



Recent Developments concerning the new UAE Commercial Companies Law: Ministerial Resolution No. 694 of 2016

Ministerial Resolution No. 694 of 2016 ("Resolution") aims at clarifying the position for existing companies which have not yet amended their Memoranda and Articles of Association ("MoA & AoA") to be compliant with the provisions of the new Commercial Companies Law of the United Arab Emirates (Federal Law No. 2 of 2015, "new CCL").

I. Legal Background

The new CCL came into force on 01.07.2015 and required existing companies to which the new CCL applies, i.e. in particular limited liability companies ("LLCs"), to adjust their position according to the provisions of the new law no later than one year from its effective date, thus by 30.06.2016 (Article 374 para. 1). In June 2016, such deadline was extended by one year to 30.06.2017.

According to the new CCL, failure to comply with its provisions may not only result in the deemed dissolution of the company (Article 374 para. 2) but may also trigger penalties such as payment of AED 2,000 per day of delay (Article 357). Hence, all companies which fail to make the requisite amendments to the MoA & AoA on time are at risk to face dissolution and fines.

II. Impact of the Resolution

The Resolution has now eased the legal consequences of non-compliance. It expressly states that the MoA & AoA of existing LLCs, joint liability companies and limited partnerships ("Concerned Companies") shall continue to be valid regardless of whether the MoA & AoA have been amended or not. It is worth noting that the Resolution does not apply to joint stock companies.

Pursuant to the Resolution, any provision of a Concerned Company's MoA & AoA which does not comply with the new CCL shall be deemed to have been amended and replaced with the relevant provisions of the new CCL as from the effective date of the Resolution, i.e. 01.03.2017.

Further, the Resolution sets out that Concerned Companies shall comply with such deemed amended provisions and that they shall be considered as having "adjusted their situation" in accordance with Article 374 of the new CCL.

The Resolution also provides guidance for newly established Concerned Companies by clearly stating that the MoA & AoA of such companies must be compliant with the provisions of the new CCL.

III. Conclusion

The Resolution has granted welcome relief for all existing Concerned Companies which have not yet made the mandatory amendments to their statutes as the threat of potential dissolution of the company no longer persists. Even though rather unlikely, it remains to be seen whether authorities are still empowered to impose fines for late amendment as the Resolution is silent on that question.

As best practice, we still recommend reviewing and adjusting any existing MoA & AoA as soon as possible to reflect all compulsory changes imposed by the new CCL. In the course of such amendments, companies may also be well advised to take advantage of opportunities offered by the new CCL, particularly with respect to general assembly meetings in terms of quorum, voting and notices, as the default provisions of the new CCL may not always be suitable.

Having an updated and tailor-made MoA & AoA in place ensures legal certainty for shareholders, managers and parties dealing with the company, like auditors and banks, and may also benefit the interests of a foreign minority shareholder.

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 a decade. Our areas of expertise include corporate and commercial law (in particular business set ups), 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!