

## Appendix 3

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



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# The DFSA Rulebook

General Module

**(GEN)**

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## 5 MANAGEMENT, SYSTEMS AND CONTROLS

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### 5.3 Systems and controls

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- 5.3.19** (1) An Authorised Firm must ensure, as far as reasonably practical, that its Employees are:
- (a) fit and proper;
  - (b) competent and capable of performing the functions which are to be assigned to those Employees; and
  - (c) trained in the requirements of the legislation applicable in the DIFC.
- (2) An Authorised Firm must establish and maintain systems and controls to comply with (1). An Authorised Firm must be able to demonstrate that it has complied with these requirements through appropriate measures, including the maintenance of relevant records.

#### Guidance

1. When considering whether an Employee is fit and proper, competent and capable, an Authorised Firm should consider any training undertaken or required by an Employee, the nature of the Clients to whom an Employee provides Financial Services, and the type of activities performed by an Employee in the provision of such Financial Services including any interface with Clients.
2. When assessing the fitness and propriety of Employees, an Authorised Firm should be guided by the matters set out in section 2.3 of the RPP Sourcebook and should also monitor conflicts or potential conflicts of interest arising from all of the individual's links and activities.
3. When assessing the competence and capability of an Employee, an Authorised Firm should:
  - a. obtain details of the skills, knowledge and experience of the Employee relevant to the nature and requirements of the role;
  - b. take reasonable steps to verify the relevance, accuracy and authenticity of any information obtained;
  - c. determine, in light of the Employee's relevant skills, knowledge and experience, that the Employee is competent and capable of fulfilling the duties of the role; and

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- d. consider the level of responsibility that the Employee will assume within the Authorised Firm, including whether the Employee will be providing Financial Services to Retail Clients in an interfacing role.
  4. An Authorised Firm should also satisfy itself that an Employee:
    - a. continues to be competent and capable of performing the role;
    - b. has kept abreast of market, product, technology, legislative and regulatory developments that are relevant to the role, through training or other means; and
    - c. is able to apply his knowledge.
  5. Refer to section 2.2.13 of the RPP Sourcebook for criteria for suitability of members of the Governing Body of the Authorised Firm.

### **Continuing Professional Development**

- 5.3.19A** (1) An Authorised Firm must ensure that an Employee who falls within a category specified in (2) remains competent by completing a minimum of 15 hours of continuing professional development (CPD) in each 12 month period.
- (2) The categories of Employees specified for the purposes of (1) are:
- (a) the Senior Executive Officer;
  - (b) the Compliance Officer;
  - (c) the Money Laundering Reporting Officer; and
  - (d) Employees delivering Financial Services to customers of the Authorised Firm.
- (3) An Authorised Firm must ensure that:
- (a) the CPD in (1) is relevant to the Employee's:
    - (i) current role and any anticipated change in that role; and
    - (ii) professional skill and knowledge;
  - (b) the CPD consists of structured activities; and
  - (c) the Employee keeps adequate records of CPD activities to be able to demonstrate that the requirements in this Rule have been met.
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- (4) The 12 month period in (1) is specified to commence on 1 April each year and end on 31 March of the following year.
- (5) In (3), “structured activities” means courses, seminars, lectures, conferences, workshops, web-based seminars or e-learning which require a commitment of thirty minutes or more.

**Guidance**

- 1. The categories of Employees specified in Rule 5.3.19A include “Employees delivering Financial Services to customers of the Authorised Firm”. This is the category of Employees referred to in Rule 5.3.2. Under that Rule, an Authorised Firm is required to identify, and publish details of, all such Employees.
- 2. The requirement in Rule 5.3.19A does not derogate from the requirement in Rule 5.3.19 for an Authorised Firm to ensure that Employees generally are competent and capable of performing their functions. This requires the Authorised Firm to consider what training is undertaken or required for all Employees, including Employees not covered by this Rule.

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