THE UAE COMMERCIAL COMPANIES LAW:
RECALLED TO LIFE

Gary R Feulner *

UAE Federal Law No. 13 of 1988 enacts various amendments to the UAE Commercial Companies Law, Federal Law No. 8 of 1984 ("the Companies Law"), and brings that law into effect as amended after a suspension of several years. The amendments took effect upon publication in the Federal Official Gazette on 8 January 1989, and they provide for a two-year grace period from the effective date for existing companies to comply with the provisions of the law as amended.

The amendments themselves do not represent major substantive changes to the law as previously enacted. Their principal purpose is to transfer primary authority for the establishment and supervision of UAE companies of all kinds from the Federal Government to authorities in the individual Emirates. From the point of view of most businessmen, therefore, the greatest significance of the amendments is not their specific provisions, but rather the fact that they appear to signal the likely implementation of the provisions of the Companies Law generally. If so, this will dramatically alter the forms of business available to local parties and to joint ventures between foreign companies and local parties.

In particular, the Companies Law provides for the routine establishment of companies having limited liability, whereas formerly, in the absence of any relevant statute, limited liability companies could be formed only by a decree from the Ruler of an individual Emirate, which had become increasingly difficult to obtain. As a practical matter, therefore, most foreign firms have engaged in joint ventures in the UAE in the form of partnerships with local individuals or entities. However, under the Companies Law the partnership form of business is reserved for UAE nationals only. As a result, existing joint venture partnerships will apparently be required to adjust their present structures to conform to the requirements of the law.

Original enactment

By way of history, the Companies Law was originally enacted in March 1984. It was scheduled to take effect on 1 July 1984, but the effective date was thereafter suspended for six months until 1 January 1985. The law provided for a one-year grace period for companies to comply with its requirements. During 1985 the Federal Ministry of Economy and Commerce, which had principal responsibility for administration of the law as originally enacted, promulgated extensive executive regulations.

* Mr Feulner heads the Abu Dhabi office of Chadbourne, Parke & Afridi. He has practised in the firm’s UAE offices since 1983 and previously in the New York and Washington, D.C. offices of Chadbourne & Parke.
governing application and review procedures for new companies, registration pro-
cedures for old companies, and standard corporate documentation for public share-
holding companies. However, the law was ultimately suspended for one year by a
Ministerial Decree, effective 1 January 1986, and was thereafter informally suspended
until the effective date of the amendments.

The Companies Law was naturally the subject of considerable comment in 1984
and 1985 following its initial enactment and promulgation of the aforesaid executive
regulations and Federal registration requirements. Much of this commentary remains
valid despite the amendments.

The Companies Law is a comprehensive piece of legislation which governs the per-
missible legal form of companies in the UAE; the procedures for formation and regis-
tration of companies; the rights of partners, shareholders and other persons dealing
with companies; the conversion, merger, and liquidation of companies; and govern-
ment inspection and supervision of companies. The Companies Law also deals with
the registration of branch offices of foreign companies.

Lawful forms of Companies

The Companies Law applies to all commercial companies that are either established in
the UAE or carry out their major activities in the UAE. Note that this definition does
not include either professional enterprises or sole proprietorships. Under the Com-
panies Law, all companies founded within the UAE must have at least 51 per cent
equity participation by UAE nationals and must take one of the following recognised
forms:

(1) Partnership;
(2) Limited partnership;
(3) Consortium company;
(4) Public shareholding company;
(5) Private shareholding company;
(6) Limited liability company;
(7) Partnership limited by shares.

The foregoing classification is based on French law as adopted in Egypt and other
countries in the Middle East, but it is relatively unfamiliar to most Anglo-American
lawyers and businessmen. The Companies Law as a whole is very similar to statutes in
effect in Saudi Arabia and the other Arabian Gulf states.

Of the permissible forms of companies, the partnership is reserved to nationals of the
UAE only. The limited partnership requires one or more general partners who must be
citizens of the UAE, and restricts the participation of limited partners in the manage-
ment of the company. Thus these forms are unlikely to be of particular interest to
most foreign companies.

The consortium company is essentially a contractual agreement for undertaking a par-
ticular project or projects. Under the Companies Law, the consortium company is
made up of two or more partners for the purpose of sharing profits or losses from one
or more commercial ventures undertaken by one of the partners in its own name. The