

Legal Alert



FDI – A “Positive” Development

By Charles Laubach and Adite Aloke | 17 July 2019

On 23 September 2018, enactment of the new federal law on foreign direct investment -- Federal Decree-Law 19 of 2018 (the **FDI Law**) -- introduced the possibility of majority foreign ownership in UAE companies. While the FDI Law set out a “negative list” of 13 sectors (including insurance, water and electricity, land and airport services, and retail medicine) where existing foreign ownership restrictions would continue to apply, it also referred to a “positive list” that the UAE Cabinet would promulgate to identify economic sectors and activities where up to 100% foreign ownership would be allowed.

Ending speculation, the Cabinet has now acted. The Prime Minister issued a statement on 2 July 2019 announcing the Cabinet’s approval of a positive list of 122 economic activities in sectors such as agriculture, manufacturing, renewable energy, electronic commerce, transportation, arts, construction, and entertainment. The positive list (copy attached) was shortly afterwards published in the local press.

The list of 122 economic activities is divided into 51 industrial activities, 52 service activities and 19 agricultural activities. While allowing up to 100% foreign ownership, the positive list does not do this unconditionally. On the contrary, the positive list imposes additional requirements such as minimum capital requirements on some activities, obligations to employ advanced technology on other activities, and requirements to contribute to the Emiratisation of the workforce on others. For many business and service activities, existing restrictions and qualifications are expressly retained.

Removal of ownership restrictions is not an end in itself, but is a means to attract FDI that will support the nation’s overall development objectives. It is expected that the licensing authorities in each Emirate will ultimately determine the permitted foreign ownership percentages for specific projects. ■

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First Positive List Available for Foreign Investors with Foreign Ownership up to 100% across 122 economic activities, including 19 agricultural activities, 51 industrial activities and 52 service activities

Agricultural activities					
#	Reference	Sectors and Activities	Minimum Capital (million/ AED)	Emiratization and Training	Controls and Requirements
1	01111	Cultivation of grains (wheat, corn, barley etc...)	7.5	participation in the Emiratization Club at the Ministry of Human Resources and Emiratization	- use of modern technology in the production process - creating high added value - Contributing to research and development - meeting UAE Licensing Authorities' requirements
2	01112	Cultivation of legumes,	7.5		
3	01113	Cultivation of vegetables, pulses, roots and tubers	7.5		
4	01114	Cultivation of sugar cane	7.5		
5	01116	Cultivation of fiber crops	7.5		
6	0119001	Cultivation of flowers and blossoms	7.5		
7	0121	Cultivation of grapes	7.5		
8	0123001	Cultivation of fruits and citrus products	7.5		
9	0124	Cultivation of apples and fruits with seeds	7.5		
10	0125	Cultivation of other fruit trees, shrubs and nuts	7.5		
11	0126	Cultivation of oil crops	7.5		
12	0127	Cultivation of crops used in making drinks	7.5		
13	1289	Cultivation of aromatic crops and crops used for pharmaceuticals	7.5		
14	0161	Activities supporting production of crops	10		
15	0162	Activities supporting animal production	7.5		
16	0163	Post-harvest crop activities	7.5		
17	0164	Treatment of reproduction seeds	7.5		
18	0210	Agroforestry and other forestry activities	7.5		
19	0240	Forestry support services	7.5		

Industrial activities					
#	Reference	Sectors and Activities	Minimum Capital (million/AED)	Emiratization and Training	Controls and Requirements
20	10	Manufacture of food products, (excluding) 1071 bakery products 105 dairy products 108 Manufacture of prepared animal feeds	15	participation in the Emiratization Club at the Ministry of Human Resources and Emiratization	<ul style="list-style-type: none"> ✓ Use of modern technology in the production process ✓ Creating high added value ✓ Contributing to research and development ✓ Meeting UAE Licensing Authorities' requirements
21	11	Manufacture of drinks (excluding) 1101 Distillation, refining and mixing spirits 1102 Manufacture of wines 1103 Manufacture of other spirits from barley			
22	14	Manufacture of apparels (excluding) 14109 tailoring ready-made apparels 1410122 manufacture of military apparels	15		
23	15	Manufacture of leatherware and related products	15		
24	16	Manufacture of wood and of products of wood and cork, excluding furniture; manufacture of articles of straw and plaiting materials	15		
25	2012002	Manufacture of pure and compound fertilizers	15		
26	2013	Manufacture of plastic and synthetic rubber in primary forms	15		
27	2021	Manufacture of pesticides and other agrochemical products	15		
28	2022	Manufacture of paints, varnishes and similar coatings, printing ink and mastics	15		
29	2023	Manufacture of soap and detergents, cleaning and polishing preparations, perfumes and toilet preparations	15		

30	2029006	Manufacture of glues and prepared adhesives	15		
31	2029008	manufacture of writing and drawing ink	15		
32	2029009	Manufacture of chemicals used in textile and leather finishing	15		
33	2029013	Manufacture of photographic plates and films	15		
34	2029019	Manufacture of gelatin and its derivatives	15		
35	2029021	Manufacture of essential oils (perfume essences)	15		
36	2029022	manufacture of extracts of natural aromatic products	15		
37	2029023	Manufacture of aromatic distilled water	15		
38	2029024	Manufacture of matches	15		
39	2029025	Manufacture of welding powders and pastes	15		
40	2030	Manufacture of synthetic fibres	15		
41	2100	Manufacture of pharmaceuticals, medicinal chemical and botanical products	15		
42	22	Manufacture of rubber and plastics products	15		
43	23	Manufacture of other non-metallic mineral products	15		
44	24	Manufacture of basic metals (excluding) 242 Manufacture of basic precious and other non-ferrous metals 2432 Casting of non-ferrous metals	20		
45	25	Manufacture of fabricated metallic products, excluding machinery and equipment (excluding) 252 Manufacture of weapons and ammunition	15		
46	26	Manufacture of computer, electronic and optical products	15		
47	27	Manufacture of electrical equipment	20		
48	28	Manufacture of machinery and equipment n.e.c (excluding) 28259 manufacture of machinery for	100		

		the preparation of tobacco			
49	29	Manufacture of motor vehicles, trailers and semi-trailers	100		
50	3011101	Building of commercial vessels	100		
51	3011103	Manufacture of parts of ships and floating structures	100		
52	3011905	construction of drilling platforms, floating or submersible	100		
53	3011906	Construction of floating structures	100		
54	3011907	Building of helicopters	100		
55	3012	Building of pleasure and sporting boats	15		
56	3020	Manufacture of railway locomotives and rolling stock	20		
57	3030	Manufacture of air and spacecraft and related machinery (excluding) 3030006 Manufacture of military ballistic and guided missiles	100		
58	3090	Manufacture of transport equipment, not classified elsewhere	20		
59	31	Manufacture of furniture	15		
60	3220	Manufacture of musical instruments	2		
61	3230	Manufacture of sports goods	3		
62	3240	Manufacture of games and toys	3		
63	3250	Manufacture of medical and dental instruments and supplies	20		
64	3290	Other manufacturing, not classified elsewhere	3		
65	3312001	Repair and maintenance of rail engines	15		
66	3312001	Repair and maintenance of ship engines	15		
67	3315001	Repair and maintenance of ships	15		
68	3315004	Repair and maintenance of trains and railway equipment	15		
69	3315005	Repair and maintenance of aircraft engines	15		
70	3315006	Repair and maintenance of aircraft	15		

Service activities					
#	Reference	Sectors and Activities	Minimum Capital (million/AED)	Controls and Requirements	Emiratization and Training
71	6910002	Legal Counseling Offices	Pursuant to applicable legislations	Provided that they do not litigate UAE before courts, act before official authorities, or carry out authentication powers), and that approvals from UAE competent authorities are obtained	Participation in the Emiratization Club at the Ministry of Human Resources and Emiratization
72	692	Accounting, bookkeeping and auditing activities; tax consultancy	Pursuant to applicable legislations	Only tax planning for business, and business tax advice, preparation and review are allowed	
73	711	Architectural and engineering activities and related technical consultancy	Pursuant to applicable legislations		
74	862	Medical and dental practice activities			
75	75	Veterinary activities			
76	620	Computer programming, consultancy and related activities	Pursuant to applicable legislations	Providing a technical work team of minimum 5 programming professionals by the end of first business year	
77	72	Scientific research and development	Pursuant to applicable legislations		
78	7730-77300	Renting and leasing of other machinery, equipment and tangible	Pursuant to applicable legislations		

		goods (excluding car-related renting and leasing services)			
79	471	Retail sale in non- specialized stores (excluding cooperatives 4711001)	100		
80	731	Advertising	Pursuant to applicable legislations		
81	732	Market research and public opinion polling			
82	702	Management consultancy activities			
83	712	Technical testing and analysis			
84	331	Repair of fabricated metal products, machinery and equipment (excluding sea vessels, aircraft and other transport equipment)			
85	8121- 81210	General cleaning of buildings			
86	742	Photographic activities			
87	8292- 82920	Packaging activities			
88	823	Organization of conventions and trade shows			
89	741	Specialized design activities			
90	7490005	Legal translation services			
91	7490006	Movie and TV show subtitling services			
92	7490012	Translation of Published Materials			
93	8299002	Interpretation services			
94	41	Construction of buildings		Permissible only for large- scale infrastructure projects such as airports and highways	
95	42	Civil engineering			
96	432	Electrical, plumbing and other construction installation activities			
97	433	Building completion and finishing			
98	431	Demolition and site preparation			
99	439	Other specialized construction activities		And sports facilities of value exceeding AED 450	
100	7730009	Renting and leasing of construction or demolition machinery and			

		equipment		million	
101	851	Pre-primary and primary education	Pursuant to applicable legislations	Excluding public education, and provided that competent authorities' approval is obtained for establishing and directing an educational institution. This may also be subject to meeting suitable requirements of school premises and high quality education criteria.	
102	852	Secondary education			
103	853	Higher education			
104	854	Other education			
105	370	Sewerage			
106	382	Waste treatment and disposal			
107	3900001	Treatment of contamination effects and environment protection services			
108	861	Hospital activities	100	Subject to competent authorities' approval, based on economic need test, taking into account number of hospitals, medical centres in certain areas. In DHCC, economic need test is not required.	
109	869	Other human health	70		

		activities			
110	8211001	Hotel management	Pursuant to applicable legislations		
111	8211004	Restaurant management			
112	90009	Creative activities and theatrical performances		Only permissible for theatrical, live and circus performance activities	
113	9000104	Musical band			
114	9000110	Circus			
115	8130002	Landscaping service activities			
116	9103-91030	Botanical and zoological gardens and natural reserves activities		Permissible only for public park and garden services	
117	5012-50120	Sea and coastal freight water transport			
118	5022001	Inland freight water transport			
119	7730016	Renting of commercial ships			
120	5222002	Ship pilotage and towage services			
121	5222007	Sea towing of boats, watercraft and sea craft			
122	New	Holding company services in intellectual property			

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