



Single person company management in Saudi company law

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Abstract

The Single Person company is one of the most important recent developments in the field of commercial companies. It emerged to meet the need of individuals to establish an independent business entity that allows them to conduct economic activity in an organized manner while adhering to the principle of limited liability. The concept of this company is based on it being owned by only one person, with their financial liability separated from that of the company. This protects their personal assets from the risks of debt and obligations arising from the company's activities. The Saudi Companies Law has adopted this type of company within the framework of the limited liability company or the joint-stock company, reflecting the flexibility of legislation in supporting individual investment. The Single Person Company is characterized by its ease of establishment and management, in addition to fostering entrepreneurship and encouraging entrepreneurs to enter the market without the need for partners. However, it may face some challenges, such as limited funding and the reliance of decisions on a single individual. Ultimately, this type of company represents an important legal and economic tool that contributes to stimulating commercial activity and effectively supporting the national economy.

Keywords: Single person company, Company management, Joint stock company, Limited liability company

Introduction

Single Person Company is one of the most prominent recent developments in the field of commercial companies. It emerged in response to the need for a legal framework that allows an individual to establish an independent company with a separate financial liability, while also enabling them to benefit from the principle of limited liability. The Saudi Companies Law has adopted this type of company in various forms, including joint-stock companies and limited liability companies, reflecting legislative flexibility aimed at supporting investment and enhancing the business environment.

The importance of this topic lies in the fact that it raises several legal issues related to the nature of this type of company and its compatibility with traditional principles of company law, such as the principle of multiple partners and a single financial liability, in addition to issues related to management, oversight, and liability. Therefore, this study aims to shed light on the concept of the Single Person Company, while also explaining how its management and oversight are organized within the Saudi legal system, in light of comparisons with some comparative legislation.

First: The defining of a single person company

The Saudi Companies Law does not define a Single Person Company. But Saudi legislator allow to establish Single Person Company that's based on the third article from the company's law which says " A company is a legal entity incorporated in accordance with the provisions of this Law pursuant to articles of incorporation or articles of association under which two or more persons undertake to participate in a for-profit enterprise by contributing property or work, or both, to share any profit realized or loss incurred from such enterprise. As an exception, a company may, under this Law, be incorporated by a single person, and a non-profit company may be incorporated pursuant to the provisions of Part 7 of this Law".

However, the essence of this type of company is that it allows the single person to establish a company on their own by allocating a specific amount of their personal capital for investment in a particular project. This company acquires a legal personality independent of its founder (Kasem, 2003). The liability of the single founder is limited to the amount allocated as capital, and they are not responsible for the company's debts in other aspects of their personal finances (Nassif, 2006).

Article 58 of the new Saudi Companies Law permits the establishment of a Single Person Company as a joint-stock company (Saudi Company Law), also, Article 150 of the Companies Law allows the establishment the company as simplified joint-stock company (Saudi Company Law), finally, Article 157 permits the establishment of a Single Person Company as a limited liability company (Saudi Company Law).

The Saudi legislator's adoption of the Single Person Company is considered an exception to the principle of unified financial liability. Legal scholars have justified this type of company as a means to prevent the formation of shell companies (al-Omr, 2018) (al-Majali, 2017) (al-Zahrany, 2018) and to achieve better management of economic projects that play a significant role in the national economy. It also prevents the dissolution of companies where all shares are held by a single individual (al-Qalyoubi, 2008) (Abdul-Qadir, 1998) (al-Ghuwairi, 2016).

Based on the above, a Single Person Company in the Saudi company law can be defined as a company that may be established or maintained by a single owner, whether a natural or legal person, in the form of a joint-stock company or simplified joint-stock company or a limited liability company. The owner's liability for the company's debts is limited to the amount of capital allocated to it.

A Single Person Company is based on having only one owner, whether a natural or legal person, whose liability is limited to the capital. This owner enjoys all the powers typically exercised by a manager, board of directors, or general assembly of partners (Sowailam, 2016).

Regarding the nationality of the owner of a Single Person Company, it is not a requirement that they be a Saudi citizen, as the Investment Law permits this based on the Investment Law Regulations. Article 1 of the regulations defines a foreign investor as a natural or legal person who does not hold Saudi Arabian citizenship.

Foreign capital refers based on the first article of investment law as Any asset with a tangible, monetary, or intangible value, as defined by the regulations, and including in particular the following:

- b- Contractual rights.
- c- Fixed or movable assets.
- d- Intellectual property rights.
- e- Rights granted under a system of licenses, permits, or similar authorizations.

On another note, it is evident that the UAE Commercial Companies Law No. (2) of 2015 takes a different stance, restricting the establishment of a Single Person Company to UAE citizens only. Paragraph 2 of Article (71) states that a single person, whether a natural or legal person, provided he is a citizen, may establish and own a limited liability company, with their liability limited to the capital stipulated in the articles of incorporation. This company is subject to the provisions governing limited liability companies, provided these provisions do not conflict with its nature.

This reflects the regulator's position. The Saudi government has a degree of flexibility, as it allows non-Saudis to establish a Single Person company, which is a trend we support.

Second: Management of a single person company

A Single Person Company is established in three forms: a joint-stock company, a simplified joint-stock company, and a limited liability company. It is well-known that all three forms are managed by several entities within the company. In a limited liability company, this includes the manager, the board of directors, the general assembly of partners, and the supervisory board. In a joint-stock company, management and oversight are handled by several entities, including the board of directors, the ordinary and extraordinary general assemblies, the founding assembly, and other bodies assigned specific responsibilities by the legislator in both types of companies. A simplified joint-stock company, on the other hand, is managed by a chairman, one or more managers, or a board of directors. This organizational structure for all three types of companies is based on the multiplicity of partners or shareholders. Therefore, since the legislator has recognized the Single Person Company in the form of a joint-stock company, a simplified joint-stock company, and a limited liability company, it is necessary that the management of these companies, if they are Single Person Companies, be in accordance with their nature and specific characteristics, as an exception to

the general rule of multiple partners.

The Saudi Companies Law, in regulating a Single Person Company structured as a joint-stock company, stipulates that a single partner possesses all the powers of the entities responsible for managing the company. Article 55 states that "this person shall have the powers and authorities of the shareholders' assembly stipulated in this chapter, and his decisions shall be issued in writing, without the need to convene the general assembly. These decisions shall be recorded in the special register stipulated in Article (97) of the Law." As for a Single Person Company structured as a limited liability company, the legislator stipulated in the first paragraph of Article 157 that "a- this person shall have the powers and authorities of the manager, the board of directors of the company, and the general assembly of partners stipulated in this chapter, and his decisions shall be issued in writing and recorded in a special register at the company." The second paragraph of Article 157 permits the single owner of the limited liability company to appoint one or more managers, stating that "this person may appoint one or more managers who shall be the company's representative before the courts, arbitration bodies, and third parties, and responsible for its management to the partner who owns the company's shares." It is worth noting that Article 98 grants the company owner the powers of shareholders' assemblies. Although the text does not address the owner's powers over the board of directors, the authority of the owner of a Single Person Company structured as a joint-stock company can be clarified by linking Articles 87 and 67 of the Companies Law. If Article 98 grants the company owner the powers of shareholders' assemblies, then among the powers of the ordinary general assembly is the appointment and dismissal of the board of directors, as addressed in the first paragraph of Article 87 of the Companies Law. Therefore, since the company owner possesses the powers of shareholders' assemblies, and since the ordinary general assembly has the power to appoint and dismiss the board of directors, the company owner, according to Article 98, has the authority to appoint and dismiss the company's board of directors.

The text of Article 68 of the old Companies Law required that the board of directors be formed from shareholders, and the Single Person company was not

exempted from the application of the text of Article 68. This is a matter of consideration, as it is not permissible for the members of the board of directors to be from outside the shareholders, especially if the nominee has the required competence to manage the joint-stock company. This was addressed in the current Companies Law, as the second paragraph of Article 67 of the Companies Law allowed that a member of the board of directors of the company be not from among its shareholders, as the text of the second paragraph of Article 67 stated that "every shareholder has the right to nominate himself or another person or more from among the shareholders or from outside the company to membership of the board of directors of the joint-stock company."

The management of a Single Person Company takes one of two forms: either the sole partner manages the company themselves, in which case they must be appointed as the company's manager, either in the articles of incorporation or by a subsequent resolution attached thereto (Abdul-Qadir, 1998); or they entrust the company's management to another person. In the latter case, the sole partner issues a resolution appointing the manager who manages the company's business, represents it, and acts on its behalf (Nassif, 2006).

If a manager is appointed, the founding partner has the right to dismiss them, while the manager retains the right to claim compensation if the dismissal is without serious or legitimate justification. The court may also dismiss the manager at the request of the sole partner if there are serious grounds justifying such action (Abdul-Qadir, 1998).

Regarding comparative legislation, French law permits the management of the company by one or more natural persons appointed by the owner, either in the company's articles of incorporation or by a subsequent resolution, according to Article L223-18. Similarly, English law requires that the company have a manager who is a natural person.

If the sole partner is the manager, they possess all the necessary powers to manage the company and achieve its objectives in accordance with its best interests (Nassif, 2006). If management is entrusted to another person, the company's articles of association must define the scope of the manager's

powers in accordance with its objectives. The manager may not exceed these powers, otherwise, they will be held liable to the partner and third parties (Abdul-Qadir, 1998).

A Single Person Company, whether structured as a joint-stock company or as a simplified joint-stock company or a limited liability company, is governed by the Companies Law, which stipulates a general assembly meeting convened according to the provisions of that law. The ordinary general assembly is generally responsible for considering all matters related to the company, except for extraordinary matters, which fall under the jurisdiction of the extraordinary general assembly. The general assembly's responsibilities include appointing members of the board of directors, approving the distribution of profits as proposed by the board, and determining the date of such distribution. The general assembly is also responsible for approving the board of directors' report, which must be submitted to it. The extraordinary general assembly, on the other hand, deals with extraordinary matters concerning the company's operations, such as increasing or decreasing capital and liquidating the company. The law mandates that the minutes and resolutions of the general assembly be recorded in a special register prepared for this purpose.

Because a Single Person Company differs from companies that include several partners, the holding of general assemblies in it acquires a special character; it is held in the presence of the owner of the company alone, whether it is an ordinary or extraordinary assembly, as is the case in joint-stock companies or limited-liability companies (Companies Law).

Having a single partner grants the company considerable flexibility and speed in decision-making. This partner holds all the powers vested in the board of directors, the management committee, or the general assembly, and enjoys complete freedom in managing the company and voting on its resolutions. Consequently, issues of calling or postponing general assembly's due to a lack of quorum do not arise in a Single Person Company.

Furthermore, the regulations require the annual general assembly meeting of a Single Person Company to include several essential items, most

notably: the directors' report on the company's activities during the fiscal year, a statement of its financial position, the auditor's report, and the determination of the percentage of profits to be distributed to the sole partner – if any (al-Zahrany, 2018).

Finally, the regulations require that the minutes of the general assembly meetings and its resolutions, or the resolutions of the partners, be recorded in a special register maintained by the company for this purpose.

While the purpose of general assemblies is to oversee the company's activities, this role differs in a Single Person company. Despite the flexibility it enjoys due to the concentration of all powers in the hands of the sole partner, its nature is based on individual management, relying on the broad powers granted by Article (98) of the bylaws (companies Law. Therefore, the sole overseer of the sole partner's actions and conduct is the company's bylaws (Abdul-Qadir, 1998), making it difficult to imagine the partner exercising self-regulation. Consequently, internal oversight through general assembly's loses much of its effectiveness in this type of company.

However, this oversight may remain effective if the company's management is entrusted to one or more individuals other than the sole partner, as the partner then exercises their supervisory powers over the actions of authorized managers (al-Zahrany, 2018).

In contrast, external oversight emerges as a crucial tool for supervising Single Person Companies, exercised by competent government bodies such as the Ministry of Commerce. Although the owner enjoys broad powers in managing the company, they remain obligated to comply with the regulations and laws applicable to companies (al-Zahrany, 2018).

A comparison between the Saudi legal system and other relevant legislation reveals a significant degree of convergence in the management of a Single Person Company. These systems agree on the necessity of appointing a manager to oversee the company and allow the sole partner to delegate this responsibility. Furthermore, these legal systems converge on the concentration of all authority in the hands of the sole partner, granting him the right to exercise this authority independently and requiring him to

document company decisions in a dedicated register.

These systems also agree that a Single Person Company lacks genuine internal control, given the impracticality of a partner overseeing themselves, except in the case of an authorized manager, where the partner exercises their supervisory role. In contrast, external oversight remains in place and effective, whether through competent administrative bodies that verify the company's compliance with regulations, or through judicial oversight. In this context, the role of the judiciary is prominent, particularly in France, in establishing the concept of "the company's interest" as an interest independent of the partner's interest, thus enabling it to correct the management's course if it deviates from achieving this interest.

Although Saudi company law does not require the owner of a Single Person Company to specify the source of their authority when making decisions—that is, to indicate that the decision is made based on their capacity as an ordinary or extraordinary general assembly—it is crucial to clarify the scope of authority within the three forms of a Single Person company. For example, according to Article 27 of the Companies Law, if the company manager is someone other than the owner, or if the company has a board of directors, neither the manager nor any member of the board may have any direct or indirect interest in the business and contracts entered into on behalf of the company, except with the authorization of the partners, the general assembly, the shareholders, or their designees. Furthermore, the company manager or a member of the board is prohibited from engaging in any activity that competes with the company or any of its branches of operation. In such cases, the approval of the owner, acting as the general assembly, is required. The same provision is stipulated in Article 71 of the Companies Law, which requires approval from the general assembly.

Article 60 (Companies Law) of the Companies Law also addresses the authority to increase the company's capital. An increase in issued capital is limited to the authorized capital and is subject to a resolution by the board of directors. Therefore, if the company manager is not the director, the decision to increase the capital must be made by the company owner, acting as the board of directors.

Based on the provisions of Articles 67 to 69 (Companies Law), the nomination of the Board of Directors, whose number must not be less than three, is based on a nomination from the owner in his capacity as a shareholder. The election of the Board of Directors is the prerogative of the Ordinary General Assembly, which is the same body authorized to appoint a new Board of Directors in the event of the resignation of a previous Board. The term of membership is determined by the company's Articles of Association and may not exceed four years. The Articles of Association specify how membership on the Board of Directors is terminated. However, Article 68 (Companies Law) permits the Ordinary General Assembly to dismiss the Board of Directors for reasons other than those stated in the Articles of Association. Therefore; the company owner makes decisions regarding the appointment or dismissal of the board of directors based on their authority as the ordinary general assembly. The owner also oversees the board of directors in their capacity as the company's general assembly, as stipulated in Article 73 (Companies Law). Researchers believe that Article 69 of the Companies Law can be applied to a Single Person Company if a board of directors is not appointed for a new term or if the required number of board members is not filled. According to Article 69, any interested party may request the competent judicial authority to appoint an expert to oversee the company's management. In this case, the committee appointed for the temporary management of the company must convene the general assembly—which, in this instance, is the owner of the Single Person Company acting as the general assembly—within ninety (90) days to elect a new board of directors or fill the required number of board members, as applicable. If the owner fails to appoint a board of directors or fill the required number of board members, any interested party may request the dissolution of the company.

The Companies Law also addresses the authority to contract loans, sell or mortgage company assets, sell or mortgage the company's business premises, or release the company's debtors from their obligations. This authority is primarily granted to the Board of Directors, as stipulated in Article 74 of the Companies Law, unless the company's articles of association or the general assembly issues a resolution restricting the Board's powers in this regard. However, Article 75 of the Companies Law requires the Board of

Directors to obtain the approval of the general assembly when selling company assets exceeding 50% of the total value of the company's assets. In other words, restrictions on the Board of Directors' authority are limited to selling assets exceeding 50% of the company's assets, or if the company's articles of association restrict the Board's powers, or if the general assembly decides to restrict the Board's authority.

According to Article 77 of the Companies Law, the Board of Directors has the broadest powers in managing the company to achieve its objectives, except as expressly excluded in the company's articles of association and delegated to the general assembly. Article 79 stipulates that the Chairman of the Board of Directors represents the joint-stock company before the courts, arbitration bodies, and third parties, and may delegate this representation to others. As for the company's board meetings, Article 83 stipulates that the deliberations and decisions of the board of directors of a joint-stock company are recorded in minutes signed by the chairman and members of the board. These minutes must be kept in a special register signed by the chairman and the secretary.

Article 85 (Companies Law) defines the authority to amend the articles of association and entrusts it to the extraordinary general assembly. The extraordinary general assembly is also responsible for deciding on the company's continuation or dissolution, and for the company's purchase of its own shares. According to Article 86, the extraordinary general assembly may issue resolutions on matters that fall within the purview of the ordinary general assembly.

Article 87 (Companies Law) addresses the powers of the general assembly, which include: appointing and dismissing the board of directors; appointing the auditor; approving the board of directors' report; discussing the auditor's report and making a decision regarding it; approving the board of directors' proposed profit distribution; and establishing the company's financial reserves and determining their uses. Article 98 addressed the case of a Single Person company, stipulating that the single person shall have the powers and authorities of the shareholders' assembly and that its resolutions shall be issued in writing, without the need to convene a general assembly. These resolutions shall be recorded in the

register stipulated in Article 97. It is worth noting that Article 97 regulates the meetings of the general assembly, whether ordinary or extraordinary, mandating that the resolutions adopted by the company owner be recorded in the register stipulated in Article 97 and signed by the owner.

The extraordinary general assembly, pursuant to Article 127, may increase the capital or decrease it, as stipulated in Article 134.

Third: - Liability for management actions

The Saudi legislator, in the Companies Law, did not dedicate specific provisions to the liability of the board of directors of a Single Person joint-stock company. Therefore, the only recourse is to apply the general provisions for liability for damages caused by a joint-stock company to the Single Person company.

Article 28 of the Saudi company's law stipulates that (Companies Law)

1. The director and members of the board of directors are jointly liable for compensating the company, partners, shareholders, or third parties for any damage arising from a violation of the provisions of the company's articles of association, memorandum of association, or bylaws, or from any errors, negligence, or dereliction of duty on their part. Any stipulation to the contrary is considered null and void.
2. Liability is either personal, incumbent upon a specific director or member, or joint and several upon all directors or all members of the board of directors if the decision was unanimous. If the decision was made by majority vote, dissenting directors or members are not liable, provided they expressly recorded their objection in the minutes of the meeting. Absence from the meeting at which a decision is made does not constitute grounds for exemption from liability unless it is proven that the absent manager or member was unaware of the decision or unable to object to it after becoming aware of it.
3. The company may provide insurance coverage for its manager or board member during their tenure or membership against any liability or claim arising from their position.

Article 30, paragraph 2, stipulates that, "2. Except in cases of forgery and fraud, no liability claim shall be heard after (5) years from the end of the company's fiscal year in which the harmful act occurred, or (3) years from the termination of the manager's or board member's employment, whichever is later."

Based on the foregoing, the provisions regarding the liability of a board of directors of a joint-stock company for the management of the joint-stock company apply to a Single Person joint-stock company, in accordance with the specific nature of such a company, whether the board's liability is to the company itself or to third parties.

Examples of liability include the following:

1. The owner of a company does not enjoy the privilege of separate financial assets that they possess when establishing a sole proprietorship if they mix company funds with their personal funds, as stipulated in Article 28 of the Companies Law.

2. The appointed manager of a sole proprietorship is personally liable for actions taken on behalf of the company if they fail to disclose their capacity. The sole proprietor must also conduct business with third parties in the company's name, not their own, as stipulated in paragraph two of Article 77 of the Companies Law.

3. Liability arises for violations of the company's articles of association, as well as for any errors related to the company's management. The manager, whether the sole proprietor and founder or an appointed manager, may not increase the company's capital or borrow funds through public subscription, publish a balance sheet containing false information, issue shares or bonds tradable through commercial channels, or engage in any activities prohibited for this type of company, among other provisions governing the organization of a sole proprietorship.

4- The company founder is liable for any increase in the value of in-kind contributions that is contrary to reality, whether during the company's establishment or a capital increase. This is because the company owner, by virtue of the powers vested in the general assembly, is responsible for this, and the general assembly has the authority to approve the valuation report of the in-kind contributions, as stipulated in

Article 96 of the Companies Law.

5- A sole partner is liable, both civilly and criminally, if they conflate their personal assets with those of the company, within the limits of the limited liability they have chosen to utilize, as stipulated in Paragraph 6 of Article 27, Paragraph 2 of Article 77, and Article 40 of the Companies Law.

6- The company founder or their appointed manager is responsible for clearly and legibly stating the company's position and capital in all contracts, invoices, trade names and addresses, advertisements, and all other documents and publications issued by the company, and for clearly stating that it is a sole proprietorship, as stipulated in Article 12 of the Companies Law.

Conclusion

In conclusion, this research demonstrates that the Single Person Company represents a significant development in legal and economic thought. The Saudi legal system has successfully reconciled investment flexibility with the need to guarantee legal protection for creditors by adopting the principle of limited liability.

It has also become clear that this type of company is characterized by a distinct management structure, where all authority is concentrated in the hands of the sole owner. This allows for rapid decision-making but, conversely, weakens the effectiveness of traditional internal controls, making external and judicial oversight more crucial.

The study confirms that the Saudi regulator has adopted a more flexible approach to regulating this type of company, allowing for the participation of both local and foreign investors, while also drawing on comparative experiences in other legal systems.

Recommendations

1. The importance of strengthening regulatory controls over Single Person Companies, especially given the weakness of internal controls resulting from the owner's sole management.

2. The necessity of developing electronic and administrative oversight mechanisms to ensure more

effective monitoring of the sole partner's decisions.

3. Expanding legal awareness among investors regarding the limits of their responsibilities and obligations within this type of company.

4. Encouraging the legislature to develop more detailed provisions regarding conflicts of interest in Single Person companies.

5. Strengthening the role of the judiciary in protecting the "company's interest" as an interest independent of the sole shareholder's interest.

6. Continuously drawing upon comparative legislation to develop the regulatory framework for Single Person companies in the Kingdom.

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