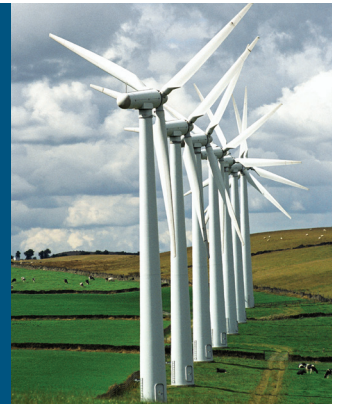


# Entering the US Market

Meeting the Needs of Foreign Renewable Energy Companies



Foreign renewable energy companies entering the US market must be prepared for a rapidly changing business and regulatory landscape. We help European and other clients create comprehensive strategies that meet specific business objectives, develop and document necessary project steps and key milestones, and respond effectively to emerging energy industry issues.

## COMPANY FORMATION

Many foreign renewable energy companies opt for incorporation in Delaware, which can offer a relatively simple and economical way to set up a US subsidiary. Our lawyers also help clients evaluate other options for choice of entity, with particular attention to US and foreign tax implications, structural flexibility, the ability to assimilate new investors and partners, and restructuring and exit strategies, including spin-offs, spin-downs, divestitures and other transactions.

## EMPLOYMENT

The employment environment in the United States, featuring at-will employment and less dependence on formal employment agreements, is somewhat more flexible than in Europe. We assist multinational companies in the engagement of specialised executive search companies; compliance with federal, state and local hiring laws and policies; collective bargaining agreements; executive compensation and benefits programs; reductions-in-force; and employment due diligence in mergers and acquisitions.

## IMMIGRATION

Businesses in the United States are required to verify the identity of all employees and their authorisation to work within the country. Additionally, foreign-based personnel who engage in business travel to the United States on a regular basis will need appropriate visas to do so. We assist with all aspects of the visa application process, represent individuals before immigration authorities, and develop compliance programmes to ensure the ongoing, appropriate authorisation of new hires and existing personnel.

## INTELLECTUAL PROPERTY PROTECTION

McDermott can help new entrants to the US market take immediate action to protect their valuable IP rights and to minimise the likelihood of future disputes involving proprietary inventions, technology and brand names. Our IP lawyers work with clients to conduct patent and trade mark searches, prepare and file patent and trade mark applications, and identify and protect other intellectual assets.

## LOCAL PARTNERS

Local partners can enable a foreign company to gain quick access to the US market. Although not a formal partnership broker, our extensive business and industry networks enable McDermott to identify potential synergies and to introduce clients to key partners across the United States. We also regularly advise clients on joint venture and joint development agreements.

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## **LAND RIGHTS**

Our real estate lawyers regularly advise energy companies on site selection, zoning, set backs and permitting matters. We also assist clients in negotiating and structuring land option, lease and other agreements.

## **GRID INTERCONNECTION**

Grid interconnection issues are a central concern for renewable energy companies. Our lawyers identify and establish reasonable cost estimates, help secure a client's place in the interconnectedness queue, and negotiate capacity, energy and ancillary services agreements.

## **POWER PURCHASING AGREEMENTS (PPA)**

McDermott's energy lawyers help clients document power purchasing agreements, including industry master agreements and customised PPAs. We advise clients on transmission system reliability issues, receipt and delivery of energy, and renewable energy trading credits and tax credits.

## **FINANCING**

McDermott advises clients on debt and equity project financing for international and US power production facilities, including wind, geothermal, hydro, wood-waste, agri-waste, landfill, and other alternate and renewable resource power plants. We also assist clients in all aspects of energy, commodities and derivatives trading and hedging.

## **TAX**

We help clients with federal production, state and international tax credits, and have advised clients regarding the various renewable energy product types, qualifications and ownership of renewable attributes on a state-by-state basis.

## **COMPLIANCE**

Our lawyers advise clients on compliance issues and regulations emanating from federal agencies, including the US Environmental Protection Agency, US Commodity Futures Trading Commission, Federal Energy Regulatory Commission, US Securities and Exchange Commission, and Federal Trade Commission, as well as those from state and local agencies.

## **GOVERNMENT STRATEGIES**

US federal and state regulators and legislators are paying increased attention to the renewable energy sector. We provide clients with informed advice and insights about the scope of agency jurisdiction, current regulatory focus and initiatives, compliance policies and procedures, and dealing with government investigations.

## **DUE DILIGENCE**

The first step toward entering a new market is to carry out appropriate due diligence. With experience in the many issues mentioned above, McDermott can assist clients with their due diligence of proposed projects and partners in the United States.

## **CONTACTS**

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