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Encouraging foreign investment and creating a knowledge economy

In the second half of 2018, the UAE introduced two significant pieces of legislation: a new Foreign Direct Investment law* (FDI Law), and a new long-term visa system** for investors, entrepreneurs and specialized talents. Together, these laws have the potential to further enhance the trading hub status of the UAE further and make it into a regional and global centre for excellence in various fields. Find out what is new and what these changes mean for the UAE economy.

What's new?

The FDI Law:

- Introduces the framework under which the UAE Cabinet will exercise its powers in respect of permitting increased levels of foreign ownership in certain companies in the UAE
- Sets out details of the process which foreign investors will be required to follow in order to apply to own more than 49% of the shares in the capital of companies operating 'onshore' in certain sectors of the UAE economy

Cabinet Resolution No 56 decouples employment from an individual's immigration status. Up until now, any individual wishing to work and reside in the UAE had to have a local UAE based sponsor for work and residency. In the vast majority of cases, the basis of this sponsorship was employment by the sponsor.

Now, an investor (a foreigner who spends his capital to realise profits and financial returns in certain circumstances); an entrepreneur (a foreigner who owns an economic project of a technical or future nature, based on risk and innovation, in accordance with the controls mentioned herein); and someone with specialised talent (a foreigner who has excellence, skills, leadership or outstanding performance and talent in the fields of science and knowledge, in accordance with the controls mentioned herein) can all apply for long term residency on a free standing basis.

FDI Law

Negative List

Under the FDI Law, foreign investment may be permitted in sectors of the economy if those sectors do not appear in a 'negative list'. The UAE Cabinet may add sectors to, or remove sectors

from, the 'negative list'. The sectors of the economy that are listed in the 'negative list' in the FDI Law are:

- Oil exploration and production
- Investigation, security, military (including manufacturing of military weapons, explosives, dress, and equipment)
- Banking and financing activities
- Insurance
- Pilgrimage and umrah services
- Certain recruitment activities
- Water and electricity provision
- Fishing and related services
- Post, telecommunication and other audio visual services
- Road and air transport
- Printing and publishing
- Commercial agency
- Medical retail (including pharmacies)
- Blood banks, quarantines and venom/poison banks

Foreign Direct Investment Projects

The FDI Law refers to projects in sectors of the economy that are not restricted in the 'negative list'. Where a foreign investor wishes to own more than 49% of the shares in a Foreign Direct Investment Project, it may apply for permission to establish a Foreign Direct Investment Company. The FDI Law also sets out, at a high level, the procedure which foreign investors will need to follow in order to apply for permission to invest in a Foreign Direct Investment Project.

Long-term Visas

Each category is conditional on specific conditions as follows:

Investor

An investor visa can be issued to the Investor and his family (wife and children) if the Investor:

- Deposits at least 10 million dirhams in an investment fund inside the state
- Establishes a company with capital of at least 10 million dirhams include the state or hold a share of at least 10 million dirhams in an existing or newly incorporated company
- Has investments inside the state of at least 10 million dirhams (provided that the minimum investment in other real estate is 60% of the total of just investments)
- In order to grant a residence permit to an Investor for real estate projects, the real estate project or projects must not be less than 5 million dirhams.

- The invested amount must be wholly owned by the Investor and not as a loan (proof will be required)
- He shall retain the investment for at least 3 years from the date of issuance of the resident permit
- He shall not be indebted of civil claims or awards that reduce his solvency below 10 million dirhams
- He must submit a comprehensive medical insurance policy for himself and his family members during the period of his residence in the State

RESIDENCE PERMIT

- Resident permit for: (i) general investor shall be issued for 10 years; and (ii) real estate investor shall be 5 years. The permit is automatically renewable provided that the prescribed fees are paid and the conditions are fulfilled
- Investor may obtain a visa for a maximum of 3 domestic servants, depending on family size
- The Investor will be granted a multi-entry permit a period of 6 months which may be renewed for another 6 months to facilitate the completion of the procedures of establishing the project
- Investor may submit an application to the Authority to issue a resident permit for one senior officer who will act as a managing director or advisor and his family members for a period of 10 years without the need for sponsorship if the following conditions are met:
 - Must work for the establishment of the Investor during the term of the residence permit
 - Must take out comprehensive medical insurance for himself and his family members during the period of his residence in the state
 - Must obtain approval from concerned committee

Entrepreneurs

An entrepreneur visa can be issued to the Investor and his family (wife and children) if the entrepreneur:

- Has a previous and successful project or at least AED 500,000 in a field approved by the authority
- Obtains approval from a business incubator approved by the Authority for establishing the business proposed
- Submits a comprehensive medical insurance policy for himself and his family members during the period of residence in the State

RESIDENCE PERMIT

- Permit will be granted for a renewable period of 5 years

- The Authority may grant residence permits for a renewable period of 5 years to three managing directors who will work with the Entrepreneur if the following conditions are met:
- Must work for the establishment of the Investor during the term of the residence permit
- Must take out comprehensive medical insurance for himself and his family members during the period of his residence in the state
- Must obtain approval from concerned committee

Specialized talents and researchers

A visa can be issued to a specialised talent or researcher in any different fields of science and knowledge if the following conditions are met:

Physicians and Specialists

- Must hold academic degree rendering him a Prof. Doctor from the best 500 universities in the world and accredited by the Ministry of Education
- Must hold an award of appreciate certificate in recognition of his work in the specialist
- Must contribute to large researches of scientific and practical nature related to the applicant's area of work
- Must have articles or scientific books in distinguished publications in the applicant's area of work
- Must have a membership in an organisation related to the applicants area of work, which requires outstanding work to accept the membership
- Must have academic degree not less than a doctorate, in addition to practical experience not less than 10 years in specialised area
- The specialist must be in scientific fields required and significant in the state

Scientists

- Must be accredited by the Emirates Council for Scientists
- Must have been awarded Mohammed Bin Rashid Medal for Scientific Distinction

Creative Intellectuals and Artists

Author must be accredited by Ministry of Culture and Knowledge Development

Inventors

Must obtain a patent adding value to State's economy, as well as obtaining approval from Ministry of Economy.

Elites

Must have outstanding mental faculties documented by patents or scientific research published in distinguished international periodicals

Managing Directors

- Must hold a bachelors degree of equivalent
- Must have at least 10 years of work experience
- Monthly salary must not be less than AED 30,000
- Must have a valid employment contract in the State
- Must submit a comprehensive medical insurance policy for himself and his family members for period of residence

Specialists in Priority Educational Areas

- Must be specialized in one of the rare fields or specialty of priority for the State, as determined by the committee concerned
- Must submit a comprehensive medical insurance policy for himself and his family members throughout the period of his residence in the State
- Must obtain the approval of the committee concerned

RESIDENCE PERMIT

- A permit for the above categories can be obtained for 6 years
- They may obtain a visa for one domestic servant

Outstanding students with promising potentials in science:

A visa can be issued to an outstanding student with promising potential in science and his family if the following conditions are met:

- The student must have an excellence grade or at least 95% in the General Certificate of Secondary Education or its equivalent, provided that the certificate is accredited by the competent entity in the State; or
- The student must be enrolled at any of the universities accredited in the State and his Grade Point Average must not be less than (3.75) or its equivalent in any scientific specialties determined by the Authority in coordination with the competent entity
- He must obtain the approval of the competent committee
- He must submit a proof of registration with a university or institution approved in the State
- He must submit a comprehensive medical insurance policy for himself and his family members throughout the period of his residence in the State

RESIDENCE PERMIT

- Permit issued for 5 years renewable
- The outstanding student with promising scientific potentials shall be granted a multi-entry permit to the State for a period of six months to facilitate the completion of procedures of his registration in accordance with the conditions and controls applicable in the Authority for issuing entry permits

Governance

Two committees shall be formed for the implementation of the resolution:

- An Investor Committee, to be chaired by a representative of the Authority and to take charge of examining the applications for investor residence permits referred to it by the Authority
- An Entrepreneurs and Specialized Talents Committee, to be chaired by the General Secretary of the Cabinet and to take charge of examining and expressing its opinion on the entrepreneurs' and specialized talents' applications referred to it by the Authority
- The chairmen of both committees shall propose members of the committee and the mechanism of its meetings, and such proposal shall be presented to the Chairman for approval. Both committees shall submit their recommendations to the Authority.

What does this mean for the UAE?

It was announced last week that applications will soon start to be considered for the long term visas and we expect the executive regulations to the foreign investment law to be published shortly.

The position of the UAE, and Dubai in particular, as the premier commercial hub in the Middle East is established. These two recent developments will further enhance this status but also put the UAE on a path to greater diversification and the development of highly sophisticated industries. The UAE has published its desire to promote research and development in various fields and in particular to promote the high-end high end technological spectrum such as robotics, AI, nanotechnology and the internet of things. Over the coming medium term, we expect to see more and more companies establish their presence in the UAE and to increase the regional footprint of the corporate hub being run and managed from the UAE.