

DIFC MOVES TO ALLOW FREE ZONE COMPANIES DO BUSINESS 'ONSHORE'

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In a ground-breaking move, the Dubai International Financial Centre (DIFC) and the Dubai Department of Economic Development (DED) jointly signed a Memorandum of Understanding to allow non-regulated DIFC companies to acquire an additional licence to enable them, for the first time, to directly and legitimately operate and do business outside of the DIFC, and in the wider (often termed 'onshore') areas of the Dubai Emirate.

Before now, it was a long-established principle that entities incorporated in the various free zones of the UAE are not

permitted to directly trade or do business in the onshore areas of the UAE without an onshore licence issued by the relevant DED. Usually this would involve the establishment of a subsidiary or affiliated company in the onshore market, and was subject to the well-established principle that an onshore company must have at least 51% UAE national ownership.

In the free zones, of course, 100% foreign ownership is permitted, and this has historically been regarded as one of the key attractions of the free zone areas to foreign companies looking to establish operations in the UAE.

The terms of the agreement reached between the DIFC and the DED this week however, will serve now to avoid the need for DIFC non-regulated companies to consider establishing a separate onshore presence. Instead, DIFC companies will be able to acquire an additional licence from the DED to enable them to operate onshore, as well as within the DIFC. It is not yet clear whether, as a condition of any onshore licence, such companies would need to lease additional commercial premises.

It is clear that the DED and the DIFC, in the spirit of good regulatory governance and in order to guard against potential abuse, will retain the right to conduct inspections of the operations of relevant companies, to ensure compliance with their respective licences. A central data repository is to be jointly established by the DIFC and DED, with the intention of increasing transparency and visibility of commercial activity.

The decision to allow free zone companies to be licensed to operate onshore appears to have derived from the continued growth and success of the DIFC since it was first established in 2004. Last year, the number of companies registered and operating in the DIFC rose by 13%, to 1,648, with office space occupancy reported to be running at 98%.

DIFC governor Essa Kazim was quoted as saying “The new licence agreement and increased level of governance, transparency and compliance from this MoU will directly benefit businesses in DIFC and contribute to the economic growth of Dubai, the UAE and wider region.”

Hadeef & Partners' Corporate Partner, Tim Watkins, commented: “This is a welcome move by the DED and the DIFC, which reflects a recognition of the reality of how businesses in Dubai are seeking to expand and develop to match the growth and success of the Emirate as a whole. Whereas in its early years the DIFC may have been regarded by many as an inwardly focused, perhaps somewhat exclusive financial centre, it is now clear that the DIFC holds truly global appeal as evidenced by the scale of its continued growth. As such, it is unsurprising that the DIFC may now be able to leverage its credibility as a form of gateway to the wider Dubai market, a move which is bound to further enhance the reputation and success of the DIFC, and of the Emirate of Dubai.”

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