

## UAE Foreign Direct Investment Law

November 8, 2018

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His Highness, Sheikh Khalifa bin Zayed Al Nahyan, the President of the UAE recently issued Federal Decree-Law No. 19 of 2018 on Foreign Direct Investment (“**FDI Law**”), giving life to one of the most recently anticipated legal developments in the UAE, and putting in place the next step towards enabling 100% foreign ownership of UAE limited liability companies (“**LLC**”) outside of the various UAE designated free zones. Until now all onshore LLCs in the UAE have had foreign ownership restrictions meaning that a foreign investor can only hold a 49% interest in such an entity with the remaining 51% held by a UAE national or company wholly owned by UAE nationals. The FDI Law plans to change this position in certain sectors as more particularly discussed below.

### **FDI Unit**

Pursuant to the FDI Law, the Foreign Direct Investment Unit (“**FDI Unit**”) will be established by the UAE Ministry of Economy. The FDI Unit, under the guidance of the UAE Cabinet, will be responsible for proposing Foreign Direct Investment (“**FDI**”) policies in the UAE. In particular, the FDI Unit will oversee the creation of an attractive environment for FDI by facilitating procedures for registering and licensing FDI activities, as well as monitoring and evaluating FDI performance in the UAE.

In addition, the FDI Unit will be responsible for establishing a comprehensive database of approved FDI economic activities which will be reviewed and updated on a periodic basis. When determining whether certain economic activities should be approved, the FDI Law provides that the FDI Unit must take into account the following criteria in respect of the proposed activity:

- integration with the strategic plans of the UAE;
- any added value to the UAE economy (e.g. achieving economic returns, innovation and technological enhancement and job opportunities for UAE nationals);
- competence, experience and reputation of the relevant foreign investor;
- impact on other national companies engaged in similar activity; and
- whether the activity achieves a positive impact on the environment in the UAE.

### **FDI Database and Restricted Activities**

Under the FDI Law, FDI activities may be permitted in certain industry sectors provided the same do not appear on the “Restricted List”, i.e. areas of economic activity that will not permit foreign ownership in whole or part- which simply reflects existing arrangements. At today’s date the following activities have been classified as restricted economic activities:

- Oil exploration and production;
- Investigation, security, military (including manufacturing of military weapons, explosives, dress, and equipment);
- Banking and financing activities;
- Insurance;
- Pilgrimage and umrah services;
- Certain recruitment activities;
- Water and electricity provision;
- Fishing and related services;
- Post, telecommunication and other audio visual services;
- Road and air transport;
- Printing and publishing;
- Commercial agency;
- Medical retail (including pharmacies); and
- Blood banks, quarantines and venom/poison banks.

### **Impact and Next Steps**

The FDI Law aims to increase the flow of FDI into the UAE in priority industry sectors to achieve balanced and sustainable development, job opportunities (particularly amongst UAE nationals) and the best returns.

Notwithstanding the Restricted List, it is notable that the FDI Law does not identify which industry sectors will automatically benefit from the relaxation of the current UAE foreign ownership restriction. Consequently, we await the UAE Cabinet and the FDI Unit to provide further guidance on which industry sectors will be on the FDI Law’s “Approved List”.

Connected to this, we also await information of how applications for an Approved List business might be made, what fees and timelines will be applicable and whether there might be (for example) any special share capital obligations or Emiratisation quotas for those businesses that successfully establish under the Approved List. Furthermore, could companies that currently

exist under the 51%/49% shareholder seek to reorganise under the Approved List or will the FDI Law simply be forward looking?

This is a significant and welcome development in encouraging further FDI into the UAE. That said, the “proof is in the pudding”.

Should you have any questions on the FDI Law or issues surrounding it, please do not hesitate to contact either [Chris Williams](#) (Managing Partner, Dubai) or [David Pang](#) (Senior Counsel, Dubai).