Dubai’s economy has been regaining momentum after the financial crisis of 2008, and continues to be a politically safe haven, and an important business/trade hub and financial centre for the region. We have seen a growing legal and financial maturity developing alongside Dubai’s economic recovery, bringing it closer in line with other longer established business centres of the world. Some of the key developments in the UAE’s business law environment that have occurred in the post-crisis era are highlighted in this article. We have focused on a few developments because this is not a long article, but they are by no means the only important changes that have occurred since the crisis of 2008. The changes show a trend towards market maturity, using a responsibly cautious approach. While there are still more changes that the legal and business communities would like to see, the developments so far are all positive and they are sending the right message.

CORPORATE DEVELOPMENTS

Every year for the last 10 years lawyers in the UAE have heard that a new commercial companies law was imminent, which would replace the existing one (Federal Law 8 of 1984). It was eagerly anticipated that the new law would provide a much-needed overhaul to some of the outdated and unclear features of the current law, and most of all that it would permit foreign majority or whole ownership of UAE companies. There was excitement when the new law was published earlier this year in what is likely to be the final or near final form, subject now only to approval by the UAE Supreme Council (having already been approved by the UAE Federal National Council and the UAE Federal Cabinet). Commentators eagerly set to work analyzing the new law, extolling the changes as signs of a new and progressive era. While the new law does contain some welcome improvements over the existing law (which need not be highlighted in this article), the fact is that the changes are not significant enough to affect the attractiveness of the UAE as a business destination. At the risk of oversimplifying, the two most significant impediments to investment in the UAE are and have long been: (i) the restriction on foreign majority ownership of UAE incorporated entities; and (ii) the UAE’s licensing regime, which imposes sometimes onerous, and always time consuming, conditions on obtaining a license to carry on business. With neither of these issues addressed, we see the new companies law as a welcome, but small, change in the legal landscape. A new Foreign Investment Law which is rumoured to be released in draft form soon may address the majority foreign ownership issue.

Insolvency became a more important issue in the aftermath of the financial crisis. Like the new companies law, much has been made of a new law on insolvency that has been in draft form for years. It is expected to overhaul the current cumbersome regime found mostly in the UAE Commercial Code (Federal Law 18 of 1995) by making it more modern and efficient, with creditor protection mechanisms and a specialized insolvency tribunal to incentivize companies to make use of the regime. While this law will undoubtedly bring many welcome improvements and is an important step in terms of market maturity, we expect that it is probably still 1-2 years away from coming into force.

REAL ESTATE

In the addition to the mortgage lending cap mentioned above, there has been the recent (July 2013) introduction of the Special Judicial Committee for Cancelled Real Estate Projects in the Emirate of Dubai. The function of the Special Committee is to consolidate the process for investors to seek compensation against developers for cancelled real estate projects. It aims to further facilitate quicker proceedings, since court and arbitration proceedings have been lengthy and expensive. The introduction of the Special Committee is a clear signal to international property investors that Dubai’s property regulator, the Real Estate Regulatory Agency, is taking steps to clear out the rogue developers of days gone by, introduce transparency and protection for investors, helping to move Dubai towards its status as an established global real estate player.

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