

UAE: New Commercial Companies Law What you need to know

In brief

The UAE has introduced a number of new welcome legislative changes to mark the UAE's 50th anniversary, with the aim of solidifying the country's position as a global trade and commercial hub. Among these changes is the issuance of Federal Law by Decree No. 32 of 2021 on Commercial Companies ("**New Law**"), which has now come into force last 2 January 2022.

This alert serves as a reminder to all companies incorporated in the UAE to make the necessary adjustments in compliance with the key changes under the New Law, within one year (subject to any further extension) starting 2 January 2022. Non-compliant companies will then be considered dissolved.

The New Law repeals and replaces Federal Law No. 2 of 2015 ("**Old Law**"), which was amended in 2020 by virtue of Decree No. 26 of 2020 ("**2020 Amendment**"). The 2020 Amendment focused on facilitating foreign direct investment and enhancing the regulation of public joint stock companies ("**PJSCs**") (view our previous alert [here](#)).

The New Law has now consolidated the changes introduced in the 2020 Amendment and has also introduced certain key amendments including the introduction of:

1. two new company forms (the special purpose acquisition company or "**SPAC**" and the special purpose vehicle or "**SPV**");
2. minor amendments to the provisions related to Limited Liability Companies ("**LLCs**"); and
3. amendments to certain provisions related to PJSCs and the introduction of a regime to allow for the division of Joint Stock Companies ("**JSCs**").

Contact information

Omar Momany
Head of Corporate & Commercial
Dubai
Omar.Momany
@bakermckenzie.com

Abeer Jarrar
Partner
Dubai
Abeer.Jarrar
@bakermckenzie.com

Rony Eid
Counsel
Dubai
Rony.Eid
@bakermckenzie.com

Tala Shomar
Associate
Dubai
Tala.Shomar
@bakermckenzie.com

Key changes under the New Law: What you need to know

1. Introduction of the SPAC and the SPV

SPAC

The SPAC is defined as a PJSC designated as a special purpose acquisition company by the UAE Securities and Commodities Authority ("**SCA**") and established for the sole purpose of acquiring or merging with another company. SPACs are exempt from the New Law and will be subject to regulations to be issued by the SCA.

The introduction of the SPAC complements the introduction of the provisions related to the division of JSCs both aiming to offer greater flexibility to public offerings, spin-off, merger and demerger transactions.

SPV

The New Law also introduces the concept of a special purpose vehicle which is defined as a company established with the aim of separating the obligations and assets associated with a particular financing operation, from the obligations and assets of the person who incorporated and used it in credit operations, borrowing, securitization, issuance of bonds, transfer of risks associated with insurance, reinsurance, and derivatives operations, in accordance with the provisions of a decision to be issued by SCA.

The definition of the SPV is akin to the Prescribed Companies offered by the Dubai International Financial Centre ("DIFC") which may be used as investment holding companies in wider transactions, financing or asset holding structures.

The SPV is also exempt from the New Law and will be regulated by the SCA upon the issuance of the relevant regulations.

2. Minor amendments to the provisions related to LLCs

- The New Law provides that if the membership term of a company's board of managers expires, and the board of managers has not been reformed, the board of managers shall continue to run the company's business for a period not exceeding (6) six months, and the general assembly shall form a new board of managers immediately after the expiry of the six-month period.
- The New Law requires a supervisory board to be formed for LLCs if the number of the partners exceeds 15.
- The quorum in an adjourned meeting of the general assembly is valid regardless of the number of partners present in the meeting and regardless of whether the memorandum of association stipulates otherwise.
- The statutory reserve required for LLCs has now been reduced from 10% of net profits down to 5%, with such deduction to be discontinued if the reserve reaches half the capital and subject to the partners' discretion.

3. Amendments to certain provisions related to PJSCs and the introduction of a regime to allow for the division of JSCs

- **Amendments to the requirements for contribution by the founders:** The New Law has removed the minimum and maximum percentages of the capital to which the founders of a PJSC may subscribe to new shares upon public offering. The founders are no longer required to subscribe to a minimum of 30% and a maximum of 70% prior to the invitation to the public subscription and may now subscribe to new shares up to the percentage specified in the prospectus and subject to the requirements of the SCA.
- **Amendments to the subscription period:** The period for the public sector to subscribe for shares in a public offering can now be prescribed in the prospectus as long as such period does not exceed 30 days (the subscription period was 10 working days under the Old Law). The subscription period for the offering may be extended for an additional period upon application to the SCA, and should not exceed the date set out in the prospectus (the extension period was capped to an additional 10 working days under the Old Law). The founders of a PJSC may now also subscribe for any unsubscribed shares upon the expiry of the subscription period (the founders were only allowed to subscribe for up to 70% of the shares under the Old Law).

- **Amendments to the share issuance provisions:** The New Law now permits PJSCs to issue shares at a price below the nominal value of the share in the event that the market price of the company's shares falls below the nominal value, provided that such difference between the issuance price and the nominal value is retrieved by the company from future profits.
- **Amendments to the nominal value of shares:** The New Law has removed the minimum and maximum nominal value of shares (previously a minimum of AED 1 and maximum of AED 100).
- **Amendments to the requirements for conversion to a PJSC:** The New Law has removed one of the criteria for converting to a PJSC – it no longer requires a 10% net operational profit within the two financial years preceding the application for conversion.
- **Sale of part of the shares of the PJSC upon its conversion:** The New Law no longer sets a maximum limit on the percentage of shares that can be offered for sale upon conversion from a private joint stock company to a PJSC (the maximum limit on a sale of shares was set at 70% under the Old Law).
- **Founders' lock-up period in a PJSC:** The New Law has also removed the restrictions on founders of a PJSC from trading their shares once the converted company is listed.
- **Division of a PJSC:** Under the New Law, a PJSC can divide certain of its assets, liabilities, rights and obligations horizontally (in which the same shareholders own directly the shares of the resulting company pro rata to their shareholding in the parent company) or vertically (in which the shareholders of the parent company own the new shares through the new division subsidiary). These provisions intend to further facilitate spin-off and demerger transactions.

4. Amendments to other provisions related to PJSCs

The New Law has also amended certain corporate governance provisions related to PJSCs. For example, in the event of a vacancy in the board of directors of a PJSC, a replacement director must be appointed within 30 calendar days for the remaining period of the former director. In addition, a member of the board of directors may be paid a lump sum fee not exceeding AED 200,000 as remuneration at the end of a financial year in which the company fails to achieve profits, subject to general assembly approval and the inclusion of an express provision towards this in the company's Articles of Association.

To speak to us in relation to the new Commercial Companies Law and the implications of the changes for your business, or any corporate and commercial issues generally, please feel free to contact one of the lawyers above or your usual contact at Habib Al Mulla & Partners, a member firm of Baker & McKenzie International.

For future updates, you can visit and subscribe to our Middle East Insights blog: meinsights.bakermckenzie.com/

© 2022 Baker & McKenzie. **Ownership:** This site (Site) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms, including Baker & McKenzie LLP). Use of this site does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion:** All information on this Site is of general comment and for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulation and practice are subject to change. The information on this Site is not offered as legal or any other advice on any particular matter, whether it be legal, procedural or otherwise. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any information provided in this Site. Baker McKenzie, the editors and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this Site. **Attorney Advertising:** This Site may qualify as "Attorney Advertising" requiring notice in some jurisdictions. To the extent that this Site may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. All rights reserved. The content of this Site is protected under international copyright conventions. Reproduction of the content of this Site without express written authorization is strictly prohibited.

