



Client Alert

February 2020

New regulations to aid setting up and doing business in the DMCC

The Dubai Multi Commodities Centre (**DMCC**) Authority has recently issued new rules and regulations (the **New Regulations**) to aid the process of incorporation of companies and doing business in the DMCC more generally. The New Regulations have come to effect as of 2 January 2020.

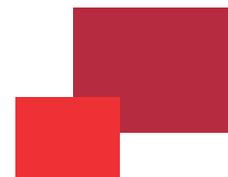
With the New Regulations, the provisions of the UAE Federal Commercial Companies Law No. 2 of 2015 no longer apply to DMCC Companies, indicating that the New Regulations are intended to be stand-alone regulations.

There have been a number of key changes to the previous regulations which adequately address the commercial needs of DMCC companies.

What has changed?

Standard or modified Articles of Association (AOA)

The New Regulations provide companies flexibility to adopt the DMCC's standard template AOA or opt for a modified AOA. This is a positive change from the previous regulations which restricted DMCC companies from deviating from the prescribed standard form AOA. It is worth noting, however, that adopting modified AOA requires the submission of a legal opinion to the DMCC Registrar confirming compliance with the New Regulations. The DMCC has yet to clarify the definition and scope of "legal opinion".



Share capital and share classes

Under the New Regulations, there is no statutory share capital requirement of AED 50,000, however, the DMCC Authority may impose a share capital for certain activities as required. Furthermore, a DMCC company may now issue different classes of shares, provided that the rights attached to each share class are set out in the AOA. A bonus issue of shares to the shareholder of a DMCC company is also permitted, provided that it is made out of the retained earnings of the company.

Corporate governance

One of the key changes is the introduction of the "Officer Rules", which is intended to set out and govern the roles, responsibilities, duties, procedures and arrangements related to officers (ie, managers, directors and secretaries) of a DMCC company. Also, a DMCC company may appoint a corporate services provider as company secretary.

More importantly, the New Regulations prohibit a DMCC company from providing any form of financial assistance to directors.

Insolvency

The New Regulations contain extensive provisions related to the insolvency procedures and winding up of a DMCC company (the **Winding Up Routes** including solvent winding up, summary winding up, insolvent winding up and involuntary winding up). The Winding Up Routes cover the winding up procedures, powers of directors and appointment of liquidators, among others. However, the New Regulations also maintain the applicability of the provisions of the UAE Federal Bankruptcy Law No. 9 of 2016 (and any amendments) and the interplay of both legislations is still unclear.

Voluntary suspension of company license

A DMCC company may now request the DMCC Registrar to suspend its license for a period of 12 months or more subject to the approval by the DMCC Registrar. This could be beneficial for companies that wish to temporarily suspend their operations in the DMCC, without the need to



formally initiate de-registration procedures or be at risk of receiving fines for non-compliance with the licensing procedures in the DMCC.

Auditing and reporting

There are broader provisions in relation to the auditing and reporting of financial accounts of a DMCC company. The financial accounts of a DMCC company should be prepared according to the International Financial Reporting Standards. The auditors and the DMCC company are obliged to disclose to the DMCC Registrar all breaches or non-compliance with the provisions of the New Regulations.

What's next

The New Regulations are certainly a welcome development for investors who are looking to set up in the DMCC as well as existing investors who can now benefit from a more robust commercial and regulatory framework governing company operations and management in the free zone. Nevertheless, there are still some areas of ambiguity that need to be clarified through the actual implementation of the New Regulations by the DMCC Authority.

For further information, please feel free to contact one of the lawyers below or your usual Baker McKenzie contact.

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