

Appendix 2

In this appendix underlining indicates proposed new text and striking through indicates deleted text.

In some cases this appendix highlights by footnotes amendments to the text that were previously proposed under Consultation Paper No. 90.

Readers should also note that footnotes are included for information purposes only and are not part of the legislative proposals.

MARKETS LAW

DIFC LAW No. 1 of 2012

PART 2: OFFER OF SECURITIES

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CHAPTER 4: MISLEADING AND DECEPTIVE STATEMENTS OR OMISSIONS

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25 Stop orders

- (1) If the DFSA is satisfied that an Prospectus-Offer of Securities to the Public would contravene or has contravened this Law or the Rules made for the purposes of this Law or it is in the interest of the DIFC, the DFSA may issue a stop order directing that no offer, issue, sale or transfer of the Securities be made for such a period of time as it thinks appropriate.¹
- (2) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under this Article.
- ~~(2) Upon making a decision in relation to Article 25(1), the DFSA shall, without undue delay, inform the offeror of Securities in writing of its decision and the reasons for the decision.~~
- (3) If the DFSA decides to exercise its power under this Article, the offeror may refer the matter to the FMT for review.
- ~~(3) The DFSA may only exercise its power to issue a stop order if it has given the offeror of Securities a suitable opportunity to make representations in person and in writing to the DFSA in relation to the proposed stop order.~~
- ~~(4) The requirement imposed on the DFSA in Article 25(3) shall not apply where the DFSA concludes that any delay likely to arise as a result of such requirements is prejudicial to the interests of the DIFC or participants in the market.~~
- ~~(5) Where pursuant to Article 25(4) the DFSA has issued a stop order directing that no offer, issue, sale or transfer of Securities be made without providing a prior opportunity to make representations, the DFSA shall:
 - (a) provide the relevant offeror of Securities an opportunity to make representations in person and in writing to the DFSA within a period of 14 days, or such further period as may be agreed, from the date on which such direction was made; and~~

¹ It is proposed to use the term Offer of Securities to the Public as this is the term generally used and appears to be more appropriate in this context.

~~(b) provide a response to any such submission, and make any consequential direction, variation or withdrawal of the direction, without undue delay.~~

~~(6) The Regulatory Appeals Committee FMT has jurisdiction to hear and determine any appeal reference in relation to a decision of the DFSA to issue a stop order made under this Article.²~~

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PART 3: AUTHORISED MARKET INSTITUTIONS

CHAPTER 1: SUPERVISION OF AUTHORISED MARKET INSTITUTIONS

26 Supervision of Authorised Market Institutions

- (1) Without limiting the application of the Regulatory Law 2004, the DFSA may, ~~by written notice,~~³ direct an Authorised Market Institution to do or not do specified things that the DFSA considers are necessary or desirable or to ensure the integrity of the DIFC financial markets, including but not limited to directions:
- (a) requiring compliance with any duty, requirement, prohibition, obligation or responsibility applicable to an Authorised Market Institution;
 - (b) requiring an Authorised Market Institution to act in a specified manner in relation to a transaction conducted on or through the facilities operated by an Authorised Market Institution, or in relation to a specified class of transactions; or
 - (c) requiring an Authorised Market Institution to act in a specified manner or to exercise its powers under any rules that the Authorised Market Institution has made.
- (2) Without limiting the application of Article 75 of the Regulatory Law 2004, the DFSA may, ~~by written notice,~~ direct an Authorised Market Institution to:
- (a) close the market or facilities operated by an Authorised Market Institution in a particular manner or for a specified period;

² This text shows amendments proposed in CP 90. It is now proposed to deleted the text as it is covered by the new formulation in Article 25(3).

³ References to “by written notice” are deleted in various places where the new decision making procedures apply. The new procedures require various written notices to be given to the person concerned (i.e. the AMI)

- (b) suspend transactions on the market or through the facilities operated by the Authorised Market Institution;
 - (c) suspend transactions in Investments conducted on the market or through the facilities operated by the Authorised Market Institution;
 - (d) prohibit trading in Investments conducted on the market or through the facilities operated by the Authorised Market Institution;
 - (e) defer for a specified period the completion date of transactions conducted on the market or through the facilities operated by the Authorised Market Institution;
 - (f) prohibit a specified person from undertaking any transactions on the facilities operated by the Authorised Market Institution; or
 - (g) do any act or thing, or not do any act or thing, in order to ensure an orderly market, or reduce risk to the DFSA's objectives.
- (3) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under this Article. The Regulatory Appeals Committee FMT has jurisdiction to hear and determine any appeal reference in relation to a decision of the DFSA to issue a direction under this Article 26.⁴
- (4) If the DFSA decides to exercise its power under this Article, the Authorised Market Institution may refer the matter to the FMT for review.

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CHAPTER 2 – OFFICIAL LIST OF SECURITIES

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30 Application for an endorsement

- (1) An application for an endorsement on a Licence authorising an Authorised Market Institution to maintain an Official List of Securities may be made to the DFSA by:
 - (a) the Authorised Market Institution; or

⁴ This text which shows amendments consulted on in CP 90 is proposed to be deleted as the new formulation in Article 26(4) covers this issue.

- (b) an applicant for a Licence to operate an Authorised Market Institution.
- (2) The DFSA may grant ~~or refuse to grant~~ an application for an endorsement: if it is satisfied that the
- ~~(3) When granting or refusing to grant an endorsement, the DFSA shall consider whether an Authorised Market Institution or applicant (as the case may be) has listing rules that meet the requirements in Article 32 and whether it complies with any other relevant requirements that are imposed by this Law or the Rules.~~
- (3) The DFSA may refuse to grant an endorsement if it is not satisfied of the matters referred to in Article 30(2).
- ~~(4) Upon refusing to grant an endorsement, the DFSA shall, without undue delay, inform the applicant in writing of such refusal and the reasons for such refusal.~~
- (4) The procedures in Schedule 3 to the Regulatory Law apply to a decision of the DFSA under this Article to refuse to grant an endorsement. The Regulatory Appeals Committee has jurisdiction to hear and determine any appeal in relation to a decision to issue a direction under Article 26.
- (5) If the DFSA decides to exercise its power under this Article to refuse to grant an endorsement, the Authorised Market Institution or applicant (as the case may be) may refer the matter to the FMT for review.

31 Suspension or withdrawal of an endorsement

- (1) The DFSA may at any time, ~~by written notice,~~ suspend or withdraw the endorsement on the Licence of an Authorised Market Institution to maintain an Official List of Securities: if it appears to the DFSA that the Authorised Market Institution no longer meets the requirements referred to in Article 30 or at the request of the Authorised Market Institution.
- ~~(2) The DFSA may act under Article 31(1) on its own initiative or at the request of an Authorised Market Institution.~~
- ~~(3) The DFSA may, Subject to Article 31(4), suspend or withdraw the endorsement on a Licence on its own initiative if it has given the Authorised Market Institution a suitable opportunity to make representations in person and in writing to the DFSA in relation to the proposed changes.~~
- (2) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under this Article. The DFSA may also give any third party who has a direct interest in the matter an opportunity to make representations to the DFSA under those procedures if it considers it appropriate to do so.

- (3) If the DFSA decides to exercise its power under this Article, the Authorised Market Institution may refer the matter to the FMT for review.
- ~~(4) The requirement imposed on the DFSA under Article 31(3) shall not apply in the case of a suspension of an endorsement on a Licence if the DFSA concludes that any delay likely to arise as a result of such requirement is prejudicial to the conduct of an orderly market or the interests of the DIFC.~~
- ~~(5) Where pursuant to Article 31(4), the DFSA suspends an endorsement without providing a prior opportunity to make representations, the DFSA shall:~~
- ~~(a) provide the relevant Authorised Market Institution with an opportunity to make representations in person and in writing to the DFSA within a period of 14 days or such further period as may be allowed from the date on which the endorsement is suspended; and~~
- ~~(b) provide a response to any such submission and make any consequential direction without undue delay.~~
- ~~(6) The DFSA may, unless Article 31(4) applies, give any third party who has a direct interest in the matter an opportunity to make representations to the DFSA.~~

32 Listing Rules Requirements

- (1) The listing rules of an Authorised Market Institution shall contain such provisions as are prescribed in the Rules.
- (2) Subject to Article 32(3), the DFSA may, ~~by written notice,~~ direct an Authorised Market Institution to:
- (a) make listing rules within a specified period; or
- (b) amend specified listing rules in the manner and within the period prescribed.
- (3) The DFSA may only direct an Authorised Market Institution in accordance with Article 32(2) if it has first requested the Authorised Market Institution to make or amend specified listing rules and the Authorised Market Institution has failed to comply with that requirement within the period specified by the DFSA in its request.
- (4) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under Article 32 (2).
- (5) If the DFSA decides to exercise its power under Article 32(2), the Authorised Market Institution may refer the matter to the FMT for review.

~~(6)(4)~~ Where the DFSA maintains an Official List of Securities, it shall, by Rules, prescribe the relevant listing rules. Such listing rules shall include requirements relating to:

- (a) procedures for admission of Securities to its Official List of Securities including:
 - (i) requirements to be met before Securities may be granted admission to an Official List of Securities;
 - (ii) agreements in connection with admitting Securities to an Official List of Securities;
- (b) enforcement of the agreements referred to in Article 32~~(6)(4)~~(a)(ii);
- (c) procedures for suspension and delisting of Securities from an Official List of Securities;
- (d) the imposition on any person of obligations to observe specific standards of conduct or to perform, or refrain from performing, specified acts, reasonably imposed in connection with the admission of Securities to an Official List of Securities or continued admission of Securities to an Official List of Securities;
- (e) penalties or sanctions which may be imposed by the DFSA for a breach of the listing rules;
- (f) procedures or conditions which may be imposed, or circumstances which are required to exist, in relation to matters which are provided for in the listing rules;
- (g) actual or potential conflicts of interest that have arisen or might arise when a person seeks to have Securities admitted to an Official List of Securities; and
- (h) such other matters as are necessary or desirable for the proper operation of the listing rule process and the market.

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34 Objections or refusal by the DFSA to an admission of Securities to an Official List of Securities

- (1) Where an Authorised Market Institution maintains an Official List of Securities, the DFSA may, ~~by written notice:~~

- (a) object to the admission of Securities to such an Official List of Securities; or
- (b) impose conditions or restrictions in respect of the admission of Securities to such an Official List of Securities, or vary or withdraw such conditions or restrictions,

in the circumstances specified in Article 34(3).

- (2) Where the DFSA maintains an Official List of Securities, the DFSA may, ~~by written notice:~~

- (a) refuse an application for admission of Securities to such an Official List of Securities; or
- (b) impose conditions or restrictions, in respect of the admission of Securities to such an Official List of Securities, or vary or withdraw such conditions or restrictions,

in the circumstances specified in Article 34(3).

- (3) The DFSA may exercise its powers under Article 34(1) or (2) where:

- (a) the DFSA reasonably considers, for a reason relating to the issuer of the Securities or to the Securities, that:
 - (i) granting the Securities admission to an Official List of Securities would be detrimental to the interests of persons dealing in the relevant Securities using the facilities of an Authorised Market Institution or otherwise;
 - (ii) any requirements in the listing rules as are applicable have not been or will not be complied with;
 - (iii) any requirement imposed by the DFSA has not been or will not be complied with; or
 - (iv) the issuer of the Securities has failed or will fail to comply with any obligations applying to it including those relating to having its Securities admitted to an Official List of Securities or listed or traded in another jurisdiction; or

- (b) it is in the interests of the DIFC to do so.

- (4) Where the DFSA objects to the admission of Securities to an Official List of Securities pursuant to Article 34(1)(a), such Securities shall not be admitted by an Authorised Market Institution to its Official List of Securities.

- (5) Where the DFSA imposes conditions or restrictions on the admission of Securities to an Official List of Securities pursuant to Article 34(1)(b), such Securities shall not be admitted by an Authorised Market Institution to its Official List of Securities unless there is compliance with those conditions and restrictions.
- ~~(6) Where the DFSA exercises its powers under Article 34(1) or (2), it shall:~~
- ~~(a) — provide the applicant and where relevant the Authorised Market Institution an opportunity to make representations in person and in writing to the DFSA within a period of 14 days, or such further period as may be allowed, from the date on which such written notice was provided; and~~
- ~~(b) — provide a response to any such submission, and make, if necessary, any consequential variation, withdrawal or amendment of the objection, condition or restriction without undue delay.~~
- (6) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under Article 34(1) or (2). The DFSA may also give the Authorised Market Institution an opportunity to make representations under the procedures in Schedule 3 if it considers it appropriate to do so.
- (7) If the DFSA decides to exercise its power under Article 34(1) or (2), the applicant, and where applicable, the Authorised Market Institution may refer the matter to the FMT for review.

35 Suspending and delisting Securities from an Official List of Securities

- (1) The DFSA or an Authorised Market Institution may, in accordance with its listing rules, suspend or delist Securities from its Official List of Securities with immediate effect or from such date and time as may be specified where it is satisfied that there are circumstances that warrant such action or it is in the interests of the DIFC.
- (2) The DFSA may, ~~by written notice,~~ direct an Authorised Market Institution to suspend or delist Securities from an Official List of Securities with immediate effect or from such date and time as may be specified if it is satisfied there are circumstances that warrant such action or it is in the interests of the DIFC.
- ~~(3) The DFSA shall provide the written notice under Article 35(2) to the Reporting Entity and where relevant the Authorised Market Institution and such notice shall include the reasons for the DFSA's decision.~~
- ~~(4) Subject to Article 35(5), the DFSA may only exercise its power under Article 35(1) or (2) if it has given the Reporting Entity and where relevant the Authorised Market~~

~~Institution a suitable opportunity to make representations in person and in writing in relation to the proposed suspension or delisting.~~

~~(5) The requirements imposed on the DFSA in Article 35(4) shall not apply:~~

~~(a) in relation to:~~

~~(i) the suspension by the DFSA of Securities from an Official List of Securities; or~~

~~(ii) a direction given by the DFSA to an Authorised Market Institution to suspend Securities,~~

~~where the DFSA concludes that any delay likely to arise as a result of such requirements is prejudicial to the interests of the DIFC, or~~

~~(b) to a suspension or delisting of Securities which is requested by Reporting entity.~~

~~(6) Where pursuant to Article 35(5) the DFSA has:~~

~~(a) suspended a Security from an Official List of Securities; or~~

~~(b) directed an Authorised Market Institution to suspend Securities from an Official List of Securities;~~

~~without providing a prior opportunity to make representations, the DFSA shall:~~

~~(i) provide the relevant Reporting Entity and where relevant the Authorised Market Institution an opportunity to make representations in person and in writing to the DFSA within the period of 14 days, or such further period as may be agreed, from the date on which such direction or suspension was made; and~~

~~(ii) provide a response to any such submission, and make, if necessary, any consequential direction, variation or withdrawal of the direction, without undue delay.~~

(3) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under this Article. The DFSA shall give both the Reporting Entity and the Authorised Market Institution an opportunity to make representations under the procedures in that Schedule.

- ~~(4)~~ If the DFSA decides to exercise its power under this Article, the Reporting Entity, and where applicable, the Authorised Market Institution may refer the matter to the FMT for review.
- ~~(5)(7)~~ The DFSA may, ~~by written notice,~~ withdraw a direction made under Article 35(2) at any time.
- ~~(6)(8)~~ Securities that are suspended from an Official List of Securities are still admitted to an Official List of Securities for the purposes of Parts 3 and 4 of this Law.
- ~~(7)(9)~~ The DFSA may, by Rules, prescribe any additional requirements or procedures relating to the delisting or suspension of Securities from or restoration of Securities to an Official List of Securities.

~~36~~ **Jurisdiction of the Regulatory Appeals Committee**

~~The Regulatory Appeals Committee has jurisdiction to hear and determine any appeal in relation to a decision of the DFSA to:~~

- ~~(a) — refuse an application for an endorsement under Article 30;~~
- ~~(b) — suspend or withdraw an endorsement under Article 31;~~
- ~~(c) — object to the admission of Securities to an Official List of Securities under Article 34(1)(a);~~
- ~~(d) — impose, vary or withdraw a condition or restriction in respect of the admission of Securities to an Official List of Securities under Article 34(1)(b);~~
- ~~(e) — suspend or delist Securities from an Official List of Securities under Article 35; or~~
- ~~(f) — direct an Authorised Market Institution to suspend or delist Securities admitted to an Official List of Securities under Article 35.~~

~~36~~ **Deleted**

Jurisdiction of the FMT

~~The FMT has jurisdiction to hear and determine any reference in relation to a decision of the DFSA to:~~

- ~~(a) — refuse an application for an endorsement under Article 30;~~
- ~~(b) — suspend or withdraw an endorsement under Article 31;~~

- ~~(c) — object to, or refuse an application for, the admission of Securities to an Official List of Securities under Article 34(1)(a) or 34(2)(a);~~
- ~~(d) — impose, vary a condition or restriction in respect of the admission of Securities to an Official List of Securities under Article 34(1)(b) or 34(2)(b);~~
- ~~(e) — suspend or delist Securities from an Official List of Securities under Article 35; or~~
- ~~(f) — direct an Authorised Market Institution to suspend or delist Securities admitted to an Official List of Securities under Article 35.⁵~~

CHAPTER 3 – RECOGNITION

37. Recognised Status

- (1) The DFSA shall, by ~~rules~~ Rules, permit an Authorised Market Institution to admit as a member a recognised member.
- (2) A person which operates an exchange, clearing house or alternative trading system from a place of business outside the DIFC (the “operator”) shall not provide direct access to its facilities to persons in the DIFC unless such operator is admitted to the list of recognised persons maintained by the DFSA pursuant to Article 37(4).
- (3) For the purposes of this Law:
 - (a) “recognised body” means a person which operates an exchange, clearing house or alternative trading system in a jurisdiction other than the DIFC which has been admitted to, and appears on, the list of recognised bodies maintained by the DFSA pursuant to this Article;
 - (b) “recognised member” means a person located in a jurisdiction other than the DIFC which has been admitted to, and appears on, the list of recognised members maintained by the DFSA pursuant to this article; and
 - (c) “recognised person” means a recognised body or a recognised member.
- (4) The DFSA shall maintain a list of recognised bodies and recognised members (the “list of recognised persons”) for the purposes of this Article.
- (5) The DFSA may only admit a person to its list of recognised persons if it appears to the DFSA that such a person satisfies and will continue to satisfy the recognition criteria prescribed for the purposes of this Article.

⁵ It is proposed to delete this Article which was previously proposed under CP 90. Instead, it is proposed that each individual power will specify whether the matter can be referred to the FMT.

- (5A) The DFSA may refuse to admit a person to its list of recognised persons if it appears to the DFSA that the person does not satisfy or will not continue to satisfy the criteria referred to in Article 37(5).
- (6) The DFSA shall, by ~~rules~~ Rules, prescribe the initial and ongoing criteria which a person must satisfy in order to be, and continue to be, a recognised person (the “recognition criteria”);
- (7) If it is necessary or desirable in pursuit of its objectives, the DFSA may remove a person from its list of recognised persons in the circumstances and manner prescribed in the ~~rules~~ Rules made for the purposes of this Article.
- (8) The DFSA may make ~~rules~~ Rules regarding any definition, requirement or other matter which the DFSA considers necessary to give effect to the requirements, purpose or intent of this Article.
- (9) ~~The Regulatory Appeals Committee FMT has jurisdiction to hear and determine any appeal reference in relation to a decision of the DFSA made for the purposes of under Article 37(5) or (7).~~⁶
- (9) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under Article 37(5A) or Article 37(7).
- (10) If the DFSA decides to exercise its power under Article 37(5A) or Article 37(7), the person may refer the matter to the FMT for review.

PART 4: OBLIGATIONS OF REPORTING ENTITIES

CHAPTER 1: DEFINITIONS

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 made an Offer of Securities to the Public other than in relation to Units of a Fund;
 - (c) merges with or acquires a Reporting Entity referred to in Article 38(1)(a) or (b); or

⁶ This is the text as consulted on in CP 90. We propose to delete as it is covered by the new formulation.

- (d) is declared by the DFSA pursuant to Article 38(4) to be a Reporting Entity.
- (2) For the purposes of Article 38(1)(a):
- (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.
- (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), 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, ~~subject to Article 38(5),~~ 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 DFSA may only exercise its power under Article 38(4) on its own initiative if it has given a person a suitable opportunity to make representations in person and in writing in relation to the proposed declaration or imposition of conditions or restrictions.~~
- ~~(6) The Regulatory Appeals Committee FMT has jurisdiction to hear and determine any reference in relation to a decision of the DFSA made under over any decision made by the DFSA pursuant to Article 38(4).⁷~~
- (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) 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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⁷ This is the text as consulted on in CP 90. It is proposed to delete the text as it is covered by the new formulation (see the proposed new Article 38(6)).

CHAPTER 6 – SPONSORS AND COMPLIANCE ADVISERS

49. Appointment of Sponsors or Compliance Advisers

- (1) The DFSA may, ~~by written notice~~, require that a Reporting Entity appoint a sponsor, compliance adviser or other expert adviser on such terms and conditions as it considers appropriate.
- (2) The DFSA may, by Rules, prescribe:
 - (a) the circumstances in which a Reporting Entity is required to appoint a sponsor, compliance adviser or other expert adviser;
 - (b) the requirements applicable to the Reporting Entity and a person appointed as a sponsor, compliance adviser or other expert adviser; and
 - (c) any other matter necessary to give effect to such appointments.
- ~~(3) The DFSA may only require a Reporting Entity to appoint a sponsor, compliance adviser or other expert adviser pursuant to Article 49(1) if it has provided to the Reporting Entity a prior written notice stating the reasons for proposing to do so, and giving the Reporting Entity an opportunity to make representations.~~
- ~~(4) The Regulatory Appeals Committee FMT has jurisdiction to hear and determine any appeal against reference in relation to a decision made by of the DFSA under pursuant to Article 49(1).⁸~~
- (3) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under Article 49(1).
- (4) If the DFSA decides to exercise its power under Article 49(1), the Reporting Entity may refer the matter to the FMT for review.

CHAPTER 7 – MISCELLANEOUS

50. DFSA powers

- (1) The DFSA may, if it is satisfied that it is in the interest of the DIFC to do so subject to Article 50(2), ~~by written notice~~:
 - (a) direct a Reporting Entity to disclose specified information to the market or take such other steps as the DFSA considers appropriate; or

⁸ This is the text as proposed to be amended under CP 90. It is now proposed to delete this text as there is a standard new formulation for referral to the FMT (see the proposed new Article 49(4)).

- (b) impose on a Reporting Entity any additional continuing obligations, on such terms and conditions as determined by the DFSA.
- ~~(2) The DFSA may only exercise the powers in Article 50(1) if it:~~
- ~~(a) is satisfied that it is in the interest of the DIFC to do so ; and~~
- ~~(b) has provided to the Reporting Entity a notice in writing of its proposal to direct the Reporting Entity to disclose specified information or impose any additional continuing obligations on the Reporting Entity and the reasons for proposing to do so, giving the Reporting Entity an opportunity to make representations, unless Article 50(3) applies.~~
- ~~(3) Where the DFSA concludes that any delay likely to arise as a result of allowing a Reporting Entity to make representations would be prejudicial to the interests of the DIFC, it will not provide the Reporting Entity the prior opportunity to make representations.~~
- ~~(4) Where the DFSA has imposed additional obligations without providing to the Reporting Entity a prior opportunity to make representations pursuant to Article 50(3), the DFSA shall:~~
- ~~(a) provide to the Reporting Entity an opportunity to make representations in person and in writing to the DFSA within the period of 14 days or such further period as may be agreed from the date on which such additional continuing obligations were imposed; and~~
- ~~(b) provide a written response to any representations made and make any consequential direction, variation or withdrawal of the additional obligations imposed without undue delay.~~
- ~~(5) The Regulatory Appeals Committee FMT has jurisdiction to hear and determine any appeal against a direction or the imposition of any additional continuing obligations made pursuant to reference in relation to a decision of the DFSA under Article 50(1).⁹~~
- (2) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under this Article.
- (3) If the DFSA decides to exercise its power under this Article, the Reporting Entity may refer the matter to the FMT for review.

⁹ This is the text as consulted on under CP 90. It is now proposed to delete the text as it is covered by the new formulation (see proposed Article 50(3)).

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PART 7: ~~CONTRAVENTIONS AND PROCEEDINGS~~

66. DELETED ~~Contraventions~~

A person who:

- (a) ~~— does an act or thing that the person is prohibited from doing by or under this Law or by the Rules;~~
- (b) ~~— does not do an act or thing that the person is required or directed to do by or under this Law or by the Rules; or~~
- (c) ~~— otherwise contravenes a provision of this Law or the Rules;~~

~~commits a contravention of this Law or the Rules, as the case may be, by virtue of Article 85 of the Regulatory Law 2004.~~

67. DELETED ~~Declaration of contravention~~

~~The Court or the Financial Markets Tribunal may make a declaration in proceedings pending before it that a person has committed a contravention of this Law or the Rules.~~

68. ~~Orders in the interests of the DIFC~~

- (1) ~~The Court or the Financial Markets Tribunal may, on the application of the DFSA, may make one or more of the following orders in relation to a person, irrespective of whether a contravention of this Law or the Rules made for the purposes of this Law has occurred, if ~~in its opinion, it is satisfied that~~ it is in the interest of the DIFC to make such an ~~the order or orders~~:~~
 - (a) ~~an order restricting any conduct on such conditions or terms as the Court or Financial Markets Tribunal thinks fit;~~
 - (b) ~~an order that trading in any Investments cease permanently or for such period as is specified in the order;~~
 - (c) ~~an order that any exemptions contained in the Law or the Rules do not apply permanently or for such period as is specified in the order;~~
 - (d) ~~an order that a person submit to a review by the DFSA of his practices and procedures and institute such changes as may be directed by the DFSA;~~

- (e) ~~an~~ orders in relation to activities relating to ~~a~~ Takeover Offers within the DIFC;
 - (f) an order that a disclosure be made to the market;
 - ~~(g) — an order reprimanding a person described in the order;~~
 - ~~(h)~~(g) an order that a person resign one or more positions that the person holds as a director or officer of a company;
 - ~~(i)~~(h) an order that a person is prohibited from becoming or acting as a director or officer of any company;
 - ~~(j)~~(i) an order that a person is prohibited from making offers of Securities in or from the DIFC;
 - ~~(k)~~(j) an order that a person is prohibited from being involved in Reporting Entities, Listed Funds or Securities within the DIFC;
 - ~~(l)~~(k) an order requiring a person to disgorge to the DFSA any amounts obtained as a result of the non-compliance with the Law or the Rules;
 - ~~(m)~~(l) an order that a release, report, Prospectus, ~~Supplementary~~, return, financial statement or any other document described in the order:
 - (i) be provided by a person described in the order,
 - (ii) not be provided by a person described in the order; or
 - (iii) be amended by a person to the extent that amendment is practicable;
 - ~~(n) — an order that a person pay a fine;~~
 - ~~(o)~~(m) any order that the Court ~~or Financial Markets Tribunal~~ thinks fit, in order to maintain the integrity of the DIFC and ensure an efficient, honest, fair and transparent market; or
 - ~~(p)~~(n) an order that a person must comply with a condition of a written notice referred to in Article 9(2) in a specified way.
- (2) The Court ~~or Financial Markets Tribunal may~~, on the application of the DFSA, may make interim and ex parte orders specified in Article 68(1)(a), (b), (c), (d), (e), (f), (l) and (m) ~~and (o)~~.
- (3) An order under Article 68(1) and (2) may be subject to such terms and conditions as the Court ~~or the Financial Markets Tribunal~~ may impose.

69. **DELETED Certificate of contravention**

~~A certificate signed by the Registrar of the Court or a member of the Financial Markets Tribunal which states that the Court or Financial Markets Tribunal on a specified day made a finding that a specified person has committed a contravention of a specified provision of the Law or of the Rules or of any other legislation administered by the DFSA or made a specified finding of fact is, in any other proceedings before the Court or Financial Markets Tribunal, where relevant:~~

- ~~(a) — conclusive evidence that the person was found by the Court or the Financial Markets Tribunal on that day to have contravened the relevant provision;~~
- ~~(b) — prima facie evidence that the person contravened that provision; and~~
- ~~(c) — prima facie evidence of the relevant finding of fact determined by the Court or the Financial Markets Tribunal.~~

PART 8: FINANCIAL MARKETS TRIBUNAL

70. **Jurisdiction of the Financial Markets Tribunal FMT**

~~(1) The Financial Markets Tribunal has additional jurisdiction as set out in Article 70(2).~~

~~(2)~~(1) The Financial Markets Tribunal FMT has jurisdiction to hear and determine any regulatory proceedings in relation to:

- (a) an issue arising out of the supervision ~~relating to~~ of an Authorised Market Institution other than a direction under Article 26(2);
- (b) an issue arising out of an offers of Securities arising under this Law;
- (c) an issue arising out of a takeover, takeover offer, merger or acquisition of shares; or
- (d) any matter that may be prescribed by law or the Rules for the purpose of this Article.

(2) At the conclusion of such proceedings, the FMT may make a finding or declaration of unacceptable circumstances or a contravention of the Law or Rules, and may make one or more of the following orders, in addition to any orders it may make under Article 29 of the Regulatory Law 2004:

- (a) an order requiring a person to comply with this Law or the Rules;

- (b) an order in relation to the control or acquisition of Investments in or relating to a Reporting Entity;
- (c) an order in relation to the rights of shareholders or minority shareholders in a Reporting Entity; or
- (d) any consequential orders as the FMT sees fit following a finding or the making of a declaration.

~~(3) A proceeding brought under Article 70(2) shall be referred to as a “regulatory proceeding” for the purposes of this Part.~~

~~(4) A regulatory proceeding under this Part does not include an appeal of a DFSA decision.~~

~~(5) A regulatory proceeding under this Part may be brought by the DFSA or by another person with the consent of the DFSA.~~

~~(6) Subject to Article 70(7), an appeal from a determination from the Financial Markets Tribunal may be made to the Court pursuant to Article 32(5) of the Regulatory Law 2004.~~

~~(7) An appeal lies to the Court on a point of law from a determination by the Financial Markets Tribunal of an appeal to the Tribunal prescribed by Rules made by the DFSA for the purposes of this Article.~~

71. **DELETED Powers to hear and determine matters**

~~(1) The Financial Markets Tribunal shall be constituted, operate and exercise powers as prescribed under Articles 31 to 35 of the Regulatory Law 2004.~~

~~(2) At the conclusion of any proceedings, under this Law, the Financial Markets Tribunal may make a finding or declaration of unacceptable circumstances or a contravention of the Law or Rules, and may make one or more of the following orders, in addition to any orders it may make under Article 34 of the Regulatory Law 2004 or Article 67 of this Law:~~

- ~~(a) an order requiring the respondent to comply with this Law or the Rules;~~
- ~~(b) an order in relation to the control or acquisition of Investments in or relating to a Reporting Entity;~~
- ~~(c) an order in relation to the rights of shareholders or minority shareholders in a Reporting Entity;~~
- ~~(d) an order requiring the respondent to do any act or thing; or~~

(e) ~~any consequential orders as the Financial Markets Tribunal sees fit following a finding or the making of a declaration.~~

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SCHEDULE

INTERPRETATION

3. Defined Terms

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

Term	Definition
Financial Markets Tribunal	the Financial Markets Tribunal established pursuant to Article 2631 of the Regulatory Law 2004.
<u>FMT</u>	<u>the Financial Markets Tribunal.</u>
Regulatory Appeals Committee	has the meaning given in Article 3 of Schedule 1 of the Regulatory Law 2004.

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