

Conversion of JAFZ offshore company to operating entity

Khadija Hussain - Senior Associate - Corporate Structuring / Corporate Services
k.hussain@tamimi.com - Dubai International Financial Centre



Whilst amending its offshore company regulations ('Regulations') in 2018, the Jebel Ali Free Zone Authority ('JAFZA') introduced new provisions in Part 17 of the Regulations that enable existing offshore companies in the Jebel Ali Free Zone ('JAFZ') to convert their legal status from such 'offshore companies' to an operating 'free zone company' ('Conversion').

Although, introduced in 2018, in practice, JAFZA only recently began accepting applications for this process of Conversion.

The purpose of permitting Conversion is to allow offshore companies the option to operate as any other free zone company, which includes the ability to rent an office in JAFZ and sponsor expatriate visas as well as obtain a tax residency certificate which is not possible through an offshore company structure. On Conversion the offshore company continues its commercial legacy in a different corporate form without having to wind up and set up a new free zone company.

Who would be interested?

This option of Conversion will interest offshore companies in JAFZ that:

1. wish to switch to operating entities, hire employees, rent physical office space in JAFZ without losing their commercial legacy; and
2. wish to obtain a tax resident certificate from the UAE Ministry of Finance which currently cannot be obtained by offshore companies.

Matters to be considered as part of the process of Conversion

1. *Change in regulatory framework*

Conversion of an offshore company to an operating entity will result in the company being regulated by a different legal framework i.e. JAFZA Companies Implementing Regulations 2016 instead of the current JAFZA Offshore Companies Regulations 2018. Importantly, this requires leasing a physical office space in JAFZ as well as the appointment of a manager to the converted entity who should be on the converted entity's residency visa.

2. *Change in name of the company*

JAFZA reserves the suffix of 'limited' only for JAFZ offshore companies. Similarly, the suffix of 'FZCO' or 'FZE' are reserved for its operating entities. Therefore, on Conversion, the suffix attached to the company name will change depending on the number of shareholders in the company. The Suffix 'FZE' will be used in case of single shareholder companies, whereas 'FZCO' will be used in case there is more than one shareholder.

3. *Appointment of manager*

An offshore company does not require a manager to be appointed however, on Conversion JAFZA mandatorily requires the appointment of a manager for the day-to-day operations of the converted entity and the manager's residency should be sponsored by the converted entity and salary be paid through the WPS system.

4. *Activity*

An offshore company is not permitted to conduct any type of commercial activity in the UAE: such companies are generally incorporated as holding companies. As part of the process of Conversion, the converted entity must select an appropriate activity that fits the commercial activities proposed for the converted entity. We note that such activity must be selected from the JAFZA list of approved activities. The proposed activity will be reflected on the converted entity's commercial licence.

5. *Lease of office premises*

An offshore company uses the office address of its registered agent. As part of the process of Conversion JAFZA will expect the converted entity to have a physical office in JAFZ.

6. New memorandum and articles of association

On Conversion the converted entity will need to adopt memorandum and articles of association to be in line with the JAFZA Companies implementing Regulations 2016.

Effects of Conversion

On Conversion JAFZA will issue a certificate of incorporation, commercial licence, a new memorandum and articles of association and share certificate (as applicable) in favour of the converted entity. Upon request, JAFZA will additionally issue a letter confirming the Conversion of the offshore company.

All rights and obligations of the offshore company, arising prior to the Conversion, will continue 'as is' thus enabling it to continue with its existing commercial relationships with third parties.

Process of Conversion

The process of Conversion is similar to that of incorporating a new operating company in JAFZ with the added requirement of returning the original offshore company documents to JAFZA and a 14 day publication period to all interested parties in the local newspaper notifying the change in legal form of the offshore company. In practice it can take up to eight weeks for the Conversion to be completed.

Conclusion

The process of Conversion is certainly an interesting step by JAFZA. We expect this to gain traction with clients wishing to expand their commercial activities in the region and avail of the benefits provided by this option.

For further information, please contact [Khadija Hussain \(k.hussain@tamimi.com\)](mailto:k.hussain@tamimi.com).