Dubai Financial Services Authority

CONSULTATION PAPER NO. 102

29 JUNE 2015

PROPERTY FUNDS AND MONEY MARKET FUNDS

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Introduction and Overview

Why are we issuing this paper?

1. The DFSA is proposing changes to the Collective Investment Funds regime (the Funds regime) in order to give greater flexibility to market participants while remaining in line with our regulatory objectives, in particular the need for adequate investor protection.

Overview of proposals

2. Our proposals attempt, where consistent with our regulatory objectives, to reduce the burden of certain aspects of the Funds regime, to simplify the rules by reducing inconsistencies between different aspects of the regime and, where possible, to align our regime further with international jurisdictions and standards while still catering to factors specific to the UAE property market.

3. The proposals also introduce specific rules for the establishment of Money Market Funds. This is to align the DFSA regime with international standards, as they have developed in recent years, and to provide clarity to stakeholders on the DFSA's expectations in this area, should they wish to establish such Funds.

4. We also propose a small number of miscellaneous changes, which are needed largely to address errors and omissions in the Funds regime.

Who should read this paper?

5. The proposals in this paper would be of interest to:

   (a) Authorised Firms currently operating Funds in the DIFC or marketing Units of Funds in or from the DIFC;

   (b) Authorised Firms providing financial services to Funds (such as Fund Administrators, Eligible Custodians and Trustees);

   (c) Persons who intend to set up Funds in the DIFC, provide services to Funds in the DIFC or elsewhere, or market Units of Funds in or from the DIFC;

   (d) Persons providing legal, valuation, accounting, audit, oversight or compliance services to Funds in the DIFC or who wish to provide such services; and

   (e) Retail and Professional Investors.

How is this paper structured?

6. In this paper, we set out:

   (a) Background on the Funds regime (paragraphs 10 to 12);

   (b) Section A: Property Funds (paragraphs 13 to 71);

   (c) Section B: Money Market Funds (paragraphs 72 to 117);

   (d) Section C: Miscellaneous (paragraphs 118 to 120);

   (e) Annex 1: Comparison of DFSA proposals with the IOSCO Money Market Funds recommendations;

   (f) Annex 2: List of questions in this Consultation Paper;

   (g) Appendix 1: Proposed Amendments to the CIR Module;

   (h) Appendix 2: Proposed Amendments to the IFR Module; and

   (i) Appendix 3: Proposed Amendments to the GLO module.

How to provide comments?

7. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please include the Consultation Paper number in the subject line. You may, if relevant, identify the organisation you represent in providing your comments. The DFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise at the time of making comments.

Comments to be addressed or emailed to:

Consultation Paper No. 102
Policy and Legal Services
DFSA
PO Box 75850
Dubai, UAE

Email: consultation@dfsa.ae

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What happens next?

8. The deadline for providing comments on the proposals is **28 August 2015**. Once we receive your comments, we will consider if any further refinements are required to these proposals. We will then proceed to enact the relevant changes to the DFSA's Rulebook. You should not act on these proposals until the relevant changes to the DFSA Rulebook are made. We shall issue a notice on our website telling you when this happens.

Terminology in this paper

9. In this paper, defined terms are identified throughout by the capitalisation of the initial letter of a word or of each word in a phrase and are defined in GLO or in the proposed amendments. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

Background

10. The DFSA introduced its Funds regime in 2006, designed to meet the International Organization of Securities Commissions (IOSCO) Principles for Securities Regulation (IOSCO Principles). Inspiration for the regulatory model came primarily from the United Kingdom (UK) regime.

11. In 2009, a Market Practitioner Panel reviewed the DFSA's Funds regime and presented to the DFSA recommendations that would better promote the growth of the Funds industry in the DIFC in a manner consistent with the IOSCO Principles. Recommendations designed to enhance the regime were implemented in 2010. The Funds regime is set out in the Collective Investment Law 2010 (CIL) and the Collective Investment Rules (CIR) module of the DFSA rulebook.

The Funds Regime

12. There are three types of Funds permitted - Public, Exempt and Qualified Investor Funds (QIF[1]), with a differentiated scale of regulation applied to each type of Fund. There are additional requirements in CIR for specialist funds that include Property Funds, and a sub-set of these Funds, Real Estate Investment Trusts (REITs), which are relevant only for Public Funds.

Fund Type	Public Funds	Exempt Funds	QIFs
Approach to regulation	Detailed regulation in line with IOSCO standards	Somewhat less stringent than for Public Funds	Significantly less stringent than for Public Funds
Investors and Offer	• Unitholders include Retail Clients; or • Has, or intends to have, more than 100 Unitholders; or • Units are offered by public offer.	• Only Professional Clients; and • Has 100 or fewer Unitholders; and • Units are offered by Private Placement.	• Only Professional Clients; and • Has 50 or fewer Unitholders; and • Units are offered by Private Placement.
Minimum subscription (USD)	N/A	50,000	500,000

[1] The proposals in this Consultation Paper do not specifically address the regime applicable to Qualified Investor Funds (QIFs).

Section A: Property Funds

Property Funds

13. All the requirements in CIR apply to Domestic Property Funds (unless specified otherwise), as well as the bespoke requirements set down in CIR Chapter 13.4. Domestic Property Funds must be set up as an Investment Company or Trust and can invest in Real Property, Property Related Assets, Units in another Property Fund and up to 40% in cash or certain specified securities. These Funds have, in principle, the ability to make investments in any jurisdiction, not just the DIFC or UAE.

14. All Domestic Public Property Funds must be listed and traded on an Authorised Market Institution (AMI) within six months from the date on which the units are first offered to the public or any other shorter period as specified in the Fund Prospectus.

REITs

15. REITs are a sub-set of Property Funds. In addition to the general rules applied to Property Funds, they must also comply with the requirements set down in CIR Chapter 13.5. Although called 'trusts', a REIT can be structured as an Investment Company or an Investment Trust (but not as an Investment Partnership) and must be listed and traded on an AMI. They must distribute at least 80% of their audited annual net income to their investors. There is also a restriction that a REIT shall not invest in 'property under development' beyond 30% of the net asset value of the Fund, and such investments, if made, are designed for long-term holding. REITs are designed as income generating Funds and the assets of the Fund are both income generating and for long-term holding.

Overview

16. An evaluation of the requirements in CIR applicable to Public and Exempt Property Funds has been undertaken. Five areas were analysed based on the issues raised through stakeholder feedback:

    (a) Appointment of an Eligible Custodian and who can be an Eligible Custodian;

    (b) Borrowing Limits;

    (c) Affected Person transactions;

    (d) Valuation requirements; and

    (e) Listing requirements for Property Related Assets.

17. As is our normal practice, a benchmarking exercise was undertaken to compare our Property Funds regime with other international jurisdictions – in this case Australia, Hong Kong, Malaysia, Singapore, and the UK – to help in

the process of identifying areas where changes could be considered for the DFSA regime.

Issue 1: Appointment of an Eligible Custodian

18. CIR Rules 8.2.2, 8.2.3 and 8.2.4 require custody of Fund Property to be delegated to an Eligible Custodian[2] and in accordance with the delegation requirements in CIR 8.12.1; the Fund Manager must also register the legal title of the Fund Property with that Custodian. CIR 8.2.4 sets out criteria regarding who can be appointed as an Eligible Custodian.

19. The Custodian requirements have been put in place to prevent the Fund Manager having unfettered control of the Fund Assets. They are there to address operational risks, such as theft or fraud by the Fund Manager, as well as the risks of the Fund Manager commingling their assets with the assets of the Fund (or assets of another Fund they manage), which could then be claimed on by creditors of the Fund Manager in the event of insolvency.

20. These rules were designed to meet the IOSCO Principles. However, it needs to be noted that IOSCO is currently revisiting their position on custody requirements and recently issued a Consultation Paper[3] on 'Principles regarding the Custody of Collective Investment Schemes' Assets.' That Consultation sought to develop principles regarding self-custody of Fund assets and asked for views on what safeguards should be imposed if self-custody arrangements are put in place.

21. We have now reviewed our requirements and, based on our experience so far, taking into account the IOSCO consultation, and following a comparison of regulatory developments in other jurisdictions, we are proposing further flexibility for Fund Managers of Public and Exempt Property Funds relating to custody arrangements.

22. We are proposing that Public Property Funds be permitted to have self-custody of the *Real Property* that form part of the Fund Assets provided systems and controls are put in place to ensure the safe custody of that *Real Property* (see CIR 13.4.2A in Appendix 1).

23. We are proposing the following systems and controls, based on those discussed in the IOSCO consultation:

    (a) the 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 relating to it acting as custodian of the *Real Property*;

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2 Except in the case of a Property Fund investing in Real Property in certain other jurisdictions, or a private equity fund, where the Fund Manager, and if relevant the Trustee, must have made alternative arrangements in accordance with Rule 13.4.2 or 13.3.1.

3 http://www.iosco.org/library/pubdocs/pdf/IOSCOPD454.pdf.

(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 the 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 that may conflict with their duties and functions referred to in that paragraph.

24. It is primarily the safety of the title deeds that is the subject of these systems and controls. We think that a separation in duties amongst the staff of the Fund Manager is a necessary measure to ensure there is no unfettered control over that part of the Fund Property. We believe this process will reduce the opportunity for title deeds (and associated documents) to be used for any improper purposes and that the registration of the title deeds in the name of the Fund helps ensure the property is placed beyond the reach of creditors in the event of insolvency of the Fund Manager. We have proposed Guidance (see CIR 13.4.2 Guidance in Appendix 1) that provides further interpretation of these systems and controls if self-custody of the *Real Property* is to be utilised.

25. Clear disclosure of the selected custody arrangements must be included in the Fund Prospectus and, if a Fund Manager elects to act as a Custodian, it must be prominently disclosed in the Prospectus (see CIR 14.4.4A in Appendix 1).

26. If the Fund holds Fund Property other than *Real Property*, then that Fund Property must be held in accordance with the requirements in CIR 8.2.2(2).

27. We believe that such an approach addresses the risks identified in paragraph 19 and meets our obligations under the IOSCO Principles.

28. We are proposing that the regime for Exempt Property Funds should be aligned further with the regime adopted for QIFs, and that self-custody of the *Real Property* should be allowed provided effective arrangements are in place to ensure the *Real Property* is not available to creditors of the Fund Manager in the event of the insolvency of the Fund Manager (see CIR 13.4.2A in Appendix 1). We have also proposed Guidance (see CIR 13.4.2A Guidance in Appendix 1) regarding what is expected of Exempt Property Fund Managers when putting in place such arrangements.

29. This change would be on the basis that investors in Exempt Funds are professional investors and are not in need of regulatory protection to the same extent as many investors in Public Funds.

30. Such an approach would also maintain the regulatory approach we have taken for Funds, where we apply a decreasing scale of regulation from Public Funds to Exempt Funds to QIFs. It would also bring our regime a step closer to the jurisdictions benchmarked and at the same time allow us to remain true to

IOSCO Principles, which focus on requirements for retail funds (Public Funds in our regime).

31. In the same way as for Public Property Funds in paragraph 26, if the Exempt Property Fund holds property other than *Real Property*, then that Fund Property must still be held in accordance with the requirements in CIR 8.2.2(2).

Who can be an Eligible Custodian?

32. We are also proposing to amend CIR 8.2.4 and the list of criteria for who can be appointed as a Custodian, as the current wording of the rules has led to unnecessary restrictions on the choice of Custodian available to the Fund Managers. The proposed changes (applicable to all Funds) are:

    (a) CIR 8.2.4(d): adding a new provision to make clear which entities in the State can provide these services;

    (b) CIR 8.2.4(e): removing the requirement for a legal entity to be 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'; and

    (c) CIR 8.2.4(f)(i) and 8.2.4(h)(iii): removal of the requirements for a legal entity to have a credit rating.

33. These changes would bring our rules into greater alignment with trends in international standards and allow for further entities to provide custody services in the DIFC.

34. The proposed rule changes can be found in Appendix 1.

Issues for consideration

Q1: Should Public Property Funds be permitted to have self-custody of the *Real Property* of the Fund assets? If not, why?

Q2: If so, are the proposed system and controls applicable to Public Property Funds appropriate? If not, why?

Q3: Should Exempt Property Funds be allowed self-custody of the *Real Property* of the Fund provided effective arrangements are in place to ensure the *Real Property* is not available to creditors of the Fund Manager in the event of the insolvency of the Fund Manager? If not, why?

Q4: Should further Guidance be included to indicate the DFSA's expectations relating to what is expected of Exempt Property Fund Managers when putting in place effective arrangements for self-custody? If so, what should this Guidance cover?

Q5: Do you agree with our proposals to amend the list of criteria for Eligible Custodians? If not, why?

Issue 2: Borrowing Limits

35. The Funds regime includes specific borrowing limits applicable to Public Property Funds and REITs. CIR 13.4.5 allows a Fund Manager of a Public Property Fund to borrow up to 80% of the total Net Asset Value (NAV) of the Fund. CIR 13.5.5 allows a Fund Manager of a REIT to borrow up to 70% of the total NAV of the Fund. The Islamic Finance Rules (IFR) 6.11.5 has a mirrored provision where the Fund Manager of an Islamic REIT can borrow up to 70% NAV of the Fund provided such borrowings are Shari'a compliant.

36. In the event that a borrowing limit for a Public Property Fund or REIT is exceeded, CIR 13.4.5(3) requires the Fund Manager to 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.

37. Inspiration for these limits came from the Hong Kong and Singapore markets (as well as Malaysia for Islamic Funds), as those jurisdictions were considered relevant as they faced similar issues that the Dubai and UAE property market faced. The rules were also designed to meet the IOSCO Principles for Securities Regulation (as they existed at the time) which required a regulatory regime to have powers to ensure that any restrictions on the type or level of investment or borrowing were complied with.

38. A number of other jurisdictions[4], including Australia and the UK[5], have no limits in place on the level of borrowing a Property Fund can have. Others, in contrast, have specific limits – Hong Kong has 45% of Gross Asset Value (GAV) and Singapore has consulted on a move, from 35% GAV or 60% with a credit rating, to 45% GAV. Malaysia, on the other hand, has a limit of 50% GAV[6].

39. We have now reviewed these requirements and believe that our limits are overly restrictive and out of alignment with other international jurisdictions. We appreciate that overly conservative borrowing limits make financing new projects difficult and limit the number of investment opportunities available to a Public Property Fund and REIT, but we are conscious of the need to balance this with the fact that high borrowing limits are not without risk.

40. There are arguments for and against comparing our regime with the regime in each of the jurisdictions mentioned above. For example, some of the markets have far more history of, and data on, property funds, including their experiences in property downturns. We would not be able to conduct the depth

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[4] These jurisdictions were selected due to the success of their REIT market and also the global REIT market share they hold: Australia has 8.3%; the UK 6.5%; Singapore 4.2%, Hong Kong 1.6% and Malaysia 0.7%.

[5] The UK has a regime, prescribed by the Alternative Investment Fund Managers Directive (AIFMD), where Fund Managers can set a maximum level of leverage provided they take into account the type of real estate fund concerned and its strategy, the sources of leverage and the asset/liability ratio.

[6] We relied on the Malaysian REIT market as Malaysia was the first country to introduce guidelines for Islamic REITs and also has more Islamic Property Funds/REITs than any other market.

of analysis carried out by the Singapore authorities, in consulting on their proposed changes, because we do not have a similar depth of experience and data.

41. Taking into account these considerations we are proposing to align the current borrowing limits for Public Property Funds (and REITs, including Islamic REITs) and set them at 50% of GAV. Moving to a GAV measure would be more in line with other jurisdictions and, we understand, widespread market practice. We believe that this limit would allow a Public Property Fund or REIT more flexibility in acquisitions while at the same time ensuring that they do not over-extend themselves by pursuing highly leveraged property acquisitions.

42. This approach would still meet our obligations under the IOSCO Principles and at the same time bring us more into alignment with other international jurisdictions. The requirements of CIR 13.4.5(3), as regards breaches of borrowing limits in place (see paragraph 36), would continue to apply in all cases.

43. The proposed rule changes can be found in Appendix 1 and 2.

Q6:	Should the borrowing limits for Public Property Funds and REITs be set at 50% GAV? If not, why?

Issue 3: Affected Person transactions

44. The DFSA sets down requirements that Fund Managers must adhere to before entering into transactions with Affected Persons[7]. The overarching requirements for Funds are set out in CIR 8.3.2, where the Fund Manager must ensure that all transactions in respect of the Fund Property undertaken with an Affected Person are 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. The Fund Manager must, under CIR 8.3.2(3)(a), obtain the agreement of Unitholders by way of special resolution before undertaking an Affected Person transaction where the total consideration or value of the transaction is more than 5% or more of the Fund's NAV at its most recent valuation.

45. The Fund Manager must, under CIR 8.3.2.(4)(b) and (c), disclose a summary of Affected Person transactions in the Fund's interim or annual report, and include, in the annual report, the total value of those transactions. The Fund Manager of a Property Fund must also, under CIR 14.4.2, disclose, in the Fund Prospectus (for a Public Property Fund) or Information memorandum (for an Exempt Property Fund), details of transactions or agreements with Affected Persons.

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[7] In GLO, an Affected Person (in relation to a Fund) is: (a) its Fund Manager; (b) its Governing Body; (c) its Custodian; (d) its Trustee of other Persons providing oversight; (e) any Advisor; (f) a holder of 5% of more of the Units of the Fund; or (g) any Associate or any person in (a)-(f).

46. Additional requirements for Affected Person transactions for Public and Exempt Property Funds are set out in CIR 13.4.12 to 13.4.17.

CIR 13.4.16 requires a Fund Manager to 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 are contracted on normal commercial terms and subject to the prior approval of the Trustee or other oversight function.

CIR 13.4.17 prohibits a Fund Manager or Trustee (if appointed) from engaging Affected Persons as property agents for rendering services to the Fund, including advisory or agency services in property transactions.

47. These Rules were put in place to ensure a Fund Manager is always acting in the best interest of investors and, where a conflict does arise, it is appropriately managed and disclosed to Unitholders. They were designed to meet IOSCO Principles, which direct a regulator to prohibit, restrict or manage conduct likely to give rise to conflicts of interest.

48. However, due to the unique nature of the real estate market in the UAE and its ownership structures, these requirements can cause practical issues for Property Funds. As so many potential counterparties, service providers and agents would be Affected Persons; this in turn can have an adverse impact on the interests of the Fund and of Unitholders. Consequently, we have revisited our approach and are proposing to make changes.

Affected Person terminology (for all Funds)

49. We are proposing to change the term “Affected Person” to “Related Party.” This term is used in our Market (MKT) Module as well as being commonly used in other international jurisdictions. This would be a name change only - there would be no substantive change to the underlying definition (see GLO definitions of Related Party and Related Party Transaction in Appendix 3).

Meeting procedures – voting (for all Funds)

50. Where Unitholder approval is required for an Affected Person transaction, we currently have no express prohibition in our Rules against a Unitholder who is an Affected Person from voting in that resolution. We propose to change this approach and include a prohibition for a Unitholder who is an Affected Person and a Unitholder who is an Associate of an Affected Person from voting in that resolution (see CIR APP2.1.5 in Appendix 1).

Public Property Funds

51. We are proposing to change the threshold for prior approval required of Unitholders for Affected Person transactions over 5% of the most recent NAV. Instead of Unitholder approval being gained by Special Resolution, it would be gained by *ordinary resolution*, requiring consent of more than 50% of unitholders in voting.

52. We are also proposing to change and align the requirements relating to *services provided to the Real Property of the Fund* (CIR 13.4.16) and *property agents providing services to the Fund* (CIR 13.4.17). This would mean, for Affected Person transactions over 5% or more of the most recent NAV of the Fund, that transaction cannot be entered into without the prior approval of the Trustee or other oversight function. Transactions below 5% that are carried out on 'commercial terms no less favourable than those of an arm's length transaction carried out with an unrelated party' can be exempt from the requirement to gain approval by the Trustee or other oversight provider (see CIR 13.4.16 in Appendix 1).

53. There would be no change to the requirements in CIR 13.4.12 to 13.4.15 regarding disclosure of Affected Person transactions, and the terms of certain Affected Persons transaction (such as borrowings), to Unitholders.

54. We believe that these proposed changes address many of the concerns that have been voiced to the DFSA regarding the practicalities of the CIR Affected Person transaction rules and would still meet our obligations under the IOSCO Principles for Securities Regulation.

Exempt Property Funds

55. In respect of Exempt Property Funds, we propose to remove the Affected Person transaction requirements found in CIR 8.3.2(3) (i.e., for Unitholder approval) and in CIR 13.4.12 to 13.4.17. Any Affected Person transactions would still have to be on normal commercial terms and disclosed in the relevant disclosure documents (for example, the constitution or information memorandum) for the benefit of potential investors and a brief summary of any Affected Person transactions would have to be included in the Fund's next published interim or annual report. The argument for such a change would be on the same basis as outlined in paragraphs 29 and 30.

56. The proposals for Public and Exempt Property Funds would continue to operate alongside the current safeguards and protections that are in place under the DFSA regime to address conflicts of interest. These include requirements for a Fund Manager:

    (a) to act in the best interests of the Unitholders and, if there is a conflict between the Unitholders' interests and its own interests, to give priority to the Unitholders' interests under Article 22(2)(c) of the CIL;

    (b) to disclose all the information which a person and his professional advisers would reasonably require and expect to find in the offer document to make an informed decision before investing in the Fund under Article 52 of the CIL;

    (c) to obtain an independent valuation of the Fund Property found in CIR 13.4.18 to 13.4.24;

    (d) to appoint an Investment Committee to review the investment opportunities of the Fund under CIR 13.4.3 (Public Funds only); and

(e) to establish and maintain an oversight committee prescribed by the DFSA in CIR 10.3 (Public Funds only).

57. The proposed rule changes can be found in Appendix 1 and 3.

Q7: Should we re-name Affected Persons as Related Parties? If not, why?

Q8: Should we change the threshold for prior approval required by Unitholders for Affected Person transactions over 5% of the most recent NAV from a Special Resolution to an 'ordinary resolution'? If not, why?

Q9: Should the Affected Person transactions requirements for Exempt Property Funds be removed? If not, why?

Q10: Should there be specific disclosure requirements relating to the Affected Person transactions engaged in by Exempt Property Funds in their information memorandum? If not, why?

Issue 4: Valuation requirements

58. The DFSA sets down requirements, in CIR 13.4.18 to 13.4.24, for Public and Exempt Property Funds relating to the appointment of an independent valuer for Real Property prior to its acquisition/disposal.

59. These valuation requirements are in line with IOSCO Principles and broadly in line with the other international jurisdictions benchmarked. Independent valuation requirements are vitally important as they remove the ability of the Fund Manager to over or undervalue assets for their own or a related party's financial gain. Of particular importance are the requirements that the professional valuer appointed to the Fund is not related to the Fund Manager and that proper valuations occur at the point of acquisition and disposal of the Real Property.

60. We believe that our overall approach strikes the right balance and do not propose to make any fundamental changes to the main valuation requirements. However, there are two discrete areas that we are proposing to change.

61. We propose to amend CIR 13.4.24(1) and (2), which currently require a Fund Manager to retire a valuer after five consecutive years and not re-appoint that valuer to perform further Fund valuations for a period of two years. These rules were established over eight years ago, inspired by the Code of Ethics for Professional Accountants, and based on the appointment and rotation requirements then in place for an auditor. This Code has changed and the new requirement is that an individual shall not be a key audit partner for more than seven years.

62. We propose that a Fund Manager of a Public or Exempt Property Fund should continue to go out to tender every five years for a new valuer, but if, after the tender process, they wish to appoint the same valuation company to carry out the valuation function, they must then, in the next interim or annual report,

specify the reasons for the re-appointment and the evidence supporting those reasons.

63. We feel this approach directly addresses concerns expressed by stakeholders over the limited number of UAE market participants who can carry out an independent valuation and provides sufficient transparency to investors on the reasons why a particular, or the same, valuation firm was selected.

64. An alternative approach would be to allow Public and Exempt Property Fund Managers to appoint or reappoint a valuer of their choice, provided that appropriate explanation is provided to Unitholders regarding the reasons behind that appointment. We would welcome comments stakeholders may have on this potential alternative.

65. Secondly, we propose to amend CIR Rule 13.4.23(b) and align it with CIR rule 13.4.21, so that the valuation report prepared for the Fund should be no more than six months old for the purposes of any acquisition or disposal of the relevant Fund Property. This would apply to both Public and Exempt Property Funds.

Q11: Should we allow a Public and Exempt Property Fund Manager to appoint the same valuation company to carry out the valuation of the Fund Property provided appropriate evidence is given regarding the reasons behind that decision and that is presented to Unitholders in the appropriate annual report. If not, why?

Q12: Should we amend our rules so that a valuation report prepared for the Fund should be no more than six months old for the purposes of any acquisition and disposal of the relevant Fund Property? If not, why?

Issue 5: Listing requirements for Property Related Assets

66. The DFSA requires, in CIR 13.4.4(3)(a), that a Fund Manager must ensure that the Property Related Assets of a Property Fund are listed and traded on an exchange which is provided for in the Prospectus of the Fund.

67. This requirement is designed to promote liquidity and transparency in the pricing of that property investment. If those assets/securities are listed and traded, then they are subject to the disclosure and transparency requirements that go with the listing and trading responsibilities. However, we have now reviewed this requirement, in the light of feedback from stakeholders about the risks that arise from unlisted/traded Property Related Assets and alternative ways to address these risks, rather than a prohibition on investment.

68. We propose to allow a Public Property Fund to invest in non-traded and non-listed Property Related Assets provided there is review and approval by the Investment Committee of the Fund. This change would align the investment requirements for Property Funds, where a Property Fund can already invest in units of other Property Funds with no requirement for those units to be listed and traded.

69. In respect of Exempt Property Funds, we propose to allow investment in non-traded and non-listed Property Related Assets. This investment intention is to be disclosed in the Fund's Constitution and we propose to amend App 5.1.1(1) and include '(D) Investment Objectives' as a requirement for an Exempt Fund to disclose its investment objectives in the Fund's Constitution. This investment intention, and the actual investments made, must also be disclosed in the relevant disclosure documents (for example, the information memorandum) for the benefit of potential investors in Exempt Property Funds.

70. Again, the points set out in paragraphs 29 and 30 support this change.

71. Any investments in non-traded and non-listed Property Related Assets would still have to be held in accordance with CIR 8.2.2(2), which requires custody of the Fund Property to be delegated to an Eligible Custodian.

Q13: Should a Public Property Fund be allowed to invest in non-traded and non-listed Property Related Assets provided there is a review and approval role carried out by the Investment Committee of the Fund? If not, why?

Q14: Should an Exempt Property Fund be allowed to invest in non-traded and non-listed Property Related Assets? If not, why?

Q15: Should an Exempt Property Fund be required to disclose their investment objective in their Constitution? If not, why?

Section B: Money Market Funds

Background

Scope of DFSA work

72. The DFSA Funds regime does not, at present, provide explicitly for Money Market Funds (MMF).

73. In the international arena, the FSB has reported on systemic risks associated with MMFs and, in 2012, asked IOSCO to produce recommendations on the regulation of MMFs. The scope of our work has been limited to an analysis of the adequacy of the Funds regime against the FSB/IOSCO recommendations. Benchmarking was also undertaken against Australia, the EU (and within it Ireland and the UK), Qatar and Singapore.

What is a Money Market Fund?

74. Although there is no globally accepted definition, IOSCO defines a Money Market Fund (MMF) as:

    "*an investment fund that has the objective to provide investors with preservation of capital and daily liquidity, and that seeks to achieve that objective by investing in a diversified portfolio of high-quality, low duration fixed-income instruments*".[8]

75. A MMF is a type of collective investment fund that seeks to offer investors a variety of features, including return of principal, liquidity, and a market-based rate of return, all at a reasonable cost. Income accrues daily and is distributed monthly as cash dividends or share re-investment.

76. MMFs typically invest in high quality money market instruments and other low-duration fixed income instruments such as government securities, certificates of deposit, commercial paper of companies, or other highly liquid and low-risk securities. A MMF would not invest in equities, and commodities, while derivatives are only used in line with the investment strategy of the fund. MMF shares can be bought or sold at any time based on a price calculated using the Net Asset Value (NAV) of the Fund.

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[8] Extract from IOSCO Consultation Report on Money Market Fund Systemic Risk Analysis and Reform Options 27 April 2012, page 1.

Different types of MMFs: Constant NAV (CNAV) & Variable NAV (VNAV)

77. There are two types of MMF, commonly known as CNAV and VNAV:

(a) A CNAV fund seeks to maintain an unchanging face value NAV (for example, $1/€1 per unit/share).[9]

A CNAV fund must periodically calculate both the market value of its portfolio and the amortised cost based valuation. If any discrepancy emerges between the two, the Fund Manager is required to provide a commitment for financial support to the MMF to maintain the CNAV. However, as a CNAV is not guaranteed, where a discrepancy between the market value and the amortised cost value of the Fund's portfolio becomes material, the Fund will no longer issue and redeem units at the stable NAV or par value stated (e.g. $1/€1 per unit). Such a deviation from the specified par value of a CNAV fund is often known as 'breaking the buck'. This may occur, for example, where there is a default by the issuer of an underlying instrument in the portfolio. In such circumstances the Fund could be forced to liquidate other assets, or may have to suspend issue and redemption of units in the fund, but, in a worst case scenario, may have to wind down the Fund, with the assets distributed on the basis of their realisable value; and

(b) VNAV Funds (unlike CNAV Funds), value their assets on a mark-to-market basis, so allowing for changes in the NAV.

Investors in VNAV Funds are aware, prior to investing in the Fund, that the value of their investment will fluctuate and that issue and redemption of units will continue, unless a significant event occurs. Effectively the use of a VNAV prohibits the use of amortised cost valuation for any securities held by the Fund, as occurs in CNAV Funds.

MMF investors

78. Institutional investors use MMFs, particularly for cash management purposes, but also because – in some jurisdictions, there are tax and accounting advantages in using CNAV funds. Non-institutional investors, in particular, regard MMFs as a "safe" short term liquid asset class for investing cash, and generally view them as a close substitute for bank deposits. However, MMFs do not have access to official support and backstop facilities in the same way as bank deposits.

[9] Each asset of the CNAV fund is initially valued at its purchase price. Any premium to par is then subtracted (or discount added back) linearly over the remaining life of the asset, so at maturity the asset is valued at par.

The role played by MMFs in shadow banking

79. Shadow banking is the process of credit intermediation involving entities and activities outside the regular banking system. The shadow banking system and the regular banking system are highly interconnected, in part because they invest in each other's financial instruments, giving rise to funding interdependencies and vulnerabilities, and are often exposed to common concentrations of risk.

80. MMFs form a large element within the shadow banking system as they:

(a) provide short-term non-deposit funds to the regular banking system; and

(b) fund separate non-bank chains of credit intermediation.

81. Due to their significant scale and particular concentration in the US and EU, MMFs play an important role in global capital markets. MMFs are, therefore, not only important to MMF investors but also to banks as they effectively provide them with funding/liquidity by investing in their commercial paper/other short term high quality money market instruments. As a result they are considered potentially to pose systemic risks and threaten financial stability.

82. However, although MMFs can give rise to systemic risks due to their role as part of the shadow banking system, MMFs are investment products, and are generally subject to securities regulation and not banking regulation.

83. The proposals that follow, taken in combination with existing features of the DFSA's regime, are intended to address the risks that can arise from the operation of MMFs.

Issue 1: Issues due to similarities between CNAV Funds and bank deposits

84. A concern raised by the FSB, and reflected in the IOSCO recommendations, relates to risks associated with MMFs, particularly where they have CNAVs, as they are seen as similar to, and intended to behave in a similar way to, bank deposits.

85. A CNAV gives an impression of safety even though MMFs are subject to credit, interest rate and liquidity risks. Notwithstanding that there are controls to address credit, liquidity and interest rate risks in MMFs, they alone are not necessarily sufficient to address the structural mismatch between promised returns and the moves in market value that can adversely affect the underlying portfolio of assets of a CNAV.

86. During the financial crisis, some MMFs experienced investor runs, some of which necessitated large scale support from sponsors or the official sector to maintain stability. The MMFs that faced runs typically offered stable or CNAV to their investors, creating an expectation that their claims were similar to bank deposits. Thus, when a large loss due to holdings of asset-backed securities and other financial instruments caused some MMFs' net asset values to drop

below their promised par value (i.e. they "broke the buck"), this prompted investor redemptions across MMFs, destabilising the sector as well as the borrowers that rely on funding from MMFs.

87. As CNAVs offer immediate redemptions at a rounded constant price (e.g. US$1 or €1 per share), early redemption requests are paid at par, even if the actual asset values are lower, leaving the investors who redeem later to bear disproportionate losses. This first-mover advantage contributes to destabilising runs. The tendency to seek first mover advantage is especially relevant for institutional investors who are extremely risk-averse and tend to react more quickly and massively than retail investors.

88. The use of a VNAV may reduce the incentive for investors in such funds to run when a fund has experienced less than catastrophic losses. A VNAV, where all assets are marked-to-market, provides higher price transparency to investors and reduces the need to seek "first mover" advantage as discussed above.

Proposals

89. In line with the IOSCO recommendation that regulatory regimes explicitly define MMFs so that they can be easily identified, it is proposed that MMFs are added to the list of Specialist Fund in section 3 of the CIR Module and a MMF definition in line with the IOSCO definition is adopted (see Appendix 1, CIR Rule 3.1.11).

90. It is also proposed that Guidance be added to the definition to indicate that a Fund will be treated as falling within the definition of an MMF even if it has additional objectives.

91. We also propose that the Funds regime should not allow MMFs to be established as CNAV Funds, so that any MMF established in the DIFC operates as a VNAV Fund (see Appendix 1, CIR Rule 3.1.11, Guidance).

92. The benefit of this approach is that it mitigates the systemic and financial stability concerns which the FSB and IOSCO have highlighted in relation to MMFs, while at the same time allowing the industry to develop MMFs if it wishes.

Q16: Should we introduce the proposed definition of Money Market Fund? If not, why?

Q17: Do you agree with the proposal to allow only VNAV MMFs to be established in the DIFC? If not, why?

Issue 2: Liquidity, market and credit risks associated with MMFs

93. All funds face liquidity risk, particularly open-ended funds. This risk has to be managed to enable a Fund Manager to deal with redemption pressures at any time. By ensuring liquidity, the Fund Manager will be able to pay redemptions to

Fund investors and prevent a fire sale of assets at a loss, whilst also preventing contagion effects to other Funds that hold similar securities.

94. MMFs are, by definition, investment funds which offer, or hold out to investors as offering, capital preservation and liquidity, whilst also offering money market returns. Therefore, in order to meet those objectives, MMFs need to have investment portfolios that:

(a) contain high quality money market instruments and other low-duration fixed income instruments;

(b) do not take direct or indirect exposures to equities or commodities (as such products generally do not provide returns with the level of certainty associated with high quality fixed income products);

(c) to the extent any derivatives are used, only contain such products in line with the investment strategy of the Fund; and

(d) are subject to concentration limits and/or diversification ratios in order to reduce the Funds' exposure to a single entity to mitigate counterparty risks.

95. There are a number of additional measures included in IOSCO recommendations to address liquidity risks. A MMF needs to establish policies and procedures to know their investor profile, in order to determine the liquidity needs of the Fund, as it enables the MMF to hold a minimum amount of liquid assets to strengthen their ability to face redemptions. Given its characteristics, MMFs also need to conduct, periodically, appropriate stress testing and have tools in place to deal with exceptional market conditions.

96. Explicit minimum amounts of daily and weekly liquid assets enable MMFs to meet potentially large redemption requests from investors and weather periods of market volatility. Effective tools to deal with liquidity constraints, such as temporary suspensions of redemptions, can also assist MMFs to deal with periods of stress. It is noted that, under the current requirements, in times of stress, a Fund Manager of a Fund has the ability to suspend dealings in an open-ended Fund under Article 37 of the CIL. CIR App 7(13)(d) also requires the Prospectus of a Public Fund to state explicitly the circumstances in which the redemption of Units of the Fund may be suspended.

97. As covered by the IOSCO recommendations, in order to limit asset-liability mismatches, restrictions also need to be placed on the remaining maturity until the legal redemption date of the instruments held in the portfolios. Therefore, MMFs need limits on the average weighted term to maturity (WAM) and the weighted average life (WAL) of the portfolio.

98. In relation to WAM a portfolio weighted towards securities with longer maturities increases the Fund's exposure to interest rate risk, amplifies spread risk, and decreases the ability of a Fund to pay redeeming shareholders. A limit on the maximum WAM would result in MMFs that are more resilient to changes in

interest rates that may be accompanied by other market shocks, and thus reduce the likelihood of a run and better protect MMF investors.

99. A limitation on WAL would restrict the extent to which a Fund can invest in longer term securities that may expose a Fund to spread risk.

Proposals

100. We propose, in line with the IOSCO recommendations, and regimes in the EU, Hong Kong and Singapore, that MMFs under the DIFC regime are subject to the investment restrictions that a MMF may only invest in high quality deposits and debt instruments.

101. Guidance is proposed that, in determining whether the financial instruments are of 'high quality', the Fund Manager should consider a range of factors including, but not limited to:

(a) the credit quality of the instrument;

(b) the nature of the asset class represented by the instrument;

(c) for structured financial instruments, the operational and counterparty risk inherent within the structured financial transaction; and

(d) the liquidity profile.

102. We also propose that a Fund Manager of a MMF must:

(a) invest at least 90% of the net asset value of the Fund in high quality deposits and debt instruments;

(b) not invest directly or indirectly in equities and commodities, including through the use of derivatives (except as provided in iii. below);

(c) if using derivatives, do so only for the purposes of hedging against foreign exchange;

(d) not invest in any other Funds, unless they are Money Market Funds and meet the requirement in (i);

(e) ensure that the aggregate value of the Fund's holdings of high quality deposits and debt instruments issued by a single issuer does not exceed 10% of the total net asset value of the Fund;

(f) ensure that the Fund's borrowing does not, on any day, exceed 10% of the value of the total net asset value of the Funds;

(g) ensure at least 10% of its net asset value remains cash in accounts that permit the cash to be withdrawn immediately on demand;

(h) limit investment in financial instruments to those with a residual maturity until the legal redemption date of less than or equal to two years, provided that the time remaining until the next interest rate reset date is less than or equal to 397 days; and

(i) maintain a weighted average portfolio maturity that does not exceed 6 months and maintain a weighted average life of no more than 12 months.

See Appendix 1, CIR Rules 13.9.1 and 13.9.2.

103. The recommendations above are designed to address liquidity risks that can arise in a Money Market Fund.

Q18: Should we introduce the requirements set out above to address liquidity risks? If not, why?

Issue 3: Use of Credit Ratings

104. During the crisis, downgrades of U.S. debt and the sovereign debt crisis in the EU highlighted the impact of the use of credit ratings in the MMF industry. Fund Managers have often relied on external ratings for the selection of portfolio assets. Risks may arise here as a downgrade of the underlying instruments may force a Fund Manager to sell assets at a price far less than what was considered its value based on the rating. Furthermore, an important feature of the MMF industry is that many Funds themselves get 'triple A' ratings from credit rating agencies (a key feature in their marketing). Any downgrade of the Fund itself may lead to a run on the Fund. Excessive reliance on external credit ratings discourages due diligence in the selection of the instruments or investments for, and selection of, MMFs, by Fund Managers and Investors, respectively.

105. Our proposals below explicitly address the first of these issues – use of external credit ratings by MMF Managers. The second issue – reliance on ratings of MMFs by MMF investors – is addressed in part by the proposals on disclosure under Issues 5 and 6 below.

Proposals

106. The IOSCO recommendations encourage regulators to ensure that Credit Rating Agencies make more explicit their current rating methodologies for MMFs. The DFSA regime for regulating Credit Rating Agencies is designed to address IOSCO Principles for regulating CRAs and includes qualitative requirements that must be met by CRAs in relation to methodologies and models they adopt (see COB Rule 8.3.2, which require that methodologies and models, including key assumptions, adopted by CRAs to be rigorous and systematic, result in Credit Ratings that can be subject to some form of objective validation, subject to periodic reviews and made public). We believe these requirements address the IOSCO concerns so far as they relate to domestic CRAs that provide Credit Ratings to MMFs.

107. IOSCO recommendations also envisage that the Fund Manager of a MMF be subject to adequate controls with regard to its internal credit risk assessment process and practices, so that mechanistic reliance on external credit ratings is avoided. To address this concern, it is proposed that in addition to due

diligence requirements proposed, the following requirements are introduced to ensure that Fund Managers of MMFs do not mechanically rely on external credit ratings, but undertake appropriate due diligence relating to underlying investments of the Fund:

(a) a Fund Manager of a MMF must not solely use external credit rating agency credit ratings as a basis for its assessment of the risks associated with a counterparty exposure and must, at all times, conduct its own credit assessment of such an exposure; and

(b) when utilising external credit rating agencies as part of its credit risk assessment resulting from counterparty exposure, a Fund Manager of an MMF must maintain a well-founded internal credit grading system.

See Appendix 1, CIR Rule 13.9.2.

108. These recommendations are designed to address credit and counterparty risks that can arise in any type of Fund, regardless of the nature of investors in the Fund.

Q19: Should we introduce these proposals on the use of credit ratings and the extent of due diligence a Fund Manager should undertake? If not, why?

Issue 4: Islamic Money Market Funds

109. Many of the investments that a non-Islamic MMF might make are not available to their Islamic counterparts, as many such investments would involve the payment of interest to the MMF.

110. Nonetheless, Islamic MMFs do exist. There are a range of instruments they can invest in, which can include Islamic deposits, murabaha, sukuk and international trade contracts and so on.

111. It is not the DFSA's intention to specify in great detail what investments an Islamic MMF could invest in. Rather, we propose to apply the same general framework as is proposed for non-Islamic MMFs, as regards management of liquidity risks, etc. (see Appendix 2). Consistent with our normal approach, the Shari'ah compliance of the actual instruments invested in would be a matter for the Shari'ah board of such a Fund.

Q20: Do you agree with our approach to Islamic Money market Funds? If not, please explain why.

Q21: Are there other specific matters that you think our regime should set out for Islamic MMFs? If so, what are they?

Issue 5: Disclosure needs of investors

112. Disclosure is a key element for raising awareness of any Fund and for the protection of investors. MMFs are no different and specific risks can be mitigated through appropriate disclosure. It is important to mitigate risks relating to an investor's understanding of a MMF as a financial product, particularly given the common use of such products by investors believing it is an alternative to a bank deposit. Further, as noted above, in relation to valuation and procedures to be followed in times of stress and heavy redemption pressures, investors should also be made aware of the risks involved.

Proposals

113. It is proposed that the following requirements are introduced to CIR section 14.4 covering additional Prospectus disclosure requirements for MMFs:

(a) a Fund Manager of a MMF must include, in the Prospectus, a risk warning clearly explaining that the nature of an investment in a Fund is different to that of a deposit and that the principal value may fluctuate; and

(b) a Fund Manager of a MMF must include in the Prospectus a risk warning that the investor will not have the safety of a capital guarantee, unless there is a firm commitment from the sponsor to provide support (see Appendix 1, CIR Rule 14.4.7).

114. These proposed disclosures are, we think, needed only in the case of Public Funds; professional investors in other Funds should be able both to understand and negotiate disclosure they need in order to make an informed investment decision. The overarching disclosure requirement that a Fund Manager is subject to, that it must give all the information an investor would reasonably require and expect to find in the Prospectus (or information memorandum), in order to make an informed decision on investing in the Fund, applies to all Funds, and not just to Public Funds.

Q22: Should we introduce the proposed disclosure requirements for MMFs that are Public Funds? If not, why?

Issue 6: Distribution of Foreign MMFs by Authorised Firms

115. The proposals set out above are designed for Domestic Funds, if they are established containing the features that qualify them as MMFs. However, much fund-related activity in the DIFC is in relation to distribution (i.e., through advising, arranging or asset management) in MMFs rather than managing Domestic MMFs.

116. As a result, the above proposals, with the exception of enhanced disclosure, are not relevant to Foreign Funds where they are distributed in or from the DIFC. However, retail investors may generally not be in as good a position as professional investors to differentiate MMFs from bank deposits, in the absence of proper disclosure and warnings.

Proposals

117. To address the above concerns, we propose that the disclosure requirements noted in paragraphs 113 and 114 are also applied in the case of distribution of any Foreign Fund which falls within the proposed definition of an MMF in the same manner as they would in the case of a Domestic MMF (see Appendix 1, CIR Rule 15.1.3(2)(f)).

Q23:	Should we introduce disclosure requirements for Foreign Funds? If not, why?

Section C: Miscellaneous changes

118. The DFSA has identified, through stakeholder feedback (for which we are grateful) and its own work, a number of matters in the CIR Module that require clarification or correction. Most of these are minor corrections to correct cross-reference and other errors.

119. We do, however, have one proposal of substance. This is to introduce a requirement that Fund Managers of Public Funds issue confirmation notes to Investors.

120. In 2013/14 we took part in an IOSCO peer review exercise looking at disclosure to investors (IOSCO Principles 16 and 26). One of the results of this exercise was that it was clear to us that our regime was out of line with many regimes elsewhere, in not having an explicit requirement for confirmation notes to be issued. So we propose that such a requirement should be introduced into the DFSA regime (please see proposed CIR 8.6A).

Q24: Should we introduce the proposed requirements for confirmation notes for Public Funds? If not, why?

Q25: Do you have any comments on the other miscellaneous changes proposed?

Annex 1

Comparison of DFSA proposals with the IOSCO Money Market Funds recommendations

1. In 2012, IOSCO (through its Committee on Investment Management) was asked by the FSB to develop policy recommendations to mitigate the susceptibility of MMFs to runs and other systemic risks.

2. A consultation paper was issued in April 2012 outlining the systemic risks associated with MMFs, the policy options available to mitigate these risks, and a questionnaire for contributors to complete and submit. In response, IOSCO received 41 contributions, including contributions from 12 countries, the asset management industry, one Credit Rating Agency (CRA) and regulators.

3. This culminated in IOSCO issuing in October 2012 its Final Report on Policy Recommendations for Money Market Funds, outlining 15 recommendations of policy measures. It is noted that IOSCO recognised that regulators should first assess the role MMFs play in their markets and then determine the appropriate policy response.

4. The table below sets out the IOSCO recommendations and how they are addressed by the proposals in this consultation paper.

Key	
Change proposed to DFSA regime	(red)
No change proposed	(green)

IOSCO Recommendation[10]	**DFSA proposals**
1. MMFs should be explicitly defined in CIS regulation	New definition proposed.
2. Specific limitation should apply to the types of assets in which MMFs may invest and the risks they may take	New rules recommended in the form of investment restrictions to limit liquidity, market and credit risks.
3. Regulators should closely monitor the development and use of other vehicles similar to MMFs (collective investment	No change needed.

[10] IOSCO Final Report on Policy Recommendations for Money Market Funds, October 2012.

IOSCO Recommendation[10]	DFSA proposals
schemes or other types of securities)	
4. MMFs should comply with the general principle of fair valuing the securities held in their portfolios. Amortized cost method should only be used in limited circumstances	New guidance proposed clarifying that CNAV Funds are not permitted and that DFSA is unlikely to accept waiver requests in this area.
5. MMF valuation practices should be reviewed by a third party as part of their periodic reviews of the funds accounts	Already required.
6. MMFs should establish sound policies and procedures to know their investors	Already required; no need to add Guidance in relation to MMFs specifically.
7. MMFs should hold a minimum amount of liquid assets to strengthen their ability to face redemptions and prevent fire sales	New rule proposed requiring 10% in cash to be kept in accounts where the cash is available immediately on demand.
8. MMFs should periodically conduct appropriate stress testing	Already required.
9. MMFs should have tools in place to deal with exceptional market conditions and substantial redemptions pressures	Already required.
10. MMFs that offer a stable NAV should be subject to measures designed to reduce the specific risks associated with their stable NAV feature and to internalize the costs arising from these risks. Regulators should require, where workable, a conversion to floating/variable NAV. Alternatively, safeguards should be introduced to reinforce stable NAV MMFs' resilience and ability to face significant redemptions	See recommendation 4.
11. MMF regulation should strengthen the	New rules proposed.

IOSCO Recommendation[10]	DFSA proposals
obligations of the responsible entities regarding internal credit risk assessment practices and avoid any mechanistic reliance on external ratings	
12. CRA supervisors should seek to ensure credit rating agencies make more explicit their current rating methodologies for MMFs	No specific enhancements required.
13. MMF documentation should include a specific disclosure drawing investor's attention to the absence of capital guarantee and the possibility of principal loss	New rules recommended for Public Funds only.
14. MMF disclosure to investors should include all necessary information regarding the funds practices in relation to valuation and the applicable procedures in times of stress	Already covered.
15. When necessary, regulators should develop guidelines strengthening the framework applicable to the use of repos by MMFs, taking into account the outcome of current work on repo markets	No specific enhancements recommended.

Annex 2

List of questions in this Consultation Paper

Q1: Should Public Property Funds be permitted to have self-custody of the *Real Property* of the fund assets? If not, why?

Q2: If so, are the proposed systems and controls applicable to Public Property Funds appropriate? If not, why?

Q3: Should Exempt Property Funds be allowed self-custody of the Real Property of the Fund provided effective arrangements are in place to ensure the Real Property is not available to creditors of the Fund Manager in the event of the insolvency of the Fund Manager? If not, why?

Q4: Should further Guidance be included to indicate the DFSA's expectations relating to what is expected of Exempt Property Fund Managers when putting in place effective arrangements? If so, what should this Guidance cover?

Q5: Do you agree with our proposals to amend the list of criteria for Eligible Custodians? If not, why?

Q6: Should the borrowing limits for Public Property Funds and REITs be set at 50% GAV? If not, why?

Q7: Should we re-name Affected Persons as Related Parties? If not, why?

Q8: Should we change the threshold for prior approval required by Unitholders for Affected Person transactions over 5% of the most recent NAV to be by ordinary resolution? If not, why?

Q9: Should the Affected Person transactions requirements for Exempt Property Funds be removed? If not, why?

Q10: Should there be specific disclosure requirements relating to the Affected Person transactions engaged in by Exempt Property Funds in their information memorandum? If not, why?

Q11: Should we allow a Public and Exempt Property Fund Manager to appoint the same valuation company to carry out the valuation of the Fund Property provided appropriate evidence is given regarding the reasons behind that decision and that is presented to Unitholders in the appropriate annual report. If not, why?

Q12: Should we amend our rules so that a valuation report prepared for the Fund should be no more than six months old for the purposes of any acquisition and disposal of the relevant Fund Property? If not, why?

Q13: Should a Public Property Fund be allowed to invest in non-traded and non-listed Property Related Assets provided there is an approval and review role carried out by the Investment Committee of the Fund? If not, why?

Q14: Should an Exempt Property Fund be allowed to invest in non-traded and non-listed Property Related Assets? If not, why?

Q15: Should an Exempt Property Fund be required to disclose their investment objective in their Constitution? If not, why?

Q16: Should we introduce the proposed definition of Money Market Fund? If not, why?

Q17: Do you agree with the proposal to allow only VNAV MMFs to be established in the DIFC? If not, why?

Q18: Should we introduce the requirements set out above to address liquidity risks? If not, why?

Q19: Should we introduce these proposals on the use of credit ratings and the extent of due diligence a Fund Manager should undertake? If not, why?

Q20: Do you agree with our approach to Islamic Money market Funds? If not, please explain why.

Q21: Are there other specific matters that you think our regime shoul d set out for Islamic MMFs? If so, what are they?

Q22: Should we introduce the proposed disclosure requirements for MMFs that are Public Funds? If not, why?

Q23: Should we introduce disclosure requirements for Foreign Funds? If not, why?

Q24: Should we introduce the proposed requirements for confirmation notes for Public Funds? If not, why?

Q25: Do you have any comments on the other miscellaneous changes proposed?