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Saudi Arabian Investor Class Visas: An Overview

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EXPLANATORY NOTE

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Saudi Arabian Investor Class Visas: An Overview

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Abstract: Currently, the Saudi Arabian government, through the Saudi Arabian General Investment Authority (SAGIA), offers an investor-class visa to facilitate and encourage foreign investment in the country. However, while many countries offer similar investment-based visas as a pathway to permanent residency and eventual citizenship as a selling point to foreign investors, the Saudi Arabian investment class visa offers only limited residency (through a residency permit known as an iqama). This note examines the unique aspects of this immigrant visa class.

Keywords: Saudi Arabia, High Skilled Labour, Employer, Nationals and Foreign Labour, Laws and Regulations.

Introduction to Investor Class Visas

Immigrant investor programs (IIPs) provide foreign citizens with the opportunity to immigrate to a country by financially investing in it first. Several countries currently offer IIPs, including Australia, Singapore, and the United Kingdom. The common concept behind most of these programs is that once a potential immigrant has demonstrated his ability and willingness to invest a specified financial amount (in the UK, for example, the Tier 1 investor category states a minimum of £1,000,000 financial investment¹ to be eligible), he may apply for an investor class visa, which allows the applicant to legally reside in the country and provides a pathway to eventual citizenship acquisition if the visa holder fulfills the necessary immigration requirements.

The Saudi Arabian General Investment Authority (SAGIA) administers a similar visa class, but with a crucial difference – while most IIPs offer permanent residency and an ultimate pathway to citizenship, the Saudi Arabian investment class visa stops short of citizenship and only offers a limited form of residency (“iqama”), which is subject to renewal every few years. While other Gulf Cooperation Council (GCC) countries also offer similar visa classes (including the ten-year multiple entry visa for US business persons to Kuwait² and a self-sponsored investment visa in Oman that requires a \$650,000 investment in exchange for two-year residency³), the Saudi Arabian investment class visa merits particular attention, given that the Saudi Arabian economy is the largest in the GCC area and is in the midst of an ongoing Ministry of Labor campaign aimed at reducing the majority presence of foreign workers in the private sector.

Saudi Arabian Investor Class Visa

All entry visas to Saudi Arabia are considered temporary, and immigrants are viewed as “expats” and temporary residents, whether they are foreign workers, visitors (who would still need to be sponsored by a company or organization to enter the country), students, or religious pilgrims. As there is no centralized governmental body overseeing immigration into the country, different branches of government work independently within their jurisdiction to manage immigrant type entry applications and visas. Haj and umrah visas, for example, are issued directly by Saudi Arabian embassies overseas, which are given annual quota limits for visas to be issued by the Ministry of Haj,⁴ whereas companies who wish to employ foreign workers need to apply to the Ministry of Labor first.

SAGIA was created in 2000 and tasked with overseeing all investment related activities in the country,⁵ including overseeing the foreign investor visa program. It was created alongside the enactment of the Foreign Capital Investment Law, which allows foreign investors up to 100 per cent control over industrial ventures, where under previous regulations they were entitled to a maximum of only 49 per cent ownership.⁶ Under SAGIA guidelines, there are two types of business structures that would allow for full ownership by a foreign investor: Limited Liability Companies (LLC) and Joint Stock Companies (JSC).⁷ Such foreign investor held companies can sponsor and apply for entry visas for their own investors and employees;⁸ for example, LLCs can apply for up to three investor visas, whereas branches of foreign companies operating in the country can only apply for an investor visa for their appointed general manager.⁹

Minimum investment requirements to establish each type of company differ; LLCs in the service sector have no minimum financial requirement, while LLCs in the industrial sector require a SR1,000,000 minimum investment. JSCs are required to have a minimum of three people on the company’s board of directors, including the chairman and managing director, each of whom must own at least SR10,000 worth of company stock.¹⁰ In addition to demonstrating financial capability, if the potential investor has resided in Saudi Arabia within three years prior to applying for an investor class visa, or is currently residing under a different visa class, a “Letter of No Objection” from the former or current sponsor must be submitted along with the investment license application.¹¹

The investor visa itself is valid for three months from the date of issuance.¹² Once the applicant is in the country on an investor visa, or is currently in the country on what SAGIA refers to as a “Visit Visa,” they will assist the applicant in converting his immigrant visa into a residency iqama,¹³ which is usually valid for 1-2 years and can be renewed. A foreign investor, once settled in the country, can also apply for a “Family Visit Visa” for immediate family members (spouses and children), through the Ministry of Foreign Affairs,¹⁴ to join the investor in Saudi Arabia.

Benefits of the Investor Class Visa

Among the benefits of investing in Saudi Arabia that SAGIA lists are the right to full repatriation of capital by foreign investors,¹⁵ the right to transfer profits, and the ability to purchase real estate for business purposes and for personal housing,¹⁶ though real estate purchases by non-citizens must remain “in line with the real estate regulations for non-Saudis,”¹⁷ which includes restrictions on foreign property ownership in Makkah and Medina.¹⁸ Other benefits to foreign investors in the country include no personal income tax levied by the government (although there is a 20 per cent corporate tax rate),¹⁹ tax concessions for investment in less-developed regions of the country, and government incentives to hire Saudi Arabian labour, including access to benefits provided by the Human Resources Development Fund,²⁰ such as a 50 per cent government funded deduction from annual salaries paid to citizens for up to two years.²¹

Another advantage to immigrants who obtain investor class visas is that, for the most part, most of their interactions with government bodies will be handled through SAGIA itself. SAGIA provides various government-related services through their Business Centres, including services related to the Directorate General of Passports, the Ministry of Labor, and the Ministry of Foreign Affairs.²² By providing all these services in one place, SAGIA can be viewed as a default centralized immigration authority for interaction between investor migrants and the government.

Perhaps the greatest benefit to foreign investors who enter the country on investor visas is the ability to self-sponsor themselves using their own companies, thus bypassing the need for a third-party or individual Saudi Arabian sponsor (kafeel). The kafala system, in effect in one form or another in most of the GCC countries (Bahrain being the exception with its Labor Market Regulation Authority²³), ties a foreign citizen to a local sponsor, who applies for residency on behalf of a foreigner, thereby allowing him or her to legally remain in the country. A main drawback of the kafala system is that it limits a foreign worker’s economic mobility within the country by tying his employment to the kafeel that is sponsoring him. By enabling foreign investors to sponsor themselves, and other foreign workers employed by the investment venture, the Saudi Arabian investor visa program grants foreign investors autonomy not usually granted to foreign workers in the country. However, self-sponsorship does not grant the potential migrant the right to seek employment with any entity in the country other than their own investment venture. Thus, autonomy does not equate mobility for investor class migrants.

Long Term Residency and Citizenship

Despite all the advantages presented to investor class visa immigrants, the nature of the iqama residency permit is decidedly temporary, and the lack of a direct pathway to citizenship acquisition is a major drawback. The iqama serves as a primary source of identification and allows the holder to remain in the country until its expiration, at which point an individual would have to leave the country on what is known as a “final exit visa,” assuming the iqama can no longer be renewed. So long as the investment venture continues to operate in the country, the migrant investor can conceivably continue to renew his iqama and reside in Saudi Arabia for an indefinite period of time. The investor class visa therefore can be viewed as one of the few options for long term settlement in the country, considering the long term nature of most investment projects.

Although permanent settlement is not officially encouraged, the Ministry of Interior does allow foreigners to petition for Saudi Arabian citizenship, provided that they meet certain eligibility requirements. A potential applicant must have entered the country legally, remained in it for ten years consecutively, and have reached a minimum number of “points” listed by the Ministry through a combination of work experience, educational attainment, and existing familial ties to Saudi Arabia.²⁴ However, meeting the minimum requirements is not a guarantee that an application will be successful, only that the applicant is eligible to apply. At the time of writing, no data is available on how many (if any) migrants who entered on investment visas applied for or successfully obtained Saudi Arabian citizenship.

Concluding Remarks

Nationalisation quotas in the private sectors of GCC countries have existed in one form or another for decades, dating to the contracts written between oil companies and the newly emerging governments during the early stages of the oil industry’s development in the region.²⁵ Despite such government encouragement, the private sector has largely considered it more economical to hire foreign labor, especially in non-skilled sectors, due to lax policies with regard to determining minimum wage levels, particularly for non-nationals. This has led to a massive reliance on employment in the public sector for citizens, reaching up to 90 per cent in the smaller GCC countries²⁶ and 65 per cent²⁷ or 1.26 million²⁸ employees in Saudi Arabia.

In Saudi Arabia, nationalisation quotas in the private sector are now receiving renewed attention and are being rigorously implemented through labor policy enactments, which include limiting the ability of a company to hire foreign nationals while providing incentives for hiring local citizens instead.²⁹ Concurrently, encouraging the development of an “entrepreneurship culture” has taken on greater importance, as a way of diversifying the economy³⁰ and increasing private sector employment opportunities for citizens. Within this context, the facilitation of foreign investment in the country, including facilitating long-term residency and settlement, can be understood as part of the long-term strategy aimed at reducing local unemployment, since the majority of companies and private sector employers, even those headed by foreign investors, are currently required to adhere to nationalization quotas and maintain a certain of percentage of Saudi Arabian employees in of their total workforce.

SAGIA has stated that foreign direct investment in the country has totaled \$199 billion,³¹ yet despite this volume and the attempts at facilitating foreign investment, such as suggestions that new temporary and permanent permit classes for construction and contracting companies will be created,³² there still remain limitations on foreign investors. The Supreme Economic Council maintains a “Negative List”³³, prohibiting foreign investment in certain industries, and companies have complained of difficulties in obtaining employment visas for staff.³⁴ Added to the lack of permanent residency and long term settlement options, and coupled with the fact that other IIPs do offer such options to potential applicants, the Saudi Arabian foreign investment visa, when compared to other IIPs, is at a competitive disadvantage in attracting long-term migrants. Despite this, the investment class visa offers certain advantages for entrepreneurially- inclined migrants, though long-term settlement is not one of them.

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