

Appendix 2

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



The DFSA Rulebook

Authorised Market Institutions

(AMI)

7 LICENSING REQUIREMENTS

7.1 Application

7.1.1 This chapter applies to an Authorised Market Institution and an applicant for a Licence to be an Authorised Market Institution.

7.2 Licensing requirements

Guidance

This section sets out the Licensing Requirements which an Authorised Market Institution must meet in order to be licensed and thereafter.

- 7.2.1**
- (1) An Authorised Market Institution must be able to satisfy the Licensing Requirements to the satisfaction of the DFSA at the time a Licence is granted and at all times thereafter.
 - (2) The Licensing Requirements referred to in (1) are set out in this section and contain requirements relating to:
 - (a) fitness and propriety;
 - (b) proper markets;
 - (c) financial resources;
 - (d) human and technology resources;
 - (e) systems and controls;
 - (f) Members' access to facilities;
 - (g) general safeguards for investors;
 - (h) identification, deterrence and prevention of Market Misconduct, financial crime and money laundering
 - (i) promotion and maintenance of standards;
 - (j) whistle blowing;
 - (k) clearing and settlement;
 - (l) transaction recording;
 - (m) safeguarding and administration of assets;

- (n) Business Rules;
- (o) compliance with Business Rules;
- (p) complaints;
- (q) default rules;
- (r) an Official List of Securities; and
- (s) compliance with Listing Rules.

Fit and proper - constitution, regulation and governance

- 7.2.2** (1) An Authorised Market Institution must:
- (a) be fit and proper;
 - (b) be appropriately constituted;
 - (c) have taken appropriate measures to:
 - (i) satisfy the Licensing Requirements; and
 - (ii) perform its Regulatory Functions; ~~and~~
 - (d) ~~meet applicable standards of corporate governance as appropriate considering the nature, size and complexity of the Authorised Market Institution's activities. [Added][VER3/06/07] [RM43/07]~~
have a corporate governance framework appropriate to the nature, scale and complexity of its business and structure, which are adequate to promote the sound and prudent management and oversight of the Authorised Market Institution's business and to protect the interests of its stakeholders; and
 - (e) have a remuneration structure and strategies which are well aligned with the long term interests of the Authorised Market Institution, and appropriate to the nature, scale and complexity of its business.
- (2) In particular, the Governing Body of an Authorised Market Institution must:
- (a) demonstrate integrity, competence and commitment to satisfying its obligations under the Licensing Requirements;
 - (b) assign Key Individuals with appropriate levels of experience, knowledge and qualifications to oversee the Regulatory Functions;

- (c) appoint a Key Individual who is ordinarily resident in the United Arab Emirates as a Money Laundering Reporting Officer;
 - (d) have independent directors constituting at least one-half of the total number of directors in the Governing Body and ensure that these independent directors are provided with direct access to:
 - (i) Key Individuals when required; and
 - (ii) all relevant information concerning the satisfaction of Licensing Requirements and the performance of Regulatory Functions; and
 - (e) ensure that Key Individuals have unfettered, direct access to the Governing Body.
- (3) For the purposes of this Rule and Article 23(2)(f)(ii) of the Regulatory Law, Regulatory Functions are those functions of an Authorised Market Institution which contribute directly to the satisfaction by the Authorised Market Institution of a Licensing Requirement.
- (4) An Exchange maintaining an Official List of Securities must ensure the function is properly and independently operated.

Guidance

1. Corporate governance framework encompasses structural and procedural arrangements such as systems, policies and practices that are put in place to promote good governance and include the specific measures required under GEN Rule 5.3.30 and AMI Rule 7.2.2(d).
2. Section 2.2 of the RPP Sourcebook sets out matters which the DFSA takes into consideration when making an assessment of the kind under Rule 7.2.2.

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10 SUPERVISION OF AUTHORISED MARKET INSTITUTIONS

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10.5 Constitution and governance

10.5.1 Where an Authorised Market Institution is to circulate any notice or other document proposing any amendment to its memorandum or articles of association, or other document relating to its constitution, to:

- (a) its shareholders or any group or class of them;

- (b) persons granted access to its facilities or any group or class of them;
or
- (c) any other group or class of persons which has the power to make that amendment or whole consent or approval is required before it may be made:

that Authorised Market Institution must give notice of that proposed amendment to the DFSA setting out the following information:

- (d) the proposed amendment;
- (e) the reasons for the proposal; and
- (f) a description of the group or class of persons to whom the proposal is to be circulated.

10.5.2 Where an Authorised Market Institution makes an amendment to its memorandum or articles of association, or other document relating to its constitution, that Authorised Market Institution must immediately give the DFSA notice of that event, setting out written particulars of that amendment and of the date on which it is to become or became effective.

10.5.3 (1) Where any significant change is made to an agreement which relates to the constitution, or to the corporate governance framework or the remuneration structure or strategy, of an Authorised Market Institution, that Authorised Market Institution must give the DFSA a notice as provided in (2).

(2) Where any significant change is made to:

- (a)** an agreement which relates to the constitution of an Authorised Market Institution, the Authorised Market Institution must give the DFSA notice of that event change as soon as it is becomes aware of it, and give written particulars of the date on which it is to become or became effective; or
- (b)** the corporate governance framework or the remuneration structure or strategy of an Authorised Market Institution, the Authorised Market Institution must give the DFSA notice of that change as soon as practicable before making such a change.

Guidance

1. The purpose of these notifications is to ensure the DFSA is informed of changes to arrangements which specify the arrangements by which an Authorised Market Institution will be governed or by which important decisions will be taken within that body.
2. As the corporate governance framework of an Authorised Market Institution encompasses the composition of its Governing Body, any committees of the Governing Body, the senior management and the Persons Undertaking Key Control Functions, the reporting lines between the Governing Body, senior management and the Persons Undertaking Key Control Functions and any key

policies and practices relating to the internal governance of the firm, such as codes of ethics or its remuneration practices, any significant changes relating to such arrangements and policies need to be notified to the DFSA pursuant to Rule 10.5.3 before making such changes.

3. Notification relating to proposed changes to corporate governance and remuneration referred to in Rule 10.5.3(2)(b) must be given sufficiently in advance of effecting the proposed change. The DFSA may, if there are any concerns that an Authorised Market Institution may not be able to meet the applicable requirements relating to corporate governance and remuneration set out in GEN Rules 5.3.30 and 5.3.31 as a result of a proposed change, require the Authorised Market Institution to address those concerns effectively before implementing such a change.