

## **COMPANIES REGULATIONS (AMENDMENT NO. 2) 2020**

Regulations to amend the Companies Regulations 2020

Regulations to make provision for the formation and registration of companies in the Abu Dhabi Global Market.

Date of Enactment: ● 2020

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market, as amended, issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations–

### **1. Amendments to the Companies Regulations 2020**

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#### **154. Particulars of directors to be registered: individuals**

(1) A company's register of directors must contain the following particulars in the case of an individual–

- (a) name and any former name,
- (b) a service address, which must be a PO Box address for directors resident in the United Arab Emirates,
- (c) the country or state in which he is usually resident,

- (d) nationality,
  - (e) business occupation (if any),
  - (f) date of birth.
- (2) For the purposes of this section “name” means a person’s forename and surname.
  - (3) For the purposes of this section a “former name” means a name by which the individual was formerly known for business purposes. Where a person is or was formerly known by more than one such name, each of them must be stated.
  - (4) It is not necessary for the register to contain particulars of a former name in the following cases–
    - (a) in the case of any person, where the former name–
      - (i) was changed or disused before the person attained the age of 18 years, or
      - (ii) has been changed or disused for 20 years or more.
  - (5) A person’s service address may be stated as the company’s registered office or the office of its company service provider located in Abu Dhabi Global Market.

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#### **156. Register of directors’ residential addresses**

- (1) Every company must keep a register of directors’ residential addresses.
- (2) The register must state the usual residential address of each of the company’s directors.
- (3) If a director’s usual residential address is the same as his service address (as stated in the company’s register of directors), the register of directors’ residential addresses need only contain an entry to that effect. This does not apply if his service address is stated to be “The company’s registered office or the office of its company service provider located in Abu Dhabi Global Market”.
- (4) If default is made in complying with this section, a contravention of these Regulations is committed by–
  - (a) the company, and
  - (b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.
- (5) A person who commits the contravention referred to in subsection (4) is liable to a level 1 fine.
- (6) This section applies only to directors who are individuals, not where the director is a body corporate or a firm that is a legal person under the law by which it is governed.

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### **PART 12 COMPANY SECRETARIES AND COMPANY SERVICE PROVIDERS**

## CHAPTER 1

### COMPANY SECRETARIES

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## CHAPTER 2

### COMPANY SERVICE PROVIDERS

#### **296A Non-Exempt Companies to have a company service provider**

- (1) A company conducting a business activity of being a special purpose company or vehicle must at all times have a company service provider, subject to subsections (3) and (4).
- (2) In this Chapter -
  - (a) a company that is obliged to have a company service provider is referred to as a “non-exempt company”.
  - (b) a “company service provider” is a person licensed pursuant to the Commercial Licensing Regulations 2015 to carry out the controlled activity of providing company services, as defined in Rule 7 of the Commercial Licensing Regulations 2015 (Controlled Activities) Rules 2020, and
  - (c) “business activity” has the meaning given to it in the Commercial Licensing Regulations 2015 (Controlled Activities) Rules 2020.
- (3) Notwithstanding subsection (1), a body corporate that is a wholly owned subsidiary undertaking of any of the following need not have a company service provider –
  - (a) persons exempt under the Commercial Licensing Regulations 2015 (Exemptions) Order 2020,
  - (b) an authorised person within the meaning of the Financial Services and Markets Regulations 2015,
  - (c) persons licensed or regulated by the Central Bank of the United Arab Emirates,
  - (d) a company whose shares are admitted to trading on a regulated market in the United Arab Emirates, including in Abu Dhabi Global Market, or
  - (e) a company that has demonstrated to the satisfaction of the Registrar to have–
    - (i) substantial assets, turnover and employees in the United Arab Emirates, and
    - (ii) adequate governance policies and procedures, in each case as may be specified by rules made by the Board or guidance issued by the Registrar.
- (4) Any non-exempt company incorporated in ADGM–

- (a) prior to or on the date on which this Chapter comes into force, shall only be obliged to have a company service provider from the first day of the month starting 12 months from the date on which this Chapter comes into force, and
  - (b) after the date on which this Chapter comes into force, shall only be obliged to have a company service provider from the first day of the month starting eight months from the date on which this Chapter comes into force.
- (5) If the company fails to comply with subsection (1), a contravention of these Regulations is committed by–
- (a) the company, and
  - (b) every officer of the company who is in default.
- (6) A person who commits the contravention referred to in subsection (5) is liable to a fine not exceeding level 7.

### **296B Obligations of company service provider and non-exempt company**

- (1) The company service provider of a non-exempt company must maintain the records that the non-exempt company is required to keep under–
- (a) the following provisions of these Regulations–
    - (i) section 118 (register of members).
    - (ii) section 120 (list of members).
    - (iii) section 153 (register of directors).
    - (iv) section 156 (register of directors' residential addresses).
    - (v) section 215 (directors' service contracts).
    - (vi) section 223 (directors' indemnities).
    - (vii) section 292 (register of secretaries).
    - (viii) section 360 (records of resolutions etc).
    - (ix) section 642 (contracts relating to purchase of own shares).
    - (x) section 660 (documents relating to redemption or purchase of own shares out of capital by private company).
    - (xi) section 682 (register of debenture holders).
    - (xii) section 737 (report to members of outcome of investigation by public company into interests in its shares).
    - (xiii) section 740 (register of interests in shares disclosed to public company).
    - (xiv) section 798 (instruments creating charges).
  - (b) the Commercial Licensing Regulations 2015 (Conditions of Licence and Branch Registration) Rules 2020 and any licence granted thereunder, and

- (c) the Beneficial Ownership and Control Regulations 2018.
- (2) A company service provider of a non-exempt company is authorised to represent the non-exempt company in its dealings with the Registrar and shall give all notices and make all filings that the non-exempt company is obliged to make to the Registrar under these Regulations, the Commercial Licensing Regulations 2015 and the Beneficial Ownership and Control Regulations 2018.
- (3) A non-exempt company must make available to its company service provider such documents and information as is required to enable the company service provider to comply with its obligations under this section.
- (4) If a non-exempt company fails to comply with subsection (3), a contravention of these Regulations is committed by–
- (a) the non-exempt company, and
- (b) every officer of the non-exempt company who is in default.
- (5) A person who commits the contravention referred to in subsection (7) is liable to a fine not exceeding level 6.

#### **296C Duty to notify Registrar of appointment and cessation of company service provider**

- (1) A non-exempt company must, within the period of 14 days from a person becoming or ceasing to be a company service provider of the non-exempt company, give notice to the Registrar of the change and of the date on which it occurred. A notice of a person ceasing to be a company service provider must either include details of the company's new company service provider or a statement that the company is no longer a non-exempt company.
- (2) Notice of a person having become a company service provider of the non-exempt company must be accompanied by that person's consent in the prescribed form to act in that capacity.
- (3) If the non-exempt company fails to comply with this section, a contravention of these Regulations is committed by–
- (a) the non-exempt company, and
- (b) every officer of the non-exempt company who is in default.
- (4) A person who commits the contravention referred to in subsection (3) is liable to a level 2 fine.

#### **296D Registrar's powers**

- (1) The Registrar may issue guidance about the operation of this Chapter.

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#### **864. Power to strike off company ~~not carrying on business or in operation~~**

- (1) If the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, the Registrar may send to the company a communication inquiring whether the company is carrying on business or in operation.
- ~~(1A) If the Registrar has reasonable cause to believe that a company has failed to appoint a company service provider in accordance with section 296A of these Regulations, the Registrar may send to the company a communication inquiring whether:~~
- ~~(a) the company is a 'non-exempt company' for the purpose of section 296A of these Regulations, and~~
- ~~(b) the company has appointed a company service provider.~~
- (2) If the Registrar does not within one month of sending the communication under sections (1) or (1A) above, receive any answer to it, the Registrar must within 14 days after the expiration of that month send to the company a second communication referring to the first communication and stating—
- (a) that no answer to it has been received, and
- (b) that if an answer is not received to the second communication within one month from its date, a notice will be published on the Registrar's website with a view to striking the company's name off the register.
- (3) If, within one month after sending the second communication, the Registrar—
- (a) receives an answer to the effect that —
- (i) the company is not carrying on business or is in operation, or
- (ii) a 'non-exempt company' has failed to appoint a company service provider in accordance with section 296A of these Regulations; or
- (b) does not receive any answer,
- the Registrar may publish on the Registrar's website and send to the company, a notice that at the expiration of three months from the date of the notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.
- (4) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register.
- (5) The Registrar must publish notice on the Registrar's website of the company's name having been struck off the register.
- (6) On the publication of the notice on the Registrar's website the company is dissolved.
- (7) However—
- (a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and
- (b) nothing in this section affects the power of the Court to wind up a company the name of which has been struck off the register.

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**999. Service of documents on company**

- (1) A document may be served on a company registered under these Regulations by leaving it at, or sending it by post to, the company's registered office or the office of its company service provider appointed in accordance with Chapter 2 of Part 12 of these Regulations.
- (2) For the purposes of this section a person's "registered address" means any address for the time being shown as a current address in relation to that person in the part of the register available for public inspection.
- (3) Further provision as to service and other matters is made in the company communications provisions (see section 1003).

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**2. Short title, extent and commencement**

- (1) These Regulations may be cited as the Companies Regulations (Amendment No. 2) 2020.
- (2) These Regulations shall apply in the Abu Dhabi Global Market.
- (3) These Regulations come into force on the date of their publication.