sanctions and economic isolation be removed, Iran may accelerate the realisation of its promises to have an effective presence in international competition and international trade. For Iranian officials, the time may have come to give potential investors not only mouth-watering promises but also real cause to invest in Iran.

Appetite for uncertainty

It is uncertain what will be the result of Iran's first parliamentary election after the lifting of sanctions, and how Middle East tensions between world powers affect Iran. It is also uncertain whether re-admission to the global banking systems and payment network could be a real solution for one of Iran's biggest problems: foreign bank transfer transactions.

In addition to all, lack of transparency in Governmental policies/conducts and of strict observation on corruption matters are also serious topics for any potential investors. It is advisable to test the market dynamics with start-ups rather than establishing joint ventures with local enterprises since trust could be a real problem. But before all, enterprises should decide on the investment they are planning to make and take consultancy from the local experts accordingly since it would be the best practice in the presence of such risks and relative unknowns.

Sanctions may be just the tip of the iceberg, but potential investors should be determined to take actions to start their investments in this hot market offering many untouched opportunities.