

Appendix 2

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

**MARKETS LAW AMENDMENT
DIFC LAW No. X of 2021**

AMENDMENTS TO THE MARKETS LAW 2012

The Markets Law 2012 is amended by inserting the underlined text and deleting the struck through text as shown below:

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10. Application of this Part to a Collective Investment Fund

- (1) The provisions in Part 2 of this Law and the Rules made for the purpose of that Part shall not apply to a person in relation to making an Offer of a Unit as defined in Article 19 of the Collective Investment Law 2010.
- (2) The provisions in Part 2 of this Law and the Rules made for the purpose of that Part shall apply to a person who has or intends to have Units admitted to trading on an Authorised Market Institution, or Security Tokens that are Units admitted to trading on an Alternative Trading System, in the manner and circumstances specified in this Law and prescribed in the Rules.

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14. Obligation to issue a Prospectus

- (1) A person shall not, subject to Article 14(3):
 - (a) make an Offer of Securities to the Public in or from the DIFC; ~~or~~
 - (b) have Securities admitted to trading on an Authorised Market Institution; or
 - (c) have Security Tokens that are Securities admitted to trading on an Alternative Trading System,unless there is an Approved Prospectus in relation to the relevant Securities.
- (2) For the purposes of Article 14(1):
 - (a) a Prospectus is an Approved Prospectus if it is approved by the DFSA in accordance with the requirements prescribed in the Rules; and
 - (b) a reference to a Prospectus in the Law or the Rules is a reference to an Approved Prospectus, unless the context requires otherwise.
- (3) The requirement in Article 14(1) does not apply:

- (a) to an Offer of Securities to the Public where that offer is an “Exempt Offer” as prescribed in the Rules; or
 - (b) to any Securities to be admitted to trading on an Authorised Market Institution if those Securities are “Exempt Securities” as prescribed in the Rules.
- (4) For the purposes of this Part and the Rules made for the purposes of this Part, unless the context requires otherwise:
- (a) a reference to a Prospectus Offer is a reference to both the making of an Offer of Securities to the Public and to having Securities admitted to trading, either:
 - (i) on an Authorised Market Institution; or
 - (ii) on an Alternative Trading System, where the Securities are Security Tokens that are not already admitted to trading on an Authorised Market Institution;
 - (b) a reference to an “offeror” is a reference to the person making a Prospectus Offer; and
 - (c) a reference to a Prospectus in respect of a person who has or seeks to have Units of a Fund admitted to trading on either an Authorised Market Institution or an Alternative Trading System (if the Units are Security Tokens that are not admitted to trading on an Authorised Market Institution) is a reference:
 - (i) in the case of a Domestic Fund, to a Prospectus under the Collective Investment Law 2010 and the Collective Investment Rules; and
 - (ii) in the case of a Foreign Fund, to a Prospectus prepared in accordance with the requirements prescribed in the Rules.
- (5) A Prospectus includes a Supplementary Prospectus, except where otherwise provided in this Law or the Rules.

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38. Definition of a Reporting Entity

- (1) A person is, subject to Article 38(3), a Reporting Entity if the person:
 - (a) has or had Securities admitted to an Official List of Securities at any time;
 - (b) has or had Security Tokens that are Securities admitted to trading on an Alternative Trading System where the Security Tokens were not admitted to an Official List of Securities or to trading on a Regulated Exchange;

- (bc) has made an Offer of Securities to the Public other than in relation to Units of a Fund;
 - (ed) merges with or acquires a Reporting Entity referred to in Article 38(1)(a), ~~or~~ (b) or (c); or
 - (de) is declared by the DFSA pursuant to Article 38(4) to be a Reporting Entity.
- (2) For the purposes of Article 38(1)(a) and (b):
- (a) in the case of a Fund where the Units are or have been included in an Official List of Securities (a “Listed Fund”):
 - (i) a reference to a Reporting Entity is a reference to the Fund Manager of that Fund or such other person as the DFSA may declare (who may also be called a “Reporting Entity of the Listed Fund”); and
 - (ii) any obligations of a Reporting Entity are, unless the context requires otherwise, obligations in respect of the Listed Fund; ~~and~~
 - (b) for avoidance of doubt, a person does not become a Reporting Entity of a Listed Fund by merely offering the Units of the Fund to the public, unless the Units are also admitted to an Authorised Market Institution; and
 - (c) in the case of a Fund other than a Listed Fund, where the Units are Security Tokens admitted to trading on an Alternative Trading System:
 - (i) a reference to a Reporting Entity is a reference to the Fund Manager of that Fund or such other person as the DFSA may declare; and
 - (ii) any obligations of a Reporting Entity are, unless the context requires otherwise, obligations in respect of that Fund.
- (3) A person is not a Reporting Entity:
- (a) if the person:
 - (i) is an Exempt Offeror; or
 - (ii) has made an Offer of Securities to the Public where that offer is an Exempt Offer;
 - (b) if:
 - (i) the person previously had Securities admitted to an Official List of Securities but currently has no Securities admitted to an Official List of Securities;

- (ii) the current holders of at least seventy five per cent of the Securities of the Reporting Entity or the Listed Fund, as is relevant, have agreed in writing that the person is no longer needed to be a Reporting Entity; and
 - (iii) the DFSA has confirmed in writing upon being notified of the grounds referred to in Article 38(3)(b)(i) and (ii) that the person need no longer be a Reporting Entity; or
 - (c) in the case of a person referred to in Article 38(1)(a),(b), ~~or (c)~~ or (d), if that person is declared by the DFSA pursuant to Article 38(4)(a)(ii) not to be a Reporting Entity.
- (4) The DFSA may upon application of a person or on its own initiative:
- (a) declare in writing that a person is:
 - (i) a Reporting Entity; or
 - (ii) not a Reporting Entity; and
 - (b) impose such conditions or restrictions as it considers appropriate in respect of such a declaration.
- (5) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under Article 38(4).
- (6) If the DFSA decides to exercise its power under Article 38(4), the person may refer the matter to the FMT for review.
- (7) The DFSA may, by Rules, prescribe requirements applicable to Reporting Entities including any circumstances in which such requirements may not apply to certain Reporting Entities.
- (8) The DFSA may, by Rules, extend the requirements applicable to a Reporting Entity to any person who intends to undertake any activity specified in Article 38(1)(a), (b), ~~or (c)~~, or (d) where it considers appropriate to do so.
- (9) A reference to a Reporting Entity in the Law and the Rules made for the purposes of the Law includes, except where otherwise provided or the context implies otherwise, a person intending to have Securities admitted to trading on an Authorised Market Institution.

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SCHEDULE

INTERPRETATION

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3. **Defined Terms**

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Term	Definition
<u>Alternative Trading System</u>	<u>has the meaning prescribed in the Rules made under the Regulatory Law 2004.</u>
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<u>Regulated Exchange</u>	<u>has the meaning prescribed in the Rules made under the Regulatory Law 2004.</u>
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<u>Security Token</u>	<u>has the meaning prescribed in the Rules made under the Regulatory Law 2004.</u>
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