

Appendix 1

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



The DFSA Rulebook

General Module

(GEN)

2 FINANCIAL SERVICES

.....

2.2 Financial Service activities

.....

2.2.2 The following activities are specified for the purposes of Rule 2.2.1:

- (a) Accepting Deposits;
- (b) Providing Credit;
- (c) Providing Money Services;
- (d) Dealing in Investments as Principal;
- (e) Dealing in Investments as Agent;
- (f) Arranging Credit or Deals in Investments;
- (g) Managing Assets;
- (h) Advising on Financial Products or Credit;
- (i) Managing a Collective Investment Fund;
- (j) Providing Custody;
- (k) Arranging Custody;
- (l) Effecting Contracts of Insurance;
- (m) Carrying Out Contracts of Insurance;
- (n) Operating an Exchange;
- (o) Operating a Clearing House;
- (p) Insurance Intermediation;
- (q) Insurance Management;
- (r) Managing a Profit Sharing Investment Account;
- (s) Operating an Alternative Trading System;
- (t) Providing Trust Services;

- (u) Providing Fund Administration;
- (v) Acting as the Trustee of a Fund; ~~and~~
- (w) Operating a Representative Office; and
- (x) Operating a Credit Rating Agency.

.....

2.27 Operating a Credit Rating Agency

2.27.1 (1) In Rule 2.2.2, Operating a Credit Rating Agency means undertaking one or more Credit Rating Activities for the purpose of producing a Credit Rating with a view to that Credit Rating being:

- (a) disseminated to the public; or
- (b) distributed to a Person by subscription,

whether or not it is in fact disseminated or distributed.

(2) For the purposes of (1):

- (a) Credit Rating Activities are data and information analysis or the evaluation, approval, issue or review of a Credit Rating; and
- (b) a Credit Rating is an opinion expressed using an established and defined ranking system of rating categories regarding the creditworthiness of a Rating Subject.

(3) In (2), a Rating Subject means:

- (a) a Person other than a natural person;
- (b) a credit commitment; or
- (c) a debt or debt-like Investment.

Exclusions

2.27.2 A Person does not Operate a Credit Rating Agency where that Person prepares any credit scores, credit scoring systems or similar assessments relating to obligations arising from consumer, commercial or industrial relationships.

Guidance

1. The effect of Rule 2.27.1 is that even if a Person undertakes from a place of business in the DIFC some but not all of the Credit Rating Activities for the purpose of producing a Credit Rating, that Person needs to have a Licence authorising it to Operate a Credit Rating Agency.

2. Where a Credit Rating Agency outsources some of its Credit Rating Activities, it will need to ensure that it meets the relevant requirements, including those relating to outsourcing, in Rule 5.3.21.
3. There is no express prohibition against carrying on the Financial Service of Operating a Credit Rating Agency by Persons who are authorised to carry on other Financial Services. However, the specific conduct requirements applicable to Credit Rating Agencies in COB chapter 8, include a prohibition against certain types of consultancy and advisory services being provided by a Credit Rating Agency. Therefore, even if a Credit Rating Agency has an appropriate Licence authorising it to provide advice on financial products, it will not be able to provide the prohibited type of consultancy and advisory services.
4. A Person may provide a private Credit Rating for the exclusive use of another Person (Second Person) without seeking a License authorising it to Operate a Credit Rating Agency where the Credit Rating is produced based on the request of the Second Person and is not intended to be disseminated to the public or distributed by subscription. Such a Person may wish to include an express warning in the Credit Rating that it is intended only for the exclusive use of the Second Person and obtain from such Second Person a prior written undertaking that the Credit Rating will not be disseminated to the public or distributed on subscription.
5. Credit scoring referred to in Rule 2.27.2 is a method of assessing creditworthiness. A credit score is primarily based on credit report information typically sourced from credit bureaus. A Person does not become a Credit Rating Agency merely by preparing or providing credit assessments. Lenders, such as banks and credit card companies, use credit scores to evaluate the potential risk posed by lending money to consumers and to mitigate losses due to bad debt. Insurance companies, and government departments also employ the same techniques.

.....

4 CORE PRINCIPLES

4.1 Principles for Authorised Firms – application

4.1.1 The twelve Principles for Authorised Firms, set out in section 4.2, apply to every Authorised Firm, other than a Representative Office, in accordance with Rules 4.1.2 and ~~4.1.3~~ 4.1.4.

.....

4.1.4 In complying with Principle 6, an Authorised Firm which is a Credit Rating Agency must also pay due regard to the interests of the users of Credit Ratings.

.....

7 AUTHORISATION

.....

Consideration and assessment of application

7.2.5

Guidance

A Credit Rating Agency is not subject to any specific capital requirements in PIB. Instead, it is required, pursuant to Rules 4.2.4 and 7.2.5 to have and maintain adequate financial resources to manage its affairs prudently and soundly.

.....

7.5 Mandatory appointments

7.5.1 (1) An Authorised Firm must, Subject to (2), make the following appointments and ensure that they are held by one or more Authorised Individuals at all times:

- (a) Senior Executive Officer;
- (b) Finance Officer;
- (c) Compliance Officer; and
- (d) Money Laundering Reporting Officer.

(2) An Authorised Firm which is a Credit Rating Agency:

- (a) need not make the appointments referred to in (1)(b) and (d);
and
- (b) must ensure that the appointments referred to in 1(a) and (c)
are held by separate Authorised Individuals at all times.

.....

9 COMPLAINTS HANDLING AND DISPUTE RESOLUTION

9.1 Application

9.1.1 This chapter applies to every ~~an~~ Authorised Firm, other than a Representative Office and a Credit Rating Agency, carrying on a Financial Service in or from the DIFC as follows:

- (a) Section 9.2 applies to an Authorised Firm carrying on a Financial Service with or for a Retail Client; and
- (b) Section 9.3 applies to an Authorised Firm carrying on a Financial Service with or for a Professional Client.

.....

11 SUPERVISION

.....

11.8 Changes relating to control

- 11.8.1** (1) This chapter section applies, subject to (2), to:
- (a) an Authorised Firm; or
 - (b) a Person who is, or is proposing to become, a Controller specified in Rule 11.8.3.
- (2) A Credit Rating Agency must comply with the requirements in this section as if it were a non-DIFC established company.

Guidance

The requirements in respect of notification of changes relating to control of Branches (i.e. Non-DIFC established companies) are set out in Rule 11.8.10. Although some Credit Rating Agencies may be companies established in the DIFC, such companies will only be subject to the notification requirements relating to their Controllers. Accordingly, regardless of whether a Credit Rating Agency is a company established in the DIFC or a Branch operation, it is subject to the notification requirements only and not to the requirement for prior approval by the DFSA of changes relating to its Controllers.