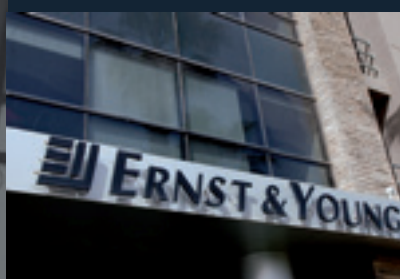
The Business Guide

Facts about the Securities Law and Labour Law
Tax reforms and incentives boost foreign investment
Modified Investment Promotion Law under way
One-stop shop simplifies investors' procedures



Foreign workers require the approval of the minister of labour

In detail

A look at the Labour Law and regulations for the stock exchange and securities

LABOUR LAW: The Jordanian Labour Law No. 8 (the Law, 1996) requires every employer with 10 or more employees to draft internal regulations setting out working hours, daily and weekly off-periods, work offences and the penalties and consequences thereof, including the method of termination of employment, and any further details that are relevant to the nature of the work in question. Those regulations must be approved by the Ministry of Labour, and are considered effective from the date of such approval.

The Law applies to any person who performs work in return for a wage including juveniles above the age of 16 and persons under apprenticeships and training, domestic servants, agricultural workers, and it grants the minister of labour the power to exclude women from certain industries and sectors, as well as to place restrictions on their working hours. The Law does not apply to civil servants or municipal employees. The employment of the aforementioned persons is governed by separate regulations. The Ministry of Labour has the authority to carry out inspections to ensure that the Law's provisions are met. The scope and nature of what constitutes "work" was expanded under this Law and includes any physical or mental effort performed by an employee in return for wages, whether such work is on a permanent basis, on an occasional basis (brought about by unusual circumstances and requiring completion within three months), work that requires completion within a specific period or seasonal work for a period that does not exceed six months.

Along the same lines there is flexibility regarding employment contracts, which can be verbal or written, express or implicit, for a fixed period or an unlimited duration, as long as the work-in-return-for-wages relationship is established. Some formalities regarding the contract must be observed, however, such as the requirement that written contracts should be in Arabic and executed in two copies. An employment contract cannot contain any provisions that diminish or contravene any benefit or right granted under the Law; such contractual terms are considered null and void, because an employee cannot contract away any of his/her rights under the Law. Within the scope of the work itself, the Law provides the worker with protection from an abrupt change of the job description such that the worker is not be obligated to perform tasks, which were clearly not contemplated when the employment relationship started, unless performance of the action prevents an accident or rectifies the result of such an accident.

With regards to the safety measures within the place of work, the Law gives the minister of labour the right to determine, based on the opinions of qualified professionals and official authorities, the level of precautions and measures that must be taken by all working establishments. Within the working establishment itself, however, it is the employer who retains the bulk of the duty to ensure the safety of employees. As such, the employer's duties in this regard extend to include the provision of the necessary precautions and measures to protect against hazards and diseases that may originate during the line of work, and for the provision of workers with the necessary safety equipment and clothing, as well as assuring their proper method of use.

Other safety responsibilities include informing employees prior to employment of probable risks and occupational hazards, and the precautions that have been taken to ensure the employee's safety, as well as ensuring that medical emergency facilities and equipment are provided to the workers of the establishment.

Employment of foreign workers: The employment of foreign workers requires the approval of the minister of labour and the request must show that a Jordanian worker cannot perform the work with equal accuracy and efficiency. Work permits for foreign workers will be for a period of one year, and may be renewed annually upon the payment of a fee for the issuance or renewal of a work permit. If a foreigner works without a work permit, performs work for an employer other than the one specified under the work permit or carries out unauthorised work activities, such activities will

result in penalising the employee, and upon the minister's approval, the deportation of the worker at the employee's expense.

Working hours: By the Law, the maximum working hours are eight hours per day, with a maximum combined total of 48 hours per week.

An employer may require that the employee perform over-time work in return for paying the over-time rate in the following circumstances:

- To perform the annual inventory and prepare the year-end's accounts provided that this type of activity does not exceed 30 days per year and the daily working hours associated with this activity do not exceed 10 hours per day;
- To prevent potential damage to the goods, or to avoid risks associated with technical work; or
- To receive, deliver or transport goods.

Should an employee agree to work over and above eight hours per day, s/he is entitled to receive overtime payment not less than 125% of his/her usual wage, and should s/he work on his/her weekly holiday or on any official holiday, s/he should receive overtime payment not less than 150% of her usual daily wage.

According to the law, an employee who works in a managerial or supervisory capacity, however, is not entitled to any overtime compensation.

Leave and vacation: An employee is entitled to one day fully paid weekly holiday. Such weekly holiday shall be on Friday and the employee may, upon the approval of the employer, accumulate weekly holidays for a period of one month. Further, the employee is entitled to two weeks fully paid holiday every year as annual leave. If the same employer has employed the employee for a period exceeding five consecutive years, then the annual leave shall be 21 days fully paid holiday every year. Any official or religious holiday and any weekly holiday falling during the employee's annual leave shall form part of the annual leave and shall not constitute additional days off to the annual leave. Should the term of employment be less than a year then the employee is entitled to be paid annual leave in proportion to the period for which he has worked.

If, however, the contract of employment or the employer's internal regulations gives the employee a longer period as annual leave, then the employee shall be entitled to such longer period.

The Law allows the employer to specify, during the first month of the year, the date on which his employees may take their annual leave taking into consideration the employees' interests.

The employee's right to the annual leave is transferable to the immediately following year beyond which the annual leave, if untaken, shall lapse, and if an employee's employment is terminated before such employee has taken his/her annual leave, s/he shall be entitled to receive wages for the unused days of such leave.

The employee is entitled to two weeks paid sick leave per year, which can be extended for an additional 14 days with full pay, provided that the employee is in a hospital, or for the same period but with only half pay upon the recommendation of a medical committee if

According to the Labour Law every employer with 10 or more employees must draft internal regulations

the employee is not in the hospital. In addition, the Law grants the employee the right to a further leave with full pay in the following circumstances:

- Up to 14 days if s/he registers in a work-related course that is accredited by the Ministry of Labour, based upon the referral of his/her employer;
- Up to 14 days to perform the hajj pilgrimage, provided that the same employer has employed the employee for at least five consecutive years. This leave shall only be granted once during the period of employment.
- The employee shall be entitled to four months leave without pay for the purposes of attending an officially accredited university or college.

The Law grants female employees 10 weeks of maternity leave with full pay, and one year leave without pay for the purpose of raising children. By Law, the employee may return to her same position provided that she has not worked for any other establishment during the period. An employee may also obtain leave for a period not exceeding two years without pay to accompany a spouse who is transferred outside of the kingdom.

With regards to religious and official holidays there is nothing in the Law that prevents the employer from making the employee work on the official holidays and religious feasts if the employee agrees to do so. If the employee agrees then s/he is entitled to 150% of his/her daily wages.

Termination of employment: Generally, employment cannot terminate under the following circumstances:

- Due to a change in the ownership of the employing establishment, nor shall it terminate upon the death of the employer unless the contract was executed with the employer in his own capacity;
- In the case of a pregnant employee, once she has reached the sixth month of her pregnancy or during her maternity leave;
- An employee who is performing his national conscription service or army reserve service, during the period of such service; or

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A local onshore licence is required before a company can provide financial services

- An employee who is on his annual leave, sick leave or leave granted.

In the case of an employment contract, it shall terminate on its own accord if both the parties agree for the contract to terminate, if the contract of employment expires, the work in question expires, or if the employee passes away or is disabled by a disease that prevents him from working and such fact is evidenced by a medical report.

Other than that, the Law enumerates specific grounds on which an employer may terminate a contract of employment without the need to give prior notice to the employee, as follows:

- If the employee fraudulently assumes the identity of another person or submits forged documents or certificates;
- If the employee does not adhere to the obligations imposed on him pursuant to the contract of employment;
- If the employee commits a mistake that results in serious material loss to the employer, provided that the employer informs the concerned authorities within five days of his knowledge of such mistake;
- If the employee contravenes the establishment's internal regulations or safety instructions after having been given written notice of a similar contravention at least twice;
- If the employee is absent without a valid reason for a total of more than 20 days in any year or for more than 10 consecutive days, provided that the termination of his employment is preceded by written notice sent by post and published in a local newspaper;
- If the employee releases confidential or proprietary information pertaining to his/her employer;
- If the employee is convicted of an offence related to public morality;
- If the employee is under the influence of alcohol or drugs while at work, or if s/he behaves indecently at the workplace;
- If the employee physically or verbally attacks his employer or any other employee while at work.

Conversely, the employee is entitled to terminate his/her employment without the need to give prior notice to his/her employer, and receive all the rights and benefits to which s/he is entitled pursuant to the Law, under the following circumstances:

- If asked to do work that differs tangibly from the type of work for which s/he was employed, unless such different work is necessary for the prevention of damage or injury;
- If required to change his/her residence, unless such a move is provided for in the contract;
- Demotion of the employee to a level lower than the level initially held;
- Reduction of salary, unless the employee has suffered an injury resulting in its permanent partial disability that does not, however, prevent him/her from undertaking work different to his original employment. In such a case, his/her salary shall be calculated on the basis of the last salary received prior to his injury;
- If it is established, pursuant to a medical report, that continuation in the employment will adversely affect his/her health;
- If s/he is physically or verbally assaulted by his/her employer or any representative of his/her employer during his/her work;
- If the employer fails to implement or delays in implementing any of the provisions of the Law, or any regulations issued pursuant thereto.

A fixed-duration contract of employment expires upon the expiry of its period, and if terminated by the employer prior to its expiration, the employee shall be entitled to all the rights and benefits granted under the contract, as well as, wages due till the expiration date. Similarly, if the employee terminates the contract the employer may claim whatever losses or damages incurred as a result of termination.

SECURITIES: The financial services sector in Jordan is regulated by the Securities Law No. 76 (the Law), the Law Regulating Transactions in Foreign Exchanges (the FEX Law) No. 50, and the Banking Law No. 28. A local onshore licence from the relevant industry regulator (Central Bank of Jordan, Jordanian Securities Commission and/or FEX Board) is required before an entity may provide any financial services in Jordan. Jordan so far does not provide for any cross-border banking and/or financial services licences for offshore entities.

The establishment of a local presence in Jordan is a prerequisite for obtaining a banking and/or financial services licence and therefore also for doing banking and/or securities business in Jordan.

Shares may be issued by limited liability companies, private shareholding companies or public shareholding companies. Shares for publicly traded companies are registered with the Securities Depository Centre (the SDC), which is intended as a central repository of dematerialised publicly traded shares, whereas non-traded shares are registered with the Companies Registrar (the Registrar) at the Ministry of Industry and Trade,

and evidence of such ownership is provided via a certificate from the Registrar that will state the number of shares owned.

Effectively, therefore, the change of title of any security should culminate in the change of ownership either through the SDC, for publicly traded companies, or through the Registrar, for non-traded companies.

Jordanian law does not distinguish between legal and beneficial ownership and considers them to be one and the same.

The Stock Exchange: The Amman Stock Exchange (the ASE) is a private-sector-run independent organisation, regulated by the Jordanian Securities Commission (the JSC). It replaced the Amman Financial Market, which was originally established in 1978.

As such the ASE is currently the only forum for the public trading of securities in Jordan. Shares listed on the ASE can be on one of two markets, namely the First Market and the Second Market.

Capitalisation, profitability and the length of period since initial listing are among the factors that determine on which market the issuer's securities are listed. Trading activity is also a factor; securities traded on the First Market being the most active. The law mandates that the securities of all Jordanian public shareholding companies must be traded on the ASE, and with the JSC's approval a company listed on the ASE can apply for listing on a foreign exchange.

The SDC undertakes the settlement and clearing process for sale/purchase agreements to determine the broker's rights and obligations; transfer ownership of the securities traded; and conduct the settlement process for financial institutions involved in the transaction. The SDC undertakes the settlement process by delivering the securities in return for payment.

Settlement occurs two days after the securities were traded (T+2). Initially, the seller of the securities must transfer the securities from its personal account held with the Securities Depository Centre to another personal account held by its broker.

The broker should ensure that there are sufficient securities in its client's account, and that such securities are not subject to pledges, liens or any other encumbrance restricting the disposition thereof.

This process is done and verified by the electronic link existing between the ASE and the SDC, whereas the securities' title and availability, among other things, as entered by the broker is crosschecked by the information on the SDC database. If the information checks out then the settlement proceeds, otherwise the order is denied.

After approving the trade on date T, but before the securities are transferred to the broker, the broker must make two payments.

First, the SDC determines if the total purchases for the broker minus its total sales on T, exceeded the broker's settlement ceiling, which is the average of its bank bond and its cash contribution to the Settlement Assurance Fund (the SAF). If so, then the broker must cover the difference on T+1. This assures that the broker should never owe more than its settlement ceiling.

On T+2, and assuming the broker made the necessary payments on T+1, the broker pays for the securities bought on T from its bank account, not the SAF, and title is transferred. If the broker fails to make the payment by 9am on T+2, it is suspended and the SAF steps in to make the necessary compensation.

The Law provides for measures to protect the interests of investors and the market in general, such as through the creation of the Investor Protection Fund (the Fund), which aims to protect investors by compensating them for damages they may incur as a result of the bankruptcy or compulsory liquidation of the brokerage companies. The Fund, in the event a financial broker is declared bankrupt or placed under compulsory liquidation, shall guarantee the debt resulting from the broker having bought and sold traded securities for the accounts of its clients.

Furthermore, a broker must upon joining the ASE submit an unconditional bank bond of JD150,000 ($213,000), to the order of the Securities Commission. The Fund guarantees up to JD5000 ($7100) for each creditor, provided that such debt arose out of a securities buy or sale order. Furthermore, a cap of JD2m ($2.84m) is set for all the creditors of a single broker.

Furthermore, the Law, through the Settlement Assurance Fund, provides for protection to investors in the case of financial obligations arising out of daily purchase and sale of securities as opposed to obligations arising from the default or liquidation of the broker.

Under ASE regulations, if the price of a share fluctuates by 5% (upwards or downwards) from the previous day's closing price, the ASE will suspend trading in that share for the remainder of the trading session.

Suspension of listing: The listing of shares on the ASE can be suspended in certain circumstances. Specifically, the listing of company shares on the ASE shall be suspended in any of the following cases:

- Issuance of a decision by the General Assembly of a company approving a reduction in the company's capital, as of the date of notification of the ASE of the decision to reduce the capital, until the procedures of capital reduction are over and the letters of approval by the concerned official authorities are issued.
- All cases of merger, as of the date of notification of the ASE of the decision of the board of directors to merge, until the procedures of merger and registration of the merger or merged company are over.
- Any contingency that substantially affects the sound trading in securities or the financial position of the company, until the procedures of disclosure to the community of traders are completed. If suspension is for a period of no more than two days, this shall be by virtue of a request from the CEO, if it is for more than two days, this shall be by a resolution by the board of directors.
- Upon the request of the board of directors of the listed Company with a clarification of the reasons for said request. This shall be by a resolution by the board of directors of the ASE and for the period it deems appropriate.

- Interruption of normal business of the company for a period exceeding three months without clarification of the reasons for said interruption. This shall be by a resolution by the board of directors of the ASE and for the period it deems appropriate.
- Issuance of a General Assembly resolution to have a voluntary liquidation of the company.
- Submittal of a statement of action before a competent court for the compulsory liquidation of the company.
- Listing of company shares shall be suspended on the date of the General Assembly meeting of the company.

Additionally, the board of directors of the ASE may suspend the company shares in the event that the financial statements for two consecutive fiscal years are not provided to the ASE.

A listed company must file an application to have its shares re-listed on the ASE within one month of the completion of the procedures of merger or capital reduction and must provide the required statements and information to the ASE.

Any security on the ASE can be suspended if so required under the legislation in force, upon a justified cause by the issuer, or in any of the cases deemed necessary by the ASE to protect investor interests.

Licensing, registration and disclosure: Transactions conducted on the ASE are effected electronically through brokers, who are licensed by the JSC.

Pursuant to the ASE Law, a broker must meet several conditions before submitting a membership application to the ASE, including:

- The broker must have a valid licence issued by JSC to practice;
- The broker's management and staff must have the necessary academic qualifications, knowledge and expertise to act as a member of the ASE;
- The broker must be a Jordanian company;
- The majority of the shareholders in the company must be of Jordanian nationality;
- None of the company's shareholders or managers have been declared bankrupt or been convicted with a misdemeanour or a crime;
- The company's paid-up share capital must not be less than JD10,000 ($14,200); and
- The company must submit financial guarantees to the ASE Committee for an amount determined by the Committee, provided that such amount does not fall below JD10,000 ($14,200).

Additionally, the Securities Law authorises the JSC to be the licensing entity for persons or entities practicing any one of the following roles:

- Broker/brokerage;
- Investment trustee;
- Investment manager;
- Issuance manager (the legal person managing the issue and marketing of securities on behalf of the issuer);
- Financial advisor (any person providing advice with respect to securities investment to others for a fee, charge or commission); and
- Financial services companies (a company that engages in two or more of any of the previously listed activities).

To secure any of the above-mentioned licences an applicant must have a local presence or be collaborating with a locally licensed bank or financial services company that already has those licences.

Another important regulatory task vested in the JSC is the registration of securities offered in Jordan. When the offering is made to more than 30 people the JSC additionally requires a prospectus to be filed and approved prior to approving the registration and offering of the security.

In addition to the above-mentioned licensing requirements, the FEX Law provides for a separate requirement. The FEX Law applies to any person or entity undertaking on behalf of others any work or activity that is related directly or indirectly to dealings in any foreign exchange, or acting as an intermediary in such dealings. The FEX Law affects an entity that acts as an intermediary selling or marketing anything listed on a foreign exchange, at which point it should seek licensing from the FEX board, which is in the Ministry of Trade and Industry, in order for the firm to carry out such activity. The FEX Law provides exemptions if the firm is:

- A local bank;
- A licensed local financial services company; or
- A foreign bank or financial services company that seeks and obtains an exemption from the Council of Ministers.

To assure public transparency and disclosure the JSC mandates that ownership levels be disclosed once they reach a certain point.

Specifically, this is at the 5% ownership level and every 1% thereafter up to 10%, at which point the intent of any further purchases to be made by the investor should be declared.

Charges for security trading and taxes: Brokers charge clients between 0.004 and 0.006 of the total market value of the securities traded. The broker may charge less than the said fees in the event of a single trade in shares (buying or selling of one security in one day for a single client) for a transaction value exceeding JD100,000 ($142,000). However, this reduced fee shall not be less than 0.002 of the total value.

Furthermore, the broker charges 0.0015 of the value of the securities traded. Such charges are allocated as follows:

- 0.0005 to the Jordan Securities Commission;
- 0.0005 to the Amman Stock Exchange;
- 0.0004 to the Securities Depository Centre; and
- 0.0001 to the Investor Protection Fund.

Therefore, the total charges payable to the broker (for fees and brokerage services) are between 0.0055 and 0.0075.

Capital gains, income earned on the disposition of securities, and dividends are all not taxable in Jordan.

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Khaled Asfour

Lower taxes for higher revenues

Khaled Asfour, Partner, Ali Sharif Zu'bi Advocates & Legal Consultants, on a new tax regime

The task of setting up an efficient and fair tax regime is far from easy, particularly in a country like Jordan, where taxes are considered the backbone of the government budget. It is therefore not surprising that Jordan's income tax regime has been described as complex, uneven and flawed. As a result, tax reform was introduced toward the end of 2009. The recently appointed Jordanian government repealed the old income tax law of 1985 and issued a new temporary one in the absence of Parliament. The new law came into effect on January 1, 2010 with the objectives of curbing tax evasion, modernising the system, and unifying instructions and procedures, all goals which should lead to heightened transparency and clarity in the tax system. Many professionals consider the new law to be an important tool for stimulating local and foreign investments.

Under the new law, the highest tax rate applicable for personal income tax (PIT) has dropped from 25% to 14%, while the personal tax exemption has increased. In addition, complexities regarding the calculation of PIT have been removed. All natural persons residing in the kingdom, Jordanian or non-Jordanian, will receive a personal exemption of JD12,000 ($16,900), a significant increase over the JD1000 ($1400) they used to receive under the old law. Also, an additional JD12,000 will be added to the personal exemption should the person be the provider of income for other family members. These new personal allowances are a reflection of King Abdullah II's vision, which is to benefit the poor by making more spending money available to them in a country overburdened with debt and inflation.

However, critics note that one social class may have been overlooked in the process – the middle class. Comprising mainly professionals making between JD1000 and JD4000 ($5600) a month, this section of society has found itself in a rut. A vast majority of Jordanian citizens make less than JD1000 a month, thus falling within the exemption range where they do not have to pay taxes. The middle class is subjected to a 7% income tax rate that may even reach 14%. The new law should have tried to benefit this segment of society by decreasing both the personal exemption limit and tax rates. By changing the law as such, the taxpayer base would have been widened and more people would be paying taxes, though at lower rates. This begs the obvious question: why not have the upper class shoulder more of the tax burden? The rich in Jordan will not be significantly affected by the changes under the new law and may actually benefit from them, as the rate for the highest bracket was reduced from 25% to 14%.

Corporate tax rates have been cut significantly as well – from 25% to 14% for companies in most economic sectors and from 35% to 30% for those in the banking sector. Insurance and telecommunications companies are possibly the only ones not to have benefitted substantially from the rate cuts – their applicable tax rate only dropped by 1 percentage point, to 24%. Moreover, under the old income tax law, the withholding tax on income generated within the kingdom and transferred to non-residents was 10%. Any foreign non-resident earning income from Jordan is subject to the withholding tax. Under the new law, this tax has been reduced to 7%.

As the new tax law has only been active for a few months, its effects will not be apparent until the end of the fiscal year. It's possible that the new law could serve to reduce the amount of available government spending money at a time when the administration needs to increase buoyancy in tax revenue and reduce its dependence on inelastic and volatile revenue sources such as non-tax revenues and external grant assistance. However, the government is hopeful that the reduction of tax rates, in conjunction with the introduction of more severe penalties for tax evasion (which now include prison sentences), will incentivise taxpayers to declare their income in full, thus increasing tax revenues as a whole.