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Regulations of New Private Investment Law (now in force)

The new Regulations on the Procedures to Make Private Investments ("the Regulations") came into force on 30 September 2015, as enacted by Presidential Decree no. 182/15, of 30 September 2015. The new statute fleshes out the provisions set out in the New Private Investment Law, in force since 11 August 2015. The following rules stand out:

- > The Regulations apply to private investment projects ("PiP") submitted after 30 September 2015; however, PiP pending applications may also be subject to the Regulations in certain circumstances;
- > The Regulations cover the full cycle of a PiP, from submitting the respective application, processing and negotiation thereof, its approval, and execution and termination of the private investment contract;
- > PiPs of a value in excess of USD 10 million are subject to approval of the Head of the Executive Branch (The Head of State). This authority may be delegated on to the subject matter Minister;
- > The Head of the Executive Branch is also responsible for approving PiPs in specific sectors, such as finance, mining and diamond;
- > PiPs up to USD 10 million are approved by the subject matter Minister(s);
- > So called "Technical Private Investment Support Units" are to be created to function under the authority of the subject matter Ministries and the Head of the Executive Branch;
- > PiPs exceeding USD 50 million are eligible for tax incentives to be negotiated by a "Facilities and Incentives Negotiating Commission";
- > Penalties are established in case of breach of the respective investment contract;
- > Investors are offered mechanisms to challenge unfavourable decisions (both within the Administration and to the courts).