

Ministerial Decision No. 215/2023

On the Controls and Standards for Assessment of the Volume of the Agent's Investments in the Commercial Agency to Request Non-Enforcement of the Provisions Related to the Expiration of the Commercial Agency Stipulated in Clauses (A) And (B) of Article 9(1) of Federal Decree-Law No. 50/2022 on the Commercial Agency Thereof Ten Years Before the Effective Date of the Law

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The Minister of Economy,

After perusal of Federal Law No. 1/1972 on the competencies of the Ministries and powers of the Ministers, and its amendments;

Federal Decree-Law No. 32/2021 on Commercial Companies;

Federal Law No. 3/2022 on the Regulation of Commercial Agencies;

Federal Decree-Law No. 50/2022 promulgating the Commercial Transactions Law;

Cabinet Decision No. 89/2023 on the list of administrative penalties for acts committed in violation of the provisions of Federal Law No. 3/2022 on the Regulation of Commercial Agencies; and

Based on the proposal of the Undersecretary of the Ministry,

Has decided:

Article 1 - Definitions

In application of the provisions of this Decision, the following terms and expressions shall have the meanings assigned thereto, unless the context requires otherwise, provided that the expressions mentioned in this Decision and defined in the Law of Regulation of Commercial Agencies have the meanings assigned thereto:

- Working Day: Official working days in ministries, government authorities and local departments.
- Law: Federal Law No. 3/2022 on the regulation of Commercial Agencies.
- Resident: The tax resident who is approved by the Ministry.

Article 2 - Controls and Standards for Assessment of the Volume of the Agent's Investments

Regarding the Agent's application for non-enforcement of the provisions related to the expiration of commercial agencies stipulated in Clauses (a) and (b) of Article 9(1) of Federal Decree-Law No. 50/2022 on the Commercial Agency thereof ten years before the enforcement of the Law as the volume of investments exceeds (AED 100.000.000), the following controls, standards and procedures shall apply:

- 1) An official application shall be submitted by the Agent to the Ministry for the appointment of a Tax Resident, along with the following:
 - a- A study prepared according to the relevant professional standards.
 - b- Commitment of the Agent to bear the expenditures of appointment of a Resident.
 - c- Commitment of the Agent to cooperate with the Ministry and the Resident and to submit the required information and data.
- 2) The Ministry shall consider the aforementioned application and shall issue a decision in this regard within (10) Working Days, and shall inform the Agent about such decision within (3) Working Days from the date of issuance of such decision.
- 3) In case of approval of the Ministry on the aforementioned application, the Ministry shall call for tenders from various Residents.
- 4) The Ministry shall consider the tenders from the technical and the financial sides, and shall issue its decision on the appointment of the eligible Resident, as per the best tender.
- 5) The Ministry shall inform the Agent and any relevant entity about the appointment of a Resident and about the details of communication therewith.
- 6) The Agent shall deposit a guarantee amount for the fees of the Resident, according to the mechanism determined by the Ministry.
- 7) The Resident shall initiate the duties thereof, and shall inform the Ministry about the initiation of such duties according to the standards and controls below:
 - 1- Inform the Ministry of any conflict of interest related to the duties thereof in the assessment process and any other financial activities practised thereby.
 - 2- Inform the Ministry of any shares or financial derivatives related to the assessment report and owned thereby before assuming any duties.
 - 3- Have access to any information or documents deemed necessary to be able to assume the required assessment and to prepare the assessment report with efficiency.
 - 4- Prepare an assessment report according to the adopted professional procedures, including the financial statements related to the period determined for assessment, and submit it within the time-limit determined by the Ministry.
 - 5- The assessment report shall not include fake or misleading information.
 - 6- Provide the Ministry with the assessment report and results within the duration determined by the Ministry, once a time-limit is determined; the report may be discussed with the Agent in order to verify whether all

aspects are included therein, without prejudice to the impartiality and independence of the work of the Resident.

- 7- Conduct due diligence according to the provisions of the laws and regulations in force in the State, and take into consideration the commercial norms.

8- Deliver any other data, information or documents required by the Ministry.

- 8) The Agent shall provide the Resident with the necessary information, documents and papers requested thereby, as soon as possible.
- 9) The Ministry shall assess the report, and it may assign the Resident to conduct reassessment or to amend it or to fulfil all aspects related to the report or the assessment in general.
- 10) The Ministry shall consider the report after its completion, and it may accept it or reject it.
- 11) The Agent may file grievance against the decision of the Ministry within 60 days from the date of its issuance and may file appeal against the grievance decision, and in case of not filing a grievance or an appeal before the Judiciary, then the decision of the Ministry shall be deemed final and may not be subject to appeal.

Article 3 - Overestimation in the Assessment of the Volume of the Agent's Investments

In case the Ministry proves any overestimation, neglect or breach of the professional standards, neutrality or impartiality in the report, or at any stage of its preparation, then the Ministry may take any of the procedures below:

- 1- Replacement of the Resident.
- 2- Rejection of the report.
- 3- Request to conduct a reassessment.
- 4- Cancel the approval of the Resident at the Ministry.
- 5- Impose the adequate administrative penalty according to Cabinet Decision No. 89/2023 on the List of Administrative Penalties for the Acts Violating the Provisions of Federal Law No. 3/2022 on the Regulation of Commercial Agencies.

Article 4 - Amendments

The Ministry shall have the competencies to make any amendments to the controls and standards of assessment of the volume of the Agent's investments mentioned in this Decision, whether by addition, deletion or amendment, by virtue of a decision issued by the Minister.

Article 5 - Abrogation

Any provision that is contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article 6 - Publication and Enforcement of this Decision

Taking into consideration the provisions of Article (30) of the Law, this Decision shall be published in the Official Gazette, and shall come into force from the day following the date of its publication.

Issued on 11/12/2023
Abdulla bin Touq Al Marri
Minister of Economy

This Decision was published in the Official Gazette, Issue No. 767, p. 137.