REAL ESTATE DEVELOPERS CONSIDERATIONS WHEN ENTERING SAUDI ARABIA

As the real estate market in Saudi Arabia continues to attract the attention of regional and global real estate developers, we set out a number of considerations developers should bear in mind when entering the market for the first time.

1. Entering the Market

- A foreign investment license, issued by the Ministry of Investment Saudi Arabia, will be required in most circumstances.
- The Ministry of Investment allows 100% foreign ownership of real estate companies, so long as the project they intend undertaking has a value in excess of SAR 30 million and is completed within a period of 5 years.
- Different, less restrictive, requirements apply to developers that are wholly owned by GCC nationals.
- Developers will need to register with WAFI if they intend to develop and sell real estate off plan. This also applies to developers who wish to pre-lease space under development. They will also need to obtain separate marketing licenses and sales licenses on a project-by-project basis where an off-plan sale or lease is intended.

2. Equity Structures

- Joint ventures, structured either as an LLC or JSC, are common place as the corporate vehicle through which developers partner with others in the development of a real estate project.
- The typical participants in a real estate joint venture include the landowner, equity provider, institutional investor and in some instances, the contractor or professional team who may contribute their services partly in kind in consideration for shares in the project company.
- Real Estate funds are a popular alternative to joint ventures, particularly where limited recourse financing is required. The fund is sponsored by the fund manager who has oversight of the project. The developer is appointed by the fund as development manager, and often acts in a dual capacity, as both a unit holder and service provider.

3. Land Registration

- Historically, the office of the notary public was responsible for the registration of title deeds and transfer of title, in each city in Saudi Arabia.
- Steps are well underway to move towards a centralized land registry, under the Real Estate General Authority, with implementation having already occurred in some areas of Riyadh, Jeddah and elsewhere.
- It is now possible to register the transfer of real estate at an office of the notary public outside the city in which the real estate is located.
- Registration and transfer of title to real estate can now also take place before a private notary, duly licensed by the Ministry of Justice. In some areas of Saudi Arabia, subject to certain limitations, registration and transfer of title can take place entirely online without the need to attend the office of the notary public.
- Online searches are also now available, although it remains important to conduct a final title check at the office of the notary public before transacting.

4. Financing

- Banks take a careful and measured approach to lending to the real estate sector in Saudi Arabia.
- Debt facilities are often over-collateralized and limited recourse financing is the exception rather than the norm.
- LTV ratios can be as low as 50% for development financing.
- Not all banks will consider land as equity, in the context of development financing. Land is instead treated as collateral and the banks will look to the borrower for cash equity that is to be utilized first before the debt is drawn down.

5. Tax

- Saudi Arabia is a taxed jurisdiction, implementing both a company tax and withholding tax on foreign investors.
- A system of Zakat, based on Islamic law, applies to Saudi Arabian shareholders.
- Tax advice is essential when structuring the corporate vehicle used to enter Saudi Arabia and the project vehicle deployed to develop a real estate asset.