

Appendix 1

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

**PROPOSED CHANGES TO
MARKETS LAW 2012**

PART 2: OFFER OF SECURITIES

CHAPTER 2: GENERAL PROHIBITIONS AND DEFINITIONS

11 General Prohibition

- (1) A person shall not:
 - (a) make an Offer of Securities to the Public in or from the DIFC; or
 - (b) have Securities admitted to trading on an Authorised Market Institution, except as provided in this Law and the Rules made for the purposes of this Law.
- (2) Without limiting the generality of its powers, the DFSA may, by written notice:
 - (a) exclude the application of any requirements; or
 - (b) deem any Investment which is not a Security to be a Security for the purposes of this Law and the Rules, subject to such terms and conditions as it may consider appropriate.

12. Definition of an Offer of Securities to the Public

An Offer of Securities to the Public means a communication to any person in any form or by any means, presenting information on the terms of the offer and the Securities offered, so as to enable an investor to decide to buy or subscribe to those Securities but excluding:

- (a) any communication in connection with the trading of Securities admitted to trading on an Authorised Market Institution;
- (b) any communication made for the purposes of complying with the on-going reporting requirements of the DFSA or an Authorised Market Institution; or
- (c) any other communication prescribed in the Rules as an Exempt Communication.

13 Exempt Offerors

- (1) The prohibition in Article 11(1) does not apply to any:

- (a) Securities of an Exempt Offeror; or
 - (b) Securities which are unconditionally and irrevocably guaranteed by an Exempt Offeror.
- (2) For the purposes of Article 13(1), an Exempt Offeror is a recognised government or other person included in the list of Exempt Offerors maintained by the DFSA in the Rules.
- (3) The DFSA may, at its discretion and on its own initiative, include any person in the list of Exempt Offerors maintained by it in circumstances where the requirements prescribed by the DFSA in the Rules are met.

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PART 4: OBLIGATIONS OF REPORTING ENTITIES

CHAPTER 1: DEFINITIONS

38. Definition of a Reporting Entity

- (1) A person is, subject to Article 38(3), a Reporting Entity if the person:
- (a) has or had Securities admitted to an Official List of Securities at any time;
 - (b) has made an Offer of Securities to the Public other than in relation to Units of a Fund;
 - (c) merges with or acquires a Reporting Entity referred to in Article 38(1)(a) or (b); or
 - (d) is declared by the DFSA pursuant to Article 38(4) to be a Reporting Entity.
- (2) For the purposes of Article 38(1)(a):
- (a) in the case of a Fund where the Units are or have been included in an Official List of Securities (a “Listed Fund”):

- (i) a reference to a Reporting Entity is a reference to the Fund Manager of that Fund or such other person as the DFSA may declare (who may also be called a “Reporting Entity of the Listed Fund”); and
 - (ii) any obligations of a Reporting Entity are, unless the context requires otherwise, obligations in respect of the Listed Fund; and
 - (b) for avoidance of doubt, a person does not become a Reporting Entity of a Listed Fund by merely offering the Units of the Fund to the public, unless the Units are also admitted to an Authorised Market Institution.
- (3) A person is not a Reporting Entity:
- (a) if the person is an Exempt Offeror;
 - (b) if:
 - (i) the person previously had Securities admitted to an Official List of Securities but currently has no Securities admitted to an Official List of Securities;
 - (ii) the current holders of at least seventy five per cent of the Securities of the Reporting Entity or the Listed Fund, as is relevant, have agreed in writing that the person is no longer needed to be a Reporting Entity; ~~and~~
 - (iii) the DFSA has confirmed in writing upon being notified of the grounds referred to in Article 38(3)(b)(i) and (ii) that the person need no longer be a Reporting Entity; ~~and~~
 - (c) in the case of a person referred to in Article 38(1)(a),(b) or (c), if that person is declared by the DFSA pursuant to Article 38(4)(a)(ii) not to be a Reporting Entity; or;
 - (d) in respect of Securities which are the subject of an Exempt Offer unless the Securities are admitted to an Official List of Securities or the person making the offer falls within Article 38(1) (c) or (d).
- (4) The DFSA may, subject to Article 38(5), upon application of a person or on its own initiative:
- (a) declare in writing that a person is:

- (i) a Reporting Entity; or
 - (ii) not a Reporting Entity; and
 - (b) impose such conditions or restrictions as it considers appropriate in respect of such a declaration.
- (5) The DFSA may only exercise its power under Article 38(4) on its own initiative if it has given a person a suitable opportunity to make representations in person and in writing in relation to the proposed declaration or imposition of conditions or restrictions.
- (6) The Regulatory Appeals Committee has jurisdiction over any decision made by the DFSA pursuant to Article 38(4).
- (7) The DFSA may, by Rules, prescribe requirements applicable to Reporting Entities including any circumstances in which such requirements may not apply to certain Reporting Entities.
- (8) The DFSA may, by Rules, extend the requirements applicable to a Reporting Entity to any person who intends to undertake any activity specified in Article 38(1)(a), (b) or (c) where it considers appropriate to do so.
- (9) A reference to a Reporting Entity in the Law and the Rules made for the purposes of the Law includes, except where otherwise provided or the context implies otherwise, a person intending to have Securities admitted to trading on an Authorised Market Institution.

SCHEDULE
INTERPRETATION

3. **Defined Terms**

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
<u>Exempt Offer</u>	<u>has the meaning prescribed in the Rules made under this Law.</u>
<u>Exempt Offeror</u>	<u>a person specified in Article 13(2) of this Law and any person prescribed in the Rules made for the purposes of that Article.</u>