

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

The United Arab Emirates ("UAE") has emerged as a major economic power in the Arab world. Despite the general assumption, oil has long ceased to be the driving economic factor. Today, business life is governed by trade, services and industry and is supported by market-driven and liberal policies. 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 - consider setting up a company in the UAE, you will meet the following challenges:

### Challenge 1

#### Selecting 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 UAE mainland, secondly, the free zones and, lastly, areas which are subject to offshore legislations. They especially differ in the operational radius in which a company is allowed to act, their permissible activities as well as the possibilities to import goods and apply for work permits and residence visas.

Once you have taken the decision that the UAE mainland provides the ideal surroundings for your company set-up, the respective company license needs to be applied for in one of the seven Emirates. The proximity to important customers, the possibility of obtaining a license for 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 the 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 will support you in choosing the location for your new business and illustrate the advantages and disadvantages of the available options.

### Challenge 2

#### Compiling all required documents

As soon as you have chosen the suitable location for your new business, all necessary documents for the company set-up need to be compiled. In doing so, it is crucial to ensure the completeness of all papers on the one hand in order not to waste precious time because of missing documents and, hence, to delay the establishment process. On the other hand, it is essential to adhere to the prescribed 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 notarised and legalised 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 UAE mainland, only documents in Arabic will be acknowledged. Free zone authorities generally accept documents in either Arabic or English.

We will inform you in detail about the necessary documentation and will also consider those papers which will have to be presented in the course of subsequent procedures, such as the opening of bank accounts and applications for work permits and residence visas. 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 process.

Pursuant to the stricter requirements on banking transactions applied worldwide, the UAE Central Bank has issued various new rules that, amongst others, concern the conditions to be met when opening a bank account. In particular, the ultimate



beneficial owner ("UBO") of the company to be established needs to be revealed to the bank.

Depending on the bank, the specific documents required to identify the UBO vary. Some banks consider an organisation chart sufficient - 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 ask for duly notarised and legalised company documents of each legal entity existing 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 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 more extensive than that for the actual company formation.

#### Challenge 4

##### Having sufficient 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 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 set-up of the company on hold for the present moment and either postpone the endeavour or, in certain instances, abandon the project altogether. Such a conclusion can prevent futile investments.

We will support you in the assessment of the expenses to be expected.

#### 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 and avoid common mistakes. Key aspects are:

- Initial contacts and business transactions require personal appearance. Communication by eMail or 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 get 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 hub to develop the markets of the 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 recognise and assess risks.



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**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 15 years. Our areas of expertise include corporate law (in particular business set-up), 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!

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