

## **GUIDANCE NOTES – COMPANY WINDING-UP AND REMOVAL OF BRANCHES**

In these Guidance Notes, unless the context otherwise requires, words or expressions not defined have the same meaning and interpretation as in the new Company Regulations (CR 2020) of the Dubai Multi Commodities Centre Authority (“**Company Regulations**”).

### **1. AMENDMENTS COVERED BY THIS APPLICATION**

- Winding-up of a DMCC Company.
- Voluntary removal of Branches established in DMCC

### **2. MODES OF WINDING-UP**

The following are the four modes of winding-up of a DMCC Company:

- **Summary winding-up**

A mode of winding-up of a DMCC Company wherein the Director(s) declare(s) that the affairs of the Company are capable of being finally wound-up within six (6) months from the commencement of the winding-up process.

- **Solvent winding-up**

A mode of winding-up of a DMCC Company wherein the Director(s) declare(s) that the affairs of the Company are capable of being finally wound-up within twelve (12) months of the commencement of the winding-up process.

- **Insolvent voluntary winding-up**

A mode of winding-up of a DMCC Company wherein there is participation of the creditors of the Company.

- **Involuntary winding-up by the competent Court** (will not be covered by this Guidance Notes)

A mode of winding-up of a DMCC Company wherein the Registrar of DMCC submits a petition to the Court for the winding-up of the Company after he determines that:

- the Company has been struck-off; or
- the Company has committed a serious or repeated contravention of the DMCCA Company Regulations or any other regulation, rule, policy or decision applicable in the DMCC Free Zone.

### **3. BUSINESS RULES OR VALIDATIONS**

- This process is applicable for both Company and Branches established in DMCC.
- The status of the Registration is active or struck-off.

- The status of the Licence can be any of the following:
  - Active
  - Suspended
  - Expired
  - Terminated by Authority
  - Dormant
- A non-objection certificate from competent Regulatory Authority is required in case the Company carries out a regulated activity.
- Appointment of Liquidator is mandatory for Companies and not required for Branches. For Branches, the Directors of the Branch Parent will be required to sign an undertaking letter confirming, among other matters, solvency of the Branch Parent and that the Branch Parent will settle any future claims or demand against the Branch after it is removed from the DMCC Registry.
- There is no active Court sanction.
- Upon approval of the application by the Registrar, all portal access will be deactivated and following access to be created:
  - Appointed Liquidator access (in case of Companies)
  - Director of Parent Company Access (in case of Branches)

#### 4. PROCESS FLOW

Process Owner	Action	Comments
DMCC Entity	<p>DMCC Entity to apply for the related service and do the following in the online portal:</p> <ul style="list-style-type: none"> <li>• Choose the amendment required.</li> <li>• Provide the required information in the SR.</li> <li>• Choose the mode of winding-up.</li> <li>• <b>Company to choose whether to use Standard Resolution or Non-Standard Resolution.</b></li> <li>• Submit the SR</li> </ul>	<ul style="list-style-type: none"> <li>• SR is submitted.</li> <li>• A notification submission will be received by the client.</li> </ul>
DMCC	<p>Relevant DMCC Officers will contact the Shareholder, Officer or authorized representative to check on possibility of retaining the DMCC Entity.</p>	<ul style="list-style-type: none"> <li>• Cancel the application (if successfully retained)</li> <li>• Verifies the application (if the DMCC Entity wish to proceed with the</li> </ul>

Process Owner	Action	Comments
		<p>process).</p> <p>If verified, notification will be sent to the DMCC Entity to continue with the SR.</p>
DMCC Entity	<p>Company to do the following in the online portal:</p> <ul style="list-style-type: none"> <li>• Supply the information of the appointed Liquidator (if applicable).</li> <li>• Supply information of the person to be given the new portal access.</li> <li>• Upload the required documents (Please see table below for list of requirements).</li> <li>• Finalize and submit the SR.</li> <li>• Confirm payment.</li> </ul>	<ul style="list-style-type: none"> <li>• SR is submitted.</li> <li>• A notification submission will be received by the client.</li> </ul>
DMCC	<p>Relevant DMCC Officers will verify the application by doing the following:</p> <ul style="list-style-type: none"> <li>• Check information provided by the client and verify all the uploaded documents.</li> <li>• Approves or Declines the application.</li> </ul>	<ul style="list-style-type: none"> <li>• SR may be returned to the client to submit additional information or re-upload a document. In such cases, the client has to comply with the requirements to continue with the process.</li> </ul> <p>When additional requirements or information is provided, the client has to update the step in the SR.</p> <p><b>If Application is cancelled by DMCC for incorrect application:</b></p> <ul style="list-style-type: none"> <li>• Knowledge and Innovation fee (AED20/-) will be non-refundable. Rest of the fees to be returned to the portal</li> </ul>

Process Owner	Action	Comments
		<p>account of the Company.</p> <ul style="list-style-type: none"> <li>SR will be closed at this stage.</li> </ul> <p><b>If Approved</b></p> <ul style="list-style-type: none"> <li>Client will receive pre-approval notification and shall continue as per the instruction in the notification.</li> </ul>
DMCC Entity	<ul style="list-style-type: none"> <li>To submit the required original documents at the DMCC Client Service Center.</li> <li>To apply for cancellation of all active visas, access cards and permits issued by DMCC.</li> </ul>	<ul style="list-style-type: none"> <li><b>If requirements are satisfied:</b> <ul style="list-style-type: none"> <li>Original documents will be accepted.</li> <li>Relevant parties will be allowed to sign the Resolutions (if client intends to have the Resolution signed in DMCC)</li> </ul> </li> </ul>
DMCC	<ul style="list-style-type: none"> <li>Cancel visa, permits and access of active employees (if applicable)</li> <li>DMCC initiates the publication and shall continue for the period of fourteen (14) calendar days.</li> </ul>	
Company	Submits the final Liquidation Report (if not yet submitted on first document collection step).	
DMCC	Update the account of the Company.	<ul style="list-style-type: none"> <li>Companies will be dissolved, and Branches shall be removed from the Register of DMCC Entities.</li> <li>Notification of SR closure will be sent to the client.</li> <li>Company termination letter and Branch removal confirmation will be issued.</li> </ul>

## 5. REQUIREMENTS

Docume	Remarks
<b>Board Resolution</b> of Corporate Shareholder or Parent Company.	<ul style="list-style-type: none"> <li>• Only applicable for Companies with Corporate Shareholder and Branches. <b><i>Please disregard this requirement if this is not the case.</i></b></li> <li>• To be signed in person in DMCC, or E-DocuSign by authorized signatory, or notarized and legalized by UAE Embassy/Consulate of the place of execution of the document.</li> </ul>
<b>Certificate of Incumbency</b> (of Corporate Shareholder or Parent Company)	<ul style="list-style-type: none"> <li>• Only applicable for Companies with Corporate Shareholder or Branches. <b><i>Please disregard this requirement if this is not the case.</i></b></li> <li>• Certificate of Incumbency must be recently issued (not more than 1 year). Certificate of Incumbency must be notarized and legalized by UAE Embassy/Consulate of the place of issue.</li> </ul>
<b>Shareholder's Resolution</b>	<ul style="list-style-type: none"> <li>• Only applicable for Companies with individual Shareholders. <b><i>Please disregard this requirement if this is not the case.</i></b></li> <li>• To be signed in person in DMCC by the Shareholder or POA holder, or notarized, or E-DocuSign by Shareholder.</li> </ul>
<b>Joint Shareholder's Resolution</b>	<ul style="list-style-type: none"> <li>• Only applicable for Joint Venture Companies.</li> <li>• Printed on the DMCC Company Letterhead and stamped.</li> <li>• To be signed in DMCC by all Shareholders or their authorized representatives, or E-DocuSign by Shareholders or notarized.</li> <li>• To be submitted along with other required Resolution from each of the Corporate Shareholder.</li> </ul>
<b>Power of Attorney</b>	<ul style="list-style-type: none"> <li>• If applicable. <b><i>Please disregard this requirement if there is no POA issued.</i></b></li> <li>• If issued in UAE, validity to be confirmed in the Dubai Court portal.</li> <li>• Notarized and legalized by UAE Embassy/Consulate of the place of issue (if issued outside of UAE).</li> <li>• Original POA required to be presented for verification.</li> <li>• To specifically provide authority to wind-up the Company or to remove a Branch.</li> </ul>

<b>Passport of the POA holder</b>	<ul style="list-style-type: none"> <li>• If applicable. <b><i>Please disregard this requirement if there is no POA issued.</i></b></li> <li>• Original passport required to be presented.</li> </ul>
<b>Declaration of Solvency</b>	<ul style="list-style-type: none"> <li>• Applicable only for DMCC Companies and only for Solvent and Summary Winding-up process.</li> <li>• To be signed by the Directors of the Company.</li> <li>• Need not be signed in DMCC nor notarized and attested.</li> <li>• Original signed document is required.</li> </ul>
<b>Appointment of Liquidator</b>	<ul style="list-style-type: none"> <li>• Applicable only for DMCC Companies.</li> <li>• Liquidator shall be an Auditing firm registered and licensed by competent Authority in UAE.</li> </ul>
<b>Confirmation of Appointed Liquidator</b>	<ul style="list-style-type: none"> <li>• Applicable only when a Liquidator has been appointed.</li> <li>• Original is required.</li> </ul>
<b>Undertaking Letter of Parent Company</b>	<ul style="list-style-type: none"> <li>• Applicable for Branches only.</li> <li>• To be signed by Director of Parent Company.</li> <li>• No need to notarize and legalize.</li> <li>• Original signed document is required.</li> </ul>
<b>Appointment of Liquidation Committee</b>	<ul style="list-style-type: none"> <li>• Applicable only for Companies and only for Insolvent Voluntary Winding-up process.</li> <li>• Appointed by the creditors of the Company consisting of a minimum of three and a maximum of five members. Please refer to Regulation 128 for eligibility criteria to be a member of a Liquidation Committee.</li> </ul>
<b>Customs Clearance</b>	<ul style="list-style-type: none"> <li>• Applicable only when the DMCC Entity has a trading and industrial License.</li> </ul>
<b>NOC from 3<sup>rd</sup> Party Regulator</b>	<ul style="list-style-type: none"> <li>• Applicable only when the DMCC Entity has regulated activities.</li> </ul>
<b>Memorandum and Articles of Association</b>	<ul style="list-style-type: none"> <li>• Applicable for all Companies registered and licensed before 2<sup>nd</sup> January 2020.</li> <li>• All original issued MOA/AOA are required to be submitted.</li> </ul>
<b>Articles of Association</b>	<ul style="list-style-type: none"> <li>• Applicable for all Companies registered and licensed after 2<sup>nd</sup> January 2020.</li> <li>• All original issued AOA are required to be submitted.</li> </ul>
<b>Certificate of Registration</b>	<ul style="list-style-type: none"> <li>• Applicable only to those Companies with issued Original Certificate of Registration. <b><i>Please disregard if E-Certificate of Registration was issued.</i></b></li> </ul>

<b>Share Certificate</b>	<ul style="list-style-type: none"> <li>• Applicable only to those Companies with issued Original Share Certificates. <i>Please disregard if E-Share Certificate was issued.</i></li> <li>• All originals issued to each Shareholder should be submitted.</li> </ul>
<b>Personnel Secondment Agreement</b>	<ul style="list-style-type: none"> <li>• Applicable only to those Companies with issued Original Personnel Secondment Agreement. <i>Please disregard if none was issued.</i></li> </ul>
<b>Cancellation of the visas, access, permits under the DMCC Entity.</b>	<ul style="list-style-type: none"> <li>• Applicable only when there are active visas, access and permits issued by DMCC.</li> </ul>
<b>Liquidation Report</b>	<ul style="list-style-type: none"> <li>• Applicable to Companies only.</li> <li>• Issued by the appointed Liquidator.</li> <li>• Original document is required to be submitted.</li> <li>• If the Liquidation Reports comes with the Financial Statement of the last FY period, the Shareholder or Director of the Company should sign the FS.</li> </ul>

## 6. SPECIAL CASES

<b>SPECIAL CASE</b>	<b>COMMENTS</b>
<b>Deceased Shareholder</b>	<ul style="list-style-type: none"> <li>• Applicable only when there is a deceased Shareholder in the Company.</li> <li>• Shares of the deceased Shareholder should be transferred first in accordance with the order of the Court before Company Winding-up is processed.</li> <li>• Notarized and attested death certificate is required.</li> <li>• Final order of the Dubai Court to transfer the Shares of the deceased Shareholder.</li> </ul>
<b>Parent Company of the Branch being removed is under liquidation or is already dissolved.</b>	<ul style="list-style-type: none"> <li>• Applicable only for Branches.</li> <li>• In case the Directors of the Branch Parent cannot pass the Resolution, the appointed Liquidator in the liquidation of the Branch Parent shall pass the Resolution (notarized and legalized).</li> <li>• Notarized copy of Appointment of the Liquidator is required.</li> <li>• Proof of liquidation of Branch Parent.</li> </ul>
<b>Corporate Shareholder of the DMCC Company being liquidated is under liquidation or is already dissolved.</b>	<ul style="list-style-type: none"> <li>• Applicable only for Subsidiary and Joint Venture companies.</li> <li>• In case the Directors of the Corporate Shareholder cannot pass the Resolution, the</li> </ul>

	<p>appointed Liquidator in the liquidation of the Corporate Shareholder shall pass the Resolution (notarized and legalized).</p> <ul style="list-style-type: none"><li>• Notarized copy of Appointment of the Liquidator is required.</li><li>• Proof of liquidation of Corporate Shareholder.</li></ul>
--	--

## 7. PORTAL ACCESS

The following Business Rules shall be applicable for portal access:

- For Companies

Upon approval by the DMCC Registrar, the current portal access will be deactivated, and a new portal access will be created for the appointed liquidator mentioned in the SR during submission of the SR.

- For Branches of a non-DMCC entity

Upon approval of the DMCC Registrar, the current portal access will be deactivated, and a new portal access will be created for the Director of the Branch Parent mentioned in the SR during the submission of the SR.

## 8. PORTAL REFUND

In case there are still funds in the portal account of the DMCC Entity, an SR for customer refund shall be **drafted** by the client after submission of this SR for winding up. The SR for customer refund will be finalized and submitted by the liquidator upon notification of DMCC.

This will be subject to the policy on portal refund.

## 9. OUTPUT

The following documents will be issued when the process is completed:

- Termination Letter (for Companies)
- Confirmation of Removal of Branches (for Branches)