

UAE to Allow 100% Foreign Ownership of Businesses

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On 23 November 2020 the UAE government announced that Sheikh Khalifa bin Zayed Al Nahyan, President of the UAE, had issued a decree (the “**New Decree**”) amending Law No. 2 of 2015 on Commercial Companies (the “**2015 Law**”). The New Decree is yet to be published, but it will reportedly overhaul the foreign ownership rules in respect of commercial companies in the UAE. Under the 2015 Law (and its predecessors), foreign investors were permitted to hold up to a maximum of 49% of the shares of locally incorporated “onshore” companies, with the remaining 51% required to be held by UAE national(s).

In its latest bid to attract foreign investment and strengthen its position as an international hub, the UAE has overhauled the 2015 Law, removing the requirement for a UAE shareholder to hold at least 51% of the shares of onshore companies (other than in relation to certain strategically important sectors).

Some foreign investors and business owners have, in the past, hesitated to establish or invest in onshore companies because of such ownership restrictions. The new measures, which are expected to take effect from 1 December 2020, should facilitate making investments into and doing business in the UAE and provide flexibility for foreign business owners wishing to operate outside of free zones. In particular, the New Decree should open up UAE-based businesses to investment from international private equity houses and venture capital firms without the need to resort to complex structuring arrangements.

The New Decree builds on Federal Legislative Decree No. 19 of 2018 (the “**FDI Law**”) which signaled an initial shift away from the strict foreign ownership restrictions by opening up certain activities (a “positive list”) to 100% foreign ownership through an approval process. While the New Decree supersedes (and effectively cancels) the provisions of the FDI Law on foreign ownership requirements, the relaxation will not apply to ownership of state-owned entities and companies that are deemed to operate in strategically important sectors, such as, for example, oil and gas exploration, utilities and transport.

The New Decree represents a clear break from the past and we anticipate that it will strengthen the UAE’s position as a leading international financial center and lead to an increase in foreign direct investment. While the terms of the New Decree are yet to be made available, the announcement is positive and encouraging.

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For further information, please contact the Gibson Dunn lawyer with whom you usually work, or the following authors in the firm’s Dubai office, with any questions, thoughts or comments arising from this update.

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