

Appendix 6

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



The DFSA Rulebook

Markets Module

(MKT)

2 OFFER OF SECURITIES

.....

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; or
- (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 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.

2.3.2 Where any Securities, which were previously the subject of an Exempt Offer, are subsequently offered to the public, such a subsequent offer will be regarded, for the purposes of Part 2 of the Law and the Rules made for the purposes of that Part, as a separate and new Offer of Securities to the Public, unless that offer meets one of the criteria in Rule 2.3.1.

2.3.3 An offer of Securities remains an Exempt Offer even if the offer falls in whole or part within more than one of the circumstances specified in Rule 2.3.1, as long as all of the offer falls within at least one of those circumstances.

Guidance

1. In Rule 2.3.1(b), it is the number of offers made, rather than the actual issues or sales resulting from such offers, that would be relevant for the purposes of the exemption

so that mass marketing to potential investors in or from the DIFC cannot be undertaken.

2. In considering whether a document referred to in (h) or (i) contains all the relevant information, the DFSA will take into account the information required under Part 2 of the Law and the Rules in this chapter.