
COLLECTIVE INVESTMENT LAW
DIFC LAW No. 1 of 2006

Consolidated Version
(May 2010)

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LIST OF AMENDMENTS MADE TO THIS LAW SINCE ENACTMENT

(This list does not form part of the Law)

This Law was enacted and came into force on 18 April 2006 and was subsequently amended by:

- (a) Collective Investment Law Amendment Law (Investment Trust) 2006, DIFC Law No.6 of 2006 on 1 August 2006;
- (b) DIFC Laws Amendment Law 2007 DIFC Law No.2 of 2007 on 15 February 2007; and
- (c) DIFC Laws Amendment Law DIFC Law No.1 of 2010 on 2 May 2010

PART 1: GENERAL

1. Title

This Law may be cited as the “Collective Investment Law 2006”.

2. Legislative Authority

This Law is made by the Ruler of Dubai.

3. Application of the Law

This Law applies in the jurisdiction of the Dubai International Financial Centre.

4. Date of enactment and commencement

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

5. Commencement

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

6. Interpretation

The Schedule contains interpretative provisions and a list of defined terms used in this Law.

7. Administration of the Law

This Law and any legislation made for the purposes of this Law is administered by the DFSA.

8. General power to make Rules

- (1) The DFSA Board of Directors may, and where required under this Law shall, make Rules for the purposes of this Law pursuant to the power conferred under Article 23 of the Regulatory Law 2004.
- (2) Without limiting the generality of Article 23 of the Regulatory Law 2004, the DFSA Board of Directors shall make Rules governing the establishment, management, operations and activities of a Fund, including Rules:
 - (a) governing the rights and obligations, including voting rights, of Unitholders;
 - (b) governing the powers and duties of a Trustee and the investment and borrowing powers of an Operator including leveraging or gearing and the issue, pricing and redemption of Units;
 - (c) governing the appointment, removal, powers and duties of an auditor or eligible custodian of a Fund; and
 - (d) governing the preparation, publication and audit of the accounts of a Fund and the preparation and contents of periodic reports.

- (3) Where any legislation made under this Law purports to be made in the exercise of a particular power or powers, it shall be taken also to be made in the exercise of all powers under which it may be made.

9. **Consultation**

The DFSA shall publish draft Rules in the manner prescribed under Article 24 of the Regulatory Law 2004.

10. **Waivers and Modifications of the Rules**

The DFSA may by written notice provide that one or more provisions of the Rules either:

- (a) shall not apply in relation to a person; or
- (b) shall apply to a person with such modifications as are set out in the written notice;

as provided for in Article 25 of the Regulatory Law 2004.

11. **Application of the Markets Law**

- (1) Subject to Article 11(2), the Markets Law 2004 applies to the offer, issue or sale of a Unit or any right or interest in a Unit.
- (2) Part 3 of the Markets Law 2004 and the Offered Securities Rules made for the purpose of that Part do not apply to the offer, issue or sale of a Unit or any right or interest in a Unit.

12. **Offer of Units**

- (1) A person shall not make an offer of Units in or from the DIFC unless the offer of Units is made in accordance with this Law and the Rules made for the purposes of this Law.
- (2) A person is to be regarded as making an offer of a Unit or any right or interest in a Unit if he:
 - (a) makes an offer to another person which, if accepted, would give rise to a contract for the sale of Units by him or by another person with whom he has made arrangements for the sale of Units; or
 - (b) invites another person to make an offer which, if accepted by him, would give rise to a contract for the sale of Units by him or by another person with whom he has made arrangements for the sale of Units; and
 - (c) the offer or invitation is by way of a financial promotion of the Units.
- (3) For the purposes of Article 12(2), an offer or invitation includes an inducement and a “financial promotion” is an advertisement or any other form of promotion or marketing inviting a person to:
 - (a) enter into an agreement;
 - (b) offer to enter into an agreement; or

- (c) exercise any rights conferred by a Unit
to acquire, dispose of, underwrite or convert a Unit.
- (4) In Article 12(3), the financial promotion may be communicated in any manner including, but not limited to, the following:
 - (a) orally;
 - (b) electronically; or
 - (c) in writing.
- (5) For the purposes of Article 12(2) and (3), where an Operator of a Listed Fund discloses information in accordance with the requirements of the Markets Law 2004 or the Offered Securities Rules made thereunder, disclosure of such information is not a financial promotion provided the disclosure of the information does not:
 - (a) include an express invitation or offer; or
 - (b) expressly encourage a person;to engage in any of the activities specified in Article 12(3) (a), (b) or (c).

13. **Offers in the DIFC**

An offer of Units is made in the DIFC if the offer:

- (a) is directed at or received by a person (an “offeree”) in the DIFC at the time of the making; and
 - (b) is capable of acceptance by such an offeree;
- regardless of where any resulting issue or sale occurs.

14. **Offers from the DIFC**

An offer of Units is made from the DIFC if:

- (a) the person making the offer is situated in the DIFC;
 - (b) the offer is directed at or received by a person (an “offeree”) situated, at the time of the making, outside of the DIFC; and
 - (c) the offer is capable of acceptance by such an offeree;
- regardless of where any resulting issue or sale occurs.

15. **Arrangements constituting a Collective Investment Fund**

- (1) A Collective Investment Fund (“Fund”) is, subject to Article 16, any arrangements with respect to property of any description, including money, where:

- (a) the purpose or effect of the arrangements are to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income;
 - (b) the arrangements must be such that the persons who are to participate (“Unitholders”) in the arrangements do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions; and
 - (c) the arrangements have either or both of the following characteristics:
 - (i) the contributions of the Unitholders and the profits or income out of which payments are to be made to them are pooled; or
 - (ii) the property is managed as a whole by or on behalf of the Operator of the Fund.
- (2) If the arrangements provide for such pooling as is mentioned in Article 15(1)(c)(i) in relation to separate parts of the property, the arrangement is not to be regarded as constituting a single Fund unless the Unitholders are entitled to exchange rights in one part for rights in another.

16. **Arrangements not constituting a Collective Investment Fund**

The DFSA may make Rules excluding certain arrangements or types of arrangements from constituting a Fund.

PART 2: COLLECTIVE INVESTMENT FUNDS

17. General prohibitions

- (1) A person shall not:
 - (a) operate or act as trustee of a Foreign Fund from the DIFC; or
 - (b) operate or act as trustee of a Domestic Fund from outside the DIFC.
- (2) A person shall not, establish or otherwise operate a Domestic Fund or act as the Trustee of an Investment Trust in the DIFC unless that person is:
 - (a) a body corporate; and
 - (b) an Authorised Firm whose Licence authorises it to operate a Fund or act as Trustee of a Fund, as the case may be, of that specific type or class.
- (3) For the purposes of this Law, a person “operates” a Fund if he:
 - (a) is responsible for the management of the property held for or within a Fund under the Fund’s Constitution whether or not, he delegates any activity which is prescribed in rules made for the purposes of Article 41(2) of the Regulatory Law 2004 as a Financial Service in respect of such property; and
 - (b) establishes, operates or winds up the Fund.
- (4) For the purpose of Article 17(3), a person is not operating a Fund merely because:
 - (a) he is acting as an agent or employee of an Operator;
 - (b) he is appointed under a written agreement by an Operator to provide investment management and other Financial Services for the Fund;
 - (c) he is winding up or taking steps to wind up or dissolve the Fund or remedy a defect that led to the Fund being deregistered; or
 - (d) he is acting as a trustee of a Fund.

18. Marketing prohibitions

- (1) A person shall not, in or from the DIFC, offer or sell a Unit in a Domestic or Foreign Fund unless that person is an Authorised Firm whose Licence authorises it to do so.
- (2) A person shall not, in or from the DIFC, offer or sell a Unit in a Foreign Fund unless:
 - (a) the Fund is a Designated Fund; or
 - (b) the Foreign Fund has appointed an investment manager and eligible custodian both of whom are authorised and supervised by a Regulator in a Recognised Jurisdiction.

- (3) A person shall not, in or from the DIFC, offer, issue or sell a Unit in a Domestic Fund which is a Public Fund unless the Fund has been registered by the DFSA.
- (4) A person shall not, in or from the DIFC, offer, issue or sell a Unit in a Domestic Fund which is a Private Fund unless it is by means only of private placement.
- (5) The DFSA shall make Rules prescribing the criteria to be an investment manager and for a custodian to be an eligible custodian.
- (6) The DFSA may make Rules adding further requirements, limitations or making different provision for different cases in relation to the offering and selling of Units in Foreign Funds.
- (7) Such Rules, in relation to specified types or classes of Foreign Funds, may require such Funds to be listed on an exchange or to be closed-ended structures.

19. Marketing Rules

- (1) The DFSA may make Rules prescribing requirements relating to the offering, issuing or selling, in or from the DIFC, of a Unit in a Fund including prescribing the contents of any communication which is an invitation to participate in a Fund and the manner in which such communication may be made and to whom.
- (2) Such Rules may, in relation to specified types or classes of Foreign Funds, prescribe contents requirements and may specify criteria that an offer document produced in accordance with the legislation applicable in a jurisdiction other than the DIFC to be taken to comply with the requirements of this Law and any Rules made hereunder.
- (3) The DFSA may also make Rules providing the circumstances in which certain persons or categories of person may market a Fund by promoting the Islamic quality of the Fund by using the words Shari'a compliant or Islamic in the name of the Fund or otherwise holding out that the Fund is in any way Islamic or Shari'a compliant.

20. Recognition and designation

- (1) The DFSA may recognise any country or territory and designate any type of Fund constituted and domiciled in such a country or territory for the purposes of this Law.
- (2) The DFSA may not recognise any country or territory nor designate any Fund in that country or territory for the purposes of this Article unless it is satisfied:
 - (a) that the law and practice under which the relevant Foreign Funds are authorised or approved and supervised in that country or territory is broadly equivalent to the DFSA's regulatory regime as it applies to Domestic Funds;
 - (b) that the law and practice under which investment managers and eligible custodians are authorised or licenced and supervised in that country or territory is broadly equivalent to the DFSA's regulatory regime as it applies to such persons; and

- (c) that adequate arrangements exist, or will exist, for co-operation between the Regulator in that country or territory, responsible for such authorisation, licensing, approval and supervision and the DFSA.
- (3) Any country or territory recognised under this Article shall be a “Recognised Jurisdiction” and the DFSA shall publish a list of such jurisdictions by means of a written notice. The DFSA may remove from that list any jurisdiction or Fund where the DFSA is no longer satisfied that the jurisdiction or Fund meets the criteria in Article 20(2).
- (4) Any Foreign Fund designated under this Article shall be a “Designated Fund” and a description of such a Fund shall be included in the list referred to in Article 20(3).
- (5) Any notice issued under this Article may contain such limitations or restrictions as the DFSA considers appropriate and make different provisions for different cases.

21. **General requirements**

- (1) Every Domestic Fund shall have a written Constitution which complies with the Rules made for the purposes of this Law.
- (2) Any provision in the Constitution of a Domestic Fund is void in so far as it would have the effect of exempting the Fund, the Trustee or the Operator from liability for any failure to discharge its obligations under this Law, the Regulatory Law 2004, the Law Regulating Islamic Financial Business 2004, the Investment Trust Law 2006 or any rules made under any of these laws.
- (3) Every Domestic Fund shall employ single pricing in relation to the price of its Units and Unitholders shall be entitled to have their Units redeemed by the Operator of the Fund at a price related to the net asset value of the property to which the Units relate calculated in accordance with the Rules made under this Law.
- (4) The purpose of a Fund must be reasonably capable of being successfully carried into effect.
- (5) The Operator of a Domestic Fund shall appoint an auditor in accordance with Part 5 and, except in respect of a Fund which is an Investment Trust, appoint an eligible person with whom the legal title of the Fund’s property is registered.
- (6) The DFSA shall, for the purposes of Article 21(5) make Rules prescribing criteria that a person must meet to be considered “eligible” and such Rules may permit the Operator to be considered “eligible” for the purposes of specified types of Fund.
- (7) If in the opinion of the DFSA, the name of a Fund or of a sub-fund of a Fund conflicts with the name of another Fund or is undesirable or misleading it may direct the Operator to change the name of the Fund.
- (8) The DFSA may make Rules requiring specified types, or classes of Domestic Funds to be open-ended or closed-ended or listed on an Authorised Market Institution. Such Rules may also prohibit specified types or classes of Domestic Funds from listing on an exchange.

22. Misconduct in relation to Funds

- (1) A person shall not make an offer of Units if there is:
 - (a) a misleading or deceptive statement in:
 - (i) the relevant Prospectus;
 - (ii) any application form that accompanies the relevant Prospectus; or
 - (iii) any other document that relates to the offer, or the application form;
 - (b) an omission from any document specified in (a) of information that is required to be stated or that is necessary to make the statement not misleading or deceptive; or
 - (c) a new circumstance that under the Law or the Rules requires a supplementary Prospectus to be published or issued and this has not been published or issued.
- (2) A person shall not, in or from the DIFC, make a misleading or deceptive statement in relation to a Fund or in connection with an offer of Units, whether in the DIFC or elsewhere.
- (3) This Article does not apply to conduct which occurs outside the DIFC unless the conduct affects the DIFC markets or users of the DIFC markets.

23. Defences to misconduct

- (1) A person does not commit a contravention of Article 22, if that person proves that he:
 - (a) made all inquiries that were reasonable in the circumstances; and
 - (b) after doing so, believed on reasonable grounds that the statement or omission was not misleading or deceptive.
- (2) A person does not commit a contravention of Article 22, if the person proves that he placed reasonable reliance on information given to him by:
 - (a) if the person is not a natural person, someone other than the Operator or any other member of the Governing Body, employee or agent of the person; or
 - (b) if the person is a natural person, someone other than an employee or agent of the individual.
- (3) For the purposes of Article 23(2), a person does not become an agent of another person simply because he performs a particular professional or advisory function for the person.

PART 3: OPERATING DOMESTIC FUNDS

24. The Operator of a Fund

- (1) An Operator shall:
 - (a) operate the Fund in accordance with its Constitution and Prospectus;
 - (b) perform the functions conferred on it by the Fund's Constitution and by or under this Law; and
 - (c) manage the Fund Property, held for or within the Fund.
- (2) An Operator shall comply with any requirement imposed by or under legislation administered by the DFSA relevant to its approval or authorisation to operate the Fund.

25. Interests in the Fund

The DFSA may make Rules prescribing financial limits and other related matters in respect of the interests an Operator may acquire and hold in its Fund.

26. Duties of the Operator and its officers, employees and agents

- (1) In exercising its powers and carrying out its duties, the Operator of a Domestic Fund shall:
 - (a) act honestly;
 - (b) exercise the degree of care and diligence that a reasonable person would exercise if he were in the Operator's position;
 - (c) act in the best interests of the Unitholders and, if there is a conflict between the Unitholders' interests and its own interests, give priority to the Unitholders' interests;
 - (d) treat the Unitholders who hold interests of the same class equally and Unitholders who hold interests of different classes fairly;
 - (e) not improperly make use of information acquired through being the Operator in order to:
 - (i) gain an advantage for itself or another person; or
 - (ii) cause detriment to the Unitholders in the Fund;
 - (f) ensure that Fund property is:
 - (i) clearly identified as Fund property; and
 - (ii) held separately from the property of the Operator and the property of any other Fund;

- (g) report to the DFSA any breach of this Law or relevant provisions of any other legislation administered by the DFSA, or of any Rules made under those laws, that:
 - (i) relates to the Fund; and
 - (ii) has had, or is likely to have, a materially adverse effect on the interests of Unitholders;

as soon as practicable after it becomes aware of the breach;
 - (h) comply with any other duty or obligation as may be prescribed by or under this Law or any other legislation administered by the DFSA; and
 - (i) carry out or comply with any other duty, not inconsistent with DIFC Law, that is conferred on the Operator by the Fund's Constitution.
- (2) An officer, employee or agent of the Operator shall:
- (a) not make improper use of information acquired through being such an officer, employee or agent of the Operator in order to:
 - (i) gain an advantage for himself or another person; or
 - (ii) cause detriment to Unitholders in the Fund;
 - (b) not make improper use of his position as such an officer, employee or agent to gain, directly or indirectly, an advantage for himself or for any other person or to cause detriment to the Unitholders in the Fund;
 - (c) comply with any other duty or obligation as may be prescribed by or under this Law or any other legislation administered by the DFSA; and
 - (d) carry out or comply with any other duty, not inconsistent with DIFC Law, that is conferred on him by the Fund's Constitution.

27. Retirement or removal of an Operator

- (1) The DFSA may make Rules prescribing the manner and circumstances in which:
 - (a) an Operator may retire;
 - (b) Unitholders in a Fund may resolve to remove an Operator;
 - (c) the DFSA may withdraw an Operator's Licence;
 - (d) a new Operator may be appointed to a Fund; and
 - (e) a temporary Operator may be appointed to a Fund pending the choice or appointment of a new Operator.
- (2) A person cannot be chosen or appointed as a new Operator or temporary Operator unless such a person meets the relevant requirements of Article 17(2)(a) and (b).

28. Orders of the Court relating to retirement or removal

- (1) Where an Operator seeks to retire from a Domestic Fund and a new Operator cannot be found, the Court may, on application of the Operator, the Trustee, a Unitholder in the Fund, or the DFSA, make one or more of the following orders:
 - (a) an order for the appointment of a temporary Operator;
 - (b) an order for the winding up of the Fund; or
 - (c) any other order as the Court considers just and equitable and in the interests of the Fund and of its Unitholders.
- (2) If:
 - (a) a Domestic Fund does not have an Operator that meets the requirements of this Law or any Rules made under this Law; or
 - (b) in the event of misconduct, default or breach of duty by the Operator, the Court considers that it is just and equitable and in the interests of the Fund and of its Unitholders to make such an order;

the Court may, on application of the DFSA, the Trustee or a Unitholder in the Fund, make one or more of the following orders:

- (c) an order for the appointment of a new or temporary Operator;
- (d) an order for the winding up of the Fund; or
- (e) any other order as the Court considers appropriate.

29. Appointment of service providers to carry out certain functions

- (1) An Operator may, subject to any restriction in the Domestic Fund's Constitution and subject to any Rules made for the purposes of this Article, delegate any of its activities or outsource any of its functions, to another person (a "service provider").
- (2) The DFSA may make Rules:
 - (a) specifying which activities can or cannot be delegated and to whom;
 - (b) specifying which functions can or cannot be outsourced and to whom;
 - (c) prescribing eligibility criteria for service providers;
 - (d) prescribing certain activities or functions which must be performed in the DIFC and by whom;
 - (e) as to any requirement, process and procedure for notification to or approval by the DFSA of the appointment of a service provider to carry out any activity or function;
 - (f) governing the duties, obligations and requirements of the Operator and of any of its service providers in relation to a Domestic Fund or a class or category of Domestic Fund; and

- (g) prescribing the manner or circumstances in which a service provider may perform an activity or a function.
- (3) Where the Operator delegates an activity or outsources a function, the Operator remains responsible to Unitholders for any acts or omissions of the service provider as if they were the acts or omissions of the Operator even if they were acting fraudulently or outside the scope of their authority or engagement.

PART 4: OVERSIGHT OF DOMESTIC FUNDS

30. Oversight arrangements

- (1) An Operator of a Domestic Fund which is, or is to be, a Public Fund shall establish and maintain oversight arrangements in accordance with the provisions of this part.
- (2) In addition to the other applicable oversight arrangements, a Domestic Fund which is an Islamic Fund or holds itself out as being an Islamic Fund or otherwise Shari'a compliant shall appoint a Shari'a Supervisory Board.
- (3) The DFSA may make Rules prescribing circumstances in which a Fund will be taken to, or will be taken not to, be holding itself out as being Shari'a compliant or an Islamic Fund.
- (4) The DFSA may make Rules prescribing the appointment, formation, conduct and operation of a Shari'a Supervisory Board.

31. Permitted oversight arrangements

- (1) The DFSA shall make Rules:
 - (a) setting out permitted oversight arrangements; and
 - (b) prescribing the criteria to be met by a person before being permitted to be appointed to carry out oversight functions.
- (2) Any suitably qualified person appointed to oversee the operation of the Fund must be:
 - (a) in the case of a Trustee, independent in accordance with Article 19 of the Investment Trust Law 2006; and
 - (b) in any other case, independent in accordance with Article 34.
- (3) The DFSA may, in its absolute discretion, at any time object to the appointment of a person to provide oversight of a Fund and require the Operator to appoint a replacement.
- (4) The DFSA shall notify the Operator of such objection in writing and, where requested by the Operator, the reasons for such objection.

32. Powers and functions

- (1) The person providing oversight for a Fund shall be appointed with powers and functions to:
 - (a) monitor the Operator's compliance with the Fund's Constitution and Prospectus and to report on its findings to the Operator;
 - (b) monitor the Operator's compliance with any obligation or requirement imposed on the Fund under any legislation administered by the DFSA;

including any requirement to establish and maintain proper systems and controls and to report on their findings to the Operator;

- (c) report to the Operator:
 - (i) any breach of this Law or any other legislation administered by the DFSA or of any Rule made under those laws which may relate to the Fund;
 - (ii) any breach of a term, condition or restriction of its Licence involving the Fund; or
 - (iii) any breach of the provisions of the Fund's Constitution or Prospectus;

of which such persons become aware or which they suspect;

- (d) report to the DFSA if any one of the persons providing oversight is of the view that:
 - (i) the Operator has not taken, or does not propose to take, appropriate action to deal with a matter reported under Article 32(1)(c); and
 - (ii) on reasonable grounds that the breach has had, or is likely to have, a materially adverse effect on the interests of the Unitholders;
- (e) assess at regular intervals whether the Fund's internal systems and controls are adequate, report to the Operator on the assessment and make recommendations to the Operator about any changes that are considered appropriate or necessary to be made; and
- (f) do any other matter or thing as may be prescribed in the Rules and in the case of a Trustee, under the Investment Trust Law 2006.

- (2) The DFSA may make Rules in respect of any matter relating to the functions and powers of a person providing oversight of a Fund, including Rules as to:
 - (a) the power of such persons to commission and rely on independent legal, accounting or other professional advice or assistance;
 - (b) the payment of costs and expenses of such persons;
 - (c) the proceedings and conduct of meetings, the keeping of minutes, and the making of reports and recommendations;
 - (d) the submission of reports by the persons providing oversight of a Fund to the DFSA; and
 - (e) the disclosure by the persons providing oversight of a Fund of any interests or circumstances which may conflict with the proper performance of their duties.

33. Duties of a person providing oversight functions

- (1) A person providing oversight of a Fund shall:
 - (a) act honestly;
 - (b) exercise the degree of care and diligence that a reasonable person would exercise if he were in that person's position;
 - (c) not make improper use of information acquired in that position in order to:
 - (i) gain an improper advantage for himself or another person; or
 - (ii) cause detriment to Unitholders in the Fund;
 - (d) not make improper use of his position as such a person to gain, directly or indirectly, an advantage for himself or for any other person or to cause detriment to the Unitholders in the Fund;
 - (e) disclose to the Fund's auditor any information pertinent to the auditor's role;
 - (f) comply with any other duty or obligation as may be prescribed by or under this Law or any other legislation administered by the DFSA, and
 - (g) carry out or comply with any other duty, not inconsistent with DIFC Law, that is conferred on him by the Fund's Constitution.
- (2) A person providing oversight of a Fund is to take all reasonable steps to assist the DFSA in exercising its powers under Part 5 of the Regulatory Law 2004.

34. Independence

- (1) A person providing oversight in accordance with this part is independent for the purposes of this Part if he:
 - (a) is not, and has not been in the previous 2 years, an employee of the Operator or a body corporate in the same group (a "related body corporate");
 - (b) is not, and has not been in the previous 2 years, an executive officer of a related body corporate;
 - (c) is not, and has not been in the previous 2 years, involved in material business dealings, or in a professional capacity, with the Operator or a related body corporate;
 - (d) is not a member of a partnership or a trustee of a trust that is, or has been in the previous 2 years, substantially involved in business dealings, or in a professional capacity, with the Operator or in a related body corporate;
 - (e) does not have a material interest in the Operator or a related body corporate; and

- (f) is not a relative or de facto spouse of a person who has a material interest in the Operator or a related body corporate of a kind described in (a) to (e) of this Article.
- (2) Nothing in this Part prevents an eligible person, appointed for the purposes of Article 21(5), from being independent for the purposes of Articles 31(2) or 34 merely by reason of such appointment.

PART 5: AUDITORS OF DOMESTIC FUNDS

35. Appointment and removal of auditors

- (1) The Operator of a Domestic Fund shall:
 - (a) pursuant to Article 21(5) and subject to Article 35(7), appoint an auditor; and
 - (b) at each annual general meeting appoint an auditor to hold office from the conclusion of that meeting to the conclusion of the next annual general meeting; or
 - (c) at the beginning of each financial year appoint an auditor to hold office until the beginning of the next financial year.
- (2) The appointment of a firm as an auditor of a Domestic Fund is taken to be an appointment of all persons who are partners of the firm.
- (3) An Operator and, if appointed, the Trustee shall ensure that at all times the Fund has an auditor.
- (4) The Operator of a Domestic Fund shall not appoint an auditor under this Article unless:
 - (a) the auditor has, prior to the appointment, consented in writing to serve as the auditor for the Domestic Fund;
 - (b) the Operator and, if appointed, the Trustee is not, on reasonable inquiry, aware of any matter which should preclude the auditor from giving its consent under Article 35(5); and
 - (c) the auditor is registered with the DFSA in accordance with Part 8 of the Regulatory Law 2004.
- (5) An auditor shall not consent to an appointment as an auditor of a Domestic Fund if:
 - (a) the auditor has, or may reasonably be perceived to have, a conflict of interest of a nature prescribed in the Rules;
 - (b) the auditor does not have, or may reasonably be perceived not to have, a requisite degree of independence from the Operator and, if appointed, the Trustee or other members of the Governing Body of the Domestic Fund as prescribed in the Rules; or
 - (c) the auditor or any associate of the auditor in a firm or business undertaking has acted as an auditor of the Domestic Fund and, if appointed, the Trustee within such earlier period or frequency as prescribed in the Rules.
- (6) The Operator of a Domestic Fund may, subject to Articles 35(7) and 38, at any time remove an auditor notwithstanding anything in any agreement between it and the auditor.

- (7) In the case of an Investment Trust, the Operator must obtain the prior approval of the Trustee before carrying out any activities under Article 35 in relation to the appointment or removal of an auditor.
- (8) The Court may, on application made by the DFSA, order the removal of an auditor of a Domestic Fund.
- (9) Nothing in this Article is to be taken as depriving an auditor removed under it of compensation or damages payable to the auditor in respect of the termination of appointment as auditor.

36. Auditor's reports

- (1) An auditor of a Domestic Fund must make an audit report.
- (2) The DFSA may make Rules in relation to:
 - (a) the functions to be carried out by an auditor when auditing a Domestic Fund's accounts;
 - (b) the scope of the auditor's audit report; and
 - (c) the scope of ad-hoc reports of the auditor.

37. Auditors' duties

- (1) An auditor shall, in preparing the audit report in relation to the accounts of a Domestic Fund, carry out such investigations as will enable the auditor to form an opinion as to the following matters:
 - (a) whether proper accounting records have been kept by the Operator and, if appointed the trustee on behalf of the Domestic Fund;
 - (b) whether the Domestic Fund's accounts are in agreement with the accounting records and regulatory returns;
 - (c) whether the Domestic Fund's accounts have been prepared in compliance with the applicable accounting standards; and
 - (d) whether the accounts of the Domestic Fund represent a true and fair view of the financial condition and state of affairs of the Domestic Fund.
- (2) If the auditor is of the opinion that proper accounting records have not been kept, or that the accounts are not in agreement with the accounting records and returns, or that the accounts do not comply with accounting standards, the auditor shall state that fact in the audit report.
- (3) If the auditor fails to obtain all the information and explanations which, to the best of the auditor's knowledge and belief are necessary for the purposes of the audit, the auditor shall state that fact in the report.
- (4) An auditor shall disclose to the Trustee or a person providing oversight of a Public Fund any information relevant to that person's role.

38. Resignation of an auditor

- (1) An auditor of a Domestic Fund may resign from office by depositing a notice in writing to that effect together with a statement under Article 38(2) at the Domestic Fund's registered office and with the DFSA; and any such notice operates to bring its term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.
- (2) When an auditor ceases for any reason to hold office the auditor shall deposit at the Domestic Fund's and, if appointed, the Trustee's registered office and with the DFSA:
 - (a) a statement to the effect that there are no circumstances connected with the ceasing to hold office which the auditor considers should be brought to the notice of the Unitholders or creditors of the Domestic Fund; or
 - (b) a statement of any circumstances as are mentioned above.
- (3) Where a statement under Article 38(2) falls within sub-paragraph (b) of that Article, the Operator, or failing which the other members of the Governing Body of the Domestic Fund or, if appointed the Trustee, shall send a copy of the statement to the DFSA along with any comments.

39. Co-operation with auditors

- (1) A Domestic Fund, any member of its Governing Body, any person providing oversight, any officer, employee or agent of the Domestic Fund, its Operator or where appointed its Trustee, shall not knowingly or recklessly make to the auditor a statement (whether written or oral) which:
 - (a) conveys or purports to convey any information or explanation which the auditor requires, or is entitled to require, as auditor of the Domestic Fund; and
 - (b) is either:
 - (i) false, misleading or deceptive in a material particular; or
 - (ii) such that it omits information where the omission of such information is likely to mislead or deceive the auditor.
- (2) A Domestic Fund, any member of its Governing Body, any person providing oversight, any officer or employee of the Domestic Fund, its Operator or where appointed its Trustee, or any person acting under the direction or authority of such persons, shall not without reasonable excuse engage in conduct, including without limitation the:
 - (a) destruction or concealment of documents;
 - (b) coercion, manipulation, misleading, or influencing of the auditor;
 - (c) failure to provide access to information or documents specified by the auditor; or

- (d) failure to give any information or explanation which the person is able to give;

where the Domestic Fund, Operator, Trustee, member of the Governing Body, officer, employee or other person knows or ought to know that such conduct could, if successful:

- (e) obstruct the auditor in the performance of his duties under this Part; or
- (f) result in the rendering of the accounts of the Domestic Fund or the auditor's report being materially misleading.

40. Obligation of disclosure to the DFSA

- (1) An auditor is subject to the obligations of disclosure under Article 40(3).
- (2) Without limiting the application of any other provision of this Law, an auditor does not contravene any duty to which the auditor is subject merely because the auditor gives to the DFSA:
 - (a) a notification as required under this Article; or
 - (b) any other information or opinion in relation to any such matter;

if the auditor is acting in good faith and reasonably believes that the notification, information or opinion is relevant to any functions of the DFSA.

- (3) Subject to Article 40(4), an auditor shall disclose to the DFSA any matter which reasonably tends to show one of the following:
 - (a) a breach, or likely breach of a provision of this Law or the Rules;
 - (b) a failure, or likely failure, to comply with any obligation to which a person is subject under such legislation; or
 - (c) any other matter as the DFSA may prescribe in Rules;

which may be attributable to the conduct of the relevant Domestic Fund, the Trustee, the Operator or other member of the Governing Body including the Domestic Fund's, the Trustee's or the Operator's directors, officers, employees or agents.

- (4) Article 40(3) shall not apply to the extent that compliance with such requirement would disclose a Privileged Communication.
- (5) The Operator of a Domestic Fund shall establish and implement appropriate systems and internal procedures to enable it and its auditor to comply with Article 40(3).
- (6) Any provision in an agreement between a Domestic Fund and a director, officer, employee, agent or auditor is void in so far as it purports to hinder any person from causing or assisting the auditor to comply with an obligation under Article 40(3).

- (7) No person shall be subjected to detriment or loss or damage merely by reason of undertaking any act to cause or assist an auditor to comply with an obligation under Article 40(3).
- (8) A Court may, on application of an aggrieved person, make any order for relief where the person has been subjected to any such detriment or loss or damage referred to in Article 40(7).

PART 6: PROSPECTUS REQUIREMENTS FOR DOMESTIC FUNDS

41. General requirements

- (1) The Operator of a Domestic Fund shall produce and make available to prospective Unitholders a Prospectus in accordance with this Law and any Rules made under this Law.
- (2) Such Rules may make different provision for different classes or types of Domestic Funds including prescribing reduced content requirements for Private Funds.

42. Prospectus

- (1) The presentation of information in the Prospectus shall be clear, concise and understandable.
- (2) The Prospectus shall comply with the contents requirements set out in the Rules and contain any other material information investors would reasonably require for the purpose of making an informed decision to become a Unitholder in the Fund.
- (3) If at any time after the preparation of a Prospectus which has been issued, there is a material change affecting any matter contained in the Prospectus or a significant new matter arises, the Operator shall in accordance with the Rules issue a supplementary Prospectus which:
 - (a) provides details of the change or new matter;
 - (b) complies with the requirements of this Article; and
 - (c) complies with any information required by the Rules.

43. Publicity

- (1) A person shall not issue or cause to be issued any financial promotion in respect of a Prospectus or supplementary Prospectus or the Units offered in such a Prospectus unless:
 - (a) the information contained in the Prospectus complies with the Rules;
 - (b) the Operator, in the case of a Public Fund, has filed a copy of the Prospectus with the DFSA; and
 - (c) the financial promotion states the prospectus has been published and gives an address where a copy may be collected in the DIFC.
- (2) Nothing in Article 43(1) prevents a person from issuing a financial promotion before the issue of a Prospectus provided it clearly states that a Prospectus will be issued and where a copy may be collected in the DIFC.

44. **Mandatory statements**

- (1) Every Prospectus shall contain a prominent statement in respect of the relevant Fund's regulatory status and the regulatory regime applying to the Fund and, in particular, its Prospectus.
- (2) A Prospectus shall include the text prescribed in Rules made by the DFSA for the purposes of this Article.

45. **Liability for misleading statements**

- (1) Any person prescribed in Rules made by the DFSA as being responsible for a Prospectus is liable to pay compensation to another person who has acquired Units to which the Prospectus relates and who has suffered loss or damage arising from any untrue, deceptive or misleading statement in the Prospectus or the omission from it of any material matter required to have been included in the Prospectus under the Law or Rules.
- (2) The DFSA may make Rules prescribing circumstances in which a person who would otherwise be liable under Article 45(1) will not be so liable.
- (3) Nothing in this Article affects the powers, rights or liabilities that any person may have apart from this Article including the power to institute proceedings under Article 94 of the Regulatory Law 2004.

PART 7: REGISTRATION OF PUBLIC FUNDS

46. General characteristics

A Domestic Fund is a public class of Fund (a “Public Fund”) if:

- (a) it has or intends to have more than 100 Unitholders; or
- (b) its Units are or are to be offered by the Operator by means of public offering to potential participants.

47. Application for registration

- (1) An application for the registration of a Public Fund shall be made to the DFSA by the Operator or if the Fund is in the form of an Investment Trust, jointly by the Operator and Trustee.
- (2) Such an application shall be accompanied by the Fund’s Constitution and Prospectus both of which shall be in accordance with the requirements of this Law.
- (3) The DFSA shall make Rules setting out the requirements which an application for registration shall meet before such application can be accepted by the DFSA.

48. Registration requirements

- (1) In relation to the legal structure of a Public Fund, subject to any limitations prescribed by the Rules, registration may be granted by the DFSA only where the Fund takes the form of:
 - (a) an Investment Company;
 - (b) an Investment Partnership; or
 - (c) an Investment Trust.
- (2) The DFSA may make Rules prescribing the requirements that a Public Fund must meet before registration can be granted by the DFSA. Such Rules may include requirements relating to the appointment of a Trustee, an eligible custodian or a Fund Administrator and requirements relating to fitness and propriety of the Governing Body, persons providing oversight functions and employees of the Fund.
- (3) The DFSA may make Rules providing such requirements referred to in Article 48(2) to be varied in cases where a person, other than a Trustee, referred in Article 48(2) are at the time of application, regulated in a jurisdiction other than the DIFC;
 - (a) prescribing certain persons or categories of person to be exempted from the requirements referred to in Article 48(2); and
 - (b) providing for any such exemptions to be:
 - (i) limited to certain types of Fund or specified circumstances; or
 - (ii) subject to certain conditions and restrictions.

49. Providing information in relation to the application

- (1) The DFSA may require the Operator or, if appointed the Trustee to provide additional information reasonably required for the DFSA to be able to make a decision with regard to the application.
- (2) If at any time between the filing of an application for registration and the grant of a registration the Operator or, if appointed the Trustee becomes aware of a material change, error or omission reasonably likely to be relevant to the application under consideration, it shall inform the DFSA in writing of such change without delay.

50. Rejection of an application

- (1) The DFSA may in its absolute discretion refuse to grant an application for registration.
- (2) Upon refusing to grant registration, the DFSA shall without undue delay inform the Operator and, if appointed, the Trustee in writing of such refusal and, where requested by the Operator or Trustee, the reasons for such refusal.

51. Granting registration

The DFSA may register a Public Fund and shall without undue delay inform the Operator and, if appointed, the Trustee in writing of:

- (a) such decision; and
- (b) the date on which the registration shall be deemed to take effect.

52. Withdrawal of registration

- (1) The DFSA may withdraw the registration of a Fund where:
 - (a) one or more of the following circumstances apply:
 - (i) the Fund is not operating or has been wound up;
 - (ii) the Operator or, if appointed, the Trustee has, in purported compliance with any requirement under the Law or the Rules, knowingly or recklessly given the DFSA information which is false or misleading in a material particular;
 - (iii) the Operator or, if appointed, the Trustee has contravened a requirement imposed on him by or under the Law or the Investment Trust Law 2006;
 - (iv) the Operator or, if appointed, the Trustee or member of the Fund's Governing Body has not complied with a direction issued by the DFSA under the Law;
 - (v) a person is exercising significant influence over the Fund or Operator or any member of the Fund's Governing Body and that person is not a member of the Fund's Governing Body, Shari'a

Supervisory Board, the Trustee or a person providing oversight functions;

- (vi) the Operator is no longer fit and proper to operate the Fund or is incapable of operating the Fund in compliance with the Law or Rules or the terms of its Constitution;
 - (vii) the Trustee is no longer fit and proper to act as Trustee of the Fund or is incapable of acting as Trustee of the Fund in compliance with the Law or Rules or the terms of its Constitution and the Investment Trust Law 2006; or
 - (viii) the Operator or, if appointed, the Trustee requests the DFSA to withdraw the registration on the grounds that a Special Resolution has been passed by the relevant Unitholders that the Fund should be deregistered; and
- (b) the DFSA considers that:
- (i) the withdrawal of registration is in the interests of the Unitholders of the Fund; or
 - (ii) appropriate steps have been taken or may reasonably be taken to protect the interests of the Unitholders.
- (2) Where the DFSA has withdrawn, or proposes to withdraw, a registration under this Article, it may, by written notice, direct the Operator or where appointed the Trustee to take such steps as the DFSA considers necessary or desirable to protect the interests of Unitholders in the Fund.
- (3) Subject to Article 52(4), the DFSA may only exercise its power under Article 52(1) if it has given the relevant Operator or where appointed the Trustee a suitable opportunity to make representations in person and in writing to the DFSA in relation to the proposed withdrawal and the DFSA has informed the Operator or where appointed the Trustee in writing of its response to any such representation.
- (4) The restriction imposed on the DFSA under Article 52(3) shall not apply if the Operator or where appointed the Trustee requests the DFSA to withdraw the registration or the Operator is no longer authorised under its Licence to operate the Fund.
- (5) Upon deciding to withdraw a registration, the DFSA shall without undue delay inform the Operator in writing of:
- (a) such decision;
 - (b) the date on which such withdrawal shall be deemed to take effect; and
 - (c) where requested by the Operator or where appointed the Trustee, the reasons for the decision.
- (6) The Court may order the DFSA to withdraw the registration of a Public Fund.

53. **Reinstatement**

- (1) Where a Public Fund has been deregistered in accordance with or in purported accordance with this Law or the Rules, the Court may order that the DFSA reinstate the registration of the Fund where:
 - (a) an application for reinstatement is made to the Court by:
 - (i) a person aggrieved by the deregistration; or
 - (ii) a person who was winding up the Fund; and
 - (b) the Court is satisfied that it is just and equitable that the Fund's registration be reinstated.
- (2) The Court may give any directions it thinks just for putting the Fund and other persons in the same position, as far as possible, as if the Fund had not been deregistered.

PART 8: PRIVATE FUNDS

54. General characteristics

A Domestic Fund is a private class of Fund (a “Private Fund”) if it is not a Public Fund under Article 46.

55. Permitted investment vehicles

A Domestic Fund which is a Private Fund may only adopt one of the following legal structures:

- (a) Investment Company;
- (b) Investment Partnership; or
- (c) Investment Trust.

56. Initial and ongoing requirements

- (1) The Operator of a Private Fund shall notify the DFSA at least 14 days prior to the initial, and if a closed-ended Fund any subsequent, issue or offer of Units in the Fund in the manner prescribed in the Rules.
- (2) Such notification must include the name of the Fund and the type of Fund and any further details required under any Rules the DFSA may make under this Article.
- (3) To remain classified as a Private Fund, the number of Unitholders in such a Fund must not exceed 100 Unitholders.
- (4) The DFSA may make Rules setting out further criteria:
 - (a) a Fund shall satisfy to be classified as a Private Fund under this Part; and
 - (b) which the Fund shall continue to satisfy in order to remain classified as a Private Fund.
- (5) If a Domestic Fund can no longer be classified as a Private Fund, the Operator must apply for registration of it as a Public Fund under Article 47 or else apply for it to be wound up.

57. Rules in respect of operating the Fund

The DFSA may make Rules in respect of a Private Fund or its Operator including in respect of the imposition of additional controls on a Fund in cases where in the interest of Unitholders or potential Unitholders, the type or category of Private Fund merits, in the opinion of the DFSA, the imposition of such additional controls.

PART 9: ALTERATIONS TO A DOMESTIC FUND

58. Alterations

- (1) Subject to Article 58(6):
 - (a) changes to a Fund's Constitution or Prospectus in respect of investment, borrowing or gearing powers may be made; or
 - (b) the Operator, the Trustee, a member of the Governing Body, or the auditor of a Fund may be replaced;

if an appropriate Special Resolution has been passed by the Unitholders at a meeting convened by the Unitholders solely for that purpose.
- (2) Any other materially significant changes not falling within Article 58(1), that is, replacing a member of the Shari'a Supervisory Board or changes to the Constitution or Prospectus which may adversely affect Unitholders may be made in relation to a Fund if an appropriate ordinary resolution has been passed by a simple majority of the Unitholders at a meeting convened for that purpose.
- (3) If the Operator and if appointed, the Trustee, considers on reasonable grounds that the change is not one that falls in Articles 58(1) or (2) and will not adversely affect Unitholders' rights, such change may be made by the Operator without recourse to the Unitholders other than to notify them after the change has been effected.
- (4) The DFSA may prescribe by Rules further requirements in relation to the types of changes described in this Article and in regard to other alterations in respect of a Domestic Fund.
- (5) The Operator of a Domestic Fund shall give notice in writing to the DFSA of any proposal specified in Article 58(1). Any such notice given to the DFSA shall be accompanied by a certificate signed by the Operator and if appointed, the Trustee, of the Fund and its legal advisors to the effect that the proposed change will not affect compliance with this Law or any Rules made under this law.
- (6) Effect is not to be given to any proposal notified to the DFSA under Article 58(5) unless the DFSA has, by notice in writing, given its approval to the proposal.
- (7) An approved change must not be made to the trust deed of an Investment Trust except by a deed, expressed to be supplemental to the trust deed, entered into jointly by the Operator and the Trustee.

59. Rejection of proposed alteration

- (1) The DFSA may in its absolute discretion refuse to grant approval of a proposed alteration.
- (2) Upon refusing to grant approval, the DFSA shall without undue delay, inform the Domestic Fund in writing of such refusal and, where requested by the Fund, the reasons for such refusal.

PART 10: TRANSFER SCHEMES AND WINDING UP OF DOMESTIC FUNDS

60. Transfer schemes

- (1) Pursuant to Part 9 of the Regulatory Law 2004, a Domestic Fund may be transferred in whole or in part to another body in accordance with that Part.
- (2) The DFSA may make Rules for the purposes of this Article pursuant to the power conferred under Article 113 of the Regulatory Law 2004.

61. When a Domestic Fund may be wound up

A Domestic Fund may be wound up:

- (a) by order of the Court as provided by or under this Law and the Insolvency Law 2004;
- (b) where not inconsistent with such Laws, in the manner and circumstances provided in the Fund's Constitution; or
- (c) in any other circumstances as may be prescribed in the Rules.

62. Winding up required by a Fund's Constitution

The Constitution of a Fund may provide that the Fund is to be wound up:

- (a) at a specified time; or
- (b) in specified circumstances or on the happening of a specified event;

but a provision of the Constitution that purports to provide that the Fund is to be wound up if a particular Authorised Firm ceases to be its Operator or Trustee is of no effect including for the purposes of Article 65(1)(a).

63. Winding up at direction of Unitholders

If the Unitholders of a Fund want the Fund to be wound up, such persons may call an extraordinary meeting to pass a Special Resolution directing the Operator or where appointed the Trustee to wind up the Fund.

64. Winding up if the Fund's purpose has been accomplished or cannot be accomplished

- (1) If the Operator of a Fund considers that the Fund is not commercially viable or that the purpose of the Fund:
 - (a) has been accomplished; or
 - (b) cannot be accomplished;it may, in accordance with this Article, take steps to wind up the Fund.
- (2) The Operator shall give to the Unitholders of the Fund and to the DFSA a notice in writing;

- (a) explaining the proposal to wind up the Fund, including explaining how the Fund's purpose has been accomplished or why that purpose cannot be accomplished;
 - (b) informing the Unitholders of their rights to call a Unitholders' meeting to consider the proposed winding up of the Fund and to vote on any Special Resolution Unitholders propose about the winding up of the Fund; and
 - (c) informing the Unitholders that the Operator or where appointed the Trustee is permitted to wind up the Fund unless a meeting is called to consider the proposed winding up of the Fund within 28 days of the Operator giving the notice to the Unitholders.
- (3) If no meeting is called within that 28 days to consider the proposed winding up, the Operator or where appointed the Trustee may wind up the Fund.

65. Winding up by order of the Court

- (1) The Court may order the winding up of a Domestic Fund if:
- (a) in contravention of this Law, the Operator of the Fund has not been granted consent to incorporate or register the Fund as an Investment Company, or Investment Partnership, as the case may be, or has not so incorporated or registered;
 - (b) in contravention of Part 7 of this Law, the Fund has not been registered with the DFSA or the DFSA has withdrawn the registration of a Fund;
 - (c) there is a stop order in effect in relation to the Fund and the Operator is unable to comply with the requirements of this Law, or any other Law administered by the DFSA;
 - (d) the Operator or other member of the Fund's Governing Body or where appointed the Trustee believes on reasonable grounds that a scheme of arrangement is not practical or possible;
 - (e) the Court thinks it is just and equitable to make the order; or
 - (f) within 3 months before the application for the order was made, execution or other process was issued on a judgment, decree or order obtained in the Court or in any other court (whether in the United Arab Emirates or otherwise) which is final and not subject to appeal in favour of a creditor of, and against, the Fund or the Operator in its capacity as the Operator of the Fund and the execution or process has been returned unsatisfied.
- (2) The Court may make any orders it considers appropriate for the winding up of the Domestic Fund, including but not limited to:
- (a) an order appointing a person other than the Operator or where appointed the Trustee to take responsibility for ensuring the Fund is wound up in accordance with its Constitution and any orders under this Article as the Court thinks expedient (including for the reason that the Operator or Trustee has ceased to exist or is not properly discharging its obligations in relation to the winding up); and

- (b) directions as to how the Fund is to be wound up including for the reason that the provisions in the Fund's Constitution are inadequate or impracticable.
- (3) Orders under Article 65(1)(a), (b) or (c) or (2) may be made on the application of:
 - (a) the Operator or other members of the Governing Body of the Fund;
 - (b) the Trustee;
 - (c) the auditor of the Fund;
 - (d) a Unitholder in the Fund; or
 - (e) the DFSA.
- (4) An order under Article 62(1)(e) may be made on the application of a creditor.

66. Unclaimed or undistributed property

If, on completion of the winding up of a Fund, the person who has been winding up the Fund has in his possession or under his control any unclaimed or undistributed money or other property that was part of the Fund property, the person shall, as soon as practicable, pay the money into Court or transfer the property to the Court.

67. Reinstatement of a Domestic Fund

- (1) Where a Domestic Fund has been wound up in accordance with or in purported accordance with this Law, the Rules or its Constitution, the Court may make any order for reinstatement of the Fund or discontinuance of the winding up proceedings if:
 - (a) an application for reinstatement is made to the Court by:
 - (i) a person aggrieved by the winding up; or
 - (ii) a person who was winding up the Fund; and
 - (b) the Court is satisfied that it is just and equitable that the Fund be reinstated.
- (2) The Court may give any directions it thinks just for putting the Fund and other persons in the same position, as far as possible, as if the Fund had not been wound up.

PART 11: DFSA POWERS IN RELATION TO A FUND

68. Powers of supervision of Funds and their Operators

- (1) The DFSA may, from time to time, inquire whether the Operator of a Domestic Fund is complying with the Fund's Constitution or Prospectus and with relevant provisions of or made under any legislation administered by the DFSA.
- (2) Nothing in this Law affects the powers, rights or functions that the DFSA has under Part 5 of the Regulatory Law 2004 as they may relate to Funds and their Operators.

69. Suspension of dealings

- (1) The Operator may, subject to (2), suspend the issue, cancellation, sale and redemption of Units in a Domestic Fund, where due to exceptional circumstances it is in the interest of the Unitholders in the Domestic Fund.
- (2) Where a Trustee has been appointed, the Operator must consult the Trustee and obtain the Trustee's agreement before proceeding with such suspension. If no agreement is reached the Operator may request the DFSA to issue a stop order under Article 70.
- (3) The Operator must notify the DFSA and all Unitholders of any suspension of dealing and the reasons for such suspension.
- (4) The DFSA may prescribe Rules governing the suspension of dealing in a Domestic Fund.

70. Stop orders

- (1) If the DFSA is satisfied that:
 - (a) any dealings in a Unit in a Fund or any right or interest in such a Unit would contravene or has contravened this Law or the Rules;
 - (b) the Operator is operating a type or class of Fund for which it is not authorised under its Licence;
 - (c) that due to exceptional circumstances it is in the interest of the Unitholders in the Fund;
 - (d) it is in the interests of the DIFC; or
 - (e) the Operator has failed to comply with a direction given under Article 21(7);

the DFSA may issue a stop order directing that no offers, issues, redemptions, sales or transfers of such Units or rights or interests may be made for such a period of time as it thinks appropriate.

- (2) Upon making a decision in relation to Article 70(1) the DFSA shall without undue delay inform the Fund, the Trustee and the Operator in writing of its decision and where requested by any such persons the reasons for the decision.

- (3) The DFSA may only exercise its power to issue a stop order if it has given the relevant person a suitable opportunity to make representations in person and in writing to the DFSA in relation to the proposed stop order.
- (4) The requirements imposed on the DFSA in Article 70(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 Unitholders in the Fund.
- (5) Where pursuant to Article 70(4) the DFSA has issued a stop order directing that no offers, issues, redemptions, sales or transfers of Units in a Fund or any rights or interests in such Units may be made without providing a prior opportunity to make representations, the DFSA shall:
 - (a) provide the relevant person 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 was made; and
 - (b) provide a response to any such submission, and make any consequential direction, variation or withdrawal of the direction, without undue delay.

PART 12: THE REGULATORY APPEALS COMMITTEE

71. Jurisdiction

Without in anyway limiting the jurisdiction of the Regulatory Appeals Committee conferred upon it by or under the Regulatory Law 2004 or any other Law administered by the DFSA, the Regulatory Appeals Committee has additional jurisdiction in accordance with Article 27(2)(k) of the Regulatory Law 2004 to hear and determine any appeal where:

- (a) an applicant appeals the decision of the DFSA in relation to an application for the registration of a Fund;
- (b) a Fund, its Trustee or any member of its Governing Body appeals a decision of the DFSA in relation to the exercise of its power to withdraw the registration of the Fund;
- (c) a Fund, its Trustee or any member of its Governing Body appeals the decision of the DFSA to issue vary or withdraw a notice in relation to the Fund or any member of its Governing Body;
- (d) a Fund, its Trustee or any member of its Governing Body appeals the decision of the DFSA in relation to the proposed alteration of a Fund under Part 9; or
- (e) a Fund, its Trustee or any member of its Governing Body appeals the decision of the DFSA to issue a direction, objection or requirement or a stop order under the Law.

PART 13: THE FINANCIAL MARKETS TRIBUNAL

72. Jurisdiction of the Financial Markets Tribunal

- (1) Without in any way limiting the jurisdiction of the Financial Markets Tribunal conferred upon it by or under the Regulatory Law 2004 or any other Law administered by the DFSA, the Financial Markets Tribunal has additional jurisdiction as set out in Article 72(2).
- (2) The Financial Markets Tribunal has jurisdiction to hear and determine a proceeding in relation to an issue arising out of an offer of Units of a Fund or out of the operation of a Fund.

PART 14: MISCELLANEOUS

73. Fees

The DFSA may make Rules providing for the payment of fees to the DFSA as provided for in Article 16 of the Regulatory Law 2004.

74. Filing of material with the DFSA

Without in any way limiting the generality of the Article 115 of the Regulatory Law 2004, the DFSA may by means of Rules require the filing of certain material, including without limitation, in relation to applications for registration, notification, constitutional documents, Prospectuses, and other documents.

SCHEDULE 1 INTERPRETATION

1. Rules of interpretation

- (1) In the Law, unless the contrary intention appears, a reference to:
 - (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
 - (b) a person includes any natural person, body corporate or body incorporated, including a company, partnership, unincorporated association, government or state;
 - (c) an obligation to publish or cause to be published a particular document shall, unless expressly provided otherwise in the Law, include publishing or causing to be published in printed or electronic form;
 - (d) unless stated otherwise, a day means a calendar day. If an obligation falls on a calendar day which is either a Friday or Saturday or an official state holiday in the DIFC, the obligation shall take place on the next calendar day which is a business day;
 - (e) a calendar year shall mean a year of the Gregorian calendar; and
 - (f) the masculine gender includes the feminine; and
 - (g) any reference to 'dollars' or '\$' is a reference to United States Dollars.
- (2) The headings in the Law shall not affect its interpretation.

2. Legislation in the DIFC

References to legislation and Guidance in the Law shall be construed in accordance with the following provisions:

- (a) Federal Law is law made by the federal government of the United Arab Emirates;
- (b) Dubai Law is law made by the Ruler, as applicable in the Emirate of Dubai;
- (c) DIFC Law is law made by the Ruler (including, by way of example, the Law), as applicable in the DIFC;
- (d) the Law is the Collective Investments Law 2006 made by the Ruler;
- (e) the Rules are legislation made by the DFSA for the purpose of this Law and are binding in nature;
- (f) Guidance is indicative and non-binding and may comprise (i) guidance made and issued by the Chief Executive as notations to the Rules; and (ii) any standard or code of practice issued by the DFSA Board of Directors which has not been incorporated into the Rules; and

- (g) references to “legislation administered by the DFSA” are references to DIFC Law and rules conferring functions and powers on the DFSA.

3. Defined Terms

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

Terms	Definitions
Authorised Firm	a person who holds a Licence to carry on one or more Financial Services prescribed pursuant to Article 42(1) of the Regulatory Law 2004, as an Authorised Firm.
Authorised Market Institution	a person who is licensed by the DFSA in relation to the carrying on of one or more Financial Services prescribed pursuant to Article 42(1) of the Regulatory Law 2004.
Collective Investment Fund	has the meaning given in Article 15 of this Law subject to any Rules made under Article 16 of this Law.
Constitution	in relation to a Fund: <ul style="list-style-type: none"> (a) which is in the form of a body corporate, the instrument of incorporation; (b) which is in the form of trust, the trust deed; (c) which is in the form of a partnership, the partnership deed; and (d) adopting a form other than one specified in (a) to (c), any instrument creating the legal form of the Fund to which the Operator is a party setting out provisions relating to any aspect of the operation or management of the Fund.
Court	the DIFC Court as established under Dubai Law.
Designated Fund	a Foreign Fund which has been designated by the DFSA under Article 20 of the Law.
DFSA	the Dubai Financial Services Authority.
DFSA Board of Directors	the governing body of the DFSA established under Chapter 2 of Part 2 of the Regulatory Law 2004.
DIFC	the Dubai International Financial Centre.
Domestic Fund	a Fund established or domiciled in the DIFC.
Foreign Fund	a Fund established or domiciled in a jurisdiction other than the DIFC.
Fund	a Collective Investment Fund.
Governing Body	a person who is, or a body of persons who together form the directing mind of a Fund including but not limited to:

Terms	Definitions
	<p>a) its Operator, a member of its main or supervisory board, a General Partner; or</p> <p>b) any other person or body of persons exercising equivalent powers and functions in relation to directing the operation of a Fund.</p>
Investment	has the meaning prescribed in the Rules made under the Regulatory Law 2004.
Investment Company	an open or closed ended company established for the sole purpose of collective investment which is incorporated under Article 90 of the Companies Law 2004 in accordance with chapter 13 of the Regulations made under that Law.
Investment Partnership	a limited partnership established for the sole purpose of collective investment which is formed and registered under the Limited Partnership Law 2006 in accordance with the regulations made under that Article.
Investment Trust	a trust created under the Investment Trust Law 2006 for the purposes of collective investment.
Islamic Fund	a Fund whose entire Fund operations are, or are intended to be, conducted in accordance with Shari'a.
Law	the Collective Investment Law 2006.
Licence	a licence granted by the DFSA under Chapter 2 of Part 3 of the Regulatory Law 2004.
Listed Fund	a Fund which has been admitted to the Official List of Securities of an Authorised Market Institution.
Offered Securities Rules	the rules made under the Markets Law 2004.
Official List of Securities	a list of Securities maintained by an Authorised Market Institution in accordance with the Markets Law 2004 and any rules made for this purpose thereunder.
Operator	the person, described under Article 17(3) of the Law, who is responsible for the management of the property held for or within a Fund and otherwise, operating the Fund and, in relation to a Domestic Fund, is authorised under a Licence granted by the DFSA to operate the Fund.
Private Fund	a Fund of the class prescribed under Article 54 to this Law.
Privileged Communication	a communication attracting a privilege arising from the provision of professional legal advice and any other advice or from the relationship of lawyer and client or other similar relationship, but does not include a general duty of confidentiality.
Prospectus	a document containing such information as prescribed by this Law and under any Rules made thereunder and includes a

Terms	Definitions
	supplementary Prospectus.
Protected Cell Company	has the meaning given in the Companies Law 2004 or Regulations made thereunder.
Public Fund	a Fund of the class prescribed under Article 46 to this Law.
Recognised Jurisdiction	a jurisdiction which has been recognised by the DFSA under Article 20 of this Law.
Regulator	the competent authority of a Recognised Jurisdiction which is responsible for regulating financial services in that jurisdiction.
Ruler	the ruler of the Emirate of Dubai.
Rules	has the meaning given in Article 2(e) of Schedule 1 to the Law.
Schedule	a schedule to the Law.
Securities	has the meaning prescribed in the rules made under the Regulatory Law 2004.
Special Resolution	in relation to a Domestic Fund, a resolution passed by a majority of not less than 75% of the votes validly cast (whether on a show of hands or on a poll) for and against the resolution at a general meeting or class meeting of Unitholders, of which notice specifying the intention to propose the resolution as a special resolution has been duly given.
Trustee	the person described in Article 18 of the Investment Trust Law 2006, who holds the property of the Fund on trust for the Unitholders and, is authorised under a Licence granted by the DFSA to act as Trustee of a Fund.
Unit	a Unit or share representing the rights or interests of Unitholders in a Fund.
Unitholder	in relation to a Fund, means any holder of a Unit in the Fund or of any right or interest in such a Unit, otherwise known as a 'participant'.