

The Dubai Free Zones Council (DFZC) has recently adopted a preliminary agreement on an initiative allowing companies licensed in one of Dubai's free zones to also operate in other free zones in Dubai without the need for a second commercial license. The DFZC's One Free Zone Passport Initiative is another step towards increasing the ease of doing business in the Emirate of Dubai and a reaction to the liberalization of the foreign direct investment regulatory framework in the United Arab Emirates. This legal briefing provides an overview of the One Free Zone Passport Initiative and its potential implications.

1. What is the One Free Zone Passport Initiative?

From the information available, the One Free Zone Passport Initiative will allow companies licensed at a single free zone to also operate in other free zones in Dubai without the need for a second commercial license.

The initiative is based on a preliminary agreement by the Dubai Free Zones Council (DFZC). The DFZC is composed of high-level representatives of Dubai's free zones and other important government representatives. Their overall objective is to enhance the collaboration between the free zone authorities, the government of Dubai and other relevant governmental bodies.

The preliminary agreement on the One Free Zone Passport Initiative was reached during the DFZC's 12th meeting on 12 May 2019, headed by Sheikh Ahmed bin Saeed Al Maktoum, chairman of the DFZC and CEO of Emirates Airline Group.

2. Why did the Dubai Free Zones Council (DFZC) reach this preliminary agreement on this new Initiative now?

The main reason for the decision is in line with the DFZC's continued efforts to facilitate business in the free zones. During the 12th meeting, the council members also agreed to endorse the replacement of a bank guarantee with an insurance policy for free zone entities to ensure the investor's liquidity.

Several measures have already been taken in the past to enhance (foreign direct) investment to UAE in general and the Emirate of Dubai in particular. The One Free Zone Passport Initiative must be seen in the light of the recent relaxations in foreign direct investment:

- Dual License Initiative in Dubai;
- Dual License Initiative in Abu Dhabi (Administrative Resolution No. 219 of 2018 on the Dual Licensing of Free Zone Companies in the Emirate of Abu Dhabi); and
- Foreign Direct Investment Law (Federal Decree Law No. 19 of 2018).

The Dual License Initiative (DLI) offers opportunities to free zone entities intending to expand their commercial activities into the mainland. The DLI provides the investors with the possibility to hold two licenses for the same company, one to operate in the respective free zone and one to operate in the mainland. In practice, free zone entities may apply to register a branch in the mainland without having to lease office space in the mainland.

Thus far in the Emirate of Dubai, the two free zones that have signed memoranda of understandings with the Dubai Department of Economic Development are the Dubai International Financial Centre (DIFC – in May 2017) and Dubai Airport Free Zone (DAFZ – in September 2017).

The Abu Dhabi Department of Economic Development has launched the first phase of its DLI in September 2018. According to the Administrative Resolution No. 219 of 2018 on the Dual Licensing of Free Zone Companies in the Emirate of Abu Dhabi, the DLI – contrary to Dubai – applies to all Abu Dhabi free zone entities. Ultimately, Abu Dhabi free zone entities can obtain a commercial license from the Department of Economic Development in Abu Dhabi in order to conduct business in the Abu Dhabi mainland.

The initiative must also be viewed in light of the recent reform in foreign direct investment. On 1 October 2018, the Federal Decree Law No. 19 of 2018 (Foreign Direct Investment Law – FDI law) came into force, allowing full foreign ownership of mainland companies. The law contains a negative list of sectors that do not fall under the scope. However, a positive list still remains to be issued. Regardless of the positive list's status of implementation, it is anticipated that the free zones in the UAE face a growing level of competition by the relaxed measures to set-up in the mainland.

3. What are the consequences for a Single Free Zone License?

The consequences of a “one for all free zone license” are overwhelmingly positive. Investors can extend their geographical reach potentially up to 30 free zones in Dubai without having to set-up new corporate vehicles.

For example, the need for transferring a business from one free zone to another, whether or not through the liquidation and registration of a new company, can be reconsidered under this new initiative.

There are, however, other legal implications investors must keep in mind when making use of the ‘one for all free zone license’. At this stage, the requirements (if any) to obtain a One Free Zone Passport are not known. Regardless of that, it is expected that the commercial activities will be limited to the respective commercial activities as shown in the original license.

Experience shows that free zone entities holding an industrial license sometimes also carry out service activities (e.g. to install and/or maintain products). Most free zone authorities will not grant an industrial and service license to the same company. Therefore, investors holding an industrial license should be aware not to execute services in other free zones (as long as they do not hold the respective service license).

Under the One Free Zone Passport Initiative, it will also need to be verified to what degree work permit regulations will be streamlined. Work permits are technically geographically limited to a single free zone (not to multiple free zones).

In case of extending trading activities under the One Free Zone Passport Initiative, it should be noted that investors will need to keep how re-exports (e.g. imported into one free zone/designated zone and exported from another free zone/designated

zone) are treated from a customs and value-added tax perspective.

4. Can the Dual License initiative be combined with the One Free Zone Passport Initiative?

It will be interesting to see whether the One Free Zone Passport Initiative is combinable with the Dual Licensing Initiative (DLI). The DLI is currently applicable in DIFC and DAFZ. If both initiatives are put together, it could have as a consequence that a company that has obtained a commercial license in a free zone other than DIFC or DAFZ (e.g. Jebel Ali Free Zone) would be able to apply for a mainland license via DIFC or DAFZ utilizing the DLI in Dubai. In short, such company would be entitled to carry out business activities across the entire Emirate based on the One Free Zone Passport and the Dual Licensing Initiatives. However, it remains to

be seen if and under what requirements such structures will be allowed.

5. Conclusion

The One Free Zone Passport Initiative allows attractive ways to geographically expand the business across the various free zones in Dubai. Investors should, among other things, closely monitor

- the respective requirements to obtain such a passport (if any);
- if and to what degree the One Free Zone Passport Initiative is combinable with the Dual License Initiative; and
- keep in mind adjacent legal issues (general commercial licensing requirements, work permit and customs regulations, and value-added tax considerations).

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