



How to register as a foreign investor in Tonga

Online registration

All “foreign enterprises” must obtain a Foreign Investor Certification in order to transact business in Tonga. All entities or persons that are required to obtain a foreign investor certification must file their application online. To learn more about the online registry please review the guide titled “Overview of the online business entities registry.” This guide explains how to establish a client account with the online system, how to obtain “authority” to submit filings for your entity, and how to make payments for filing fees.

Who must apply for a Foreign Investor Certification

The *Foreign Investment Act 2020* states that any “overseas person” must obtain a foreign investor certification before commencing business in Tonga. There are four types of business entities that require a foreign investor certification. First, any entity that is formed in another jurisdiction (like an overseas company) is by definition a foreign enterprise. Second, a local Tonga company can also be deemed a foreign enterprise if any non-citizen or overseas entity owns even 1 share in the company. Third, individual investors who are not Tongan citizens must also obtain a Foreign Investor Certification. This means that an individual business person that is not a Tonga citizen who plans to operate under a business name must have a foreign investment certificate. Fourth, there is a catch-all category for foreign entities that are not incorporated. This would be rarely used as most investors will fit within one of the first three categories.

How to apply

The application for a foreign investor certification is straightforward, but the details differ based on the nature of the applicant.

Overseas companies. These must first register as an overseas company in the company registry. After you complete the registration as an overseas company, proceed to the foreign certification application process. You will *not* be asked to enter information that you have already provided as part of the registration as an overseas company. For example, the overseas application requires you to name the directors and shareholders of the overseas company: you will not be required to provide this information again during the foreign investment certification application.

Local Tonga company with any ownership by non-Tongan citizens. These will first register as a local company. The application for incorporation will ask if there are any owners that are not Tongan citizens (or other overseas entities). If “Yes” is indicated, then the registry system will monitor the company to make certain it applies for a foreign investor certification.

Individual investor. An individual investor will start their application process in the foreign investment certification registry. They will first need to have a client account with the registry. To set up a new account, visit the online registry website and click on the “Create Account” link. Once you have created your account, you can complete your online application for an investment certificate. To get started, log into the registry, select Business Entities from the top navigation bar, and then select Foreign Investment Certification to the left of the dashboard. You must register as an individual foreign investor before you will be allowed to register a business name or obtain a business licence.

Information required on application. The information required varies somewhat depending upon the type of investor. For overseas and local companies, since they will already be registered in the Tonga companies registry, there is no need to repeat information already in that registry. For individuals, there will be no prior registration so they must provide full biographical details.

All foreign investors must provide the following information about the proposed investment:

- Proposed operating locations;
- Anticipated investment levels;
- Anticipated employment levels and
- Solvency status (is the investor in liquidation or similar status).

Additionally, numerous documents must also be provided via an upload into the registry. These include:

- For Overseas companies:
 - Nearly all information will already have been supplied to the company registry when the overseas company registered there first, so little additional information is required.
- For individuals:
 - Copy of passport page for each person named as an individual investor
- For an overseas unincorporated entity:
 - Copy of passport page for each person named/deemed an owner of the entity.

Ministry review of application

After your application has been submitted, it will be sent to the Registrar for review. Upon approval of your application, the Foreign Enterprise Certification will be emailed to you. If there are any questions about your application the Registrar will contact you via email.

Ongoing obligations for foreign certification holders

You must provide regular updates to the Registrar when details change about the certificate holder. How you make these updates depends upon the type of entity that holds the certificate.

- For overseas companies and local companies with overseas ownership, nearly all updates will be made in the company registry. For example, if there is a change in directors, that change will be made in the company registry and will then be reflected by the registry system in the foreign investor records.
- For individual persons, all changes will be made in the foreign investor registry.

Additionally, each foreign investor must file an “annual status report” in the foreign investor registry. This report will confirm that you are still conducting business in Tonga and also ask for certain statistical information about your operations and/or investment. The report is not a public document: it will not be visible to searchers. Failure to file the report will result in your certification being cancelled.