

هيئة السوق المالية
Capital Market Authority



وزارة التجارة
Ministry of Commerce



Ministry of Commerce and Capital Market Authority

Clarify the Mechanism of Implementing the New
Companies Law

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The Ministry of Commerce (“MC») and the Capital Market Authority (“CMA») clarified today, 11/06/1444H corresponding to 04/01/2023G H the mechanism of implementing the New Companies Law, which comes in continuation of the joint efforts between the MC and the CMA to achieve integration and harmony in implementing the Law to support in realizing its goals.

The MC and CMA stated that pursuant to Item (Third) of Royal Decree No. (M/132), dated 1/12/1443 AH, issued approving the Law, which stipulates: **“Existing companies when the law -referred to in Item (First) of this Decree- is effective must amend their positions in accordance with the provisions of the Law in a period not exceeding (two) years, starting from its effective date. By way of exception, the Ministry of Commerce and the Capital Market Authority -each in accordance with its competencies- shall determine the provisions to which those companies shall be subject during that period ”**; and since the Law was published in Umm Al-Qura Gazette on 23/12/1443H corresponding to 22/7/2022G and will be effective on 26/6/1444H corresponding to 19/1/2023G, the two-year grace period does not include new companies incorporated after the Law comes into effect as they will be subject to all provisions of the Law from its effective date. The grace period does not include the provisions that have continued from the Companies Law issued by Royal Decree No. (M/3), dated 28/1/1437 AH, nor does it include the provisions stipulated in the Law on crimes, offences and the penalties set by the Law upon committing the same, which shall be effective at the effective date of the Law. Additionally, provisions that introduced procedural requirements on the company or its administrative body shall apply at the Law’s effective date.

Examples of the provisions for which companies are granted a grace period include Articles (36), (52), (61), and (158) of the Law, noting that companies must comply with the provision of Paragraph (1) of Article (68) of the Law when the term of the current Board of Directors ends and a new Board is elected, and before the expiry of the two-year grace period after the Law’s effective date, whichever comes first.

Provisions that companies must comply with from the effective date of the Law include the following:

No	Article Number	Article Subject
1	Paragraphs (1,2) of Article (17)	Accounting Records and Financial Statements
2	Paragraph (2) of Article (20)	Auditor Obligations
3	Article (26)	Duty of Care and Duty of Loyalty
4	Article (27)	Conflict of Interest, Competition, and Exploitation of Assets
5	Article (31)	Business Judgment Rule
6	Paragraph (5) of Article (68)	Election of Board Members
7	Article (69)	Expiration of the Term of Board of Directors or Resignation of its Members
8	Article (71)	Disclosure of Interest in Transactions and Contracts
9	Article (75)	Sale of Company Assets
10	Article (80)	Meetings of Board of Directors
11	Article (81)	Attending Meetings by Proxy and Effectiveness of Board Decisions
12	Article (88)	Ordinary General Assembly Meetings
13	Article (90)	General and Special Assemblies
14	Article (91)	Call for Assembly Meetings
15	Article (92)	Quorum of Ordinary General Assembly Meetings

No	Article Number	Article Subject
16	Article (93)	Quorum of Extraordinary General Assembly Meetings
17	Article (94)	Effectiveness of General Assembly Decisions
18	Article (96)	Agenda of General Assembly
19	Paragraph (2) of Article (112)	Shareholder Register
20	Article (122)	Providing Shareholders with Financial Statements and Deposit Thereof
21	Article (132)	Company Losses
22	Article (134)	Issuance of a Capital Decrease Decision
23	Article (163)	Vacancy of Manager's Position
24	Article (164)	Removal of Manager
25	Article (182)	Company Losses
26	Article (216)	Holding Company
27	Article (217)	Subsidiary Company
28	Article (218)	Acquiring Interests or Shares in Holding Companies
29	Article (244)	Liquidation of Company
30	Article (248)	Liquidator Appointment Decision
31	Article (254)	Insufficiency of Assets

Further, the MC and CMA clarified that existing companies, when the Law is effective, may not take any action or arrangement, or institute a new legal position that is in contravention with the Law after its effective date. And if the company, during the two-year grace period, amends its Articles of Incorporation or Bylaws then it must amend all aspects in said Articles of Incorporation or bylaws that require amendment in accordance with the Law, except in the cases determined by the MC in coordination with the CMA.

It is worth noting that the companies, partners and shareholders shall have the full capacity to exercise all rights stipulated in the Law as of its effective date, taking into account amending their Articles of Incorporation or Bylaws, if so required.

The MC and the CMA, by clarifying the mechanism of implementing the Law, look forward to contributing to realizing the Law's goals that include promoting the regulatory environment of companies, facilitating the legal procedures and requirements to promote the business environment and support investment, achieving balance among stakeholders, providing an efficient and fair framework for corporate governance, emphasizing institutional work, supporting sustainability of economic entities, contributing in attracting foreign and domestic investment, providing sustainable financing resources, and further, to fulfill the needs and requirements of the entrepreneurship sector and to promote the growth of small and medium enterprises (SMEs).



THANK YOU