

**Appendix 1**

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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*[Note: some text is included in this draft for context but is not being amended. For example some Rules are included as they are referred to in proposed new text]*

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## PART 2: DEFINITIONAL PROVISIONS

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### **Bodies corporate not undertaking investment management**

- 2.1.10** An arrangement does not constitute a Collective Investment Fund if the arrangement comprises a closed-ended Partnership or Body Corporate, unless on reasonable grounds the purpose or effect of such an arrangement appears to be the investment management, in the exercise of discretion for a collective purpose, of Investments or Real Property ~~Estate assets~~ for the benefit of the shareholders or partners.

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## **3 SPECIALIST CLASSES OF FUNDS**

### **3.1 Specialist Funds**

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#### **Property Fund**

- 3.1.7** A Fund is a Property Fund if it is dedicated to investment in Real Property and in Securities issued by Bodies Corporate whose main activities are investing in, dealing in, developing or redeveloping Real Property.

#### **Real Estate Investment Trust (REIT)**

- 3.1.8** A Fund is a Real Estate Investment Trust (REIT) only if it meets the criteria in Rule 13.5.1(2).

#### **Guidance**

REITs are a subset of Property Funds. A REIT can only be a Public Fund (see Rule 13.5.1). As REITs are a subset of Public Property Funds, they must comply with applicable Rules in section 13.4 for Property Funds as well as Rules in section 13.5 for REITs.

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#### **Money Market Fund**

- 3.1.11** A Fund is a Money Market Fund if the Fund's investment objectives are to preserve the capital of the Fund and provide daily liquidity, while achieving returns that are in line with money market rates.

#### **Guidance**

1. Money market rates are interest rates on instruments that are normally traded on the money market, such as treasury bills, certificates of deposit and commercial papers.
2. A Fund may fall within the definition of a Money Market Fund even if it:

- (a) is not described or marketed as such a Fund; or
  - (b) has objectives additional to those specified in the definition provided that they are not inconsistent with the investment objectives in the definition.
3. Money Market Funds are usually structured as either variable net asset value Funds (VNAV Funds) or constant net asset value Funds (CNAV Funds). A VNAV Fund values its assets on a mark to market basis, allowing for changes in the value of Units. A CNAV Fund aims to maintain an unchanged face value (e.g. \$1 per Unit).
4. The combined practical effect of the valuation requirements in Rule 8.4.1 and the requirements for pricing of Units in Rule 8.5.1 prevents a Money Market Fund being established as a CNAV Fund. The DFSA would generally not waive those requirements to allow such a Fund to be established due to the additional systemic risks and risks to investors that a CNAV Fund can present.

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## 8 MANAGEMENT AND OPERATION OF Aa FUND

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### 8.2 Duties in relation to Fund Property

#### Fund Manager

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- 8.2.2 (1) In the case of an Investment Company or an Investment Partnership, the Fund Manager is responsible to the Unitholders for the safekeeping of the Fund Property.
- (2) Without removing the generality of the obligation under (1) and subject to (3), a Fund Manager must, in the case of a Fund which is an Investment Company or Investment Partnership:
- (a) delegate the activity of Providing Custody in relation to the Fund Property to a Service Provider who is an Eligible Custodian; and
  - (b) comply with the delegation procedures set out in section 8.12 in relation to such a delegation.
- (3) The requirement in ~~(2)~~ does not apply to:
- ~~(a) a Property Fund investing in Real Property where the Fund Manager has made adequate alternative arrangements that are in accordance with Rule 13.4.2; or~~
  - (a) a Property Fund in respect of Real Property:
    - (i) that is held by the Fund Manager in accordance with Rule 13.4.2 or 13.4.2A; or

(ii) for which the Fund Manager has made adequate alternative arrangements in accordance with Rule 13.4.2B;

- (b) a Private Equity Fund where the Fund Manager has made adequate alternative arrangements that are in accordance with Rule 13.3.1.

**Guidance**

Section 8.12 of this module governs the power of a Fund Manager to delegate certain of its Financial Service activities, and to outsource its functions.

**Trustee**

**8.2.3** In the case of an Investment Trust:

- (a) the Trustee of the Fund must hold the Fund Property in trust for the Unitholders and accordingly is responsible to the Unitholders for the safekeeping of the Fund Property;
- (b) the legal title of the Fund Property must be registered with the Trustee except in the case of a Property Fund investing in Real Property where the Trustee has made adequate alternative arrangements that are in accordance with Rule 13.4.2B; and
- (c) the Trustee must not act on instructions of the Fund Manager in relation to the Fund Property if such instructions are not in accordance with the agreement creating the Investment Trust, the Fund's Constitution, and the Prospectus.

**Guidance**

Section 8.12 of this module governs the power of a Trustee to delegate certain of its Financial Service activities, and to outsource its functions.

**Eligible Custodian**

**8.2.4** For the purposes of the Rules in this module, an Eligible Custodian is a Person who is a separate legal entity from the Fund Manager and who also meets one of the following criteria:

- (a) an Authorised Firm whose Licence authorises it to Provide Custody Services;
- (b) an Authorised Firm that is a Bank;
- (c) an Authorised Market Institution;
- (d) a legal entity that is authorised to provide custody services, and supervised, by a Financial Services Regulator in the State;
- ~~(d)~~(e) a legal entity that is authorised to provide custody services, and supervised, by a Financial Services Regulator in a Recognised Jurisdiction ~~for providing custody services in respect of a Fund and is~~

~~subject to a minimum capital requirement of \$4 million or its equivalent in any other currency at the relevant time and has had surplus revenue over expenditure for the last two financial years;~~

- ~~(e)~~(f) a legal entity where it, or its holding company, is:
  - ~~(i) in respect of its financial strength, rated or graded as at least “investment grade” by Moody’s, Fitch or Standard & Poor’s or such other international rating agency as may be recognised by the DFSA; and~~
  - (ii) authorised to provide custody services and is supervised by a Financial Services Regulator in another jurisdiction which is a Zone 1 country; ~~or~~
- ~~(f)~~(g) a legal entity that is authorised or recognised by a Financial Services Regulator to operate as an exchange or a clearing house in a Recognised Jurisdiction; or
- ~~(g)~~(h) a legal entity that is and remains:
  - (i) controlled and wholly owned by one or more of the national governments of the ~~six~~ five member states of the Gulf Cooperation Council, other than the State; and
  - (ii) authorised to provide custody services, and supervised, by a Financial Services Regulator ~~or Central Bank~~ of at least one of the ~~said~~ national governments specified in (i); and
  - ~~(iii) rated or graded as at least “investment grade” by Moody’s, Fitch or Standard & Poor’s or such other international rating agency as may be recognised by the DFSA.~~

### 8.3 Conflicts of interest

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#### ~~Affected Person transactions~~ Related Party Transactions

- 8.3.2** (1) A Fund Manager must not enter into a Related Party Transaction ~~in respect of the Fund Property with an Affected Person~~ unless it is in accordance with the requirements in this Rule.
- (2) A Fund Manager must ensure that any Related Party Transaction ~~transaction in respect of the Fund Property undertaken with an Affected Person~~ is on terms at least as favourable to the Fund as any comparable arrangement on normal commercial terms negotiated at arm’s length with an independent third party.
- (3) The Fund Manager must, before entering into a Related Party Transaction ~~transaction with an Affected Person:~~

- (a) obtain Unitholders' prior approval by Special Resolution, or by ordinary resolution in the case of a Property Fund, in respect of the proposed transaction if the total consideration or value of the transaction is 5% or more of the most recent net asset value of the Fund as disclosed in the latest published audited accounts of the Fund; and
  - (b) issue to the Unitholders a circular containing the details of the transaction.
- (4) The Fund Manager must:
- (a) if prior Unitholder approval is required pursuant to (3)(a), issue a notice to Unitholders providing details of the results of the Unitholders' voting at the general meeting as soon as practicable after the meeting;
  - (b) include a brief summary of the Related Party Transaction, and certify that the requirements in these Rules have been met for the transaction, ~~Affected Person transactions~~ in the Fund's next published interim or annual report; and
  - (c) include, in the annual report of the Fund, the total value of any Related Party Transactions ~~Affected Person transactions~~, their nature and the identities of the Related Parties ~~Affected Persons~~ with whom such transactions were made. Where there is no such transaction conducted during the financial year covered by the annual report, an appropriate negative statement to that effect must be made in the annual report.
- (5) The requirements in (3) and (4)(a) do not apply in relation to an Exempt Property Fund.

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## **8.4 Valuation of Fund Property**

- 8.4.1** (1) A Fund Manager must:
- (a) ensure that the Fund Property is valued at regular intervals as appropriate to the nature of the Fund, except where such valuation is suspended in any circumstances that are set out in the Fund's Constitution or Prospectus;
  - (b) prepare a valuation in accordance with (3) for each relevant type of Unit at each relevant valuation point; and
  - (c) as soon as practicable after each valuation point, both publish and make available to the Unitholders and prospective Unitholders of the Fund, the price of the Units of the Fund.

- (2) The value of the Fund Property is the net value of the Fund Property after deducting any expenses and outstanding borrowings, including any capital outstanding on a mortgage of any Real Property.
- (3) The value of the Fund Property must, except as otherwise provided in this section, be determined in accordance with the provisions of the Constitution and the Prospectus, as appropriate.
- (4) For the purposes of (2), any charges that were paid, or would be payable, on acquiring or disposing of the asset must be excluded from the value of that asset.
- (5) A Fund Manager must not make a dilution levy or dilution adjustment unless stated as permitted in the Fund's Prospectus. Such a measure must be applied in a fair manner to reduce dilution and solely for that purpose.

**Guidance**

1. A dilution levy or adjustment means a charge of such amount or such rate as is determined by a Fund Manager of a Fund to be made for the purpose of reducing the effect of dilution, i.e., the amount of dealing costs incurred, or expected to be incurred, by a Fund Manager, to the extent that these costs may reasonably be expected to result, or to have resulted, from the acquisition or disposal of Investments by the Fund Manager as a consequence (whether or not immediate) of the increase or decrease in the cash resources of the Fund resulting from the issue or cancellation of Units over a period.
2. Dealing costs referred to in Guidance 1 include both the costs of dealing in an Investment, professional fees incurred, or expected to be incurred, in relation to the acquisition or disposal of Real Property and, where there is a spread between the buying and selling prices of the Investment, the indirect cost resulting from the differences between those prices.

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**8.5 Determination of single price**

- 8.5.1** (1) A Fund Manager must take all reasonable steps and exercise due diligence to ensure that the Units in the Fund are correctly priced in accordance with the applicable accounting procedures to ascertain an accurate single price for a Unit.
- (2) The price of a Unit must be calculated on the basis of the valuation in Rule 8.4.1 in a manner that is fair and reasonable as between Unitholders.

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**8.6A Confirmation notes**

- 8.6A.1** (1) When the Fund Manager of a Public Fund Executes a Transaction relating to a Unit of the Fund, it must ensure that a confirmation note is

sent to the Unitholder as soon as possible and no later than two business days after the date of Execution of the Transaction.

- (2) The confirmation note must set out:
- (a) the Fund Manager's name and address;
  - (b) the Unitholder's name;
  - (c) a description of the Fund;
  - (d) the date and time of receipt of the request for the Transaction to be executed and the method of payment;
  - (e) the nature of the Transaction;
  - (f) the number of Units subject to the Transaction;
  - (g) the date, time and price at which it was Executed;
  - (h) the reference valuation date;
  - (i) the gross value of the Transaction, including charges for subscribing or net amounts after charges for redemptions; and
  - (j) the total sum of commissions and expenses charged.

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## **PART 5: RULES SPECIFIC TO DIFFERENT TYPES OF DOMESTIC FUNDS**

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### **10 REQUIREMENTS SPECIFIC TO PUBLIC FUNDS**

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#### **Requirements for registration**

##### **10.2.3** .....

##### **Guidance**

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3. Under Rule 8.2.2(2), the Fund Manager of an Investment Company or Investment Partnership must delegate the function of holding safe custody of Fund Property (i.e. the Financial Service of Providing Custody in relation to Fund Property) to an Eligible Custodian. In the case of an Investment Trust, the Trustee of the Fund provides the safe custody function relating to Fund Property. However, this obligation does not apply in the case of certain types of specialist Funds where



alternative safe custody arrangements are permitted (see the custody requirements for Private Equity Funds and certain types of Property Funds in Rules ~~13.4.2~~ and 13.3.1, 13.4.2, 13.4.2A and 13.4.2B).

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

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### **13. ADDITIONAL REQUIREMENTS FOR SPECIALIST FUNDS**

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#### **13.4 Property Funds**

##### **Guidance**

See Rule 3.1.7 for the definition of a Property Fund.

##### **Permitted form and listing**

- 13.4.1** (1) A Fund Manager of a Domestic Fund which is a Property Fund must use only a closed-ended legal structure for the investment vehicle.
- (2) In the case of a Property Fund which is or intends to be a Public Fund, the Fund Manager:
- (a) may only use either an Investment Company or Investment Trust as the investment vehicle of the Fund;
  - (b) must ensure that it is listed and traded on an Authorised Market Institution or is listed and traded on an exchange in a Recognised Jurisdiction within 6 months from the date on which the Units of the Fund are first Offered to the public or any other shorter period as specified in the Fund's Prospectus; and
  - (c) must ensure that the Constitution of the Fund includes provisions that deal with:
    - (i) the manner in which the issue and redemption of Units of the Fund will be made to ensure that the Fund is closed ended; and
    - (ii) if applicable, the circumstances in which any Private Placements may be made.

##### **Guidance**

A closed ended legal structure is an investment vehicle used by a Fund that does not continuously issue or redeem Units based on the net asset value of the Fund. Therefore, Unitholders of such Funds do not have a redemption right. Instead, if the Fund is listed and traded, Unitholders are able to sell their Units or buy Units on exchange, however, a

Fund using a closed-ended structure can issue new Units to new Unitholders (or effect a buyback) subject to the applicable laws and where permitted under its own Constitution.

**Self-custody of Real Property for Public Funds**

- 13.4.2** (1) A Fund Manager of a Public Property Fund is not required to appoint an Eligible Custodian under Rule 8.2.2(2) for Real Property if the Fund Manager:
- (a) acts as custodian of the Real Property; and
  - (b) has in place adequate systems and controls to ensure the proper segregation and protection of the Real Property.
- (2) The systems and controls referred to in (1)(b) must, as a minimum, ensure that:
- (a) legal title to the Real Property is registered in the name of the Fund;
  - (b) the Fund Manager identifies, manages and monitors any conflicts of interest that may arise due to it acting as custodian of the Real Property;
  - (c) the Fund Manager clearly designates the employees who are responsible for safeguarding the ownership rights of the Fund over any Real Property including but not limited to:
    - (i) safekeeping title deeds and other legally relevant documents relating to the Real Property; and
    - (ii) ensuring that legal title to the Real Property is registered in the name of the Fund; and
  - (d) the employees referred to in (c) are not required to carry out duties and functions which may conflict with their duties and functions referred to in that paragraph.

**Guidance**

1. A Fund Manager of a Public Property Fund may itself act as custodian of Real Property if it has in place adequate systems and controls to ensure the segregation and protection of the Real Property. This option only applies for Real Property (defined as land or buildings, whether freehold or leasehold, where the unexpired term of any lease exceeds 20 years). It does not permit the Fund Manager to act as custodian of Property Related Assets such as Shares in a Body Corporate which invests in Real Property or Units in another Property Fund.
2. In identifying, managing and monitoring conflicts of interest that may arise due to it acting as custodian, the Fund Manager must take into account that it is required under the Law to give priority to Unitholders' interests if there is a conflict between its own interests and the interests of Unitholders.
3. If a Fund Manager decides to act as custodian of Real Property as permitted under this Rule, it must disclose in the Fund Prospectus information about the additional risks that may arise and how it has addressed those risks (see Rule 14.4.4A).

**Self-custody of Real Property for Exempt Funds**

**13.4.2A** A Fund Manager of an Exempt Property Fund is not required to appoint an Eligible Custodian under Rule 8.2.2(2) for Real Property if the Fund Manager:

- (a) acts as custodian of the Real Property; and
- (b) has in place effective arrangements which ensure that the Real Property is not available to creditors if the Fund Manager becomes insolvent.

**Guidance**

Under this Rule, the arrangements must be legally effective to ensure that the Real Property is not available to creditors if the Fund Manager becomes insolvent. This might involve, for example, the use of trust arrangements or registration of title in the name of the Fund. This option only applies to custody of Real Property and not, for example, to Property Related Assets.

**Alternative Custody arrangements for Real Property in certain jurisdictions**

**13.4.2B** (1) If a Fund Manager wishes to rely on Rule 8.2.2(3)(a)(ii), or a Trustee of an Investment Trust wishes to rely on Rule 8.2.3(b), to make alternative arrangements for the purposes of those Rules, it may do so only if the requirements in (2) and (3) are met. A Fund Manager of a Property Fund is not required to appoint an Eligible Custodian for the Fund pursuant to Rule 8.2.2 where it meets the requirements in (2) and (3).

- (2) The Fund Manager or, in the case of an Investment Trust, the Trustee, for the purpose of meeting the legal or regulatory requirements in relation to the ownership of Real Property applicable in the jurisdiction in which the Real Property is situated, may implement alternative arrangements for safekeeping where the arrangements:
  - (a) in the case of an Investment Trust, enable the Trustee to continue to control the Fund Property; and
  - (b) in all cases:
    - (i) do not enable the Fund Manager to have unfettered control of the Fund Property; and
    - (ii) are in accordance, where applicable, with the requirements in Rules 13.4.6 to 13.4.11.
- (3) If the Fund Manager or, in the case of an Investment Trust, the Trustee, implements arrangements in accordance with (2), it must satisfy the DFSA that the arrangements have the effect specified

in (2) and are legally effective in the DIFC and in the jurisdiction where the Real Property is situated.

**Guidance**

1. Rule 13.4.2B applies in limited situations such as where legal title to Real Property cannot be held in a GCC country due to an applicable law in another jurisdiction. The Rule enables Fund Managers and Trustees to find suitable alternative arrangements to those mandated under Rule 8.2.2(2) and 8.2.3(b) for the safekeeping of Real Property ~~in circumstances where, for example, the Trustee of an Investment Trust cannot by reason of the applicable Law hold the legal title to Real Property in a GCC country.~~ In such situations appropriate use of declarations of trust, indemnities and resolutions may produce an acceptable alternative. The DFSA has previously permitted such alternative arrangements by way of waiver and modification to earlier provisions preceding the enactment of Rule 8.2.2(2) and 8.2.3(b).
2. Note that in relation to an Investment Company or Investment Partnership, Rule 8.2.2 requires a Fund Manager to delegate the activity of Providing Custody to an Eligible Custodian. In relation to an Investment Trust, Rule 8.2.3(b) also permits a Trustee to delegate the activity of Providing Custody to an Eligible Custodian.

**Investment Committee**

- 13.4.3** (1) A Fund Manager of a Property Fund must, subject to (2), call a meeting of Unitholders to vote on the election of at least three experts who are independent of the Fund Manager to sit on an investment committee of the Fund.
- (2) A Fund Manager of a Fund which is constituted as an Investment Trust need not appoint an investment committee.
- (3) The committee members in (1) are appointed to review investment opportunities and must not involve themselves in the day to day management of the Fund.

**Investments**

- 13.4.4** (1) A Fund Manager must, subject to (2), ensure that the assets of a Property Fund, except where otherwise provided in the Rules in this section, consist only of any or all of:
- (a) Real Property;
  - (b) Property Related Assets; or
  - (c) Units in another Property Fund; and
  - (d) ~~up to a maximum of 40% of cash, government and public Securities,~~ up to a maximum of 40%.
- (2) The requirements in (1) do not apply to a Fund Manager during the initial 6 month period of the Fund's operation and in any case, will be subject to any other time period set out in the Prospectus or as approved by a Special Resolution of the Unitholders.
- (3) A Fund Manager must ensure that:

- (a) Property Related Assets of a Public Property Fund:
    - (i) are listed and traded on an Exchange which is provided for in the Prospectus of the Fund; or and
    - (ii) if not listed and traded as specified in (i), are approved and reviewed regularly by the investment committee to ensure that they are sufficiently liquid and can be accurately valued; and
  - (b) the Property Fund does not grant any Person an option to acquire any property included in the Fund.
- (4) The Fund Manager or, where appointed, the Trustee, must, subject to (5), ensure that the Fund holds good marketable legal and beneficial title in all its Real Property, whether directly or via Special Purpose Vehicles controlled by the Fund. The Fund may hold such title as joint tenants or tenants-in-common with one or more third parties provided that the Fund must hold the majority interest and control and have the freedom to dispose of its interest.
- (5) Any special arrangement entered into in respect of Fund Property for the purposes of Islamic finance arrangements where the legal title to the property is held by a financial institution will be acceptable for the purposes of (4) provided information relating to such arrangements is either disclosed in the Prospectus of the Fund or approved by Special Resolution of Unitholders.
- (6) The Fund Manager and, if appointed, the Trustee, must take all reasonable care to ensure that the Fund Manager arranges adequate property insurance and public liability insurance coverage in relation to the Real Property of a Fund.

#### **Guidance**

1. Rule 13.4.4(5) enables Fund Managers and Trustees to use certain Islamic structures such as ijara for property financing which require the legal ownership of the real property to be held by the financial institution providing the financing.
2. Rule 13.4.4(5) does not require individual transactions to be specified in the Prospectus or approved by Special Resolution of Unitholders. Instead, it would be sufficient for general information relating to such arrangements, such as their legal effect, to be included in the Prospectus, failing which Unitholder approval by Special Resolution will be required. Similarly, Unitholders can by Special Resolution grant general approval for use of such Islamic financing arrangements, obviating the need for each specific transaction to be separately approved.

#### **Borrowing**

- 13.4.5** (1) The Fund Manager of a Public Property Fund may borrow either directly or through its Special Purpose Vehicle for financing investment or operating purposes, but aggregate borrowings must not at any time exceed 50% ~~80%~~ of the ~~total net~~ gross asset value of the Fund.

- (2) The Fund Manager of a Fund may pledge the Fund's assets to secure borrowings under (1).
- (3) In the event that the borrowing limit under (1) is exceeded, the Fund Manager must inform the Trustee (if appointed), the Unitholders and the DFSA of the magnitude of the breach, the cause of the breach, and the proposed method of rectification. The Fund Manager must use its best endeavours to reduce as soon as reasonably possible the excess borrowings.
- (4) All borrowings by the Fund must be conducted at arm's length.
- (5) Borrowings by any Special Purpose Vehicles held by the Fund must be aggregated for the purpose of calculating borrowings of the Fund for the purposes of this Rule.

### **Joint Ownership Arrangement**

**13.4.6** The Fund Manager must ensure that when a joint ownership arrangement is entered into, the Fund has a majority stake or holding in respect of that arrangement, that is, more than 50% ownership and control in each property at all times.

- 13.4.7** (1) In making any joint ownership investment under Rule 13.4.6, the Fund Manager must:
- (a) be able to demonstrate that the arrangement, including the decision to own less than a 100% interest in the property, is in the interests of the Unitholders; and
  - (b) must obtain a legal opinion in accordance with (2).
- (2) The legal opinion referred to in (1)(b) must include:
- (a) a description of the significant terms of the joint ownership arrangement;
  - (b) a statement whether the Fund will have a good and marketable legal and beneficial interest in the property;
  - (c) a description of the equity and profit sharing arrangements of the parties to the agreement;
  - (d) a statement that the relevant contract and joint ownership arrangements are legal, valid, binding and enforceable under applicable law;
  - (e) a statement that all necessary licences and consents required in the location where the subject property is located have been obtained by the Fund or its Special Purpose Vehicle;
  - (f) any restriction on divestment by the Fund of its interest, in whole or in part, in the property; and

- (g) if applicable, the implication of foreign rules and regulations that may prohibit full ownership of the property by the Fund.

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**Related Party Transactions~~Transactions with Affected Persons~~**

**Guidance**

Fund Managers ~~of Public Property Funds~~ are required pursuant to Rule 8.3.12 to obtain the agreement of Unitholders by way of an ~~ordinary resolution~~ Special Resolution before undertaking a ~~Related Party Transaction~~ an Affected Person transaction where the total consideration or value of the transaction is 5% or more of the net asset value of the Fund. See also App2 and App3.

- 13.4.12** (1) The following information in relation to Related Party Transactions ~~Affected Person transactions~~ must be disclosed to Unitholders and where appointed the Trustee, by the Fund Manager of ~~the~~ a Public Property Fund:

- (a) any beneficial interests of the Related Party ~~Affected Person~~, and any changes thereof, in the Fund; and
- (b) any potential conflicts of interests involving the ~~Affected Person~~ Related Party and the measures implemented to address such conflicts.

- (2) If the Fund Manager operates more than one Fund and a transaction involves two or more of the Funds operated by the Fund Manager, such transactions between the Funds will be Related Party Transactions ~~Affected Person transactions~~ for each of the Funds involved in the transactions.

- 13.4.13** (1) Where any ~~Affected Person~~ Related Party has an interest in an Undertaking which competes or is likely to compete, either directly or indirectly, with the Fund's activities, the Fund Manager ~~of a Public Property Fund~~ must disclose to Unitholders and where appointed the Trustee, the following:

- (a) a description of the Undertaking of the Related Party ~~Affected Person~~ and its management, to enable Unitholders to assess the nature, scope and size of such business, with an explanation as to how such Undertaking may compete with the Fund;
- (b) where applicable, a statement from the relevant Related Party ~~Affected Person~~ that it is capable of performing, and shall perform, its duty in relation to the Fund independently of its related business and in the best interests of the Fund and its holders; and
- (c) a statement as to whether the Fund may acquire any of the related business or assets of the Related Party ~~Affected Person~~.



- (2) If there is any change in information required under (1) after initial disclosure, the Fund Manager must disclose such changes to the Unitholders and where appointed the Trustee.

**13.4.14** Where an ~~Affected Person~~ Related Party has, for the purpose of the establishment of the Fund, agreed to sell Real Property to the Fund, the Fund Manager of a Public Property Fund must disclose the following in the Prospectus:

- (a) a valuation report by an independent valuer of the Real Property that the ~~Affected Person~~ Related Party has agreed to sell; and
- (b) the price to be paid by the Fund for the Real Property and other material terms of the transaction.

**13.4.15** (1) The Fund Manager of a Public Property Fund must ensure that if any cash forming part of the Fund's assets is deposited with an ~~Affected Person~~ Related Party (being an institution licensed to accept deposits), interest must be paid on the deposit at a rate not lower than the prevailing commercial rate for a deposit of that size and term.

- (2) The Fund Manager of a Public Property Fund must ensure that in the event of borrowing from an ~~Affected Person~~ Related Party (being an institution licensed to lend money), interest charged on the borrowing is at a rate not higher than the prevailing commercial rate for a borrowing of that size and term.

**13.4.16** (1) This Rule applies to a Related Party Transaction of a Public Property Fund that involves either:

- (a) services provided in the ordinary course of estate management of Real Property of the Fund, including renovation and maintenance work; or
- (b) engaging a property agent to provide services to the Fund, including advisory or agency services in property transactions.

- (2) The Fund Manager, and if appointed the Trustee, must ensure that if the value of the transaction is 5% or more of the most recent net asset value of the Fund as disclosed in the latest published audited accounts, it is entered into only with the prior approval of the Trustee or other oversight function.

**Guidance**

The requirements in Rule 13.4.16 are in addition to the other requirements in these Rules applying to Related Party Transactions, for example, for the Fund Manager to ensure the transaction is on normal commercial terms, is subject to unitholder approval if it is 5% or more of the net asset value of the Fund and is disclosed to Unitholders.

**13.4.16** ~~The Fund Manager must ensure that any Affected Person transactions in the nature of services provided relating to the Real Property of the Fund in the ordinary and usual course of estate management, including renovation and maintenance work, are contracted on normal commercial terms and subject to the prior approval of the Trustee or other oversight function.~~

**13.4.17 Deleted** ~~The Fund Manager and, if appointed, the Trustee must not engage Affected Persons as property agents for rendering services to the Fund, including advisory or agency services in property transactions.~~

**Valuation function**

- 13.4.18** (1) The Fund Manager of a Property Fund must, subject to the approval of the Trustee, appoint a Person who is able to provide professional valuation services in accordance with the Rules in this section.
- (2) The Fund Manager must ensure that the Person appointed under (1) values each Real Property prior to its acquisition and disposal.
- (3) The Fund Manager must commission the Person referred to in (1) to produce a valuation report of the Property Fund each year in accordance with Rule 13.4.22. The net asset value of the Fund following this valuation must be reported in the annual report of the Fund.

**13.4.19** For the purpose of Rule 13.4.18, a Fund Manager must appoint a Person:

- (a) who carries on the business of valuing Real Property;
- (b) who is not Related to the Fund Manager; and
- (c) whom the Fund Manager, and if appointed the Trustee, have reasonable grounds to believe would be capable of providing objective valuation of Real Property.

**Guidance**

1. The term “Related” has the meaning given to it in the GLO module.
2. A Fund Manager, and where appointed the Trustee, in forming the opinion required under Rule 13.4.19(c), should be satisfied that the Person to be engaged for providing valuation of Real Property meets if not all, at least most of the following criteria:
  - a. the Person is a, or has key personnel who are, fellow or associate members of a recognised professional body of surveyors or property valuers and who are qualified to perform property valuations;
  - b. the Person has or has access within the organisation to the relevant expertise, that is, knowledge of and experience in the valuation of property of the relevant kind in the relevant area where the property is situated;
  - c. the Person has robust internal controls and checks and balances to ensure the integrity of valuation reports and that these reports are properly and professionally prepared in accordance with international best practice;
  - d. the Person has adequate professional insurance to cover its usual risks;
  - e. the Person does not have ownership or other commercial links with any other Persons providing Financial Services to the Fund (such as investment advisers or investment managers appointed to the Fund), which would impair that Person’s ability to provide independent and objective valuation services to the Fund; and

- f. the Person or any of his associates has not been instrumental in relation to the finding of the Real Property for the Fund.

- 13.4.20** (1) A Fund Manager must ensure that any valuation by the Person appointed to provide valuation services to the Fund is carried out on the basis of an ‘open market value’ as defined in the Constitution and the most recent Prospectus of the Fund.
- (2) The valuation report under (1) must confirm that if the Real Property was acquired for the Property Fund it could be disposed of at that valuation within a reasonable period.

- 13.4.21** The Fund Manager must ensure that the property is acquired within a reasonable time from the date of the valuation report and in any event not later than six months from the date of valuation and at a price no more than 5% above the valuation price.

**Guidance**

The DFSA would expect the Fund Manager to define ‘open market value’ to be based on an authoritative text such as the Royal Institute of Chartered Surveyors’ Appraisal and Valuation Standards (fifth edition) (“Red Book”); or similar practitioners text used by surveyors; or International Valuation Standards issued from time to time by the International Valuation Standards Committee.

**Valuation Report**

- 13.4.22** A Fund Manager must ensure that any valuation report prepared by the Person appointed:
- (a) includes all material details in relation to the basis of valuation and the assumptions used;
  - (b) describes and explains the valuation methodologies adopted;
  - (c) outlines the overall structure and condition of the relevant market including an analysis of the supply and demand situation, the market trend and investment activities;
  - (d) includes a brief description of the property, its location, the nature of the interest the Fund holds in the property, its existing use, any encumbrances concerning or affecting the property, the lease expiry profile if any, the capital value in existing state at the date the valuation was performed, the net monthly income from the property, and any other matters which may affect the property or its value;
  - (e) confirms the professional status of the valuer and that the valuation report is prepared on a fair and unbiased basis; and
  - (f) explains the rationale for choosing the particular valuation method if more than one method is available.

- 13.4.23** A Fund Manager must ensure that whenever a valuation report is prepared for the Fund, the date of the valuation report must be:
- (a) the date the Fund is valued, if such report is prepared for the purpose of calculating the net asset value of the Fund; or
  - (b) a date which is not more than ~~six~~ three months before the date on which:
    - (i) an offering document is issued;
    - (ii) a circular is issued, if the circular relates to a transaction that requires Unitholders' approval; or
    - (iii) a sale and purchase agreement or other agreement to transfer legal title is signed, if the transaction does not require Unitholder approval.

**RetirementReappointment of valuer**

- 13.4.24** (1) A Fund Manager must ensure that where a Person appointed pursuant to Rule 13.4.19 has conducted valuations of the Real Property for the Fund for five consecutive years, that Person is ~~retired~~ not permitted to continue to provide valuation services for the Fund unless before the end of that period the position has been put out to tender and the Person has been re-appointed in accordance with that process.
- (2) ~~A Person retired under (1) must not be re-appointed by the Fund Manager to perform Fund valuation unless a period of two years has elapsed from the date of the retirement of that Person. If the Fund Manager decides to re-appoint the same Person to provide valuation services for the Fund following the tender process referred to in (1), it must, in the next interim or annual report provided to Unitholders, specify the reasons for the re-appointment and the evidence supporting those reasons.~~
- (3) The Fund Manager, and if appointed the Trustee on instructions of the Fund Manager, may at any time remove the Person appointed to provide the valuation services by notice in writing in any of the following events:
- (a) the Person enters into liquidation, becomes bankrupt or has a receiver appointed over its assets; or
  - (b) the Fund Manager, in consultation with the Trustee, determines on reasonable grounds that it is necessary to remove that Person in the interests of the Fund and the Unitholders; or
  - (c) an ordinary resolution is passed by the Unitholders to dismiss that Person.

- (4) Upon the retirement or dismissal of the Person appointed to provide the valuation services to the Fund, the Fund Manager must appoint another Person to provide valuation services to the Fund where the Fund Manager and where appointed the Trustee are satisfied that the Person meets the requirements specified in Rule 13.4.19.

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## **13.5 Real Estate Investment Trusts (REITs)**

### **Guidance**

1. See Rule 3.1.8 for the definition of a Real Estate Investment Trust (REIT).
2. REITs are a subset of Property Funds. The Fund Manager of a Public Property Fund, which is, or is to be held out, as a REIT, is required, in addition to the general Rules applying to Public Property Funds (such as Rules on borrowing and Related Party Transactions), to also comply with the Rules in this section.

### **Real Estate Investment Trusts (REITs)**

- 13.5.1**
- (1) A Fund Manager, or any Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term “Real Estate Investment Trust” or “REIT” or refer to a Fund or otherwise hold out a Fund as being a Real Estate Investment Trust or a REIT, unless it is a Public Property Fund which is constituted in accordance with (2).
  - (2) A REIT is a Public Property Fund which:
    - (a) is constituted either as an Investment Company or as an Investment Trust;
    - (b) is primarily aimed at investments in income-generating Real Property; and
    - (c) distributes to the Unitholders at least 80% of its audited annual net income; ~~and~~
    - (3) ~~(d)~~ if at any time during the operation of the Fund the requirements in (2) are not met, the Fund Manager, and, if appointed the Trustee, must immediately notify the DFSA and the exchange of the failure to meet the requirements in these Rules and what measures have been or will be taken to remedy the breach.
- 13.5.2**
- (1) A Fund Manager of a REIT must ensure that it distributes to the Unitholders as dividends each year an amount not less than 80% of its audited annual net income.
  - (2) The Persons providing oversight functions in respect of the Fund must determine if any;
    - (a) revaluation surplus credited to income, or

(b) gains on disposal of Real Property,

shall form part of net income for distribution to Unitholders.

**13.5.3** Where a REIT holds any Real Property via one or more Special Purpose Vehicles, the Fund Manager must ensure that each Special Purpose Vehicle distributes to the Fund all of its income as permitted by the laws and regulations of the jurisdiction where the Special Purpose Vehicle is established.

**13.5.4** (1) A Fund Manager of a REIT must ensure, subject to (2), that any investment made in respect of property under development whether on its own or in a joint venture is undertaken only where the REIT intends to hold the developed property upon completion.

(2) The total contract value of the property under development in (1) must not exceed 30% of the net asset value of the Fund Property of the REIT.

**Guidance**

For the purposes of Rule 13.5.4, the DFSA would not consider property development activities to include refurbishment, retrofitting and renovation.

~~**13.5.5** A Fund Manager of a REIT may borrow either directly or through its Special Purpose Vehicle up to 70% of the total net asset value of the Fund.~~

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**13.9 Money Market Funds**

**Investment conditions and borrowings**

**13.9.1** (1) A Fund Manager of a Money Market Fund must ensure that the Fund's investment strategy is consistent with the investment objectives of such a Fund as set out in Rule 3.1.11.

(2) Without limiting (1), the Fund Manager of a Money Market Fund must ensure that:

(a) at least 90% of the net asset value of the Fund Property is invested in Deposits or Debentures that are of high quality, as determined by the Fund Manager in accordance with Rule 13.9.2;

(b) at least 10% of the net asset value of the Fund Property consists of cash in accounts that permit the cash to be withdrawn immediately on demand;

(c) Deposits and Debentures issued by a single issuer do not exceed 10% of the net asset value of the Fund Property;

- (d) the Fund invests only in Deposits or Debentures:
    - (i) with a residual maturity until the legal redemption date of not more than two years; and
    - (ii) where the time remaining until the next interest rate reset date is not more than 397 days;
  - (e) the Fund Property has a weighted average maturity of not more than 6 months;
  - (f) the Fund Property has a weighted average life of not more than 12 months;
  - (g) the Fund does not invest in Financial Instruments other than Deposits or Debentures, except for:
    - (i) Units in other Money Market Funds that have investment objectives and strategies consistent with those of the Fund; or
    - (ii) Derivatives that are used solely to hedge against foreign exchange rate risk; and
  - (h) the borrowings of the Fund do not, at any time, exceed 10% of the net asset value of the Fund Property.
- (3) In (2):
- (a) the “net asset value” of Fund Property means the value of Fund Property at the most recent valuation;
  - (b) the “weighted average maturity” of Fund Property, means the average length of time to maturity of all the Financial Instruments held as Fund Property, weighted to reflect the relative holdings in each Financial Instrument, where the maturity of a floating rate instrument is the time remaining until the next interest rate reset to the money market rate; and
  - (c) the “weighted average life” of Fund Property, means the weighted average of the remaining life of each Financial Instrument held as Fund Property, where the remaining life of a Financial Instrument is the time until the principal is repaid in full.

**Due diligence on investment quality**

**13.9.2**

To determine whether a Deposit or Debenture is of high quality for the purposes of Rule 13.9.1(2)(a), a Fund Manager of a Money Market Fund must carry out adequate due diligence on the Deposit or Debenture, taking into account the following factors:

- (a) the credit quality of the Issuer, and any guarantor, of the Investment;
- (b) the nature and quality of the asset class represented by the Investment;
- (c) the liquidity of the Investment; and
- (d) any other risks associated with the Investment or the market in which it is traded.

**Guidance**

- 1. A Fund Manager must carry out the due diligence required under this Rule as part of its internal procedures. However, this does not prevent a Fund Manager from using a service provider to carry out the necessary due diligence, provided the outsourcing requirements in these Rules are met.
- 2. A Fund Manager will not meet the due diligence requirements in this Rule if it relies solely on credit ratings issued by a credit rating agency. This is because assessment of credit quality is only part of the due diligence required under the Rule.
- 3. A Fund Manager should keep appropriate records of the due diligence it has conducted on an Investment to demonstrate that it has complied with this Rule.

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

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**14.4      Additional Prospectus disclosure for specialist Funds**

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**Prospectus of a Property Fund**

**14.4.2** A Fund Manager of a Property Fund must ensure that the following information is disclosed in the Fund’s Prospectus:

- (a) the nature of the commitment which prospective Unitholders will enter into;
- (b) the risks involved in this type of Fund;
- (c) the prominent risk warning which makes reference to circumstances in property markets which can cause difficulties in meeting redemptions;
- (d) details of the Property Fund’s appointed Valuer under Rule 13.4.18(1);



- (e) in a prominent position in the Prospectus, the redemption procedures;
- (f) the dividend or income distribution policy;
- (g) the insurance arrangement for the Fund;
- (h) a statement with respect to any material policy regarding real property activities;
- (i) details of transactions or agreements entered into with Related Parties~~Affected Persons~~;
- (j) full particulars of the nature and extent of the interest, if any, of Related Parties~~Affected Persons~~, in the property owned or proposed to be acquired by the Fund;
- (k) details of significant holders and the number of units held and deemed to be held by each of them;
- (l) details of principal taxes levied on the Fund's income and capital, including tax, if any, deducted on distribution to Unitholders;
- (m) a statement to explain the standards according to which the property valuations are conducted; and
- (n) if applicable, the Fund is a REIT and whether the investment vehicle is an Investment Company or an Investment Trust.

**14.4.3** A Fund Manager of a Public Property Fund must also disclose in the Fund's Prospectus, in addition to the standard disclosure requirements, in respect of investment limits, the following information:

- (a) what percentage of the Property Fund's net assets may consist of property related assets which are not traded in or dealt on markets provided for in the Constitution;
- (b) unless the Constitution and the Prospectus state that the Fund invests in a single property, the maximum percentage of the Fund's net assets which may be invested in any single property or, if applicable, the conditions under which the Fund may derogate from this restriction;
- (c) the maximum percentage of the Property Fund's net assets which may be invested in properties which are vacant, in the process of development or requiring development; and
- (d) the maximum percentage of the Property Fund's net assets which may be invested in properties which are subject to a mortgage.

**14.4.4** Without limiting any other disclosure obligations of the Fund Manager under these Rules, a Fund Manager of a Property Fund which is a Public Fund that invests in a single property must prominently disclose in the Prospectus of the Fund:

- (a) that the Fund invests in a single property;
- (b) details relating to the single property such as whether the property comprises individual properties or buildings, whether there are different types of uses of or businesses conducted in the property, and proportions of anticipated income to be derived from the types of uses or occupants of the property; and
- (c) any risks associated with the investment in the single property, including risks arising from or affecting income to be derived from the uses or occupants of the property.

**Guidance**

A Fund may be considered to invest in a single property if the Fund Property (apart from cash or other assets held for management purposes) comprises a single building (or a single building with ancillary or adjacent buildings) managed by or on behalf of the Operator of the Fund as a single enterprise.

**14.4.4A** Without limiting any other disclosure obligations of the Fund Manager under these Rules, if the Fund Manager of a Public Property Fund itself acts as custodian of Real Property in accordance with Rule 13.4.2, it must prominently disclose in the Prospectus of the Fund:

- (a) that it acts as custodian of the Real Property;
- (b) the risks that may arise as a result of it acting as custodian rather than delegating the function to an Eligible Custodian; and
- (c) the measures and safeguards it has in place to ensure the proper segregation and protection of the Real Property.

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**Risk warning for a Money Market Fund**

**14.4.7** A Fund Manager of a Money Market Fund that is a Public Fund must ensure that the Fund's Prospectus includes a prominent warning:

- (a) that an investment in a Money Market Fund is different from a Deposit and explaining the differences between investing in a Money Market Fund and a Deposit in terms of the safety of the capital and returns;
- (b) that the capital of an investment in a Money Market Fund is not guaranteed; and
- (c) that the value of Units in the Money Market Fund may fluctuate.

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**15            MARKETING OF FOREIGN FUNDS**

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

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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.”;

~~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)- ; and

(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.

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## PART 8 – TRANSFER SCHEMES AND WINDING UP OF DOMESTIC FUNDS

### 16. TRANSFER SCHEMES RELATING TO DOMESTIC FUNDS

#### 16.1 Application of the Regulatory Law

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**16.1.3** (1) ~~Article 108 (4)~~ Part 9 of the Regulatory Law 2004 is to be read and, to have effect, as if it were subject to the provisions set out in this Rule.

(2) .....

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### APP 2 MEETING PROCEDURES

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**A2.1.5** In the case of a resolution required under these Rules for the approval of a proposed Related Party Transaction, a Unitholder who is the Related Party proposing to enter into the transaction, and a Unitholder who is an Associate of that Related Party, is not entitled to vote on the resolution.

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### APP 5 CONSTITUTION OF A DOMESTIC FUND

#### A5.1 Contents of Constitution

**A5.1.1** (1) The Constitution of a Domestic Fund must contain all the information prescribed in the following table except where it is an Exempt Fund, in which case, it must contain the information specified in A, C, D, F, G, H, K and M.

(2) The requirements in the following table do not apply in respect of the Constitution of a Qualified Investor Fund.

<b>A</b>	<b>General Information</b>
	<p>The following information:</p> <ol style="list-style-type: none"> <li>(1) The name of the Fund.</li> <li>(2) The Fund Manager's and, if the Fund is structured as an Investment Trust, the Trustee's name and the principal place of business in the DIFC as recorded by the Registrar of Companies.</li> <li>(3) That the Fund is a Domestic Fund, the Constitution of which is governed by the laws of the DIFC.</li> <li>(4) That the Fund is a Public Fund, or Exempt Fund, as the case may be.</li> <li>(5) The legal form of the Fund and whether it is open or closed ended.</li> <li>(6) If the Fund is a specialist class of a Fund as defined in chapter 3 of this module, the relevant specialist class, and if applicable, that the Fund is an Islamic Fund and consequently the Fund's entire business operations are conducted in accordance with Shari'a.</li> <li>(7) If the Fund is managed by an External Fund Manager, that fact and the details of the Appointed Fund Administrator or Custody Provider of the Fund.</li> <li>(8) If the Fund is an External Fund, the name of the jurisdiction in which the Fund is domiciled.</li> </ol>
<b>B</b>	<b>General Statements</b>
	<p>The following information:</p> <ol style="list-style-type: none"> <li>(1) The Fund Manager is responsible, pursuant to the Law, for all operations concerning the Fund and may from time to time delegate activities or outsource functions, but not the responsibility for conducting those activities and functions, to another Person in accordance with the CIR Rules.</li> <li>(2) <ol style="list-style-type: none"> <li>(a) The Fund Property is entrusted to the Fund Manager and the Fund Manager remains responsible for the property even when an Eligible Custodian holds the legal title to the Fund Property; or</li> <li>(b) The Fund Property is held on trust by the Fund's Trustee, as the case may be.</li> </ol> </li> <li>(3) Whether the duration of the Fund is limited and, if so, for how long.</li> <li>(4) That fees, charges and other expenses of the Fund may be taken out of Fund Property and the basis for determination of the quantum of</li> </ol>

	<p>such fees, charges and other expenses.</p> <p>(5) The maximum and minimum sizes of the Fund's capital, if any.</p> <p>(6) That the Unitholders are not liable for the debts of the Fund, unless the applicable legislation prescribes otherwise and, if so, those circumstances.</p> <p>(7) That a Unitholder is not liable to make any further payment after he has paid the price of his Units and that no further liability can be imposed on him in respect of the Units he holds.</p> <p>(8) That payments to the Fund Manager, Trustee, any Eligible Custodian, or the Person providing the oversight function (including a Shari'a Supervisory Board) by way of remuneration are authorised to be paid (in whole or in part) out of the Fund Property.</p>
<b>C</b>	<b>Where the Fund is a Trust</b>
	<p>The following information:</p> <p>(1) The Trust Deed is made under and governed by the Investment Trust Law 2006 and:</p> <p style="padding-left: 40px;">(a) is binding on each Unitholder as if he had been a party to it and that he is bound by its provisions; and</p> <p style="padding-left: 40px;">(b) authorises and requires the Fund Manager and the Trustee to do the things required or permitted of them by its terms and the Investment Trust Law 2006 and the Law.</p> <p>(2) Subject to the provisions of these Rules:</p> <p style="padding-left: 40px;">(a) the Fund Property (other than sums held to the credit of the distribution account) is held by the Trustee on trust for the Unitholders according to the number of Units held by each Unitholder or, where relevant, according to the number of individual shares in the Fund Property represented by the Units held by each Unitholder; and</p> <p style="padding-left: 40px;">(b) the sums standing to the credit of any distribution account are held by the Trustee on trust to distribute or apply in accordance with these Rules relating to income.</p>
<b>D</b>	<b>Investment Objectives</b>
	<p>(1) Information covering the investment objectives of the Fund and in particular:</p> <p style="padding-left: 40px;">(a) whether the aim of the Fund is to spread investment risks and, if a Property Fund, whether the Fund invests in a single property;</p> <p style="padding-left: 40px;">(b) the types of Investments or assets in which it and (where applicable) each Sub-Fund may invest; and</p>

	<p>(c) if the Fund is a specialist class of Fund, the class of Fund.</p> <p>(2) Details of any investment, borrowing or stock lending restrictions or, in the event that there are no such restrictions, a statement to that effect.</p>
<b>E</b>	<b>Units in the Fund</b>
	<p>A statement specifying:</p> <p>(a) the classes of Units which the Fund may issue; and</p> <p>(b) the rights attaching to Units of each class (including any provisions for the expression in two or more denominations of such rights).</p>
<b>F</b>	<b>Limitations</b>
	<p>Details as to:</p> <p>(a) the provisions relating to any restrictions on the right to redeem Units in any class; and</p> <p>(b) the circumstances in which the issue of the Units of any particular class may be limited.</p>
<b>G</b>	<b>Income and distribution</b>
	<p>(1) Details of who is carrying out the calculation, transfer, allocation and distribution of income for any class of Unit issued and outstanding during the accounting period.</p> <p>(2) Information regarding the provision for the payment of income, if any, and the date on which such distribution shall be made.</p>
<b>H</b>	<b>Base currency</b>
	A statement specifying the base currency of the Fund.
<b>I</b>	<b>Meetings</b>
	Details of the procedures for the convening of meetings and the procedures relating to resolutions, voting and the voting rights of Unitholders.
<b>J</b>	<b>Oversight arrangements</b>
	Details of the oversight arrangements, and if the Fund is an Islamic Fund, details of its Shari'a Supervisory Board.
<b>K</b>	<b>Termination and suspension</b>
	<p>Details as to:</p> <p>(a) the grounds under which the Fund Manager may initiate a suspension of the Fund and any associated procedures; and</p> <p>(b) the methodology for determining the rights of Unitholders to</p>

	participate in the Fund Property on winding up.
<b>L</b>	<b>Modification of the Constitution documents</b>
	Details of the manner in which alterations to the Constitution may be made.
<b>M</b>	<b>Responsibility statement</b>
	A statement that nothing in the Constitution has the effect of exempting the Fund Manager and, if the Fund is structured as an Investment Trust, the Trustee, from any liability to Unitholders imposed under DIFC law and the Rules.
<b>N</b>	<b>Other relevant matters</b>
	Details of those matters which enable the Fund, Fund Manager or any Person providing the oversight function of the Fund to obtain any privilege or power conferred by the Rules which is not otherwise provided for in the Constitution.



## App 7 PUBLIC FUND PROSPECTUS DISCLOSURE

### A7.1 Mandatory contents of a Prospectus of a Public Fund

**A7.1.1** The Prospectus for a Public Fund must contain the information prescribed in the following table.

<b>1</b>	<b>Document Status</b>
	A statement that this document is the Prospectus of the Public Fund valid as at a particular date which shall be the date of the Prospectus.
<b>2</b>	<b>Description of the Fund</b>
	<p>Information detailing:</p> <ul style="list-style-type: none"> <li>(a) the name of the Fund and that the Fund is a Public Fund established in the DIFC;</li> <li>(b) the effective date of commencement of the Fund's operations and, if the duration of the Fund is not unlimited, when it will or may terminate;</li> <li>(c) the legal structure of the Fund, and if the Fund is a specialist class of Fund as defined in chapter 3, the relevant specialist class of the Fund it is, and whether it is a Listed Fund or intends to be Listed;</li> <li>(d) the basis upon which Persons are eligible to participate in the Fund and, where applicable, the minimum initial investment;</li> <li>(e) that the Unitholders are not liable for the debts of the Fund, unless the applicable legislation prescribes otherwise and, if so, a statement specifying those circumstances;</li> <li>(f) the base currency of the Fund and where relevant, the maximum and minimum sizes of the Fund's capital;</li> <li>(g) the circumstances in which the Fund may be wound up under the Law and the Rules in this module and a summary of the procedure for, and the rights of Unitholders under, such a winding up;</li> <li>(h) if the Fund is an Umbrella Fund, whether it is constituted as a Protected Cell Company or not; and</li> <li>(i) that no Units will be issued on the basis of the Prospectus after the expiry date specified in the Prospectus.</li> </ul>

<b>3</b>	<p><b>Investment objectives and policy</b></p> <p>(1) Sufficient information to enable a Unitholder or prospective Unitholder to ascertain:</p> <ul style="list-style-type: none"> <li>(a) the investment objectives of the Fund and its investment policy for achieving those investment objectives, including: <ul style="list-style-type: none"> <li>(i) the general nature of the portfolio and any intended specialisation;</li> <li>(ii) the policy for the spreading of risk in the Fund Property including an explanation of any potential risks identified;</li> <li>(iii) the policy in relation to the exercise of borrowing powers; and</li> <li>(iv) the policy in relation to using Derivatives for speculations or hedging purposes;</li> </ul> </li> <li>(b) a description of any restrictions in the assets in which investment may be made; and</li> <li>(c) the extent (if any) to which that investment policy does not envisage remaining fully invested at all times.</li> </ul> <p>(2) For investment in Real Property:</p> <ul style="list-style-type: none"> <li>(a) the countries or territories in which the Fund may invest;</li> <li>(b) the types of Real Property, including the policy in relation to encumbrances and lease period; and</li> <li>(c) the policy of the Fund Manager in relation to insurance of Real Property forming part of the Fund Property.</li> </ul> <p>(3) If intended, whether the Fund Property may consist of Units in Funds which are managed by or operated by the Fund Manager or by one of its associates and a statement specifying:</p> <ul style="list-style-type: none"> <li>(a) the basis of the maximum amount of the charges in respect of transactions in the Fund invested in; and</li> <li>(b) the extent to which any such charges will be reimbursed to the Fund.</li> </ul> <p>(4) In the case of a Hedge Fund, an explanation of the types of strategies to be employed by the Fund Manager and the associated risks.</p>
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<b>4</b>	<b>Distribution and accounting period</b>
	<p>Relevant details of the accounting and distribution periods and a description of the procedures:</p> <p>(a) for determining and applying income (including how any distributable income is paid); and</p> <p>(b) relating to unclaimed distributions.</p>
<b>5</b>	<b>The characteristics of Units in the Fund</b>
	<p>Information as to:</p> <p>(a) the names of the classes of Units of the Fund or Sub-Fund in issue or available for issue and the rights attached to them in so far as they vary from the rights attached to other classes of Units in the Fund or the Sub-Fund as applicable;</p> <p>(b) how Unitholders may exercise their voting rights and what they are; and</p> <p>(c) the circumstances where a mandatory redemption, cancellation or conversion of a Unit from one class to another may be required.</p>
<b>6</b>	<b>The Fund Manager</b>
	<p>The following particulars of the Fund Manager:</p> <p>(a) its name, whether the Fund Manager is incorporated in the DIFC or elsewhere and the date of such incorporation, and if the Fund Manager is an External Fund Manager, that fact and the details of the Appointed Fund Administrator or Custody Provider under Rule 6.1.3(a);</p> <p>(b) its address, and if applicable, that of the Appointed Fund Administrator or Trustee, as the case may be, and the registered office in the DIFC;</p> <p>(c) if it is a subsidiary, the name of its ultimate Holding Company and the country or territory in which that holding company is incorporated;</p> <p>(d) the amount of its issued share capital and how much of it is paid up; and</p> <p>(e) a summary of the material provisions of the contract between the Fund and its Fund Manager which may be relevant to Unitholders, including provisions relating to termination, compensation on termination and indemnity.</p>
<b>7</b>	<b>Directors and Partners of an Investment Undertaking</b>
	<p>Other than for the Fund Manager:</p> <p>(a) for an Investment Company, the names and positions in the Investment Company of the Directors;</p> <p>(b) for an Investment Partnership, the names of the other General Partners or any other partners who manage the affairs of the Fund on a day to day basis; and</p> <p>(c) the manner, amount and calculation of the remuneration of the Directors</p>

	or Partners in (1) or (2) as the case may be.
<b>8</b>	<b>Oversight Arrangement</b>
	In relation to a Public Fund, the details of the Persons providing the oversight function for the Fund including their remuneration.
<b>9</b>	<b>Service Providers and Advisers</b>
	If a Fund Manager delegates any activities or outsources any functions to a Service Provider or if an investment adviser is retained in connection with the business of the Fund:
	(a) its name;
	(b) which Financial Services Regulator authorises that Person; and
	(c) details of the arrangements.
<b>10</b>	<b>The Auditor and Custodian and Trustee</b>
	The name of the Auditor and of the Eligible Custodian of the Fund. If applicable the name of the Trustee of the Fund.
<b>11</b>	<b>The Register of Unitholders</b>
	Details of the address in the DIFC where the register of Unitholders is kept and can be inspected by Unitholders of the Fund.
<b>12</b>	<b>Payments out of the Fund Property</b>
	The payments that may be made out of the Fund Property to any Person, whether by way of remuneration for services, or reimbursement of expenses. For each category of remuneration or expense, the following should be specified in a manner which is clear, concise and understandable for Retail Clients where the Fund is to be so offered:
	(a) the current rates or amounts of such remuneration;
	(b) how the remuneration will be calculated and accrue and when it will be paid;
	(c) how notice will be given to Unitholders of the Fund Manager's intention to:
	(i) introduce a new category of remuneration for its services;
	(ii) increase the basis of any current charge;
	(iii) change the basis of the treatment of a payment from the capital property ; and
	(iv) particulars of that introduction or increase and when it will take place;
	(d) the types of any other charges and expenses that may be taken out of the Fund Property; and
	(e) if, in accordance with the relevant provisions of these Rules, all or part of the remuneration or expenses are to be treated as a capital charge:
	(i) that fact; and
	(ii) the basis of the charges which may be so treated.

<b>13</b>	<p><b>Dealing</b></p> <p>Details of:</p> <ul style="list-style-type: none"> <li>(a) the dealing days and times in the dealing day on which the Fund Manager will receive requests for the sale and redemption of Units;</li> <li>(b) the procedures for effecting: <ul style="list-style-type: none"> <li>(i) the issue, sale and redemption of Units; and</li> <li>(ii) the settlement of transactions;</li> </ul> </li> <li>(c) the steps required to be taken by a Unitholder in redeeming Units before he can receive the proceeds, including any relevant notice periods, and the circumstances and periods in which a deferral of payment may be applied;</li> <li>(d) the circumstances in which the redemption of Units may be suspended;</li> <li>(e) details of the minimum number or value of each type of Unit in the Fund which: <ul style="list-style-type: none"> <li>(i) any one Person may hold; and</li> <li>(ii) may be the subject of any one transaction of issue, sale or redemption by the Fund Manager;</li> </ul> </li> <li>(f) the circumstances in which the Fund Manager may arrange for, and the procedure for, a redemption of Units in specie; and</li> <li>(g) the circumstances in which the further issue of Units in any particular class may be limited and the procedures relating to this.</li> </ul>
<b>14</b>	<p><b>Valuation of the Fund Property</b></p> <p>Details as to:</p> <ul style="list-style-type: none"> <li>(a) how frequently and at what times of the day the Fund Property will be regularly valued to determine the price at which Units in the Fund may be purchased from or redeemed by the Fund Manager and a description of any circumstance where the Fund Property may be specially valued;</li> <li>(b) in relation to each purpose for which the Fund Property must be valued, the basis on which it will be valued;</li> <li>(c) how the single price of Units of each class will be determined, including whether a forward or historic price basis is to be applied;</li> <li>(d) details as to how the prices of Units will be published following each valuation; and</li> <li>(e) if valuation is to be suspended under certain circumstances, details of such circumstances.</li> </ul>

<b>15</b>	<b>Sale and Redemption Charges</b>
	If the Fund Manager makes any charges on sale or redemption of Units, details of the charging structure and how notice will be provided to Unitholders of any change in the relevant charge.
<b>16</b>	<b>Financial Reports</b>
	<p>Details as to:</p> <p>(a) when annual and interim reports will be published; and</p> <p>(b) the address in the DIFC at which copies of the Constitution, any amending instrument and the most recent annual and interim reports may be inspected and from which copies may be obtained.</p>
<b>17</b>	<b>Information in respect of Umbrella Funds</b>
	<p>In the case of an Umbrella Fund, the following information:</p> <p>(a) that a Unitholder may exchange Units in one Sub-Fund for Units in another Sub-Fund and that such an exchange is treated as a redemption and sale;</p> <p>(b) what charges may be made on exchanging Units in one Sub-Fund for Units in other Sub-Funds;</p> <p>(c) the policy for allocating between Sub-Funds any assets of, or costs, charges and expenses payable out of, the Fund Property which are not attributable to any particular Sub-Fund;</p> <p>(d) in respect of each Sub-Fund, the currency in which the Fund Property allocated to it will be valued and the price of Units calculated and payments made, if this currency is not the base currency of the Umbrella Fund; and</p> <p>(e) in the case of an Umbrella Fund that is not formed as a Protected Cell Company, in the event of such an Umbrella Fund being unable to meet liabilities attributable to any particular Sub-Fund out of the assets attributable to that Sub-Fund, the remaining liabilities may have to be met out of the assets attributable to other Sub-Funds i.e. that the Sub-Funds are not "ring fenced".</p>
<b>18</b>	<b>Other relevant information</b>
	If applicable, names and addresses of the banker, lawyer, registrar and any other Person undertaking any significant activities in relation to the Fund.

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