Elena Schildgen
Dr. Michael Krämer
Tarek Jairwdeh
Dr. Sara Corradi
Verena Nosko
Christine Baltzer-Zacharias
Natacha El Azar
Katharina Jung

UAE AND DIFC CORPORATE COMPLIANCE SERIES

PART 2: Directors' Duties – Balancing Responsibility and Opportunity

Directors are the backbone of corporate governance, bridging the gap between a company's operations and its shareholders. While the corporate veil shields shareholders from personal liability, directors carry fiduciary responsibilities that ensure the company acts lawfully, ethically and in its best interests.

This article, the second in a three-part series on corporate compliance in the UAE and DIFC, explores directors' duties, the legal frameworks that apply and practical steps for good governance.

A. SCOPE AND RESPONSIBILITY

All directors, including alternates and nominees, are bound by these duties. Individuals who are directors in title only, however, are not subject to the same legal standards as those formally appointed to the board.

Directors' duties are primarily owed to the company itself, meaning decisions must serve the company's interests above personal gain. In certain circumstances, such as insolvency, fraud or statutory breaches, duties may also extend to shareholders, creditors or regulators.

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B. CORE CATEGORIES OF DUTIES

Directors' responsibilities can be grouped into three main categories:

1. <u>Duty of Skill and Care:</u> Directors must act with competence, diligence and reasonable care in managing the company's affairs. Decisions should be informed, deliberate and made with proper consideration of potential risks and benefits.

2. <u>Duty to Avoid Conflicts and Remain Independent</u>: Directors must avoid personal or professional conflicts of interest and act independently in the company's best interest. Transparency and disclosure are key to maintaining trust and compliance.

3. <u>Duty to Act in the Company's Best Interest</u>: Every action and decision must prioritise the company's success and sustainability over personal gain or external pressures.

C. COMPARING DIRECTORS' DUTIES: ONSHORE VS DIFC

The table below highlights the main duties of directors under onshore UAE law and DIFC law:

Duty	Onshore UAE Companies	DIFC Companies
Act within powers / objects of the company	Duty to act consistently within the objects of the Company and within the limits of his/her power (Art. 22); Duty not to commit fraudulent acts or abuse power (Art. 84)	Duty to act within powers (s.69)
Promote company interests / act in best interest	–	Duty to promote the success of the Company (s.70)
Skill, care and diligence	Duty to carry out work with due care (Art. 51); Duty not to make gross errors (Art. 84)	Duty to exercise reasonable care, skill and diligence (s.71)
Avoid conflicts of interest	Duty to avoid conflict of interests (Art. 150);	Duty to avoid conflicts of interest (s.73);

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	Duty not to compete with the Company (Art. 152)	Duty to declare interest in proposed/existing transactions or arrangements (s.75/77); Duty not to accept benefits from third parties (s.74)
Independence	–	Duty to exercise independent judgment (s.71)

The core duties (acting within powers, exercising skill and care, and avoiding conflicts) are consistent across both onshore UAE and DIFC companies. DIFC law adds formal guidance on independence, disclosure and promoting the company's success, while onshore laws rely mainly on general principles. In both cases, duties are primarily owed to the company.

D. BUSINESS JUDGEMENT RULE

The business judgment rule protects directors when making decisions in good faith. While not formally codified in UAE or DIFC law, it is applied in spirit and requires directors to:

→ Act in good faith
→ Remain independent
→ Make informed decisions based on proper consideration and due diligence

This principle encourages directors to take reasonable business risks without fear of automatic liability.

E. GOOD GOVERNANCE PRACTICES

Following good governance practices helps directors comply with their duties and strengthens the board's overall effectiveness. This includes holding regular board meetings, seeking external legal, financial or technical advice when needed and staying informed about the company's operations, risks and regulatory requirements.

F. PENALTIES FOR BREACH

Failure to fulfil director duties can lead to serious consequences:

Onshore UAE: Removal as director, disqualification, fines or imprisonment for serious breaches

DIFC: Removal, disqualification, fines and liability for damages to the company

Proactive compliance, proper documentation and good governance are the best ways to mitigate these risks.

G. FINAL THOUGHTS

Directors play a crucial role in balancing opportunity and accountability. By understanding their duties, acting with skill and care, avoiding conflicts and staying informed, directors can protect themselves, the company and its shareholders.

For companies seeking guidance on board responsibilities, corporate governance frameworks, or compliance best practices, our team at Meyer-Reumann & Partners will be pleased to help. Get in touch with us by emailing our lawyer Natacha El Azar at natacha@meyer-reumann.com to discuss how to strengthen your governance practices.

Stay tuned for **Part 3**: Data protection obligations in the UAE and DIFC, and how companies can future-proof compliance frameworks.

**Please note this article is for general informational purposes only and does not constitute legal advice.*