

Appendix 5

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



The DFSA Rulebook

Markets Rules

(MKT)

1 INTRODUCTION

1.1 Application

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1.1.3 Where a Rule prescribes a requirement relating to a Director, Partner or Employee of a Reporting Entity or an Undertaking:

- (a) the Director, Partner or Employee, as the case may be, must take all reasonable steps within his control to secure compliance with the requirement; and
- (b) the Reporting Entity or Undertaking must take all reasonable steps to ensure compliance with the requirement by the Director, Partner or Employee.

Guidance

Application to listed funds

1. Where Units of a Fund are admitted to trading on an Authorised Market Institution, such a Fund is a Listed Fund. Where Units of a Fund that are Security Tokens are admitted to trading on an Alternative Trading System, but are not admitted to trading on an Authorised Market Institution or a Regulated Exchange, such a Fund is defined as an ATS Traded Fund. A reference to a Reporting Entity in relation to a Listed Fund or an ATS Traded Fund is a reference to the Fund Manager of that Fund, unless another person has been declared by the DFSA as the Reporting Entity of the Fund.
2. Accordingly, any obligations of a Reporting Entity of a Listed Fund or an ATS Traded Fund are, unless the context requires otherwise, obligations imposed on the Reporting Entity in respect of the Listed Fund or the ATS Traded Fund, as the case may be (see Article 38(2) of the Law). Therefore, the obligations imposed by this Law and the Rules apply to the Governing Body of the Reporting Entity and to every member of the Governing Body in the manner specified in Rules 1.1.2 and 1.1.3.

Waivers and modifications

3. The DFSA may, pursuant to Article 9 of the Law, waive or modify the application of the provisions in the Law where it considers appropriate or desirable in the interests of the DIFC to do so and, in accordance with the procedures set out in Guidance 4 below.
4. Generally, the DFSA will exercise the Article 9 power sparingly and only in circumstances where there is a clearly demonstrated case for granting a waiver or modification of the Law, such as:
 - a. to alleviate any undue regulatory burden on a Person in complying with the requirements in the Law in circumstances where investor protection intended by the relevant provisions is not reduced; or
 - b. to apply to a Person upon request (i.e. on a consent basis) the provisions of the Law which, without a modification, will not apply to that Person. For example, an Exempt Offeror (i.e. a Person such as a government or government instrumentality included in the DFSA's Exempt Offeror List in App5) who is not subject to the Prospectus disclosure and the liability regime in the Law and the Rules may apply to the DFSA for a modification to Article 14 of the Law so that it can make a Prospectus Offer of its Securities in accordance with the relevant Prospectus disclosure and liability regime in the Law and the Rules.
5. The DFSA also has the power, pursuant to Article 25 of the Regulatory Law 2004, to waive or modify the Rules. The Regulatory Policy and Process (RPP) module gives further information on how to seek a waiver or modification.

1.2 Overview of the module

Guidance

Offers of securities – chapter 2

1. Chapter 2 contains:
 - a. the requirements applicable to a Person who:
 - i. makes an Offer of Securities to the Public (other than in respect of Units, which are covered by the Prospectus and other requirements in the Collective Investment Law 2010 and the CIR Rules); and
 - ii. applies to have Securities admitted to trading on an Authorised Market Institution, or to have Security Tokens admitted to trading on an Alternative Trading System (other than the admission to trading of Units, or Security Tokens that are Units, which is governed by the requirements in chapter 6);
 - b. the types of Exempt Offers (i.e. Securities which can be offered to the public without a Prospectus), Exempt Securities (i.e. Securities which can be admitted to trading on an Authorised Market Institution without a Prospectus) and Exempt

- Communications (i.e. communications relating to Securities which are not treated as a Prospectus);
- c. the requirements and procedures relating to the approval of a Prospectus by the DFSA;
 - d. the requirements and procedures relating to the structure and content of a Prospectus including:
 - i. when material may be incorporated into a Prospectus by reference; and
 - ii. liability for the content of a Prospectus including the liability of Experts and other Persons whose reports or opinions are included in a Prospectus with their consent for such inclusion; and
 - e. the circumstances in which the DFSA may accept an offer document prepared in accordance with the legislation applicable in a jurisdiction other than the DIFC as sufficient for the purposes of meeting the Prospectus requirements in the Law and the Rules.

Governance of reporting entity – chapter 3

- 2. Chapter 3 covers a wide range of corporate governance requirements applicable to Reporting Entities including:
 - a. 7 high-level Corporate Governance Principles, with best practice standards relating to those principles which apply on a ‘comply or explain’ basis and which are set out in App4;
 - b. Directors’ duties, including acting in good faith and applying due diligence and care in the discharge of their duties and functions;
 - c. provisions to ensure fair treatment of shareholders in the conduct of affairs of the company, such as provisions relating to communication with shareholders, exercise of pre-emption rights, reduction of share capital and a list of matters that require approval by a majority of shareholders in voting; and
 - d. provisions to address conflicts of interest. For example individuals involved in the senior management of the Reporting Entity (such as executive Directors and other senior executives, called “Restricted Persons”), are prohibited from dealing in the Securities of the Reporting Entity during “close periods”, unless prior clearance for those dealings is obtained. Similarly, Persons who qualify as Related Parties of the Reporting Entity are prohibited from entering into commercial transactions with the Reporting Entity unless certain requirements are followed.

Market disclosure – chapter 4

- 3. Every Reporting Entity is required to disclose to the market certain types of information either relating to the Securities of the Reporting Entity or the Reporting Entity itself. Such disclosure is designed to ensure that the markets are continually updated with information that is likely to have an impact on the price of the Securities so that investors can make an

informed judgement about those Securities. For this purpose, Chapter 4 requires disclosure of Inside Information, with carve-outs for non-disclosure of commercially sensitive information for a limited period, as well as disclosures of interests held by Persons in positions of control or influence relating to a Reporting Entity (such as controllers and their associates, called “Connected Persons”), and the disclosure of Directors’ material interests in the Reporting Entity. The means by which disclosure of the information required to be provided to the markets are also specified in this chapter.

Accounting periods, financial reports and auditing – chapter 5

4. Every Reporting Entity is required to prepare and file certain annual, semi-annual and other periodic financial reports relating to the financial position of the Reporting Entity. Such reports are required to be prepared in accordance with the specified internationally accepted accounting standards and, in the case of annual financial reports, required to be audited. The requirements relating to the preparation and audit of the financial statements and the disclosure of such reports within specified periods are set out in Chapter 5.

Listed Funds and ATS Traded Funds– chapter 6

5. Chapter 6 contains, with the exception of the requirements in chapters 7 (sponsors) and 8 (systems and controls), all the requirements applicable to a Reporting Entity of a Listed Fund or an ATS Traded Fund. These requirements, while mirroring the requirements applicable to other Reporting Entities, have been tailored to take account of the characteristics of Funds. These include:
 - a. general requirements applicable to Listed Funds and ATS Traded Funds;
 - b. Prospectus requirements for the purposes of having Units of a Fund admitted to trading on an Authorised Market Institution, or Security Tokens that are Units of a Fund admitted to trading on an Alternative Trading System;
 - c. governance requirements applicable to Listed Funds and ATS Traded Funds;
 - d. market disclosure of information relating to Listed Funds and ATS Traded Funds;
and
 - e. financial reporting requirements applicable to Listed Funds and ATS Traded Funds.

Sponsors and compliance advisers – chapter 7

6. The DFSA has the discretion to require the appointment of a sponsor, compliance adviser or other expert adviser by a Reporting Entity, including that of a Listed Fund or an ATS Traded Fund. Chapter 7 contains the requirements relating to the appointment of such sponsors, compliance advisers and other expert advisers, and the obligations that apply to such Persons and the Reporting Entity where such sponsors or compliance advisers are appointed.

Systems and controls – chapter 8

7. Chapter 8 sets out the systems and controls a Reporting Entity, including a Reporting Entity of a Listed Fund or an ATS Traded Fund, must have in order to be able to comply with the requirements applicable to that Person.

Listing Rule – chapter 9

8. Chapter 9 sets out the DFSA’s Listing Rules.

Transitional provisions – chapter 10

9. Chapter 10 sets out the transitional provisions necessary to facilitate the transition from the Markets Law 2004 to the Law for certain debt Securities, as the new requirements are different from those under which such debt Securities were admitted to an Official List of Securities but were not traded on an Authorised Market Institution.

1.3 General**1.3.1** A reference in this MKT module to:

- (a) “the Law”, is a reference to the Markets Law 2012;
- (b) “this module”, is a reference to this MKT module; and
- (c) “Rules”, except where otherwise provided, is a reference to the Rules in this module.

1.3.2 Where a Reporting Entity is referred to in this module as a Reporting Entity in respect of a specified class of Securities, it is a reference to a Person who has become a Reporting Entity by:

- (a) making an Offer of Securities to the Public; ~~or~~
- (b) having Securities admitted to trading on an Authorised Market Institution;
or
- (c) having Security Tokens admitted to trading on an Alternative Trading System,

of that particular specified class of Securities.

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2 OFFER OF SECURITIES

2.1 Application

2.1.1 This chapter applies to:

- (a) a Person who makes or intends to make an Offer of Securities to the Public in or from the DIFC other than in respect of Units;
- (b) a Person who makes an application to have any Securities other than Units admitted to trading on an Authorised Market Institution;
- (c) a Person who makes an application to have any Security Tokens, other than Units, admitted to trading on an Alternative Trading System; and
- (ed) any Person specified in section 2.10 as a Person liable for the content of a Prospectus.

Guidance

1. By virtue of Article 10(1) of the Law, a Person making an Offer of Securities to the Public in relation to Units of a Fund is exempt from the requirements in Part 2 of the Law and the Rules made for the purposes of that Part which deal with Prospectuses.
2. Article 10(2) of the Law requires a Person having or intending to have Units of a Fund admitted to trading on an Authorised Market Institution, or Security Tokens that are Units admitted to trading on an Alternative Trading System, to comply with Part 2 of the Law and the Rules made for the purposes of that Part in the manner and circumstances prescribed in the Rules. Chapter 6 contains the requirements that apply to a Person who applies to have, or has or had, Units admitted to trading on an Authorised Market Institution or Security Tokens that are Units admitted to trading on an Alternative Trading System.
3. The DFSA has the power, pursuant to Article 12(1) of the Law, to prescribe certain communications to be Exempt Communications. Such communications are not subject to the prohibition in Article 14(1) of the Law as they fall outside the definition of an “Offer of Securities to the Public” in Article 12(1) of the Law.
4. The DFSA also has the power under Article 14(3) of the Law to prescribe certain types of:
 - a. Offers of Securities to the Public as “Exempt Offers”, and
 - b. Securities to be “Exempt Securities”.

Exempt Offers and Exempt Securities are not subject to the prohibition in Article 14(1) of the Law and hence do not require a Prospectus.

2.2 Exempt communications

Guidance

Exempt Communications are not Offers of Securities to the Public and therefore do not attract the Prospectus requirements in the Law and Rules.

2.2.1 For the purposes of Article 12(c) of the Law, in addition to the Exempt Communications specified in the Law, a communication is hereby prescribed by the DFSA as an Exempt Communication if it is made:

- (a) in connection with the trading of Securities that are listed and traded on a Regulated Exchange, or the trading of Security Tokens that are traded on an Alternative Trading System; and
- (b) in the ordinary course of business of an Authorised Firm or Recognised Member.

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2.3 Exempt offers

Guidance

This section prescribes the type of offer that is an Exempt Offer. The prohibition in Article 14(1)(a) of the Law does not apply to such offers. Accordingly, a Person may make an Offer of Securities to the Public in the circumstances specified in this Rule without a Prospectus.

2.3.1 For the purposes of Article 14(3)(a) of the Law the DFSA hereby prescribes the circumstances in which an offer is an Exempt Offer:

- (a) an offer made to or directed at only Professional Clients other than natural Persons;
- (b) an offer in or from the DIFC which is directed at fewer than 50 Persons in any 12 month period, excluding Professional Clients who are not natural persons;
- (c) an offer where the total consideration to be paid by a Person to acquire the Securities is at least \$100,000, or an equivalent amount in another currency;
- (d) an offer where the Securities are denominated in amounts of at least \$100,000, or an equivalent amount in another currency;

- (e) an offer where the total aggregate consideration for the Securities offered is less than \$100,000, or an equivalent amount in another currency, calculated over a period of 12 months;
- (f) an offer where Shares are issued in substitution for Shares of the same class as already issued, where the issue of the new Shares does not involve any increase in the issued share capital;
- (g) an offer where the Securities are Convertibles issued under a Prospectus to existing members or creditors of the Issuer or a member of its Group and there is no additional consideration to be paid;
- (h) an offer where the Securities are offered in connection with a Takeover and a document is made available containing information which is considered by the DFSA as being equivalent to that of a Prospectus;
- (i) an offer where the Securities are offered, allotted or to be allotted in connection with a merger if a document is available containing information which is regarded by the DFSA as being equivalent to that of a Prospectus;
- (j) an offer where the Securities are offered, allotted or to be allotted in connection with a rights issue where:
 - (i) the Securities are of a class subject to Reporting Entity disclosure; and
 - (ii) a document is made available containing information on the number and nature of the Securities including rights attaching to those Securities and the reasons for and details of the Offer;
- (k) an offer where the Shares are offered, allotted or to be allotted to existing shareholders free of charge or dividends paid out in the form of Shares of the same class as the Shares in respect of which the dividends are paid, and a document is made available containing information on the number and nature of the Shares and the reasons for and details of the offer;
- (l) an offer where the Securities are offered, allotted or to be allotted to an existing or former director or Employee, or any Close Relative of such a director or Employee, of the Issuer or a member of the same Group as the Issuer and:
 - (i) the Issuer or the member of the Group already has its Securities admitted to trading on a Regulated Exchange; and

- (ii) a document is made available to the offerees containing information on the number and nature of the Securities and the reasons for and details of the offer; or
- (m) an offer of Securities that meets all of the following conditions:
 - (i) the offer is made only through an Investment Crowdfunding Platform, or a Property Investment Crowdfunding Platform, operated by a Crowdfunding Operator;
 - (ii) the offer is made to and directed at only investors who are Clients of the Crowdfunding Operator; and
 - (iii) the total aggregate consideration for the offer of Securities is not more than \$5 million, or an equivalent amount in another currency, calculated over a period of 12 months.

Guidance

For the purposes of Rule 2.3.1(d), an offer of Security Tokens denominated in an amount of at least \$100,000 or the equivalent in another currency will be an Exempt Offer. However, any further offer of a fractional interest in those Security Tokens for less than \$100,000, or the equivalent in another currency, will not be an Exempt Offer.

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2.4 Exempt securities

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- 2.4.2** (1) All Securities in a class of Securities admitted to listing and trading including pursuant to Rule 2.4.1 must be traded on an Authorised Market Institution or a Regulated Exchange.
- (2) All Securities in a class of Security Tokens admitted to trading on an Alternative Trading System, including those specified under Rule 2.4.1, must be traded on an Alternative Trading System, an Authorised Market Institution or a Regulated Exchange.

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2.5 Prospectus structure and content

Guidance

Where the term “Prospectus Offer” is used in this section in reference to a Person, such a Person is ~~either~~ making an Offer of Securities to the Public, ~~or~~ seeking to have Securities admitted to trading on an Authorised Market Institution or seeking to have Security Tokens admitted to trading on an Alternative Trading System (see the definition of the term “Prospectus Offer” in Article 14(4)(a) of the Law).

- 2.5.1** (1) A Person making a Prospectus Offer may, subject to section 2.9, produce a Prospectus structured either as:
- (a) multiple documents comprising:
 - (i) a Summary;
 - (ii) a Registration Statement; and
 - (iii) a Securities Note; or
 - (b) a single document containing a Summary and all the information required to be included in the Registration Statement and Securities Note.
- (2) For the purposes of Article 15(2) of the Law, the Prospectus must:
- (a) present information in a form which is comprehensible and easy to analyse;
 - (b) contain the documents and information specified in (1)(a) or (b) as are applicable; and
 - (c) in the case of an Offer of Securities to the Public, have an application form that meets the requirement in Rule 2.5.6.
- (3) Without prejudice to the general disclosure required under Article 15 of the Law, the Person producing the Prospectus must ensure that the Prospectus contains:
- (a) the statements and information required to be included in the Summary, as prescribed in Rule 2.5.2;
 - (b) all the information relating to the Issuer, as required to be included in a Registration Statement as set out in App1 section A1.1;
 - (c) all the information relating to the Securities, as required to be included in a Securities Note as set out in App1 section A1.2;

- (d) in the case of a Prospectus relating to a Security Token, the additional information set out in App 7; and
- (de) a prominent disclaimer in bold, on the front page of the Prospectus, as follows:

“The DFSA does not accept any responsibility for the content of the information included in the Prospectus, including the accuracy or completeness of such information. The liability for the content of the Prospectus lies with the Issuer of the Prospectus and other Persons, such as Experts, whose opinions are included in the Prospectus with their consent. The DFSA has also not assessed the suitability of the Securities to which the Prospectus relates to any particular investor or type of investor. If you do not understand the contents of this Prospectus or are unsure whether the Securities to which the Prospectus relates are suitable for your individual investment objectives and circumstances, you should consult an authorised financial advisor.”

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2.5.5 Where a Prospectus contains a Registration Statement produced prior to the date of the Summary and the Securities Note, the Person producing the Prospectus must ensure that both the Summary and the Securities Note:

- (a) state the date of preparation of the Registration Statement; and
- (b) update any disclosure in the Registration Statement to the extent necessary in order to comply with these Rules by setting out on the front page of the Securities Note:
 - (i) if relevant, the website at which any subsequent disclosure is made available; and
 - (ii) an address at which the full text of any such disclosures is made available free of charge.

Guidance

1. The above provisions are designed to provide flexibility so that Persons making Prospectus Offers can make multiple offers using the same Registration Statement. However, care should be taken to ensure that the Registrations Statement and the Securities Note together provide all the information required to be contained in a Prospectus pursuant to Article 15(1) of the Law and the Rules.

2. There are additional disclosure requirements applicable to Islamic Securities contained in the IFR module.
3. Where the term “Prospectus Offer” is used in this section reference to a Person, such a Person is either making an Offer of Securities to the Public, ~~or~~ seeking to have Securities admitted to trading on an Authorised Market Institution, or seeking to have Security Tokens admitted to trading on an Alternative Trading System (see the definition in Article 14(4)(a) of the Law).

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2.7 Offer documents from other jurisdictions

- 2.7.1** (1) The DFSA may, subject to (2), approve an offer document produced under legislation in a jurisdiction other than the DIFC for the purposes of meeting the Prospectus requirements in this chapter where:
- (a) it is satisfied that:
 - (i) the Prospectus contains information equivalent to that which is required for a Prospectus in this chapter; and
 - (ii) the offeror meets all the other requirements relating to a Prospectus Offer as prescribed in the Rules; or
 - (b) the other jurisdiction provides a level of regulation relating to the offer which is acceptable to the DFSA.
- (2) The DFSA may, subject to (3), approve an offer document referred to in (1) in accordance with the requirements and procedures set out in section 2.6 and, subject to such conditions or restrictions imposed by the DFSA as it sees fit.
- (3) An application for approval of an offer document produced in accordance with the legislation in a jurisdiction other than the DIFC must:
- (a) be made using the appropriate form in AFN;
 - (b) be accompanied by the relevant fee prescribed in FER; and
 - (c) include:
 - (i) where the offer document referred to in (1) is not in the English language, an English translation acceptable to the DFSA; and

- (ii) a clear statement that it is an offer document prepared in accordance with the requirements applicable in the relevant jurisdiction and not in the DIFC.
- (4) An offer document referred to in (1) is an Approved Prospectus for the purposes of Article 14(1) of the Law where it has been approved by the DFSA in accordance with the requirements in this Rule and section 2.6.
- (5) The procedures in Schedule 3 to the Regulatory Law apply to a decision of the DFSA under this Rule not to approve an offer document or to impose conditions or restrictions on an approval.
- (6) If the DFSA decides to exercise its power under this Rule not to approve an offer document or to impose conditions or restrictions on an approval, the applicant may refer the matter to the FMT for review.

Guidance

- (1) A Person considering filing an offer document pursuant to Rule 2.7.1 should approach the DFSA at the earliest possible time to discuss how to proceed. This is because the DFSA will undertake the assessment required under Rule 2.7.1 on a case-by-case basis. See Guidance item 1 under Rule 2.6.2 for details relating to the DFSA Prospectus approval process.
- (2) Where an offer document referred to in Rule 2.7.1(1) relates to a Security Token, the DFSA will assess whether the offer document contains additional information equivalent to that specified in App 7 and referred to in Rule 2.5.1(3)(d), to determine whether it is satisfied that the requirement in Rule 2.7.1(1)(a)(i) is met

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3 GOVERNANCE OF REPORTING ENTITIES

Guidance

Governance requirements set out under this Part are designed for the purposes of Article 39 of the Law.

3.1 Application

- 3.1.1** (1) This chapter applies to every Reporting Entity except where a narrower application is provided in respect of any particular class of Securities.
- (2) This chapter does not apply to a Reporting Entity of a Listed Fund or an ATS Traded Fund.

Guidance

See Chapter 6 for the governance requirements applicable to Reporting Entities of Listed Funds and ATS Traded Funds.

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4 MARKET DISCLOSURE

4.1 Application

- 4.1.1** (1) This chapter applies, subject to (2), to every Reporting Entity other than that of a Listed Fund or an ATS Traded Fund.
- (2) The requirements in this section do not apply to a Reporting Entity if the relevant market disclosure has already been made in relation to the Securities either by another Person or in relation to other securities.

Guidance

1. The market disclosure requirements applicable to Listed Funds and ATS Traded Funds are in chapter 6.
2. This chapter sets out the obligations of Reporting Entities to disclose and control information in order to protect actual and potential investors and to maintain a fair,

informed and orderly market in Securities. This chapter also sets out the limited circumstances under which a Reporting Entity may selectively disclose Inside Information, delay public disclosure and control access to such information in order to limit the potential market abuse.

3. The DFSA recognises the importance to the market of accurate, up-to-date information about Reporting Entities. Reporting Entities are therefore required to disseminate Inside Information as soon as possible. Where these obligations are not met and the DFSA considers it appropriate, the DFSA may seek one or more sanctions as specified in Part 7 of the Law.

4.2 Disclosure of inside information

Timely disclosure

- 4.2.1**
- (1) A Reporting Entity must make timely disclosure of Inside Information in accordance with the requirements in this section.
 - (2) A Reporting Entity must ensure that the disclosure it makes pursuant to (1) is not misleading, false or deceptive and does not omit anything likely to affect the import of the information.
 - (3) For the purposes of complying with the requirement in (1), the Reporting Entity must, subject to Rule 4.2.3 and 4.2.4, make disclosure as soon as possible and in the manner specified in Rule 4.7.1.

Guidance

1. A Reporting Entity is required to disclose Inside Information as soon as possible. In practice, a short period before announcing Inside Information is permitted where a Reporting Entity is affected by an unexpected event and the Reporting Entity needs to clarify the situation or take legal advice so that any information released is accurate and not misleading. Any delay should be limited to a period no longer than is reasonably necessary in the circumstances. Where there is a danger of the information leaking out in the meantime, the Reporting Entity should make a holding announcement giving an outline of the subject matter of the announcement, the reasons why a full announcement cannot yet be made and undertaking to make a full announcement as soon as possible.
2. For the disclosure to be not misleading, false or deceptive, a Reporting Entity should provide information that is accurate, factual and complete. Any incomplete or inaccurate information, such as omission of relevant information, would be misleading or deceptive. Information should be provided in an easy to understand manner and not for promotional purposes. The use of imprecise and confusing language such as ‘double digit’ or ‘in excess of last year’ should be avoided as it does not allow investors to properly assess the information for the purpose of making an informed decision relating to the relevant Securities.
3. Where a Reporting Entity realises that it has or may have breached its continuous disclosure obligations, it should contact the DFSA to discuss the matter and seek guidance

on remedying the situation and on taking steps to ensure that similar breaches are prevented from recurring.

4. A confidentiality agreement should not prevent an entity from complying with its obligations relating to the disclosure of Inside Information.
5. If, for any reason, a Reporting Entity is unable, or unwilling to make a holding announcement it may be appropriate for the Reporting Entity to file a report pursuant to Rule 4.2.5 and for the trading of its Securities to be suspended until the Issuer is in a position to make an announcement.

Identifying inside information

6. Inside Information is defined in Article 63(1)(a) of the Law as:

“information in relation to Investments of a precise nature which:

- (i) is not generally available;*
- (ii) relates, directly or indirectly, to one or more Reporting Entities or the issuer of the Investments concerned or to one or more of the Investments; and*
- (iii) would, if generally available, be likely to have a significant effect on the price of the Investments or on the price of related investments.”*

7. For the purposes of Article 63(1)(a), information is considered “precise” if it:
 - a. indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur; and
 - b. is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of Investments or related investments.
8. Similarly, information would be likely to have a “significant effect on price” if and only if it is information of that kind which a reasonable investor would be likely to use as part of the basis of his investment decisions.
9. The Reporting Entity is itself best placed to determine whether information, if made public, is likely to have a significant effect on the price of the relevant Securities, as what constitutes Inside Information will vary widely according to circumstances.

Financial forecasts and expectations

10. Where a Reporting Entity makes a market announcement which includes a profit or revenue forecast, such forecasts become, as soon as made, factored into the market pricing of the relevant Securities. If the Reporting Entity becomes aware that there is likely to be a material difference between the forecast and the true outcome, the Reporting Entity should make an announcement correcting the forecast as soon as possible so that the market pricing reflects the accurate position.

11. In relation to financial forecasts published by a Reporting Entity, the DFSA considers that circumstances giving rise to a variation from the previous one should generally be considered Inside Information and should be disclosed by the Reporting Entity as soon as possible. Even where a Reporting Entity has not made a previous forecast, circumstances giving rise to a variation of profit or revenue from the previous corresponding reporting period should be disclosed where such circumstances would have a significant effect on the price of relevant Securities. Generally, a change of 10% or more is a material change, but in some circumstances, a smaller variation may also be disclosable if it would reasonably be considered to have a significant effect on the price of the relevant Securities.
12. In making such disclosure, the Reporting Entity should provide clear details of the extent of the variation. For example, a Reporting Entity may indicate that, based on management accounts, its expected net profit will be an approximate amount (e.g. approximately \$15 million) or alternatively within a stated range (e.g. between \$14m and \$16m). Alternatively, a Reporting Entity may indicate an approximate percentage movement (e.g. up or down by 35%).

Relationship between continuous disclosure and periodic disclosures

13. Periodic disclosures by Reporting Entities are required in a number of circumstances, and examples can include interim and annual financial reports and accounts, prospectuses, bidder's statements and target's statements.
14. In the course of preparing these disclosure documents, Reporting Entities may become aware of Inside Information which was previously insufficiently precise to warrant disclosure. In such circumstances, a Reporting Entity should not defer releasing that information until the periodic disclosure or other document is finalised. In such circumstances, a Reporting Entity is expected to make an announcement containing the Inside Information as soon as possible.

Securities of the same class admitted to trading in more than one jurisdiction

15. Reporting Entities with Securities of the same class admitted to trading in more than one jurisdiction should ensure that the release of announcements containing Inside Information is co-ordinated across jurisdictions. If the requirements for disclosure are stricter in another jurisdiction than in the DIFC, the Reporting Entity must ensure that the same information is released in the DIFC as in that other jurisdiction.
16. Reporting Entities should not delay an announcement in the DIFC in order to wait for a market to open in another jurisdiction.

Inside information related to the use of DLT

17. Inside Information relating directly or indirectly to a Security Token may include matters arising due to the use of DLT that are capable of having a significant effect on the price of the Security Token. Such matters may, for example, include an interruption due to the creation of a 'fork' on the DLT or it becoming the target of a cyber-attack. A Reporting Entity for a Security Token must ensure that its systems and controls for identifying, controlling and handling Inside Information are adequate and will operate effectively should such matters arise, including through appropriate disclosure to markets.

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4.3 Disclosure of interests by connected persons

Guidance

Article 42 of the Law requires certain persons connected to a Reporting Entity to file with the DFSA and the Reporting Entity a report in accordance with the requirements prescribed in the Rules.

Application

- 4.3.1** This section applies to a Connected Person of a Reporting Entity other than that of a Listed Fund or an ATS Traded Fund.

Guidance

Chapter 6 contains Connected Person disclosure requirements relevant to Listed Funds and ATS Traded Funds.

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5 ACCOUNTING PERIODS AND FINANCIAL REPORTS AND AUDITING

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5.1 Application

- 5.1.1** This section applies to every Reporting Entity other than that of a Listed Fund or an ATS Traded Fund, except where a narrower application is provided in respect of any particular class of Security.

Guidance

Chapter 6 contains the requirements relating to accounting periods and financial reporting in respect of Listed Funds.

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6 LISTED FUNDS AND ATS TRADED FUNDS

6.1 Application and Interpretation

- 6.1.1 (1) This chapter applies to:
- (a) every Reporting Entity of a Listed Fund;
 - (b) every Reporting Entity of an ATS Traded Fund; and
 - (bc) any other Person specified in the Rules.
- (2) A reference to a Listed Fund in this chapter (including in App 3 which forms part of Rule 6.8.1), is to be read as including a reference to an ATS Traded Fund.

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6.3 Prospectus requirements relating to a listed fund

Guidance

1. The Prospectus requirements including content and structure in chapter 2 of this module do not apply to Prospectuses relating to Units of Funds. Prospectus requirements that apply to Offer of Units of Funds are found in the Collective Investment Law 2010 and the CIR module. See Article 10(1) of the Law which disapplies chapter 2 of this module to Fund Prospectuses.
 2. However, under Article 14(1)(b) of the Law, a Prospectus is required for the purposes of admitting any Securities, including Units, to trading on an Authorised Market Institution, or for admitting Security Tokens to an Alternative Trading System. The Rules in this section 6.3 are designed to enable a Person seeking to have Units of a Fund admitted to trading on an Authorised Market Institution or, where the Units are Security Tokens, to an Alternative Trading System, to be able to use a Prospectus prepared in accordance with the requirements in the Collective Investment Law 2010 and the Rules in the CIR module if it is a Domestic Fund. In the case of Foreign Funds, the offer documents prepared in accordance with the requirements in a foreign jurisdiction will be acceptable in the circumstances prescribed in this section.
- 6.3.1 (1) A Person intending to have Units admitted to trading on an Authorised Market Institution or on an Alternative Trading System (where the Units are Security Tokens) must, subject to (2), (3) and (4), submit to the DFSA:

- (a) a completed application using the appropriate form set out in AFN and the relevant fee prescribed in FER;
- (b) a Prospectus relating to the Fund (“Fund Prospectus”) which:
 - (i) complies with, in the case of a Domestic Fund, the requirements in the Collective Investment Law 2010 and CIR that apply to a Public Fund, and, where that Fund is also an Islamic Fund, the additional requirements in IFR chapter 6;
 - (ii) is prepared, in the case of a Foreign Fund, in accordance with the requirements in Rule 6.3.3; and
 - (iii) contains, unless it is an Islamic Listed Fund, a prominent disclaimer in bold, on the front page of the Prospectus, as follows:

“The DFSA does not accept responsibility for the content of the information included in the Prospectus, including the accuracy or completeness of such information. The liability for the content of the Prospectus lies with the Issuer of the Prospectus and other Persons, such as Experts, whose opinions are included in the Prospectus with their consent. The DFSA has also not assessed the suitability of the Securities to which the Prospectus relates to any particular investor or type of investor. If you do not understand the contents of this Prospectus or are unsure whether the Securities to which the Prospectus relates are suitable for your individual investment objectives and circumstances, you should consult an authorised financial advisor.”
- (c) where subsequent drafts or versions of the Fund Prospectus are submitted, a marked up version showing changes from the previous version submitted to the DFSA;
- (d) if information is incorporated in the Fund Prospectus by reference to another document, a copy of that other document;
- (e) the identity of the Person who is or intends to be the Reporting Entity;
- (f) contact details of two individuals who are sufficiently knowledgeable about the content of the document referred to in (b) to be able to answer queries of the DFSA during business hours; and
- (g) any other information that the DFSA may require.

- (2) The application in (1) must be submitted to the DFSA:
- (a) in the case of an applicant who has not made a previous Prospectus Offer, at least [20] business days prior to the intended date on which the applicant expects the Prospectus to be approved;
 - (b) in other cases, at least [10] business days before the intended date on which the applicant expects the Prospectus to be approved; and
 - (c) in the case of a Supplementary Prospectus, as soon as is reasonably possible.
- (3) In the case of a Supplementary Prospectus, the application for approval must:
- (a) be made using the appropriate form set out in the AFN module;
 - (b) accompanied by the relevant fee prescribed in the FER module; and
 - (c) include:
 - (i) in the case of a Domestic Fund, a Supplementary Prospectus which meets the requirements in the Collective Investment Law 2010 and the CIR Rules, and where that Fund is an Islamic Fund, the additional requirements in IFR; and
 - (ii) in the case of a Foreign Fund, a document which meets the equivalent requirements applicable in the jurisdiction in which the Fund is established or domiciled.
- (4) In the case of a Passported Fund, the following disclaimer must be used instead of the disclaimer specified in (1)(b)(iii):

“This is an Approved Prospectus for the purposes of admitting Securities, including units, to trading on an Authorised Market Institution in the Dubai International Financial Centre.

Notwithstanding that the DFSA has approved the prospectus, the DFSA does not accept responsibility for the content of the information included in the Prospectus, including the accuracy or completeness of such information. The liability for the content of the Prospectus lies with the Issuer of the Prospectus and other Persons, such as Experts, whose opinions are included in the Prospectus with their consent.

No other regulatory authority in the UAE has any responsibility for reviewing or verifying this prospectus or any other documents in connection with the promotion of this fund. Accordingly, no such authority in the UAE has approved this prospectus or any other associated documents, nor taken any steps to verify the information set out herein, and therefore no regulatory authority in the UAE has any responsibility for the same.

This Passported Fund is a Public Fund and, accordingly, the units thereof may be promoted, including by means of a public offer of the units for public subscription, to persons in [insert relevant Host Jurisdiction(s)].

The DFSA has also not assessed the suitability of the Securities to which the Prospectus relates to any particular investor or type of investor. If you do not understand the contents of this Prospectus or are unsure whether the Securities to which the Prospectus relates are suitable for your individual investment objectives and circumstances, you should consult an authorised financial advisor.”

Guidance

A “Public Fund” in Rule 6.3.1(4) has the meaning given in FPR Rule 1.3.1.

...

- 6.3.3** (1) For the purposes of Rule 6.3.1(b)(ii), the offer document relating to the Foreign Fund must comply with the requirements:
- (a) relating to a Designated Fund in a Recognised Jurisdiction; or
 - (b) in a jurisdiction which provides a level of regulation relating to the offer which is acceptable to the DFSA.
- (2) The DFSA may accept an offer document referred to in (1)(b) subject to such conditions or restrictions imposed by the DFSA as it sees fit.
- (3) Where an offer document referred to in (1) relates to a Security Token it must also contain additional information equivalent to that specified in App 7.
- (34) Where the offer document referred to in (1) is not in the English language, it must be accompanied by an English translation acceptable to the DFSA.
- (45) The procedures in Schedule 3 to the Regulatory Law apply to a decision of the DFSA under this Rule to impose conditions or restrictions.

- (56) If the DFSA decides to exercise its power under this Rule to impose conditions or restrictions, the applicant may refer the matter to the FMT for review.

....

Exempt offers in respect of units

6.3.5 The prohibition in Article 14(1)(b) of the Law does not apply, subject to the requirement in Rules 6.3.6, to the admission to trading on an Authorised Market Institution of:

- (a) Units representing, over a period of 12 months, less than 10 per cent of the number of Units of the same class already admitted to trading on the same Authorised Market Institution;
- (b) Units issued in substitution for Units of the same class already admitted to trading on the same Authorised Market Institution, if the issue of Units does not involve any increase in the issued capital;
- (c) Units offered, allotted or to be allotted to existing Unitholders free of charge, or in respect of dividends paid out in the form of Units of the same class as the Units in respect of which the dividends are paid, if:
 - (i) the Units are of the same class as the Units already admitted to trading on the same Authorised Market Institution; and
 - (ii) a document is made available containing information on the number and nature of the Units and the reasons for and details of the offer; or
- (d) Units already admitted to trading on another Authorised Market Institution or Regulated Exchange (the “other market”), where:
 - (i) the Units of the same class have been admitted to trading and continuously traded on the other market for more than 18 months;
 - (ii) the ongoing obligations for trading on that other market have been complied with; and
 - (iii) there is a summary document in the English language approved by the DFSA and published:
 - (A) containing the Key Information required under Rule 2.5.2(1)(b);

- (B) stating where the most recent and current Prospectus, if any, can be obtained; and
- (C) specifying where the financial information published by the Issuer pursuant to its ongoing disclosure obligations of the other market is available.

6.3.6 (1) All Units in a class of Securities other than those specified in (2) that are admitted to trading, including those specified under Rule 6.3.5, must be traded on an Authorised Market Institution or a Regulated Exchange.

(2) All Units in a class of Securities admitted to trading that are Security Tokens, including those specified under Rule 6.3.5, must be traded on an Alternative Trading System, an Authorised Market Institution or a Regulated Exchange.

....

Disclosure of inside information

- 6.5.1** (1) A Reporting Entity of a Listed Fund must:
- (a) make timely disclosure of Inside Information in accordance with the requirements in this section; and
 - (b) ensure that the disclosure it makes pursuant to (a) is not misleading, false or deceptive and does not omit anything likely to affect the import of the information.
- (2) For the purposes of complying with the requirement in (1)(a), the Reporting Entity of a Listed Fund must, subject to Rule 6.5.4 and 6.5.5, make disclosure to the market as soon as possible and in the manner specified in Rule 6.10.1.

Guidance

1. A Reporting Entity of a Listed Fund is required to disclose Inside Information relating to the Listed Fund to the market as soon as possible in accordance with the requirements in Section 6.9. In practice, a short period before announcing Inside Information is permitted where a Reporting Entity is affected by an unexpected event and the Reporting Entity needs to clarify the situation or take legal advice so that any information released is accurate and not misleading. Any delay should be limited to a period no longer than is reasonably necessary in the circumstances. Where there is a danger of the information leaking out in the meantime, the Reporting Entity should make a holding announcement giving an outline

of the subject matter of the announcement, the reasons why a full announcement cannot yet be made and undertaking to make a full announcement as soon as possible.

2. For the disclosure to be not misleading, false or deceptive, a Reporting Entity of a Listed Fund should provide information that is accurate, factual and complete. Any incomplete or inaccurate information, such as omission of relevant information, would be misleading or deceptive. Information should be provided in an easy to understand manner and not for promotional purposes. The use of imprecise and confusing language such as ‘double digit’ or ‘in excess of last year’ should be avoided as it does not allow investors to properly assess the information for the purpose of making an informed decision relating to the relevant Securities
3. A confidentiality agreement should not prevent a Reporting Entity from complying with its obligations relating to the disclosure of Inside Information.
4. If, for any reason, a Reporting Entity of a Listed Fund is unable, or unwilling to make a holding announcement it may be appropriate for the Reporting Entity to file a report pursuant to Rule 6.5.4(2) and for the trading of Units to be suspended until the Reporting Entity of the Listed Fund is in a position to make an announcement.

Identifying inside information relating to a listed fund

5. Inside Information is defined in Article 63(1)(a) of the Law as:
“information in relation to Investments of a precise nature which:
 - (i) *is not generally available;*
 - (ii) *relates, directly or indirectly, to one or more Reporting Entities or the issuer of the Investments concerned or to one or more of the Investments; and*
 - (iii) *would, if generally available, be likely to have a significant effect on the price of the Investments or on the price of related investments.”*
6. For the purposes of Article 63(1)(a) of the Law, information is considered “precise” if it:
 - a. indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur; and
 - b. is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of Investments or related investments.
7. Similarly, information would be likely to have a “significant effect on price” if and only if it is information of that kind which a reasonable investor would be likely to use as part of the basis of his investment decisions.

8. The Reporting Entity of a Listed Fund is itself best placed to determine whether information, if made public, is likely to have a significant effect on the price of the relevant Units, as what constitutes Inside Information will vary widely according to circumstances.

Financial forecasts and expectations

9. Where a Reporting Entity of a Listed Fund has made a market announcement such as a profit forecast, such forecasts become, as soon as made, factored into the market pricing of the relevant Units. If the Reporting Entity becomes aware that there is likely to be a material difference between the forecast and the true outcome, the Reporting Entity should make an announcement correcting the forecast as soon as possible to ensure that the market pricing reflects accurate information.
10. In relation to financial forecasts published by a Reporting Entity of a Listed Fund, the DFSA considers that circumstances giving rise to a variation from the previous one should generally be considered Inside Information and should be disclosed by the Reporting Entity as soon as possible. Even where a Reporting Entity has not made a previous forecast, circumstances giving rise to a variation of profit or revenue from the previous corresponding reporting period should be disclosed where such circumstances would have a significant effect on the price of relevant Securities. Generally, a change of 10% or more is a material change, but in some circumstances, a smaller variation may also be disclosable if it would reasonably be considered to have a significant effect on the price of the relevant Securities
11. In making such disclosure, the Reporting Entity of a Listed Fund should provide clear details of the extent of the variation. For example, a Reporting Entity may indicate that, based on management accounts, its expected net profit will be an approximate amount (e.g. approximately \$15 million) or alternatively within a stated range (e.g. between \$14m and \$16m). Alternatively, a Reporting Entity may indicate an approximate percentage movement (e.g. up or down by 35%).

Relationship between continuous disclosure and periodic disclosures

12. Periodic disclosures by Reporting Entities of Listed Funds are required in a number of circumstances, and examples can include interim and annual financial reports and accounts and Prospectuses.
13. In the course of preparing these disclosure documents, a Reporting Entity of a Listed Fund may become aware of Inside Information previously unknown to it, or information which was previously insufficiently precise to warrant disclosure. In such circumstances a Reporting Entity of a Listed Fund should not defer releasing that information until the periodic disclosure or other documents is finalised. In such circumstances, a Reporting Entity should make an announcement containing the Inside Information as soon as possible.

Units of the same class admitted to trading in more than one jurisdiction

14. A Reporting Entity of a Listed Fund with Units of the same class admitted to trading in more than one jurisdiction should ensure that the release of announcements containing Inside Information is co-ordinated across jurisdictions. If the requirements for disclosure

are stricter in another jurisdiction than in the DIFC, the Reporting Entity must ensure that the same information is released in the DIFC as in that other jurisdiction.

15. A Reporting Entity of a Listed Fund should not delay an announcement in the DIFC in order to wait for a market to open in another jurisdiction

Inside information related to the use of Distributed Ledger Technology

16. Inside Information relating directly or indirectly to a Security Token may include matters arising due to the use of Distributed Ledger Technology that are capable of having a significant effect on the price of the Security Token. Such matters may, for example, include an interruption due to the creation of a ‘fork’ on the DLT or it becoming the target of a cyber-attack. A Reporting Entity for a Security Token must ensure that its systems and controls for the identifying, controlling and handling Inside Information are adequate and will operate effectively should such matters arise, including through appropriate disclosure to markets.

....

9B SECURITY TOKENS ADMITTED TO TRADING ON AN ALTERNATIVE TRADING SYSTEM

9B.1 Application

9B.1.1 This chapter applies to the Reporting Entity of Security Tokens which are admitted to trading on an Alternative Trading System:

- (a) under the admission criteria specified in COB Rule 9.4.1(a)(ii), where the Alternative Trading System is operated by an Authorised Firm; or
- (b) under the admission criteria specified in AMI Rule 5.8.1(3)(b), where the Alternative Trading System is a MTF operated by an Authorised Market Institution.

9B.2 Requirements

9B.2.1 The Reporting Entity must meet the requirements that would apply to a Listed Entity under sections 9.2 (the Listing Principles), 9.7 (continuing obligations, including disclosure) and 9.8 (provision of information to the DFSA).

APP 2 MARKET DISCLOSURE

A.2.1.1 This table forms part of Rule 4.6.1.

A.2.1.2 A Reporting Entity other than a Listed Fund or an ATS Traded Fund must, on the occurrence of an event specified in column 1, make the required disclosure detailed in column 2, within the time specified in column 3, in respect of the Securities identified with a “✓” in column 4, of this Table.

See App3 for disclosure required for Listed Funds and ATS Traded Funds.

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APP 3 MARKET DISCLOSURE RELATING TO LISTED FUNDS AND ATS TRADED FUNDS

A.3.1.1 This table forms part of Rule 6.8.1 and Rule 9.7.8.

A.3.1.2 A Reporting Entity of a Listed Fund or an ATS Traded Fund must, on the occurrence of an event specified in column 1, make the required disclosure detailed in column 2, within the time specified in column 3.

Guidance

In accordance with Rule 6.1.1(2) each reference to a Listed Fund in this Appendix and in the table is to be read as including a reference to an ATS Traded Fund.

Note: Unless otherwise indicated, the disclosure required relates to the operation and matters relating to the Listed Fund. The Reporting Entity of a Listed Fund must construe the items specified in the event column in an appropriate manner to achieve the fundamental purpose of making the required disclosure of information relating to the Listed Fund.

....

APP 7 ADDITIONAL CONTENT OF A PROSPECTUS FOR SECURITY TOKENS

A7.1 Additional content of a Prospectus for Security Tokens

A7.1.1 For the purposes of Rules 2.5.1(3)(d), 2.7.1(3) and 6.3.3(3) the Person producing a Prospectus in relation to a Security Token must ensure that:

- (a) the Prospectus contains:
 - (i) the additional information specified in Rule A7.1.2; and
 - (ii) a statement confirming the matters specified in Rule A7.1.3 made by a suitably qualified independent third party professional, who has given consent under Rule 2.10.2(1) for that statement to be included in the Prospectus; and
- (b) in the case of a Security Token which will be admitted to trading on an Authorised Market Institution, Regulated Exchange, Alternative Trading System or other facility, the Prospectus contains the information specified in Rule A7.1.4.

A7.1.2 The following information is specified for the purposes of Rule A7.1.1(a)(i):

- (a) the essential characteristics of the Security Token, including the rights and obligations conferred by it and details of the Person or Persons responsible for meeting the obligations and against whom the rights can be exercised;
- (b) the type or types of Investment which the Security Token constitutes and a clear analysis as to how the Security Token meets the definition of the relevant type or types of Investment under GEN App 2;
- (c) details of the Distributed Ledger Technology that is used to issue, store or transfer the Security Token;
- (d) how the holder of a Security Token may exercise any rights conferred by it, such as voting or participation in shareholder actions;
- (e) whether the Security Token will be admitted to trading on an Authorised Market Institution, Regulated Exchange, Alternative Trading System or other facility and, if not, details as to how the Security Token can be transferred or redeemed, how that might impact its liquidity and any resulting risks;

- (f) if the capital to be raised from issuing the Security Token is to be used to fund the creation of a new Token, detailed information about:
 - (i) the project or venture to be funded;
 - (ii) whether it is the Issuer or a third party who will receive and apply the capital raised towards that project or venture (and if a third party, what rights and obligations a holder of the Security Token has in respect of that third party);
 - (iii) the features of that new Token and any rights and obligations attaching to it;
 - (iv) the terms and conditions relevant to the delivery or establishment of the project or venture, including any right of a Security Token holder to have their contribution refunded if any funding requirement is not met, the expected timetable for completion, any milestones included in that timetable and an explanation of the consequences if the timetable is not met; and
 - (v) the risks associated with the project or venture, including those associated with the technology used to deliver or facilitate its completion or the Token's ongoing use;
- (g) how title to the Security Tokens is established, certified or otherwise evidenced;
- (h) cybersecurity risks associated with the Security Token or its underlying technology, including whether there is a risk of loss of the Security Token in the event of a cyber attack, and details of steps that have been, or can be taken, to mitigate those risks;
- (i) details of other risks associated with the use of the DLT application, particularly those relating to Digital Wallets and the susceptibility of private cryptographic keys to misappropriation; and
- (j) any other information relevant to the Security Token that would reasonably assist a prospective investor in making an informed decision about investing in the Security Token.

A7.1.3 The matters to be confirmed in the statement referred to in Rule A7.1.1(a)(ii) are that:

- (a) the DLT application, used to issue, store or transfer the Security Tokens offered under the Prospectus, complies with the requirements of these

Rules and, is an authentic, valid and workable solution capable of meeting its intended purpose; and

- (b) the Prospectus accurately describes the architecture, functionality, effect, risks and vulnerabilities of the DLT application, including its compatibility with other technologies, applications and services with which it is intended to interact.

A7.1.4 The following information is specified for the purposes of Rule A7.1.1(b):

- (a) details of each facility on which the Security Token is admitted to trading or cleared including:
- (i) the Person responsible for operating that facility and whether it is an AMI, ATS Operator, Regulated Exchange or other Person;
 - (ii) details of each DLT application used by the operator to facilitate trading or clearing of the Security Token and the functionality provided by that DLT application;
 - (iii) details as to how the operator of the facility meets the technology and governance requirements set out in COB section 14.1;
- (b) details of the custody arrangements for the Security Token that are permitted or required by the operator of each facility, including, for each such arrangement:
- (i) the Person who carries out the function of the Digital Wallet service provider;
 - (ii) the Person who is responsible for the safe custody of the Security Token when held in the Digital Wallet; and
 - (iii) risks associated with the Digital Wallet, such as the consequences of the loss of cryptographic keys (private and public), cyber security risks associated with Digital Wallets held online, loss, theft or destruction of Digital Wallets held offline, and whether and how such risks are addressed;
- (c) whether smart contracts are being used or executed on the facility and, if so:
- (i) what form those smart contracts take;

- (ii) how the legal rights and obligations arising under the smart contracts are performed, including when contract or settlement finality occurs (whether by the smart contract itself, an underlying natural language contract or a combination of both); and
- (iii) details of the relationship between those smart contracts and any underlying natural language contract.

Guidance

- (1) The details provided under Rule A7.1.4(b)(ii) should make it clear for each custody arrangement permitted or required on a facility, whether the arrangement involves Self-Custody of Security Tokens, or whether either the operator of the facility is responsible or a Third Part Digital Wallet Service Provider is responsible for safe custody of the relevant Security Tokens (see COB section 14.3).
- (2) The details provided under Rule A7.1.4(b)(iii) should make clear whether a given Digital Wallet is web based, or otherwise connected to the internet (sometimes referred to as a ‘hot wallet’), or whether it is held on hardware that is not connected to the internet (sometimes referred to as a ‘cold wallet’). They should also explain the differing risks associated with hot wallets as opposed to cold wallets, such as those arising from increased risk of hacking attempts being made against hot wallets, and the risk of physical loss or theft associated with cold wallets.