The wave of liberal reforms that has swept over the Kingdom of Morocco in recent years has intensified over the past few months, under the impetus of His Majesty the King, Mohammed VI. Recent reforms across nearly all lines of business have created a favorable financial and regulatory environment for foreign investment and the success of the financial markets of Tangier (Tangier Free Trade Zone) and Casablanca (Casablanca Finance City) demonstrates the Kingdom’s commitment to becoming a regional hub opening into Africa.

This client briefing provides an overview of key reforms. A longer version is available at www.dlapiper.com

REFORMS FAVOURABLE TO FOREIGN INVESTMENT

The Kingdom of Morocco has liberalised its economy and offers better protection to private international investors

Reform pertaining to public-private partnerships and public markets

- Law No. 86-12 relating to public-private partnerships (PPP) has come into effect, which aims to increase the number of PPP agreements entered into by improving public market procurement procedures. The implementation decree has not yet been published.

- A reform of public markets intended to come into effect in January 2016 will reduce the maximum payment period of public entities from 60 to 45 days.

Liberalisation of private clinics to foreign capital

- Law No. 113-13, which came into effect on the 19th March 2015, enables natural or legal persons under private law who are not medical professionals (including foreign operators and/or investors) to invest in the share capital of private clinics.

Casablanca Finance City

- Law No. 44-10, which came into effect on the 30th December 2010, created the ‘Casablanca Finance City’ status in order to establish a financial market directed towards the African continent. This status offers a number of fiscal advantages as well as flexibility regarding exchange control.

- Following the reform which came into effect on the 19th June 2014, companies that act as service providers can acquire the ‘Casablanca Finance City’ status that was previously exclusively reserved for financial sector players.

Reform of the Investment Charter

- Companies that commit to make an investment for an amount equal to or greater than 100 million dirhams can now benefit – under the framework of agreements to be concluded with the government – of exemption from import duty on equipment, materials and tools needed for their project and imported directly by them or on their behalf. This exemption is also granted to spare parts and accessories imported at the same time as the aforementioned materials and tools.

Anti-corruption and anti-money laundering measures

- The National Authority for Probity and the Fight against Corruption (INPCLC) came into effect on the 9th June 2015. The organisation will advise on all issues pertaining to the prevention of and fight against corruption in Morocco.

- Under the new banking law published on 5th March 2015, the central bank (Bank Al-Maghrib or “BAM”) is in charge of ensuring compliance by the financial establishments placed under its control with laws pertaining to the fight against money laundering and the financing of terrorism. In this respect, credit institutions have an obligation to implement vigilance and internal monitoring measures.
REFORMS FOR PROTECTING INVESTMENTS AND IMPROVING THE COMPETITIVE ENVIRONMENT

Reform of industrial property

Law No. 23-13, which came into effect on the 18th December 2014, improves legal protection in many areas of intellectual property including; pharmaceutical products that have become patentable, employee inventions, trade marks for services, and collective marks. In addition, the reform has established a more flexible filing process and imposed sanctions and penalties against disloyal competition.

Improvement of the competitive environment

The Competition Council has undergone two major developments. Firstly, the constitutional reform of 2011, which granted it the status of “independent administrative authority responsible for ensuring transparency and equity in economic relations”. Secondly, Law No. 104-12, which came into effect on the 7th August 2014 that widens the scope under which a matter may be referred to the Council (possibility for competing companies to seize the Council, Council’s power of action proprio motu). This law grants the Competition Council new rights which include the power to conduct investigations, implement interim measures as well as impose financial penalties of up to 10% of the contravening company’s global turnover. The Competition Council requires notification from companies and associated parties regarding any merger prior to such a transaction taking place. This obligation applies when one of the three following conditions are fulfilled:

(i) the total global turnover, exclusive of taxes, of all the companies or groups of natural or legal persons that are party to the merger is in excess of 750 million Dirham;

(ii) the total global turnover, exclusive of taxes, generated in Morocco by at least 2 of the companies or groups of natural or legal persons concerned is in excess of 250 million Dirham;

(iii) the companies who are party to the merger, or are subjected thereto, or that have economic ties therewith, generated together more than 40% of the sales, purchases or other transactions during the previous calendar year on a national market of goods, products or services of a similar or substitutable nature, or a substantial part thereof.

REFORMS IN BANKING AND FINANCE

Participative banks

Law No. 103-12, which came into effect on the 22nd January 2015 created a legal framework for participative banks, which include such products as the mourabaha, the ijara, the moucharaka, the moudaraba, the salam and the istisnā.

Reform of the security law on movable assets

A major reform is expected in the area of security law pertaining to movable assets. The main objectives are to promote national companies’ access to funding and to modernise security-related laws in order to provide lenders with more legal security.

COMPANY AND STOCK MARKET LAW REFORM

The Kingdom of Morocco regularly updates its company law

Reform of the stock market

Bill No. 19-14, which is under consideration at the SGG, aims at repealing and replacing Dahir enacting Law No. 1-93-211 of 21st September 1993 relating to the stock exchange. The aims of this bill are twofold: to modernise the legal framework that regulates the stock exchange and to create new markets thereby favouring a larger number of companies’ access to the stock market on the other hand.

Reform of company law applicable to companies in financial distress

A reform is currently under consideration at the SGG. In essence, it shall focus on the prevention of companies’ difficulties, judicial recovery proceedings and seeking a balance between protecting debtors and safeguarding creditors’ interests.
Reform of special training contracts

- The reform of special training contracts aims at improving the productivity and competitiveness of small and medium-sized businesses (TPE/PME). The reform shall in particular aim for “the simplification and increased fluidity of procedures applicable to companies, in particular by reducing the number of documents making up requests for financing and the constraints regarding deadlines for submission and processing of financing files, reducing deadlines for reimbursement, implementing a third party payment system, and granting total financing of group training actions”.

MINING LAW REFORM

The Kingdom of Morocco has developed a high-performing industry in this field, whilst concurrently providing a secure legal and normative framework.

Reform of the Mining Code

- Mining Code reform, which came into effect on the 1st July 2015, includes several measures designed to reinvigorate the mining industry and foreign investment by providing the introduction of new types of authorisation for prospecting and a wider scope of application to include other mineral substances for industrial use (excluding construction materials and civil engineering materials, which are governed by other laws).

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1. General Confederation of Moroccan Companies (CGEM).
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