

Appendix 3

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



The DFSA Rulebook

General Module

(GEN)

2 FINANCIAL SERVICES

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2.23 Providing Trust Services

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Exclusions

2.23.2 A Person who is an ~~Ancillary Service Provider~~ DNFBP in AML Rule 2.2.1(1)(d) and (e) does not provide Trust Services where it only:

- (a) arranges for a Person to act as trustee in respect of an express trust;
or
 - (b) provides services with respect to the creation of an express trust;

provided that:
 - (i) the provision of such services is solely incidental to the practice of law or accounting as the case may be; and
 - (ii) the Designated Non-Financial Business or Profession ASP is not holding itself out as Providing Trust Services.
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5 MANAGEMENT, SYSTEMS AND CONTROLS

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5.3 Systems and controls

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Conduct

5.3.20 An Authorised Person must establish and maintain systems and controls that ensure, as far as reasonably practical, that the Authorised Person and its Employees do not engage in conduct, or facilitate others to engage in conduct, which may constitute:

- (a) market misconduct;
 - (b) ~~money laundering; or~~
 - (~~e~~)(b) a financial crime under any applicable U.A.E. laws.
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Relevant United Nations Resolutions and Sanctions

~~5.3.29 Deleted (1) — An Authorised Person must establish and maintain effective systems and controls to:~~

- ~~(a) — obtain and make appropriate use of relevant resolutions or sanctions issued by the United Nations Security Council; and~~
- ~~(b) — disclose in its annual MLRO report to the DFSA the manner in which it has observed such resolutions or sanctions.~~

~~(2) — An Authorised Person must immediately notify the DFSA when it becomes aware that it is:~~

- ~~(a) — carrying on or about to carry on a Financial Service;~~
- ~~(b) — holding or about to hold money or other assets; or~~
- ~~(c) — undertaking or about to undertake any other business whether or not arising from or in connection with (a) or (b);~~

~~for or on behalf of a Person, where such carrying on, holding or undertaking constitutes or may constitute a contravention of a relevant sanction or resolution issued by the United Nations Security Council.~~

~~(3) — An Authorised Person must ensure that the notification stipulated in (2) above includes the following information:~~

- ~~(a) — a description of the relevant activity in (2) (a), (b) or (c); and~~
- ~~(b) — the action proposed to be taken or that has been taken by the Authorised Person with regard to the matters specified in the notification.~~

Guidance

~~1. — In relation to the term “make appropriate use” in Rule 5.3.29 this may mean that an Authorised Person cannot undertake a transaction for or on behalf of a Person or that it may need to undertake further due diligence in respect of a Person.~~

~~2. — Relevant resolutions or sanctions mentioned in Rule 5.3.29 may, among other things, relate to money laundering and terrorist financing or financing of weapons of mass destruction or otherwise be relevant to the Financial Services carried on or the other business activities conducted by the Authorised Person. For example:~~

- ~~a. — an Authorised Firm should exercise due care to ensure that it does not provide Financial Services to, or conduct business with, a Person engaged in money laundering or terrorist financing or financing of weapons of mass destruction; and~~
- ~~b. — an Authorised Market Institution should exercise due care to ensure that it does not facilitate fund raising activities or listings by Persons engaged in money laundering or terrorist financing or financing of weapons of mass destruction.~~

~~3. — In respect of the United Nations Security Council’s resolutions or sanctions, the MLRO should also refer to AML Rules 3.3.3(2)(h), 3.3.4(d) and 3.9.1(h) and AMI Rules 11.6.2(2)(k), 11.6.3(g) and 11.12.1(j) for requirements relating to the MLRO’s responsibility, reporting and training and awareness.~~

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7 AUTHORISATION

7.1 Application

- 7.1.1** (1) This chapter applies, subject to (2), to every Person who is:
- (a) an Authorised Firm;
 - (b) an applicant for a Licence to be an Authorised Firm;
 - (c) an Authorised Individual; or
 - (d) an applicant for Authorised Individual status; or
 - (e) a Controller of a Person referred to in (a) or (b).
- (2) This chapter does not apply to a Person intending to:
- (a) Operate an Exchange;
 - (b) Operate a Clearing House; or
 - (c) Operate a Representative Office.

Guidance

1. This chapter outlines DFSA's authorisation requirements for an Authorised Firm and Authorised Individual.
2. The DFSA's requirements for authorisation of :
 - a. Authorised Market Institutions are covered by the AMI module; and
 - b. Representative Offices are covered by the REP module; ~~and~~
 - c. ~~Ancillary Service Providers are covered by the ASP module.~~
3. The DFSA's requirements for registration of DNFbps are found in the AML module.
4. This chapter should be read in conjunction with the RPP Sourcebook which sets out DFSA's general regulatory policy and processes. Some additional processes may be outlined in other chapters of this module.
45. Chapter 2 of the RPP Sourcebook sets out DFSA's approach to the authorisation of undertakings and individuals to conduct Financial Services or Licensed Functions, as the case may be.

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7.4 Licensed Functions and Authorised individuals

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Money Laundering Reporting Officer

- 7.4.8** The Money Laundering Reporting Officer function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Firm and who has responsibility for the implementation of an Authorised Firm's anti money laundering policies, procedures, systems and controls and day to day oversight of its compliance with the Rules in AML and any relevant anti money laundering legislation applicable in the DIFC.
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7.6 Application for Authorised Individual status

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- 7.6.13** An Authorised Firm must ensure, in the case of individuals seeking to perform the Licensed Functions of Senior Executive Officer, Money Laundering Reporting Officer, or Compliance Officer, that such individuals are able to demonstrate sufficient knowledge of relevant anti money laundering requirements.

Guidance

In considering whether individuals have sufficient knowledge of relevant anti money laundering requirements, the DFSA may be satisfied where the individual can demonstrate receipt of appropriate training specifically relevant to such requirements. ~~See AML section 3.9.~~

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