

Appendix 1

In this Appendix underlining indicates new text and striking through indicates deleted text.



The DFSA Rulebook

General Module

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3.5 Additional Rules for Financial Promotions

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3.5.2 A Person must not, in any Financial Promotion, attempt to limit or avoid any duty or liability it may have under any DFSA-administered laws or the Rules.

3.5.3 A Person must not make a Financial Promotion, in or from the DIFC, in relation to a Restricted Speculative Investment offered by a Person outside the DIFC unless the Person making the Financial Promotion is reasonably satisfied that the issuer or provider of the Restricted Speculative Investment is:

- (a) a Regulated Financial Institution; and
- (b) subject to substantially similar requirements to the requirements applicable to an Authorised Firm under COB section 6.16.

Guidance

1. A communication that is an ‘exempt financial promotion’ under Rule 3.4.1(4) is still permitted.
2. A Person making a Financial Promotion relating to a Restricted Speculative Investment should be able to demonstrate to the DFSA the basis upon which it was reasonably satisfied that the issuer or provider of the Restricted Speculative Investment was subject to substantially similar requirements to those applicable under COB section 6.16.

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7.3 Applications for endorsements

Carrying on service with or for a Retail Client

7.3.1 The following requirements must be met by an Authorised Firm for the grant of an endorsement to carry on a Financial Service with or for a Retail Client:

- (a) the applicant must have adequate systems and controls for carrying on Financial Services with or for a Retail Client;
- (b) the applicant must have adequate systems and controls (including policies and procedures) to ensure compliance with the requirements in COB relevant to Retail Clients;
- (c) the applicant must have adequate systems and controls to ensure that its Employees remain competent and capable to perform the functions which are assigned to them, in particular, functions that involve dealing with Retail Clients; and
- (d) the applicant must have adequate Complaint handling policies and procedures.

Guidance

Where an Authorised Firm applies for an endorsement to carry on a Financial Service with or for a Retail Client that involves dealing in a Restricted Speculative Investment, the DFSA would expect it to be able to demonstrate that:

- (a) either another Group member, or its head office if it is a Branch, is authorised and supervised by a Financial Services Regulator and has at least five years of relevant experience in dealing in Restricted Speculative Investments with Retail Clients; and
- (b) a sufficient number of the compliance staff, and client-facing staff involved in dealing in Restricted Speculative Investments, have at least three years of relevant experience.

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8.2 Financial statements and financial reporting standards

8.2.1 An Authorised Person must prepare financial statements for each financial year of the Authorised Person.

Guidance

1. Chapter 4 of the Islamic Finance Rules (IFR) sets out specific disclosures an Authorised Person must include in its financial statements when carrying on Islamic Financial Business.
2. The financial statements prepared by an Authorised Person which is a Branch may be the financial statements prepared for the Authorised Person's head office.

8.2.2 (1) An Authorised Person must, except as provided under (2) and Rule 8.2.3, prepare and maintain all financial statements in accordance with the International Financial Reporting Standards (IFRS).

(2) If an Authorised Person is a Branch and the financial statements have been prepared for its head office, those financial statements may be prepared and maintained in accordance with the recognised financial reporting standards in the jurisdiction where the head office is located.

8.2.3 (1) An Authorised Firm specified in (2) may prepare and maintain its financial statements in accordance with IFRS for Small and Medium-Sized Entities (SMEs) where that standard applies to it.

(2) Authorised Firms specified for the purposes of (1) are:

(a) an Authorised Firm in Category 3B, Category 3C or Category 4, which does not hold or control Client Assets or Insurance Monies; and

(b) an Authorised Firm in Category 4 which is not authorised under its Licence to carry on the Financial Service of Operating an Alternative Trading System.

(3) The DFSA may by written notice direct that a particular Authorised Firm or a specified class of Authorised Firm specified in (2) must prepare and maintain financial statements in accordance with IFRS rather than IFRS for Small and Medium Sized Entities.

(4) The DFSA may by written notice vary or revoke a direction under (3).

(5) The procedures in Schedule 3 to the Regulatory Law apply to a decision of the DFSA to give a direction under (3) to a particular Authorised Firm.

- (6) If the DFSA decides to give a direction under (3) to a particular Authorised Firm, the Authorised Firm may refer the matter to the FMT for review.

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8.6 Audit reports

8.6.1 An Authorised Person must, in writing, require its Auditor to:

- (a) conduct an audit of and produce a Financial Statement Auditor's Report on the Authorised Person's financial statements in accordance with:
- (i) the International Standards on Auditing; or
 - (ii) if the Authorised Firm is a Branch and the financial statements have been prepared for its head office, the recognised audit standards in the jurisdiction where the head office is located;
- (b) produce a Regulatory Returns Auditor's Report in accordance with the Rules in AUD App1 as relevant;
- (c) produce, if the Authorised Firm is permitted to control or hold Client Money, a Client Money Auditor's Report in accordance with the Rules in AUD App2;
- (d) produce, if the Authorised Firm is permitted to control or hold Insurance Monies, an Insurance Monies Auditor's Report in accordance with the Rules in AUD App3;
- (e) produce, if the Authorised Firm is permitted to hold or control Client Investments or Provide Custody in or from the DIFC, a Safe Custody Auditor's Report in respect of such business as applicable, in accordance with the Rules in AUD App4; and
- (f) provide a Money Services Auditor's Report in accordance with the Rules in AUD App7, if the Authorised Firm is Providing Money Services, Account Information Services or Payment Initiation Services.

Guidance

For the purposes of Rule 8.6.1(a) the financial statements of an Authorised Person which is a Branch may be the financial statements prepared for the Authorised Person's head office.