

## decrees and orders

### MINISTRY OF DEVELOPMENT, INVESTMENT, AND INTERNATIONAL COOPERATION

**Government Decree No. 2017-388 of March 9, 2017, establishing the composition and organizational structure of the Higher Investment Council, the administrative and financial organization of the Tunisian Investment Authority and the Tunisian Investment Fund, and the rules governing their operation.**

The Head of Government,

On the proposal of the Minister of Development, Investment, and International Cooperation,

Having regard to the Constitution,

Having regard to Law No. 85-78 of August 5, 1985, on the general status of employees of public industrial and commercial offices and establishments and companies whose capital is directly and entirely owned by the State or local public authorities, as amended and supplemented by Law No. 2007-69 of December 27, 2007,

Having regard to Law No. 90-17 of February 26, 1990, on the revision of legislation relating to real estate development, as amended and supplemented by subsequent texts, in particular Law No. 2013-54 of December 30, 2013, on the Finance Act for 2014,

Having regard to Law No. 94-117 of November 14, 1994, on the reorganization of the financial market, and in particular Article 35 thereof,

Having regard to Law No. 2001-94 of August 7, 2001, on healthcare institutions providing all of their services to non-residents, as amended and supplemented by subsequent texts, in particular Law No. 2016-71 of September 30, 2016, on investment,

Having regard to Law No. 2009-64 of August 12, 2009, promulgating the code for the provision of financial services to non-residents,

Having regard to Law No. 2016-71 of September 30, 2016, on investment, as amended by Law No. 2017-1 of January 3, 2017, on the supplementary finance law for 2016, and in particular Articles 11 to 18 and Articles 31 and 32 thereof,

Having regard to Decree No. 2000-2475 of October 31, 2000, on the single formality for the creation of individual projects, as amended and supplemented by Decree No. 2008-733 of March 24, 2008,

Having regard to Decree No. 2014-3629 of September 18, 2014, establishing the composition, powers, organization, and operating procedures of the Higher Investment Commission,

Having regard to Decree No. 2014-4516 of December 22, 2014, establishing investor support units,

Having regard to Decree No. 2014-4566 of December 31, 2014, ratifying a memorandum of understanding establishing a communication mechanism between the public administration and the private sector in the field of developing the administrative business climate "national business agenda,"

Having regard to Government Decree No. 2016-1164 of August 10, 2016, on the organization of the Ministry of Development, Investment, and International Cooperation,

Having regard to Presidential Decree No. 2016-107 of August 27, 2016, appointing the head of government and its members,

Having regard to the opinion of the Administrative Court,

After deliberation by the Council of Ministers.

Issues the following government decree:

Article 1 - This government decree establishes the composition and organizational structure of the Higher Investment Council, hereinafter referred to as "the Council."

It also establishes the administrative and financial organization of the Tunisian Investment Authority and the Tunisian Investment Fund, hereinafter referred to as respectively "the Authority" and the "fund."

## ***TITLE I***

### **The composition of the Higher Investment Council and the terms of its organization**

Art. 2 - The Council shall perform the duties assigned to it under Article 12 of the aforementioned Investment Law, as well as the duties of the Higher Investment Commission entrusted to it under the legislative texts in force.

Art. 3 - The council shall be chaired by the head of government. It shall be composed of the following members:

- the Minister of Finance,
- the Minister of Development and Investment,
- the Minister of Employment and Vocational Training,
- the Minister of Industry,
- the Minister of Agriculture,
- the Minister of Infrastructure,
- the Governor of the Central Bank of Tunisia.

The chair of the council must invite the minister responsible for any matter submitted for approval to attend council meetings.

The chair of the council may, if necessary, invite any person whose opinion is deemed useful to participate in the work of the council.

Art. 4 - The council shall meet at least once every three months in ordinary session and whenever necessary upon convocation by its chair.

Members shall be informed of the date of the meeting and the agenda at least seven days before the date of the council meeting.

Art. 5 - The body referred to in Article 7 of this government decree shall provide the permanent secretariat for the council and shall be responsible in particular for:

- drawing up the council's agenda and preparing the files submitted to it,
- drawing up the minutes of meetings,
- monitoring the implementation of the council's decisions and recommendations,
- keeping documents related to the files submitted to the board and its deliberations
- preparing an annual report on the council's activities.

Art. 6 - The board shall prepare an annual report evaluating government policies in the area of investment. This report shall be published on the board's website.

## ***TITLE II***

### **The administrative and financial organization of the Tunisian Investment Authority**

#### ***CHAPTER I***

#### **The powers of the Authority**

Art. 7 - The Authority shall be responsible in particular for the following tasks:

1. proposing policies and reforms related to investment to the council, in consultation with organizations representing the private sector, and monitoring their implementation, as well as collecting and publishing information related to investment and preparing investment policy evaluation reports.

2. Supervising investment operations by ensuring the following:

- welcoming investors, guiding and advising them in coordination with the various bodies concerned through the "single point of contact for investment" provided for in Article 15 of the aforementioned Investment Law,

- carry out administrative procedures on behalf of the investor relating to the legal establishment of the company or its expansion and to obtaining the necessary authorizations for the various stages of the investment,

- grant authorizations in accordance with the conditions set out in Article 4 of the aforementioned Investment Law,

- examine applications for bonuses and decide on their granting on the basis of a technical report prepared by the relevant body responsible for monitoring the implementation of the investment,

- receive requests from investors and work to resolve any problems encountered in coordination with the relevant bodies, as well as setting up a database to collect requests received for review and propose appropriate solutions, while publishing any failures recorded and corrective actions in its evaluation reports.

3. providing the permanent secretariat for the council,

4. examine and evaluate projects of national interest provided for in Article 20 of the aforementioned Investment Law and propose related incentives and submit them to the council.

## CHAPTER II

### Composition of the Authority

Art. 8 - The body is composed of a president, a board of directors, a strategic council, and an executive body. The body is placed under the supervision of the ministry responsible for investment.

#### Section 1 - The president of the body

Art. 9 - The body shall be headed by a president appointed and remunerated by government decree on the recommendation of the minister responsible for investment.

Art. 10 - The president is the legal representative of the body. He or she is the chair of its board and the authorizing officer for the execution of its budget and is responsible in particular for ensuring:

- administrative and financial management,
- the conclusion of contracts and agreements,
- the representation of the body before third parties in civil, administrative, and judicial proceedings,
- the exercise of any prerogative related to the body's activities entrusted to him by the body's board.

The president may delegate part of his powers to the executive director referred to in Article 17 of this government decree, as well as his signature to agents under his authority.

#### Section 2 - The council of the body

Art. 11 - The governing board is responsible for:

- defining the general policy of the body, the programs, and the mechanisms necessary for its execution,
- approving the body's provisional budget,
- finalizing the financial statements before submitting them to the auditor for approval,
- organizing the administrative services of the body,
- establishing the specific statutes of the body's staff and their remuneration system,
- draw up the body's internal rules of procedure,
- approve contracts and agreements entered into by the body,
- approve acquisition contracts, transactions, and any other real estate operations relating to the body's activities,
- approve the body's annual report,
- appoint the executive director of the body,
- appoint the auditors.

In general, the Authority's Board shall examine any other aspect related to its activities that is submitted to it by its Chair.

Art. 12 - The board of the body is composed of its chairperson and the following members:

- a representative of the Presidency of the Government with the rank of Director General,
- a representative of the Ministry of Finance with the rank of Director General,
- a representative of the Ministry of Investment with the rank of Director General,
- a representative of the Ministry of Employment and Vocational Training with the rank of Director General,
- a representative of the Ministry of Infrastructure with the rank of Director General,
- the Director General of the Agency for the Promotion of Industry and Innovation,
- the Director General of the Agency for the Promotion of Agricultural Investment,
- the Director General of the Tunisian National Tourist Office,
- the Director General of the Foreign Investment Promotion Agency,
- five representatives of organizations representing the private sector,
- two (2) experts in the field of investment.

The members of the council are appointed by order of the Minister responsible for investment, on the recommendation of the relevant structures for ministries and organizations representing the private sector and on the recommendation of the president of the body for the two experts in the field of investment.

The president of the body may invite any person recognized for their expertise in the field of investment or other fields to attend the council meeting and give their opinion on a specific item on the agenda.

The members of the board are appointed for a term of three years, renewable once, with the exception of members appointed on the basis of their status.

The members of the board of the body receive bonuses for their duties, which are set by government decree.

Art. 13 - The board of the authority shall meet, upon convocation by its chair, at least once every three months and whenever necessary to give its opinion on the items on the agenda set by the chair of the authority and communicated to all members of the board at least seven days in advance.

The council may only validly meet if at least half of its members are present. If the quorum is not reached, the council of the body shall meet a second time within fifteen days. In this case, its deliberations shall be considered valid regardless of the number of members present.

The council of the body shall issue its opinion by a majority vote of the members present. In the event of a tie, the chairperson of the council shall have the casting vote.

The internal rules of the body define in particular:

- the organization of meetings of the council of the body and the strategic council,
- the standing items on the agenda of the council meetings.

### Section 3 - The Strategic Council

Art. 14 - The Strategic Council is chaired by the president of the body. It is composed of representatives from the public and private sectors chosen on the basis of their experience and expertise in the field of investment.

The members of the Strategic Council are appointed by order of the Minister responsible for investment, on the recommendation of the President of the Authority, for a term of three years, renewable once.

The members of the Strategic Council shall receive bonuses for their duties, as determined by government decree.

Art. 15 - The strategic council is responsible in particular for:

- assessing the business and investment climate,
- proposing strategic choices in the field of the business and investment climate,
- proposing appropriate public policies and programs to improve the business and investment climate.

The strategic council shall prepare the annual report provided for in Article 6 of this government decree, to be submitted for approval by the council of the authority, together with the "national business agenda" report provided for in Decree No. 2014-4566 of December 31, 2014, referred to above.

Art. 16 - The strategic council shall meet, upon convocation by its chair, at least once every three months and whenever necessary to examine the items on the agenda set by the chair of the body.

The investment and reform policy unit provided for in Article 19 of this government decree shall act as the permanent secretariat of the strategic council.

### Section 4 - The executive body

#### Subsection 1 - The Executive Director

Art. 17 - The executive director of the body shall be appointed by the council of the body on the recommendation of the president of the body from among candidates whose applications meet the requirements of experience and competence in administrative, financial, and technical management.

Art. 18 - The executive director shall be responsible in particular for:

- establishing the body's provisional budgets,
- proposing the organization of the body's services, the specific statutes of its staff, and their remuneration system,
- executing expenditure and revenue,
- concluding acquisitions, transactions, and all real estate operations relating to the body's activities,
- to prepare periodic administrative reports on the activities of the body for submission to the body's board,
- prepare an annual report on the body's activities for submission to the body's board,
- to perform any other tasks assigned to it by the chair of the body and falling within the scope of its activities.

#### Subsection 2 - Technical divisions

Art. 19 - The executive body is composed in particular of the following technical divisions:

- **the investment policy and reform unit:** this unit is responsible for developing investment policies and proposing reforms in consultation with the private sector, as well as conducting prospective studies aimed at improving investment and compiling statistics and a database on investment. It also carries out monitoring and analysis tasks in the field of investment,

- **The bonuses and incentives unit:** this unit is responsible for reviewing applications for bonuses and incentives, preparing the relevant files, proposing the granting of bonuses, and monitoring them in coordination with the relevant structures.

- **the investor support unit:** this unit is responsible in particular for supporting and assisting investors in the context of the tasks entrusted to the "single point of contact for investors" provided for in Article 15 of the aforementioned Investment Law. It is also responsible for reviewing projects of national interest, evaluating them, and monitoring their implementation.

- **The bonus and incentive assessment and control unit:** this unit is responsible for assessing the performance of the bonus and incentive system and monitoring its implementation based on best practices in this area.

- **The support unit:** this unit is responsible for managing the authority's human resources and material resources, drawing up the provisional management and investment budget, preparing and executing contracts, and developing the authority's communication policy and international cooperation files.

The body's board of directors determines the organizational chart for the above-mentioned technical divisions.

### *CHAPTER III*

#### **Financial organization**

Art. 20 - The body's provisional budget shall include revenue and expenditure.

The executive director of the body shall adopt the provisional budget of the body by August 31 of each year at the latest.

Article 21 - Revenue shall comprise the following:

- subsidies and grants awarded to the body by the State,
- subsidies, donations, and bequests,
- proceeds from the sale of movable and immovable property,
- any other proceeds that may accrue to the body. Expenditures include the following:
  - operating expenses,
  - the costs of managing and maintaining real estate and other property belonging to it,
  - expenses related to the acquisition of real estate and development costs,

- investment expenses,
- other expenses.

Art. 22 - Contracts entered into by the Authority shall be subject to the principles of competition, transparency, and equal opportunity. The procedures and conditions for entering into and executing contracts shall be set out in a special procedures manual approved by the Authority's Board.

### *CHAPTER IV*

#### **State supervision and control mechanisms**

Art. 23 - The Authority shall submit the following to the Board for approval:

- the annual action plan during the first three months of each year,
- the report on the assessment of the business and investment climate,
- the annual activity report.

The annual activity report shall be published on the Authority's website after approval by the Board.

Art. 24 - The president of the body shall submit the following documents to the Ministry of Finance and the Ministry of Investment:

- the minutes of the meetings of the body's board,
- the provisional budgets of the body,
- financial statements approved by the auditor,
- liquidity statements,
- statements of donations and bequests,
- the annual action plan,
- the report on the assessment of the business climate,
- the annual activity report of the body.

### *TITLE III*

#### **The administrative and financial organization of the Tunisian Investment Fund and the rules governing its operation**

### *CHAPTER I*

#### **Administrative organization**

##### **Section 1 - The Chief Executive Officer**

Art. 25 - The fund shall be managed by a managing director who shall perform his duties under the authority of the supervisory committee provided for in Article 16 of the aforementioned investment law.

The appointment of the managing director and his remuneration shall be determined by a government decree on the proposal of the minister responsible for investment.

Art. 26 - The Chief Executive Officer shall perform the following duties:

- Administrative and financial management of the fund,
- Preparing the work of the supervisory committee and implementing its decisions and proposals,
- Representing the fund in dealings with third parties in all civil, administrative, and judicial matters in accordance with applicable law,
- Proposing the status and remuneration scheme for fund agents,
- Drafting the fund's internal regulations,
- Concluding agreements and arbitration terms and conditions and reconciliation agreements relating to the resolution of disputes.

The Director General shall ensure the implementation of the status and remuneration scheme and shall have full authority over the Fund's agents. He shall supervise recruitment, promotion, and dismissal.

The Director General may delegate some of his powers or the right to sign to agents under his authority within the limits of the tasks entrusted to them.

## **Section 2 - The Supervisory Committee**

Art. 27 - The Fund's Supervisory Committee is chaired by the Minister responsible for investment or his or her representative. It is composed of:

- a representative of the Ministry of Finance with the rank of Director General,
- a representative of the Ministry of Industry with the rank of Director General,
- a representative of the Ministry of Agriculture with the rank of Director General,
- a representative of the Central Bank of Tunisia with the rank of director general,
- the president of the Tunisian Investment Authority,
- the president of the Financial Market Council,
- the Director General of the Caisse des Dépôts et Consignations,
- the president of the Tunisian Professional Association of Banks and Financial Institutions,

- the president of the Tunisian Association of Capital Investors,

- three independent representatives with expertise in economic and financial matters.

The members of the Supervisory Committee are appointed for a three-year term, renewable once, by order of the Minister responsible for investment and on the recommendation of the ministers concerned and the Governor of the Central Bank of Tunisia, on the basis of their specialization, with the exception of members appointed on the basis of their status.

The chair of the supervisory committee may invite any person whose participation is deemed useful in light of the issues and items on the agenda, without voting rights.

The members of the supervisory committee shall receive bonuses set by government decree.

Art. 28 - The supervisory committee shall perform the duties provided for in Article 16 of the aforementioned Investment Law and may not, under any circumstances, delegate its powers.

A report on the fund's activities shall be sent to all members of the supervisory committee on a monthly basis.

Art. 29 - The supervisory committee shall meet, upon convocation by its chair, at least once every three months and whenever necessary to deliberate on related matters included in the agenda, which must be communicated to members at least seven days before the date of the meeting.

The supervisory committee may only validly meet if at least half of its members are present. If the quorum is not reached, the committee shall meet a second time within fifteen days. In this case, its deliberations shall be considered valid regardless of the number of members present.

The decisions of the supervisory committee are taken by a majority of the members present. In the event of a tie, the chair has the casting vote.

The fund's internal regulations adopted by the supervisory committee shall determine the structures responsible for the permanent secretariat, the organization of meetings, and the relationship between the supervisory committee and the committees emanating from it referred to in Article 30 of this government decree.

Art. 30 - The following three standing committees emanating from the supervisory committee are established within the fund:

- the investment committee,
- the audit committee,
- the risk committee.

Art. 31 - The investment committee shall be responsible in particular for:

- proposing the fund's general policy and areas of intervention,
- prior approval of all fund investments, with the exception of management operations,
- monitoring and evaluating the fund's operations to mobilize resources in the form of loans and grants from financial institutions,
- monitoring and evaluating framework agreements concluded with venture capital funds, private equity funds, and seed funds.

The investment committee is composed of the chief executive officer as chair and four members of the supervisory committee, one of whom must be an independent representative.

The chair of the committee may invite any person whose participation is deemed useful in relation to the items on the agenda.

The committee meets at least once every three months. It submits a report on its activities to the supervisory committee before each meeting and an annual report which is included in the fund's annual activity report.

Art. 32 - The audit committee is responsible in particular for:

- verifying the application of the internal control system approved by the supervisory committee,
- reviewing the fund's annual activity report and financial statements before submitting them to the supervisory committee,
- monitoring and coordinating the activities of the internal audit and control functions, where applicable,
- proposing the appointment of the fund's auditors.

The audit committee is composed of three members of the supervisory committee, including a representative of the Ministry of Finance, who chairs the committee.

The fund's chief executive officer may not participate in the committee's work. The committee may invite the auditors and any fund executives whose presence is deemed useful.

The committee meets at least once every three months before the meetings of the supervisory committee. The committee submits a report to the supervisory committee at each meeting and an annual report, which is included in the fund's annual activity report.

Art. 33 - The Risk Committee is responsible for assisting the Supervisory Committee in carrying out its risk management and monitoring tasks and for assessing compliance with prudential management rules in accordance with the legislation and regulations in force, as well as the policies followed for this purpose.

In particular, it is responsible for:

- proposing the financial and operational risk management strategy,
- evaluating the policy for hedging risks related to the fund's investments and placements,
- evaluating the results of investments made,
- assessing compliance with prudential management standards.

The Risk Committee is composed of three members of the Supervisory Board, including a representative of the Central Bank of Tunisia, who chairs the committee.

The chair of the committee may invite any person whose opinion is deemed useful in relation to the items on the agenda.

The committee meets at least once every three months. The committee submits an activity report to the supervisory committee at each meeting and an annual report, which is included in the fund's annual activity report.

Art. 34 - A member of the supervisory committee may only sit on one of the committees established by the supervisory committee.

## **CHAPTER II**

### **Financial organization**

Art. 35 - The fund's supervisory committee shall set the fund's provisional budgets before the end of August each year.

The fund's provisional budget shall be submitted to the board for approval.

Art. 36 - During the year, the supervisory committee shall, where necessary, reallocate the budget for the current financial year at the request of the chair of the supervisory committee or the managing director.

Art. 37 - Contracts entered into by the fund shall be subject to the principles of competition, transparency, and equal opportunity. The procedures and conditions for entering into and executing contracts shall be set out in a special procedures manual approved by the supervisory committee.

Art. 38 – The fund shall submit the following to the supervisory committee for approval:

- the fund's intervention strategy, during the first quarter of the year,

- the periodic evaluation of the fund's investments on a quarterly basis,

- the annual activity report.

#### *TITLE IV*

#### **Transitional and final provisions**

Art. 39 - The Directorate-General for Economic, Financial, and Social Affairs at the Office of the President of the Government is responsible provisionally for

Permanent Secretariat of the Council until the Authority exercises its functions.

Art. 40 - The Authority may delegate the supervision of investment operations costing fifteen million dinars or less to the bodies concerned by the investment, until the Authority is established and exercises all its functions.

Art. 41 - The remuneration and various bonuses granted to the body's agents shall be set in accordance with those applied in the public banking sector by virtue of a decree of the Minister responsible for investment and on the proposal of the President of the body, until the special status of its agents is published.

Art. 42 - The remuneration and various bonuses granted to the fund's agents shall be set in accordance with those applied in the public banking sector by virtue of a decree of the Minister responsible for investment and on the proposal of the fund's director general, until the special status of its agents is published.

Art. 43 - All previous provisions contrary to this government decree are repealed, in particular Decree No. 2014-3629 of September 18, 2014, establishing the composition, powers, organization, and operating procedures of the Higher Investment Commission, with the exception of the provisions of Article 7 thereof.

Art. 44 - This government decree shall enter into force on the date of entry into force of the Investment Law.

Art. 45 - The Minister of Development, Investment, and International Cooperation and the Minister of Finance shall be responsible, each in their respective areas of competence, for the implementation of this government decree, which shall be published in the Official Journal of the Republic of Tunisia.

Tunis, March 9, 2017.

*The Head of Government*

**Youssef Chahed**

*For Counter-signature*  
*Finance Minister* **Lamia**  
**Boujnah Zribi** *Minister*  
*of Development,*  
*Investment, and*  
*International*  
*Cooperation*  
*International Cooperation*  
**Mouhamed Fadhel Abdelkefi**

### **Government Decree No. 2017-389 of March 9, 2017, relating to financial incentives for investments made under the Investment Law.**

The Head of Government,

On the recommendation of the Minister of Development, Investment, and International Cooperation,

Having regard to the Constitution,

Having regard to Law No. 60-30 of December 14, 1960, on the organization of social security systems, as amended and supplemented by subsequent texts, in particular Law No. 2007-51 of July 23, 2007,

Having regard to Law No. 63-17 of May 27, 1963, on State encouragement of agricultural development, as amended and supplemented by subsequent texts,

Having regard to the Labor Code promulgated by Law No. 66-27 of April 30, 1966, as amended and supplemented by subsequent texts, in particular Decree-Law No. 2011-51 of June 6, 2011,