

**Federal Decree-Law no. (32) of 2021**

Issued on 20/09/2021

Corresponding to 13/Safar/1443H.

**ON COMMERCIAL COMPANIES****Abrogating:****Federal Law no. 2 of 2015.**

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Pursuant to the perusal of the Constitution;
- Federal Law no. (1) of 1972 on Competencies of the Ministries and Powers of the Ministers, and its amendments;
- Federal Decree-Law no. (5) of 1975 on the Commercial Register;
- Law no. (5) of 1985 promulgating the Civil Transactions Law of the United Arab Emirates, and its amendments;
- Law no. (3) of 1987 promulgating the Penal Code, and its amendments;
- Federal Law no. (10) of 1992 promulgating the Law of Evidence in Civil and Commercial Transactions, and its amendments;
- Federal Law no. (11) of 1992 promulgating the Civil Procedure Law, and its amendments;
- Federal Law no. (35) of 1992 promulgating the Criminal Procedure Law, and its amendments;
- Federal Law no. (18) of 1993 promulgating the Commercial Transactions Law, and its amendments;
- Federal Law no. (29) of 1999 establishing the General Authority of Islamic Affairs and Endowments, and its amendments;
- Federal Law no. (4) of 2000 on the UAE Securities and Commodities Authority and Market, and its amendments;
- Federal Law no. (7) of 2002 on Copyrights and Neighbouring Rights, and its amendments;
- Federal Law no. (8) of 2004 on the Financial Free Zones;
- Federal Law no. (17) of 2004 on Anti-Commercial Concealment;
- Federal Law no. (1) of 2006 on Electronic Commerce and Transactions, and its amendments;
- Federal Decree-Law no. (4) of 2007 on the Establishment of the Emirates Investment Authority, and its amendments;
- Federal Law no. (6) of 2007 on the Establishment of the Insurance Authority and Regulation of its Operations;
- Federal Law no. (4) of 2012 on the Regulation of Competition;
- Federal Law no. (4) of 2013 on the Regulation of the Notarial Profession, and its amendments;
- Federal Law no. (12) of 2014 on the Regulation of the Auditing Profession, and its amendments;
- Federal Law no. (2) of 2015 on Commercial Companies, and its amendments;
- Federal Decree-Law no. (9) of 2016 on Bankruptcy, and its amendments;
- Federal Law no. (14) of 2016 on Violations and Administrative Penalties in the Federal Government;
- Federal Law no. (17) of 2016 on the Establishment of Mediation and Conciliation Centres for Civil and Commercial Disputes, and its amendments;
  - Federal Law no. (19) of 2016 on Anti-Commercial Fraud;
  - Federal Law no. (7) of 2017 on Tax Procedures;
  - Federal Decree-Law no. (8) of 2017 on the Value Added Tax (VAT);
  - Federal Law no. (6) of 2018 on Arbitration;
  - Federal Decree-Law no. (14) of 2018, on the Central Bank, the Regulation of the Financial

Activities and Institutions, and its amendments;  
- Federal Decree-Law no. (20) of 2018 on the Criminalisation of Money Laundering and Combating the Financing of Terrorism and Illegal Organisations, and its amendments; and  
Based on the proposal made by the Minister of Economy and approved by the Council of Ministers,  
Hereby issued following Decree-Law:

## **Title 1**

### **General Provisions for Companies**

#### **Chapter 1**

#### **Companies**

##### **Article 1- Definitions**

In application of the provisions of this Decree-Law, the following terms and expressions shall have the meanings assigned against each, unless the context requires otherwise:

State: The United Arab Emirates.

Federal Government: The government of the United Arab Emirates.

Local Government: Any of the Governments of the Member Emirates of the Federation.

Ministry: The Ministry of Economy.

Minister: The Minister of Economy.

Central Bank: The Central Bank of the United Arab Emirates.

Authority: The Securities & Commodities Authority.

Competent Authority: The local authority having competence with regards to the affairs of companies in the relevant Emirate.

Company: The commercial company.

Special Purpose Acquisition Company (SPAC): A Public joint stock Company that the Authority has approved to classify as a Special Purpose Acquisition Company without any other purpose, in accordance with the provisions of the decision issued by the Authority in this regard.

Special Purpose Vehicle (SPV): The Company established with the aim of separating the obligations and assets associated with a particular financing operation from the obligations and assets of the person who incorporated it, and used in credit operations, borrowing, securitisation, issuance of bonds, and transfer of risks associated with insurance, reinsurance, and derivatives operations, in accordance with the provisions of the decision issued by the Authority to regulate this activity.

Governance: A set of controls, standards, and procedures that achieve corporate governance at the management level of the company in accordance with the international standards and practices, by determining the duties and responsibilities of Board Members and the executive management of the company, taking into account the protection of the rights of shareholders and stakeholders.

Working Day: The official working days in ministries, government agencies, and local departments.

Special Decision: The resolution issued by a majority vote of shareholders who own at least three-quarters of the shares represented in the general assembly meeting of the joint-stock company.

Registrar: The Companies Registrar appointed by the Minister and who carries out his duties through the Companies Department at the Ministry.

Markets: The securities and commodities markets licensed by the Authority to operate in the State.

Securities:

- Shares issued by Joint Stock Companies;
- Derivatives and investment units as approved by the Authority;

- Bonds, sukuk, and notes issued by the Federal Government, Local Governments, or public authorities or institutions in the State;
- Bonds, sukuk, and any debt instruments issued by companies in accordance with the regulation issued by the Authority;
- Any other local or foreign securities acceptable to the Central Bank and the Authority.

**Public Subscription:** Inviting any physical or juristic person or class or classes of persons to purchase any Securities.

**Securities Book Building:** The process under which the price of the Security is determined upon its issue or sale in a Public Subscription, pursuant to the provisions of the decision issued by the Authority in this respect.

**Strategic Partner:** The partner whose contribution to the company results in the provision of beneficial technical, financial, operational, or marketing support to the Company.

**Shares Register:** The register that shows the shares owned by shareholders in Joint Stock Companies and the rights attached thereto.

**Shares Register Secretariat:** The entity or entities licensed by the Authority to prepare a register for the shares of Private Joint Stock Companies.

**Board Member:** Any member among the members of the Company's board of directors, including the Chairman.

## **Article 2- Objectives of the Decree-Law**

The present Decree-Law aims to contribute to the development of the working environment and the State's capabilities and economic position in accordance with global changes as to regulating companies, especially those related to regulating Governance rules, protecting the rights of shareholders and partners, supporting the flow of foreign investment, and enhancing the social responsibility of companies.

## **Article 3- Companies governed by the provisions of this Decree-Law**

The provisions of this Decree-Law, as well as the regulations and decisions issued in implementation thereof, shall apply to commercial companies established in the State; also, the provisions relating to foreign companies set forth in this Decree-Law, as well as the decisions and regulations issued in implementation thereof, shall apply to foreign companies that establish their head office in the State for the practice of any activity therein or establish a branch or representative office thereof in the State.

## **Article 4- Companies exempt from the provisions of this Decree-Law**

1- Save for the registration and renewal of registration in the exempt companies register at the Ministry, the Authority, and the Competent Authority, each within its own competencies, the provisions of this Decree-Law shall not apply to:

a- Companies exempt under a Cabinet decision, where a special provision is stipulated to this effect in the Memorandum of Association or Statute thereof in accordance with the controls issued by the Council of Ministers.

b- Companies wholly owned by the Federal or Local Government, or any of the institutions, bodies, agencies, or subsidiaries thereof, and any other companies wholly owned by those entities or their subsidiaries, where a special provision is stipulated to this effect in the Memorandum of Association or Statute thereof.

c- Companies in which the Federal or Local Government, or one of the institutions, bodies, agencies, subsidiaries thereof or any companies in which any of them owns, directly or indirectly, at least (25%) of their capital and operating in the field of oil exploration, extraction, refining, manufacturing, marketing, and transportation, or operating in the energy sector of all kinds, or in the electricity and gas production or water desalination, transmission, and distribution, where a special provision to this effect is stipulated in the Memorandum of Association or Statute thereof.

d- Companies exempt from the provisions of Federal Law no. (2) of 2015 on Commercial Companies, and its amendments, prior to the date of entry into force of the provisions of this Decree-Law, where a special provision is stipulated to this effect in the Memorandum of Association or Statute thereof.

e- Companies exempt from the provisions of this Decree-Law by virtue of special federal laws.

f- Special Purpose Acquisition Company (SPAC) without any other purpose, where a special provision is stipulated to this effect in the decision issued by the Authority regarding these companies.

g- Special Purpose Vehicles (SPV), where a special provision is stipulated to this effect in the decision issued by the Authority to regulate this activity.

2- The companies stated in clause (1/b, c, d) of this article shall adjust their situation in accordance with the provisions of this Decree-Law if they sell or offer for Public Subscription any percentage of their share capital or list their shares in one of the financial Markets in the State.

3- The companies stated in clauses (1/f) and (1/g) of this article shall adjust their situation in accordance with the provisions of this Decree-Law and pursuant to the regulations or decisions issued by the Authority regarding such companies.

#### **Article 5- Companies operating in free zones**

1- The provisions of this Decree-Law shall not apply to companies incorporated in the free zones of the State where a special provision to this effect is stipulated in the laws or regulations of the relevant free zone. Notwithstanding the foregoing, these companies shall be governed by the provisions of this Decree-Law if such laws or regulations permit them to conduct their activities outside the free zone in the State.

2- Subject to the provisions of clause (1) of this article, the Council of Ministers shall issue a decision specifying the conditions to be observed for the entry and registration of companies operating in the free zones of the State and wishing to conduct their activities inside the State and outside the free zones.

#### **Article 6- Corporate Governance**

1- Notwithstanding the requirements of the Central Bank with regard to the financial institutions subject to its control and supervision, the Minister shall issue the decision regulating Governance for companies with the exception of Public Joint Stock Companies, in respect of which the Board of Directors of the Authority shall issue such decision. The Governance decision shall include the rules, controls, and provisions that the companies shall comply with.

2- The Company's board of directors or managers, as the case may be, shall be responsible for implementing the Governance rules and standards.

#### **Article 7- Breach of Governance rules**

The Governance decisions provided for in clause (1) of Article (6) shall include the fines determined by the Ministry or the Authority, each within its own competencies, to be imposed on companies, their chairmen, Board Members, managers, and auditors in case of violating such decisions, provided that the amount of the fine does not exceed (10,000,000) ten million dirhams.

#### **Article 8- Definition of a Company**

1- A Company is a contract whereby two or more persons undertake to participate in a profit-making project by contributing a share in the capital or performing a specific work and sharing any profit or loss resulting therefrom.

2- The economic project provided for in clause (1) of this article shall include every commercial, financial, industrial, agricultural, real estate, or other kinds of economic activity.

3- As an exception to clause (1) of this article, a Company may be incorporated or owned by one single person in accordance with the provisions of this Decree-Law.

#### **Article 9- Forms of Companies**

1- The Company shall take one of the following forms:

- a- Joint Liability Company.
- b- Limited Partnership Company.
- c- Limited Liability Company.
- d- Public Joint Stock Company.
- e- Private Joint Stock Company.

2- Any company that does not take on any of the forms provided for in the preceding clause shall be considered null and void, and the persons who concluded contracts or transactions in its name shall be held severally and jointly liable for the obligations arising therefrom.

3- Any company incorporated in the State shall hold the nationality thereof. Nevertheless, this shall not necessarily entail that said company enjoys rights limited to UAE nationals.

## Chapter 2

### Incorporation and Management of the Company

#### Article 10- Activities with strategic impact

1- By virtue of a Cabinet decision, based on the proposal of the Minister, a committee shall be formed which members include the representatives of the competent authorities, and shall be concerned with proposing the activities with strategic impact, as well as the necessary controls for licensing companies that carry out any of these activities.

2- The Council of Ministers, based on the recommendation of the committee stipulated in clause (1) of this article, shall issue a decision defining the activities with strategic impact and the controls for licensing any such companies.

3- Notwithstanding the competencies conferred thereupon by the Council of Ministers in accordance with clause (2) of this article, the Competent Authority shall have the following powers:

a- Determining a certain percentage of the nationals' participation in the capital or boards of directors of all companies incorporated within the scope of its competencies.

b- Approving the applications for the incorporation of companies and determining the fees payable according to the controls approved by the Council of Ministers and provided for in clause (2) of this article, subject to the provisions stipulated in this Decree-Law regarding Joint Stock Companies.

4- The Council of Ministers may, at the request of the Ministry or the concerned authority, or the Competent Authority, as the case may be, exempt any Company whose activities are regulated under a special legislation, from any condition or text relating to the percentage of nationals' ownership or participation in the management of that Company.

#### Article 11- Conducting the activity

1- The Company shall obtain all the approvals and licences required for the activity to be conducted by the Company in the State before commencing to practice its activity.

2- The Council of Ministers shall issue a decision determining the formation and qualifications of the members of the Internal Sharia Control Committees and the Sharia Controller of companies incorporated inside the State and conducting their activities in accordance with the provisions of the Islamic Sharia. The said decision shall determine the work controls of such committees. Following their incorporation and prior to the commencement of their activities, such companies shall obtain the approval of the Internal Sharia Control Committees.

3- Only Public Joint Stock Companies may engage in banking and insurance business, unless otherwise provided by the special laws regulating these activities or the decisions issued pursuant thereto.

#### Article 12- The Company's name

1- The Company shall have a trade name that does not violate the public order of the State, and this name shall be followed by the legal form of the Company. No Company may be registered under a name previously registered in the State or under any similar name to an extent that may lead to confusion.

2- The Company may change its name into another name by virtue of a Special Decision issued by its general assembly and the like, as approved by the Competent Authority and as acceptable to the Registrar. The change of the name of the Company shall not prejudice its rights or obligations or the legal proceedings brought by or against the Company. Any legal proceedings that have already been brought or initiated by or against the Company shall also continue in respect of the modified name of the Company.

#### Article 13- The Company's address and correspondence

1- Every Company shall have an address registered with the State and to which notices and correspondences shall be dispatched.

2- All contracts, documents, correspondences, and applications forms issued by the Company shall bear its name, legal form, registration number, and address and, if the share capital of the Company is added to such particulars, the amount of the paid share capital shall be stated.

3- If the Company is under liquidation, a notation to this effect shall be made in the Company's documents.

#### **Article 14- Drafting the Memorandum of Association**

1- The Memorandum of Association of a Company and each amendment thereto shall be made in Arabic and authenticated by the Competent Authority, otherwise, the Memorandum of Association or the amendment thereto shall be deemed null and void. If the Memorandum of Association is drawn up in a foreign language in addition to Arabic, the Arabic text shall be adopted and applicable in the State, and the authentication shall be made by the Competent Authority in attendance in person or by way of an electronic signature as specified by the Competent Authority to this effect, without prejudice to the authentication thereof by a notary public in the cases specified by a decision of the Competent Authority in this regard.

2- The partners may uphold against each other the nullity arising from the failure to draft in writing the Memorandum of Association or the amendment thereto, or the failure to authenticate the same. However, the partners may not invoke such nullity against third parties.

3- If the nullity of the Company is adjudicated based on the request of a partner, such nullity shall have no effect except as of the date on which such ruling becomes final.

#### **Article 15- Registration of the Memorandum of Association of the Company with the Competent Authority**

1- In order to be valid, a Company's Memorandum of Association and any amendment thereto shall be entered in the Commercial Register at the Competent Authority.

2- If the Memorandum of Association is not registered as set out in clause (1) of this article, it shall not be enforceable against third parties. If the non-registration is limited to one or more of the details required to be registered, only such non-registered details shall not be enforceable against third parties.

3- The companies shall notify the Competent Authority and the Registrar in writing within 15 (fifteen) Working Days upon any amendment or change to the registered particulars of the Company, including its name, address, share capital, number of shareholders or legal form.

4- The managers or Board Members of the Company, as the case may be, shall be jointly liable to indemnify the damage suffered by the Company, the shareholders, or third parties due to the non-registration of the Memorandum of Association or any amendments thereto in the Commercial Register with the Competent Authority.

#### **Article 16- Proving the existence of the Company's Memorandum of Association by third parties**

1- A third party may prove the existence of the Memorandum of Association of the Company or any amendment thereto by all means of proof. Such third party may also uphold the existence or nullity of the Company against the partners.

2- If the nullity of the Company is ruled based on a third-party request, the Company shall be deemed void *ab initio* against such third party. Persons who have concluded contracts with said third party in the name of the Company shall be severally and jointly liable for the obligations arising from such contract.

3- In all cases where the nullity of the Company is ruled, the conditions set forth in the Memorandum of Association shall apply to the liquidation of the Company and the settlement of the rights of the shareholders against each other. The debtors of the Company may not request or uphold the nullity in order to be discharged from their debts towards the Company.

#### **Article 17- Nature of the share provided by a partner**

1- The capital of the Company shall consist of cash or in-kind contributions with an estimated value or either of them.

2- The partner shall not contribute by his work, unless he is a joint partner. Also, the partner's contribution may not consist of his reputation or influence.

#### **Article 18- Rules governing contribution to the Company**

1- If the partner's contribution consists of a property right or any other in-kind rights whose ownership is transferred to the Company, such partner shall be held liable, in accordance with the applicable rules as regards the contract of sale, for the transfer of ownership and the guarantee of the share, in cases of loss, maturity, or emergence of a defect or deficiency therein, unless otherwise agreed upon.

2- If the contribution consists of the mere usufruct of a property, the provisions applicable to the lease contract shall apply to such matters as set out in clause (1) of this article, unless otherwise agreed upon.

3- If partner's contribution consists of debts payable by third parties or other in-kind rights, such partner's liability shall not be discharged towards the Company until after settlement of these debts. Moreover, the partner shall be liable to indemnify the damage to the Company if the debts are not repaid upon falling due.

4- Notwithstanding the provisions of the Law on Copyrights and Neighbouring Rights and the Law on the Regulation and Protection of Industrial Property Rights for Patents and Industrial Designs and Models, and unless otherwise agreed upon, should the partner's contribution consist of his work, any gain generated from the work shall be the right of the Company unless the partner has acquired this gain from a patent right.

#### **Article 19- Failure to contribute to the Company**

1- If a partner undertakes to contribute to the Company's capital in the form of an amount of money, and defaults in paying such amount or his contribution consists of debts due by third parties and said debts are not repaid, the said partner shall be liable to the Company for any obligations arising in consideration of his contribution to the Company.

2- A partner shall be liable to the Company for the difference, if any, between the amount of money or value of the contribution made by him to the Company and the amount of money or value of such other contribution set out in the register of partners, and which the partner should have made in accordance with the provisions of this Decree-Law.

#### **Article 20- Execution against anything in lieu of the share**

1- Personal creditors of a partner may not recover their rights out of the share of the debtor partner in the Company's capital. However, they may claim their rights from the debtor's share in the Company's profits. If the Company is terminated, the creditors' rights shall be paid from the partner's share in the remaining assets thereof upon termination of the Company's liquidation.

2- If partner's contribution in the Company consists of shares, then the creditors thereof may, in addition to the rights set out in clause (1) of the present article, file a lawsuit before the competent court to sell these shares and subsequently recover his debt out of the sale proceeds.

#### **Article 21- Legal personality of the Company**

1- The Company shall acquire a legal personality in accordance with the provisions of this Decree-Law and the decisions issued hereunder, as of the date of its entry in the commercial register at the Competent Authority.

2- The Company under incorporation shall be considered as having a legal personality during the period of its incorporation to the extent necessary therefor. The Company shall be bound by the acts of its founders in connection with the incorporation procedures and requirements during the incorporation period, provided that such incorporation be completed in accordance with the provisions of this Decree-Law.

3- Upon its dissolution, the Company shall be considered under liquidation. During the liquidation period, the Company shall maintain its legal personality to the extent necessary therefor. The expression "Under Liquidation" shall be added to Company's name in a clear manner.

4- Subsidiaries of Holding Companies shall enjoy a legal personality and shall have their own independent financial liability.

#### **Article 22- Duties of the Company's managing director**

The Company's managing director shall preserve the rights thereof and act with due care. Also, he shall carry out all acts that are consistent with the object of the company and within the limits of the powers vested in him by virtue of an authorisation issued by the Company to this effect.

#### **Article 23- Liability of the Company for the acts of its managing director**

The Company shall be bound by any act or conduct arising out of its managing director upon conducting the affairs of management in a usual manner. The Company shall also be bound by any act of any of its employees or agents authorised to act on behalf of the Company, and whereby a third party relies thereon in its dealing with the Company.

#### **Article 24- Exemption from liability**

Subject to the provisions of this Decree-Law, any provision in the Memorandum of Association or Statute of the Company authorising it or any of its subsidiaries to agree to exempt any person from any personal liability that such person bears in his capacity as a current or former officer of the Company shall be deemed null and void.

#### **Article 25- Protection of persons dealing with the Company**

1- The Company may not uphold the absence of its liability towards persons dealing with it, on the ground that the entity authorised to manage the Company was not duly appointed in accordance with the provisions of this Decree-Law or the Statute of the Company, so long as the acts thereof are within the usual limits of entities assuming the same position in companies that conduct the same type of activity as the Company.

2- To enjoy protection, a person dealing with the Company shall be a *bona fide* party. A person shall not be deemed as acting in good faith if he previously knew or could have known, based on his relationship with the Company, the aspects of deficiency in the act or work intended to be upheld against the Company.

#### **Article 26- Accounting registers**

1- Every Company shall keep accounting registers showing its transactions so as to accurately reveal at any time its financial position and enable the partners or shareholders to make sure that the Company's accounts are kept in accordance with the provisions of this Decree-Law.

2- Every Company shall keep its accounting registers in its head office for a period of at least (5) five years from the end of the fiscal year of the Company.

3- The Company may keep an electronic copy of the original of the documents and registers kept and deposited therewith in accordance with the controls issued by a decision of the Minister.

#### **Article 27- Accounts of the Company**

1- Every Joint Stock Company or Limited Liability Company shall have one or more auditors to audit the accounts of the Company on a yearly basis. The remaining forms of companies may appoint an auditor in accordance with the provisions of this Decree-Law.

2- The Company shall prepare annual financial accounts including the balance sheet and the profit and loss account.

3- The Company shall apply the International Accounting Standards and Practices upon preparing its periodical and annual accounts, to give a clear and accurate idea of the profits and losses thereof.

4- Every partner or shareholder in any Company may, based on a written request he submits, obtain a free copy of the last audited accounts and of the last report of its auditor and a copy of the accounts of the group if it is a Holding Company. The Company shall respond to such request within (10) ten days from the date of its filing.

#### **Article 28- Fiscal year of the Company**

1- Every Company shall have a fiscal year as determined in its Statute, provided that the first fiscal year of the Company does not exceed (18) eighteen months and is not less than (6) six months, commencing as of the date of the Company's entry in the Commercial Register at the Competent Authority.

2- The subsequent fiscal years shall consist of consecutive periods, each of (12) twelve months commencing directly upon the expiry of the preceding fiscal year.

#### **Article 29- Distribution of the profits and losses**

1- If the Company's Memorandum of Association does not specify the share of a partner in the profits or losses, the said share shall be *pro rata* to his contribution in the capital. If the Memorandum of Association specifies only a partner's share in the profits, his share in the losses shall be equal to his share in the profits and vice versa.



2- If a partner's share is limited to his work, the Company's Memorandum of Association shall specify his share in the profits and losses. If the partner has made a cash or in-kind contribution in addition to his work, he shall have a share in the profits and losses for his work and another share for his cash or in-kind contribution.

3- A Company's Memorandum of Association depriving a partner of the profits or exempting him from sharing the losses, or granting him a fixed percentage of profits, shall be deemed null and void.

4- It may be agreed to exempt a partner whose contribution consists only of his work from sharing the losses, provided that a remuneration has not been determined for such work.

### **Article 30- Distribution of profits**

1- No fictitious profits may be distributed to the partners or shareholders. The board of directors or whomever is acting on its behalf shall be liable for such procedure towards the partners or shareholders and the creditors of the Company.

2- If the Company distributes any profits to a partner or shareholder in violation to the provisions of this Decree-Law and the decisions issued hereunder, such partner or shareholder shall return any profits he received in violation of these provisions. The Company's creditors may claim such partner or shareholder to return the profits he has received, even if he is a *bona fide* party.

3- Partners or shareholders shall not be deprived of the true profits that they have received even if the Company sustains losses during the following years.

### **Article 31- Issuing Securities**

Subject to the provisions of Article (4) of this Decree-Law, only Joint Stock Companies may issue negotiable shares, bonds, or sukuk.

### **Article 32- Offering Securities for Public Subscription**

No Company, other than a Public Joint Stock Company, may offer any Securities for Public Subscription. In all cases, no Company, entity, physical or juristic person incorporated or registered inside the State or in the free zones or abroad may publish any advertisements in the State, including the invitation for Public Subscription in Securities without the prior approval of the Authority.

## **Chapter 3**

### **Companies' Registrar**

#### **Article 33- Regulating the activities of the Registrar**

The Minister shall, in coordination with the Competent Authority, issue the regulation for the activities of the Registrar.

#### **Article 34- Notifying the Registrar with the Company's data**

The competent authorities shall notify the Registrar of a statement in respect of the companies registered therewith, including the Company's name, activity, capital, commercial licence, and any other data, information, or documents requested by the Registrar.

#### **Article 35- Controls for the registration of trade names**

The competent authorities shall set the necessary controls for the registration of trade names, while ensuring that the trade names of companies are not similar to an extent that may lead to confusion, and they shall provide the Registrar with any updates or amendments relating to the companies registered with them.

#### **Article 36- The Registrar's preservation of a Company's Documents**

The Minister shall issue a decision:

1- Determining the period during which the Registrar shall keep documents and upon expiry of which such documents may be destroyed.

2- Regulating the submission of documents to the Registrar via the electronic means of communication and any other means. This decision shall include provisions ensuring effective linkage between the registers kept by the Registrar and those kept by the Competent Authority.

#### **Article 37- Access to registers kept by the Registrar**

Subject to the provisions of this Decree-Law, the interested parties may request the Registrar to issue:

- 1- A copy of the particulars set out in the registers kept by the Registrar.
- 2- A certificate by the Registrar or the Competent Authority, including some of the particulars contained in such registers.

#### **Article 38- Fees payable to the Ministry and the Authority**

Based on a proposal made by the Minister and in coordination with the Ministry of Finance, the Council of Ministers shall issue a decision determining the fees payable by the companies for any activities conducted by the Ministry and the Authority within the scope of application of the provisions of this Decree-Law.

### **Title 2**

## **Partnerships**

### **Chapter 1**

#### **Joint Liability Company**

#### **Article 39- Definition of the Company**

A Joint Liability Company is a Company which consists of two or more physical partners, to be severally and jointly liable in all their personal assets for the company's obligations.

#### **Article 40- Capacity of the partners**

A joint partner shall have the capacity of a trader and shall be deemed practising commercial activities in the name of the Company. The adjudication of bankruptcy of a Joint Liability Company shall entail the adjudication of bankruptcy of all the partners *ipso jure*.

#### **Article 41- Name of the Company**

1- The name of a Joint Liability Company shall consist of the name(s) of one or more partners in addition to the expression (& Co.) or any similar meaning, provided that the name of the Company is followed by the expression "Joint Liability Company". Moreover, the Company shall have its own trade name.

2- If the name of a Joint Liability Company includes the name of a person who is not a partner in the Company, with his knowledge thereof, said person shall be jointly liable for the Company's obligations toward any *bona fide* person who has dealt with the Company.

#### **Article 42- Memorandum of Association of the Company**

- 1- A Joint Liability Company's Memorandum of Association shall include the following data:
- a- The full name, nationality, date of birth, and place of residence of each partner;
  - b- The Company's name, address, and trade name, if any, and the object for which it was incorporated;
  - c- The Company's head office and branches, if any;
  - d- The Company's capital and ownership interests of every partner and the estimated value of such shares, the means by which they are evaluated and the date of their maturity;
  - e- The Company's commencement and expiry date, if any;
  - f- The method by which the Company is to be managed, with the names of those persons authorised to sign on behalf of the Company and the extent of their powers;
  - g- The fiscal year's commencement and expiry date;
  - h- The percentage of profits and losses distribution;

- i- The conditions of assignment of ownership interests in the Company, if any.
- 2- If the Company's Memorandum of Association contains the name(s) of the manager(s), the full name, nationality, place of residence, and powers of each such manager shall be stated.

#### **Article 43- Incorporation procedures**

The Joint Liability Company shall be incorporated and registered as follows:

- 1- The Competent Authority shall determine the data and documents required for the incorporation of the Company and shall issue a form for the application for incorporation in accordance with the provisions of this Decree-Law.
- 2- The application for incorporation shall be submitted to the Competent Authority, together with the required documents for the licence and registration procedures.
- 3- The Competent Authority shall instruct the applicant to complete the data and documents necessary to be submitted or to make any amendments to the Memorandum of Association of the Company to become consistent with the provisions of this Decree-Law and the decisions issued hereunder.
- 4- The Competent Authority shall issue its decision on the application for incorporation of the Company within no later than (5) five Working Days from the date of its filing, the completion of the data and documents, or the required amendments. If the application is rejected, such rejection shall be grounded.
- 5- If the Competent Authority rejects the application or the period set forth in clause (4) of this article expires without a decision, the applicant may file a grievance before the director-general of the Competent Authority or his representative within (15) fifteen Working Days. If the grievance is rejected or has not been adjudicated within (15) fifteen Working Days from the date of its filing, the applicant may file an appeal before the competent court within (30) thirty days from the date of his notification of the rejection or the expiry of the abovementioned period, as the case may be.
- 6- If the application for incorporation is accepted, the competent court shall enter the Company in the commercial register and issue a commercial licence for the Company.
- 7- The Company shall, within (5) five Working Days from the date of issuance of the commercial licence, provide the Registrar with a copy of the commercial licence and Memorandum of Association of the Company for publication in accordance with the conditions issued by the Minister in this respect.

#### **Article 44- Data and documents required to be kept**

The Joint Liability Company shall maintain at its head office:

- 1- A register including the names and addresses of the partners;
- 2- A copy of the Memorandum of Association of the Company and any amendments thereto;
- 3- A statement of the cash amounts and the nature and value of any assets contributed by each partner and the dates of such contributions; and
- 4- Any data, documents, or other records required to be provided under the provisions of this Decree-Law and the decisions issued in implementation thereof.

#### **Article 45- Management of the Company**

- 1- The management of the Joint Liability Company shall be undertaken by all the partners. Every partner in a Joint Liability Company shall be deemed as the agent of such Company and the other partners in connection with the business of the Company unless such management is entrusted under the Memorandum of Association of the Company or an independent contract to one or more partners or to any person who is not a partner.
- 2- A partner who is not a manager may not interfere in the management affairs of the Company, unless otherwise agreed upon. However, such partner may request to inspect the Company's works, books, and documents, and to express observation thereon to the manager of the Company.
- 3- Decisions in connection with the Company's business shall be issued with the unanimous consent of the partners unless the Memorandum of Association of the Company provides otherwise.

#### **Article 46- Works in competition with the Company's activity**

1- A joint partner may not, without the written consent of the remaining partners, carry out for his own account or for the account of third parties, any activity competing with the activity of the Company, nor may he be a joint partner in another Company.

2- If a partner in a Joint Liability Company carries out, without the consent of the remaining partners, an activity of a nature similar to and competing with the activity of the Company, such partner shall return to the Company all the profits he has generated from such activity.

#### **Article 47- Dismissal of the manager**

1- If the manager is a partner and appointed under the Memorandum of Association, he may only be dismissed with the unanimous consent of the remaining partners or by a judgment rendered by the competent court.

2- If the manager is a partner and appointed under a contract independent from the Memorandum of Association of the Company, or if he is not a partner, whether appointed under the Memorandum of Association or under an independent contract, he may be dismissed under a decision passed by the majority of the partners or by a judgment of the competent court.

3- The dismissal of the manager in the instances set out in the preceding two clauses shall not result in the dissolution of the Company unless the Memorandum of Association provides otherwise.

#### **Article 48- Resignation of the manager**

A manager, whether he is a partner or not, may resign from his office, provided that he notifies the partners in writing of his resignation at least (60) sixty days from the effective date of such resignation, unless his appointment contract provides otherwise, otherwise, he shall be liable to compensation, and his resignation shall not result in the dissolution of the Company unless the Memorandum of Association provides otherwise.

#### **Article 49- Acts prohibited to be carried out by the manager**

A manager may not carry out acts exceeding the ordinary management work except with the consent of all partners or by explicit provision in the Memorandum of Association. This prohibition applies in particular to the following acts:

- 1- Making donations other than small ordinary donations governed by the commercial practice;
- 2- Selling the Company's real estate unless such transaction falls within the objectives of the Company;
- 3- Mortgaging the Company's real estates or assets, even if the manager was authorised to sell its real estates under the Company's Memorandum of Association;
- 4- Securing obligations of third parties;
- 5- Selling, mortgaging, or leasing the Company's store.

#### **Article 50- The manager's conclusion of contracts for his own account**

1- The manager may not conclude a contract with the Company for his own account or for the account of his relatives up to the second degree except with the written permission of all the partners to be granted for each case separately.

2- The manager may not carry out an activity similar to that of the Company except with the written permission of all the partners to be renewed annually.

#### **Article 51- Liability of the manager**

The manager shall be liable for the damage sustained by the Company, the partners, or third parties due to the violation of the provisions of the Company's Memorandum of Association or his appointment contract or due to any negligence or error committed by the manager upon performance of his job or due to his failure to carry out his work with due care. Any condition to the contrary shall be deemed null and void.

#### **Article 52- Liability of multiple managers**

1- Where there are multiple managers and no particular competency is assigned to each of them, the single manager shall be liable only for the works within the scope of his own competencies. If there are multiple managers and it is stipulated that they shall undertake the management collectively, their decisions shall be valid only if issued unanimously or by the majority provided for in the Memorandum of Association of the Company. However, the

Memorandum of Association may stipulate that each manager may carry out the urgent actions on his own, failure of which may result in substantial losses or loss of profits for the company.

2- Where there are multiple managers and no particular competency is assigned to each of them in the Memorandum of Association and it is not stipulated that they shall undertake the management collectively, each of them may individually undertake any of the management operations, provided that the remaining managers have the right to object to such operations before they are completed. In such case, the majority votes of the managers shall be the rule, and in the case of a tie, the matter shall be referred to the partners for decision and their decision shall be final.

3- The multiple managers shall act with due care in the performance of their works.

### **Article 53 - Liability of the Company**

The Joint Liability Company shall be liable towards third parties for damages arising from the acts of any partner carried out with the consent of the remaining partners or upon carrying on the usual business of the Company.

### **Article 54- Joining partner**

Where a partner joins the Company, he shall be jointly liable along with the remaining partners, and in all his personal assets, for all the Company's former obligations prior to joining the Company, provided that the Company has already disclosed such obligations to said partner. Also, he shall be jointly liable along with the other partners, and in all his personal assets, for the obligations of the Company after joining it. Any agreement between the partners to the contrary shall not be enforceable against third parties.

### **Article 55 - Withdrawing partner**

1- Unless the Memorandum of Association of the Company stipulates otherwise, a partner may withdraw from a Joint Liability Company by virtue of a written agreement with the remaining partners. In the event of disagreement, the partner may file a lawsuit before the competent court to obtain a judgment of withdrawal, provided that the remaining partners be notified thereof by registered mail at least (60) sixty days from the date he set for the withdrawal. The Company shall be entitled to claim any compensation from the withdrawing partner, if justified.

2- The withdrawing partner shall remain jointly liable with the other partners in the Company for the Company's debts and obligations prior to his withdrawal and shall be considered jointly liable along with the remaining partners therefor, in all his personal assets.

3- A partner withdrawing from the Company shall not be discharged from the obligations borne by the Company upon his withdrawal, unless such withdrawal is entered in the Commercial Register and published in two daily newspapers, one of them to be issued in Arabic, (30) thirty days following the date of completion of the last procedure.

4- If the Company consists of two partners and one of them withdraws therefrom, the other partner may, within (6) six months from the date of entering the withdrawal in the commercial register, admit one or more new partners in the Company instead of the withdrawing partner; otherwise, the Company shall be deemed dissolved *ipso jure*.

### **Article 56- Assignment of shares**

1- Ownership interests in the Joint Liability Company may not be assigned, except with the consent of all partners and subject to the restrictions set out in the Memorandum of Association of the Company. The assignee shall not become a partner in the Company except after registration of the assignment at the Competent Authority and notification of the Registrar thereof.

2- Any agreement providing for the unconditional transfer of ownership interests shall be deemed null and void. However, a partner may transfer rights related to his ownership interests in the company to third parties, and such agreement shall be enforceable only between its parties.

### **Article 57- Rights of the deceased partner**

Unless the partners agree otherwise, the amount payable by the remaining partners for the ownership interests of the deceased partner shall be deemed a debt payable from the date of dissolution of the Joint Liability Company or from the date of death of the partner, whichever is earlier.

### **Article 58- The Company's transactions after expiry of its term or completion of its object**

1- The rights and obligations of the partners in a Joint Liability Company shall remain valid if the Company continues upon the expiry of its term or completion of the object for which it was incorporated.

2- If a *bona fide* third party continues to deal with one or more joint partner after amendment of the Memorandum of Association of the Company or the decision of its dissolution, believing that the Company is still existing, such partner shall be liable towards third parties prior to the amendment of its Memorandum of Association or the decision of its dissolution. The publication of the announcement in at least two local daily newspapers, one of them to be issued in Arabic, shall be deemed a sufficient notice to the persons who dealt with the Joint Liability Company prior to the date of its dissolution or prior to the announcement of the amendment to its Memorandum of Association.

#### **Article 59- Mutual obligations of the Company and the partners**

Without prejudice to the provisions of the Memorandum of Association of the Joint Liability Company, the following shall be taken into consideration:

1- The Company's obligation to settle any amounts that the partner has personally paid on behalf of the Company to enable the Company to carry out its usual work or to maintain its assets and activities.

2- The partner's obligation to compensate the Company for any benefit he has obtained upon performance of any work relating to the Company or use of its property, name, or trademarks without the approval of the Company.

#### **Article 60- Execution against the assets of the partner**

Execution may not be conducted against the assets of the partner for the obligations of the Company unless after obtaining a writ of execution against the Company, serving a payment notice thereto, and its failure to make such payment. The writ of execution against the Company shall be enforceable towards the partner.

#### **Article 61- Profits and losses**

1- The profits and losses and the share of each partner in the Company shall be determined at the end of the Company's fiscal year in accordance with the balance sheet and the profit and loss account.

2- Each partner shall be considered a creditor of the Company to the extent of his share in the profits as soon as this share is determined. Any deficit in the capital due to losses shall be made up from the profits of the subsequent years unless there is agreement to the contrary. Otherwise, a partner shall not be bound to make good any deficit resulting from losses in the Company's capital, from his share therein except with his approval.

## **Chapter 2**

### **Limited Partnership Company**

#### **Article 62- Definition of the Company**

A Limited Partnership Company is a Company which consists of one or more joint partners, having the capacity of traders, who shall be liable, severally and jointly, for the partnership's obligations, and one or more silent partners who shall not be liable for the partnership's obligations except to the extent of their contribution to the partnership's capital. Silent partners shall not have the capacity of a trader.

#### **Article 63- Capacity of the silent partner**

Any physical or juristic person may be a silent partner in a Limited Partnership Company.

#### **Article 64- Name of the Company**

1- The name of a Limited Partnership Company shall consist of the name of one or more of the joint partners with an indication as to its legal form. The Company may have its own trade name.

2- The name of a silent partner may not be included in the name of the Company. If the name of a silent partner name is stated therein with his knowledge thereof, he shall be deemed as a joint partner vis-à-vis *bona fide* third parties

#### **Article 65- Memorandum of Association of the Company**

1- The provisions relating to the Joint Liability Company shall apply to a Limited Partnership Company subject to the provisions of this Chapter in connection with the silent partner.

2- The Memorandum of Association of a Limited Partnership Company shall include a statement of the names of the joint partners and the silent partners. If such partners are not identified in the Memorandum of Association, the Company shall be deemed as a Joint Liability Company and all the partners shall be deemed as joint partners.

3- The contribution of a silent partner in a Joint Liability Company may not consist of his work.

#### **Article 66- Management of the Company**

The management of the Company shall be undertaken exclusively by the joint partners. Decisions shall be passed by the unanimous consent of the joint partners unless the Memorandum of Association of the Company provides for a majority of votes. No change in the nature of the business of the Company or amendment to its Memorandum of Association shall be deemed valid without the consent of all the joint and silent partners.

#### **Article 67- Borrowing by the Company**

1- A silent partner in a Limited Partnership Company shall have all the rights and powers of a partner in a Joint Liability Company and shall be governed by all the conditions, restrictions, and obligations imposed on the partner in the Joint Liability Company.

2- A loan or any other undertaking made by the joint partner in the name of the Company or for its account shall be deemed as the obligation of the Company itself.

#### **Article 68- Rights of the silent partner**

1- A silent partner shall have the same rights as a joint partner in connection with the following:

- a- Lending the Company and concluding transactions therewith, subject to the consent of all the joint partners.
- b- Inspecting and obtaining copies or extracts of the Company's books and registers at all times during the official working hours of the Company.
- c- Obtaining complete and accurate information on all the Company's work and a formal statement thereon.
- d- Carrying out any of the works set forth in clause (1/a) of this article in person or through other partners or third parties, provided that this does not cause damage to the Company.

2- Upon application of the provisions of this article, a silent partner shall not be deemed participating in the management of a Limited Partnership Company upon conducting any of the Company's internal regulatory affairs and shall not be jointly liable for the debts of the Company towards a *bona fide* third party.

#### **Article 69- Management affairs**

1- A silent partner may not interfere in the management affairs related to third parties; however, he may request a copy of the profit and loss account and the balance sheet and verify the contents thereof by inspecting the books and documents of the Company in person or by any person acting on his behalf from the partners or third parties, provided that this does not cause damage to the Company.

2- If a silent partner violates the prohibition provided for in clause (1) hereabove, he shall be liable in all his assets for the obligations arising from his acts.

3- A silent partner may be deemed liable in all his assets for all the obligations of the Company if his management acts may lead third parties to believe that he is a joint partner. In such event, the provisions concerning the joint partners shall apply to the silent partner.

4- Should a silent partner conduct any of the prohibited management acts under an explicit or implicit authorisation by the joint partners, such partners shall be jointly liable for the obligations that may arise from such acts.

#### **Article 70- Assignment of partnership interests**

A silent partner may not assign his partnership interest in the Company to a third party, in full or in part, without the consent of all the partners or by the majority stipulated in the Memorandum of Association of the Company. The assignee shall not become a partner of the Company except after the registration of such assignment with the Competent Authority and notification of the Registrar thereof.

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## Title 3 Limited Liability Company

### Chapter 1

#### Incorporation of the Limited Liability Company

##### **Article 71- Definition of the Company**

1- A Limited Liability Company is a company that consists of a number of partners that is not less than (2) two and not more than (50) fifty, and each of them shall only be liable only to the extent of his share in the capital.

2- It is permissible for one physical or juristic person to incorporate and own a Limited Liability Company. The owner of the capital thereof shall be liable only for the obligations of the Company to the extent of the capital set out in its Memorandum of Association. The provisions of the Limited Liability Company contained in this Decree-Law shall apply to said person to the extent that does not contradict its nature.

##### **Article 72- Name of the Company**

1- A Limited Liability Company shall have a name derived from its object or from the name(s) of one partner or more, provided that the name is followed by the expression "Limited Liability Company" or in short "LLC". In the event of a "Sole Proprietorship", the name of the Company shall be followed by the expression " Limited Liability (Sole Proprietorship)". Based on the Minister's proposal, the Council of Ministers may issue a decision regarding the procedures for incorporating and managing a sole proprietorship with "limited liability" in accordance with its nature.

2- If the manager - or managers - violates the provision of clause (1) of this article, such manager(s) shall be jointly liable and in their personal assets, for the obligations of the Company, and for payment of compensation, if justified.

##### **Article 73- Memorandum of Association of the Company and procedures for its incorporation**

1- A Limited Liability Company shall be incorporated as set forth in Articles (42) and (43) of this Decree-Law.

2- The Memorandum of Association shall determine the methods for settling disputes arising from the Company's work, whether between the Company and any of its managers or between the partners thereof.

##### **Article 74- Register of the partners of the Company**

1- The Company shall prepare at its head office a special register of the partners, including:

a- The full name, nationality, date of birth, and place of residence of every partner and, if the partner is a juristic person, the address of its head office;

b- The transactions effected on membership interests and the dates of such transactions.

2- The managers of the Company shall be liable for such register and for the validity of its particulars. The partners and any interested party shall have the right to inspect such register.

3- The Company shall dispatch to the Competent Authority and the Registrar in January of every year the particulars entered in the Partners Register, as well as any changes made therein during the last fiscal year.

##### **Article 75- Increase of the number of partners**

1- If, at any time after the incorporation of the Company, the number of the partners exceeds the maximum limit prescribed for in Article (71) of this Decree-Law, the manager or managers, as the case may be, shall notify the Competent Authority within (30) thirty days from the date of such increase.

2- Save for the transfer of ownership of the interest of a partner by way of inheritance or a court ruling, the Company shall adjust its situation within (3) three months from the date of the notice. The Competent Authority may extend such period for another period of three months, otherwise, the Company shall be deemed terminated. The partners shall be severally and jointly liable in their personal assets for the debts and obligations of the Company as of the date of increase of the number of the partners.



3- The provisions of clause (2) of this article shall not apply to the partners who prove their lack of knowledge of such increase or their objection thereto.

#### **Article 76- Capital of the Company**

1- The Company shall have a sufficient capital to achieve the object of its incorporation and the capital shall consist of shares equal in value. Based on the proposal of the Minister in coordination with the competent authorities, the Council of Ministers may issue a decision determining the minimum limit of the capital of the Company.

2- Contributions may be in cash and/ or in kind and shall be paid in full at the time of incorporation.

3- Contributions in cash shall be deposited with a bank operating in the State. The bank may not pay such contributions other than to the managers of the Company after providing evidence as to the Company's registration with the Competent Authority within the limits prescribed in the manager's appointment contract.

#### **Article 77- Indivisibility of the partners' membership interest**

The membership interests in the Limited Liability Company shall be indivisible. If a membership interest is owned by several persons without appointing their representative before the Company, the partner whose name appears first in the Memorandum of Association shall be the representative of such partners. The Company may set a time limit for the selection and shall have the right after the expiry of the time limit, to sell the membership interests for the account of their owners, in which case the partners shall have the pre-emptive right to purchase them. Unless agreed otherwise, if the pre-emptive right is used by more than one partner, the membership interests shall be divided among them *pro rata* to their respective contributions in the capital.

#### **Article 78- Valuation of contributions in kind**

1- Partners in a Limited Liability Company may provide contributions in kind in return for their membership interest in the Company.

2- The contribution in kind shall be evaluated at the expense of the person who provides it, by one or more financial consultants approved by the Authority and selected by the Competent Authority, otherwise, the valuation shall be deemed null and void.

3- The Competent Authority may discuss and object to the evaluation report and appoint another assessor, as required, at the expense of the partners providing such contributions.

4- Notwithstanding the provisions of clause (2) of this article, the partners may agree on the value of the contribution in kind. In such event, such value shall be approved by the Competent Authority. The partner providing such contribution shall be liable towards third parties for the correct valuation thereof in the Memorandum of Association. If, however, the contributions in kind are overvalued, the partner providing the contribution shall pay the difference in cash to the Company.

#### **Article 79- Assignment or mortgage of a partner's membership interest in the Company**

1- A partner may assign or mortgage his membership interest in the Company to another partner or to a third party. Such assignment or mortgage shall be made in accordance with the terms of the Memorandum of Association of the Company under an official authenticated document, pursuant to the provisions of this Decree-Law. Such assignment or mortgage shall not be enforceable towards the Company or third parties except from the date of its entry in the commercial register with the Competent Authority.

2- The Company may not refrain from entering such assignment or mortgage in the register unless the assignment or mortgage violates the provisions of the Memorandum of Association or this Decree-Law.

#### **Article 80- Procedures for the assignment of a partner's membership interests in the Company**

1- If a partner wishes to assign his membership interests to a person other than a partner in the Company, with or without consideration, he shall notify the other partners through the manager of the Company of the assignee or the purchaser and the terms of the assignment or sale. The manager shall notify the partners thereof forthwith upon the receipt of the notice.

2- Every partner may request to redeem the membership interests set forth in clause (1) of this article within (30) thirty days from the date of notifying the manager of the agreed-upon price. In the event of dispute on the price, such membership interests shall be evaluated by one or more experts with technical and financial experience in the

subject matter of the membership interest, to be nominated by the Competent Authority at the request made by the applicant for pre-emption and at his own expenses.

3- If the pre-emptive right is exercised by more than one partner, the membership interest(s) sold shall be divided among such partners *pro rata* to their respective contributions in the capital, subject to the provisions of Article (76) of this Decree-Law.

4- If the time limit set forth in clause (2) of this article lapses without the partner's exercise of the pre-emptive right, the partner shall be free to dispose of his membership interest.

#### **Article 81- Execution against a partner's membership interests in the Company**

If a partner's creditor commences the execution procedures against the proceeds of the membership interest of his debtor, the creditor may agree with the debtor and the Company to the method and the terms of the sale. Otherwise, the membership interest shall be offered for sale in public auction, by virtue of a request to be filed with the competent court. One or more partners may redeem the sold membership interest at the same terms awarded at the auction, within (15) fifteen days from the date on which the auction is awarded. These provisions shall apply in the event of bankruptcy of the partner.

#### **Article 82- Liability of a partner for any profit or benefit to the Company**

A partner in a Limited Liability Company shall be liable towards the Company for any of its properties held by such partner as a trustee or any profits or benefit made through the work or activities of the Company, or by his use of the property, name, or commercial relationships of the Company.

### **Chapter 2**

#### **Management of the Company**

##### **Article 83- Managers of the Company**

1- The management of a Limited Liability Company shall be undertaken by one or more managers as determined by the partners in the Memorandum of Association. Such managers shall be elected from among the partners or third parties. If the managers are not appointed in the Memorandum of Association of the Company or under an independent contract, the General Assembly of Partners shall appoint such managers. If there is more than one manager, the partners may appoint a board of managers. Such board shall have the powers and functions set out in the Memorandum of Association.

2- Unless the contract appointing the manager of the Company or its Memorandum of Association or Statute provides for the powers granted to the manager, such manager shall be authorised to exercise full powers to manage the Company and his acts shall be binding on the Company, provided that the capacity of manager is stated upon doing such acts.

##### **Article 84- Liability of the managers of the Company**

1- Every manager in a Limited Liability Company shall be liable towards the Company, the partners, and the third parties for any fraudulent acts committed by such manager and shall also be liable for any losses or expenses it incurs due to abuse of power or violation of the provisions of any applicable law, the Memorandum of Association of the Company or the contract of his appointment or for any gross error made by the manager. Any provision in the Memorandum of Association or the contract appointing the manager in conflict with the provisions of this clause shall be deemed null and void.

2- Subject to the provisions of the Limited Liability Company in accordance with this Decree-Law, the provisions applicable to the Board Members of Joint Stock Companies as set forth in this Decree-Law shall apply to the managers of Limited Liability Companies.

##### **Article 85- Vacancy of the office of the manager**

1- Unless the Memorandum of Association of the Company or the contract appointing the manager provides otherwise, the manager shall be dismissed by decision of the general assembly, whether the manager is a partner or not. Also, the court may dismiss the manager at the request made by one or more partners in the Company if the court deems that such dismissal is justified.

2- The manager may file a written resignation to the general assembly, provided that he notifies the Competent Authority with a copy thereof. The general assembly shall issue its decision on such resignation within (40) forty<sup>1</sup> days from the date of its submission, otherwise his resignation shall be deemed effective as of the expiry of this period, unless the Memorandum of Association of the Company or the contract of appointment provides otherwise.

3- The Company shall notify the Competent Authority of the termination of the term of the manager's appointment within no later than (30) thirty days from the date of the termination of the appointment contract's term. The Company shall appoint a replacement thereof during such period.

4- If the term of membership of the Company's board of managers expires, and the board of managers has not been reformed, the board of managers shall continue to run the company's business for a period not exceeding (6) six months from the date of expiry of the aforementioned periods, and the general assembly shall form the board of managers forthwith upon the lapse of the (6) six-months period, otherwise, the Competent Authority may, in coordination with the authorities concerned with the activity - if any - appoint a board of managers from among the partners after the expiry of that period, for a period not exceeding one year, during which a general assembly shall be called to convene to elect members of the board of managers.

#### **Article 86- Conduct of competitive acts by the Company's manager**

The manager may not, without the approval of the general assembly of the Company, undertake the management of a competing Company or a Company with similar objects nor conduct, for his own account or for the account of third parties, deal in a in competitive trade or similar to that of the Company, otherwise the manager may be dismissed and required to pay compensation.

#### **Article 87- Responsibility for preparing the accounts**

The manager of the Company shall prepare the annual balance sheet and the profit and loss account, and he shall also prepare an annual report on the activity and financial position of the Company and submit his recommendations on the distribution of the profits to the general assembly, within (3) three months from the end of the fiscal year.

#### **Article 88- Appointment of a Supervisory Board**

1- If the number of the partners is over (15) fifteen, the partners shall appoint a Supervisory Board consisting of at least three partners for (3) three years starting as of the date of issuance of the appointment decision. The general assembly may re-elect such partners upon the expiry of such period or elect other partners. Also, the members of the Supervisory Board may be dismissed at any time for an acceptable reason.

2- The managers may not vote on the election or dismissal of the members of the Supervisory Board.

#### **Article 89- Powers of the Supervisory Board**

The Supervisory Board may examine the books and documents of the Company and request the managers at any time to provide a report on their management. Such Board shall supervise the balance sheet, the annual report, and the distribution of the profits. The Supervisory Board shall present its report in this regard to the general assembly of the partners at least (5) five days prior to the date of its convening.

#### **Article 90- Liability of the members of the Supervisory Board**

The members of the Supervisory Board shall not be held liable for the work of the managers unless such members were aware of the errors committed and omitted to state them in their report presented to the general assembly of partners.

#### **Article 91- Rights of partners who are not managers**

The partners who are not managers in the Limited Liability Company that does not have a Supervisory Board, shall have all the rights associated with the description of the partners provided for in this Decree-Law or in the Memorandum of Association. Any agreement to the contrary shall be deemed null and void.

### **Chapter 3**

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<sup>1</sup> This sentence appeared as such in the Official Gazette; therefore, mention is an order.

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## General Assembly

### Article 92- Formation of the general assembly and its invitation to convene

1- The Limited Liability Company shall have a general assembly consisting of all the partners. The general assembly shall be convened by an invitation from the manager or the board of managers at least once per year within the four months following the end of the fiscal year of the Company. The general assembly shall be convened at the time and place set out in the letter of invitation to convene.

2- The manager or the authorised manager shall invite the general assembly to convene at the request of one or more partners holding at least (10%) of the Company's capital.

### Article 93- Notification of the general assembly's invitation to convene

1- With the exception of the general assembly adjourned due to the absence of quorum in accordance with the provisions of Article (96) of this Decree-Law, the invitation to convene the general assembly shall be made in accordance with the terms and conditions stipulated by a decision issued by the Minister in this regard, taking into account the following:

a- The invitation of the general assembly to convene shall be announced before at least (21) twenty-one days from the date set for the meeting.

b- The invitation to convene shall be announced in accordance with the method issued by a decision of the Minister.

c- The partners shall be notified by registered letters or through the modern technology means stipulated in the Company's Memorandum of Association.

d- The Competent Authority shall be provided with a copy of the invitation of the general assembly to convene before the announcement.

2- The announcement of the invitation shall include the agenda, place, date, and time of the first meeting, and of the second meeting in the case of absence of the legal quorum required for the validity of the first meeting, as well as the name of persons entitled to attend the meeting of the general assembly, their right to delegate whomever they choose from among partners other than the managing partners or from third parties, under a special power of attorney drafted in writing, and their right to discuss topics listed on the general assembly's agenda and address questions to the manager or the board of managers and the auditor, along with the legal quorum required for the validity of the general assembly meetings and the decisions issued therein.

3- The general assembly meetings may be held by means of modern technology for remote attendance and the partner may participate in their deliberations and vote on its decisions, in accordance with the controls laid down by the Minister in this regard.

### Article 94- Competencies of the annual general assembly

The annual general assembly of a Limited Liability Company shall be competent to consider and issue decisions with respect to the following matters:

1- The managers' report on the activity and financial position of the Company during the ended fiscal year, the auditor's report, and the Supervisory Board's report;

2- The balance sheet and the account of profits and losses and the approval thereof;

3- The profits to be distributed among the partners;

4- The appointment of the managers and determination of their remuneration;

5- The appointment of the members of the board of managers (if any);

6- The appointment of the members of the Supervisory Board (if any);

7- The appointment of the members of the Internal Sharia Control Committee and the Sharia Controller if the Company conducts its activity in accordance with the provisions of the Islamic Sharia;

8- The appointment of the auditor(s) and determination of his/their remuneration; and

9- Any other matter within the competencies of the general assembly pursuant to the provisions of this Decree-Law or the Memorandum of Association of the Company.

### Article 95- Attendance of the general assembly meeting

Every partner, irrespective of the number of the membership interests he owns, shall have the right to attend the general assembly meetings in person and may delegate another person who is not a manager to represent him at the general assembly. Every partner shall have a number of votes equal to the number of the membership interests he owns or represents.

#### **Article 96- Legal quorum for convening the general assembly and voting on its decisions**

1- Unless the Company's Memorandum of Association provides for a higher percentage, the general assembly's meeting shall not be deemed valid unless attended by a number of partners owning at least (50%) of the Company's capital, subject to the provisions of Article (95) of this Decree-Law.

2- If the quorum is not present at the first meeting as indicated in clause (1) of this article, the general assembly shall be invited for a second meeting to be held after a period of no less than (5) five days and not exceeding (15) fifteen days from the date of the first meeting. The second meeting shall be deemed valid irrespective of the number of the partners present.

3- Subject to the provisions of this Decree-Law, the decisions of the general assembly shall not be deemed valid only if they are passed by the majority of membership interests represented at the meeting, unless the Memorandum of Association provides for a higher majority.

#### **Article 97- Listing a new topic on the agenda of the general assembly**

The general assembly may not discuss any topics other than those listed on the agenda, unless it is found during the meeting that some serious issues require deliberation. If, at the beginning of the meeting, a partner requests to list a certain topic on the agenda, the managers shall respond to this request, otherwise, such partner shall have the right to refer to the general assembly.

#### **Article 98- Discussion of the topics listed on the agenda of the general assembly**

Every partner shall have the right to discuss the topics listed on the agenda. The managers shall be bound to respond to the questions addressed by the partners to the extent that does not cause damage to the interests of the Company. If a partner deems that the reply to his question is not adequate, such partner may refer to the general assembly. The decision by the general assembly shall be enforceable.

#### **Article 99- Voting to discharge a managing partner**

A managing partner may not vote on the decisions to discharge him from liability for the Company's management.

#### **Article 100- Register of the meetings of the general assembly**

A summary of the discussions of the general assembly shall be drawn up, and the minutes and decisions shall be recorded in a special register to be kept at the head office of the Company. Any partner may inspect the minutes in person or by proxy and may also inspect the balance sheet, the profit and loss account, and the annual report.

#### **Article 101- Amendment of the Memorandum of Association of the Company and the increase or decrease of its capital**

1- With the exception of the provisions of Article (85) of this Decree-Law, it is not permissible to amend the Memorandum of Association of the Company nor to increase or decrease its capital except with the approval of a number of partners representing at least three quarters of the membership interests represented in the meeting of the general assembly, and the percentage of such increase or decrease shall be *pro rata* to the percentage of partners' membership interests in the Company. In all cases, the financial obligations of the partners may not be increased except by their unanimous consent.

2- If the increase in the Company's capital is necessary to save the Company from liquidation or to pay debts owed to third parties according to the report of the Company's financial manager or the like, and the said Company does not have sufficient liquidity to pay off such debts and the percentage stipulated in clause (1) of this article is not present, any partner shall have the right to refer to justice so as to obtain a summary judgment to increase the capital to the extent necessary to save the Company or pay off its debts. In the event that a partner is unable to pay his obligations arising from the increase, any other partner shall have the right to pay them on his behalf, and in this

case, he shall be allocated a number of membership interests in the Company equivalent to the amount he paid for himself and for the said partner.

#### **Article 102- Auditor of the Company**

A Limited Liability Company shall have one or more auditors to be elected by the general assembly of the partners every year. Notwithstanding the provisions of Article (246) of this Decree-Law, the provisions concerning the auditors of Public Joint Stock Companies shall apply to the auditor of a Limited Liability Company. The expression "Competent Authority" shall substitute the term "Authority" wherever it appears.

#### **Article 103- The statutory reserve**

A Limited Liability Company shall set aside every year (5%) from its net profits to form a statutory reserve. The partners may decide to stop such allocation if the reserve reaches half the capital.

#### **Article 104- Application of the provisions of the Joint Stock Companies**

1- For all that is not specifically provided for in this Decree-Law, the provisions concerning Joint Stock Companies shall apply to the Limited Liability Company to the extent that they are consistent with its nature. The expression "Competent Authority" shall substitute the term "Authority" wherever it appears.

2- The Council of Ministers, based on the proposal of the Minister, shall issue a decision that includes the provisions to be applied to Limited Liability Companies in cases where the provisions of the Joint Stock Company are not consistent with the nature of the Limited Liability Company and provided that they do not contravene or contradict the provisions of this Decree-Law, so long as the decision defines the related parties and transactions in respect of Limited Liability Companies.

### **Title 4**

## **Public Joint Stock Companies**

### **Chapter 1**

#### **Definition and Incorporation of the Public Joint Stock Company**

#### **Article 105- Definition of the Company**

A Public Joint Stock Company is a Company whose capital is divided into equal and negotiable shares. The founders shall subscribe to part of such shares while the remaining shares shall be offered for Public Subscription. The shareholder shall be liable only to the extent of his share in the capital of the Company.

The Council of Ministers, based on the proposal of the Minister and after coordination with the local authority, may issue a decision regarding the minimum and maximum percentage that the founders shall subscribe to.

#### **Article 106- Name of the Company**

Every Public Joint Stock Company shall have a trade name and may not carry the name of a physical person unless the company's object is to invest in a patent registered in the name of such person or if the Company owns a trade name or has obtained the right to use such name. In all cases, the expression "Public Joint Stock Company" shall be added to the name of the Company.

#### **Article 107- Number of founders**

1- Five or more persons may incorporate a Public Joint Stock Company.

2- The Federal Government, the Local Government, and any Company or entity fully owned by the Federal Government or Local Government may be a shareholder in a Public Joint Stock Company or incorporate by itself a Public Joint Stock Company, and may also join, in contribution to the capital, a number less than the number provided for in clause (1) of this article.

3- The conversion of any Company into a Public Joint Stock Company shall be exempt from the minimum limit stated in clause (1) of this article.

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### **Article 108- Term of the Company**

The term of the Company shall be determined in its Memorandum of Association and Statute. By virtue of a Special Decision, such term may be extended or shortened if the object of the Company so requires.

### **Article 109- The founder**

1- A founder is any person who signs the Memorandum of Association of the Company and owns in cash a percentage of its capital or provides contributions in kind at the time of its incorporation, subject to the provisions of this Decree-Law.

2- The founder shall be liable for any damages suffered by the Company or third parties due to the violation of the incorporation rules and procedures. The founders shall be jointly liable for their obligations. Any person delegated to undertake the incorporation of the Company shall be liable in person if he does not state the name of the principal or if the nullity of the authorisation letter is established.

### **Article 110- Memorandum of Association and Statute of the Company**

1- The founders shall draft the Memorandum of Association and Statute of the Company, including the following particulars:

- a- The name and the head office of the Company;
- b- The object for which the Company is incorporated;
- c- The full name, nationality, date of birth, place of residence, and address of each founder;
- d- The amount of the capital and the number of the shares in the capital, the nominal value per share, and the amount paid from the value of each share;
- e- An undertaking by the founders to complete the incorporation procedures;
- f- An estimate statement of the amount of expenses, charges, and costs expected to be spent on the incorporation process, and that the Company undertakes to pay due to its incorporation;
- g- A statement of the contributions in kind, the name of the provider thereof, their initial value, the conditions of such provision, and the mortgage and preferential rights attached thereto, if any.

2- The Memorandum of Association and Statute of the Company shall be consistent with this Decree-Law and the decisions issued in implementation thereof and shall include the provisions, competencies, and powers of the board of directors and the general assembly of the Company. The Authority shall issue the form of the Memorandum of Association and Statute of the Company and the companies shall comply with such form.

### **Article 111- Shareholders' compliance with the Company's Statute**

1- Subject to the provisions of this Decree-Law, the Statute of the Company shall, upon its registration in the commercial register with the Competent Authority, be binding on all its shareholders.

2- Any amount payable by a shareholder to the Company in accordance with the provisions of the Statute shall be considered a debt due by such shareholder to the Company.

### **Article 112- Founders Committee**

1- The founders shall form from among them a committee to be called the "Founders Committee" and consisting of at least three members, to carry out the procedures for incorporating the Company. Said committee shall be liable for the validity, accuracy, and completion of all documents, studies, and reports submitted to the concerned authorities.

2- The Founders Committee may delegate one of its members or a third party to follow up on and complete the incorporation procedures before the Authority and the Competent Authority according to the controls laid down by the Authority in this respect.

3- The Founders Committee shall appoint a financial consultant, a legal consultant, and an auditor for subscription.

### **Article 113- Incorporation procedures before the Competent Authority**

1- The Founders Committee shall submit the application for incorporation to the Competent Authority, together with the Memorandum of Association and Statute of the Company, the economic feasibility of the project to be

established by the Company, the timetable proposed for implementing such project, and any other documents required by the Competent Authority.

2- The Competent Authority shall consider the application for incorporation and notify the Authority of the application for incorporation and its attachments.

#### **Article 114- Incorporation procedures before the Authority**

1- The Authority shall review the Memorandum of Association and Statute of the Company, the economic feasibility of the project intended to be established by the Company, the timetable proposed for implementing such project, the prospectus, and any approvals by the competent authorities and relating to the application, according to the applicable requirements of the Authority.

2- The Authority shall notify the Founders Committee of its observations on the application for incorporation and its attachments within (10) ten Working Days from the date of submitting the complete application or from the date on which the assessor appointed by the Authority presents his final report on the valuation of the contributions in kind, if any. The Founders Committee shall complete any deficiency or make any amendments that the Authority may deem necessary to complete the application for incorporation, within (15) fifteen Working Days from the date of the notice, otherwise, the Authority may consider this as waiver of the application for incorporation.

3- The Authority shall send a copy of the application and its attachments to the Competent Authority within (10) ten Working Days from the date of completing the application for consideration. Then, a joint Committee composed following a decision of the authority and in between the Authority and the Competent Authority shall meet within (10) ten Working Days from the date of sending the application to the Authority. If the Competent Authority has any observations thereon, the Authority shall notify the Founders Committee thereof and complete the deficiency or make such amendments as the Competent Authority may require for the completion of the application for incorporation within (10) ten Working Days from the date of notifying the Founders Committee, otherwise, the Authority may consider this as waiver of the application for incorporation. The Authority shall ensure that the application and all the documents and observations are complete. The amended copy shall be sent to the Competent Authority.

4- If the joint committee rejects the application for incorporation or if the period stated in clause (3) of this article lapses without a decision on the application, then the Founders Committee may file an appeal before the competent federal court against the rejection decision within (30) thirty days from the date of its notification of the rejection decision, or from the expiry of that period in the absence of a decision approving the incorporation of the Company.

#### **Article 115- Authentication of the Memorandum of Association**

The Founders Committee shall authenticate the Memorandum of Association in accordance with the provisions of this Decree-Law and provide the Authority with a copy thereof and a copy of the decision issued by the Competent Authority concerning the initial approval of the licence and a certificate issued by a bank licensed to operate in the State, confirming that the founders have paid the amounts payable, prior to the Authority's approval of the prospectus publication.

#### **Article 116- Amendment to the particulars of the application for incorporation**

No amendment to the particulars of the application for incorporation may be made after submitting the application to the Competent Authority during any stage of the incorporation process, whether in relation to the capital or objects of the Company, the names of the founders or any other particulars in the application for incorporation. If this occurs, the matter shall be referred to the Competent Authority to take the appropriate action.

#### **Article 117- Contribution by the founders to the capital of the Company**

1- The founders shall subscribe to shares in the Company's issued capital within the limits of the percentage specified in the prospectus, prior to the invitation for Public Subscription to the remaining shares of the Company, taking into account the requirements of the Authority in this regard.

2- The founders may not subscribe to the shares offered for Public Subscription.

#### **Article 118- Valuation of the contribution in kind**

1-The founders of the Company may provide contributions in kind against their shares in the Company. The contributions in kind shall be evaluated at the expense of those who provide them.



2- The contributions in kind shall be evaluated in accordance with the controls and procedures issued by a decision of the Authority in this regard.

3- The assessor may inspect any information or documents as he may deem necessary to enable him to make the required valuation and to prepare the assessment report efficiently. The Founders Committee or the board of directors, as the case may be, shall take the required procedures to provide it with the required information, documents, and instruments as soon as possible from the date of the request.

4- The Founders Committee and the board of directors - if any - shall be fully liable for the accuracy, adequacy, and completion of the statements and information. The assessor shall act with due care while performing his duties.

5- The Authority may discuss and object to the valuation report. The Authority may appoint another assessor if necessary, at the expense of the Company under incorporation.

6- The contribution(s) in kind provided by a public person may be a concession or right to use some public funds.

### **Article 119- Valuation of the contributions in kind following incorporation**

The valuation of the contributions in kind following the incorporation of the Company shall be governed by the same valuation provisions in this Decree-Law.

### **Article 120- Overvaluation of the contributions in kind**

1- If it is established to the Authority that there is any exaggeration or negligence in the valuation of the contributions in kind by the assessor, the Authority may:

a- Prevent the assessor from conducting the activity of valuation before the Authority for a period of at least two years.

b- Prevent the assessor from conducting the activity of valuation before the Authority permanently in the event of recurrence of the violation.

2- The assessor may file a grievance against the decision of the Authority, before the Chairman of the Authority within (15) fifteen Working Days from the date of his notification of either decision as set out in clause (1) of this article. If the Chairman of the Authority's Board of Directors rejects the grievance or fails to adjudicate it within (15) fifteen Working Days from the date of filing the grievance, the assessor may file an appeal before the Competent Court within (30) thirty days from the date of rejecting the grievance or expiry of the period prescribed for responding to the grievance, as the case may be.

### **Article 121- Invitation to Public Subscription**

1- The prospectus shall be signed by the Founders Committee, the board of directors, if any, and they shall be jointly liable for the validity of the information set out therein. The consultants and parties participating in the Public Subscription process and their representatives shall act with due care, and each of them shall be liable to perform his duties.

2- Invitation to the Public Subscription shall be made under a prospectus to be published in two daily local newspapers, one of them to be issued in Arabic, at least (5) five Working Days prior to the date of commencing the subscription.

3- Subscription to shares shall be made under an application whose particulars shall be determined by the Authority. In particular, the application shall include the name, object, and capital of the Company, the conditions for subscription, the name, address in the State, profession and nationality of the subscriber, the number of shares he wishes to subscribe thereto, and his undertaking to accept the provisions of the Memorandum of Association and Statute of the Company.

### **Article 122- Entities authorised to receive subscriptions**

1- Subscription shall be effected before the entity/entities licensed to do so in the State, as determined by the Founders Committee in the prospectus. Subscription may be made electronically as determined by the Authority in this respect.

2- The entity/ entities receiving subscriptions shall withhold the monies paid by the subscribers and the revenues from the amounts of subscription to the shares for the account of the Company under incorporation. Such monies may not be paid to the board of directors of the Company except after the Authority's issuance of a certificate of incorporation and the registration of the Company in the commercial register before the Competent Authority.

### **Article 123- Underwriters**

1- Without prejudice to the provisions of Article (10) of this Decree-Law, the Company may have, upon incorporation or upon increasing its capital, one underwriter or more approved by the Authority in accordance with the conditions, terms, and procedures issued by a decision from the Authority.

2- The Authority's Board of Directors shall issue a decision regarding the controls and conditions for practicing the underwriting activity in the State.

### **Article 124- Subscription controls and procedures**

1- Subscription shall remain open for the period specified in the prospectus, provided that it does not exceed (30) thirty Working Days.

2- If all shares offered for subscription are not underwritten within the scheduled period, the Founders Committee may apply to the Authority for approval to extend the period of subscription for an additional period not exceeding the period specified in the prospectus.

3- If such additional period expires without underwriting all the shares offered for Public Subscription, the founders may underwrite the balance of such applicable percentage, taking into consideration the requirements of the Authority in this regard.

### **Article 125- Distribution of the shares to subscribers**

If the subscription exceeds the number of the shares offered, the shares may be distributed to subscribers, *pro rata* to their respective subscriptions or as determined in the prospectus and approved by the Authority. The distribution shall be made according to the nearest whole number.

### **Article 126- Share allocation and repayment of excess amounts**

Entities licensed to receive subscriptions shall, upon the closure of subscription:

1- Allocate the shares to the subscribers within no later than (5) five Working Days from the date of closing the subscription.

2- Repay the extra amounts paid by the subscribers and the revenues thereon, for which no shares are allocated, within no later than (5) five Working Days from the date of allocating the shares to the subscribers.

### **Article 127- Subscription by the Emirates Investment Authority**

The Emirates Investment Authority shall be entitled to subscribe to shares in any Public Joint Stock Company incorporated in the State and offering its shares for Public Subscription, within the limit of (5%) of the shares offered for Public Subscription, provided that the value of such shares be paid prior to closing the subscription and that the Authority be furnished with evidence as to such payment.

### **Article 128- Announcing the non-incorporation of the Company**

If the Company is not incorporated, the Authority shall announce the same to the public. As a result of such announcement:

1- The subscribers shall have the right to recover the amounts they have paid within (10) ten Working Days from the date of the announcement, along with the revenues thereof. The founders shall be jointly liable for the payment of such amounts and, if justified, for compensation.

2- The founders shall bear the expenses paid for the incorporation of the Company and they shall be jointly liable towards third parties for any acts carried out by the founders during the incorporation period.

### **Article 129- Securities Book Building**

Subject to the provisions of Articles (117) and (279) of this Decree-Law, the Authority may issue a decision to regulate the mechanism of subscription on the basis of the Securities Book Building. Entities wishing to follow such method shall comply with the provisions and procedures provided for in the decision issued by the Authority in this respect.

### **Article 130- Incorporation expenses**

The Company shall bear all the expenses paid by the Founders Committee for the incorporation of the Company and issuance of its Securities. A detailed statement of such expenses shall be referred to the Constituent General Assembly of the Company for consideration and approval.

### **Article 131- Constituent General Assembly**

1- The prospectus for offering the Company's shares for Public Subscription shall include an invitation to the shareholders to convene the Company's Constituent General Assembly, the approval of the financial Market to list the Company's shares therein, and the date specified for the start of trading in the Company's shares in the financial Market.

2- Unless Company's Statute provides for a higher percentage, the quorum at the Constituent General Assembly shall be deemed present if attended, in person or by proxy, by a number of shareholders representing at least (50%) of the capital of the Company. If the quorum is not present, the Constituent General Assembly shall hold another meeting within a period not less than (5) five days and not more than (15) fifteen days from the date of the first meeting. The second meeting shall be deemed valid irrespective of the number of the present shareholders.

3- The meeting shall be chaired by the person elected from among the founders by the Constituent General Assembly for such purpose.

4- The decisions of the Constituent General Assembly shall be passed by the majority votes of shareholders holding at least three quarters of the shares represented at the meeting.

### **Article 132- Powers of the Constituent General Assembly**

In particular, the Constituent General Assembly shall consider and decide the following matters:

- 1- The founders' report concerning the procedures and the costs of the incorporation of the Company.
- 2- The acts of the founders in connection with the Company during the incorporation period.
- 3- Approving the incorporation of the Company.
- 4- Electing the members of the first board of directors if not appointed by the founders.
- 5- Appointing the auditors if not appointed by the founders.
- 6- Appointing the members of the Internal Sharia Control Committee and the Sharia Controller if the Company conducts its business in accordance with the provisions of the Islamic Sharia, if not appointed by the founders.

### **Article 133- Application to issue the certificate of incorporation**

The Company's board of directors shall, within (10) ten Working Days from the date of convening the Constituent General Assembly, file an application with the Authority to issue a certificate of incorporation, and to which the following shall be attached:

- 1- A report by the entity that audited the subscription accounts.
- 2- An acknowledgement by the Founders Committee as to the complete subscription to the share capital in full, the amounts paid by the subscribers from the value of the shares and a statement of the names and nationalities of the subscribers, and the number of shares subscribed by each.
- 3- A bank certificate confirming that the amount payable from the capital of the Company has been deposited.
- 4- A statement of the names of the Company's Board Members and an acknowledgement made by them to the effect that their membership is not in conflict with the provisions of this Decree-Law and the decisions issued hereunder.
- 5- A statement of the names of the members of the Internal Sharia Control Committee and the Sharia Controller if the Company conducts its business in accordance with the provisions of the Islamic Sharia.
- 6- The minutes of the meeting of the Constituent General Assembly.
- 7- Any other documents requested by the Authority.

### **Article 134- Issuing the certificate of incorporation**

In the event of completion of the documents set forth in Article (133) of this Decree-Law, the Authority shall issue a certificate of incorporation of the Company within (5) five Working Days from the date of submitting a complete application by the Company's board of directors.

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**Article 135- Registration of the Company with the Competent Authority**

1- The Company's board of directors shall, within (10) ten Working Days from the date of issuance by the Authority of the incorporation certificate, conduct the registration procedures before the Competent Authority.

2- The Competent Authority shall enter the Company in the commercial register and issue a commercial licence therefor within (5) five Working Days from the date of completion of the documents and payment of the fees, and it shall notify the Authority with a copy of the commercial licence.

**Article 136- Notification of the Registrar**

The chairman of the Company's board of directors shall, within (5) five Working Days from the date of the Competent Authority's issuance of the commercial licence, notify the Registrar with the Company's certificate of incorporation, the Memorandum of Association, Statute, and commercial licence for entry in the Companies Register and publication at the expense of the Company according to the conditions laid by the Minister in this respect.

**Article 137- Listing the shares of the Company in the financial Market**

1- The Company's board of directors that offered shares for Public Subscription shall, within (15) fifteen Working Days from the date of its entry in the commercial register at the Competent Authority, list the shares of the Company in one of the financial Markets licensed in the State according to the listing rules and regulations applicable at the Authority and the financial Market wherein its shares are to be listed.

2- Companies listed in a financial Market in the State shall comply with the financial Market's applicable laws and regulations.

**Article 138- Founders' acts**

Upon its entry in the commercial register with the Competent Authority, the effects of all the acts carried out by the founders for the account of the Company prior to the registration shall be transferred to the Company. The Company shall bear all the expenses paid by the founders in this respect.

**Article 139- Amending the Memorandum of Association or Statute of the Company**

Subject to the provisions of this Decree-Law, the Company may, subject to the approval of the Authority, issue a Special Decision to amend its Memorandum of Association or Statute. The Company shall provide the Competent Authority with a copy of this decision.

**Article 140- Access to statements and information**

1- The Company shall provide a copy of its Memorandum of Association and Statute on the website of the Company and any documents or other information determined by the Authority.

2- The Company shall send a copy of its Memorandum of Association and Statute to any shareholder that may so request, at his own expenses.

**Article 141- Shareholders' register and records of the Company**

1- Every Company shall keep a register of its shareholders in accordance with the conditions prescribed by the Authority.

2- The Authority may inspect the shareholders register and the Company's books, documents, and records.

**Article 142- Purchase of assets during the first fiscal year**

If, prior to the approval by the general assembly of the accounts of the first fiscal year, the Company purchases assets, companies, or establishments against an amount exceeding (20%) of its capital in aggregate, the board of directors shall notify the Authority thereof. The Authority may subject such assets, companies, or establishments to valuation in accordance with the provisions of this Decree-Law.

**Chapter 2****Management of the Public Joint Stock Company**

### **Article 143- Formation of the board of directors**

1- The management of the Company shall be undertaken by a board of directors. The Statute of the Company shall determine the method of formation of the board of directors, the number of its members, and the term of membership, provided that the number of the members be not less than three and not more than eleven and that the term of membership does not exceed three calendar years, commencing from the date of election or appointment. A Board Member may be re-elected for more than one term.

2- The board of directors shall elect from among its members, by secret ballot, a chairman and a vice-chairman to replace the chairman in case of absence or impediment. A managing director of the Company may be elected, and he may not be a chief executive officer or a general manager of another Company.

3- The board of directors shall notify the Authority with the decisions for electing the chairman, the vice-chairman, and the managing director. It is also required to obtain the approval of the Central Bank on such decisions with respect to companies licensed by it.

4- The Company shall have a secretary of the board of directors who is not a Board Member.

5- The Board of Directors of the Authority shall issue a decision stating the terms and conditions that the companies shall comply with for the formation of their boards of directors and the nominations to its membership. The Central Bank shall issue the required decision in this respect for companies licensed by it.

### **Article 144- Election of the Board Members**

1- Subject to the provisions of Article (143) of this Decree-Law, the general assembly shall elect the Board Members by secret cumulative voting. Notwithstanding the forgoing, the founders may appoint the members of the first board of directors in the Statute of the Company.

2- Cumulative voting means that each shareholder has a number of votes equal to the number of the shares he holds whereby he votes for a single candidate for the membership of the board of directors or distribute his votes among selected candidates, provided that the number of votes he allocates to the candidates does not exceed the number of votes he owns.

3- Subject to the provisions of this Decree-Law and the Company's Statute, Board Members may be chosen from among experienced persons who are not shareholders.

4- Every Company shall keep a register of the Board Members and the secretary of the board at its head office. The Authority shall determine the particulars required to be available in such register.

5- The Company's Board Members and secretary register set forth in clause (3) of this article shall be made available for any shareholder or Board Member, free of charge, during the working hours, subject to any reasonable restrictions that the Company may impose under its Statute.

### **Article 145- Vacancy of the Board Member's office**

1- If the office of a Board Member becomes vacant, the board of directors shall, subject to the provisions of Article (143) of this Decree-Law, appoint a member in the vacant position within a maximum period of (30) thirty days, provided that this appointment is presented to the general assembly at its first meeting for approval or appointment of another member. In the event that a new member is not appointed in the vacant position during that period, the board of directors shall open the nomination period for electing a member for the vacant position at the first meeting of the general assembly, and the new member shall complete the term of his predecessor.

2- If the vacant positions reach one quarter of the number of Board Members, the remaining members shall invite the general assembly to convene within no later than (30) thirty days from the date of vacancy of the last office to elect new members for the vacant positions.

### **Article 146- Mechanism of voting to elect the Board Members**

Every shareholder in the Company shall have a number of votes equal to the number of shares held by such shareholder. The Authority shall issue a decision to determine the mechanism of voting at the general assemblies to elect the Board Members.

### **Article 147- Nomination for the membership of the board**

No person may be appointed or elected as a Board Member of the Company until such person acknowledges in writing his acceptance of the nomination, provided that such acknowledgement includes a disclosure of any activity

conducted directly or indirectly by such person in competition of the business of the Company and of the names of the companies and establishments wherein such person works or is a Board Member.

#### **Article 148- Government membership in the board of directors**

Notwithstanding the provisions of Article (143), if the Federal Government or the Local Government owns (5%) or more of the capital of the Company, it may appoint representatives thereof as Board Members in the board of directors *pro rata* to that same percentage and with at least one member if the percentage required for the appointment of a member exceeds such percentage, and it shall forfeit its right in voting *pro rata* to the percentage of the appointment it made. If the Federal Government or the Local Government owns any balance percentage that does not entitle it to appoint another member, then it may use such percentage in voting.

#### **Article 149- Membership in the boards of directors of several Joint Stock Companies**

1- No person may, in his personal capacity or in his capacity as the representative of a juristic person, be a Board Member in more than five Joint Stock Companies based in the State or a chairman or vice-chairman in more than two companies based in the State. Also, such person may not be a managing director in more than one Company based in the State.

2- The membership that violates the provision of clause (1) of this article with respect to companies' boards of directors in excess of the legal quorum shall be annulled according to his recent appointment. Such violating member shall repay to the Company wherein his membership is annulled any amounts he has received therefrom.

#### **Article 150- Notification of conflict of interests by a Board Member**

1- Every Board Member of the Company that may have a joint interest or a conflicting interest in a transaction presented to the board of directors for approval shall notify the board thereof and shall enter his avowal in the minutes of the meeting. Such member may not vote on the decision relating to such transaction.

2- If a Board Member fails to notify the board in accordance with the provisions of clause (1) of this article, the Company or any of its shareholders may file a lawsuit with the competent court to nullify the contract or to impose on the violating member to pay and return to the Company any profit or benefit he has generated from such contract.

#### **Article 151- Nationality of the Board Members**

Any requirements determined by the Council of Ministers or the Competent Authority in accordance with the provisions of Article (10) of this Decree-Law shall be taken into consideration in the formation of the board of directors. If the percentage of the UAE nationals in the board of directors falls below the percentage applicable under this article, such deficiency shall be completed within three months at most, otherwise the board's decisions after the expiry of this period shall be deemed null and void.

#### **Article 152- Acts prohibited for related parties**

1- The related parties shall not use the information in the possession of any of them due to its membership or occupation in the Company, so as to achieve any interest whatsoever for them or for third parties as a result of dealing in the Securities of the Company and any other transactions. Also, they may not have a direct or indirect interest with any party that carries out operations intended to affect the prices of Securities issued by the Company with their knowledge thereof.

2- The Company may not conclude with the related parties any transaction not exceeding (5%) of its capital without the approval of the board of directors, while the approval of the Company's general assembly is required for any excess thereof after valuation of the transaction in accordance with the controls and conditions issued by a decision of the Authority.

3- The Board Member may not, without the approval of the general assembly of the Company to be renewed every year, participate in any business in competition with the Company or trade for his own account or for the account of third parties in any branch of the activity conducted by the Company. Also, he may not disclose any information or statements related to the Company, otherwise the Company may claim compensation or any profits generated as a result thereof.

4- The related party shall, before concluding a transaction with the Company, disclose to the board of directors the nature and terms of the said transaction, as well as all essential information about its share or contribution in the two companies, parties to the transaction, and the extent of its interest or benefit therein.

5- The chairman of the Company's board of directors shall, in the event that the Company concludes a transaction with related parties, provide the Authority with a statement containing data and information about the related party, the details of the transaction, the nature and extent of interest of the related party therein, as well as any data, information, or documents requested by the Authority, together with a written confirmation that the terms of the transaction concluded with the related party are fair, reasonable, and in the interest of the Company's shareholders.

6- The related parties, the transactions related to conflicts of interest, and the duties of the Company's related party, as well as the transactions, shall be defined in accordance with the decisions and regulations issued by the Authority.

#### **Article 153- Prohibition of granting loans to the Board Members**

1- With the exception of financial institutions subject to the control and supervision of the Central Bank, the Joint Stock Company may not provide loans to any of its Board Members, nor conclude guarantees or provide any collateral in connection with any loans granted to them. Any loan granted to the Board Member's spouse, children, or relative up to the second-degree shall be deemed to be granted to the Board Member in accordance with the provisions of this Decree-Law.

2- No loan may be granted to a Company wherein a Board Member or his spouse, children, or any of his relatives up to the second degree owns more than (20%) of its capital.

3- Any agreement that contradicts with the provisions of this article shall be deemed null and void. In the report presented to the general assembly of the Company, the auditor shall refer to such loans and the credits granted to the Board Members and the extent of the Company's compliance with the provisions of this article.

#### **Article 154- Powers of the board of directors**

The board of directors shall have all the required powers to do such acts as required for the object of the Company, other than those reserved by this Decree-Law or the Statute of the Company to the general assembly. However, the board of directors may not conclude loans for periods in excess of three years, nor sell or mortgage the property of the Company or the store, mortgage the Company's movable and immovable properties, discharge the debtors of the Company from their obligations, conclude reconciliations, or agree on arbitration, unless such acts are authorised under the Statute of the Company or are within the object of the Company by nature. In other than these two cases, the conclusion of such transactions require the issuance of a Special Decision by the general assembly.

#### **Article 155- Representation of the Company**

1- The chairman of the board of directors shall be the legal representative of the Company before courts and in its relationships with third parties, unless the Company's Statute provides that its general manager is the representative of the Company before courts and in its relationships with third parties.

2- The chairman of the board of directors may delegate some of his powers to another Board Member.

3- The board of directors may not delegate the Chairman to assume all the powers of the board in an absolute manner.

#### **Article 156- Meetings of the board**

1- The board of directors shall meet at least (4) four times a year at the invitation of its chairman, unless the Company's Statute provides for more meetings, in accordance with the procedures provided for in the Company's Statute. However, the chairman may invite the board to convene at the request of at least two members, unless the Company's Statute provides otherwise.

2- The meetings of the board shall be held at the head office of the Company unless the board deems otherwise. The board meeting shall not be deemed valid except after invitation of all the members to the meeting and the attendance of their majority in person unless the Company's Statute permits the participation in the meetings by modern technology means as approved by the Authority.

#### **Article 157- Board decisions**

1- The board decisions shall be passed by the majority votes and in the case of an equality of votes, the chairman shall have the casting vote.

2- Notwithstanding the provision of clause (2) of Article (156) of this Decree-Law, the board of directors may issue some decisions by circulation, in accordance with the terms and conditions decided by the Authority in this respect.

#### **Article 158- Absence of a Board Member**

A Board Member shall be deemed resigned if he fails to attend the board meetings (3) three consecutive times or (5) five intermittent times, within the term of the board, without an excuse acceptable to the board.

#### **Article 159- Minutes of the board of directors' meetings**

The secretary of the board of directors shall prepare the minutes of the meetings. Such minutes shall be signed by the present members and the secretary. The Board Member who does not accept a decision passed by the board shall state his objection in the minutes of the meeting. The signatories to such minutes shall be liable for the validity of the statements contained therein. The Authority shall lay down the required conditions in this respect.

#### **Article 160- Delegation of a Board Member to attend the board meetings**

1- A Board Member may not delegate another member to attend the board meetings unless the Company's Statute so permits, provided that the delegated member represents only one other member and that the number of the members present in person is at least half the number of the Board Members.

2- No voting by correspondence shall be permitted. A delegated member shall vote on behalf of the absent member as determined in the proxy deed.

#### **Article 161- Liability of the Company for the acts of the board of directors**

The Company shall be bound by the acts of the board of directors within the limits of its powers. The Company shall also be liable for the damage due to unlawful acts by the Company's chairman and Board Members while managing the Company.

#### **Article 162- Liability of the board of directors and the executive management**

1- The Board Members and the executive management shall be liable towards the Company, the shareholders, and the third parties for all acts of fraud, abuse of power, and violation of the provisions of this Decree-Law or the Company's Statute. Any provision to the contrary shall be deemed null and void. The executive management shall be represented by the general manager, the executive manager, or the chief executive officer of the Company and their deputies, each at the level of senior executive positions, as well as officials of the executive management who have been personally appointed in their positions by the board of directors.

2- The liability provided for in clause (1) of this article shall apply to all the Board Members if the error arises from a decision passed unanimously by them. However, where the decision, subject-matter of the liability, is passed by the majority, members who objected thereto shall not be held liable, provided that their objection is noted in the minutes of the meeting. Absence of the Board Member from the meeting at which the decision has been passed shall not discharge him from liability unless it is proven that the absent member was not aware of the decision or that he was aware thereof but was unable to object thereto. The liability stipulated in clause (1) of this article shall fall on the executive management if the error arises from a decision issued by it.

3- Without prejudice to any penalty stipulated in this Decree-Law or any other law, each of the Company's chairman or any Board Member or any member of its executive management shall be dismissed from his position *ipso jure* upon the issuance of a court ruling proving that any of them has committed acts of fraud or abuse of power or concluded deals or transactions involving conflict of interests in violation of the provisions of this Decree-Law or the decisions issued in implementation thereof; in addition, the candidacy of any such person for membership in the board of directors of any Joint Stock Company in the State, or his performance of any tasks in the executive management in the Company, shall not be accepted until after the lapse of three years at least from the date of his dismissal. The occupancy of a member's office of the Company's board of directors shall be governed by the provisions of Article (145) of this Decree-Law. In case of dismissal of all the Board Members, the Authority shall invite the general assembly to elect a new board of directors.

#### **Article 163- Acts of the Board Member**



The Company shall be bound by the acts of the Board Member towards a *bona fide* third party, even if it is found thereafter that the procedures of election or appointment of the member are invalid or that the applicable conditions for such election or appointment are not available.

#### **Article 164- Acts detrimental to the interests of the Company**

1- If one or more shareholders holding at least (5%) of the Company's shares, deems that the Company's affairs are or have been conducted in a manner that is detrimental to the interests of its shareholders or some of them, or that the Company intends to perform an act or omit to perform an act in such a way that would be prejudicial thereto, he shall have the right to submit an application to the Authority accompanied by the evidentiary documents to issue the decisions it deems appropriate in this respect.

2- If the Authority rejects the application or does not issue its decision thereon within (30) thirty Working Days, the shareholder(s) shall have the right to resort to the competent court within (10) ten days from the date of rejection of the application or the lapse of such period, as the case may be.

3- The Authority shall have the right to resort to the competent court if it deems that the affairs of the Company have been or are conducted in a manner detrimental to the interests of its shareholders or some of them, or that the Company intends to perform an act or to omit an act in such a way that would be prejudicial thereto.

4- The competent court shall hear the lawsuit filed by the shareholder or the Authority summarily in both cases set forth in clauses (2) and (3) of this article. The court may assign one or more experts to provide a report on one or more transactions of management. The court may rule the nullity of the act or omission of an act, subject-matter of the application, or the continuation of an act omitted by the Company.

#### **Article 165- Lawsuits filed by the Company**

The Company may file a liability lawsuit against the board of directors due to the errors that may cause damage to all the shareholders, by virtue of a decision issued by the general assembly to appoint a representative of the Company to initiate the liability lawsuit in the name of the Company.

#### **Article 166- Lawsuits filed by the shareholder**

1- The shareholder may file a lawsuit before the competent court against the Company, its board of directors, and executive management, if he suffers from any harm as a result of an act carried out by any of them in violation of the provisions of this Decree-Law.

2- The shareholder of the Company shall have the right to recover from the Company all the legal expenses that he has spent, and which are represented in the judicial and attorney fees paid in the lawsuit, upon the issuance of a final ruling by the Competent Court whether in favour of or against the shareholder (the plaintiff), provided that:

a- He submits documents supporting those legal expenses.

b- The shareholder (plaintiff) lawsuit is not vexatious and aimed at harming the defendant or the Company and its shareholders, or filed with the intention of defamation, extortion, or to affect the share price in the financial Market.

#### **Article 167- Lawsuits filed against the related party**

1- A shareholder or a group of shareholders may file a lawsuit before the competent court in their name and on behalf of the Company against any related party for damages suffered by the Company, and resulting from the related party's violation of its obligations towards the Company according to this Decree-Law or any other law, subject to the following conditions:

a- Existence of damage or breach of an obligation suffered by the Company.

b- The plaintiff is a shareholder in the Company at the time the acts, subject-matter of the lawsuit, were committed, or has acquired this capacity as a result of transfer thereto of the interest or shares from a person who had this capacity at that time.

c- The plaintiff or plaintiffs collectively owns shares representing at least (10%) of the Company's capital.

d- The plaintiff has submitted a written request to the Company's board of directors to file the lawsuit and the reasons therefor, and the board either rejected said request or failed to respond thereto within (30) thirty days.

e- The case documents include a copy of the request stated in the preceding paragraph of this article, and details of all other efforts urging the Company to file the complaint itself.

2- It shall not be permissible for the plaintiff(s), in accordance with the provisions of clause (1) of this article, to conduct a reconciliation or settlement with the defendant in this lawsuit without the approval of the court after full disclosure of the details of the proposed reconciliation or settlement.

3- In the event that a judgment is issued in favour of the plaintiff(s) in accordance with the provisions of this article, amounts adjudged to be returned and damages awarded shall devolve to the Company, with the exception of legal expenses paid by the plaintiff(s) as judicial and attorney fees. The Competent Court shall approve the value of these legal expenses if it is ascertained that the lawsuit was not vexatious nor aimed at harming the defendant, the Company, or its shareholders, or filed with the intention of defamation, extortion, or to affect the share price in the financial Market.

#### **Article 168- Direct proceedings**

A shareholder or a group of shareholders may file a lawsuit before the competent court in their name against any party related to the Company for damages they have suffered as a result of violating the provisions of this Decree-Law or any other law.

#### **Article 169- Prescription of the liability lawsuit**

Any decision passed by the general assembly to discharge the board of directors from its liability shall not prevent the filing of the liability lawsuit against the board of directors due to the errors committed by them during the performance of their duties. If the act giving rise to liability has been presented to and approved by the general assembly, the liability lawsuit shall be time-barred upon the lapse of one year from the date of such meeting. However, if the act ascribed to the Board Members is a criminal act, the lawsuit shall not be time-barred unless upon the prescription of the public lawsuit.

#### **Article 170- Dismissal of the Board Members**

1- The general assembly may dismiss all or any of the Board Members, even if the Company's Statute provides otherwise. In such event, the general assembly shall elect new Board Members to replace those dismissed, subject to the provisions of Articles (143) and (144) of this Decree-Law, and it shall notify the Authority and the Competent Authority of such election.

2- If a decision is issued to dismiss a Board Member, the dismissed member may not be re-nominated for the board membership before the lapse of three years from the date of issuing the dismissal decision.

#### **Article 171- Remuneration of the Board Members**

1-The Company's Statute shall state the method for calculating the remuneration of the Board Members provided that it does not exceed (10%) of the net profits of the fiscal year after deducting all the depreciations and reserves.

2- As an exception to clause (1) of this article, and subject to the regulations issued by the Authority in this regard, a Board Member may be paid a lump sum fee not exceeding (200,000) two hundred thousand dirhams at the end of the fiscal year, whenever the Company's Statute permits so, and subject to the general assembly's approval of payment of these fees, in the following cases:

a- The Company's failure to achieve profits.

b- If the Company makes profits and the Board Member's share in those profits is less than (200,000) two hundred thousand dirhams, and in this case the remuneration and fees may not be combined.

3- Fines imposed on the Company due to the board of directors' violations of the law or the Company's Statute during the ending fiscal year shall be deducted from the remuneration of the board of directors, and the general assembly may not deduct such fines if it finds out that those fines are not the result of a default or error on the part of the board of directors.

#### **Article 172- Nullity of decisions**

1- Without prejudice to the rights of a *bona fide* third party, any decision passed in violation of the provisions of this Decree-Law, the Company's Memorandum of Association or Statute in favour or against a certain class of shareholders or to procure a special benefit to the related parties or others without consideration of the interest of the Company shall be deemed null and void.

2- The judgment of nullity shall render the decision void *ab initio* in respect to all the shareholders.

3- The board of directors shall publish the judgment of nullity in two daily local newspapers, one of them to be issued in Arabic.

4- The nullity lawsuit shall be time-barred after the lapse of (60) sixty days from the date of issuance of the contested decision. Filing the lawsuit shall not stay the execution of the decision unless the Competent Court orders otherwise.

## Chapter 3

### General Assembly of the Public Joint Stock Company

#### Article 173- Convening the general assembly

1- The general assembly of the shareholders shall be convened at the invitation of the board of directors at least once every year, within four months following the end of the fiscal year, at the time and venue determined in the invitation. The board may invite the general assembly to convene whenever the board may deem fit.

2- If the board of directors fails to send an invitation to convene the general assembly in the cases required by this Decree-Law, the auditor shall send such invitation, and whenever the need arises. In such event, the auditor shall prepare and publish the agenda.

#### Article 174- Notification of the invitation to the meeting of the general assembly

1- With the exception of the general assembly meeting adjourned due to absence of quorum in accordance with the provision of Article (185) of this Decree-Law, the invitation to convene the general assembly meeting shall be sent, after the approval of the Authority, to all shareholders in accordance with the terms and conditions issued by a decision of the Authority in this regard, taking into account the following:

a- The invitation of the general assembly to convene shall be notified no less than (21) twenty-one days before the date set for the meeting.

b- The invitation shall be announced in accordance with the method of announcement issued by a decision of the Authority.

c- The shareholders shall be notified by registered letters or through modern technology means stipulated in the Company's Statute.

d- The Company shall furnish the Authority and the Competent Authority with a copy of the notification on the date of announcing the invitation.

2- The invitation shall include the agenda, place, date and time of the first meeting, and the second meeting in case of absence of the legal quorum required for the validity, as well as those entitled to attend the meeting of the general assembly, their right to delegate whomever they choose from among the Board Members under a special power of attorney established in writing as determined by the Authority in this regard, and a statement on the shareholder's right to discuss the topics listed on the agenda of the general assembly and to address questions to the board of directors and the auditor, along with the legal quorum required for the validity of both the general assembly meetings and the decisions issued therein, and those entitled to dividends, if any.

3- The general assembly's meetings may be held by means of modern technology for remote attendance and the shareholder may participate in their deliberations and vote on its decisions, in accordance with the controls laid down by the Authority in this regard.

#### Article 175- Valid notification of the invitation of the shareholders

If the invitation to hold the meeting of the general assembly is announced prior to the date of the meeting within a period less than the period as determined in Article (174) of this Decree-Law, the invitation to convene the general assembly shall be valid with the consent of shareholders representing (95%) of the capital of the Company.

#### Article 176- The shareholders' request to invite the general assembly to convene

1- The board of directors of the Company shall invite the general assembly to convene at the request of one or more shareholders holding at least (10%) of the company's shares, provided that the invitation is addressed within (5) five days from the date of the request. The general assembly shall be convened within a period not exceeding (30) thirty days from the date of the invitation.

2- The request set out in clause (1) of this article shall be deposited at the head office of the Company and shall state the purpose of the meeting and the topics to be discussed therein. The shareholder(s) requesting the meeting shall provide a certificate from the financial Market wherein the shares of the Company are listed, indicating the prohibition of disposition of the shares held thereby upon his request until the meeting of the general assembly.

#### **Article 177- The auditor's request to invite the general assembly to convene**

1- The board of directors shall invite the general assembly to convene at the request of the auditor. If the board fails to send the invitation within (5) five days from the date of the request, the auditor shall send the invitation.

2- The general assembly shall be convened within a period not less than (15) fifteen days and not exceeding (30) thirty days from the date of invitation to the meeting.

#### **Article 178- The Authority's request to invite the general assembly to convene**

1- The Authority may request the chairman of the Company's board of directors or his representative to send an invitation to convene the general assembly in any of the following cases:

a- Upon expiry of the thirty-day period from the date determined in Article (173) of this Decree-Law without inviting the general assembly to convene;

b- If the number of the Board Members is less than the minimum limit required for the validity of the meeting;

c- If the Authority finds out at any time that there are any violations of the law or the Company's Statute or that any error in its management has occurred; or

d- If the board of directors of the Company fails to respond to the request of shareholder(s) in accordance with the provisions of Article (176) of this Decree-Law.

2- If the chairman of the Company's board of directors or his representative fails to invite the general assembly to convene in any of the above cases within (5) five days from the date of the Authority's request, the Authority shall address the invitation to the meeting at the expense of the Company.

#### **Article 179- Competencies of the annual general assembly**

In particular, the annual general assembly of the Company shall be competent to consider and issue decisions with respect to the following matters:

1- The report prepared by the board of directors in respect of the activity and the financial position of the Company during the year, the auditor's report and the report of the Internal Sharia Control Committee, if the Company conducts its activity in accordance with the provisions of the Islamic Sharia, and their ratification;

2- The Company's balance sheet and the profits and losses account;

3- The election of the Board Members where necessary;

4- The appointment of the members of the Internal Sharia Control Committee if the Company conducts its activity in accordance with the provisions of the Islamic Sharia;

5- The appointment of the auditors and determination of their remuneration;

6- The proposals of the board of directors concerning the distribution of profits, whether in cash or bonus shares;

7- The proposals of the board of directors concerning the remuneration of the members and the determination thereof;

8- The discharge or dismissal of the Board Members and the filing of the liability lawsuit against them, as the case may be.

9- The discharge or dismissal of the auditors and the filing of the liability lawsuit against them, as the case may be.

#### **Article 180- Right to attend the general assembly**

1- Every shareholder shall have the right to attend the general assembly and shall have a number of votes equal to the number of his shares. Any shareholder who has the right to attend the general assembly may delegate to this effect any person elected by such shareholder, other than a Board Member, under a special written proxy. A proxy of a number of shareholders shall not hold in this capacity over (5%) of the capital of the Company. Shareholders who are incapacitated or lack capacity shall be represented by their legal representatives.

2- A juristic person may delegate one of its representatives or those in charge of its management under a decision passed by its board of directors or whomever is acting on its behalf to represent such juristic person in any general assembly of the Company. The delegated person shall have the powers prescribed under the delegation decision.

#### **Article 181- Control of the meetings of the general assembly**

1- The Authority and the Competent Authority may send one or more controllers representing each of them to attend the meetings of the general assembly of companies without having any right to vote. The presence of such controllers shall be stated in the minutes of meeting of the general assembly.

2- The Central Bank or the Insurance Authority may send one or more controllers to attend the meetings of the general assembly of companies licensed by the Central Bank and the Insurance Authority, without having the right to vote. The presence of such controllers shall be stated in the minutes of meeting of the general assembly.

#### **Article 182- Powers of the general assembly**

1- Subject to the provisions of this Decree-Law, the decisions issued hereunder, and the Company's Statute, the general assembly shall have the power to consider all the issues in connection with the Company. The general assembly may not deliberate other than the topics listed on the agenda.

2- Notwithstanding the provisions of clause (1) of this article, the general assembly shall have the right to deliberate the serious incidents revealed during the meeting, and if the Authority or a number of shareholders holding at least (5%) of the capital of the Company requests, before commencing the discussion of the agenda of the general assembly, to list certain topics on the agenda, the president of the meeting shall respond to such request. The Authority may issue a decision determining the applicable conditions to list a new topic on the agenda of the general assembly.

#### **Article 183- Register of the meetings of the general assembly**

The shareholders shall register their names to attend the Company's general assembly in accordance with the controls, conditions, and procedures to be determined by a decision issued by the Authority in this regard.

#### **Article 184- Chairman of the general assembly**

The general assembly shall be chaired by the chairman of the board of directors of the Company, or his deputy in his absence, or any Board Member chosen by the board, in their absence. If the board of directors does not choose said member, the general assembly shall be chaired by any person it chooses. Also, the general assembly shall appoint a secretary for the meeting. If the general assembly considers a matter related to the president of the meeting, then it shall elect from among the shareholders a president of the meeting while discussing this matter.

#### **Article 185- Quorum at the meeting of the general assembly**

Unless the Company's Statute provides for a higher percentage, the quorum at a meeting of the general assembly shall be deemed present if attended, in person or by proxy, by a number of shareholders representing at least (50%) of the capital of the Company. If the quorum is not present, the general assembly shall hold another meeting within a period not less than (5) five days and not more than (15) fifteen days from the date of the first meeting. The second meeting shall be deemed valid irrespective of the number of the present shareholders.

#### **Article 186- Withdrawal from the meeting of the general assembly**

If any of the shareholders or their representatives withdraws from the meeting of the general assembly after the quorum has been met, such withdrawal shall not affect the validity of the said meeting, provided that the decisions are passed by the majority prescribed in this Decree-Law for the remaining shares represented therein.

#### **Article 187- Discussion of the agenda of the general assembly**

1- Every shareholder attending the general assembly shall have the right to discuss the topics listed on the agenda of the general assembly and to address questions to the Board Members and the auditor. The Board Members and the auditor shall reply to the questions to the extent as not to expose the interest of the Company to damage.

2- A shareholder may resort to the general assembly if he deems that the reply to his question is not adequate. The decision made by the general assembly shall be enforceable. Any provision to the contrary in the Company's Statute shall be deemed null and void.

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### **Article 188- Voting on the decisions of the general assembly**

1- Subject to the provision of Article (146) of this Decree-Law, voting on the general assembly's decisions shall be conducted as determined by the Company's Statute. However, voting shall be made by secret ballot if it is related to the election, dismissal, or accountability of the Board Members. Voting in the meetings of the general assembly may be made electronically subject to the controls and terms issued by the Authority in this regard.

2- Subject to the provision of Article (180) of this Decree-Law, the Board Members may not participate in voting on the decisions of the general assembly as regards to their discharge from liability for their management of the Company or matters in connection with their own benefit, conflict of interests, or a dispute arising between them and the Company.

### **Article 189- Minutes of meetings of the general assembly**

1- The minutes of the general assembly shall be drawn up, and they shall include the names of the shareholders present or represented, the number of the shares held by them, in person or by proxy, the votes prescribed for them, the decisions passed, the number of votes for or against such decisions, and a summary of the discussions at the meeting.

2- The minutes of the meeting of the general assembly shall be regularly drawn up after each meeting in a special register, to be kept in accordance with the conditions determined by a decision of the Authority. The minutes shall be signed by the chairman and secretary of the meeting, the canvasser, and the auditor. The persons who sign the minutes of meetings shall be responsible for the validity of their contents.

### **Article 190- Decisions of the general assembly**

1- The decisions of the general assembly shall be passed by the majority of the shares represented at the meeting, or a higher majority determined by the Company's Statute.

2- Decisions passed by the general assembly in accordance with the provisions of this Decree-Law and the Company's Statute shall be binding on all the shareholders, whether they were present or absent from the meeting at which the decisions have been passed and whether they agreed or objected to such decisions.

### **Article 191- Execution of the decisions of the general assembly**

The chairman of the Company shall execute the decisions of the general assembly and notify a copy thereof to the Authority, the financial Market wherein the shares of the Company are listed, and the Competent Authority in accordance with the conditions specified by the Authority in this respect.

### **Article 192- Access to the minutes of the general assembly**

1- The minutes of meetings of the general assembly of shareholders shall be kept at the head office of the Company. Any shareholder may access such minutes free of charge within the prescribed working hours.

2- If the Company refuses or fails to comply with the provisions of this article, the Authority may issue an order to inspect the contents of the minutes in respect of the deliberations of the general assemblies. The Authority may issue an order imposing on the Company to deliver the required copies to the person or persons requesting them.

### **Article 193- Stay of execution of a decision of the general assembly**

1- At the request of shareholders who hold a percentage of at least (5%) of the shares of the Company, the Authority may issue a decision to stay the execution of the decisions passed by the general assembly of the Company to the detriment of the shareholders or in favour of a certain class of the shareholders or which bring a special benefit to the Board Members or others whenever it is established that the grounds of the request are serious.

2- A request to stay the execution of the decisions of the general assembly shall not be acceptable upon the expiry of (3) three Working Days from the date of such decisions.

3- The interested parties shall file the lawsuit to nullify such decisions before the Competent Court and notify the Authority with a copy thereof within (5) five days from the date of the decision staying the execution of the decisions of the general assembly, otherwise the stay of execution shall be deemed as void *ab initio*.

4- The court shall hear the lawsuit to nullify the decisions of the general assembly, and may order, summarily, the stay of execution of the decision made by the Authority at the request of the opponent until adjudication of the merits of the lawsuit.

### **Article 194- Failure of electing the board of directors or to appoint the auditor**

1- Subject to the provisions of Article (143) of this Decree-Law, if the general assembly of the Company fails to take a decision relating to the election of the Board Members at two consecutive meetings although the quorum is present, the Authority shall refer the matter to its chairman, after consultation with the Competent Authority and the entities supervising the activity conducted by the Company in the State, to appoint a temporary board of directors for not more than one fiscal year. At the end of the fiscal year, the temporary board of directors shall invite the general assembly of the Company to elect the Board Members. If such general assembly fails to elect the Board Members, the Authority shall refer the matter to its chairman, after consultation with the Competent Authority and the entities supervising the activity conducted by the Company in the State, to take the appropriate decision, including the dissolution of the Company.

2- If the general assembly of the Company fails to take a decision relating to the appointment of its auditor at its annual meeting in accordance with the provisions of Articles (245) and (246) of this Decree-Law although the quorum is present, the Authority may appoint the auditor of the Company for one fiscal year and determine his fees.

## **Chapter 4**

### **Capital of a Public Joint Stock Company**

#### **Article 195- Capital of the Public Joint Stock Company**

The issued capital of the Public Joint Stock Company shall not be less than (30,000,000) thirty million dirhams. This minimum limit may be modified by a Cabinet decision based on the proposal of the Chairman of the Authority's Board of Directors.

#### **Article 196- Increase of the Company's capital**

1- Subject to the provisions of this Decree-Law, the shareholders shall approve, by virtue of a Special Decision, each issue of new shares to increase the issued capital.

2- The Company may decide, after full payment of its issued capital, by virtue of a Special Decision, to increase its issued capital, and its board of directors shall implement this decision within three (3) years from the date of its issuance, otherwise, it shall be deemed as void *ab initio* in respect to the increase that was not implemented during the mentioned period.

3- The decision to increase the issued capital of the Company shall indicate the amount of such increase and the price of the new share issue.

4- If the increase of the issued capital of the Company involves contributions in kind, the provisions related to the valuation thereof as contained in this Decree-Law shall be applied.

5- The Authority shall issue a decision determining the conditions and controls for increasing the issued capital of the Company.

#### **Article 197- Methods to increase the capital of the Company**

The capital of the Company may be increased by any of the following ways:

- 1- Issue of new shares;
- 2- Capitalisation of the reserve; or
- 3- Conversion of the bonds or Sukuk issued by the Company into shares.

#### **Article 198- Issue premium and discount**

1- The Company's capital increase shares shall be issued with a nominal value equal to the nominal value of the original shares. However, the Company may by a Special Decision, subject to the approval of the Authority, decide the following:

a- Adding an issue premium to the nominal value of the share and specifying its amount in case the market value exceeds the nominal value of the share. The issue premium shall be added to the statutory reserve even if it exceeds half of the capital.

b- Granting an issue discount on the nominal value of the share and specifying its amount in case the market value is lower than the nominal value of the share. Against the issue discount, a negative reserve shall arise in the equity in the balance sheet to be paid by deduction from the Company's future profits before approving the distribution of any dividends.

2- The Authority shall be provided with a report from an independent financial consultant accredited before the Authority specifying the method of calculating the issue premium or discount.

#### **Article 199- Pre-emptive right**

1- Subject to the provisions of Articles (225), (226), (227), (228), (231), (285), and (299) of this Decree-Law, the shareholders shall have the pre-emptive right to subscribe to the new shares. Any provision to the contrary in the Company's Statute or the decision to increase the issued capital shall be deemed null and void.

2- A shareholder may sell the pre-emptive right to another shareholder or to third parties in return for material consideration. The Board of Directors of the Authority shall issue the decision regulating the conditions and procedures for selling the pre-emptive right.

#### **Article 200- Subscription to new shares**

1- Subscription to new shares shall be governed by the rules of subscription to the original shares.

2- The board of directors shall publish a summary for the pre-emptive rights issue accredited by the Authority in two local daily newspapers, one of them to be issued in Arabic, in order to notify the shareholders of their pre-emptive right in subscription to the new shares.

#### **Articles 201- Distribution of the new shares**

1- New shares shall be distributed to the shareholders applying for subscription to shares, according to the number of shares they hold provided that this does not exceed the requests of each.

2- Subject to clause (2) of Article (199), the remaining shares shall be distributed to the shareholders who submitted applications for subscription to shares in excess of the number of shares they hold. Any balance shares thereafter shall be offered for Public Subscription, in accordance with the conditions determined by the Authority.

#### **Article 202- Capitalisation of the reserve**

By virtue of a Special Decision, the reserve may be merged in the capital of the Company by creating bonus shares to be distributed to the shareholders *pro rata* to the shares each of them holds, or by the increase of the nominal value of the shares, *pro rata* to the percentage of urgent increase in the capital. This shall not result in imposing on the shareholders any financial obligation.

#### **Article 203- Conversion of bonds or sukuk to shares**

Bonds or sukuk shall be converted to shares according to the prospectus and conditions approved by the Authority. The approval by the Central Bank shall be obtained in the event of companies licensed by it.

#### **Article 204- Decrease of the capital of the Company**

The capital of the Company may not be decreased without the consent of the Authority and the issuing of a Special Decision after hearing the report of the auditor. The capital may be decreased in either of the following cases:

- 1- If it exceeds the needs of the Company;
- 2- The Company has incurred a loss that cannot be compensated by future profits.

#### **Article 205- Methods to decrease the capital of the Company**

The capital may be decreased by any of the following methods:

- 1- Decreasing the nominal value of the shares, either by refunding part of its value to the shareholders or discharging them from the value of the share or any part thereof;
- 2- Decreasing the value of the shares by cancelling a part of such value equal to the loss incurred by the Company;
- 3- Cancelling a number of shares equal to the amount of the capital intended to be decreased; or



4- Purchasing a number of shares equal to the part intended to be decreased and cancelled.

#### **Article 206- Procedures to decrease the capital of the Company**

1- Upon decreasing the capital by any method of decrease in accordance with the provisions of this Decree-Law, the Company shall adhere to the following:

a- The controls, conditions, and procedures determined by a decision issued by the Authority.

b- Publication of the decrease decision in accordance with the controls and procedures specified by the Authority, provided that the announcement includes the amount of the capital before and after the decrease, the value of each share and the effective date of the decrease. The creditors shall provide the Company with documents supporting their debts within (30) thirty days from the date of publishing the decrease decision.

2- If the decrease of the capital is made by the repayment of part of the nominal value of the shares to the shareholders or the discharge of the shareholders to the extent unpaid of the value of the shares or any part thereof, such decrease shall not be invoked towards the creditors who submitted their claims within the time limit set forth in clause (1/b) of this article, unless such creditors have collected their due debts or obtained the securities adequate for the repayment of the debts that have not yet fallen due.

#### **Article 207- Decision to increase or decrease the capital of the Company**

The board of directors of the Company shall, within (5) five Working Days from the effective date of the decision to increase or decrease its capital, register such decision with the Authority, the Competent Authority, and the Registrar.

### **Chapter 5**

#### **Shares, Bonds, and Sukuk**

#### **Article 208- Rights attached to shares**

1- For all that is not specifically provided for in this Decree-Law, the shareholders of the Company shall be equal in the rights attached to the shares. The Company shall not issue different classes of shares.

2- Notwithstanding the provision of clause (1) of this article, the Council of Ministers may, upon proposal by the Chairman of the Authority's Board of Directors, issue a decision determining other classes of shares and the conditions of issuing the shares, the rights and obligations arising therefrom, and the rules and procedures regulating them.

3- A shareholder may not request to recover his contribution to the capital of the Company.

#### **Article 209- Nominal value of the shares**

1- The share shall have a nominal value, in accordance with the value specified in the Company's Statute.

2- Shares may be issued by payment of their nominal value at least, provided that the balance value of such shares be paid within no later than (3) three years from the date of registration of the Company with the Competent Authority.

3- The Company may, by virtue of a Special Decision and subject to the approval of the Authority, divide the nominal value of its shares.

#### **Article 210- Nature of the shares**

The shares shall be nominal. No shares to the bearer shall be issued. The shares shall be negotiable.

#### **Article 211- Disposal of shares**

The method and conditions of disposal of shares shall be determined in accordance with the provisions of this Decree-Law, the regulations, and decisions issued by the Authority and the Company's Statute, provided that the disposal of the shares does not entail the decrease of the share of the UAE Nationals in the capital of the Company below the limit prescribed by this Decree-Law.

#### **Article 212- Mortgage of shares**

Shares may be mortgaged by the delivery thereof to the creditor or his representative upon following the procedures prescribed in this respect. A mortgagee creditor shall collect the profits and use the rights attached to the share, unless otherwise agreed upon in the mortgage contract.

#### **Article 213- Transfer of ownership of shares listed in the Markets**

Ownership of the Company's shares listed in any of the financial Markets licensed in the State shall be transferred in accordance with the applicable procedures of the Authority and the financial Market wherein such shares are listed.

#### **Article 214- Transfer of ownership of shares not listed in the Markets**

1- Ownership of shares not listed in the Markets shall be transferred by the written entry of such disposal in a register maintained by the Company. Such shares shall be noted to this effect and the disposal may not be invoked against the Company or third parties only except as of the date of such entry in the register.

2- The Company may not register the disposal of the shares in the following cases:

- a- If such disposal is in violation of the provisions of this Decree-Law or the decisions issued in implementation thereof or the Company's Statute;
- b- If the shares are mortgaged or attached by a Court order;
- c- If the certificate of shares is lost and the Company did not issue a replacement thereof;
- d- If the Company holds a debt on the shares, the Company may suspend the registration of the transfer of the shares, unless its debt is repaid; and
- e- If any of the contracting parties lacks capacity, is incapacitated, or declares its bankruptcy or insolvency.

#### **Article 215- Transfer of ownership of shares by inheritance, will, or a court ruling**

1- If the ownership of a share is transferred by way of inheritance or will, the heir or legatee shall request to enter the transfer of ownership in the Shares Register.

2- If the transfer of ownership is under an enforceable court judgment, such transfer shall be entered in the Shares Register in accordance with this judgment. The transferee shall use the rights derived from such transfer from the date of such registration.

#### **Article 216- Non-divisibility of the share**

A share shall be indivisible. However, if the ownership of a share is transferred to several heirs or a share is held by several persons, they shall choose from among them a representative towards the Company. Such persons shall be jointly liable for the obligations arising from the ownership of the share. If they fail to agree on a representative, any of them may resort to the competent court to appoint such representative.

#### **Article 217- Restrictions of trading the shares of the founders**

1- The founders' shares in cash or in kind may not be traded prior to the publication of the balance sheet and the profit and loss account for at least two fiscal years commencing from the date of listing the Company in the financial Market in the State or from the date of entry of the Company in the commercial register with the Competent Authority in respect to companies excluded from listing. Such shares shall be noted to the effect that they constitute founders' shares. The provisions of this article shall apply to the subscriptions by the founders in the event of increase of the capital prior to the expiry of the prohibition period.

2- During the prohibition period, such shares may be mortgaged, their ownership transferred by a founder's sale to another founder or by the heirs of a founder, in the event of his death, to third parties or by the bankruptcy trustee of a founder to third parties or under a final judgment.

3- The Board of Directors of the Authority may issue a decision to expand the period of prohibition set forth in clause (1) of this article, provided that it does not exceed (3) three years.

#### **Article 218- Attachment of shares**

The funds of the Company may not be attached due to debts payable by a shareholder. However, the creditors of the shareholder may attach the latter's shares and the profits deriving therefrom. The share shall be noted to this effect in the share register and in the financial Market wherein the Company's shares are listed.

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### **Article 219- Non-payment by a shareholder of the balance value of the share**

1- If a shareholder in a Joint Stock Company fails to pay the instalment of the share value on the maturity date, the board of directors may notify the shareholder to pay the outstanding instalment by virtue of a registered letter. If the shareholder fails to make payment within (30) thirty days, the Company may sell the share in public auction or according to the decisions issued by the Authority.

2- The Company shall collect from the sale proceeds any overdue instalments and expenses as compensation for the delay and shall pay the balance amount to the holder of the share. The Company shall have the right of recourse against the shareholder's own funds if the sale proceeds is not sufficient to settle the rights of the Company, and the shares shall be entered in the share register in the name of the purchaser.

### **Article 220- Discharge of shareholders**

1- The Company may not discharge a shareholder from his obligation to pay the value of a share. Such obligation may not be set off against any rights of the shareholder in the Company.

2- Any of the creditors of the Company may file a lawsuit against the shareholder to claim the value of the share.

### **Article 221- Treasury shares**

1- The Company may not mortgage its own shares or purchase such shares unless the purchase is intended to decrease the capital or to redeem the shares. In such event, such shares shall have no vote in the deliberations of the general assembly or a share of the profits.

2- Notwithstanding the provision of clause (1) of this article, and subject to the approval of the general assembly, the Company that has been incorporated since at least two fiscal years, may purchase a percentage not exceeding (10%) of its shares for the purpose of disposal thereof by any manner whatsoever, including disposals transferring ownership, in accordance with the terms and conditions determined by a decision of the Authority. Treasury shares may not be counted within the legal quorum in the general assembly meetings, and they shall have no vote in the deliberations thereof, nor a share of the profits until after the transfer of their ownership or their cancellation. In the event that those shares are cancelled, the Company's capital shall be decreased *pro rata* to the number of the cancelled shares. The reduction process in this case shall not be governed by the provisions of Articles (204) and (206) of this Decree-Law.

### **Article 222- Omitting the entry of data in the Shares Register**

If the name of any person or the number of the shares held by such person is omitted to be entered in the register of the shareholders of the Company, or in the event of any unjustified failure or delay to enter a data indicating that any person is not a shareholder, the injured person or any shareholder of the Company may request the Company to modify the particulars of the register, and the Company may reject the application for modification. In such event, the injured person may refer to justice.

### **Article 223- Shareholders' rights**

1- A shareholder in a Joint Stock Company shall enjoy:

a- All the rights attached to the share, particularly the right to obtain its share of the profits and assets of the Company upon its liquidation, and the right to attend the meetings of the general assembly and voting on its decisions, all in accordance with the terms and conditions provided for in this Decree-Law and the Company's Statute.

b- The right to have access to the books and documents of the Company and any documents in connection with a deal made by the Company and concluded with a related party under an authorisation from the board of directors or a decision of the general assembly or as provided by the Company's Statute in this respect.

2- The court may impose on the Company to provide specific information to the shareholder in such a manner that does not conflict with the interests of the Company.

3- Any decision issued by the board of directors or the general assembly of the Company that may prejudice the rights of the shareholder vested therein under the provisions of this Decree-Law or the Company's Statute or requires the increase of the obligations of such shareholder shall be deemed null and void.

### **Article 224- Financial aid**

1- The Company or any of its subsidiaries may not provide a financial aid to any person so as to enable him to own any Securities issued by the Company. Financial aid includes in particular the following:

- a- Providing loans.
- b- Granting gifts or donations.
- c- Providing the Company's assets as collateral.
- d- Providing a collateral or guarantee for the obligations of another person.
- e- Using any of the Company's reserves or funds or profits generated to pay off any of that person's obligations.

2- Financial aid does not include any guarantees, undertakings, or compensation that the Company provides to any of the underwriters during any offering or subscription to the Company's shares.

3- As an exception to the provisions of clause (1) of this article, companies licensed by the Central Bank to engage in financing activities may provide loans to any person to enable him to own any Securities issued by these companies, provided that the loans granted do not include any preferential terms that they do not grant to their other clients and in a manner that does not conflict with the legislation and regulations in force at the Central Bank.

#### **Article 225- Contribution by the Strategic Partner**

1- Notwithstanding the provisions of Articles (197), (199), (200) and (201) of this Decree-Law, the Company may under a Special Decision, increase its capital by admitting a Strategic Partner. The Board of Directors of the Authority shall issue a decision determining the conditions and procedures for the entry of the Strategic Partner as a shareholder of the Company.

2- The board of directors of the Company shall present to the general assembly a study showing the benefits to be achieved by the Company from the entry of the Strategic Partner as a shareholder in the Company.

3- The Authority and the Competent Authority may reject the Strategic Partner's contribution in the Company if such contribution may contravene the applicable laws or regulations of the State or prejudice the public interest.

#### **Article 226- Conditions of the Strategic Partner's contribution**

1- The board of directors of the Company shall offer the shares to the Strategic Partner within three months from the date of the issuance of the decision approving the entry thereof as a shareholder in the Company, and after taking into account any conditions or controls set by the Authority in this regard.

2- If the board of directors fails to offer the new shares to the Strategic Partner within the three-month period set forth in clause (1) of this article or if the Strategic Partner fails to subscribe to such shares within a period not exceeding (30) thirty days from the date of offering the shares to such partner, the decision of the general assembly increasing the Company's capital to admit the Strategic Partner shall be deemed as void *ab initio*.

#### **Article 227- Capitalisation of cash debts**

1- Notwithstanding the provisions of Articles (197), (199), (200) and (201) of this Decree-Law, the Company may under a Special Decision, increase its capital by the capitalisation of its cash debts.

2- The Company's board of directors shall submit to the general assembly a study showing the necessity to capitalise the cash debts.

3- Any debts payable to the Federal Government, the Local Governments, the public authorities and establishments in the State, the banks, and the financing companies, shall be deemed as cash debts in accordance with the provisions of this Decree-Law.

4- The Board of Directors of the Authority shall issue a decision determining the conditions and procedures for capitalising the cash debts.

#### **Article 228- Employees' share incentive scheme**

1- Notwithstanding the provisions of Articles (197), (199), (200) and (201) of this Decree-Law, the Company may under a Special Decision, increase its capital by the application of the share incentive scheme for the employees of the Company.

2- The Company's board of directors shall submit to the general assembly, the share incentive scheme for the employees of the Company.

3- The Board Members of the Company may not participate in the employees' share incentive scheme.

4- The Board of Directors of the Authority may issue a decision including the conditions and mechanism to implement an employees' share incentive scheme.

#### **Article 229- Share certificates**

1- Unless the Company, after its incorporation, has listed its shares in any of the financial Markets in the State, the board of directors shall, within (3) three months from the date of registration of the Company in the Commercial Register with the Competent Authority, substitute the notices to allocate the shares by share certificates.

2- Share certificates shall be signed by at least two Board Members, stating the name of the shareholder, the number of the shares subscribed thereto, the method of payment of their value, the part paid of such value, the date of payment, the serial number of the certificate, the numbers of the shares held by the shareholder, the issued capital of the Company, the head office and the term of the Company, and the date of the decision authorising the incorporation of the Company. Such certificates shall substitute the shares. Shares certificates may be issued, signed, and saved electronically, in accordance with the controls issued by the Authority in this regard.

3- If the value of the share is paid in instalments, the Company's obligation to deliver the share certificate shall be adjourned until full payment of the value of the shares. The shares representing contributions in kind may not be delivered until after the transfer of ownership of such contributions in kind to the Company.

#### **Article 230- Loss or destruction of shares, bonds, or sukuk certificates**

1- If a share, bond or sukuk certificate is lost or destroyed, the holder of the certificate in whose name the certificate is registered may request a replacement thereof. The holder of the certificate shall publish the numbers of the lost or destroyed certificates and their quantity in two daily local newspapers, one of them to be issued in Arabic.

2- If no objection is filed with the Company within thirty days from the date of publication, the Company shall give the holder of the former certificate a new certificate, stating that it is a replacement of the lost or destroyed certificate. Such new certificate shall confer all the rights on its holder and impose on him all the obligations connected with the lost or destroyed certificate.

#### **Article 231- Issuing bonds or sukuk**

1- After the Authority's approval, the Company may issue negotiable bonds or sukuk, whether or not they are convertible into shares in the Company, for equal values per each issue.

2- Bonds or sukuk shall remain nominal until full payment of its value.

3- Bonds or sukuk may not be converted into shares unless stipulated in the prospectus. If conversion is decided as regards bonds or sukuk which are not required to be converted into shares, the holder thereof shall have solely the right to accept the conversion or collect the nominal value of the bond or sukuk.

4- As an exception to the provisions of Articles (196), (199), (200) and (201) of this Decree-Law, the Company may, by virtue of the Special Decision approving the issue of the bonds or sukuk convertible into shares, increase its capital by converting the same into shares in its capital.

#### **Article 232- Conditions to issue bonds or sukuk**

1- Bonds or sukuk and any other debt instruments shall be issued by virtue of a Special Decision made by the general assembly of the Company. The general assembly may authorise the board of directors to schedule the date for issuing the bonds or sukuk.

2- The Authority shall issue a decision specifying the conditions, controls, and procedures for issuing bonds or sukuk and any other debt instruments.

#### **Article 233- Increase or decrease of the capital after issuing bonds or sukuk**

Upon issuing a Special Decision to issue bonds or sukuk convertible to shares and until the date of such conversion or payment of their value, the Company may not decrease its capital or increase the rate decided to be distributed as a minimum limit of profits to the shareholders. In the event of decrease of the capital of the Company due to the losses by way of cancellation of a number of shares or decrease of the nominal value of the share, the capital shall be decreased, as if the holders of the bonds are shareholders.

#### **Article 234- Profits of bonds or sukuk upon their conversion into shares**

Shares obtained by holders of bonds or sukuk that have been converted into shares in the Company's capital shall have a share of the profits to be distributed for the fiscal year during which the conversion took place unless the prospectus for the issue of those bonds or sukuk provides otherwise.

#### **Article 235- Date of payment of bonds or sukuk**

The Company may not advance or delay the date of payment of bonds or sukuk unless otherwise provided by the decision to issue the bonds or sukuk and the prospectus. However, if the Company is dissolved other than by merger, the holders of bonds or sukuk may claim the value of their bonds or sukuk prior to their maturity date. The Company may also offer such payment to them. In either event, if payment is made, interests shall not be forfeited for the remaining period of the loan.

#### **Article 236- Rights of the holders of bonds or sukuk**

The rights of the holders of bonds or sukuk issued by the Company, which are not offered for Public Subscription in the agreement giving rise to such bonds or sukuk shall be determined. Such agreement shall also include procedures necessary for the holders of bonds or sukuk to hold meetings and appoint any committees, voting rights, and all the other related issues and the conditions of converting them to shares in the Company if they are convertible. The Authority may issue a decision regulating the rights of the holders of bonds or sukuk.

### **Chapter 6**

#### **Finance of the Public Joint Stock Company**

##### **Article 237- Preparing the accounts of the fiscal year**

1- The board of directors of each Joint Stock Company shall prepare accounts of every fiscal year including the balance sheet as per the last day of the fiscal year and a statement of the profits and losses account.

2- The accounts of the Company shall be prepared in accordance with the International Accounting Practices and Standards. Such accounts shall reflect a true and fair view of the profits or losses of the Company for the fiscal year and the affairs of the Company at the end of the fiscal year and shall comply with any other requirements prescribed in this Decree-Law and the decisions issued by the Authority in this respect.

3- The financial statements shall be approved upon signing them by the Board Members or by the chairman and the auditor.

##### **Article 238- Auditing the accounts of the fiscal year**

1- The accounts of the Company's fiscal year shall be reviewed by the auditor, who shall prepare a report thereon. Such accounts shall be approved by the board of directors and presented to the general assembly together with the auditor's report, within (4) four months from the end of the fiscal year of the Company.

2- The Company shall provide the Authority and the Competent Authority with a copy of the accounts and the auditor's report within (7) seven days from the date of convening the general assembly to whom the accounts and the auditor's report have been provided.

##### **Article 239- Accounting practices and standards**

The International Accounting Practices and Standards shall be applied by the companies upon preparing their periodical and annual accounts and determining the dividends.

##### **Article 240- Publication of the balance sheet of the Company**

The annual financial statements of the Company shall be published in accordance with the controls set by the Authority, and a copy thereof shall be deposited with both the Authority and the Competent Authority.

##### **Article 241- Statutory reserve**

1- (10%) of the net profits of the Company shall be set aside every year and allocated to create a statutory reserve, unless the Company's Statute provides for a higher percentage.

2- The general assembly may suspend such deduction whenever the statutory reserve reaches (50%) of the paid capital of the Company, unless the Company's Statute provides for a higher percentage.

3- The statutory reserve may not be distributed as dividends to the shareholders. However, the statutory reserve exceeding (50%) of the capital may be distributed as profits to the shareholders in accordance with the percentage determined in the Statute in the years wherein the Company does not make sufficient net profits to distribute such percentage.

#### **Article 242- Optional reserve**

The Statute of any Joint Stock Company may provide for the allocation of a certain percentage of the net profits to create an optional reserve to be allocated for the purposes provided by the Statute. The optional reserve may not be used for any other purposes except by virtue of a decision by the general assembly of the Company.

#### **Article 243- Distribution of profits**

1- The general assembly of the Company shall determine the percentage of net profits to be distributed to the shareholders after deducting the statutory reserve and the optional reserve.

2- A shareholder shall be entitled to his share of the profits pursuant to the conditions determined under a decision of the Authority.

3- Subject to clause (1) of this article, the Company's Statute may provide for the distribution of annual, semi-annual, or quarterly profits.

#### **Article 244- Social responsibility of Companies**

1- The Company, after the approval of the Authority, may decide by virtue of a Special Decision, to allocate a percentage of its annual profits or accumulated profits to social responsibility.

2- The Company shall disclose on its website after the end of the fiscal year whether or not it has carried out its social responsibility.

3- The auditor's report and the Company's annual financial statements shall include the entity or entities that benefit from these social contributions.

### **Chapter 7**

#### **Auditors of Public Joint Stock Companies**

##### **Article 245- Appointment of the Company's auditor**

1- Every Public Joint Stock Company shall have one or more auditors to be nominated by the board of directors and presented to the general assembly for approval.

2- The general assembly shall appoint an auditing company for one renewable year, and the Company's board of directors may not be delegated to this effect, provided that the auditing company does not undertake the audit of the Company for a period of more than six (6) consecutive fiscal years from the date of assuming the audit thereof. In this case, the partner responsible for auditing the Company shall be changed after the end of three (3) fiscal years. The auditing company may be reassigned to audit the Company's accounts after the lapse of at least two (2) fiscal years from the date of the expiry of its appointment period. The founders of the Company may upon its incorporation appoint one auditing company or more to be approved by the Authority to assume its duties until the completion of the general assembly's work for the first fiscal year.

3- The general assembly shall determine the fees of the auditor. The board of directors may not be delegated to this effect, provided that such fees be reflected in the Company's accounts.

##### **Article 246- Conditions to be met by the Company's auditor**

The Board of Directors of the Authority shall issue a decision determining the conditions to approve the auditors of Public Joint Stock Companies. In particular, the auditor shall meet the following conditions:

1- He shall be licensed to practice the profession in the State and have experience in auditing Joint Stock Companies for at least (5) five years;

- 2- His name shall be approved by the Authority;
- 3- He shall not combine the profession of auditor and the capacity of a shareholder in the Company, nor occupy the office of Board Member or any technical, administrative, or executive office therein;
- 4- He shall not be a partner or agent of any of the founders of the Company or any of its Board Members or a relative of any of them up to the second degree.
- 5- The name of the auditor shall be approved by the Central Bank with respect to companies licensed by the latter.
- 6- He shall provide a professional insurance to the Authority when it so requires.

#### **Article 247- Audit report**

1- Subject to the provisions of the Federal Law on the Regulation of the Auditing Profession, and its amendments, the auditor shall issue a report on the accounts audited by him. If the Company has more than one auditor, said auditors shall distribute the duties among themselves and each of them shall provide a separate report on the issues of the task assigned thereto, and then all the auditors shall prepare a joint report for which they shall be jointly liable. The auditor shall state his name on the report and sign it.

2- The report shall state whether the accounts have been prepared in accordance with the provisions of this Decree-Law and whether the accounts give a fair view of the financial position of the Company.

#### **Article 248- Duties of the Company's auditor**

1- The auditor shall audit the accounts of the Company, inspect the balance sheet and the profits and losses account, review the transactions of the Company with the related parties, and verify the application of the provisions of this Decree-Law and the Company's Statute. The auditor shall provide a report on such inspection to the general assembly and dispatch a copy thereof to the Authority and the Competent Authority.

2- Upon preparing his report, the auditor shall verify the following:

- a- The extent of validity of the accounting registers kept by the Company.
- b- The extent of consistency between the Company's accounts and the accounting registers.

3- The auditor shall review all the registers, papers, and other documents of the Company. He may require such explanations as the auditor may deem necessary to perform his duties. The auditor may also verify the assets, rights, and obligations of the Company.

4- If no facilities are provided to the auditor to perform his duties, the auditor shall evidence the same in a report to be submitted to the board of directors. If the board of directors fails to facilitate the task of the auditor, the latter shall send a copy of the report to the Authority.

5- The subsidiary and its auditor shall provide any information and explanations requested by the auditor of the holding Company for the purposes of audit.

#### **Article 249- Confidentiality of the particulars of the Company**

The auditor shall keep the confidentiality of the particulars of the Company he has perused in the course of performing his duties with the Company. The auditor may not disclose such particulars to third parties or to the shareholders other than during the general assembly, failing which the auditor shall be dismissed, without prejudice to the civil and criminal liability, where necessary.

#### **Article 250- Prohibition of trading in Securities by the auditor**

The auditor and his employees may not purchase the Securities of the Company whose accounts are audited by him or sell such Securities directly or indirectly or provide any consultancies to any person in connection with such Securities, failing which the auditor shall be dismissed, without prejudice to the civil and criminal liability, where necessary.

#### **Article 251- Notification of crimes and violations**

1- The auditor shall notify the Authority of any violations of the provisions of this Decree-Law or any violations that constitute a crime detected upon performance of his duties at the Company, within (10) ten days from the date of detecting the violation.



2- If the auditor breaches the provision of clause (1) of this article, the Authority may suspend the auditor from auditing the accounts of Public Joint Stock Companies for no more than (1) one year, cancel his accreditation by the Authority, or refer the auditor to the Public Prosecution, where necessary, and at all events, notify the Ministry and the Competent Authority in this respect.

#### **Article 252- Contents of the auditor's report**

The auditor shall read his report at the general assembly of the Company upon consideration of the balance sheet of the Company, provided that his report states whether the auditor has inspected the information that he deems necessary for the satisfactory performance of his duties and prepared the accounts in accordance with the provisions of this Decree-Law, and that such accounts reflect, in particular, the following issues:

- 1- The position of the Company at the end of the fiscal year, particularly the balance sheet of the Company;
- 2- The profits and losses account;
- 3- The Company's maintaining of regular accounts;
- 4- A statement whether the Company has purchased any shares or stocks during the fiscal year;
- 5- An indication that the data contained in the board of directors' report are identical to the books and registers of the Company;
- 6- A statement of the deals with conflicts of interest and the financial transactions made between the Company and any of the related parties and the procedures taken in that respect;
- 7- A statement whether, within the limit of the information made available to the auditor, any violations of the provisions of this Decree-Law or the Company's Statute have occurred during the fiscal year so as to adversely affect the activity or financial position of the Company, whether such violations still exist or not, and whether there are any fines imposed on the Company due to such violations;
- 8- A statement whether there are fines imposed on the Company due to violations of this Decree-Law or the Company's Statute during the ending fiscal year and whether such violations still exist; and
- 9- In the event of accounts of any group, a statement indicating the financial position at the end of the fiscal year and the profits and losses account of the holding Company and its subsidiaries, including the consolidated statements as a whole, in connection with the relevant parties in the holding Company.

#### **Article 253- Dismissal of the Company's auditor**

- 1- The Company may, under a decision taken by its general assembly, dismiss the auditor.
- 2- The chairman of the board of directors shall notify the Authority of the decision dismissing the auditor and the reasons therefor, within a period not exceeding seven (7) days from the date of the dismissal decision.

#### **Article 254- Resignation of the Company's auditor**

- 1- The auditor may resign from his office under a written notice given to the Company and the Authority. Such notice shall be deemed as termination of his task as an auditor in the Company from the date of giving the notice or on any later date as determined in the notice.
- 2- The auditor who resigns for any reason shall file with the Company and the Authority a statement of the reasons for his resignation. The board of directors of the Company shall invite the general assembly to convene within (10) ten days from the date of filing for resignation to consider the reasons for resignation and appoint another auditor and determine his fees.

#### **Article 255- Liability of the Company's auditor**

The auditor shall be liable towards the Company for the audits and the validity of the statements in his report and to indemnify the damage incurred by the Company due to his acts upon performing his job. If there is more than one auditor, each of them shall be liable for his own fault that caused the damage.

#### **Article 256- Liability lawsuit against the Company's auditor**

The liability lawsuit against the auditor of the Company shall be time-barred upon the expiry of one year from the date of convening the general assembly at which the auditor's report is read. If the act attributed to the auditor constitutes a crime, the liability lawsuit shall not be time-barred except upon the prescription of the public lawsuit.

## **Title 5**

### **Private Joint Stock Companies**

#### **Article 257- Definition of the Private Joint Stock Company**

1- A Private Joint Stock Company is a Company wherein the number of the shareholders is not less than two. The capital of the Company shall be divided into shares of equal nominal value, to be paid in full without offering any shares for Public Subscription, and conducted by signing the Company's Memorandum of Association and complying with the provisions of this Decree-Law in terms of its registration and incorporation. A shareholder shall be liable only to the extent of his share in the capital of the Company.

2- As an exception to the minimum number of shareholders stipulated in clause (1) of this article, a juristic person may incorporate and own all shares in a Private Joint Stock Company, and the owner of the Company's capital shall not be liable for its obligations except within the limits of the Company's capital stated in its Memorandum of Association. The name of the Company shall be followed by the expression "Sole Proprietorship - Private Joint Stock Company". The provisions of the Private Joint Stock Company set forth in this Decree-Law shall apply to such owner to the extent that does not conflict with the nature of the Company. The Minister shall issue a decision on the procedures for incorporating and managing a Sole Proprietorship - Private Joint Stock Company in a manner that is consistent with its nature.

#### **Article 258- The Company's capital**

1- The issued capital of the Company shall not be less than (5,000,000) five million dirhams and shall be paid in full. Such limit may be modified by virtue of a Cabinet decision based on the proposal of the Minister.

2- Private Joint Stock Companies existing and registered with the Ministry prior to the effective date of this Decree-Law shall be excluded from the minimum limit of capital set forth in clause (1) of this article.

#### **Article 259- Founders Committee**

1- The founders shall choose from among them a committee to be called the "Founders Committee" and consisting of at least two members, to carry out the procedures for incorporating and registering the Company with the competent authorities. Said committee shall be fully liable for the validity, accuracy, and completion of all documents, studies, and reports submitted to the relevant authorities in connection with the incorporation, licensing, and registration of the Company. In the event of a Sole Proprietorship, the founder shall act as the said committee.

2- The Founders Committee may delegate one of its members or a third party to follow up and complete the incorporation procedures with the Authority and the Competent Authority according to the controls laid down by the Ministry in this respect.

#### **Article 260- Filing the application for incorporation with the Competent Authority**

1- The Founders Committee shall submit the application for incorporation to the Competent Authority, together with the Memorandum of Association and Statute of the Company, the economic feasibility of the project to be established by the Company and the timetable proposed for implementing such project.

2- The Competent Authority shall consider the application for incorporation and issue its initial approval thereof or reject it and shall notify the Founders Committee within (10) ten Working Days from the date of submission of the application, if the application is complete or from the date of completion of the required documents or statements. The Competent Authority's failure to issue its initial approval within the said period shall be deemed as a rejection of the application for incorporation.

3- The Founders Committee may file an appeal before the competent court, against the rejection decision issued by the Competent Authority within (30) thirty days from the date of its notification of the decision of rejection or from the lapse of the period set out in clause (2) of this article if no such decision has been issued.

#### **Article 261- Filing the application for incorporation with the Ministry**

1- The Founders Committee shall submit the application for incorporation to the Ministry together with the initial approval of the Competent Authority, the Memorandum of Association and Statute of the Company, the economic feasibility of the project to be established by the Company, the timetable proposed for implementing such project, and any approvals made by the concerned authorities and relating to the application, according to the applicable requirements of the Ministry.

2- The Ministry shall consider the application for incorporation and notify the Founders Committee of its observations on the application for incorporation and its documents within (10) ten Working Days from the date of its submission or from the date of filing the valuation of the contributions in kind, if any. The Founders Committee shall complete any deficiency or make any amendments that the Ministry may deem necessary to complete the application for incorporation, within (10) ten Working Days from the date of the notice, failing which the Ministry may consider the same as a waiver of the application for incorporation.

3- The Ministry shall dispatch a copy of the application and its documents to the Competent Authority within (5) five Working Days from the date of completing the application for consideration. Then, the Ministry shall meet with the Competent Authority within (5) five Working Days from the date of sending a copy the application to the Ministry. If the Competent Authority has any observations thereon, the Ministry shall notify the Founders Committee thereof and complete the deficiency or make any amendments that the Competent Authority may deem necessary to complete the application for incorporation within 5 (five) Working Days from the date of notifying the Founders Committee, failing which the Ministry may consider the same as a waiver of the application for incorporation.

4- The Competent Authority shall issue a decision to grant the licence after the approval of the Ministry.

#### **Article 262- Shares Register Secretariat**

1- Private Joint Stock Companies shall have a register wherein the names of the shareholders, the number of shares held by each of them, and any dispositions thereof shall be entered. Such register shall be delivered to the Shares Register Secretariat.

2- The Authority shall, in coordination with the Ministry, issue a decision to regulate, supervise and control the work of the Shares Register Secretariat.

#### **Article 263- Certificate of incorporation**

1- The Founders Committee or its representative shall apply to the Ministry for the issuance of the incorporation certificate of the Company. The application shall be accompanied with:

- a- A bank certificate confirming the deposit of the issued capital of the Company;
- b- The authenticated Memorandum of Association and Statute of the Company;
- c- A copy of the Competent Authority's decision of the initial licensing approval;
- d- A statement of the names of the Board Members of the Company and written acknowledgement by them that their membership is not in conflict with the provisions of this Decree-Law and the decisions issued hereunder;
- e- A statement of the names of the members of the Internal Sharia Control Committee and the Sharia Controller if the Company conducts its business in accordance with the provisions of the Islamic Sharia;
- f- A certificate confirming that the register of shareholders has been delivered to the Shares Register Secretariat; and
- g- Any other documents requested by the Ministry.

2- In the event of completion of the documents set forth in clause (1) of this article, the Ministry shall issue a certificate of incorporation of the Company within (2) two Working Days from the date of submitting the complete application.

3- The registration of the Company with the Ministry shall be published in accordance with the conditions laid by the Minister in this respect at the expense of the Company.

#### **Article 264- Commercial licence of the Company**

1- The board of directors of the Company shall, within (5) five Working Days from the date of the Ministry's issuance of the incorporation certificate, undertake its registration procedures before the Competent Authority.

2- The Competent Authority shall enter the Company in the commercial register and issue a commercial licence therefor within (3) three Working Days from the date of completion of the documents and payment of the fees.

#### **Article 265- Transfer of ownership of shares**

1- Ownership of shares shall be transferred by the registration of such disposal with the Shares Register Secretariat. Such disposal may not be invoked towards the Company or third parties except from the date of such registration with the Shares Register Secretariat.

2- A Private Joint Stock Company shall not register any assignment of its shares except through the Shares Register Secretariat.

3- The Shares Register Secretariat may refuse to enter the assignment of shares in any of the cases provided for in clause (2) of Article (214) of this Decree-Law.

#### **Article 266- Restrictions on the transfer of ownership of shares**

1- Ownership of shares of a Private Joint Stock Company may not be transferred prior to the publication of the balance sheet and the profits and losses account for at least one fiscal year commencing from the date of registration of the Company in the commercial register with the Competent Authority. The provisions of this article shall apply in the event of increase of the capital prior to the expiry of the prohibition period.

2- During the prohibition period, such shares may be mortgaged, their ownership may be transferred by the shareholder's sale thereof to another shareholder, or by the shareholder's heirs sale thereof in the event of his death, to third parties or by the bankruptcy trustee of a shareholder to third parties or under a final judgment.

3- The Minister may issue a decision to extend or shorten the period of prohibition set forth in clause (1) of this article, provided that it is not less than (6) six months and not more than (2) two years.

#### **Article 267- Application of the provisions concerning Public Joint Stock Companies**

Notwithstanding the provisions of Public Subscription, and for all that is not specifically provided for herein, all the provisions of this Decree-Law concerning Public Joint Stock Companies shall apply to Private Joint Stock Companies, and the term "Ministry" shall replace the term "Authority" wherever it may appear therein.

### **Title 6**

## **Holding Companies and Investment Funds**

### **Chapter 1**

#### **Holding Companies**

#### **Article 268- Definition of the holding Company**

1- A holding Company is a Joint Stock Company or a Limited Liability Company that establishes subsidiaries inside the State or abroad or controls existing companies, by holding shares or membership interests enabling such Company to control the management of the subsidiary and have influence on the decisions thereof.

2- The name of the Company followed by the expression "Holding Company" shall appear on all the papers, advertisements, and other documents issued by the Holding Company.

#### **Article 269- Objects of the Holding Company**

1- The objects of a Holding Company shall be limited to the following:

- a- Holding shares or membership interests in Joint Stock Companies and Limited Liability Companies;
- b- Providing loans, guarantees, and finance to its subsidiaries;
- c- Owning movables and real estates required to commence its activity;
- d- Managing its subsidiaries; and
- e- Owning industrial property rights from patents, trademarks, industrial drawings and models, royalties, and leasing the same to its subsidiaries or to other companies.

2- Holding Companies may not conduct their activities except through their subsidiaries.

#### **Article 270- Accounts registers to be kept by subsidiaries**

A Holding Company shall take the required procedures to ensure that the subsidiaries keep the required accounting registers to enable the Board Members or the board of managers of the Holding Company to confirm that the financial statements and the profits and losses account are compliant with the provisions of this Decree-Law.

#### **Article 271- Subsidiaries**

1- A Company shall be considered as a subsidiary of a Holding Company in any of the following cases:

a- If the Holding Company holds dominating and controlling shares in the capital of the Company and controls the formation of its board of directors; or

b- If the Company is affiliated to a subsidiary.

2- A subsidiary shall not be a shareholder in its own Holding Company. Any allocation or transfer of any shares in a Holding Company to any of its subsidiaries shall be deemed null and void.

3- If a Company that owns shares or membership interests in a Holding Company becomes a subsidiary of such Holding Company, such Company shall continue to be a shareholder in the Holding Company, provided that:

a- The subsidiary be deprived of the right to vote in the meetings of the board of directors of the Holding Company or the meetings of its general assembly; and

b- The subsidiary disposes of its shares in the Holding Company within (12) twelve months from the date of the Holding Company's acquisition of the subsidiary.

#### **Article 272- Fiscal year of the Holding Company**

The Holding Company shall, at the end of every fiscal year, prepare a consolidated balance sheet, the profits and losses account, and the cash flow of the Holding Company and all its subsidiaries and shall present them to the general assembly, together with the relevant notes and statements, in accordance with the internationally accepted accounting and audit practices and standards.

### **Chapter 2**

#### **Investment Funds**

##### **Article 273- Formation of Investment Funds**

1- Investment Funds shall be established according to the conditions and controls stated in a decision issued by the Authority in this regard.

2- The licenses of Investment Funds issued by the Central Bank before the date of entry into force of this Decree-Law shall be excluded from the provisions of clause (1) of this article.

##### **Article 274- Legal personality of the Fund**

The Investment Fund shall have an independent legal personality, legal form, and financial liability.

### **Title 7**

#### **Conversion, Merger, and Acquisition of Companies**

### **Chapter 1**

#### **Conversion of Companies**

##### **Article 275- Rules of Conversion**

Any Company may be converted from one form into another, while keeping its legal personality, in accordance with the provisions of this Decree-Law and the regulations and decisions regulating the conversion of companies issued by the Ministry or the Authority, each within its own competencies, in coordination with the Competent Authority.

##### **Article 276- Conversion of the Company into another legal form**

1- Subject to the provision of Article (299) of this Decree-Law, a Public Joint Stock Company may be converted to a Private Joint Stock Company if the following conditions are met:

a- The approval of the joint committee formed, under a decision by the Minister, from the Ministry of Economy, the Securities & Commodities Authority, and the Competent Authority, to consider the application for conversion into a Private Joint Stock Company;

b- The lapse of (5) five audited fiscal years from the date of registration in the commercial register as a Public Joint Stock Company. In the event of its conversion into a Private Joint Stock Company, the Company may not re-apply for conversion into a Public Joint Stock Company until after the expiry of (5) five audited fiscal years from the date of registration in the commercial register as a Private Joint Stock Company; and

c- Issue of a Special Decision by the general assembly approving the conversion of the majority shares representing (90%) of the capital of the Company.

2- Save for a Public Joint Stock Company, a Company may convert into a Joint Liability Company, a Limited Partnership Company, a Limited Liability Company, or a Private Joint Stock Company if the following conditions are met:

a- Issuance of a decision in accordance with the conditions prescribed for amending the Memorandum of Association and the Statute of the Company.

b- Expiry of a period of at least two audited fiscal years of the Company from the date of its registration in the commercial register.

c- The unanimous consent of the partners in the event of conversion into a Joint Liability Company.

d- The completion of the incorporation and registration procedures prescribed for the proposed form of conversion.

#### **Article 277- Conversion into a Public Joint Stock Company**

Subject to the provisions of Article (275) of this Decree-Law, the following is required for the conversion of a Company into a Public Joint Stock Company:

1- The payment of the full value of the issued shares or the partners' shares;

2- The expiry of at least two audited fiscal years;

3- The issuance of a Special Decision or any similar action to convert the Company into a Public Joint Stock Company.

4- Any other conditions specified in a decision of the Authority's Board of Directors.

#### **Article 278- Documents of conversion into a Public Joint Stock Company**

1- Any Company may be converted into a Public Joint Stock Company, by virtue of an application on the form prepared by the Authority for such purpose, signed by the authorised signatory of the Company.

2- The following documents shall be attached to the application:

a- The amended Memorandum of Association and Statute of the Company;

b- The decision by the general assembly of the relevant Company or whomever is acting on its behalf passed by the majority prescribed for amending the Memorandum of Association or Statute of the Company, including the approval of any necessary increase of the capital and the conversion of the Company into a Public Joint Stock Company. The decision of conversion made by the partners or shareholders shall include any changes in the Memorandum of Association or Statute of the Company as required by the circumstances, including the change of the name of the Company;

c- The approval by the Ministry and the Competent Authority on the conversion of the Company into a Public Joint Stock Company;

d- A balance sheet of the Company prepared within six months prior to the date of the application for conversion, in addition to a copy of a reservation-free report from the auditor of the Company regarding such balance sheet;

e- A written statement by the auditors of the Company, wherein they acknowledge that the net assets of the Company on the date of preparing the balance sheet are not less than the required share capital and undistributed reserves.

f- An assessment of the contributions in kind of the Company, prepared in accordance with the provisions of Article (118) of this Decree-Law.

g- An acknowledgement by any manager or the board of directors, as the case may be, confirming that the following conditions are met:

1- The issuance of a decision by the general assembly of the Company or whomever is acting on its behalf approving the conversion and the fulfilment of all the other requirements provided for in this Decree-Law; and

2- The absence of any adverse material change in the financial position of the Company during the period from the date of the relevant balance sheet and the date of application for conversion.

h- Any other documents required by the Authority for conversion.

#### **Article 279- Announcement of the conversion decision**

1- The Company shall announce the conversion decision in two daily local newspapers issued in the State, one of them to be issued in Arabic, within (5) five Working Days from the date of the conversion decision and shall notify the shareholders or partners and the creditors thereof by registered letters.

2- The announcement and the notice to the shareholders or partners and the creditors set forth in clause (1) of this article shall include the right of any of the creditors of the Company and the holders of loan bonds or sukuk, and any concerned shareholders or partners to object to the conversion at the head office of the Company.

#### **Article 280- Objection to the conversion decision**

1- A partner or shareholder who objects to the conversion decision may withdraw from the Company and recover the value of his interests or shares, by virtue of an application filed in writing with the Company within (15) fifteen days from the date of completion of the publication of the conversion decision. The value of the shares or membership interests shall be paid according to their market or book value on the date of conversion, whichever is higher.

2- The shareholders or partners, the creditors of the Company, the holders of loan bonds or sukuk, and any concerned party may file an objection with the Company within (30) thirty days from the date of the notice of the conversion decision and a copy of the objection shall be delivered to the Ministry or the Authority, as the case may be, and the Competent Authority, provided that the objecting party states the subject-matter of his objection and the grounds of such objection, and the damage that he claims to have suffered specifically.

3- If the Company fails to settle the objections for any reason whatsoever within no later than (30) thirty days from the date of delivery of a copy of the objection to the Ministry or the Authority, as the case may be, and the Competent Authority, the objecting party may resort to the competent court.

4- The conversion decision shall remain stayed unless the objection is waived by the objecting party or the Court rejects the objection by a final judgment, or the Company pays the debt if urgent or provides sufficient securities if deferred.

5- If no objection has been filed against the conversion decision within the period provided for in clause (2) of this article, the same shall be deemed as an implicit acceptance of the conversion.

#### **Article 281- Sale of part of the shares of the Company upon its conversion**

1- A Company wishing to convert into a Public Joint Stock Company, after the approval of the Authority and the issuance of a Special Decision by its general assembly, shall sell its shares and/or offer new shares for Public Subscription in accordance with the regulations issued by the Authority in this regard.

2- The Authority shall issue a decision specifying the controls and conditions for selling and offering shares for Public Subscription when the company converts into the legal form of Public Joint Stock Company.

3- The shareholders or partners of the Company wishing to convert into a Public Joint Stock Company shall bear all the expenses resulting from the conversion until the completion of the procedures for the conversion of the Company and its registration as a Public Joint Stock Company with the Authority and the Competent Authority. These expenses shall include, for example, the valuation of the company and all fees of the parties participating in the subscription process. The shareholders subscribed in the Public Joint Stock Company shall not bear such fees.

4- As an exception to the provision of clause (1) of Article (217) of this Decree-Law, the in cash or in kind shares of the founders in the company may be traded after its conversion into a Joint Stock Company as of the date of its

listing in the financial Market in the State or from the date of its registration in the commercial register with the Competent Authority in the case of companies excluded from listing.

#### **Article 282- Notification of the conversion decision**

Subject to the provisions of Article (276) of this Decree-Law, the Company shall provide a copy of the decision for conversion to the Ministry or the Authority, as the case may be, and the Competent Authority together with:

- 1- A statement of the assets, rights, and obligations of the Company and the estimate value of such assets, rights and obligations; and
- 2- A statement of the settlement of the objection or the expiry of its term.

#### **Article 283- Consequences of the Company's conversion**

1- Upon conversion, every partner or shareholder shall have a number of shares or interests in the new Company equal to the value of his shares or interests in the Company prior to conversion. If the value of the shares or interests of a partner is less than the minimum limit prescribed for the nominal value of the new shares or interests, the difference shall be completed in cash, failing which such partner shall be deemed as having withdrawn from the Company. The value of his shares or interests shall be paid according to their market or book value on the date of conversion, whichever is higher.

2- After its conversion and re-registration under the new legal form, the Company shall maintain its legal personality and its rights and obligations prior to such conversion. Such conversion shall not discharge the joint partners from the obligations of the Company prior to the conversion unless the creditors agree thereto in writing.

#### **Article 284- Notation to the effect of the conversion**

1- After approval of the conversion decision by the Ministry or the Authority, as the case may be, and the Competent Authority, the particulars kept by the Registrar shall be modified;

2- The Competent Authority shall enter the Company in the commercial register and issue a commercial licence according to the new form of the Company. The conversion shall be deemed effective from the date of issuing the commercial licence.

## **Chapter 2**

### **Merger**

#### **Article 285- Merger**

1- Notwithstanding the provisions of Articles (199), (200) and (201), the Company may, under a Special Decision issued by the general assembly or the like, even during the liquidation process, merge with another Company by virtue of a contract to be concluded between the merged companies in this respect.

2- Subject to the applicable rules of the Central Bank, in the event of merger of the companies licensed by the latter, the Minister shall issue the decision regulating the methods, conditions, and procedures for the merger in respect of all companies, except the Public Joint Stock Companies, for which the Board of Directors of the Authority shall issue such decision.

#### **Article 286- Merger contract**

The merger contract shall determine the conditions and method of merger. In particular, it shall determine the following matters:

- 1- The Memorandum of Association and Statute of the merging Company or the new Company after merger;
- 2- The name and address of each Board Member or the proposed manager of the merging Company or the new Company.
- 3- The method of conversion of the shares or interests of the merged companies into shares or interests of the merging Company or the new Company.

#### **Article 287- Presenting the merger contract to the general assembly**



1- The Board Members or managers of every merged and merging Company shall present the draft merger contract to the general assembly or whomever is acting on its behalf for approval by the majority prescribed for amending the Memorandum of Association of the Company.

2- Requirements for the invitation of the general assembly to convene in consideration of the merger:

a- The invitation shall be accompanied by a copy or summary of the merger contract;

b- The contract shall clearly state the right of any individual or more shareholders holding at least (20%) of the capital of the Company, who objected to the merger, to file an appeal against it before the competent court within (30) thirty days from the date of approval of the merger contract by the general assembly or whomever is acting on its behalf.

### **Article 288- Merger of Holding Companies and subsidiaries**

1- A Holding Company may merge with one or more of the companies fully owned by such Holding Company into one single Company without being bound to conclude a merger contract. Merger shall be made under a Special Decision by such companies, passed by the majority prescribed for amending the Memorandum of Association of each Company.

2- Two or more companies fully owned by a Holding Company may merge into one single Company without being bound to conclude a merger contract.

3- In the event of merger where the merged Company is a Holding Company, the provisions of merger in this Decree-Law and the decisions issued in implementation thereof shall apply to its subsidiaries fully owned by the Holding Company.

### **Article 289- Refunding the value of shares**

1- Except for Joint Stock Companies, the partners who objected to the merger decision may request to withdraw from the Company and recover the value of their shares, by submitting a written application to the Company within (15) fifteen Working Days from the date of the merger decision.

2- The value of the shares, subject-matter of the withdrawal, shall be assessed by mutual agreement. In the event of disagreement on such assessment, the matter shall be referred to a committee formed by the Competent Authority for this purpose in respect of all companies prior to referring to justice.

3- The undisputed value of the shares, subject-matter of the withdrawal, shall be paid to their holders prior to the completion of the merger procedures and prior to resorting to the committee set forth in the preceding clause in connection with the disputed value.

### **Article 290- Notifying the creditors of the merger decision**

Every merging Company or merged Company shall notify its creditors within (10) ten Working Days from the date of approval of the merger by the general assembly, provided that such notice:

1- States that the Company intends to merge with one or more companies;

2- Be served in writing to every creditor of the Company to notify him of the merger;

3- Be published in two daily local newspapers issued in the State, provided that one of them is issued in Arabic; and

4- Provides for the right of any of the creditors of the (merging and merged) Company or companies, the holders of loan bonds or sukuk, and any interested party to object to the merger at the head office of the Company, and to deliver to the Ministry or the Authority, as the case may be, a copy of the objection, within (30) thirty days from the date of the notice.

### **Article 291- Objection to the merger**

1- A creditor who notifies the Company of his objection in accordance with the provisions of clause (4) of Article (290) of this Decree-Law, without payment or settlement of his claim by the Company within 30 (thirty) days from the date of the notice, may apply with the competent court to order the stay of the merger.

2- If, upon filing the application for the stay of the merger, the Court finds out that the merger would adversely affect the interests of the applicant unlawfully, the Court may order to stay the merger, in accordance with any other conditions as it may deem appropriate.

3- The merger shall remain stayed unless the objection is waived, or the Court rejects the objection by a final judgment, or the Company pays the debt if urgent or provides sufficient securities if deferred.

4- If no objection has been filed against the merger decision within the period provided for in clause (4) of Article (290) of this Decree-Law, the same shall be deemed as an implicit acceptance of the merger decision.

#### **Article 292- Approval of the merger**

1- Upon approval of the merger decision by the Ministry or the Authority, as the case may be, the particulars kept by the Registrar shall be amended;

2- The Competent Authority shall indicate the termination of the merged Company and notify the same to the Ministry or the Authority, as the case may be.

#### **Article 293- Results of the merger**

Merger shall result in the termination of the legal personality of the merged Company or companies and the merging Company, or the new Company's substitution thereof in all their rights and obligations. The merging Company shall be a legal successor of the merged Company or companies.

### **Chapter 3**

#### **Division of the Company**

##### **Article 294- Division of the Company**

1- Without prejudice to all legal rules and procedures regulating the incorporation of companies, the division of the Joint Stock Company shall be in application of the provisions of this Decree-Law by separating the company's assets or activities and the related obligations and ownership rights in two or more separate companies, and as an exception to the provisions of the incorporation of Joint Stock Companies stipulated in this Decree-Law, the Ministry or the Authority, as the case may be, shall issue, each within its own competencies, the conditions, controls, and procedures that companies shall abide by in connection with the division.

2- Both the dividing Company and the divided Company shall have an independent legal personality.

3- The divided Company shall substitute the dividing Company in its rights and obligations within the limits of whatever has devolved upon it unless there is an agreement to the contrary with the creditors regarding their debts.

##### **Article 295- Types of division**

1 -The division shall be horizontal when the shares of the companies resulting from it are owned by the same shareholders of the company before the division and with the same ownership ratios, and vertical when it is done by separating part of the assets or activities in a new subsidiary company owned by the Company under division. In both cases, the division of assets and their related obligations shall be on the basis of the book value, unless the Ministry or the Authority, each within its own competencies, as the case may be, agree on another method of valuation in accordance with the regulations issued in this regard. Shareholders' rights shall be divided from the capital, reserves, and withheld profits in accordance with a Special Decision issued by the Company's general assembly in this regard. The Company continuing with the same legal personality shall be called the "Dividing Company", and each separate company shall be called the "Divided Company".

2 -The division shall be implemented by issuing the shares of the dividing Company in light of the net assets of the Company after the division, either by modifying the number of shares or the nominal value of the share, and by issuing new shares for the divided Company in light of its part in the Company's net assets.

##### **Article 296- Preparation of a Detailed Division Draft**

The Company's board of directors shall prepare the draft detailed division, in particular, the assets and liabilities of the dividing Company and the companies resulting from the division for presentation to the general assembly, accompanied by the following:

1- Reasons for the division.

2- The method of dividing assets and liabilities.

3- The nominal value of the shares of the companies resulting from the division.

4- A report with the auditor's opinion on the detailed division draft.

5- The hypothetical financial statements of the dividing Company and the companies resulting from the division on the basis of assets, liabilities, property rights, revenues and expenses of activities that were divided for two years before the division, accompanied by a report on the opinion of the auditor.

6- A draft amendment to the Memorandum of Association and Statute of the dividing company, and the draft Memorandum of Association and Statute for the companies resulting from the division.

7- A memorandum on the opinion of an independent legal consultant clarifying the extent to which the division is in compliance with the applicable legal rules, and the extent of the Company's commitment to follow all due legal procedures.

8- The agreements concerning the rights of creditors after the division with the dividing company and the divided companies, and the measures taken by the holders of bonds of all kinds.

9- In all cases, the financial statements shall be accompanied by a report from the Company's auditor free of any reservations, and the interval between the date of the financial statements taken as the basis for division and the general assembly's decision of approval shall not exceed one calendar year.

The approval of the general assembly on the division shall be issued by a Special Decision, unless the Company's Statute provides for a higher percentage.

#### **Article 297- Requirement of a no objection certificate from the Ministry or the Authority**

The Company's board of directors shall obtain a no objection certificate from the Ministry or the Authority, each within its own competencies, as the case may be, regarding the division method and the draft detailed division, in particular, the assets and liabilities of each of the companies resulting from the division and the hypothetical financial statements of each Company resulting from the division on the basis of assets, liabilities, property rights, and revenues and activity expenses.

#### **Article 298- Issuance of the Dividing Company Shares**

The shares of the dividing Company shall be issued after the amendment, and the shares of the divided Company shall be issued after their registration with the Competent Authority. Notation shall be made in the commercial register to the effect of the amendment to the capital of the dividing Company and the entry of the divided Company in the commercial register after the approval of the Ministry or the Authority, each within its own competencies, as the case may be.

### **Chapter 4**

#### **Acquisition**

##### **Article 299- Acquisition process**

1- Where a person or group of associated persons to be determined by the decision issued by the Authority in this regard, purchases or performs any act that may lead to the acquisition of shares or Securities convertible into shares in the capital of a Public Joint Stock Company incorporated in the State, and whose shares have been offered for Public Subscription or have been listed in one of the State's financial Markets, said person or group of associated persons shall comply with the provisions of the Authority's decision issued on the acquisition.

2- The conditions and procedures issued by the Authority to regulate acquisitions may include a condition stipulating that those whose ownership in the capital has reached the percentage determined by the Authority, shall have the right to impose upon the minority shareholders to assign their shares in the acquiree Company in their favour and a condition stipulating that the minority shareholders who hold the percentage specified by the Authority shall have the right to impose upon those whose ownership percentage in the capital has reached the percentage determined by the Authority to accept the assignment of their shares in their favour, and that in return of a consideration consistent with the provisions of the Authority's decisions governing the terms and procedures of the acquisition. The Authority shall undertake the implementation of the transfer of ownership of Securities, subject-matter of the assignment.

3- The Company may, by virtue of a Special Decision, increase its issued capital with the aim of acquiring an existing Company and issuing new shares for the benefit of the partners or shareholders of that acquiree Company.

The acquisition process shall be excluded from the provisions of Articles (199), (200), and (201) of this Decree-Law.

### **Article 300- Violation of the acquisition rules and procedures**

Without prejudice to the right of the affected parties to refer to justice, if it is established that any person has violated the provisions of Article (294) of this Decree-Law or the decision issued by the Authority in this respect, the Authority may impose one or more of the following administrative penalties:

- 1- Serving a warning with respect to the violation and granting the violating party a time limit to correct it in accordance with the mechanism specified by the Authority.
- 2- Depriving the violating party of running for membership in the board of directors of the target acquisition Company, until after the correction or implementation of the procedure specified by the Authority.
- 3- Suspending or forfeiting the membership of the violating party if he is a Board Member of the Company.
- 4- Depriving the violating party of voting in the general assembly meetings, within the limits of the violation.
- 5- Any other administrative penalties decided by the Authority.

### **Article 301- Publication of the acquisition decision**

The company shall publish the acquisition decision on the Company's website and on the website of the financial Market if it is listed in one of the State's Markets.

## **Title 8**

### **Termination of the Memorandum of Association of the Company**

#### **Chapter 1**

#### **Reasons for the Termination of Companies**

### **Article 302- General Reasons for the Termination of Companies**

Subject to the provisions concerning the termination of companies, a Company shall be dissolved for any of the following reasons:

- 1- The expiry of the term provided for in the Memorandum of Association or Statute of the Company, unless such term is renewed in accordance with the rules provided in either of them;
- 2- The termination of the object for which the Company was incorporated;
- 3- The loss of all or most of the assets of the Company, in such a manner that renders the investment, or the remainder thereof not profitable;
- 4- Merger in accordance with the provisions of this Decree-Law;
- 5- Unanimous consent by the partners to end its term, unless the Memorandum of Association provides for a specific majority; or
- 6- The issuance of a judgment to dissolve the Company.

### **Article 303- Dissolution of a Joint Liability Company and a Limited Partnership Company**

Without prejudice to the rights of third parties, and subject to the provisions of this Decree-Law and the contracts concluded between the partners, the Joint Liability Company and the Limited Partnership Company shall be dissolved for any of the following reasons:

- 1- Upon the death, bankruptcy, or insolvency of any of the partners of the Company or his loss of legal capacity, unless agreed otherwise in the Memorandum of Association of the Company. The Memorandum of Association of the Company may provide for its continuity with the heirs of the dead partners, even if all or any of the heirs are minors. If the dead partner is a joint partner and the heir is a minor, the minor shall be deemed as a silent partner to the extent of his share in the estate. In such event, the continuity of the Company shall not require the issuance of a court order to keep the assets of the minor in the Company.
- 2- If the single joint partner withdraws from the Limited Partnership Company; or

3- If, for six months, the Joint Liability Company remains with a single partner and the Company fails to adjust its legal situation during such period.

#### **Article 304- Continuity of the Joint Liability Company or the Limited Partnership Company by agreement**

1- Unless the Memorandum of Association of the Joint Liability Company or the Limited Partnership Company provides for its continuity for the other partners in the event of withdrawal or death of a partner, the issuance of a judgment of interdiction or declaring his bankruptcy or insolvency, the partners may, within (60) sixty days from the date of occurrence of any of the above events, decide unanimously the continuity of the Company between themselves. The partners shall register such agreement with the Competent Authority within the (60) sixty-day period hereabove mentioned.

2- If the Company continues with the remaining partners, the share of the withdrawing partner shall be assessed according to the last inventory, unless the Memorandum of Association of the Company provides for another method of assessment. Such partner or his heirs shall have no share in the rights of the Company upon such withdrawal except to the extent where such rights are derived from transactions made prior to his withdrawal from the Company.

#### **Article 305- Order to dissolve a Joint Liability Company or a Limited Partnership Company**

1- The Court may rule to dissolve any Joint Liability Company or Limited Partnership Company at the request of a partner if the Court finds that such dissolution is justified by serious reasons. The Court may also rule to dissolve the Company at the request of a partner due to the failure by a partner to perform his obligations.

2- If the reasons justifying the dissolution arise from the acts of a partner, the Court may rule to exit him from the Company. In such event, the Company shall continue between the remaining partners and shall deduct the share of the partner upon its assessment in accordance with the last inventory or by any means that the Court may deem to follow.

3- Any condition to deprive a partner of using the right to dissolve a Company by a court ruling shall be deemed as void *ab initio*.

#### **Article 306- Dissolution, liquidation, or suspension of the activity of a Sole Proprietorship**

1- The Sole Proprietorship shall be dissolved upon the death of the physical person or the termination of the legal person that incorporated it. However, the Company shall not be terminated by the death of the physical person in a Sole Proprietorship if the heirs choose its continuity, while adjusting its situation in accordance with the provisions of this Decree-Law. Such heirs shall choose a representative to manage the Sole Proprietorship on their behalf, within no later than (6) six months from the date of death.

2- If the owner of a Sole Proprietorship liquidates it or suspends its activity in bad faith, prior to the expiry of its term or the achievement of the object for which it was incorporated, the owner shall be liable for its obligations with his personal assets.

#### **Article 307- Death or withdrawal of a partner in a Limited Liability Company**

The death of a partner in a Limited Liability Company or his withdrawal by a judgment of interdiction or declaring his bankruptcy or insolvency shall not lead to its dissolution unless the Memorandum of Association of the Company so provides. The share of each partner shall be transferred to his heirs. A legatee shall be considered as an heir.

#### **Article 308- Losses incurred by a Limited Liability Company**

1- If the losses of a Limited Liability Company reach half of the capital, the managers shall refer the dissolution matter to the general assembly of the partners. The dissolution decision shall be passed by the majority prescribed for amending the Memorandum of Association of the Company.

2- If the losses reach three quarters of the capital, the partners holding one quarter of the capital may request to dissolve the Company.

#### **Article 309- Losses incurred by the Joint Stock Company**

1- If the accumulated losses of the Joint-Stock Company reach half of its issued capital, the board of directors shall within (30) thirty days from the date of disclosure of periodic or annual financial statements to the Ministry or to the Authority - each within its own competencies - invite the general assembly to convene within (30) thirty days from the date of the invitation, in order to consider making a decision as regards the Company's continuation of its activity or dissolution prior to the expiry of its term. If the board of directors fails to invite the general assembly to convene or if the general assembly fails to issue a decision in the matter, each interested party may file a lawsuit before the competent court seeking the dissolution and liquidation of the Company in accordance with the provisions of this Decree-Law.

2- Upon inviting the general assembly to convene in accordance with the provisions of clause (1) of this article, the Company's board of directors, shall observe the following:

a- If the board of directors recommends the continuation of the Company's activity, the approved restructuring plan and the auditor's report shall be attached to the invitation. The restructuring plan attached to the invitation shall include the feasibility study, the debt management plan, and the implementation timetable.

b- If the board of directors recommends the Company's dissolution prior to the expiry of its term and its liquidation, then the auditor's report, the Company's liquidation plan and the timetable therefor, as approved by the Company's board of directors and its financial consultant, shall be attached to the invitation, along with the nomination of one or more liquidators approved by the Authority.

3- The board of directors shall supervise the implementation of the restructuring plan and notify the Authority with a report every (3) three months on the results of the implementation of this plan and the extent of adherence to its timetable; and after obtaining the approval of the Authority, it may appoint a financial consultant to assist it in preparing and implementing the plan. The Authority may dismiss the financial consultant and appoint a replacement thereof in the event that he fails to perform the tasks entrusted to him.

#### **Article 310- Deregistration of the Company**

1- Subject to the cases set forth in this Decree-Law or in any other law, if it is established to the Ministry, the Authority or the Competent Authority, each within its own competencies, that the Company ceased to conduct its business or that it conducts such business in contravention of the provisions of this Decree-Law and the decisions issued in implementation thereof, the Ministry, the Authority or the Competent Authority, each within its own competencies, shall notify the Company of its deregistration within (3) three months from the date of the notice, unless an acceptable reason for not deregistering the Company is provided.

2- If the Ministry, the Authority or the Competent Authority, each within its own competencies, receives upon the expiry of the (3) three-month period set forth in clause (1) of this article, a confirmation that the Company still suspends its business or if the Company fails to provide a reasonable justification for such suspension, the matter shall be referred to the competent court to take the required procedure in connection with the liquidation of the Company.

3- The liability of the Board Members, managers, shareholders, and partners of the Company deregistered in accordance with the provisions of this article shall continue as if the Company has not been dissolved.

#### **Article 311- Suspension of the registration of the company**

1- Without prejudice to the cases mentioned in this Decree-Law or any other law, if it is proven to the Ministry, the Authority, or the Competent Authority - each within its own competencies - that the Company has ceased to carry out its business or that it is carrying out its business in violation of the provisions of this Decree-Law and the decisions issued in implementation thereof, the Ministry, the Authority, or the Competent Authority - each within its own competencies - may notify the Company that the registration of the Company and its licence will be suspended within (3) three months from the date of the notice unless it provides an acceptable justification.

2- The Ministry, the Authority, or the Competent Authority, each within its own competencies, may deregister the Company if the registration suspension procedure continues for a period of (3) three years, as of the date of notice of the suspension of registration.

#### **Article 312- Notification of the Competent Authority and the Registrar of the dissolution**

1- The entity authorised to manage the Company shall notify the Competent Authority and the Registrar upon materialisation of any of the reasons for the dissolution of the Company.

2- If the partners agree to dissolve the Company, the agreement shall include the method of liquidation and the name of the liquidator.

3- Upon the dissolution or liquidation of the Company, no partner or shareholder shall be entitled to a share in its capital unless its debts are repaid.

### **Article 313- Registration of the dissolution of the Company**

The Company's managers, chairman of the board, and liquidator, as the case may be, shall enter the Company's dissolution in the Commercial Register with the Competent Authority and publish the dissolution in two daily local newspapers, one of them to be issued in Arabic. The dissolution of the Company shall not be invoked towards third parties except after the date of such registration.

## **Chapter 2**

### **Liquidation of the Company and Division of its Assets**

#### **Article 314- Applicable provisions for liquidation**

Unless the Memorandum of Association or Statute of the Company provides for the method of liquidation or the partners agree otherwise upon the dissolution of the Company, the provisions of this Decree-Law shall apply to the liquidation of the Company.

#### **Article 315- Termination of the authority of the managers or the board of directors**

The authority of the managers or the board of directors shall terminate by the dissolution of the Company. However, they shall continue to manage the Company and they shall be considered as liquidators vis-à-vis third parties until a liquidator is appointed. The management of the Company shall remain effective during the period of liquidation, and to such extent, and within the powers as the liquidator may see required for the liquidation process.

#### **Article 316- Appointment of the liquidator**

1- The liquidation shall be conducted by one or more liquidators appointed by the partners or under a decision by the general assembly or whomever is acting on its behalf, provided that the liquidator is not an auditor of the Company currently or has already audited its accounts within (5) five years preceding the appointment.

2- If liquidation is based on a judgment, the competent court shall point out the method of liquidation and appoint the liquidator. In all cases, the task of the liquidator shall not be terminated by the partners' death, declaration of bankruptcy, insolvency, or interdiction order, even if the liquidator is appointed by the partners.

#### **Article 317- Multiple liquidators**

If there is more than one liquidator, their acts shall not be valid without the unanimous consent of the liquidators, unless the document appointing them provides otherwise. This condition shall not be invoked towards third parties until after the registration thereof in the commercial register.

#### **Article 318- The decision appointing the liquidator**

The liquidator shall enter the decision of his appointment and the agreement of the partners, or the decision issued by the general assembly concerning the method of liquidation or the judgment issued for such purpose in the commercial register. The appointment of the liquidator or the method of liquidation shall not be invoked towards third parties except from the date of entry thereof in the commercial register. The liquidator shall be entitled to the fee as determined in the decision of his appointment, failing which the competent court shall determine such fee.

#### **Article 319- Dismissal of the liquidator**

1- The liquidator shall be dismissed in the same manner followed for his appointment. Any decision or judgment to dismiss a liquidator shall include the appointment of a new liquidator.

2- The dismissal of a liquidator shall be entered in the commercial register and such dismissal shall not be invoked towards third parties except from the date of such registration.

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### **Article 320- Inventory of the assets and liabilities of the Company**

The liquidator shall, forthwith upon his appointment, prepare an inventory of all the assets and liabilities of the Company. The managers or the chairman of the board shall provide the liquidator with the books, documents, and accounts of the Company.

### **Article 321- Preparation of a list of the assets and liabilities of the Company**

The liquidator shall issue a detailed list of the assets and liabilities of the Company and its balance sheet to be signed by the managers of the Company or its chairman. The liquidator shall keep a book to record the liquidation procedures.

### **Article 322- Duties of the liquidator**

The liquidator shall undertake any measure required to maintain the assets and rights of the Company and collect the debts of the Company from third parties and shall deposit the amounts collected in a bank for the account of the Company under liquidation forthwith upon such collection.

However, the liquidator may not claim the partners to pay the balance value of their shares except as required for the liquidation process and provided that the partners are treated equally.

### **Article 323- The liquidator's representation of the Company**

The liquidator shall perform all acts required for the liquidation and in particular he shall represent the Company before courts, pay the Company's debts, sell the movables and real estates of the Company in public auction or by any other way, unless the document appointing the liquidator provides for a specific sale method. However, the liquidator may not sell the assets of the Company all at once without permission from the partners or the general assembly of the Company.

### **Article 324- Notification of the creditors of the liquidation**

All the debts payable by the Company shall become immediately outstanding upon its dissolution. The liquidator shall notify all the creditors by registered letters with acknowledgment of receipt of the commencement of the liquidation, inviting the creditors to submit their claims. The notice shall be published in two local daily newspapers; one of them to be issued in Arabic. In all case, the notice of liquidation shall include a period granted to the creditors of at least (30) thirty days from the date of the notice to present their claims.

### **Article 325- Repayment of the Company's debts**

If the assets of the Company are not sufficient to repay all the debts, the liquidator shall pay part of such debts, without prejudice to the rights of preferred creditors. Every debt arising from the liquidation procedures shall be settled from the funds of the Company before any other debts.

### **Article 326- Deposit of the debts in the court treasury**

If some creditors fail to submit their claims, their debts shall be deposited in the treasury of the competent court. Sufficient amounts to pay the share of the disputed debts shall also be deposited, unless the holders of such debts obtain adequate securities, or it is decided to adjourn the division of the assets of the Company until the conclusion of the dispute in the said debts.

### **Article 327- The Company's new works**

The liquidator may not commence new works unless they are required to complete previous works. If the liquidator performs any new works not required for liquidation, the liquidator shall be liable in all his funds for such works. If there is more than one liquidator, they shall be held jointly liable.

### **Article 328- Term of liquidation**

The liquidator shall complete his task within the period determined in the document appointing him. If no such period is determined, any partner may refer the matter to the competent court to determine the term of liquidation.

Such period may not be extended except under a decision by the partners or under a Special Decision by the general assembly, as the case may be, upon perusal of the liquidator's report stating the reasons for not completing



the liquidation in due time. If the term of liquidation is determined by the competent court, it may not be extended without the permission of the Court.

#### **Article 329- Submission of an interim account for the liquidation procedures**

The liquidator shall provide all the partners or the general assembly every (3) three months with an interim account of the liquidation procedures. The liquidator shall state any information and statements as required by the partners on the status of liquidation. Within one week from the date of the approval by the general assembly, the liquidator shall notify the partners to receive their dues within no later than (21) twenty-one days under an announcement to be published in two daily local newspapers, one of them to be issued in Arabic.

#### **Article 330- Final account of the liquidation**

1- The liquidator shall, upon completion of liquidation, provide the partners or the general assembly or the competent court with a final account of the liquidation process. Such process shall be complete upon approval of the final account.

2- The liquidator shall enter the completion of the liquidation in the commercial register with the Competent Authority. The completion of liquidation shall not be invoked towards third parties except from the date of such entry. The registration of the Company shall be deleted from the commercial register maintained with the Competent Authority.

#### **Article 331- Acts of the liquidator**

The Company shall comply with the liquidator's acts required for the procedures of liquidation as long as such acts are within the limits of the liquidator's powers. The liquidator shall not be liable for performing such acts.

#### **Article 332- Liability of the liquidator**

The liquidator shall be liable if he mismanages the affairs of the Company during the period of liquidation. The liquidator shall also be liable for the damage incurred by third parties due to his professional faults in the liquidation process.

#### **Article 333- Division of the assets of the Company**

1- The assets of the Company resulting from liquidation shall be divided among all the partners upon payment of the debts. Each partner, upon division, shall obtain an amount equal to his share in the capital, and the balance shall be divided among the partners *pro rata* to their shares in the profits. If a partner fails to appear to collect his share, the liquidator shall deposit such share in the treasury of the competent court.

2- If the net funds of the Company are not sufficient to pay the shares of the partners in full, the loss shall be distributed among them in accordance with the prescribed rate for the distribution of losses.

#### **Article 334- Prescription of the liability lawsuit**

1- Upon denial and absence of a legitimate excuse, lawsuits filed against the liquidator on the ground of the liquidation works and those filed against the partners, managers, or Board Members, or auditors of the Company due to their work, shall be time-barred upon the expiry of (3) three years, unless the law provides for a shorter period.

2- Such period shall start to run from the date of entering the completion of liquidation in the commercial register in the former case, and from the date of the act creating liability in the latter case.

3- If the act attributed to any of such persons constitutes a crime, the liability lawsuit shall not be time-barred except upon the prescription of the public lawsuit.

### **Title 9**

#### **Foreign Companies**

#### **Article 335- Foreign Companies governed by the provisions of this Decree-Law**

Subject to the special agreements concluded between the Federal Government or the Local Government or any entity of either of them and foreign companies, the provisions of this Decree-Law, excluding the provisions concerning incorporation, shall apply to the foreign companies that conduct their activities in the State or their place of management is based in the State.

**Article 336- Foreign Company's practice of its activity**

1- Other than foreign companies licensed to conduct their activities in free zones in the State, foreign companies may not conduct an activity inside the State or establish an office or branch therein without a licence to this effect by the Competent Authority subject to the approval of the Ministry. The licence issued shall determine the activity that the Company is licensed to conduct.

2- If a foreign Company or its office or branch conducts its activity in the State prior to completion of the above procedures in this Decree-Law, the persons who conduct such activity shall be severally and jointly liable for such activity.

**Article 337- Registration procedures of foreign Companies**

1- No foreign Company may conduct its activity in the State unless it is entered in the Foreign Companies Register at the Ministry in accordance with the provisions of this Decree-Law and it has obtained the required approvals and licences under the applicable laws in the State.

2- The procedures for registration in the Foreign Companies Register and the conditions to prepare the accounts and balance sheets of the branches of foreign companies in the State shall be determined under a decision by the Minister. The office or branch of a foreign Company shall be deemed as its domicile in respect of its activity in the State. The activity conducted shall be governed by the provisions of the applicable laws in the State.

3- The Ministry shall issue the decisions stating the documents required to be attached to the application for registration. Such decisions may determine the cases and conditions that shall be observed for the management and closure of the branch or office of the foreign Company.

4- In the event of closure of a branch of a foreign Company, the Ministry shall delete such branch or office from the Foreign Companies Register maintained by the Ministry.

**Article 338- Balance sheet of the foreign Company**

Other than representative offices, foreign companies or their branches shall have an independent balance sheet and an independent profits and losses account and shall have an auditor registered in the roll of auditors practicing in the State. Such foreign companies or branches shall provide the Competent Authority and the Ministry annually with a copy of the balance sheet and the final accounts, together with the auditor's report and a copy of the final accounts of its holding Company, if any.

**Article 339- Representative offices**

1- Foreign companies may establish representative offices whose object is limited to the study of markets and production capabilities without engaging in any commercial activity.

2- The executive decisions of this Decree-Law shall determine the aspects of control exercised by the Ministry and the Competent Authority on such offices.

**Title 10****Control and Inspection of Companies****Article 340- Control of Companies**

1- Subject to the competencies of the Central Bank, the Ministry, the Authority, and the Competent Authority, as the case may be, shall have the right to control Joint Stock Companies and inspect the works, books, or any papers or records at the branches and subsidiaries of the companies inside the State and abroad or in the custody of the auditor or any other Company related to the Company, subject-matter of inspection. It may, together with the Inspection Committee, seek the assistance of one or more experts with the required technical and financial experience in the subject-matter of inspection, to verify that the Company is compliant with the provisions of this Decree-Law and the decisions issued in implementation thereof and with the Statute of the Company. The inspectors may request, at their own discretion, any information or statements from the board of directors, the executive officer, the managers, or the auditors of the Company.

2- The Ministry, the Authority, or the Competent Authority, as the case may be, may request to dissolve the Company if incorporated or if it performs its activity in violation of the provisions of this Decree-Law. The competent court shall adjudicate the request summarily.

### **Article 341- Inspection regulation**

The Minister shall issue the regulation for inspection of the Private Joint Stock Companies. The Board of Directors of the Authority shall issue the regulation for inspection of Public Joint Stock Companies. The regulation shall determine the inspection procedures and the powers and duties of the inspectors.

### **Article 342- Request for Inspection of the Company**

1- Subject to the provisions of Articles (340) and (341) of this Decree-Law, shareholders holding at least (10%) of the capital of the Company may request the Minister or the Authority, as the case may be, to order to inspect the Company in respect of the serious breaches attributed to the Board Members or the auditors upon performing their duties provided for in this Decree-Law or the Company's Statute where there are reasons that suggest the occurrence of such violations.

2- The request for inspection shall include:

- a- Evidence indicating that the applicants have serious grounds justifying such procedures.
- b- Deposit by the applicant shareholders - of their shares until adjudication of the request.

3- The Ministry or the Authority, as the case may be, may, after hearing the statements of the applicants and the Board Members or any other person acting on his behalf and the auditors, at a session held in camera, order to inspect the works, books, or any papers or records with another Company associated with the Company, subject-matter of the inspection, or in the custody of the auditor, and may appoint for such purpose one or more experts at the expense of the applicants for inspection.

### **Article 343- Facilitating the work of the inspectors**

Subject to the provisions of Article (340) of this Decree-Law, the Company's chairman of the board, executive officer, general manager, employees, and auditors shall provide those assigned for inspection, with all the books, minutes of meeting (board of directors, committees, and general assemblies), registers, documents and papers of the Company as they deem necessary, along with the required clarifications and information.

### **Article 344- Inspection report**

1- Subject to the provisions of Articles (341) and (342) of this Decree-Law, upon completion of the inspection, the inspectors shall provide a final report to the Minister in respect of Private Joint Stock Companies or to the Chairman of the Authority's Board in respect of Public Joint Stock Companies.

2- If the Ministry or the Authority, as the case may be, finds out that there are violations constituting a crime and attributed to the Board Members or the auditors, it shall invite the general assembly to convene. In such event, the meeting shall be chaired by the representative of the Ministry or the Authority, as the case may be, with the rank of an executive officer or the like, to consider the following:

- a- The dismissal of the Board Members and filing of a liability lawsuit against them; and
- b- The dismissal of the auditors and filing of a liability lawsuit against them.

3- The general assembly's decision shall be valid in the case set out in clause (2) of this article if approved by the present majority after excluding the share of the Board Member whose dismissal is under consideration. In the event the Board Member represents a juristic person, the share of such person shall be excluded.

### **Article 345- Publication of the results of inspection**

If the Ministry or the Authority, as the case may be, finds out that the violations attributed by the applicants for inspection to the Board Members or the auditors are not valid, the Ministry or the Authority may order to publish the result of inspection in a daily local newspaper issued in Arabic and impose on the applicants for inspection to pay its expenses, without prejudice to the civil and criminal liability where necessary.

## **Title 11**

### **Crimes and Penalties**

#### **Article 346- Providing false statements or statements in violation of the law**

Shall be punished by imprisonment for a period of no less than (6) six months and not exceeding (3) three years, and a fine of no less than (200,000) two hundred thousand dirhams and not exceeding (1,000,000) one million

dirhams, or either of these two penalties, whoever intentionally records in the Company's Memorandum of Association, Statute, prospectuses of subscription to shares or bonds, or other documents of the Company, false statements or any statements a violation of the provisions of this Decree-Law, as well as anyone who knowingly signs or distributes these documents.

#### **Article 347- Overvaluation of the contributions in kind**

Shall be punished by imprisonment for a period of no less than (6) six months and not exceeding (3) three years, and a fine of no less than (200,000) two hundred thousand dirhams and not exceeding (1,000,000) one million dirhams, or either of these two penalties, whoever, in bad faith, assesses the contributions in kind provided by the founders or shareholders in excess of their actual value.

#### **Article 348- Distribution of profits or interests in violation to the Decree-Law**

Every manager or Board Member who distributed to the partners or to others, profits or interests in violation of the provisions of this Decree-Law or the company's Memorandum of Association or Statute, as well as every auditor who approved this distribution with his knowledge of the violation, shall be punished by imprisonment for a period of no less than (6) six months and not exceeding (3) three years and a fine of no less than (50,000) fifty thousand dirhams and not exceeding (500,000) five hundred thousand dirhams, or either of these two penalties.

#### **Article 349- Concealing the true financial position of the Company**

Any manager, Board Member, auditor, or liquidator who deliberately provides false statements in the balance sheet or the profits and losses account or in a financial report or omits material incidents in such documents for the purpose of concealing the true financial position of the Company shall be punished by imprisonment for a period of no less than (6) six months and no more than (3) three years, and/ or a fine not less than (AED 100,000) one hundred thousand and not exceeding (AED 500,000) five hundred thousand.

#### **Article 350- False data in the inspection report**

Shall be punished by imprisonment for a period of no less than (3) three months and not exceeding (2) two years and a fine of no less than (10,000) ten thousand dirhams and not exceeding (100,000) one hundred thousand dirhams, or either of these two penalties:

1- Any person appointed by the Ministry, the Authority, or the Competent Authority to inspect the Company, who deliberately states in the inspection report false incidents or deliberately omits to state material incidents that may affect the results of inspection; and

2- The chairman, Board Member, chief executive officer or general manager of the company who deliberately refrains from submitting documents or information to the inspectors after the Ministry or the Authority has imposed the fine prescribed in this regard, according to the list of administrative penalties for acts made in violation of the provisions of this Decree-Law and issued by the Council of Ministers.

#### **Article 351- Deliberate damage to the Company by the liquidator**

Shall be punished by imprisonment for a period of no less than (3) three months and not exceeding (3) three years, and a fine of no less than (50,000) fifty thousand dirhams and not exceeding (500,000) five hundred thousand dirhams, or either of these two penalties, every liquidator who deliberately causes harm to the Company, shareholders, partners or creditors.

#### **Article 352- Issuing securities in violation of the provisions of this Decree-Law**

Shall be punished by imprisonment for a period of no less than (3) three months and not exceeding (2) two years and a fine of no less than (100,000) one hundred thousand dirhams and not exceeding (500,000) five hundred thousand dirhams, or either of these two penalties, whoever issues shares, subscription receipts, interim certificates or bonds, or offers them for trade in violation to the provisions of this Decree-Law.

#### **Article 353- Providing a loan, guarantee, or security**

Shall be punished by imprisonment for a period not exceeding (3) three months and a fine of no less than one hundred thousand dirhams and not exceeding (500,000) five hundred thousand dirhams, or either of these two penalties:

1- Any Board Member of a Joint Stock Company who obtains for himself or for his spouse or relatives up to the second degree a loan, guarantee, or security from the Company wherein he is a Board Member, in violation of the provisions of this Decree-Law, and he shall be required to repay such loan, guarantee, or security.

2- The chairman, Board Member, executive officer, or general manager of a Joint Stock Company who accepts to provide a loan, guarantee, or security to a Board Member of the Company or to his spouse or relatives up to the second degree a loan, in violation of the provisions of this Decree-Law.

#### **Article 354- Disclosure of the secrets of the Company**

Shall be punished by imprisonment for a period not exceeding (6) six months and a fine of no less than (50,000) fifty thousand dirhams and not exceeding (500,000) five hundred thousand dirhams, or either of these two penalties:

1- Whoever exploits the statements or information obtained from the Constituent Committee at any stage of incorporation of the Company from the legal or financial consultants or the subscription administrator, the underwriter, or the parties participating in the incorporation procedures or their representatives.

2- The chairman, Board Member, or other employee of the Company, who uses or discloses a secret of the Company or deliberately attempts to cause damage to the activity of the Company.

#### **Article 355- Influencing the prices of Securities**

Shall be punished by imprisonment for a period not exceeding (6) six months and a fine of no less than (1,000,000) one million dirhams and not exceeding (10,000,000) ten million dirhams with the return of the realized profit, or either of these two penalties, every chairman or Board Member of a Company or any of its employees who participates, directly or indirectly, with any entity that makes transactions intended to cause an effect that does not reflect the true value of the Securities issued by the company.

#### **Article 356- Imposition of severer penalties**

The penalties provided for in this Decree-Law shall be without prejudice to any severer penalty set forth in any other law.

#### **Article 357- Criminal liability**

Criminal Liability for the violations provided for in this Decree-Law and committed by the Company, shall be addressed to the legal representative of the Company.

#### **Article 358- Capacity of law enforcement officers**

The employees designated under a Decision by the Minister of Justice in agreement with the Minister and in coordination with the Authority or the Competent Authority, as the case may be, shall have the capacity of law enforcement officers to report any acts in violations of the provisions of this Decree-Law and the regulations and decisions issued in implementation thereof, each within his own competencies.

### **Title 12**

#### **Transitional and Final Provisions**

#### **Article 359- Adjustment of situation**

1- Existing companies subject to the provisions of this Decree-Law shall adjust their positions according to the provisions hereof no later than one year from the date of entry into force of its provisions. Such period may be extended for another similar period by virtue of a Cabinet decision based on the proposal of the Minister.

2- Subject to the penalties provided for in this Decree-Law, if a Company fails to comply with the provisions of clause (1) of this article, the Company shall be deemed as dissolved in accordance with the provisions of this Decree-Law.

#### **Article 360- Delegation**

The Council of Ministers may, based on the proposal of the Minister and the approval of the Competent Authority, delegate any of the powers of the Ministry stated in this Decree-Law to the competent authorities.

#### **Article 361- Rules of motivation of Companies**

The Council of Ministers shall issue the rules necessary for the motivation of the companies to undertake their social responsibility and the stages of implementation thereof.

#### **Article 362 - List of administrative penalties**

The Council of Ministers shall issue a list of administrative penalties for acts committed in violation of the provisions of this Decree-Law and its Implementing Regulation and the decisions issued in implementation thereof - based on the Minister's proposal - within (6) six months from the day following the date of its publication, in accordance with the following controls:

- 1- The value of the administrative fine shall not be less than (100) one hundred dirhams, and not exceeding (10,000,000) ten million dirhams.
- 2- The administrative fine shall be doubled when the same administrative violation is repeated, provided that it does not exceed (20,000,000) twenty million dirhams.

#### **Article 363- Issuing Implementing Regulations and decisions**

The regulations and decisions issued in implementation of the provisions of Federal Law no. (2) of 2015 on Commercial Companies shall remain in force, to the extent that they do not conflict with the provisions of this Decree-Law, until the Ministry and the Authority, each within its own competencies, issue the necessary regulations, rules, and decisions to implement its provisions.

#### **Article 364- Abrogation**

The aforementioned Federal Law no. (2) of 2015 shall be abrogated, as well as any provision that contravenes or contradicts the provisions of this Decree-Law

#### **Article 365 - Publication and entry into force of the Decree-Law**

This Decree-Law shall be published in the Official Gazette and shall come into force as of 2 January 2022.

Issued by us at the Presidential Palace in Abu Dhabi

On 13/Safar/1443H.

Corresponding to 20/September/2021

**Khalifa bin Zayed Al Nahyan**

**President of the United Arab Emirates**

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