



The 5 Biggest Challenges of a Company Formation in the United Arab Emirates

The United Arab Emirates ("UAE") has become the third largest economy in the entire Arab world. Supported by a market-driven and liberal policy, the country continues to achieve a steady rate of economic growth. Despite the general assumption, oil is no longer the driving economic factor. Today, business life is governed by trade, services and industry. The presence of international banks and financial institutions underpins the importance and reliability of the location. Due to its acceptance in the region, the UAE offers the ideal hub to develop further markets in the Middle East as well as in North and East Africa.

This situation allows for entrepreneurial activity and creativity. However, to reach ambitious targets, a detailed strategy and profound market knowledge are essential. This especially holds true for the UAE with its legal and economic particularities.

Should you - after an in-depth market analysis - contemplate a company formation in the UAE, you will meet the following challenges:

Challenge 1

Selection of the right location

Choosing the appropriate location for the establishment of your new company is of essential importance. Most notably, the location determines which commercial activities are legally permissible or prohibited. Hence, as a first step you are well-advised to define the medium and long term activities of the business. The fact that a foreign shareholder must assume the role of a minority shareholder in certain company structures, should, however, not necessarily play the decisive role.

When considering a company formation in the UAE, three areas have to be distinguished: firstly, the territory of the UAE itself, secondly, the free zones and lastly areas which are subject to offshore legislations. They especially differ in the permitted radius of action of a company incorporated in the respective area, their permissible activities as well as the possibilities to import goods and apply for work and residence permits.

Once you have taken the decision that the territory of the UAE provides the ideal surroundings for your company formation, the respective company license needs to be applied for in one of the seven Emirates. The proximity to important customers, licensability of the desired business activities and the available budget can be criteria for selecting a particular Emirate.

In case of a company formation in a free zone, your decision about which of the more than 30 free zones in the UAE will prove to be the most suitable for your business endeavour, should - apart from aforementioned factors - additionally be based on the connectivity to airports and seaports, the requirements for office and warehouse space as well as the predominant focus of the free zone itself.

We gladly support you in choosing the location for your new business and illustrate the advantages and disadvantages of all eligible options.

Challenge 2

Compilation of all required documents

As soon as you have chosen the suitable location for your new business, all necessary documents for the company formation need to be compiled. In doing so, it is crucial to ensure the completeness of all papers on the one hand in order to not waste precious time because of missing documents and, hence, to delay the establishment process. On the other hand, it is essential to bear in mind the correct formal requirements. The key formation documents, such as the extract of commercial register and memorandum and articles of association of a legal entity that acts as a shareholder, are required to be duly notarized and legalized up to the diplomatic mission of the UAE in the country in which the legal entity has its place of business.

Furthermore, all documents have to be submitted in the language specified by the respective authority. When setting up a company in the territory of the UAE, only Arabic papers will be acknowledged. Free zone authorities generally accept documents in either Arabic or English.

We will inform you in detail about the necessary documents and will also consider those papers which will have to be presented in the course of subsequent procedures, such as bank account openings and residence visa applications. In addition, we will contact accredited translation offices on your behalf and coordinate the translations.

Challenge 3

Opening a company bank account

The opening of a company bank account frequently proves to be an obstacle that had previously not been factored in as part of the company formation.



Pursuant to the stricter requirements on banking transactions applied worldwide, the UAE Central Bank has issued various new rules that in particular concern the conditions to be met when opening a bank account. In particular, the ultimate beneficial owner ("UBO") of the company to be newly established needs to be revealed to the bank.

Depending on each bank, the specific documents required to identify the UBO vary. Some banks settle for an organization chart - if necessary signed by a notary public or an auditor - that illustrates the complete company structure reaching from the new company to the UBO. Other banks demand to be presented with duly notarized and legalized company documents of each legal entity interposed between the new business and the UBO, namely each extract of commercial register, memorandum and articles of association as well as list of shareholders, including the English or Arabic translations thereof. This results not only in an additional expenditure in time but most notably in added expenses which should not be underestimated.

As a result, the documentation necessary for opening a company bank account might be much more substantial than those for the actual company formation. We will gladly be at your disposal when selecting the suitable bank for your business venture.

Challenge 4 **Liquidity in the initial phase**

Another, generally neglected issue is the accurate budget planning of the project "Company Formation in the UAE" as well as a realistic market assessment. Often, one and a half or even two years elapse before the first deals are closed and payments are received from customers. Sufficient funds must be on hand to be able to cover the expenses in the initial phase. Rental payments and license fees regularly have to be paid for a full year in advance, security deposits for the appointment of employees have to be provided and the fit out as well as the furnishing of the office must be adequately financed.

In case that sufficient means are not (or cannot be made) available, it might prove to be a better decision to put the company formation on hold for the present moment and to either postpone the endeavour or, in certain instances, to abandon the project altogether. Such a conclusion can prevent futile investments.

We will support you in the assessment of the expenses you need to reckon with.

Challenge 5 **Finding your way in a new business culture**

The UAE is considered to be a modern, aspiring economic metropolis in which more than 200 nationalities and members of different religions live peacefully together. Nevertheless, historically evolved structures still shape business life.

Apart from complying with laws and regulations, it is equally important to master the so-called soft skills. Knowledge regarding the local business culture will make it easier for you to understand the conduct of your counterpart correctly and to avoid common mistakes. Key aspects are:

- Initial contacts and business transactions require personal appearance. Contacts cultivated by eMail or over the phone only are usually condemned to fail. Building up personal relationships on the same hierarchical level is indispensable. Personal ties are more important than any deal. Sympathies often determine the success of business transactions. Should the mutual trust not be extensive enough, it is doubtful whether even the existence of a contract will be of any use.
- The decision making process occasionally takes a very long time without being given any reasons for the delay. Impatience and haste are considered as impolite and counterproductive. The challenge is to show flexibility and getting yourself involved with a business partner without losing sight of your own goals.
- Appointments are frequently postponed so that it is not feasible to make plans for the long term. Further, meetings should always be confirmed beforehand. Prior to attending to the actual business at hand, general topics are discussed. Deviating from the subject matter is a fairly normal event, similarly to the interruption of meetings and the acceptance of phone calls during an appointment.
- Many a time, the expectations regarding the commitment of the local partner are unrealistic. A local partner often voices his ideas only after he has been presented with a first draft of a contract. The responsibility of creating documents, following up and executing agreements is borne solely by you, the foreign investor.
- Reservations of any kind are not reasonable, especially towards women. Many locals have been educated in Europe or the United States and are very open-minded. Women commonly hold high-ranking offices and are by all means regarded as equal negotiating partners.



Conclusion

Without a doubt, the UAE offers an excellent basis to develop the markets of the Near and Middle East as well as North and East Africa. However, the UAE is also a highly competitive location. In order to pull clear of competitors, you need an elaborate strategy and detailed knowledge of the market. It is necessary to both harness opportunities and to recognize and assess risks.

Do you have questions? - We would be glad to answer them!

From our office located in the heart of Dubai, our team of German attorneys has been advising small and medium-sized companies, corporations and individuals on the laws of the United Arab Emirates for more than a decade. Our areas of expertise include corporate and commercial law (in particular company formations), commercial agency law, employment law as well as tenancy and real estate law. We would be happy to attend to your questions as well. Contact us!

ANDERS LEGAL CONSULTANCY
Sama Tower, Office 806
Sheikh Zayed Road
PO Box 333 558, Dubai, UAE

Telephone: +971 4 327 5888
Telefax: +971 4 327 5999
eMail: info@anders.ae
Web: www.anders.ae

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