

Appendix 3

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



The DFSA Rulebook

Conduct of Business Module

(COB)

1 INTRODUCTION

1.1 Application

1.1.1 This module (COB) applies to every Authorised Firm with respect to the carrying on, in or from the DIFC, of any:

- (a) Financial Service; or
- (b) activity which is carried on, or held out as being carried on, in connection with or for the purposes of such a Financial Service;

except to the extent that a provision of COB provides for a narrower application.

1.1.2 COB does not apply to a Representative Office.

Guidance

An Authorised Firm may be able to rely on the Transitional Rules in chapter 10 of GEN for the purposes of complying with some of the provisions in this module. The Rules enable Authorised Firms to make a smooth transition to the new regime that came into force 1 July 2008 under rule-making instrument No. 56, following the DFSA's "Key Policy Review" outlined in Consultation Paper 52. Examples of the provisions to which the Transitional Rules apply are the Client classification (Rule 2.3.3(1)), consent and notifications to be treated as a Market Counterparty (Rule 2.3.4), statements required to be included in marketing material (Rule 3.2.4(1)(c)) and requirements for Client Agreement and key information (Rule 3.2.2(1)(b)).

.....

2.3.1 (1) Subject to (2), before carrying on a Financial Service with or for a Person, an Authorised Firm must determine whether such a Person is a Professional Client in accordance with Rule 2.3.2, in respect of all or particular Financial Services or products offered by the Authorised Firm.

(2) An Authorised Firm is not required to comply with (1) where it:

- (a) treats a Person as a Retail Client; or
- (b) ~~does one or both of the following and provides no other Financial Service to the Person concerned:~~
 - (i) ~~referring that refers a Person to another Authorised Firm or any entity regulated by a Financial Services Regulator; or~~
 - (ii) ~~giving that Person generic advice as defined in GEN Rule 2.11.1(3) or GEN Rule 2.19.1(4)(b) or as part of making invitations as defined in GEN Rule 2.9.1(2)(b) or 2.19.1(6)(b).~~

.....

3.3.1 The Rules in this section do not apply to an Authorised Firm when it is:

- (a) carrying on a Financial Service with or for a Market Counterparty;
- (b) Accepting Deposits;
- (c) Providing Credit;
- (d) making a referral ~~or giving generic advice~~ in the circumstances referred to in Rule 2.3.1(2)(b); or
- (e) an Operator of a Fund Offering the Units of a Fund it operates.

.....

3.4.1 The Rules in this section do not apply where the Authorised Firm:

- (a) undertakes a Transaction with a Market Counterparty;
- (b) undertakes an Execution-Only Transaction;
- (c) undertakes the activities of Accepting Deposits or Providing Credit; or
- (d) makes a referral ~~or gives generic advice~~ in the circumstances referred to in Rule 2.3.1(2)(b).