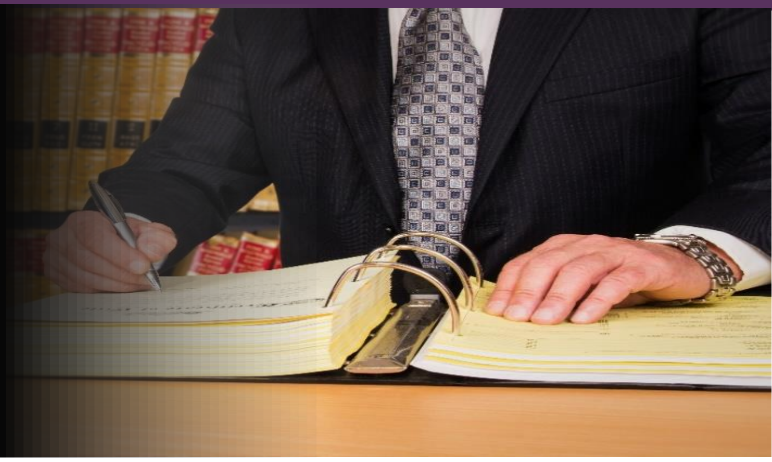
RIAA Barker Gillette

Insight

UAE's New Foreign Direct Investment Law



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INTRODUCTION

The UAE foreign investment law has recently been issued and published in the UAE's Official Gazette. Federal Law No. 19 of 2018 on Foreign Direct Investment (the "FDI Law") aims to promote foreign direct investment in the UAE and secure the country's position as a leading and growing international business hub.

The FDI Law will allow increased foreign ownership of companies incorporated in the UAE in specific sectors. Up until the enactment of the FDI Law, foreign ownership of companies established in the UAE was limited to 49% with the exception of companies incorporated in one of the free zones.

THE 'POSITIVE LIST'

In light of the FDI Law, the UAE Federal Cabinet will also be issuing a 'positive list' of sectors, in which increased levels of foreign investment will be allowed. It should be noted that the 'positive list' will not automatically imply 100% foreign ownership of businesses.

The FDI Law sets out the procedures that foreign investors will have to follow in order to take advantage of the increased levels of the foreign ownership permitted in the positive list. The Federal Cabinet may also stipulate certain pre-requisites that may need to be fulfilled for approval to be granted.

In cases where an application is rejected, the foreign investor can appeal the rejection by following the procedure provided under the FDI Law.

THE 'NEGATIVE LIST'

Conversely, the FDI Law sets out specific sectors where higher levels of foreign ownership of businesses will not be permitted; these sectors appear in the 'negative list'. The industries included in the 'negative list' are as follows:

1. Oil exploration and production;
2. Investigation, security, military (including manufacturing of military weapons, explosives, dress, and equipment);
3. Banking and financing activities;
4. Insurance;
5. Pilgrimage and umrah services;
6. Certain recruitment activities;

7. Water and electricity provision;
8. Fishing and related services;
9. Post, telecommunication and other audio visual services;
10. Road and air transport;
11. Printing and publishing;
12. Commercial agency;
13. Medical retail (including pharmacies); and
14. Blood banks, quarantines and venom/poison banks.

In respect of sectors which do not appear in either the 'negative list' or the 'positive list', the foreign investor can still seek approval by applying to the relevant authority and following the procedure set out under the FDI Law .

The FDI Law gives the Federal Cabinet the power to add and remove sectors from both the 'negative list' and the 'positive list'.

OTHER FEATURES OF THE FDI LAW

In addition, the FDI Law stipulates that a 'Foreign Direct Investment Unit' and a 'Foreign Direct Investment Committee' will be established in the Ministry of Economy. The specific roles of each of these bodies are detailed in the FDI Law.

Generally, these bodies will be tasked with formulating policies, and proposing and implementing FDI projects. The FDI Unit will maintain a database of the FDI projects, which it will regularly update and review.

The FDI Law also contains various other provisions concerning topics such as capital requirements, dispute resolution, and penalties.

CONCLUSION

The FDI Law is a positive step towards achieving balanced and sustainable development in the UAE. The FDI Law seeks to increase foreign direct investment in key sectors which will in turn diversify the economy, and attract advance technologies and knowledge. The FDI Law will also facilitate the creation of jobs in various fields.

With the UAE already accounting for 22% of total FDI inflows to the Middle East and North Africa region in 2017, the new FDI Law will fortify the UAE's efforts in becoming the foreign investment destination of choice.

The information mentioned in this article is current at the date of publication of this article and available from public sources. Nothing in this article constitutes legal advice and should not be construed as any form of advice.

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