



## Conducting business in the United Arab Emirates

The United Arab Emirates (UAE) offers major business opportunities in the Middle East. Since its formation in 1971, the country has undergone a period of rapid and wide-ranging economic and social development. This has been reflected in the enactment of an ever increasing body of commercial legislation at both federal and local levels.

The UAE is a federation of seven Emirates, each with its own Ruler. These are Abu Dhabi, Dubai, Sharjah, Fujairah, Ajman, Ras Al Khaimah and Umm Al Quwain. The city of Abu Dhabi is the federal capital and the city of Dubai is the main business centre.

To do business in the UAE, it is necessary to comply with the federal laws governing business activity, including the Commercial Companies Law (CCL), the Commercial Register Law, the Commercial Agencies Law and the wide-ranging Civil and Commercial Codes. If a company intends to trade or invest in the UAE, it is essential to obtain the correct authorisations and licences.

In addition it is important to be properly advised as to the requirements which apply in each particular Emirate. Federal legislation applies throughout the UAE but many areas of commercial activity must also take account of legislation promulgated by the governments of the individual Emirates.

Under federal legislation, the principal relevant options available for conducting business in the UAE are:

- participation in a local company or other commercial entity
- establishment of a branch office
- establishment of a branch or subsidiary in one of the Free Zones of the UAE
- appointment of a commercial agent or distributor.

Which of the above options is the most appropriate will usually depend upon the nature of the activities proposed to be undertaken and it may be that a combination of the options outlined is appropriate for your particular business.

### Establishment of a local company or other commercial entity

Under the CCL, there are seven forms of recognised commercial entity:

- general partnership
- simple limited partnership
- partnership limited by shares
- joint participation (contractual joint venture)
- limited liability company (LLC)
- private joint stock company
- public joint stock company.

There is no such thing as an "off the shelf" company in the UAE. Every commercial entity must be specifically established. This is neither a simple nor a speedy process. The most common commercial entity used by foreign companies is the LLC. Legal support is advisable as to all aspects of establishing a UAE company or other commercial entity including, for example, its capitalisation and level of foreign participation. Foreign participation is generally limited to no more than 49% (although there are contractual ways in which to mitigate the effects of a minority ownership of shares) and general partners in any of the partnerships listed above must be UAE nationals.

### Establishment of a branch office

The CCL allows foreign companies to establish a branch office in the UAE. The scope of activities permitted to be undertaken by branch offices varies from Emirate to Emirate, although generally a broad range of commercial trading activities can be undertaken. A foreign company establishing a branch office in one of the Emirates must obtain consent from the Ministry of Economy before a local business licence from the government of the relevant Emirate is issued. Furthermore, the applicant company is now required to deposit a bank guarantee in the sum of AED 50,000 to the Ministry of Economy. The branch office must also be sponsored by a UAE national or by a locally

Published by  
Towers & Hamlin LLP  
Sceptre Court  
40 Tower Hill  
London  
EC3N 4DX

t +44 (0)20 7423 8000  
f +44 (0)20 7423 8001

[www.towers.com](http://www.towers.com)

Towers & Hamlin LLP is a limited liability partnership registered in England and Wales with registered number OC337852 whose registered office is at Sceptre Court, 40 Tower Hill, London, EC3N 4DX. Towers & Hamlin LLP is regulated by the Solicitors Regulation Authority. The word "partner" is used to refer to a member of Towers & Hamlin LLP or an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Towers & Hamlin LLP's affiliated undertakings. A list of the members of Towers & Hamlin LLP together with those non-members who are designated as partners is open to inspection at the registered office.

Towers & Hamlin LLP has taken all reasonable precautions to ensure that information contained in this document is accurate but stresses that the content is not intended to be legally comprehensive. Towers & Hamlin LLP recommends that no action be taken on matters covered in this document without taking full legal advice.

registered company wholly owned by UAE nationals. The sponsor is known as the National Agent. A formal National Agency Agreement is required, in which the National Agent undertakes to sponsor and assist the foreign company, usually in return for a fee. It is not advisable for a National Agency Agreement to be signed without legal advice having been taken.

In certain businesses, the permission of a particular authority is required, for example the Municipality in Dubai as regards engineering consultancy and the Central Bank as regards finance.

## Using the free zones of the UAE

The UAE has free zones in most of the individual Emirates. Dubai also has a number of specialist free zones, including Jebel Ali Free Zone, Dubai Airport Free Zone, Dubai Multi Commodities Centre, Dubai Internet City, Dubai Media City and Dubai Healthcare City.

The Emirate of Abu Dhabi is developing a new free zone, Zones Corp, which should be operational mid-2009. A media free zone was launched in Abu Dhabi in October 2008.

The free zones, which operate through an exemption to the CCL, offer a variety of valuable benefits to businesses and a degree of flexibility, including:

- 100% foreign ownership through branches, single or multiple shareholder companies (known as FZEs, FZCOs or FZ-LLCs)
- no National Agent required for branch offices of foreign companies
- no customs duties on imports and re-exports (except re-exports into onshore UAE)
- special assistance in obtaining work permits for staff
- guaranteed exemptions from corporate taxes.

Details of the incentives and facilities available, together with registration, minimum capitalisation and other requirements vary between free zones, and specific advice should be taken.

## Dubai International Financial Centre

Although not strictly classified as a free zone, Dubai International Financial Centre (**DIFC**) bears various similar features. DIFC is a separate jurisdiction within Dubai aimed at the financial services sector. It has its own independent financial regulator and laws based upon international standards. Companies seeking to set up within DIFC are offered a variety of available

corporate forms and their activities need not necessarily be limited to financial services. As with the free zones, it allows 100% foreign ownership and offers a streamlined business environment. In addition, it is the home to Nasdaq Dubai (formerly Dubai International Financial Exchange), an exchange which opened in September 2005 for companies seeking to access international investors.

## Appointment of a commercial agent

A foreign business may decide that it does not wish to invest in establishing a local commercial entity or a branch office in the UAE if, for example, it simply intends to export goods or services to the UAE. In this situation an agent, distributor or franchisee (which must be either a UAE national or a company owned 100% by UAE nationals) can be appointed.

The Commercial Agencies Law regulates these arrangements. There are certain express requirements as to the content of any agency agreement. UAE commercial agents must register their agency agreements with the Ministry of Economy, which gives rise to certain rights and obligations, and a high level of statutory protection for the agent.

Although usually only one agent is appointed for the territory of the UAE, it is possible for a foreign principal to have more than one agent registered in the UAE, either by appointing a different agent in a different Emirate for the same goods or services, or a different agent for different goods and services. In practice, it is quite common to divide the UAE into two territories, being Abu Dhabi on the one hand, and Dubai and the Northern Emirates on the other.

Prior to signing an agency agreement, it is important both to understand and agree the scope and term of the agency, the available means of terminating the agreement, and the precise effect of registration.

## Commercial law

The Federal Commercial Code (the **Code**) has been in effect since 1993 and is a wide ranging law, which directly affects every commercial organisation conducting business in the UAE.

The Code covers such matters as the regulation of commercial activities, including preparation of commercial contracts, and obligations and assumptions that will apply in the absence of express agreement to the contrary. The Code is also relevant to such things as the sale of business assets, registration of mortgages, carriage of goods and persons (including liabilities attaching to carriers and agents), agency and

commercial representatives, banking operations, commercial pledges and guarantees, bills of exchange and cheques, and business insolvency.

There are pitfalls for the unwary but also important and useful provisions, which can be taken advantage of by those who structure their business arrangements appropriately.

## **Other relevant legislation and regulations**

Once you have started to transact business in the UAE, various other laws and regulations will be relevant. Some examples include:

### **Employment legislation**

There are legislative and other requirements governing the employment of Emirati and expatriate labour in the UAE. These impose certain rights and obligations on both the employer and the employee. To some extent, these differ as between expatriate employees who are brought into the country by their employer and those who are employed locally.

### **Immigration**

Sponsorship by a company of expatriate personnel and visitors to the UAE imposes obligations on that company, and its authorised representatives or managers, as to the conduct of such persons. There are various regulations concerning the issue, renewal and cancellation of visas and labour cards. Great care must be taken not to infringe such regulations and UAE-based employees must respect the customs and laws of the UAE.

### **Enforcement of your commercial rights**

The UAE has civil courts, which deal specifically with civil and commercial matters and are governed by strict rules of procedure. The courts of Dubai do not form part of the federal court system but do apply the federal Civil Procedures Code.

Although contracts prepared in languages other than Arabic are enforceable before the courts, all pleadings and supporting documentation must be prepared in or translated into Arabic. There is a right of appeal against judgments in given circumstances.

Specific advice should be taken on the potential length and cost of any action prior to commencing proceedings in the UAE.

In addition, arbitration should be considered as an alternative means of dispute resolution. The Chambers

of Commerce & Industry in both Abu Dhabi and Dubai have established commercial arbitration centres.

The UAE has now acceded to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. This means that foreign arbitral awards should be more easily enforceable in the UAE.

### **Government contracts**

Companies doing business with official bodies should note that there are strict regulations affecting government contracts. Also, government bodies operate various standard forms of contract, such as construction and consultancy contracts, which follow international practice but are adapted for local usage. Standard forms of contract also vary between the different Emirates.

### **Trademarks, patent and copyright**

During the 1990s the federal government promulgated three pieces of legislation: the Trademark Law, the Patent Law and the Copyright Law. These were updated in 2002. The Ministry of Economy is responsible for maintaining the Register of Trademarks and the Ministry of Finance and Industry is responsible for registering patents.

### **Environment**

Both federal and individual Emirate legislation regulates the protection of the environment in the UAE. The important aspects of environmental legislation were clarified during 2002 by a number of Executive Orders. Both new and current business undertakings should review their activities to ascertain whether they are required to hold government issued environmental permits or otherwise comply with the regulations.

### **Real estate**

Although the UAE Civil Code includes a number of provisions dealing with land ownership, leasing, co-ownership of floors and apartments and the creation and operation of owners' associations, it does not address the underlying issue of the ownership of property by non-UAE nationals. It has therefore been left to each of the individual Emirates to legislate on real estate matters.

The Dubai property law (Law No. 7 of 2006) provides the general rule that property ownership in the Emirate shall be restricted to UAE and GCC nationals (and companies wholly owned by them), as well as public shareholding companies, and that other nationalities may be granted a right of property ownership on a freehold or 99 year leasehold basis, in pre-designated areas. There are over 30 such areas.

The law also provides for the registration of property rights by the Land and Property Department. In addition, in 2007 laws were introduced requiring developers to establish escrow accounts designed to protect off plan purchasers, and concerning the multiple ownership of property.

Traditionally in Abu Dhabi, absolute ownership of land has been vested in the government of Abu Dhabi, which has tended only to grant rights in land to Abu Dhabi nationals and companies 100% owned by UAE nationals. However, Abu Dhabi Law No. 19 of 2005 and Law No. 2 of 2007 altered this position and made available a wider range of property rights to UAE nationals, GCC nationals and expatriates. GCC nationals have the right to own land and buildings in Abu Dhabi, and other expatriates the right to own buildings in certain designated "investment areas".

Federally, non-UAE and GCC nationals may also acquire a right of usufruct (effectively a lease) for up to 99 years, or a right of musataha (the right to develop the land of another) for up to 50 years, each renewable by mutual consent.

Generally, despite the introduction of a number of significant laws which have been passed in order to regulate property ownership and property related transactions in the UAE, there are still important issues which arise from the ownership of land, for example in relation to inheritance and rights of residence.

## The UAE Offset Programme

Foreign tenderers for military (and some civil) supply and service contracts are required to pre-qualify, under the UAE Offset Programme, which includes signing an Offset Agreement with the UAE Offsets Group (UOG). The Offset Agreement will require a successful tenderer to earn credits by promoting economic activity in the UAE, through direct investment in projects and otherwise. It is strongly recommended that companies required to sign an Offset Agreement take appropriate legal and other professional advice on its implications.

In 2008 UOG established Tawazun Holding, a wholly owned subsidiary, to effect offset arrangements with individual participants. Tawazun Holding has already entered into a number of high profile joint ventures.

## Capital markets

The Dubai Financial Market and the Abu Dhabi Securities Exchange have been established and trading for some years. Each market is regulated by its own laws. Advice should be sought prior to commencing any new activity in the UAE financial services sector to

ensure compliance with federal and local laws and UAE Central Bank regulations.

Emirates Security and Commodities Authority (ESCA) was established in early 2000 in order to regulate and monitor the licensing of securities in the market. ESCA's role includes determining the conditions which should be met when launching securities.

## Taxation

Certain Emirates, including Abu Dhabi and Dubai, have promulgated income tax legislation but, in practice, it is only applied to companies in the oil, gas and related sectors, and branches of foreign banks. Customs duties are currently levied at a general rate of 5% within the GCC, in accordance with the GCC Customs Union. There is no direct personal taxation in the UAE. Most Emirates levy various municipal taxes and indirect taxation through official fees is commonplace.

## Professional advice

This information has been produced by Trowers & Hamlins LLP, a firm of solicitors based in the City of London, with offices in the UAE and elsewhere in the region. This introduction is intended to provide an outline of the current legal environment as at April 2009 and specific advice should always be sought on individual matters. Andrew Rae and Guy Danalis, resident partners in Abu Dhabi, and Nick White and Jennifer Bibbings, resident partners in Dubai, will be pleased to provide advice and assistance in connection with any matters relating to conducting business in the UAE. The UAE offices include Arabic, French, German, Spanish and Portuguese-speaking staff.

## May 2009

©Trowers & Hamlins LLP  
08/09

Trowers & Hamlins LLP is a limited liability partnership registered in England and Wales with registered number OC337852 whose registered office is at Sceptre Court, 40 Tower Hill, London, EC3N 4DX. Trowers & Hamlins LLP is regulated by the Solicitors Regulation Authority. The word "partner" is used to refer to a member of Trowers & Hamlins LLP or an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Trowers & Hamlins LLP's affiliated undertakings. A list of the members of Trowers & Hamlins LLP together with those non-members who are designated as partners is open to inspection at the registered office.

For more information, please contact:

### Abu Dhabi

Andrew Rae, Partner  
e [arae@trowers.com](mailto:arae@trowers.com)  
t +971 (0)2 4107614  
f +971 (0)2 4107601

Guy Danalis, Partner  
e [gdanalis@trowers.com](mailto:gdanalis@trowers.com)  
t +971 (0)2 4107632  
f +971 (0)2 4107601

### Dubai

Nick White, Partner  
e [nwhite@trowers.com](mailto:nwhite@trowers.com)  
t +971 (0)4 3025153  
f +971 (0)4 3519205

Jennifer Bibbings, Partner  
e [jbibbings@trowers.com](mailto:jbibbings@trowers.com)  
t +971 (0)4 3025144  
f +971 (0)4 3519205