

## Looking Back at 2020: Legal Developments in the United Arab Emirates

The year 2020 is coming to a close and we look back on turbulent months. Although measures to overcome the COVID-19 pandemic continue to influence our daily lives and remain the focus of governments and legislators worldwide, the United Arab Emirates ("UAE") has not missed out on implementing a variety of significant new laws which further strengthen the UAE as a global business hub. In below end-of-year review, we provide you with details on important developments in the areas of corporate law, commercial agency law, labour law as well as tenancy and real estate law:

### 1. Corporate

#### Foreign Shareholding in Mainland Companies

The UAE announced major amendments to the Commercial Companies Law at end of November 2020. The most significant changes concern foreign ownership rules. The new regulations allow for 100% foreign ownership in mainland companies, i.e. companies located outside of free zones. Hence, the previously mandatory majority shareholding of Emirati nationals or wholly Emirati-owned companies will be abolished. However, the changes will not be applicable to certain sectors, such as oil and gas.

#### Foreign Direct Investment

After the Foreign Direct Investment Law had come into force in 2018, the so-called positive list was adopted in March this year. The positive list defines 122 activities in the fields of industry, agriculture and services, for which up to 100% foreign ownership in mainland companies is possible for the first time, provided certain conditions are met. A corresponding foreign direct investment license can meanwhile be applied for in the Emirates of Dubai, Abu Dhabi and Ras Al Khaimah. Due to the recent changes to the Commercial Companies Law, it remains to be seen whether the Foreign Direct Investment Law will continue being effective.

#### Economic Substance Regulations

In August 2020, comprehensive amendments to the Economic Substance Regulations ("ESR") were issued (for more information, click [here](#)). The new regulations replace those that came into force in 2019 and include, among other things, a limitation of the scope of application, the revision of some relevant activities, the introduction of new exemptions and the appointment of the Federal Tax Authority as the National Assessing Authority. In addition, the new ESR require that notifications already provided must be resubmitted. The UAE Ministry of Finance specified that an online portal of the Ministry will most likely be available from the beginning of December 2020 through which notifications and reports in connection with the ESR will have to be submitted in the future.

#### Compliance

New regulations require the majority of UAE-based companies to maintain a Register of Ultimate Beneficial Owners and a

Register of Partners or Shareholders. The information recorded in these registers must be forwarded to the competent authority, the so-called registrar. The registrar must be notified within 15 days of any changes to the information in the registers. Furthermore, companies are obliged to appoint a designated contact person. Please find further details [here](#).

#### DMCC Company Regulations 2020

On 02.01.2020, new company regulations came into effect in the free zone Dubai Multi Commodities Centre ("DMCC"). The DMCC Company Regulations 2020 replace the former rules in their entirety and, thus, apply to all forms of entities licensed in DMCC, i.e. companies with limited liability as well dependent subsidiaries of companies. The new set of rules considers current developments in corporate law and eliminates previously existing shortcomings. Please find additional details [here](#).

### 2. Commercial Agency

#### Commercial Agency Law

An amendment to the Commercial Agency Law has significantly broadened its scope of application. Previously, the registration of a commercial agency in the Commercial Agency Register of the UAE Ministry of Economy was only possible for UAE nationals or companies wholly owned by UAE nationals. Now, a registration can also be made in favour of, among others, joint stock companies which are licensed in the UAE and whose majority of shares is held by Emirati nationals.

### 3. Employment

#### Virtual Working Programme

Dubai Tourism has launched a virtual working programme for overseas professionals. The new scheme allows employees working for companies outside the UAE to reside in the UAE for one year and continue rendering services to these companies, subject to certain conditions.

#### Retirement Visa

The retirement visa is a new type of permanent residence permit introduced in the UAE which is available to individuals who are at least 55 years old. In order to apply for a retirement visa, the applicant must demonstrate the existence of certain financial resources. In case the conditions are met, the competent



authorities deem the applicant able to fund a retirement in the UAE. Further information regarding the retirement visa is available [here](#).

#### Parental Leave

Following the introduction of parental leave in the UAE, fathers now enjoy a statutory leave entitlement after a child is born. Fathers are entitled to a five-day paid leave to take care of their newborn from birth until turning six months.

#### Equal Pay

The UAE has put equal pay for men and women in the private sector in focus. The new law further details the existing Article 32 UAE Labour Law by mandating the UAE Cabinet to release implementing regulations to promote equal wage of men and women.

#### Bank Guarantee

Where previously a bank guarantee had to be deposited by the employer for the employee with the competent authority at the beginning of an employment relationship, a corresponding insurance policy has replaced the necessity of such guarantee in mainland UAE and in the Jebel Ali Free Zone for some time now. This year, the Dubai Multi Commodities Centre and the Dubai Airport Freezone have followed suit and introduced a corresponding insurance scheme as well. Further details are available [here](#).

### 4. Tenancy

#### Tenancy Contract

Due to the effects of the COVID-19 pandemic, many landlords have shown their willingness to negotiate with tenants, oftentimes agreeing to more flexible rental conditions. Regarding the payment of rent, rental reductions or at least rent deferrals are frequently agreed upon. In many cases, the options to terminate tenancy contracts are simplified.

#### Force Majeure and Emergency Circumstances

Rulings of the Rental Disputes Center, the competent court hearing tenancy-related cases in the Emirate of Dubai, have

ensured in recent months that the parties involved in a tenancy are not disproportionately disadvantaged by the repercussions of the COVID-19 pandemic. In particular, the Rental Disputes Center clarified when the conditions of force majeure and emergency circumstances are met in an individual case and which legal consequences the parties face in such event.

### 5. Real Estate

#### Real Estate Investor Visa

Owners of real estate property in the Emirate of Dubai have had the option to apply for real estate investors visas based on their property ownership for themselves, their family members and domestic workers for quite some time now. The eligibility of an owner to apply for a real estate investor visa as well as the duration of the visa particularly depend on the value and further specific conditions of the property. Since the real estate prices are comparatively low at the moment, real estate investor visas have grown in popularity recently. For more information, click [here](#).

#### Jointly Owned Property

A new law specifies the rights and obligations of real estate owners as well as the management of the common areas of jointly owned properties in the Emirate of Dubai. So-called managing bodies have been introduced as the entity responsible for such management. Amongst others, managing bodies now have the ability to enforce claims against property owners for non-payment of services charges in front of the competent courts.

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#### Do you have questions? – We would be glad to answer them!

From our office located in the heart of Dubai, our team of German attorneys has been advising small and medium-sized companies, corporations and individuals on the laws of the United Arab Emirates for more than 15 years. Our areas of expertise include corporate law (in particular business set-up), commercial agency law, employment law as well as tenancy and real estate law. We would be happy to attend to your questions as well. Contact us!

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