

DIFC: Intermediate SPV Regime

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On 19 September 2016, the DIFC Authority Board of Directors (“**Board**”) approved, with immediate effect, a regime to allow for the establishment of intermediate special purpose vehicles in the DIFC (“**Intermediate SPVs**”) for both regulated and non-regulated entities that have a substantive presence in the Dubai International Financial Centre (“**DIFC**”).

Background

“Intermediate” here is used to signify that these SPVs will neither function as ultimate holding companies nor as operating entities.

Prior to approving the Intermediate SPV regime (other than with respect to the DIFC’s Special Purpose Company regime, which has a limited application), the DIFC Authority did not provide for the establishment of non-regulated special purpose vehicles (“**SPVs**”) in the DIFC without them having a substantial presence in the DIFC and having undergone a fairly detailed application process.

Following market interest from companies and professional advisers wishing to utilise SPVs from a structuring and efficiency perspective, the DIFC Authority decided to permit the use of Intermediate SPVs (which may be established as either a limited company or a limited liability company) generally for both regulated and non-regulated entities which already have a substantive presence in the DIFC. The intended effect of the Intermediate SPV regime is to ensure the DIFC’s continued competitiveness with other prominent offshore or freezone jurisdictions.

Relevant provisions relating to Intermediate SPVs are expected to be considered and addressed in the revised version of the DIFC Companies Law and related regulations, which are currently being prepared due to be published in draft for consultation purposes later this year. Nonetheless, having now received Board approval, the establishment of Intermediate SPVs in the DIFC shall be effective immediately by way of waiver and amendment of the relevant Companies Regulations and the DIFCA Operating Regulations, where applicable.

Qualifying Applicants

The DIFC Authority has provided initial guidelines as to the eligibility requirements for the establishment of an Intermediate SPV. Applicants will only be eligible to apply for the incorporation of Intermediate SPVs (each a “**Qualifying Applicant**”) if they are one of the following:

- a holding company or other holding entities, proprietary investment vehicles or Single Family Offices with a presence in the DIFC;
- a collective investment scheme established in the DIFC; or
- a collective investment scheme established outside of the DIFC but managed by a fund manager or asset manager that is regulated by the DFSA.

A Qualifying Applicant must be able to demonstrate that it either owns or controls the Intermediate SPV.

Benefits of an Intermediate SPV

Intermediate SPVs benefit from an expedited and less expensive application process when compared to the formation of typical DIFC limited companies and limited liability companies, including substantially shorter application documents and a less rigorous application process. In addition, where a Qualifying Applicant is seeking to apply for more than one Intermediate SPV, separate application forms are required however a single condensed business plan will suffice. Fees are also significantly reduced with the application fee for an Intermediate SPV currently set at US\$1,000 and the annual licensing fee at US\$3,000.

Each Qualifying Applicant may use its existing presence in the DIFC as its registered office of the Intermediate SPV and will not be required to enter into a new lease or acquire additional office space in connection with the establishment and operation of an Intermediate SPV.

Conclusion

The new Intermediate SPV regime is a business-friendly regime that will be of interest to private equity houses, family offices and corporates with a presence in the DIFC. The simplified application process and competitive fees are intended to keep the DIFC as an attractive regime in light of other options available.

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