

INSIGHTS

New UAE Commercial Companies Law: Summary of Key Changes

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Background

Federal Law No. 32 of 2021 on Commercial Companies (the **New Companies Law**) has repealed and replaced Federal Law No. 2 of 2015 on Commercial Companies (the **Repealed Companies Law**).

The New Companies Law, which came into force on 2 January 2022, introduces key changes that contemplate two new corporate vehicles, a special purpose acquisition company (**SPAC**) and a special purpose vehicle (**SPV**). A number of other changes in the New Companies Law will provide greater flexibility in certain aspects, including corporate governance and corporate reorganisations relating to limited liability companies (**LLCs**) and public joint stock companies (**PJSCs**).

This publication focuses on the key changes introduced by the New Companies Law.

New corporate vehicles

- **SPAC:** The New Companies Law defines a SPAC as a PJSC designated as such by the UAE Securities and Commodities Authority (**SCA**). We anticipate that SPACs will increasingly be used as vehicles to acquire or merge with another company and this is consistent with the UAE's commitment to participate in the growing overseas trend of IPOs conducted by means of a SPAC. The SCA is expected to issue regulations providing clarity on the framework in which SPACs will operate.
- **SPV:** The New Companies Law also recognises the concept of an SPV, which is defined as a company established for the purpose of separating the obligations and assets associated with a specific financing operation from the obligations and assets of its parent entity. We anticipate this vehicle may feature in debt capital market transactions, borrowings and transfer of risks associated with insurance and reinsurance. We anticipate further guidance and detail issued by the local authorities around the specifics of this SPV and whether it can offer a strategic structuring proposition for our clients both on the receiving and issuing end of equity investments.

Key changes impacting LLCs

- **Reduction in LLC Statutory Reserves**

- The percentage of net profits, which must be allocated each year to the statutory reserves of an LLC, has been reduced from 10% to 5%. This allows LLCs to have more cash to invest in their businesses.
- **LLC Board Powers**
 - If the board of managers' term has expired and no replacement has been appointed by the general assembly of the Company, the board's term in office can be extended by a period not exceeding six months from the date of expiry of their initial term (pending the appointment of a new board of managers).
- **LLC General Assembly Meetings**
 - **Notice:** The notice period to convene a general assembly is now no less than 21 days, whereas previously it was 15 days. This provides shareholders with a longer notice period for general assembly meetings.
 - **Quorum:** A relaxation of quorum requirements has been introduced. In the event a first general assembly meeting is not quorate and a second meeting is held, there will be no quorum requirement and that second meeting shall be deemed validly constituted regardless of the number of attendees at such second meeting (and the provisions of the LLC's memorandum of association cannot disapply this new relaxation).

Key changes impacting PJSCs

- **Convening General Assembly Meetings for a PJSC**
 - The New Companies Law now expressly provides for SCA approval prior to convening a general assembly for a PJSC, a requirement which was provided for in SCA Decision No 3 of 2020 (as amended) but not the Repealed Companies Law.
- **Issuing PJSC Shares at a Discount**
 - Subject to the approval of the SCA and after adopting a special resolution, a PJSC is now permitted to issue shares at a discount insofar as the market price of its shares falls below the nominal value. In this scenario such company may create a negative reserve, equal to the discounted amount, which may be set-off against future profits.
- **Nominal Value of Shares**
 - The New Companies Law no longer provides any restrictions on the nominal value of shares in a PJSC. This means the nominal value of shares may now be lower than AED 1 and higher than AED 100, provided such nominal value of the shares is equal to the amount specified in its articles of association.
- **New PJSC Director Provisions**

- **Appointment:** New provisions relating to directors of PJSCs have been introduced, including that if a director leaves their position prior to the expiry of their term, a replacement must be found within thirty days and such new director shall be presented to the general assembly and must complete the departing director's remaining term. Insofar as no appointment is made within such thirty day period, then the agenda for any subsequent general assembly meeting must include the election of a board member to fill the vacancy.
- **Remuneration:** Where a PJSC fails to achieve profits in a financial year, it is possible for a member of the board of directors to be paid a lump sum fee not exceeding AED 200,000 as remuneration at the end of the relevant financial year, provided this is permitted under the articles of association of the PJSC and following the approval of the general assembly.

If you would like to discuss any of the changes highlighted in this publication, or any potential impact the New Companies Law may have on your business, then please do not hesitate to reach out to your usual Bracewell contacts or the authors of this publication.