

Amendments Announced for Existing Foreign Ownership Rules of UAE Onshore Commercial Companies

Update

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On 23 November 2020, the UAE government announced that His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the UAE had issued a decree (the “**Decree**”), amending existing foreign ownership rules for onshore UAE commercial companies. To date the same has been principally regulated by: (i) UAE Federal Law No. 2 of 2015 on Commercial Companies (the “**CCL**”); and (ii) Federal Legislative Decree No. 19 of 2018 (the “**FDI Law**”).

Federal Decree Law No. 26 of 2020 (the “**Amendment Decree**”) was issued last week (with a publication date of 27 September 2020), amending certain provisions of the CCL and repealing the FDI Law.

Some of the key highlights of the Amendment Decree are as follows:

The Amendment Decree comes into force on 2 January 2021, save for amendments to Articles (10), (151) and (329) of the CCL, which come into force six months following the date of publication.

As per the Amendment Decree, existing entities are required to adjust their positions by 2 January 2022 (one year after the Amendment Decree coming into force). This may require adjustments to constitutional documents.

Whilst further regulations and guidance are anticipated, the Amendment Decree is a positive development in line with other significant steps that the UAE is taking to attract foreign investment into its economy, providing greater flexibility in terms of the business environment – in March, the UAE Cabinet passed Cabinet Resolution No. 16 of 2020 which clarified three broad sectors (agriculture, manufacturing and services), which could be 100 percent foreign owned onshore.

That said, it remains to be seen:

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- what impact this has on free zones (where the same foreign ownership restrictions do not apply);
- the approach that each Emirate takes from an implementation perspective – and in particular what share capital and Emiratisation requirements might be applied in consideration of permitting 100 percent foreign ownership;
- the nature of the activities which will be considered to constitute a “strategic impact”; and
- how (in practice) the Amendment Decree will apply to already existing entities.

These are undoubtedly welcome changes to the regulatory landscape in the UAE that will provide foreign investors with further corporate structuring options to actively participate in the UAE economy.