



## Guide to setting up business in Dubai



## Contents

Introduction	1
The main requirements	2
Operating in the mainland (onshore)	3
Onshore business entities	4
Operating in a free zone	7
Free zone business entities	9
Rights of entities within the free zones	10

For further information please contact

David Higgins

T +971 4 5099 171

M +971 50 4507 812

F +971 4 5099 111

E [david.higgins@freshfields.com](mailto:david.higgins@freshfields.com)

Patrick Ko

T +971 4 5099 146

M +971 50 2403 880

F +971 4 5099 111

E [patrick.ko@freshfields.com](mailto:patrick.ko@freshfields.com)

Omar Momany

T +971 4 5099 163

M +971 50 717 6951

F +971 4 5099 111

E [omar.momany@freshfields.com](mailto:omar.momany@freshfields.com)

Mohammad Tbaishat

T +971 4 5099 152

M +971 50 6504 987

F +971 4 5099 111

E [mohammad.tbaishat@freshfields.com](mailto:mohammad.tbaishat@freshfields.com)

The Exchange Building, 5th floor  
Dubai International Financial Centre  
Sheikh Zayed Road  
PO Box 506 569  
Dubai

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

This material is for general information only and is not intended to provide legal advice.

©Freshfields Bruckhaus Deringer LLP 2009

## **Introduction**

This guide provides an overview of the legal issues for those considering setting up a business in Dubai. It examines the various forms of commercial entities that can be used and provides an overview of the most popular ways that foreign companies operate in Dubai. The guide also provides some high-level information on the 'free zones' established to ease foreign investment.

## The main requirements

Federal Law No. 8 of 1984 Concerning Commercial Companies (as amended by the Federal Law No. 15 of 1998) (the Companies Law) sets out seven forms of company. Anyone wishing to set up a commercial business in Dubai must choose one of the forms stipulated in the Companies Law. Alternatively, a foreign business can carry out certain activities in Dubai through a representative office or a branch of a foreign company.

In addition to choosing a suitable corporate form, a trade licence must be obtained from the Dubai Department of Economic Development (the DED) before the entity starts commercial activities. Certain business sectors may also require further approval(s) from various ministries and/or other authorities.<sup>1</sup> Certain commercial activities are restricted to UAE nationals or companies wholly owned by UAE nationals.<sup>2</sup>

An alternative to setting up a business under the Companies Law may be to set up in one of Dubai's free zones (see page 7).

- 
- <sup>1</sup> Among the business sectors that require further approval are: medical; banking and financial services; private schools; industrial projects; sea cargo, freight forwarding and cargo clearing offices; and recruitment agencies. These sectors require the approval of the relevant ministry or authority – for example, business in the medical sector in Dubai requires special approval from the Dubai Department of Health and Medical Services.
- <sup>2</sup> For example, real estate agency and real estate brokerage activities are restricted to UAE nationals or companies fully owned by UAE nationals.

## **Operating in the mainland (onshore)**

The seven business entities permitted by the Companies Law are:

- limited liability company;
- public joint-stock company;
- private joint-stock company;
- joint-liability company (general partnership);
- simple commandite company (simple liability partnership);
- de facto company (unregistered joint venture company); and
- share commandite company.

It is also permissible in the UAE to establish a branch of a foreign company or a representative office (see page 5).

Non-commercial activities (including professional services) may be carried out through a civil company, which has unlimited liability, as described on page 6.

## Onshore business entities

### Limited liability company

The limited liability company (LLC) is the most widely used commercial entity for companies with a non-UAE national element wishing to conduct commercial activities in Dubai. An LLC is a private company and shares in it cannot be offered to the public. Shareholders, as the name suggests, benefit from limited liability.

The Companies Law requires at least 51 per cent of the shares in any UAE company (including an LLC) to be held by a UAE national(s).<sup>3</sup> However, the Companies Law permits shareholders of an LLC to agree on an economic benefit that deviates from this shareholding ratio. This means that, up to a certain percentage, profits and losses of an LLC may be distributed disproportionately among the shareholders (including where the shareholders are both UAE and non-UAE nationals). The ratio should be set out in the LLC's memorandum and articles of association (also referred to as the contract of establishment).

An LLC is required to have a minimum of two shareholders and a maximum of 50 shareholders.

A recent amendment to the Companies Law (effective since 1 June 2009) has abolished the minimum share capital requirement of LLCs. Founders of LLCs are now given the flexibility to determine the capital required for the establishment and sustainability of such companies. Shares of an LLC cannot be other than 'equal shares' (ie different classes of shares cannot be issued).

There are no nationality restrictions regarding the management of an LLC. It may be managed by a sole director and may have up to five directors.

An LLC may not conduct the business of insurance, banking or the investment of money on behalf of third parties.

Several administrative steps must be completed before the incorporation of an LLC is effected. In short, the process includes the reservation of a trade name,<sup>4</sup> obtaining initial approval from the sector-specific regulator(s) (if

---

<sup>3</sup> Under a UAE cabinet resolution, Gulf Co-operation Council (GCC) nationals enjoy preferential treatment and may hold up to 100 per cent of a UAE company, provided there are no non-GCC shareholders in the company. If any non-GCC national becomes a shareholder in any UAE company, UAE nationals must then hold at least 51 per cent of the issued share capital.

<sup>4</sup> The Companies Law sets out various requirements that must be followed when naming an LLC: these include a requirement to derive the name from either the business's purpose or the name of one or more of its shareholders.

any), notarising the memorandum and articles of association,<sup>5</sup> depositing the share capital and obtaining the DED's approval or any other approval(s), as the case may be. The LLC will then be issued the requested licence and will need to be registered with the Chamber of Commerce and Industry.

#### **Public joint-stock company**

A public joint-stock company (PJSC) is very similar to a UK public limited company or German *Aktiengesellschaft* (AG). It requires a minimum share capital of AED10m and, unless founded by the state or an emirate government, a minimum of 10 founders, who are responsible for the incorporation of the company.

Shares in a PJSC must be offered for public subscription and the subscription notices must be published in two local daily Arabic newspapers. The founders are obliged to subscribe for a minimum of 20 per cent of the share capital (but must not exceed 45 per cent). The Companies Law does not permit a PJSC to issue different classes of shares or shares that carry different rights and entitlements.

A PJSC is required to have between three and 15 directors, who are elected for three years. The chairman and a majority of the board of directors must be UAE nationals.

#### **Private joint-stock company**

A private joint-stock company (private JSC) is similar to a UK private limited company. It requires a minimum share capital of AED2m and a minimum of three founding shareholders. Shares in a private JSC may not be offered for public subscription but in all other respects provisions applicable to a PJSC apply equally to a private JSC.

#### **The rest of the legal forms**

The other four entities are not commonly used in the UAE for several reasons, including restrictions on foreign ownership and foreign management.

#### **Branch/representative office of foreign commercial companies**

The Companies Law regulates the operation of branch and representative offices of foreign companies in the UAE. These may be wholly owned by a foreign entity, provided that a UAE national is appointed as local agent. The agent's role is further discussed below.

As a general rule, a branch of a foreign company may carry out activities similar to those of its parent company. However, the activities that may be carried out through a branch of a foreign company are limited to those permitted by the UAE Ministry of Economy from time to time.

---

<sup>5</sup> The DED provides a very basic standard form of memorandum of association, which may be deviated from to the extent that such deviation complies with UAE law.

A representative office's activities are restricted to promoting the activities of its foreign parent company through, for example, gathering information and soliciting orders and projects to be performed by the company's head office. It is not, however, permitted to carry out the parent company's activities. Representative offices are also restricted over the number of employees that they can sponsor and, due to these constraints, representative offices tend to act as administrative and marketing centres for their foreign parent companies.

Branches of foreign companies and representative offices are required to appoint a local service agent. The agent's role is to assist generally with administrative matters such as obtaining visas and licences and dealing with local authorities. A local service agent is generally paid a fixed fee and does not have a right to participate in any profits from the branch or representative office.

A branch or representative office must be registered on the registry of foreign companies at the Ministry of Economy before it starts trading.

#### **Professional services establishments and companies**

As a general rule, but with a few exceptions, a professional firm that carries out only professional as opposed to commercial activities is permitted to be wholly owned by non-UAE nationals. Professional firms may be in the form of a sole proprietorship or a civil company; both these corporate forms have unlimited liability. Such firms may engage in professional or artisan activities. A UAE national must be appointed as local service agent for sole proprietorship. The agent shall have no direct involvement in the business and is paid a lump sum and/or percentage of profits or turnover. His role is similar to that of the agent appointed by a branch of a foreign company, as set out above.

## Operating in a free zone

Businesses wishing to operate in Dubai should be aware that several zones, known as 'free zones', have been established to ease foreign investment in Dubai. However, businesses operating within a free zone are restricted over the types of dealings they may conduct outside the designated free zones. Businesses wishing to conduct business in the mainland UAE must comply with the requirements of the Companies Law and other relevant laws applicable to the respective industry. Below is an overview of the most popular methods used by foreign companies to operate in Dubai within a free zone.

Companies incorporated and operating within the free zones are not subject to many of the restrictions imposed by the Companies Law and other UAE laws and regulations. Entities operating within the free zone may be wholly owned by foreigners, who benefit from a guarantee that tax will not be applied for a certain period, notwithstanding any subsequent change to federal or local laws.

There are around 30 free zones in Dubai including the Dubai International Financial Centre (DIFC), the Jebel Ali Free Zone (JAFZ), the Dubai Airport Free Zone (DAFZ), the Dubai Technology and Media Free Zone (TECOM), the Dubai Health Care City, the Dubai Multi Commodities Centre and the Gold and Diamond Park.

The commercial activity that will be carried out normally dictates which free zone should be used. For example, the DAFZ is intended for businesses that import and export goods and the business activities permitted in the TECOM include 'design, development, use and maintenance of everything related to information technology, e-commerce and media'.

The JAFZ is the largest and oldest free zone in Dubai; it was established in 1985.

Each free zone is governed by an independent free zone authority (FZA), which, among other things, is responsible for drafting and implementing the zone's regulations, policies and strategies and for issuing the necessary operating licences for operation within the zone.

As an illustration of the various operating licences issued by the free zones, the following is a description of those issued by the JAFZ:

- trade licence: this is available to companies that wish to import, export, sell, distribute or store items identified on their licence. Sales cannot be made directly to the UAE. Any company wishing to sell goods from the JAFZ into the UAE must appoint a distributor or agent in the UAE;
- industrial licence: industrial licences are intended for companies wishing to carry out manufacturing activities. Restrictions on selling products into the UAE also apply to industrial licensees and a distributor or agent must be appointed in the UAE in order to sell products into the UAE;

- service licence: this permits the licensee to provide services within the free zone. The services provided must be the same as those stipulated in the parent company's licence in the UAE or abroad; and
- national industrial licence: a national industrial licence permits the holder to import raw materials, manufacture specified products and export the finished products. However, at least 51 per cent of the shareholding must be owned by GCC nationals. In addition to this restriction, at least 40 per cent of the value of the final product must have been added in the free zone.

As can be noted from the above description of the JAFZ licences, a JAFZ licence holder cannot operate outside the free zone using its free zone licence. This restriction applies to entities operating within all of Dubai's free zones. Operating outside a free zone will normally be carried out through a distributor or agent licensed to operate in mainland UAE. However, potential customers from the UAE may visit the premises of the licence holder to view the goods.

## **Free zone business entities**

For most of the existing free zones, there are three options through which business can be carried out: a free zone establishment, a free zone company and a branch office of a foreign or local company.

### **Free zone establishment (FZE)**

An FZE in the JAFZ requires a minimum capital of AED1m. The minimum capital requirement represents one share and it may have only one shareholder. An FZE is a limited liability entity.

### **Free zone company (FZC)**

The minimum capital required to incorporate an FZC is AED500,000 and an FZC can have between two and five shareholders. Each share must have a minimum value of AED100,000 or multiples thereof and there can be only one class of share. An FZC is a limited liability entity.

An FZC must have a board of directors, consisting of at least three people and having at least two directors and one secretary (although a person may hold the offices of director and secretary within a company simultaneously). These individuals must be resident in Dubai.

### **Branch office of a foreign or local company**

A branch of a foreign or a local company is not a legal entity separate from its parent but is considered a place of business that forms a legally dependent part of the parent company and conducts directly all or some of the operations inherent in the parent's business. Branch offices are designed to be opened with a limited amount of administrative formality.

### **Other free zones (TECOM and DIFC)**

TECOM requirements are slightly different because the regulations provide for only limited liability companies, composed of between one and 50 shareholders. The current minimum share capital for a TECOM limited liability company is AED50,000 and the share capital may, on receipt of the appropriate approvals from the authorities, be divided into different classes of shares. Each TECOM limited liability company is required to have at least one director and may have a maximum of four directors.

Setting up in the DIFC differs greatly from setting up in the other free zones. In general, the laws and regulations governing free zone entities within the DIFC are far more complex and sophisticated than those governing entities in other free zones. There are 11 forms of entities that can be incorporated in the DIFC; the most common is a company limited by shares. Recent amendments to DIFC laws permit the incorporation of special-purpose companies within the DIFC.

## **Rights of entities within the free zones**

### **Ownership**

One hundred per cent foreign ownership and full repatriation of profits and capital are permitted.

### **Tax**

Entities are exempt from corporate and income taxes for a determined period, regardless of subsequent changes to local laws.

Goods may be imported into the free zone, free of duty.

### **Incorporation**

It is relatively straightforward to set up a company in a free zone. The process differs from one free zone to another. Normally, the first step is to complete a questionnaire issued by the relevant FZA. Once the questionnaire has been considered by the FZA the company will be required to provide the FZA with information on the shareholders.

Individual shareholders are required to provide a personal profile, which may include a business background, specimen signatures, domicile and address.

Corporate shareholders are required to provide:

- certificate of registration or good standing;
- memorandum and articles of association;
- board resolution authorising the incorporation of the FZE or FZC;
- powers of attorney in favour of the FZE or FZC managers; and
- audited financial statements for the past two financial years.

### **Employment**

Companies operating within a free zone are generally entitled to employ anyone they wish. However, various administrative requirements must be complied with, such as providing the FZA with certain details of the licence holder's employees.

ABU DHABI  
The Makeen Building  
Office 202  
PO Box 129817  
Abu Dhabi  
T +971 2 6521 700  
F +971 2 6521 777

AMSTERDAM  
Strawinskylaan 10  
1077 XZ Amsterdam  
T +31 20 485 7000  
F +31 20 485 7001

Mailing address  
PO Box 75299  
1070 AG Amsterdam

BAHRAIN  
Bahrain World Trade Centre  
East Tower, 37th floor  
PO Box 20184  
Manama  
Bahrain  
T +973 1 713 4333  
F +973 1 713 4300

BARCELONA  
Mestre Nicolau 19  
08021 Barcelona  
T +34 93 363 7400  
F +34 93 419 7799

BEIJING  
3705 China World Tower Two  
1 Jianguomenwai Avenue  
Beijing 100004  
T +86 10 6505 3448  
F +86 10 6505 7783

BERLIN  
Potsdamer Platz 1  
10785 Berlin  
T +49 30 20 28 36 00  
F +49 30 20 28 37 66

BRUSSELS  
Bastion Tower  
Place du Champ de Mars/  
Marsveldplein 5  
B-1050 Brussels  
T +32 2 504 7000  
F +32 2 504 7200

COLOGNE  
Im Zollhafen 24  
50678 Cologne  
T +49 221 20 50 70  
F +49 221 20 50 79 0

DUBAI  
The Exchange Building  
5th floor  
Dubai International  
Financial Centre  
Sheikh Zayed Road  
PO Box 506 569  
Dubai  
T +971 4 5099 100  
F +971 4 5099 111

DÜSSELDORF  
Feldmühleplatz 1  
40545 Düsseldorf  
T +49 211 49 79 0  
F +49 211 49 79 10 3  
Mailing address  
Postfach 10 17 43  
40008 Düsseldorf

FRANKFURT AM MAIN  
Bockenheimer Anlage 44  
60322 Frankfurt am Main  
T +49 69 27 30 80  
F +49 69 23 26 64

HAMBURG  
Alsterarkaden 27  
20354 Hamburg  
T +49 40 36 90 60  
F +49 40 36 90 61 55  
Mailing address  
Postfach 30 52 70  
20316 Hamburg

HANOI  
#05-01  
International Centre  
17 Ngo Quyen Street  
Hanoi  
T +84 4 38247 422  
F +84 4 38268 300

HO CHI MINH CITY  
#1108 Saigon Tower  
29 Le Duan Boulevard  
District 1  
Ho Chi Minh City  
T +84 8 38226 680  
F +84 8 38226 690

HONG KONG  
11th floor  
Two Exchange Square  
Hong Kong  
T +852 2846 3400  
F +852 2810 6192

LONDON  
65 Fleet Street  
London EC4Y 1HS  
T +44 20 7936 4000  
F +44 20 7832 7001

MADRID  
Fortuny 6  
28010 Madrid  
T +34 91 700 3700  
F +34 91 308 4636

MILAN  
Via dei Giardini 7  
20121 Milan  
T +39 02 625 301  
F +39 02 625 30800

MOSCOW  
Kadashevskaya nab 14/2  
119017 Moscow  
T +7 495 785 3000  
F +7 495 785 3001

MUNICH  
Prannerstrasse 10  
80333 Munich  
T +49 89 20 70 20  
F +49 89 20 70 21 00

NEW YORK  
520 Madison Avenue  
34th floor  
New York, NY 10022  
T +1 212 277 4000  
F +1 212 277 4001

PARIS  
2 rue Paul Cézanne  
75008 Paris  
T +33 1 44 56 44 56  
F +33 1 44 56 44 00

ROME  
Piazza di Monte Citorio 115  
00186 Rome  
T +39 06 695 331  
F +39 06 695 33800

SHANGHAI  
34th floor  
Jinmao Tower  
88 Century Boulevard  
Shanghai 200121  
T +86 21 5049 1118  
F +86 21 3878 0099

TOKYO  
Akasaka Biz Tower 36F  
5-3-1 Akasaka  
Minato-ku  
Tokyo 107-6336  
T +81 3 3584 8500  
F +81 3 3584 8501

VIENNA  
Seilergasse 16  
1010 Vienna  
T +43 1 515 15 0  
F +43 1 512 63 94

WASHINGTON  
701 Pennsylvania Avenue, NW  
Suite 600  
Washington, DC 20004-2692  
T +1 202 777 4500  
F +1 202 777 4555

26998