

## The Guide To Corporate Establishment In The Philippines

**By:** Dezan Shira & Associates

With annual growth projected to exceed 6 percent in 2016, the Philippines is among ASEAN's most attractive destinations for foreign capital. Business confidence has been riding high and, as of 2015, the nation has seen substantial improvements in its competitiveness – rising five places in the World Economic Forums *Global Competitiveness Index* to become 47<sup>th</sup> most attractive economy in the world for business.

For those wishing to tap into emerging opportunities within the archipelago, a number of options regarding market entry are available. Regardless of the manner in which investments are made, corporate establishment can readily be achieved through compliance with up to date regulations.

### Options for Corporate Establishment

The following article outlines two of the most common methods of entry to the Philippines – Branch and Representative Offices (ROs) – providing step by step guidance on the procedures required for successful establishment.

For those companies wishing to mitigate risk or gather further information on local market conditions, ROs offer a simple and relatively risk free point of entry. Under current regulations, ROs are limited to conducting fact finding, promotion, and quality control. Although explicitly restricted from engaging in profit generating activity – including receiving dividends from investments – RO's are exempt from paying or filing Corporate Income Tax (CIT).

Alternatively, companies seeking to conduct business within the Philippines will be required to choose other forms of investment. Permitted to conduct all manner of profit generating activities, Branch Offices are an easy way for foreign companies to establish market presence within the Philippines. As a result of the increased scope of their activities, income of Branch offices is subject to taxation and CIT filing is required.

**Note:** *branch offices are not considered district legal entities from their parent company. While this extends liability to the parent company in the case of litigation, a parent company will be allowed to transfer portions of its costs, expenses, or interest payments to the Branch Office.*

### Corporate Establishment Procedures

Within the Philippines, all corporate establishment options and procedures are set up in accordance with guidelines established in the Foreign Investments Act and its implementing rules and regulations. Registration, whether for a representative office or branch office, is administered by the Philippine Security and Exchange Commission (SEC) through its Company Registration and Monitoring Department (CRMD).

To successfully register with the CRMD, investors should be sure to prepare all necessary documentation outlined in the following steps:

### ***Step 1 – Name Verification***

All companies must ensure that the name that they will use to carry out operations is in compliance with up to date regulations and copyright within the Philippines. Currently, companies may reserve prospective names online via the SEC i-Register system.

### ***Step 2 – Application***

Depending on the structure of an investors business, in addition to the type of investment that is sought within the Philippines, one of the following application forms is to be completed as part of the registrations process:

- [Form F-103](#): Required for listed firms seeking to establish Branch Offices
- [Form F-104](#): Required for listed firms seeking to establish Representative Offices
- [Form F-108](#): Required for branch or Representative Offices of a Non-Stock Corporations

**Note:** Applications should clearly state any changes to the name of the entity being established in order to avoid undue complications in the latter stages of the application process. Additionally, the signatory of the application should, if possible, be the Resident Agent – outlined in step 3.

### ***Step 3 – Corporate Structuring Documentation***

A board resolution as well as articles of incorporation must be prepared in the following manner by all foreign corporations seeking to establish representative or branch offices:

#### **Board Resolution:**

The board resolution of a company must authorize the establishment of the Branch/Representative Office in the Philippines, designate a current resident of the Philippines to act as a Resident Agent, and stipulate that in the absence of the Resident Agent or upon cessation of Operations in the Philippines, all summons or legal processes may be served to SEC as if the same is made upon the corporation at its home office.

#### **Articles of Incorporation:**

Authenticated copies of a company's articles of incorporation should be provided. If the originating documents are not in English, a copy of the original articles along with a English translation must be provided.

### **Step 4 – Financial Statements**

All companies must produce financial statements to prove that they are solvent and able to conduct business within the Philippines. These statements are to be prepared in accordance with [Philippine Financial Reporting Standards \(PFRS\)](#).

As part of this process, a number of financial ratios must be achieved in order to successfully established within the Philippines. The nature of these requirements differ depending on the structure of a given company as well as the structure that is wishes to maintain within the Vietnamese market. Depending on the specifics of a company and its investment plan, one of more of the following ratios may be required:

- **Solvency (Total Assets/Total Liabilities):** Required of all firms seeking to establish themselves within the Philippines, the solvency ratio must be maintained at a minimum ratio of 1:1
- **Liquidity (Current Assets/Current Liabilities):** Required for branch offices whose parent companies are listed on a stock exchange, liquidity ratios should be maintained at a minimum ratio of 1:1
- **Debt to Equity (Total Liabilities/Equity):** Required of all branch offices whose parent companies are listed, the debt to equity ratio must be

**Notes:** *If Solvency Ratio is not met by prospective ROs or Branch Offices, the application in question is rejected outright. For listed companies, there may be opportunities for establishment under certain circumstances when liquidity and/or Debt to Equity Ratios do not meet requirements.*

### **Step 5 – Capital requirements**

Inward remittances must be completed for both Representative and Branch Offices as part of the registration process. These funds act as a means of verifying the ability of a company to cover its expenses within the country.

Depending on the nature of establishment, one of the following remittances should be completed and documented during registration:

**Foreign Branch Office:** US\$ 200,000.00\*

**Representative Office:** US\$ 30,000.00

\***Note:** companies with at least 50 employees within the Philippines or operating within high tech industries may be permitted to register with US\$ 100,000.00 in paid up capital

### **Step 6 – Government Agency Endorsements**

While the steps above are required for all companies seeking to establish themselves in the Philippines, the sector and location of a given investment will dictate additional requirements imposed by local governmental departments and or provincial authorities. The most common procedures required at the local level include obtaining clearance from barangay offices and necessary permits from regional licensing offices.



### **Further Support from Dezan Shira & Associates**

Corporate establishment in the Philippines can prove a complex and challenging procedure, especially at the local level. With decades of experience helping companies set up business operations in the region, the specialists at Dezan Shira & Associates are well placed to help companies overcome these challenges. For more information, please get in touch with our specialists at [asean@dezshira.com](mailto:asean@dezshira.com).

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*For inquiries, please email us at [info@dezshira.com](mailto:info@dezshira.com). Further information about our firm can be found at: [www.dezshira.com](http://www.dezshira.com)*