



## CHANGES TO REPORTING ON ULTIMATE BENEFICIAL OWNERSHIP IN THE UAE

Cabinet Resolution No. 58 of 2020 on the Regulation of the Procedures of the Real Beneficiary (the **Resolution**) was published on 27 August 2020 and came into force the following day. It repealed the previous law on the regulation of beneficial owner procedures (Cabinet Decision No. 34 of 2020).

The Resolution requires all entities licensed in the UAE, with the exception of entities registered in the Abu Dhabi Global Market and the Dubai International Financial Centre and entities which are wholly owned by the federal or an Emirate government, to:

- implement reasonable procedures to obtain and maintain adequate, accurate and up-to-date information in respect of their shareholders and ultimate beneficial owners;
- prepare, maintain and file with the relevant licensing authority: (i) a register of ultimate beneficial owners (the **UBO Register**); (ii) a register of shareholders (the **Shareholder Register**); and (iii) where applicable, a register of Nominee Board Members (the **Nominee Board Member Register**) (together the **Registers**), together with certain supporting documentation;
- provide certain information about the company to the relevant licensing authority when submitting an application for incorporation, licensing, registration, renewal, amendment or where required by the relevant licensing authority, including for example the names and certain other information of persons who are holding higher management positions; and
- designate and provide certain information about a point of contact residing in the UAE that is authorized to disclose certain information required by the Resolution.

Entities which are licensed in the UAE but which are owned by a company listed on a recognized stock exchange subject to disclosure requirements which ensure sufficient transparency on its beneficial owners, or a company wholly-owned by such a listed company, are exempted from the requirement to implement reasonable procedures to obtain and maintain adequate and up-to-date information in respect of Ultimate Beneficial Owners.

The Resolution also introduces a number of new obligations in relation to the issuance of shares and the registration of a transfer of shares.

In addition, the Resolution reiterates and enhances certain provisions of the Commercial Companies Law (Federal Law No. 5 of 2015, as amended). Given that the Resolution is applicable to entities which are registered in certain free zones which are generally not subject to the Commercial Companies Law, the Resolution in effect broadens the application of certain provisions of the Commercial Companies Law.

### **What are the relevant deadlines for preparing and filing the Registers?**

For an existing entity that is already incorporated and registered in the UAE, the UBO Register was due to be prepared by 27 October 2020 and the Registers were due to be filed by the same date. For any entities which are incorporated and registered after 27 October 2020, the entity must prepare the UBO Register by the date of establishment and is required to file the Registers with the relevant licensing authority within 60 days from the date that the entity is established.

Although the deadline under the Resolution for filing the Registers was 27 October 2020, a number of the licensing authorities in the UAE are finalizing their mechanisms and procedures for filing the Registers and associated documentation. However, many of the licensing authorities will require the information required under the Resolution when a company seeks to renew or amend its trade license.

Certain free zones have already implemented rules and procedures for the filing of the Registers. In particular, the Dubai Multi Commodities Centre, the Dubai Development Authority and the Dubai Silicon Oasis Authority have issued details of the mechanism and procedures for filing the Registers. Guidance from the other free zone authorities is expected imminently.

### **Is the information in provided in the Registers kept confidential?**

The Registrar (being the entity responsible for supervision of the commercial names register in the UAE) is required to publish a register which includes information provided by an entity upon incorporation, licensing, registration, renewal or amendment. The Resolution also

states that the same information and the information contained in the Registers may be disclosed by the Ministry of Economy to facilitate access by competent foreign authorities and to facilitate exchanges of information generally.

With the exception of any disclosure requirements under the Resolution (including in relation to the public registers), the information provided in the Registers is to remain confidential and the relevant licensing authority may not disclose the information without the prior written consent of the Ultimate Beneficial Owner or Nominee Board Member. Disclosure may also be mandated pursuant to a court order.

### **How long must the Registers be kept for?**

The Registers must be maintained for life of the entity and retained for a period of 5 years after the date of dissolution, liquidation or de-registration of the entity. Entities must adopt reasonable procedures to prevent loss, damage or destruction of the Registers.

### **What are the penalties for failing to comply with the requirements of the Resolution?**

Failure by an entity to comply with the requirements of the Resolution may result in administrative sanctions. Details of the administrative sanctions are expected to be proposed by the Minister of Finance in coordination with the Minister of Economy and published in a Cabinet Decision.

### **What next?**

We recommend that all companies which are subject to the Resolution review the requirements of the Resolution and take steps to ensure that they have the necessary information and have implemented appropriate internal procedures to be able to comply.

We recommend that steps are taken to prepare the Registers in order to demonstrate compliance, and that the Registers are filed with the relevant licensing authorities as soon as possible and as and when processes and procedures for filing become available.

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