

LEGAL STRUCTURES FOR BUSINESS IN THE UNITED ARAB EMIRATES



Historically, each Emirate has followed its own procedures governing the operations of foreign business interests. In practice, however, Dubai and the other emirates followed the same general system, whereby foreign companies operated in one of three ways: with a local sponsor, through a partnership with a UAE national or company, or through a private limited company or public shareholding company incorporated by Ruler's decree.

Since 1984, steps have been taken to introduce a codified companies law applicable throughout the UAE. Federal Law No. 8 of 1984, as amended by Federal Law No. 13. The Federal Law stipulates a total local equity of not less than 51% in any commercial company and defines seven categories of business organisation that can be established in the UAE. It sets out the requirements in terms of shareholders, directors, minimum capital levels and incorporation procedures. It further lays down provisions governing conversion, merger and dissolution of companies.

The seven categories of business organisation defined by the law are:

- General Partnership Company
- Partnership-en-commend am
- Joint Venture Company
- Public Shareholding Company
- Private Shareholding Company
- Limited Liability Company
- Share Partnership Company

Partnerships

Partnership companies are limited to UAE nationals only. The Dubai government does not presently encourage the establishment of partnership-en-commend am and share partnership companies.

Joint Venture Companies

A joint venture is a contractual agreement between a foreign party and a local party licensed to engage in the desired activity. The local equity participation in the joint venture must be at least 51%, but the profit and loss distribution can be prescribed. There is no need to license the joint venture or publish the agreement. The foreign partner deals with third parties under the name of the local partner who - unless the agreement is publicized - bears all liability.

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In practice, joint ventures are seen as offering a suitable structure for companies working together on specific projects.

Public and Private Shareholding Companies

The Law states that companies operating in banking, insurance, or financial activities should be run as public shareholding companies. Foreign banks, insurance and financial companies, however, can set up a presence in Dubai by opening a branch or representative office.

Shareholding companies are appropriate for the most part for large projects or operations, since the minimum capital required is Dh. 10 million (US\$ 2.725 million) for a public company, and Dh. 2 million (US\$ 0.545 million) for a private shareholding company. The chairman and a majority of directors must be UAE nationals and there is less flexibility of profit dispersal than is allowable in the case of limited liability companies.

Limited Liability Companies

A limited liability company can be formed by a minimum of two and a maximum of 50 persons whose liability is limited to their shares in the company's capital. Such companies are recognized as offering a suitable structure for organizations interested in developing a long-term association with the local market.

In Dubai, the minimum capital is currently Dh. 300,000 (US\$ 82,000), contributed in cash or in kind. While foreign equity in the company may not exceed 49%, profit and loss distribution can be agreed. Liability for the management of a limited liability company (LLC) can be vested in the foreign or national partners or a third party (manager).

The following steps are required in establishing a limited liability company in Dubai.

- Select a commercial (Trading) name for the company and have it approved by the Licensing Department of the Economic Department.
- Draw up the company's Memorandum of Association and have it notarized by a Notary Public in the Dubai Courts.
- Seek approval from the Economic Department and apply for entry in the Commercial Register. Once approval is granted, the company will be entered in the Commercial Register and have its Memorandum of Association published in the Ministry of Economy and Commerce's Bulletin. The license will then be issued by the Economic Department.

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- The company should then be registered with the Dubai Chamber of Commerce and Industry (As of 2007 a legal requirement) and The Branches and Representative Offices of Foreign Commercial Companies.

Branches & Representative Offices

The Commercial Companies Law also covers the formation and regulation of branches and representative offices of foreign companies in the UAE and stipulates that they may be 100% foreign owned, provided a local agent is appointed. Only UAE nationals or companies 100% owned by UAE nationals may be appointed as local agents (which should not be confused with the term "commercial agent").

Local agents -- also sometimes referred to as "sponsors" are not involved in the operations of the company but assist in obtaining visas, labour cards, etc and are paid a lump sum and/or a percentage of profits or turnover. In general, branches and offices of foreign commercial companies are not licensed to operate in importing activity except for re-export or in the case of products of a highly technical nature.

To establish a branch or representative office in Dubai, a foreign commercial company should proceed as follows:

- Apply for a license from the Ministry of Economy and Commerce, submitting an agency agreement with a UAE national or 100% UAE owned company. Before issuing the license, the Ministry will:
- Forward the application to the Economic Department to obtain the approval of the Dubai government; forward the application specifying the activity that the office or branch will be authorized to undertake in the UAE, to the Federal Foreign Companies Committee for approval; Once this has been done, the Ministry of Economy and Commerce will issue the required Ministerial license specifying the activity to be practiced by the foreign company; The branch or office should be entered in the Economic Department's Commercial Register, and the required license will be issued; The branch or office should also be entered in the Foreign Companies Register of the Ministry of Economy and Commerce; Finally the branch or office should be registered with the Dubai Chamber of Commerce and Industry (As of 2007 a legal requirement).

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Branches and Representative Offices of Foreign Professional Companies

Branches and representative offices of foreign professional firms may be 100% foreign owned provided UAE nationals or 100% UAE owned companies are appointed as local agents. Such agents are not implicated in the operations of the firm but assist in obtaining visas, labour cards etc and are paid a fixed fee as remuneration. The Economic Department is the authority responsible for licensing such branches or representational offices.

Professional Firms

In setting up a professional firm, 100% foreign ownership, sole proprietorships or civil companies are permitted. Such firms may engage in professional or artisan activities but the number of staff members that may be employed is limited. A UAE national must be appointed as local service agent, but he has no direct involvement in the business and is paid a lump sum and/or percentage of profits or turnover. The role of the sponsor is to assist in obtaining licenses, visas, labour cards, etc



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