

Newsletter
|40th Edition, January 2024|

Welcome to the fortieth edition of our newsletters. In this edition, we will present to readers the joint venture companies in accordance with the latest amendments to the Jordanian Companies Law No. (22) of 1997, as well as we will take a glance at private shareholding companies.

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In this edition of the newsletter, we will present to our readers the most prominent legal provisions for the venture capital company (Section A) and for private shareholding companies (Section B), as follows:

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SECTION A: A GLIMPSE INTO JORDANIAN LEGISLATION

In this section A, we look into joint venture companies in accordance with the latest amendments to the Jordanian Companies Law No. (22) of 1997.

Introduction

In light of the recent amendment to the Jordanian Companies Law, the Jordanian legislator deemed it necessary to dedicate the fifth section of the aforementioned law to regulate all provisions related to venture capital companies. These companies are considered one of the most important means of supporting economic growth. Given the current economic transformations, the developments that are occurring in the world across various sectors and the global technological revolutions, the role and importance of small and medium-sized enterprises (SMEs) have become prominent in revitalizing national economies and embodying new ideas. However, on another note, in order for these enterprises to perform this revitalization,

significant financing is required as said type of companies involves high risks compared to other types of projects and businesses. To address this, there is a need to establish a new type of company capable of effectively and swiftly dealing with the risks faced by these projects. This is essential considering their extensive experience and standing in the field of finance, allowing them to handle the challenges in a sound and rapid manner.

Therefore, a venture capital company is a type of company that is based on providing financing for investments with a higher-than-average risk ratio, commonly known for yielding high financial returns in the event of project success. The financing provided by such a company is not limited to traditional funding aimed at raising the necessary capital for projects, but it goes beyond that, as it also offers non-monetary assistance such as management and administration.

Most countries have adopted this model of companies in their legislation, although there may be variations in nomenclature. In this regard, the Jordanian legislator has chosen to adopt this type under the title of "venture capital companies".

We will subsequently discuss the key provisions pertaining to venture capital companies under Jordanian legislation in a manner that explains the nature of this type of company:



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First: The Concept of Venture Capital Companies

Jordan's experience with this type of company is relatively recent; as the Venture Capital Company Regulation No. 143 was issued in the year 2018, which marked a significant milestone that completed a series of legislations related to venture capital companies. However, in light of the recent amendment to the Jordanian Companies Law, the Jordanian legislator has decided to provide all the detailed provisions for venture capital companies under the basic legislation governing companies (the Jordanian Companies Law) instead of the regulation. The reason for this being to complete the legislative framework in a manner that encourages the environment for investment.

The Jordanian legislator, in Article 77 of the Jordanian Companies Law, has coined the term "venture capital company" to describe any company established with the aim of either direct investment or investment in high-risk companies with a high growth potential. This is done with the expectation of receiving returns upon the sale of its contributions or shares in the capital of the invested company.

It is worth noting in this regard that the Jordanian legislator has prohibited venture capital

companies from investing in any company in which its shares are listed on the financial market.

Second: The Name of the Venture Capital Company.

The Jordanian legislator has stipulated that the phrase "Venture Capital Company" must be included in the name of each company intended to be established under this type. The name of the company may consist of the name of one of its managing partners, all of them, or any other name approved by the Companies Registrar, provided that the aforementioned phrase is added to it.

The Jordanian legislator, within the provisions of the fifth section of the Jordanian Companies Law, requires that a venture capital company includes its name on documents, publications, and advertisements used in its operations, as well as on contracts and agreements it enters into with third parties.

Third: Thirdly: Partners in a Venture Capital Company.

A. The partners in a venture capital company, in accordance with the provisions of the Jordanian Companies Law, are divided into two main categories, as follows:



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- One or more Managing Partner/s: The Jordanian legislator permits the managing partner to be either a natural or legal person, and there may be one or more managing partners. This category is responsible for managing the affairs of the company and conducting its business within the limits defined by the partnership agreement; whereby the managing partner is authorized to handle all administrative, financial, judicial, and legal matters necessary for running the company. As a general rule, the managing partner has the right to delegate any of their powers to others. Each managing partner is jointly and severally liable with their personal funds for the company's debts and obligations.

The Jordanian legislator has mandated that the managing partner must meet a set of conditions, outlined in Article (81) of the Jordanian Companies Law. Among the prominent conditions are that the managing partner should be at least 25 years old and should not have been convicted of a crime or misdemeanor that undermines honor or public morals.

- Funding Partner: This category does not participate in managing the company's

affairs, conducting its business, or signing on its behalf. Each funding partner is responsible for the company's debts and obligations according to their share in the company's capital. It is permissible for a funding partner to be either a natural or legal person, whether singular or plural in number.

- B. Upon examining the provisions of Article (82), we find that the Jordanian legislator has prohibited the managing partner and the person authorized to sign on behalf of the company from engaging in a set of activities as a general rule, unless the partnership agreement specifies otherwise. The most prominent of those prohibited activities include any work or activity that competes with the company, whether undertaken on their personal account or for others. Additionally, this category is restricted from investing in another company that is engaged in activities similar to those of the company or managing such companies. However, contributing to public shareholding companies is exempt from this prohibition.
- C. On the other hand, we find that the Jordanian legislator has prohibited the category of funding partners from participating in the management of the company, acting on its



behalf, representing it, or incurring obligations on its behalf. However, if this category enters into an agreement with the company to undertake any work on its behalf, regardless of its nature, on the condition that the prior approval of all other partners be obtained, and participates in voting on any decision of the company in the capacity of a funding partner does not qualify as participating in the management of the company.

Fourth: The Capital of a Venture Capital Company.

It is worth noting initially that the capital of this type of company, according to the Jordanian law, consists of authorized capital and paid capital. It is divided into several shares, with the nominal value of each share not being less than one Jordanian Dinar.

The Jordanian legislator has stipulated that the share of any funding partner in the paid-capital of the company should not be less than fifty thousand Jordanian Dinars, and the share of any managing partner in the authorized and paid capital of the company should not be less than one thousand Jordanian Dinars. It is also not permissible for any partner's contribution to the company to be in a form other than cash.

Unless the partnership agreement stipulates otherwise, the Jordanian legislator has allowed a partner to either pay their contribution in one lump sum or in installments. The value of the installment should be proportional to his/her shares in the company. The partner is required to settle the value of the unpaid and authorized capital within three years from the date of becoming a partner in the company.

Fifth: Establishing a Venture Capital Company.

A Venture Capital Company is established by submitting a registration application to the Companies Controller at the Companies Control Department, accompanied by the company's founding contract signed in front of the Controller, a notary public, or a practicing lawyer. Within the Companies Control Department, there exists a special register dedicated to Venture Capital Companies, numbered serially based on their registration dates, documenting any amendments or changes that occur.

The Jordanian legislator, in Article (77/d) of the Jordanian Companies Law, stipulates that the founding contract must include several details, notably: the company's name and headquarters, the company's duration, the names, nationalities, age (if individuals), and addresses of the partners, the company's capital, the amounts of the



partners' paid and unpaid shares, and the names of those authorized to sign on behalf of the company, whether they are managing partners or others.

6 Sixth: Legal Obligations of a Venture Capital Company.

A. It is the responsibility of the partners in a Venture Capital Company to regulate a partnership agreement. This written agreement is aimed at organizing the company's affairs, its management mechanism by the partners, defining the relationship between partners, procedures to be taken regarding partners who have not fulfilled their commitment to pay the authorized capital to the company and any other matters that the partners deem necessary to be regulated. This agreement includes the information outlined in the company's founding contract.

In reality, the partnership agreement can be considered as the founding document for a Venture Capital Company, differing from the company's founding contract and its articles of association. It serves as the establishing text, since the Jordanian Companies Law does not specifically address it elsewhere. This agreement is subject to Jordanian legislation, and its provisions cannot be altered as a general rule without the unanimous consent of all partners, unless the partners have agreed within it on a specific amendment mechanism, including requiring the consent of a person outside the partnership agreement or meeting specific conditions. In such

cases, the agreement cannot be modified except by fulfilling these conditions.

- B. The Jordanian legislator imposed a legal obligation on a Venture Capital Company, prohibiting it from investing in the securities of public shareholding companies or any type of company the shares of which are listed in the financial market.
- C. The Jordanian legislator restricts a Venture Capital Company from exceeding a contribution percentage of 20% of its authorized capital in any of the invested companies.
- D. The Jordanian legislator set a maximum ownership limit for a Venture Capital Company in any of the invested companies, stating that its ownership should not exceed 51% of the capital of those companies within the twelve-month period following the investment.

Seventh: Cases that Lead to Mandatory Liquidation of a Venture Capital Company.

The Jordanian legislator has specified the situations that mandate the liquidation of a Venture Capital Company, as follows:

- A. When the period specified in its founding contract ends - if the duration is defined - unless the partners owning no less than 51% of the shares decide to extend it before sixty days from the specified end date.
- B. If the sole managing partner loses their status as a managing partner, unless another managing partner is appointed.



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C. If the company commits a serious violation of the provisions of the Jordanian Companies Law.

Conclusion:

7 In conclusion, based on all that has been stated, it can be said that the activities of Venture Capital Companies are based on the principle of contributing to the capital of companies that require financing to achieve a favourable outcome. The freedom and considerations of a contractual partnership are subject to legal provisions. Within this framework, Venture Capital Companies pursue various strategies to support small and medium enterprises. This financing strategy is crucial due to the importance of financial aspects for these companies in addition to following non-financial strategies that focus on providing support in management matters. This is what led the Jordanian legislator to complete the legislative system in a manner that encourages the investment environment by including Venture Capital Companies as one of the types of companies addressed in the Jordanian legislation, regulating them in the fundamental laws concerning companies and their regulations. This update aligns with the latest amendments made to the Jordanian Companies Law, effective as of the 11th of November 2023.

SECTION B: START UPS & SMES

In this Section B, private shareholding companies

In our previous edition [No.39], Hammouri & Partners newsletter shed light on the various types of legal entities, including the most suitable legal structures for entrepreneurs and startups in Jordan. Additionally, the 39th edition of the newsletter discussed other factors that should be taken into consideration by entrepreneurs and startups before deciding which type of legal entity/structure they should register. Further on this subject matter, in this edition of our newsletter, we will be discussing about another important type of a legal entity, namely the Private shareholding Company, which is considered by many to be a pivotal pillar of the Jordanian economic system as it attracts investors. Accordingly, in the next few paragraphs we will provide a brief overview about the main features of the Private Shareholding Company and the advantages that it offers for entrepreneurs and startups.

The Private Shareholding Company [“PSC”], integrates the features of the Limited Liability company, yet with more flexibility, as it can perform all of the objectives that are included in its Articles and Memorandum of Association [as



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long as they are not prohibited by law], which allow founders to tailor the Articles and Memorandum of Association and structure the company in a way that attracts investors. By establishing a PSC, a separate legal entity will be created, meaning the financial liability of the company will be independent from the financial liability of its shareholders. Therefore, this independency allows the shareholders to only be liable to the company for such debts and obligations in equivalence to their share capital in the company, hence the funds and assets of the company will be accountable for the commitments and debts sustained by it.

Moreover, under the Jordanian Companies Law, the PSC has the advantage [compared with other types of legal entities/structures in Jordan] to issue various types of shares. Whereby pursuant to Article [68/BIS], paragraph [a] from the said law, the PSC may "... according to its Memorandum of Association, issue various types and categories of shares which differ in their terms of nominal value, voting powers and method of profit and loss distribution among shareholders. These shares also differ in respect of their rights and priorities upon liquidation and their aptitude to be converted into other types of shares besides their related rights, advantages, priorities and other restrictions, provided that these be implied or summarized in the shares'

certificates if found". This feature is very important for the expansion of the business as it can attract investors, in addition to the fact that it can be used as an incentive tool for employees, which may in return raise their production and loyalty towards the company.

Notwithstanding the aforesaid, the PSC has some restrictions to it in comparison to other legal entities/structures in Jordan. For example, the minimum share capital for a PSC company should not be less than 50,000 Jordanian Dinars [50% of which should be paid upon registration, while the remaining should be paid within 60 days from the date of registration], while in contrast, the Limited Liability company minimum share capital is one [1] Jordanian Dinar. Another restriction that needs to be taken into consideration is the "limited access to capital", as a PSC cannot offer its shares to the public [as in Public Shareholding companies], hence this may limit the funds that the company can raise. PSC also is required by law to submit annual filings, in addition to some reporting obligations, in which if they were not met, then the company may be subject to penalties and fines.

To sum-up, a Private Shareholding Company has many features that makes it worth being selected for the structure of your business. For example, it offers limited liability protection to its



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shareholders, has its own legal identity [can own assets and enter into contracts], and regardless if a shareholder left the company or passed away, the company will continue to operate.

Furthermore, a PSC compared with other legal structures in Jordan, is seen as more professional and credible, which may attract more clients and investors.



If you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in the Contributors section below.

If you feel that other persons would be interested to read this Newsletter, please feel free to share this Newsletter.

- 10 If you wish not to have our upcoming Newsletter or if you wish to amend the contact details, please inform us by sending an email to info@hammourilaw.com, titled “non-subscription” and/or “amending the contact details”.

Warm regards,

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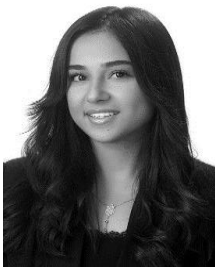
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ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners Attorneys at-Law, is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by the late Professor Mohammad Hammouri. Professor Hammouri was a renowned Jordanian attorney and an arbitrator, a former Minister of Culture and National Heritage and a former Minister of Higher Education, who wrote a plethora of books, primarily on constitutional rights. Professor Mohammad Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at The University of Jordan, in which he was its first dean. Today, the firm is managed by Dr. Tariq Hammouri, a distinguished academic and attorney and a former Minister of Industry, Trade and Supply. Dr. Tariq Hammouri is both an experienced attorney and an arbitrator, an expert in the Corporate sector, Commercial Transactions, Financial Markets, Banking Law and International Trade. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law. Dr. Hammouri is also an officially appointed member of the International Center for Settlement of Investment Disputes (ICSID) Panel of Arbitrators upon designation by the Government of the Hashemite Kingdom of Jordan, for the period of 2020 to 2026.

Hammouri & Partners team consists of more than 30 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level. It should be noted that Hammouri & Partners are in the midst of establishing a new office for the firm in the city of Baghdad in the Republic of Iraq to provide legal services through it in a direct manner. This office is operational since September 2023.

The firm's legal services cover numerous areas of practice, including the following: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property Law, Banking and Finance Law (the Firm advises local and international banks regarding all Banking Transactions and Regulatory Compliance). Additionally, the Firm's Litigation and Arbitration department have the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before courts or arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater for the needs and requirements of international clients on an array of tasks with an international element, such as those regarding bilateral and international trade negotiations, projects, contracts and others.

In addition to what has previously been stated, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Securities and Energy, as some of its clients are major energy, healthcare, information technology and telecoms companies.

Hammouri & Partners Attorneys at-Law provides its broad services throughout Jordan as well as worldwide, through established collaborations with reputable law firms in the MENA region, Europe, the United Kingdom and the USA. Hammouri & Partners has earned regional and international acclaim by the most reputable legal directories. Chambers and Partners Global, International Financial Law Review (IFLR 1000) and the Legal 500, all highlight Hammouri & Partners as a leading law firm in the Jordanian legal services industry.



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