

Appendix 1

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

**REGULATORY LAW AMENDMENT
DIFC LAW No. X of 2018**

AMENDMENTS TO THE REGULATORY LAW 2004

The Regulatory Law 2004 is amended by inserting the underlined text and deleting the struck through text as shown below:

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PART 2: THE DFSA

CHAPTER 1 - THE STRUCTURE OF THE DFSA

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8. The Powers, Functions and Objectives of the DFSA

- (1) The DFSA has such functions and powers as are conferred, or expressed to be conferred, on it:
 - (a) by or under the Law; and
 - (b) by or under any other law made by the Ruler.
- (2) The DFSA has power to do whatever it deems necessary for or in connection with, or reasonably incidental to, performing its functions and exercising its powers conferred in accordance with (1).
- (3) In performing its functions and exercising its powers, the DFSA shall pursue the following objectives:
 - (a) to foster and maintain fairness, transparency and efficiency in the financial services industry (namely, the financial services and related activities carried on) in the DIFC;
 - (b) to foster and maintain confidence in the financial services industry in the DIFC;
 - (c) to foster and maintain the financial stability of the financial services industry in the DIFC, including the reduction of systemic risk;

- (d) to prevent, detect and restrain conduct that causes or may cause damage to the reputation of the DIFC or the financial services industry in the DIFC, through appropriate means including the imposition of sanctions;
- (e) to protect direct and indirect users and prospective users of the financial services industry in the DIFC;
- (f) to promote public understanding of the regulation of the financial services industry in the DIFC;
- (g) to foster and maintain the objectives of the DIFC under Dubai Law in relation to the exercise or performance of any powers or functions conferred upon the DFSA by Dubai Law or DIFC Law; and
- (h) to pursue any other objectives as the Ruler may from time to time set under DIFC Law.

(3A) In pursuing the objective referred to in (3)(d) in the context of money laundering, the DFSA shall:

- (a) monitor and enforce, or assist other appropriate authorities to monitor and enforce, compliance with Federal Anti-Money Laundering Legislation, as well as legislation administered by the DFSA;
- (b) prevent, detect and restrain conduct in so far as it relates to Relevant Persons; and
- (c) comply with the provisions of Chapter 2 of Part 4.

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PART 3: LICENCES, AUTHORISATION AND REGISTRATION

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~~CHAPTER 8 – REGISTRATION OF ANCILLARY SERVICE PROVIDERS AND DNFbps DELETED~~

~~60. Registration of DNFbps Deleted~~

- (1) ~~The DFSA shall make Rules prescribing the person or class of persons which are designated to be a DNFBP.~~
- (2) ~~A person who meets the definition of a DNFBP, as defined in the Rules made for the purposes of Article 60(1), must register with the DFSA.~~
- (3) ~~The DFSA may make Rules prescribing the requirements for registration under Article 60 (2) and prescribing the circumstances under which the DFSA may de-register a person who is registered under Article 60(2).~~

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PART 4: GENERAL REGULATION AND ANTI-MONEY LAUNDERING PROVISIONS

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CHAPTER 2 – ANTI-MONEY LAUNDERING COMPLIANCE

70. Jurisdiction

- (1) This chapter is made in recognition of the application in the DIFC of Federal Law No. 4 of 2002 on Combating Money Laundering and Terrorist Financing, ~~‘Criminalisation of Money Laundering’ and Decree by Federal Law No. 7 of 2014 on Combating Terrorism Offences 1 of 2004 ‘Combating Terrorism Offences’ and any other Federal legislation relating to money laundering, terrorist financing, the financing of unlawful organisations or sanctions non-compliance.~~
- (2) A reference in this chapter to:
 - (a) any law or legislation includes any implementing regulation or other instrument made by or under the law or legislation; and
 - (b) money laundering is to be taken to include terrorist financing, the financing of unlawful organisations and sanctions non-compliance.~~unless the context otherwise provides or implies.~~
- (3) The DFSA has, in respect of Relevant Persons, ~~subject to (4), exclusive jurisdiction for regulation in relation to money laundering in the DIFC; and the~~

DFSA is the relevant authority that licences and supervises Relevant Persons in the DIFC for the purposes of the Federal Anti-Money Laundering Legislation.

(4) Nothing in (3) is intended to limit any function or power conferred on another body or authority under the Federal Anti-Money Laundering Legislation.

(5) In this Part, a “Relevant Person” means:

(a) an Authorised Person;

(b) a Registered Auditor;

(c) a Designated Non-Financial Business or Profession (DNFBP); or

(d) an officer, employee or agent of a person referred to in (a), (b) or (c).

~~(4) Nothing in the Law affects the operation of:~~

~~(a) Federal Law No. 4 of 2002;~~

~~(b) Federal Law No. 1 of 2004;~~

~~(c) the Penal Code of the United Arab Emirates; or~~

~~(d) any other Federal Law that is applicable in the DIFC in relation to money laundering.~~

71. **Obligations**

(1) A ~~person~~ Relevant Person shall comply with ~~any provision of Federal Law Anti-Money Laundering Legislation relating to money laundering~~ as it applies to such person in the DIFC.

(2) A ~~person~~ Relevant Person shall comply with any duty, requirement, prohibition, obligation or responsibility to which that person is subject under the Rules.

(3) Where the DFSA detects conduct which it suspects may relate to money laundering, it shall advise the relevant authority exercising powers and performing functions under the relevant Federal Law Anti-Money Laundering Legislation No. 4 of 2002 without undue delay.

- (4) ~~A Relevant Person who is subject to Rules made pursuant to Article 72~~ shall conduct customer due diligence in the circumstances prescribed by the Rules.
- (5) A Relevant Person shall maintain such records relating to customer due diligence, transactions and anti-money laundering measures as are prescribed by the Rules.

71A. DNFBP Prohibition

- (1) A person who is a DNFBP shall not carry on any activities in or from the DIFC unless that person is registered by the DFSA as a DNFBP.
- (2) The DFSA shall make Rules prescribing the class of persons who are DNFBPs.

71B. Criteria for Registration of a DNFBP

- (1) The DFSA shall make Rules setting out the criteria a person must meet to become and remain registered by the DFSA as a DNFBP. The Rules may, without limiting the generality of that power, include criteria related to:
 - (a) the fitness and propriety of the person; and
 - (b) its resources and arrangements for complying with Anti-Money Laundering Legislation.
- (2) The DFSA may make Rules providing that certain types of person may not be granted DNFBP registration.

71C. Application for Registration

- (1) A person may apply in the prescribed form to the DFSA to be registered as a DNFBP.
- (2) The DFSA may require the applicant to provide additional information or documents reasonably required for the DFSA to be able to determine the application including, but not limited to, information or documents relating to its activities, ownership, group structure, financial and other resources.
- (3) If at any time between filing an application and the grant or refusal of a DNFBP registration the applicant becomes aware of a material change reasonably likely to be relevant to the application, it shall inform the DFSA in writing of the change without delay.

71D. Grant of an Application

- (1) The DFSA may grant an application for DNFBP registration if it is satisfied that the applicant meets the criteria for registration under Article 71B.
- (2) When the DFSA decides to register a DNFBP, it shall as soon as practicable inform the applicant and the DIFC Registrar of Companies in writing of the decision and of the date on which registration is to take effect.

71E. Refusal of an Application

- (1) The DFSA may refuse to grant an application for DNFBP registration if it is not satisfied that the applicant meets the criteria for registration under Article 71B.
- (2) The procedures in Schedule 3 apply to a decision of the DFSA under (1).
- (3) If the DFSA decides to exercise its power under (1), the applicant may refer the matter to the FMT for review.
- (4) The DFSA must as soon as practicable notify the DIFC Registrar of Companies if it refuses to grant an application for DNFBP registration.

71F. Suspension and withdrawal of DNFBP Registration

- (1) The DFSA may suspend the registration of a DNFBP at the request of the DNFBP or on its own initiative.
- (2) The DFSA may withdraw the registration of a DNFBP:
 - (a) at the request of the DNFBP;
 - (b) if the DIFC Registrar of Companies notifies it that the DNFBP no longer holds the relevant commercial licence to operate in the DIFC; or
 - (c) on its own initiative.
- (3) The DFSA may exercise its power on its own initiative under (1) or (2)(c) if:
 - (a) the DNFBP no longer meets the criteria for DNFBP registration;

(b) the DNFBP is in breach of, or has been in breach of, the Law or Rules or other Anti-Money Laundering Legislation;

(c) the DNFBP is insolvent or entering into administration;

(d) the DNFBP is no longer carrying on business in the DIFC; or

(e) the DFSA considers that exercising the power is necessary or desirable in the pursuit of its anti-money laundering objective in Article 8(3A).

(4) The procedures in Schedule 3 apply to a decision of the DFSA under this Article to suspend or withdraw registration of a DNFBP on its own initiative.

(5) If the DFSA decides to exercise its power under this Article to suspend or withdraw registration of a DNFBP on its own initiative, the DNFBP may refer the matter to the FMT for review.

71G. Co-ordination between DFSA and Registrar of Companies

(1) The DIFC Registrar of Companies shall not grant a person who is a DNFBP a commercial licence to operate in the DIFC until the DFSA has confirmed to the Registrar that it intends to register the person as a DNFBP.

(2) The DFSA shall as soon as practicable notify the DIFC Registrar of Companies if it suspends or withdraws the registration of a DNFBP.

(3) The DIFC Registrar of Companies shall as soon as practicable suspend or withdraw (as the case may be) the commercial licence of the DNFBP if it receives a notification under (2).

72. Rules

The DFSA shall make Rules in connection with the creation and implementation of anti-money laundering measures, policies and procedures, including Rules as to:

(a) the persons or classes of persons who shall be subject to any such measures, policies and procedures;

- (b) the nature and extent of any duty, requirement, prohibition, obligation or responsibility applicable to such persons; and
- (c) registration of any or all of such persons with the DFSA.

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**SCHEDULE 1
INTERPRETATION**

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3. Defined Terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
<u>Anti-Money Laundering Legislation</u>	<u>Means:</u> (a) <u>Federal Anti-Money Laundering Legislation; and</u> (b) <u>legislation administered by the DFSA relating to money laundering, terrorist financing, the financing of unlawful organisations and sanctions non-compliance.</u>
...	...
DNFBP	has the meaning prescribed in the Rules made pursuant to Article 60(6) <u>71A (2)</u> of the Law.
<u>DNFBP Prohibition</u>	<u>The prohibition in Article 71A (1) of the Law.</u>
...	...
<u>Federal Anti-Money Laundering Legislation</u>	<u>has the meaning given in Articles 70 (1) and (2) of the Law.</u>
...	...

Term	Definition
<u>Money laundering</u>	<u>has the meaning given in Article 70 (2)(b) of the Law.</u>
...	...
<u>Relevant Person</u>	<u>has the meaning given in Article 70 (5) of the Law.</u>

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