

MIDDLE EAST

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Developments in UAE Companies Law and regulations



By Simon Adams and Andrew Morris

The rapid growth of the United Arab Emirates (UAE) economy, coupled with the events of the last 12 months, has prompted some key reforms to the requirements for, and restrictions on, establishing a business presence in the UAE. In many cases it is necessary for UAE nationals to hold shares in, or act as agents for, companies doing business in the UAE, in order to comply with *Federal Law Number 8 of 1984 Concerning Commercial Companies* (the Companies Law).

The existence of economic “free zones”, which exempt companies registered in those free zones from some of the requirements of the Companies Law and which permits 100 percent foreign ownership, has provided an attractive method of establishing a business presence in the UAE. However, establishing a business in a free zone can restrict the activities of that business to that particular zone.

Sultan Bin Saeed Al Mansouri, the UAE Minister of Economy, has been quoted in local UAE newspapers as saying that a revised Companies Law could be issued by the end of 2009. This revised Companies Law is expected to permit a higher level of foreign ownership of limited liability companies incorporated onshore in the UAE (LLCs).

Under the Companies Law, LLCs are required to have a UAE national or a wholly-owned UAE National Company holding a minimum of 51 percent of the shares in the LLC. In practice, the UAE national or wholly-owned company is often a “silent partner”, with management and control arrangements put in place to ensure the foreign shareholder is able

to manage and control the LLC and receive the full economic benefit generated by the company.

It is possible that the revised Companies Law might permit 100 percent foreign ownership of LLCs for certain activities, or might permit a level of foreign ownership of LLCs higher than the 49 percent currently allowed. Recent comments from the Ministry of Economy have indicated, for instance, that industrial activities such as manufacturing may be one of the sectors to be opened up to 100 percent foreign ownership.

The revised Companies Law will follow on from decisions

passed earlier this year which have reduced the requirements on foreign companies regarding the establishment of branches in the UAE (Ministerial Decision 278 of 2009), and which have amended the Companies Law to enable foreign investors to determine the level of capital of LLCs (Federal Decree Number 1 of 2009).

If the revised Companies Law is passed into law and subsequently implemented, it is anticipated that it will have a beneficial effect on the flow of foreign investment into the UAE. Furthermore, it will no doubt prompt foreign investors who have already established LLCs to restructure those companies, where appropriate,

in order to take advantage of any higher level of foreign ownership which might be permitted.

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