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**CONSULTATION PAPER NO. 55**

**10 JUNE 2008**

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**PROPOSAL TO ENHANCE RULES RELATING TO ANTI MONEY  
LAUNDERING AND OBSERVANCE OF RELEVANT  
UNITED NATIONS RESOLUTIONS AND SANCTIONS**

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### **PROPOSAL TO ENHANCE RULES RELATING TO ANTI MONEY LAUNDERING AND OBSERVANCE OF RELEVANT UNITED NATIONS RESOLUTIONS AND SANCTIONS**

#### **Why are we issuing this paper?**

1. This Consultation Paper seeks public comment on the DFSA's proposals to:
  - (a) require Authorised Market Institutions, Authorised Firms and Ancillary Service Providers to:
    - (i) conduct ongoing due diligence in respect of their business relationship with a Member or customer or business partner in respect of transactions undertaken; and
    - (ii) make appropriate use of any applicable findings, guidance, directives, resolutions and sanctions issued by the United Nations Security Council and, in respect of anti money laundering issues, other relevant authorities or bodies, as the case may be; and
  - (b) provide Authorised Firms with the flexibility to undertake customer identification after effecting a Transaction in certain situations described below.

#### **Who should read this paper?**

2. The proposals in this Paper would be of interest to Authorised Market Institutions, Authorised Firms and Ancillary Service Providers with regard to the applicable anti money laundering related regulatory obligations and additional requirements for systems and controls to give due regard to the United Nations Security Council resolutions and sanctions.

#### **How to provide comments**

3. All comments should be provided to the person specified below. You may, if relevant, identify the organisation you represent in providing your comments. The DFSA reserves the right to publish including on its website any comments you provide, unless you expressly request otherwise at the time of making comments.

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### What happens next?

4. The deadline for providing comments on this proposal is **10 July 2008**. Once we receive your comments, we will consider if any further refinements are required to this proposal. We will then proceed to enact the changes to the DFSA's Rulebook. Because these are still proposals, you should not act on them until the relevant changes to the DFSA Rulebook are made. We will issue a notice on our website advising you when this happens.

### Comments to be addressed to:

**Radish Kaur**  
**Manager, Policy and Legal Services**  
**Dubai Financial Services Authority**  
**Level 13, The Gate, P. O. Box 75850**  
**Dubai, UAE**

or e-mailed to: [rkaur@dfsa.ae](mailto:rkaur@dfsa.ae)

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## Defined Terms

5. Defined terms are identified throughout this paper by the capitalisation of the initial letter of a word or of each word in a phrase and are defined in the Glossary (GLO) module. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

## Background

6. The DFSA's aim in relation to the proposed amendments is to:
  - (a) ensure that certain provisions in the Rulebook relating to anti money laundering and counter terrorist financing are more closely aligned with the Financial Action Task Force (FATF) recommendations. Accordingly, we are proposing to insert a Rule on ongoing due diligence;
  - (b) ensure that due regard is paid by Authorised Firms, Authorised Market Institutions and Ancillary Service Providers to relevant resolutions and sanctions issued by the United Nations Security Council;
  - (c) harmonise relevant requirements that should apply across the board, in a consistent manner, to Authorised Market Institutions, Authorised Firms and Ancillary Service Providers; and
  - (d) provide flexibility to Authorised Firms to conduct customer identification after effecting a Transaction, where applicable. The current AML Rules require Authorised Firms to undertake customer identification before effecting a Transaction. The proposed flexibility is consistent with the FATF recommendation No. 5.

## Proposed amendments

7. Requirements relating to ongoing due diligence
  - The proposed AML Rule 3.4.4(1)(b), AMI Rule 11.7.3(1)(b) and ASP Rule 6.5.4(1)(b) require Authorised Market Institutions, Authorised Firms or Ancillary Service Providers, to conduct ongoing due diligence on business relationships with and transactions undertaken by, a Member, a customer or a business partner, as applicable.
8. Requirements relating to United Nations Security Council sanctions
  - The proposed GEN Rule 5.3.30 requires Authorised Persons to make appropriate use of any United Nations Security Council resolutions and sanctions which are relevant to their business dealings. In addition, Authorised Persons are required to report to the DFSA any business dealings or potential business dealings with affected Persons.
  - In relation to Ancillary Service Providers, a similar obligation as mentioned above is imposed in new section 3.6 of the ASP module. Accordingly, Ancillary Service Providers will also be required to make appropriate use of relevant United Nations Security Council resolutions and sanctions and report to the DFSA any business dealings or potential business dealings with affected Persons.

9. Harmonisation of certain anti money laundering obligations for consistency
- As already required in the case of Authorised Firms, it is proposed that an obligation is placed on Authorised Market Institutions and Ancillary Service Providers to take into account anti money laundering related findings issued by relevant authorities or bodies, such as the UAE Central Bank, FATF, DFSA or other government departments in the UAE. As such, it is proposed that the existing Guidance under AMI section 11.9 and ASP section 6.8 be made into a Rule.
  - Under AML Rule 3.4.13, proposed new provisions have been inserted to require Authorised Firms to verify their business partner's identity if they lacks sufficient information, as currently required in the case of dealing with a customer.
10. Requirements relating to flexibility in conducting customer identification
- The proposed new provisions in AML Rule 3.4.3 provide that an Authorised Firm may carry out customer verification after effecting a Transaction but only where it involves a low risk Transaction and, if the:
    - (a) delay in undertaking the Transaction would be prejudicial to the interest of such customer; and
    - (b) Transaction is in respect of Investment Business or Insurance Business.
11. Consequential and other minor amendments
- Authorised Market Institutions, Authorised Firms and Ancillary Service Providers will find that consequential changes, as a result of the amendments mentioned in paragraphs 7, 8, 9 and 10, are proposed to relevant requirements relating to record keeping, reporting, training and awareness and responsibilities of the AMLO or MLRO, as the case may be.
  - In addition, certain changes are proposed to streamline language and to correct minor typographical errors.

### **Proposed consolidation of the anti money laundering Rules**

12. Following this limited scope exercise, we are considering streamlining the Rules on anti money laundering and accordingly consolidating them in one single module. We expect the streamlining to be completed by end of 2008. We do not expect the streamlining to result in material changes to the substance of the Rules.