

Appendix 2

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



The DFSA Rulebook

Prudential – Investment, Insurance
Intermediation and
Banking Module

(PIB)

1.3 Categories of Authorised Firms

Guidance

1. Authorised Firms are divided into Categories to provide a clear framework for determining which specific Rules in PIB apply to each Authorised Firm. The Rules in this section enable an Authorised Firm to determine into which Category it falls.
2. Table 1 sets out the categorisation process diagrammatically.
3. In Table 1, an emboldened box indicates the Financial Service that is determinative of the Category into which an Authorised Firm falls. An Authorised Firm may, if authorised under its Licence to do so, conduct any number of Financial Services specified under any lower Category, than the one that applies to the Authorised Firm in accordance with this section. ~~So, for example, a Category 1 Firm could conduct any of the Financial Services specified under Categories 2, 3 or 4, (if authorised to do so). However, a Category 4 Firm may only conduct any of the Financial Services listed under Category 4, for which it is authorised.~~

Category 1

- 1.3.1** An Authorised Firm whose Licence authorises it to carry on the Financial Service of Accepting Deposits ~~or Providing Credit~~ and which does not meet the criteria of Category 5 is in Category 1.

Guidance

A Category 1 Authorised Firm may be authorised to conduct other Financial Services, but it is the authorisation for Accepting Deposits ~~or Providing Credit~~ that is determinative of its belonging to Category 1.

Category 2

- 1.3.2** ~~(1)~~ An Authorised Firm is in Category 2 if:
- (a) its Licence authorises it to carry on one or more of the Financial Services of Dealing in Investments as Principal or Providing Credit; and
 - (b) ~~its activities under (a) do not constitute Dealing in Investments as a “Matched Principal”~~ its dealing activities are not restricted in accordance with Rule 1.3.3(1)(a)(i); and
 - (c) it does not meet the criteria of Categories 1 or 5.
- ~~(2)~~ For the purposes of this Rule and Rule 1.3.3, an Authorised Firm Deals in Investments as a “Matched Principal” if:
- (a) it enters into transactions as a principal only for the purpose of fulfilling its Clients’ orders;
 - (b) it holds positions for its own accounts (“positions”) only as a result of a failure to match Clients’ orders;

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- ~~(c) the total market value of the positions it holds is no more than 15% of the Firm's Tier One Capital resources; and~~
- ~~(d) the positions are incidental and provisional in nature and are strictly limited to the time reasonably required to carry out a transaction of that nature.~~

Guidance

A Category 2 Authorised Firm may be authorised to conduct other Financial Services, but it is the authorisation for Dealing in Investments as Principal and the absence of the Accepting Deposits or Providing Credit authorisation that are determinative of its belonging to Category 2.

Category 3

- 1.3.3** (1) An Authorised Firm is in Category 3 if:
- (a) its Licence authorises it to carry on one or more of the Financial Services of:
 - (i) Dealing in Investments as Principal ~~and, (where it does so only as a Matched Pprincipal);~~
 - (ii) Dealing in Investments as Agent;
 - (iii) Managing Assets;
 - (iv) Operating a Collective Investment Ffund;
 - (v) Providing Custody;
 - (vi) Providing Trust Services (where it is acting as trustee in respect of an express trust); or
 - (vii) Acting as the Trustee of a Fund; and
 - (b) it does not meet the criteria of Categories 1, 2 or 5.
- (2) For the purposes of this Rule, an Authorised Firm Deals in Investments as a "matched principal" if:
- (a) it enters into transactions as a principal only for the purpose of fulfilling its Clients' orders;
 - (b) it holds positions for its own account ("positions") only as a result of a failure to match Clients' orders;
 - (c) the total market value of the positions it holds is no more than 15% of the Firm's Tier One Capital resources; and
 - (d) the positions are incidental and provisional in nature and are strictly limited to the time reasonably required to carry out a transaction of that nature.

Guidance

A Category 3 Authorised Firm may be authorised to conduct other Financial Services, but it is the authorisation for Dealing in Investments as Agent, Managing Assets, Operating a Collective Investment Fund, Acting as the Trustee of a Fund or Providing Custody, and the absence of authorisation for the activities specified in Rules 1.3.1 and 1.3.2 that are determinative of its belonging to Category 3.

Category 4

1.3.4 An Authorised Firm is in Category 4 if:

- (a) its Licence authorises it to carry on one or more of the Financial Services of Arranging Credit or Deals in Investments, Advising on Financial Products or Credit, Arranging Custody, Insurance Intermediation or Insurance Management, Operating an Alternative Trading System, ~~or~~ Providing Fund Administration or Providing Trust Services (where it is not acting as trustee in respect of an express trust); and
- (b) it does not meet the criteria of Categories 1, 2, 3 or 5.

Guidance

An Authorised Firm in Category 4 may not be authorised to conduct any other Financial Service; if it were so authorised it would belong to another Category. In accordance with Rule 1.3.7, only those Authorised Firms in Category 4 which are authorised to carry on the Financial Services of Insurance Intermediation or Insurance Management may hold Insurance Money.

Category 5

1.3.5 An Authorised Firm is in Category 5 if it:

- (a) carries on its entire business operation in accordance with Shari'a; and
- (b) Manages a Profit Sharing Investment Account.

Guidance

Authorised Firms in Categories 1 to 4 may also carry out Islamic Financial Business, but only those Authorised Firms in Categories 1 to 3 may Manage a Profit Sharing Investment Account. They will not fall within Category 5 unless the whole of the business is conducted in accordance with Shari'a and they Manage a Profit Sharing Investment Account.

Client Assets

1.3.6 The Rules in PIB apply to the whole business of an Authorised Firm except in relation to Clients' Assets that are held or controlled by an Authorised Firm which are not included in any prudential calculation.

- 1.3.7** (1) An Authorised Firm in Category 4 must not hold Client Money.
- (2) An Authorised Firm in Category 4 must not hold Insurance Money unless:
- (a) it is authorised by its Licence to carry on the Financial Services of Insurance Intermediation or Insurance Management; and
 - (b) the Insurance Money is held for the purpose of carrying on its Insurance Intermediation or Insurance Management business.

Table 1 – Categorisation of Authorised Firms

Notes:

1. The Financial Services described in the emboldened boxes are the determinants for the prudential Category. The activities set out in the boxes in the table are Financial Services (see GEN chapter 2). The Financial Services that an Authorised Firm is authorised to carry on are specified on its Licence.
2. If a Person carries on any one or more of the Financial Services specified in an emboldened box under a particular Category, then the highest such Category is that Person's Category for the purposes of this module.
3. The one and only exception to the above, is an Islamic Financial Institution which Manages a Profit Sharing Investment Account. Such an institution falls in Category 5.
4. The Financial Service of Managing a Profit Sharing Investment Account is not set out in an emboldened box because it is not a determinant for a Person's prudential Category, however, a Category 4 Firm cannot carry on such a activity, hence the crossed box under Category 4.



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| Category 1 | Category 2 | Category 3 | Category 4 | Category 5 |
|--|--|---|---|---|
| Accepting Deposits | Dealing in Investments as Principal, as a Matched Principal as defined in Rule 1.3.2 (2) | Dealing in Investments as Principal where it does so only as a Matched Principal as defined in Rule 1.3.2 (2)-1.3.3 (2) | Arranging Credit or Deals in Investments | An Islamic Financial Institution whose entire business is conducted in accordance with Shari'a and which Manages a Profit Sharing Investment Account |
| Providing Credit | <u>Providing Credit</u> | Dealing as Agent | Advising on Financial Products or Credit | |
| | | <u>Managing Operating</u> a Collective Investment Fund | Arranging Custody | |
| | | Managing Assets | Insurance Intermediation | |
| | | Providing Custody | Insurance Management | |
| | | Providing Trust Services as a trustee of an express trust | Operating an Alternative Trading System | |
| | | Acting as the Trustee of a Fund | Providing Fund Administration | |
| | | | <u>Providing Trust Services other than as a trustee of an express trust</u> | |
| | | | | |
| | | | | |
| Managing a Profit Sharing Investment Account | Managing a Profit Sharing Investment Account | Managing a Profit Sharing Investment Account | | Islamic Financial Institution Entire business conducted in accordance with Shari'a and Manages a Profit Sharing Investment Account |