

**Appendix 6**

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



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# The DFSA Rulebook

## Collective Investment Rules

### **(CIR)**

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### **3 SPECIALIST CLASSES OF FUNDS**

#### **3.1 Specialist Funds**

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##### **Investment Token Funds**

**3.1.14** A Fund is an Investment Token Fund if its main purpose is investing in Investment Tokens.

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## PART 6: RULES SPECIFIC TO SPECIALIST CLASSES OF DOMESTIC FUNDS

### Guidance

1. Article 17 of the Law confers on the DFSA the power to prescribe any type of Domestic Fund (i.e. a Public Fund, an Exempt Fund, or a Qualified Investor Fund) as a “specialist class” of a Domestic Fund and in so doing apply any requirements as are suitable for that specialist class of Funds. This Part sets out the requirements that apply to such a Fund by virtue of being a specialist class of Fund.
2. Most of the requirements that are set out in this part as applying to specialist classes of Domestic Funds are generally in addition to the core requirements that apply to every Domestic Fund (see Part 4). Further, depending on whether it is a Public Fund, an Exempt Fund or a Qualified Investor Fund, the additional requirements in Part 5 of this module would also apply to a specialist class of Fund.
3. A Qualified Investor Fund may be constituted as a specialist class of a Domestic Fund without being subject to most of the detailed requirements that would normally apply to such specialist classes of Funds. However, there are some requirements which need to be met as the obligation to do so arises under the general provisions applicable to certain specialist classes of Funds, regardless of whether such Funds are Public Funds, Exempt Funds or Qualified Investor Funds. An example is a Fund constituted as an Islamic Fund. While some of the detailed requirements such as the appointment of a Shari’a Supervisory Board do not apply to the Fund Manager of an Islamic Qualified Investor Fund (see IFR 6.2.1), the other general requirements such as ensuring compliance with Shari’a requirements continue to apply to such Funds and the Fund Manager.
4. The only specialist class requirements in this chapter that apply to a Qualified Investor Fund are those in Rule 13.6.3, ~~and~~ section 13.7 (Umbrella Funds) and section 13.11 (Investment Token Funds).
5. Generally, a Fund Manager using the Incorporated Cell Company structure can manage any specialist classes of Funds using the infrastructure of the Fund Platform. However, some types of specialist classes of Funds may not be easily established on a Fund Platform, such as a Fund of Funds, Master Fund or an Umbrella Fund because of their unique structures. If an applicant wishes to establish one of these specialist classes of Funds on a Fund Platform, the DFSA will consider what practical difficulties would arise in that context, including any additional clarification or Rule changes if needed.

## 13. ADDITIONAL REQUIREMENTS FOR SPECIALIST FUNDS

### 13.1 Application to Qualified Investor Funds

- 13.1.1** Only Rules 13.4.1, 13.5.1, 13.6.3 and sections 13.7 and 13.11 of this chapter apply to, or in relation to, a Qualified Investor Fund.

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### 13.11 Funds investing in Investment Tokens

#### Restrictions on use of certain terms

**13.11.1** A Fund Manager of a Fund must ensure that its offer document or marketing material does not refer to it as an “investment token fund”, or otherwise hold it out as being a Fund which has as its main purpose investing in Investment Tokens, unless the Fund meets the criterion in Rule 3.1.14.

**Guidance**

Other descriptions of a Fund that are likely to fall within the scope of Rule 13.11.1 include the use of terms such as ‘security token fund’, ‘derivative token fund’, ‘share token fund’ and ‘bond token fund’.

**13.11.2** A Fund Manager of a Fund must ensure that its offer document or marketing material does not hold out that any part of the Fund Property consists or will consist of Investment Tokens, unless the relevant property consists or will consist of Investment Tokens, as defined in GEN Rule A2.1.1(3).

**Guidance**

Other descriptions of Fund Property that are likely to constitute the property being held out as consisting of Investment Tokens, include the use of terms such as ‘security tokens’, ‘derivative tokens’, ‘share tokens’ and ‘bond tokens’.

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## **14 MARKETING OF DOMESTIC FUNDS AND PROSPECTUS DISCLOSURE**

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### **14.2 General Requirements relating to Prospectuses**

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#### **Prospectus of an External Fund**

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- 14.2.6**
- (1) The Prospectus of an External Fund made available by the Fund Manager or other Authorised Firm making the Offer of the Units of that Fund in or from the DIFC must be in the English language.
  - (2) The Prospectus must contain in a prominent position, or have attached to it, a statement that clearly:
    - (a) describes the jurisdiction in which the Fund is established and the legislation in that jurisdiction that applies to the Fund;
    - (b) states the name of the relevant Financial Services Regulator in that jurisdiction;

(c) describes the regulatory status accorded to the Fund by that Regulator;

(d) includes the following warning:

“This Prospectus relates to a Fund which is not subject to any form of regulation or approval by the Dubai Financial Services Authority (“DFSA”).

The DFSA has no responsibility for reviewing or verifying any Prospectus or other documents in connection with this Fund. Accordingly, the DFSA has not approved this Prospectus or any other associated documents nor taken any steps to verify the information set out in this Prospectus, and has no responsibility for it.

The Units to which this Prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers should conduct their own due diligence on the Units.

If you do not understand the contents of this document you should consult an authorised financial adviser.”;

and

(e) if the Offer is not directed to Retail Clients, includes a prominent statement to that effect to be incorporated within the warning in (d).

(3) If Units of an External Fund are Security Tokens, the Prospectus must contain information equivalent to that specified in MKT App 7 in respect of those Units.

(4) If 10% or more of the gross asset value of the Fund Property of an External Fund consists, or will consist, of Investment Tokens, the Prospectus must include information equivalent to that specified at MKT App 7 in respect of the Investment Tokens.

**Guidance**

Where a material part of the Fund Property of an External Fund consists of Tokens other than Investment Tokens, the DFSA considers that the Prospectus of that Fund should contain information relating to those Tokens that is equivalent to the information specified in MKT App 7. Such information is likely to be relevant under Article 52(2) of the Law, which requires disclosure of all the information a person and his professional advisers would reasonably require and expect to find in the Prospectus to make an informed decision to become a Unitholder of the Fund.

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**14.3 Prospectus content**

**Public Fund Prospectus**

**14.3.1** (1) Without limiting the generality of the Prospectus disclosure required under Article 52 of the Law, the Fund Manager must, in the case of a Public Fund, include in the Fund’s Prospectus:

- (a) the information in App 7, unless the Public Fund is a Passported Fund;
  - (b) if the Public Fund is a Passported Fund, the information in App 1 of FPR, including a Key Investor Information Document (KIID);
  - (c) if it is a specialist class of a Public Fund, any information as is relevant to that specialist class of Fund as set out in section 14.4;
  - (d) a Summary Document containing:
    - (i) information to clearly identify the Fund and its classification;
    - (ii) a short description of the Fund's investment objectives and investment policy for achieving those objectives;
    - (iii) past-performance presentation or, where relevant, performance scenarios;
    - (iv) costs and associated charges; and
    - (v) risk/reward profile of the investment, including appropriate guidance and warnings in relation to the risks associated with investments in the relevant Fund;
  - (e) the mandatory statement required under Rule 14.3.3; ~~and~~
  - (f) if Units of the Fund are Security Tokens, information equivalent to that specified in MKT App 7 in respect of those Units;
  - (g) if 10% or more of the gross asset value of the Fund Property consists of Investment Tokens, information equivalent to that specified in MKT App 7 in respect of the Investment Tokens; and
  - (fh) if it is an Open-ended Fund, the information relating to the powers available to the Fund Manager to address liquidity risks that may arise in the Fund, and procedures, including triggers, for the exercise of such powers, required under Rule 8.6A.1(2)(d).
- (2) A Prospectus may consist of a single document, or a multi-part Prospectus containing:
- (a) a Summary;
  - (b) information relating to the Fund Manager and Trustee; and
  - (c) information relating to the Fund.
- (3) If a Prospectus is a multi-part Prospectus, the Fund Manager must ensure that the Prospectus as a whole is up-to-date.

**Guidance**

Where a material part of the Fund Property of a Public Fund consists of Tokens other than Investment Tokens, the DFSA considers that the Prospectus of that Fund should contain information relating to those Tokens that is equivalent to the information specified in MKT App 7.

Such information is likely to be relevant under Article 52(2) of the Law, which requires disclosure of all the information a person and his professional advisers would reasonably require and expect to find in the Prospectus to make an informed decision to become a Unitholder of the Fund.

### **14.3.2 Information Memorandum of an Exempt Fund or a Qualified Investor Fund**

#### **Guidance**

1. Under Article 50(3)(a) of the Law, an Information Memorandum of an Exempt Fund or a Qualified Investor Fund is a Prospectus for the purposes of the Law and the Rules unless otherwise provided. In limited circumstances, the Rules prescribe additional disclosure to be included in a Prospectus of an Exempt Fund (for example Rule 13.6.3 where an Exempt Fund appoints a prime broker with certain additional powers).
2. There is no detailed prescribed disclosure content for the Information Memorandum of an Exempt Fund or a Qualified Investor Fund. However, as an Information Memorandum is a Prospectus, it is subject to the disclosure obligation in Article 52(2) of the Law. As a result, a Fund Manager of such a Fund must include all the information which Professional Clients to whom it intends to Offer Units of the Fund would reasonably require and expect to find in such a Prospectus. This is to enable such Clients to make an informed decision relating to investing in the Fund.
3. In the case of an Information Memorandum for an Exempt Fund or Qualified Investor Fund with Units that are Security Tokens, or where a material part of the Fund Property consists of Investment Tokens, the DFSA considers that Professional Clients would reasonably require and expect to find in such a Prospectus the information specified in MKT App 7. Where a material part of the Fund Property consists of Tokens other than Investment Tokens, the DFSA considers that Professional Clients would reasonably require and expect to find in such a Prospectus the equivalent of any information specified in MKT App 7 that is relevant to those Tokens.

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## **15 MARKETING OF FOREIGN FUNDS**

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### **15.1 Access to Foreign Funds and availability of Prospectus**

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#### **Prospectus disclosure relating to Foreign Funds**

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- 15.1.3**
- (1) The Prospectus of a Foreign Fund made available by an Authorised Firm must be in the English language.
  - (2) The Prospectus must contain in a prominent position, or have attached to it, a statement that clearly:

- (a) describes the foreign jurisdiction and the legislation in that jurisdiction that applies to the Fund;
- (b) states the name of the relevant Financial Services Regulator in that jurisdiction;
- (c) describes the regulatory status accorded to the Fund by that Regulator;
- (d) includes the following warning:

“This Prospectus relates to a Fund which is not subject to any form of regulation or approval by the Dubai Financial Services Authority (“DFSA”).

The DFSA has no responsibility for reviewing or verifying any Prospectus or other documents in connection with this Fund. Accordingly, the DFSA has not approved this Prospectus or any other associated documents nor taken any steps to verify the information set out in this Prospectus, and has no responsibility for it.

The Units to which this Prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers should conduct their own due diligence on the Units.

If you do not understand the contents of this document you should consult an authorised financial adviser.”;

- (e) if the Offer is not directed to Retail Clients, includes a prominent statement to that effect to be incorporated within the warning in (d);
  - (f) in the case of an Offer of a Unit in a Money Market Fund, contains the risk warning referred to in Rule 14.4.7; and
  - (g) in the case of an Offer of a Unit in a Venture Capital Fund, contains the risk warning referred to in Rule 14.4.11 and the additional disclosure required under Rule 14.4.12.
- (3) If Units of the Fund are Security Tokens, the Prospectus must contain, or have attached to it, information equivalent to that specified in MKT App 7 in respect of those Units.
- (4) If 10% or more of the gross asset value of the Fund Property consists of Investment Tokens, the Prospectus must contain, or have attached to it, information equivalent to that specified in MKT App 7 in respect of those Investment Tokens.

### **Guidance**

Where a material part of the Fund Property of a Foreign Fund consists of Tokens other than Investment Tokens, the DFSA considers that the Prospectus of that Fund should contain information relating to those Tokens that is equivalent to the information specified in MKT App 7. Such information is likely to be relevant under Article 52(2) of the Law, which requires disclosure of all the information a person and his professional advisers would reasonably require and expect to find in the Prospectus to make an informed decision to become a Unitholder of the Fund.

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