

The Concept, Types and Licensing Procedures of Activities that Must Be Licensed in International Investment Law

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ABSTRACT: Investment activity is a very important process for the economic development of any country. Investment will improve the performance of underdeveloped sectors, thereby increasing the economic potential of the state and is a necessary factor for increasing employment. Large-scale attraction of foreign investment will allow to carry out structural changes in the economy, strengthen the country's export potential, create high-tech competitive industries, apply advanced foreign technologies, know-how and management practices. Licensing of investment is one of the most important steps in this process

KEYWORDS: Investment activity, investor, foreign direct foreign investment, investment privilege, investment project, licensing.

INTRUCTION

Today, with the development of the economy, entrepreneurship, technology, people's opportunities for profit are increasing. Investment activities in this direction can be highlighted.

Investments are funds, property and intellectual property directed to the establishment of new enterprises, expansion, reconstruction and technical re-equipment of existing ones for the benefit of the state, legal entities and individuals, the purchase of real estate, shares, bonds and other securities and assets.

An investment activity is a set of practical actions to make an investment that brings a profit or other result that is important to the investor.

Many promising projects face financial challenges. If there are not enough funds within a country to solve a large-scale task, international investment will be necessary. In this case, both parties, the country in which the investment is made, and the foreign investor will take benefit. When foreign investment is made in any country, each country has its own rules on how to invest it. In particular, the licensing of foreign investment activities is an important process and has its own characteristics.

A license for investment activity is a permit issued by a specially authorized state body for the right to engage in certain financial activities. One of the types of licensed financial activities is investment activities.

Licensing of investment activities is necessary for the management of investment funds (including mutual funds) and non-state pension funds, as well as the management of specialized depositories of such funds. Licensing of international investment activities allows an investor to carry out his investment activities legally and freely in another country.[1]

Mandatory licenses play an important role both nationally and internationally. According to Professor Robert Baird, "A compulsory license refers to a situation in which the government interferes with the owner of an intellectual property right, usually a patent, to ensure that this right is exercised by the state or other third parties." [2]

The first rules for compulsory licensing internationally were set out in the 1883 Paris Convention.

Obtaining investment licenses is very problematic because it is a complex and lengthy procedure. The state often scrutinizes the applicant company, its activities, and the identities of its owners. Often the personal participation of the license applicant is required in the state licensing authorities. In most countries, there is

no fee to issue an investment license, but there may be an annual fee. The amount of this duty is constantly changing, but not in a small way. That is usually increasing.[3]

In international law, the types of licenses for investment activities are divided into 3 types:

1. Capital Markets Services (CMS) License.

This type of license entitles you to perform the following activities:

- Securities transactions;
- Trading in futures contracts;
- Consulting on corporate finance;
- Fund management;
- Real estate investment management;
- Securities financing;
- Custodial services for securities;
- Provision of credit rating services.

This type of license is only available to corporations. The applicant must have experience and reputation in this field.

2. License for Financial Advisors / Financial Advisor (FA) License.

The activities of financial advisors are regulated by the Financial Advisors Act. They can engage in a wide range of financial advisory services once they are licensed. Including:

- Advising others directly, electronically, in print or in other forms on any investment product;
- Advising other individuals on analytical research, reports, and reports on any investment product in electronic, print, or other form;
- Promotion of any scheme of collective investment in the market;
- Provision of life insurance contracts in addition to reinsurance contracts.

The applicant must have at least 3 years of work experience in the field of financial consulting. At the same time, it must employ at least two people in the service for which it is planned to obtain a license as representatives appointed to provide financial advisory services.

3. Fund Management (FM) License.

This license can be obtained by fund management companies. These companies must meet the following requirements:

- competence of key persons;
- compliance with the requirements for the amount of fixed capital;
- compliance of the amount of risk capital with the requirements;
- availability of an effective risk management system;
- conducting an internal audit;
- conducting an independent annual audit;
- professional liability insurance.

As a result of obtaining these licenses, the investor will have the following opportunities:

- asset management;

- Rendering consulting services to clients in the field of investment and corporate financing;
- fund management;
- securities transactions;

Trading in foreign currencies.

In this regard, we must focus on the procedure for licensing investment activities. The license for investment activity is issued in compliance with the established licensing requirements.

The stages of obtaining a license are:

The first step is to submit an application.

The second step is to verify compliance with the terms and conditions of the license. It comes in two forms:

1. Formal inspection - inspection of documents.
2. Actual inspection - direct inspection of the legal entity applying for a license. The licensing authority checks the actual availability of buildings and equipment.

The third step is to decide on a license. At this stage, the quality of filling out the documents and compliance with the requirements of current legislation is checked.

The fourth step is to apply for a license.[4]

If no irregularities or inconsistencies are identified in the documents submitted for obtaining a license, then the license for investment activities is issued within 45 days from the date of application with a complete set of documents[5-9]. The validity of the license may be extended at the request of the licensee. After extending the validity period, the license is considered indefinite, unless a specific validity period is specified.

Licensing for investment activities is denied in the following cases:

- if the documents submitted by the applicant contain inaccurate or unreliable information;
- failure of the applicant to comply with the terms of the license;
- the documents submitted to the licensing authority do not meet certain requirements.

Here we consider the peculiarities of licensing of investment activities on the example of different countries.

Obtaining an investment license in the UK can be done by citizens of any country in the world [10-15]. Permission to conduct financial activities in this state jurisdiction is exercised by the FCA (Financial Conduct Authority). In the UK, the Office of Capital Regulation and Supervision is a non-governmental body with a strong reputation for its citizens and non-residents.

An investment license in Australia covers many areas of financial activity. This is a must for microcredit organizations, brokers or insurance companies. Lending, brokerage services in the forex markets, and other operations related to the maintenance or management of client capital must be licensed. The certificate is issued by the state expert commission in accordance with the application submitted by local entrepreneurs or non-residents.

Czech legislation provides for mandatory licensing of each type of activity. The country's legislation provides for free, commercial and craft certificates for local entrepreneurs and foreign investors. Licenses for investment activities in the Czech Republic are issued to a number of organizations, including: commercial funds, foreign exchange markets, banks, pawnshops, insurance companies with extended financial instruments. Permission for investment activities is made only for legal entities. If individuals apply for this type of certificate, they must go through the procedure of registration of their company and bank account in the territory of the Czech Republic.

Recently, Asian countries are attracting the attention of foreign entrepreneurs. In particular, Singapore is ready to offer a favorable tax regime for investors, a reputation as a reliable financial center in the world, as well as many additional opportunities and benefits [16-21]. As a result, there is growing interest in Singapore's investment opportunities. There are separate laws in this country for each type of license. An applicant for a license to operate in the capital market must have at least 5 years of work experience in that activity. The applicant must establish an office in Singapore and support its activities. In addition, the applicant must reassure the Singapore Monetary Authority that it will perform its duties effectively, honestly and fairly. There are 2 types of financial licenses under Singapore jurisdiction:

1. Private Advisor (SFAL, Singapore Financial Advisers License)
2. Capital Market Services (SCMSL, Singapore Capital Markets Services License). Requirements for the authorized capital for a license to operate in the capital market depend on the type of activity of the applicant corporation:
 - Securities transactions: \$ 250,000 to \$ 5 million;
 - Futures trading: \$ 250,000 to \$ 5 million;
 - Commodity futures sales: \$ 250,000 to \$ 1 million.
 - The minimum amount of charter capital for a financial advisors license is \$ 150,000 for collective investment activities. In other cases, the amount is \$ 300,000.

The Republic of Uzbekistan also has its own peculiarities of licensing of investment activities. In particular, the following operations related to capital movements must be licensed by the Central Bank:

- Attracting loans in foreign currency from non-resident legal entities;
- Opening of deposits in foreign currency by foreign banks, financial institutions and non-bank organizations;
- Direct or portfolio investments in foreign currency in foreign enterprises, purchase of shares of foreign enterprises;
- Other long-term transactions in foreign currency.

In recent years, a number of measures have been taken to create a favorable environment for investment in the country, to attract more foreign investment. One of the most important of these was in the field of licensing.

According to No. UP-644 of August 24, 2020 "On measures for cardinal improvement of licensing and permitting procedures" from January 1, 2021, 37 licenses and 10 permits will be revoked. 17 licenses and 14 permits will be revoked through the introduction of the notification procedure. 16 licenses and 11 permits will be revoked by merger.

In particular, the licensing of investment fund activities in the licensing of professional activities in the securities market will be completely abolished.

Licensing will be revoked by introducing a procedure for notifying the activities of an investment adviser in the licensing of professional activities in the securities market related to investment activities.

Licensing for many similar investment activities is being abolished in our country. This is a very convenient option for both local and foreign investors, saving them the hassle of obtaining a long and complicated ongoing license. Such opportunities will increase the interest of foreign investors in our country, and they will make a lot of investments.

CONCLUSION

Licensing an investment activity is to allow the investor to engage in investment activities freely and legally. Licenses give the licensee the following rights:

- work as a financial consultant;
- to receive commissions on securities transactions;
- accumulation of profits from the management of other assets.

On the one hand, licensing of international investment activities is good for the country in which the investment is made. Because in order to obtain a license, the applicant is an individual or legal entity, their work capacity and financial situation are studied. But on the other hand, licensing for investment activities is a long and difficult procedure, which creates hesitation among investors. They spend a lot of time and money getting a license and face big problems if they don't get the intended benefit or result once they start their business. Today, the large inflow of international investment plays an important role in the development of national economies. It is possible to attract investors by creating a favorable environment and conditions, providing guarantees and benefits. In addition, the simplification of the licensing procedure for investment activities and the abolition of licenses in a number of areas will encourage many investors to invest in this country.

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