



The Possibility of foreign investment in MSMEs in Cuba

The regulations associated with the establishment of MSMEs in Cuba came into force on 20th September 2021. As of this date, the possibility was opened for Cubans to create their own companies and contribute to the economic development of the island. Such has been the interest of Cubans in this new form of private management that, during the first ten days, the first applications had already been submitted to the Ministry of Economy and Planning (MEP). But the big news is that 35 MSMEs have already been authorised, 32 private and 3 state-owned. The majority of the first authorised MSMEs are dedicated to food production, and to a lesser extent those that are dedicated to the manufacture of products, recycling, technology and local development projects.

Due to the many doubts the population has, the Cuban television programme Mesa Redonda organised a meeting with the participation of Alejandro Gil Fernández, Deputy Prime Minister and Minister of Economy and Planning, and representatives of other state administration bodies. The MEP is the body in charge of authorising the creation of MSMEs.

One of the first questions asked was related to the possibility that MSMEs could be the object of foreign investment. On this matter, in our article of 31 August on Cuba's new provisions on the exercise of private activity, we commented that the regulations did not recognise this, but neither did they prohibit it. Well, Minister Alejandro Gil Fernández reported that, although there is a requirement that to be a partner in a micro, small or medium-sized enterprise one must be a permanent resident in the country, "There is no prohibition in the design we have made so that a private or state MSME can associate with foreign investment and form a joint venture with Cuban and foreign capital". He also clarified that, as a prior step, the MSME would first have to be constituted, which shows that the foreign investor would join later, buying part of the shares of the limited company created. He also pointed out that foreign investment in MSMEs would be authorised in priority sectors for the country.

It is clear that foreign investment in Cuban MSMEs will imply the development of complementary regulations, given its atypical nature with respect to investment in the state sector, as defined by Law 118 on Foreign

Investment and complementary regulations, since in this case, for example, there will be no governing body that will present the project to the Ministry of Foreign Trade and Foreign Investment (MINCEX). There are many questions, including what will be the procedure between MINCEX and the MEP for authorisation, and what will be the applicable regimes for intangible asset valuations, labour or taxation?

Another of the questions clarified by Alejandro Gil Fernández during the meeting, ratifies what was commented in our note of 31st August 2021, regarding the fact that, although MSMEs have the power to import and export, this activity will be carried out through authorised exporting companies, since, "the aim is for non-state management forms to develop their activity on the basis of imports, but to be able to establish productive linkages internally". He commented that the creation of state MSMEs is even being envisaged to take charge of this foreign trade activity.

Similarly, several aspects were ratified at the meeting, such as: the non-authorisation of professional services MSMEs, the impossibility of being a partner in more than one MSME, or for one MSME to participate in another, as only natural persons can be partners. Likewise, it was commented that MSMEs will be able to access credits in Cuban Pesos (CUP) and, as for credits in freely convertible currency (FCM), they stated that this possibility is being analysed, since, to grant this type of financing, the MSME would have to have income in that currency and the capacity to repay such financing afterwards.

For further information please contact:

Cuban Desk of Andersen



Ignacio Aparicio

Partner Corporate / M&A

Director of the Cuban Desk

ignacio.aparicio@es.Andersen.com

The above comments are for information purposes only and do not constitute professional opinions or legal advice, nor do they necessarily include the opinions of the authors. If you are interested in obtaining additional information or clarification of the content, please contact us by telephone on +34 963 527 546/34 917 813 300 or by e-mail at communications@es.Andersen.com.