

*The Dubai Airport Free Zone Authority (“DAFZA”) recently announced the issuance of new company regulations (“**Company Regulations 2021**”) for all entities registered and licensed by DAFZA. The new regulations follow international best practices and contain various changes. This Legal Briefing provides an overview of the main changes brought about by the Company Regulations 2021.*

1. Current Situation

The previous Company Regulations dated back to 2017 and have been introduced – together with several other free zone authorities – following the implementation of the UAE Commercial Companies Law in 2015.

The Company Regulations 2017 did not – for example – include different types of shares or the possibility to migrate to or from the –Dubai Airport Free Zone - DAFZ (although such a possibility has been introduced later by DAFZA). These (and other concepts) have now been introduced with the Company Regulations 2021.

2. The new Company Regulations 2021

The Company Regulations 2021 came into effect on March 14, 2021 and are applicable likewise to existing and new entities in DAFZ”.

With the Company Regulations 2021, DAFZA has introduced several new procedures that will make the administration of DAFZA-registered companies flexible. Furthermore, the Company Regulations 2021 provide

greater clarity on certain other topics and corporate roles.

It should be noted that the application of the Federal Commercial Companies Law for companies and branches registered and licensed with DAFZA has been explicitly excluded by Art. 3.2 of the Company Regulations 2021.

Hereinbelow, we have summarized the most noticeable changes:

a) Share Types

Corporate entities licensed by DAFZA can now issue different types of shares which allows them to structure their shareholding in accordance with their needs.

Shareholders of a DAFZA-company may now provide in their Memorandum and Articles of Association a provision as to which types of shares can be issued and which rights are attached to each type of share (Art. 24 and 27 of the Company Regulations 2021). It should be noted that the Company Regulations 2021 do not mention any specific types of shares. In accordance with Art. 24 of the Company Regulations 2021, only bearer and

fractional shares are expressly prohibited from being issued.

The issuance of different types of shares allows for greater flexibility, e.g. providing DAFZA-companies with the possibility to onboard financial investors without the requirement of furnishing them with the same rights as the existing/voting shareholders.

b) Introduction of PLC

The Regulations introduce a new legal form – publicly listed company (“PLC”). A PLC shall have a minimum share capital of AED 250,000 (or its equivalent in USD) or such a higher minimum share capital as may be prescribed by the competent regulatory authority.

Each PLC should appoint at least one manager and secretary as well as at least 2 directors.

A PLC incorporated in the DAFZ is able to list its shares on any stock exchange market in the UAE (i.e. the Dubai Financial Market, the Abu Dhabi Securities Exchange, and Nasdaq Dubai), subject to the applicable rules and regulation of the concerned regulatory authority.

c) Dormancy

In accordance with Art. 97 of the Company Regulations 2021, any company may now apply with DAFZA to suspend its license for a period of up to 12 months. During this period, the company will not be allowed to carry out any commercial activity.

The suspension of the license may give companies in a difficult financial situation an opportunity to put the license on hold instead of deregistering it altogether. This will help reduce the costs for the companies whilst keeping the company in existence.

d) Ultimate Beneficial Owner

DAFZA has integrated the requirement of submitting ultimate beneficial owner information into the Company Regulations 2021 (Art. 22).

Each company shall submit to DAFZA the UBO information on an annual basis as well as during each license’s renewal.

Moreover, any change in the UBO structure has to be submitted to DAFZA within 14 days after the change takes place.

A PLC, whose shares are traded on a stock exchange, does not have to provide UBO information to DAFZA.

e) Migration

Under the Company Regulations 2021, DAFZA now officially provides rules and regulations for existing companies to migrate into or out of the DAFZ. A company registered in another free zone in the UAE, in the mainland of one of the Emirates of the UAE or even in a foreign jurisdiction now has the opportunity to relocate its business to the DAFZ by keeping its corporate identity.

However, it should be noted that a migration into the DAFZ will only be possible if the exiting jurisdiction acknowledges and recognizes the possibility to migrate into another jurisdiction. In order to successfully migrate into the DAFZ, the company will require a non-objection certificate from its (current) registrar.

So far in the UAE, the Jebel Ali Free Zone, the DMCC and Dubai South are offering such a possibility and hence provide the necessary tools.

The same aforementioned conditions apply if a company wants to migrate out of DAFZ into another jurisdiction.

f) Other Important Changes

Besides the above-mentioned changes, the Company Regulations 2021 also provide the following noteworthy changes:

- **Minimum share capital of AED 1** (or any equivalent in another currency) for free zone companies (Art. 23.2 of the Company Regulations 2021).
- **Secretary can be a corporate body** (Art. 49.8 of the Company Regulations 2021).
- **General meetings can be held online** (Art. 58.2 of the Company Regulations 2021).

- **Branches are required to file the parent company's audited financial report** on an annual basis (Art. 73 of the Company Regulations 2021).

3. Summary

The Company Regulations 2021 provide clarity and further details on matters that raised questions in the past or have not been addressed in the previous Company Regulations 2017.

Furthermore, the possibility to issue different types of shares as well as establish a PLC and list its shares on a Dubai stock exchange market will provide companies with a greater flexibility to structure their shareholding, attract new investors and expand their business.

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