

ACCOUNTING & AUDITING Newsletter

THE LATEST NEWS, VIEWS, AND ANNOUNCEMENTS | Quarter 2, 2021



New Commercial Companies Law and 100% Ownership Rules

In November 2020, H.H. Sheikh Khalifa bin Zayed Al Nahyan, President of the UAE, issued a decree that significantly amended the UAE Federal Law No. 2 of 2015 on Commercial Companies by issuing Federal Decree Law No. 26 of 2020 (the "Decree Law").

From 1st June 2021, non-Emirati individuals of all nationalities can establish onshore companies in the country with 100% foreign ownership. This landmark amendment removes the requirement for onshore companies in the UAE to have an Emirati shareholder. This amendment will facilitate doing business in UAE.

Existing Companies can change their status according to the new amendments. Under the existing

UAE commercial companies Law No.2 of 2015, all onshore companies were required to have a UAE National or Emirati-owned company as a partner or sponsor. Therefore, the foreign shareholders were allowed to own up to 49% of a limited liability company (LLC) and the local sponsor held 51% shares.

Let us learn all about the changes to new amendments to the UAE commercial companies law:

The new decree amended article 10 of the commercial companies law no (2) of 2015 and introduced completely new articles. The new Article 10 introduces a committee which shall decide on activities with strategic importance for the UAE as well as the licensing requirements for companies engaging in such activities. ▶

NEWS

This is the second edition of 2021 in the world of Auditing and Accounting by Premier Brains Accounting & Auditing.

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One of the requirements for a company engaged in an activity with strategic importance is the determination of a specific percentage of Emirati participation in either the capital or management of that company. While the new laws have removed the need for an Emirati shareholder and agent, the local authorities have been granted the power to determine the percentage of Emiratis in capital allocation and boards of directors for companies. The capacity to decide on the activities with strategic importance as well as the respective licensing and corporate requirements for companies has been levied on the local licensing authorities – the Departments of Economic Development in each respective Emirate. The Department of Economic Development may decide on activities of strategic importance which would then again require a certain percentage of Emirati participation – either in the share capital or the management of the LLC.

To qualify for foreign ownership exemption, the applicant

needs to meet various requirements such as share capital contribution, use of technology and employment of UAE nationals. In event of a transfer of shares from the UAE national partner to the foreign shareholder, valuations of those businesses will play a key role.

Any partner holding at least 10% of the LLC's share capital can now request for the convenion of the general assembly, new Art. 92 (2) of the CCL. The previous threshold for such a minority right was set at 25%. The quorum for the general assembly has been reduced from previously 75% to 50% at the first meeting. The timeframe for an invitation to a general assembly meeting has been extended from at least 15 days to at least 21 days.

The requirement of having a local service agent for a branch of a foreign company has been repealed by Art. 6 of the Decree Law by abolishing Art. 329 of the CCL.

The new Art. 71 (2) of the CCL does not include the word "national" or "Emirati" (depending on the translation) for One-

Person LLC. Hence a One Person LLC can now also be established by a foreign investor – whether a natural or judicial person.

Also, as per the new laws, firms that receive approval to become joint-stock companies from the relevant authorities can sell up to 70% of the company through IPOs (initial public offering). This is an increase from the 30% that is currently allowed for joint-stock companies.

Implementation is dependent on a Committee under the UAE Cabinet resolution; the Committee will have representatives from the Economic Departments to decide on the level of foreign shareholding in a entity. In principle, the Economic Departments will determine the percentage of foreign shareholding based on its activity and merits.

Pursuant to Art. 4 of the Decree Law, companies will have a transition period of 1 year – starting from January 2, 2021 – to adjust their MoAs in accordance with the new provisions of the Decree Law.



Do you know what is turnover audit?

Its common to have lease contract with the mall management for renting outlets in a mall. Often, the rent is based on turnover achieved by the tenant. If the lease contract requires the tenant to seek a report from independent auditors to confirm the turnover of the store, then the store owner is required to appoint an external auditor for the same.

The independent auditor verifies the turnover of the tenant in accordance with the terms of lease contract and issues a report. Such a report is commonly referred to as Agreed Upon Procedures report.

Premier Brains is approved by most of the mall managements in UAE. We serve a lot of retailers in UAE.

Updates on AML in UAE



The following procedures are mandatory for DNFPB:

The following Client onboarding procedures are required:

- Know Your Customer
- Customer Risk Rating
- Customer Due Diligence

All DNFPB must register on GoAML and report any suspicious transactions

DNFPB must circulate a list of Red indicators among its employees and train them to be skeptical on identifying the Red Flags.

DNFPB must not deal with people on UAE Sanctions List

DNFPB Must train its employees

All records must be maintained for 5 years

AML is for a long time but IMF review report in 2008 stated in key findings "A basic legal framework for combating money laundering and terrorist financing is in place in the UAE, but that framework needs further strengthening in a number of areas. In 2018, the UAE, with the extensive participation of all concerned authorities, conducted its first national risk assessment on money laundering and terrorist financing. Article 9 of Federal Decree law no 20 of 2018, requires, CBUAE shall establish an independent "Financial Intelligence Unit" (FIU) to which suspicious transaction reports, information on all financial institutions and designated nonfinancial businesses and professions shall be sent. In December 2020, the UAE Cabinet adopted the formation of the Executive Office of the Anti-Money

Laundering and Countering the Financing of Terrorism with an aim to follow the international requirements in this sector. The Financial Intelligence Unit (FIU) of the Central Bank of the UAE launched the antimoney laundering platform 'goAML' goAML covers Designated Non Financial Businesses and Professions (DNFBPs).

The Ministry of Economy considers DNFBPs as partners in combatting: 1. Money Laundering; 2. Terrorist Financing; and 3. Proliferation of Weapons of Mass Destruction (WMD). • The products and services provided by DNFBPs have a high-risk of misuse by criminals intending to launder money, finance terrorists, or engage in WMD proliferation. • DNFBPs are gatekeepers alongside the Ministry of Economy.

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