DIFC ALERT – MAY 2017

9 MAY 2017 • ARTICLE

This is the first in a series of DIFC alerts that aim to keep you abreast of any developments to DIFC Law.

UNREGULATED DIFC COMPANIES AND FIRMS MAY NOW OBTAIN LICENSES TO OPERATE IN MAINLAND DUBAI

On 1 May 2017, the Dubai International Financial Centre Authority (”DIFC”) announced that it had entered into a Memorandum of Understanding (“MOU”) with the Dubai Department of Economic Development (“DED”). The press announcement stated that the purpose of the MOU is to allow unregulated DIFC-registered companies to establish a presence in the mainland (that is the jurisdiction outside of the free zones of Dubai) without necessarily acquiring additional office space or incurring further visa/employment costs with the mainland authorities. The key advantage is that a mainland branch of a DIFC-registered company may now have its principal office address in the DIFC (hence sharing the address of the DIFC company) and all personnel deployed to the branch may be sponsored by, and work from within, the DIFC. As a result of this positive development, certain companies may save costs and be able to operate more efficiently in Dubai.

WHO WILL THE MOU APPLY TO?

From our discussions with the DIFC, we understand the provisions of the MOU will apply only to unregulated companies in the DIFC. “Unregulated” in this context means a company that does not undertake financial services that would otherwise require the approval by, and a licence from, the Dubai Financial Services Authority. The MOU will also cover ancillary service providers (i.e. law firms and auditors), family offices and management consultancy firms. The DIFC and the DED will now work together on the operational aspects of implementing the MOU and we anticipate further information with regard to the licensing process to be published on or around the time the DIFC completes its current consultation of DIFC Companies Law on 19 June 2017.

DOES THE MOU DISPENSE WITH THE REQUIREMENTS TO APPOINT A UAE LOCAL AGENT?

It is not anticipated that the formal guidance on the application of the MOU will dispense with the other regulatory conditions of establishing a branch in mainland Dubai and hence consideration will still need to be given to appointing a UAE national as the local agent to a branch. In addition, the process is unlikely to do away with other DED licensing conditions and hence any DIFC company wishing to operate in the mainland will need to consider the licensing implications of operating a branch in Dubai.

IS THE MOU A GATEWAY INTO DUBAI?

The DIFC is a financial focussed free zone and is not appropriate for, say, manufacturing companies. The MOU does not mark a shift towards attracting general trading activities into the DIFC and neither does it present an easy corridor into the mainland for any company wanting to do business in Dubai. Rather, the scope of the MOU is limited to certain companies that are able to manage and/or conduct their operations from within the DIFC and do not necessarily require a physical presence in the mainland. For example, a management consultancy firm with clients in the DIFC and in mainland Dubai could house all of its employees in one office in the DIFC but nonetheless have a trading licence issued by the DED in order to qualify to work on assignments outside of the DIFC. This facilitates a greater ease of doing business in Dubai and is a welcome development.

The team at Watson Farley & Williams will provide a full briefing on the implementation of the MOU by the DIFC and the DED as soon as it is published.