

# UAE announces Overhaul of Companies Law to Permit 100% Foreign Ownership in Mainland Companies

Legal Briefing (23 November 2020)

*On 23 November 2020, through a Presidential Decree the United Arab Emirates (“UAE”) has introduced sweeping changes to Federal Law No. 2 of 2015 on Commercial Companies (“**Companies Law**”), whereby, among other things, it has been announced that 100% foreign ownership in mainland/onshore companies shall be allowed, thus effectively annulling the need for an Emirati shareholder. In this Legal Briefing, we provide our first assessment of the announced changes and their potential impact on the businesses in the UAE.*

## I. Background:

The so-called 49-51 rule, wherein foreign companies could only own up to 49% of the shares in onshore companies in the UAE and 51% were required to be held by Emirati nationals (or entities wholly held by Emiratis) has been at the centre of discussions in recent years. In this regard, the promulgation of Federal Law No.19 of 2018 on Foreign Direct Investment (“**FDI Law**”) in September 2018 and approval of the Positive List through Cabinet Resolution No. 16 of 2020, a year and half later, already enabled up to 100% foreign ownership in onshore companies, albeit subject to several conditions, including hefty “minimum capital requirements”.

The changes to the Companies Law as announced today seem to have a much wider effect; only strategically important sectors, including oil and gas exploration, utilities and

transport, as well as state-owned entities are to be excluded from the scope.

## II. Key Changes – what we know:

In an unprecedented move, the Presidential Decree will amend 51 Articles in the Companies law and introduce three new Articles. In addition to allowing the 100% foreign ownership in onshore companies, several other changes have been announced which will have a profound effect on how companies operate in the country. Herein below, we highlight the most notable changes:

- **The abolition of a requirement for onshore companies to have a majority Emirati shareholder;**

- **Annulment of the provision mandating for a UAE national or a UAE owned company as an agent;**
- **Removal of the stipulation requiring companies to be chaired by an Emirati;**
- **Removal of the provision requiring Emirati majority in the company's board;**
- **Chair or senior executives of a company can now be removed if found guilty of fraud or abuse of authority;**
- **Shareholders can now sue a company in civil court over any failure of duty that results in damages; and**
- **Electronic voting at annual general meetings is now permitted.**

### III. Potential Impact on Companies

As reported, most of the introduced changes are to take effect on 1 December 2020, however, the major changes related to foreign ownership, agency, and board of directors will take effect six months after the publication of the decree in the official gazette. The decree will also provide a grace period of one year for companies to comply with the changes.

Therefore, companies in line with the aforementioned deadlines will have to amend their charter documents and operations to comply with the changes. Furthermore, companies should also be aware that 100 % foreign ownership will be subject to certain controls by local authorities on the respective Emirate-level, which retain the power to determine the level of participation of the Emiratis in any foreign owned company. It is yet to be seen how this will be determined in detail, i.e. on a shareholder or a board level depending on the sector.

### IV. Conclusion

The above-mentioned changes offer benefits to both, existing and future investors in the country. Existing investors should consider restructuring their companies to reap the benefits of the newly enacted corporate updates, whereas new entrants to the UAE market should take advantage of the ease of doing business enabled by the recent changes. Subject to further details and requirements to be announced, companies should consider doing the following:

- **Revaluating existing contractual relationships with local Emirati partners / service agents;**
- **Revising the existing structure to comply with changes; and**

- **Amending the charter documents to reflect the changes.**

We will provide further updates on this development as they emerge. Should you have questions in this regard, please get in touch with your

usual contact person at SCHLÜTER GRAF or, alternatively, please contact us at [dubai@schlueter-graf.com](mailto:dubai@schlueter-graf.com). The team at SCHLÜTER GRAF will gladly advise you regarding your corporate set-up in this regard.

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