

**Appendix 2**

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



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# The DFSA Rulebook

General Module

**(GEN)**

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## 2 FINANCIAL SERVICES

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### 2.12 Managing a collective investment fund

- 2.12.1** (1) In Rule 2.2.2, Managing a Collective Investment Fund means:
- (a) being legally accountable to the Unitholders in the Fund for the management of the property held for or within a Fund under the Fund's Constitution; and
  - (b) establishing, managing or otherwise operating or winding up a Fund; and
- (2) To the extent that any activity under (1) constitutes Managing Assets, Providing Fund Administration, Dealing as Agent, Dealing as Principal, Arranging Deals in Investments, ~~or Providing Custody~~, or, in relation to a Credit Fund, Providing Credit, Arranging Credit or Advising on Credit, such a Financial Service is taken to be incorporated within Managing a Collective Investment Fund.
- (3) The Person referred to in (1) is a Fund Manager.

#### **Guidance**

A Fund Manager can Provide Custody under Rule 2.12.1(2) only to the extent that a Fund Manager is expressly permitted under the Collective Investment Law 2010 or CIR to hold Fund Property without having to appoint an Eligible Custodian to do so. See CIR 8.2.2(3) for an example of the circumstances in which an Eligible Custodian is not required. Similarly, where a Fund Manager uses the Fund Platform structure, the Fund Platform can carry out the custody function in relation to Fund Property of the Funds established on the Fund Platform only to the extent that the Fund Manager is permitted to do so.

#### **Exclusions**

- 2.12.2** Pursuant to Article 20(3) of the Collective Investment Law 2010, a Person is hereby prescribed by the DFSA as not Managing a Collective Investment Fund merely because that Person:
- (a) is acting as an agent, employee or delegate of the Fund Manager; or
  - (b) takes steps to wind up or dissolve a Fund or remedy a defect that led to a Fund being deregistered.

**2.12.3** An Incorporated Cell Company does not Manage a Collective Investment Fund under Rule 2.12.1(1), or carry on a Financial Service referred to in Rule 2.12.1(2), if:

- (a) the user of the ICC is a Fund Manager that has an endorsement permitting it to use the Fund Platform; and
- (b) the ICC merely provides infrastructure in relation to a Fund that is an Incorporated Cell of the ICC.

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