

Appendix 2

In this appendix underlining indicates new text and striking through indicates deleted text.
The numbering of Articles is provisional and will be adjusted in the final text to take into account the numbering in the Law as at that date

REGULATORY LAW

DIFC LAW No.1 of 2004

PART 2: THE DFSA

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CHAPTER 4 - THE REGULATORY APPEALS COMMITTEE OF THE DFSA BOARD

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PLEASE NOTE – This chapter is under review in Consultation Paper 90. It is proposed that, any rights of appeal to RAC set out below be transferred to be dealt with under the new jurisdiction of the FMT.

27. Jurisdiction of the Regulatory Appeals Committee

- (1) In Article 27(2):
 - (a) ‘applicant’ means a person who has applied to the DFSA for a decision; and
 - (b) ‘officer, employee or agent’ of a person includes a person who proposes to become an officer, employee or agent of a person.
- (2) The Regulatory Appeals Committee has jurisdiction to hear and determine any appeal where:
 - (a) an applicant appeals the decision of the DFSA in relation to an application for a Licence or for an extension to the scope of a Licence;
 - (b) an applicant, Authorised Firm or Authorised Market Institution appeals the decision of the DFSA to impose or vary or withdraw a condition or restriction to its Licence;
 - (c) an Authorised Firm or Authorised Market Institution appeals a decision of the DFSA in relation to the exercise of its power to withdraw a Licence or to withdraw an authorisation in relation to a Financial Service;
 - (d) an officer, employee or agent of an Authorised Firm appeals a decision of the DFSA in relation to his application for Authorised Individual status or for extension of his status;
 - (e) an Authorised Individual appeals the decision of the DFSA to impose or vary or withdraw a condition or restriction to the grant of Authorised Individual status;
 - (f) a person appeals a decision of the DFSA to:
 - (i) issue a written notice, or vary or withdraw a written notice to which he is subject, under Article 58(1); or

- (ii) refuse to vary or withdraw a written notice following his request pursuant to Article 58(8);
- (g) an Authorised Individual appeals a decision of the DFSA to:
 - (i) issue a written notice, or vary or withdraw a written notice to which he is subject, under Article 58(2);
 - (ii) refuse to vary or withdraw a written notice following his request or the request of an Authorised Firm pursuant to Article 58(8); or
 - (iii) suspend or withdraw his Authorised Individual status under Article 58(2), (3) or (5);
- (h) an Authorised Firm or Authorised Market Institution appeals the decision of the DFSA to issue a notice to it or make a requirement of it under Article 74, 75, 75A, 76 or 88;
- (i) a person appeals a decision of the DFSA made pursuant to its powers under Article 64 or the Rules made for the purposes of that Article;
- (j) an applicant appeals a decision of the DFSA in relation to an application for registration as ~~an auditor~~ a Registered Auditor or Audit Principal; ~~or~~
- (k) a Registered Auditor or Audit Principal appeals the decision of the DFSA to impose or vary a restriction or condition on the registration of a Registered Auditor or an Audit Principal;
- (l) an Authorised Person, Public Listed Company or Fund Manager appeals the decision of the DFSA to direct it to appoint or remove an Auditor under Article 104(9);
- (m) a Registered Auditor or Audit Principal appeals a decision of the DFSA in relation to the exercise of its powers to suspend or withdraw the registration of a Registered Auditor or to suspend or withdraw the registration of an Audit Principal;
- (n) a person appeals a decision of the DFSA to give a direction referred to in Article 99(e) requiring the use of a particular reporting standard;
- ~~(o)~~ a person appeals a decision of the DFSA to:
 - (i) issue an administrative fine under Article 90; or
 - (ii) issue an administrative censure under Article 91; or
- ~~(p)~~ an appeal is brought under such other jurisdiction as the DFSA Board of Directors may provide in the Rules or as may be conferred by or under any other DIFC Law.

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PART 3: LICENCES, AUTHORISATION AND REGISTRATION

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CHAPTER 10 - OTHER MATTERS RELATING TO LICENSING

62. Public Registers

- (1) The DFSA shall publish and maintain a register of current and past grants, withdrawals and suspensions of Licenses and authorisations of all Authorised Firms, Authorised Market Institutions and Authorised Individuals in such manner as may be prescribed in the Rules.
- (2) The DFSA shall publish and maintain a register of current and past grants and withdrawals of registration of all Ancillary Service Providers and DNFBPs in such manner as may be prescribed in the Rules.
- (3) The DFSA shall publish and maintain registers of:
 - (a) all persons in relation to whom written notices have been issued under Article 58(1); and
 - (b) all persons in relation to whom written notices have been issued under Article 58(2);indicating whether any such notice is of past effect or current, in such manner as may be prescribed in the Rules.
- (4) The DFSA shall publish and maintain a register of current and past registrations, suspensions and withdrawals of registrations of ~~auditors~~ Registered Auditors and Audit Principals in such manner as may be prescribed in the Rules.
- (5) The DFSA shall publish and maintain a register of all Domestic Funds.
- (6) The DFSA shall make a reasonably current version of any registers maintained under Article 62(1), (2), (3), (4) and (5) readily available for viewing by the public during the normal business hours of the DFSA.

63. Extended jurisdiction

PLEASE NOTE – Other changes have been proposed to this Article – See Consultation Paper 90.

- (1) Any power which the DFSA may exercise in relation to an Authorised Firm, Authorised Market Institution, Ancillary Service Provider, Registered Auditor, Authorised Individual, Audit Principal, DNFBP or Domestic Fund under the Law or Rules or other legislation administered by the DFSA may continue to be exercised for a period of two years after the date on which:
- (a) the Licence of such Authorised Firm or Authorised Market Institution;
 - (b) the registration of an Ancillary Service Provider or DNFBP, ~~or~~ Registered Auditor or Audit Principal;
 - (c) the Authorised Individual status of such Authorised Individual;
 - (d) the registration of the Principal Representative; or
 - (e) the registration of a Domestic Fund;
- is withdrawn by the DFSA under the Law or other legislation administered by the DFSA.
- (2) If, pursuant to the Law, proceedings are commenced before a Financial Markets Tribunal or the Regulatory Appeals Committee before the expiry of the period of two years referred to in Article 63(1), then the provisions of Article 63(1) shall remain in force until such time as the proceedings and any related appeals and proceedings are completed.

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PART 8: AUDITORS ACCOUNTING AND AUDITING

CHAPTER 1 – GENERAL PROVISIONS AND AUDITING PROHIBITIONS

97. ~~Qualification and application~~ Definitions

- (+) In this Part, unless expressed otherwise:
- (a) an Auditor ~~auditor~~ means:

- ~~(a)(i)~~ in relation to a Domestic Firm ~~an Authorised Firm, Authorised Market Institution or a Public Listed Company incorporated or formed in the DIFC, Public Listed Company or Domestic Fund, a Registered Auditor~~ ~~an auditor who is registered under this Law; or~~
- ~~(b)(ii)~~ in relation to an Authorised Person which is not a Domestic Firm incorporated or formed in a jurisdiction other than the DIFC, an auditor ~~appointed by the~~ of that Authorised Person Firm;
- (b) a Registered Auditor means a person registered by the DFSA under Article 101;
- (c) an Audit Principal means an individual appointed by a Registered Auditor who is responsible for:
- (i) managing the conduct of audit work undertaken by the Registered Auditor; or
- (ii) signing audit reports, or any other reports as may be required under the Rules, on behalf of the Registered Auditor; and
- (d) an Audit Service means:
- (i) an audit of the financial statements of an Authorised Person, Public Listed Company or Domestic Fund;
- (ii) an audit of whether an Authorised Person, Public Listed Company or the Fund Manager or Trustee of a Domestic Fund has complied with applicable requirements in legislation administered by the DFSA; or
- (iii) the preparation of an opinion or report relating to an audit referred to in (i) or (ii),

but does not include the performance of any internal audit function by or for a person referred to in (i) or (ii).

~~(2) For the purposes of this Part a person is a Public Listed Company if that person is incorporated or formed in the DIFC and is admitted to an official list of securities in the DIFC or is admitted to an equivalent list of securities in another jurisdiction.~~

~~(3) The DFSA shall make Rules setting out the requirements an auditor must meet to become registered by the DFSA. Such Rules may include requirements relating to the qualifications, experience and fitness and propriety of applicants.~~

~~(4) The DFSA may make Rules providing for a variation of the requirements referred to in Article 97(3) where an application is made by a firm that is, at the time of application, regulated in a jurisdiction other than the DIFC.~~

[98]. Adoption of financial reporting and auditing standards

A Rule made by the DFSA for the purposes of this Part may require compliance with or be expressed by reference to requirements in a specified financial reporting or auditing standard or code of ethics issued by a professional body (including such a standard or code as amended or re-enacted from time to time). In this Article, “specified” means specified in the Rules.

[99]. Rules about financial statements and records

The DFSA may make Rules applying to Authorised Persons, Public Listed Companies and Domestic Funds relating to:

- (a) the preparation and maintenance of financial statements;
- (b) the keeping of accounting records;
- (c) the preparation of regulatory returns relating to financial statements;
- (d) the determination of a financial year; and
- (e) the giving of a direction by the DFSA to a particular person or class of persons requiring the use of a particular financial reporting standard.

[100]. Auditing Prohibitions (Domestic Entities)

- (1) A person shall not provide any Audit Service to a Domestic Firm, Public Listed Company or Domestic Fund, unless that person is a Registered Auditor.
- (2) A Registered Auditor shall not permit any person to undertake any of the responsibilities of an Audit Principal unless that person is registered by the DFSA as an Audit Principal for that Registered Auditor.

CHAPTER 2 – REGISTRATION OF AUDITORS AND AUDIT PRINCIPALS

98. [101].Registration and conditions and restrictions and cancellation of registration

- (1) The DFSA shall make Rules setting out the criteria a person must meet to become and remain registered by the DFSA as a Registered Auditor or as an Audit Principal.
- (2) An application to be registered as an Audit Principal shall be made jointly by the Registered Auditor and the person who will be the Audit Principal if registration is granted.
- ~~(+)(3)~~ The DFSA may ~~in its absolute discretion~~:
 - (a) grant or refuse to grant an application for registration: as a Registered Auditor or Audit Principal; and
 - (b) impose restrictions and conditions upon the registration.
- ~~(2)(4)~~ Upon refusing to grant an application for registration, the DFSA shall without undue delay, inform the applicant in writing of such refusal and, where requested by the applicant, the reasons for such refusal.
- ~~(3)~~ ~~The DFSA may withdraw the registration of an auditor on such grounds and manner as prescribed in the Rules.~~
- (5) Upon granting registration as a Registered Auditor or as an Audit Principal, the DFSA shall inform the applicant of that fact and whether there are any restrictions or conditions imposed upon the registration.
- (6) A Registered Auditor and an Audit Principal shall act within the scope of the relevant registration and comply with any restrictions and conditions imposed upon such registration.
- (7) The DFSA may, subject to Articles 101(8) and (9), at any time by written notice to a Registered Auditor or Audit Principal, as appropriate:
 - (a) impose restrictions or conditions on the registration of that Registered Auditor or that Audit Principal; and
 - (b) vary or withdraw restrictions or conditions imposed on such registration.
- (8) The DFSA may act under Article 101(7) on its own initiative or at the request of the Registered Auditor or Audit Principal.

- (9) The DFSA may, subject to Article 101(10), impose or vary a restriction or condition in respect of the registration of a Registered Auditor or an Audit Principal only if it has given the relevant Registered Auditor or Audit Principal, as appropriate, a suitable opportunity to make representations in person and in writing to the DFSA in relation to the proposed changes.
- (10) The requirement imposed on the DFSA under Article 101(9) shall not apply:
- (a) in respect of any restrictions or conditions imposed on a registration at the time it was granted;
 - (b) where the relevant person has requested the imposition or variation of a restriction or condition; or
 - (c) where the DFSA concludes that any delay likely to arise as a result of such requirement is prejudicial to the interests of the DIFC.
- (11) Where under Article 101(10)(c) the DFSA imposes or varies a restriction or a condition without providing a prior opportunity to make representations, the DFSA shall:
- (a) provide the relevant Registered Auditor or Audit Principal, as appropriate, an opportunity to make representations in person and in writing to the DFSA within a period of 14 days, or such further period as may be agreed, from the date on which such restriction or condition is imposed or varied; and
 - (b) provide a response to any such submission, and make any consequential imposition or variation of the condition or restriction, without undue delay.

CHAPTER 3 - SUSPENSION AND WITHDRAWAL OF REGISTRATION OF REGISTERED AUDITORS AND AUDIT PRINCIPALS

[102]. Suspension and withdrawal of registration

- (1) The DFSA may suspend or withdraw the registration of a Registered Auditor or an Audit Principal:
- (a) in the case of the registration of a Registered Auditor, at the request of the Registered Auditor;

- (i) the DFSA conducts an investigation under Article 78 that relates to a Registered Auditor or Audit Principal; or
- (ii) a recognised professional body conducts an investigation relating to a member who is an Audit Principal; and
- (b) arising out of such an investigation, the DFSA believes on reasonable grounds that the Registered Auditor or Audit Principal has engaged in serious misconduct that may form grounds for the withdrawal of the registration of the Registered Auditor or Audit Principal.

the DFSA may suspend the relevant registration for the duration of the investigation or any related proceedings insofar as the investigation or proceedings relate to that Audit Principal or Registered Auditor.

[103]. Procedure for suspension and withdrawal of registration

- (1) The DFSA may, subject to Articles 103(2) and (3), exercise its power under Article 102 only if it has given the relevant Registered Auditor or Audit Principal a prior written notice setting out the DFSA's reasons for proposing to suspend or withdraw its registration and a suitable opportunity for the Registered Auditor or Audit Principal to make representations in person and in writing to the DFSA in relation to the proposed suspension or withdrawal.
- (2) The procedure under Article 103(1) shall not apply if:
 - (a) the DFSA concludes that any delay likely to arise as a result of such requirement is prejudicial to the interests of the DIFC; or
 - (b) the person requests the DFSA to withdraw its registration.
- (3) Where the DFSA takes steps to exercise its powers under Article 102 in relation to an Registered Auditor or Audit Principal following a determination of the Regulatory Appeals Committee or Financial Markets Tribunal or a decision of the Court in relation to the conduct of such person, the obligation upon the DFSA to afford that person an opportunity to make representations to the DFSA shall not apply in relation to findings of fact of that committee or tribunal or Court.
- (4) Where the DFSA has received a representation from a person under this Article, the DFSA shall without undue delay inform the person in writing of its response to the representation.

- (5) Upon deciding to suspend or withdraw the registration of a Registered Auditor or Audit Principal, the DFSA shall without undue delay inform the relevant person in writing of:
- (a) such decision;
 - (b) the reasons for the suspension or withdrawal;
 - (c) the date on which the suspension or withdrawal shall be deemed to take effect; and
 - (d) if relevant, the duration of the suspension.
- (6) Where under Article 103(2)(a) the DFSA suspends or withdraws the registration of a Registered Auditor or an Audit Principal without providing a prior opportunity to make representations, the DFSA shall provide the relevant Registered Auditor or Audit Principal with an opportunity to make representations in person and in writing to the DFSA within 14 days, or such further period as may be agreed, from the date of the withdrawal or suspension.

CHAPTER 4 – APPOINTMENT AND REMOVAL OF AUDITORS

99. [104]. Appointment and removal of auditors

- (1) In this Article, a Relevant Person means an Authorised Person, a Public Listed Company and, in relation to a Domestic Fund, the Fund Manager of that Fund.
- ~~(1)(2)~~ A Relevant Person, subject to Article 104(5), An Authorised Firm, Authorised Market Institution or a Public Listed Company shall:
- (a) at each annual general meeting appoint an auditor a person to hold office act as Auditor from the conclusion of that meeting to the conclusion of the next annual general meeting; or
 - (b) at the beginning of each financial year appoint an auditor a person to hold office act as Auditor until the beginning of the next financial year.
- ~~(2)(3)~~ A person who becomes a Relevant Person an Authorised Firm, Authorised Market Institution or a Public Listed Company after the beginning of a financial year must, subject to Article 104(5), appoint an auditor a person who shall hold office to act as Auditor until the conclusion of that financial year.
- (3) An Authorised Firm, Authorised Market Institution or a Public Listed Company may fill any vacancy in the office of auditor and fix the auditor's remuneration.

- (4) A Relevant Person shall as soon as practicable fill any vacancy that arises in the appointment of an Auditor.
- (5) The DFSA may make Rules exempting a specified class of Relevant Person from the requirements in this Article. If a Relevant Person is exempted by the DFSA from the requirements in this Article, then the other requirements in this chapter and in chapters 5 and 6 of this Part do not apply to, or in relation to, the Relevant Person.
- (6) In the case of an Domestic Fund which is an Investment Trust:
- (a) the Trustee of that Fund shall ensure that at all times the Domestic Fund has an Auditor; and
- (b) the Fund Manager of that Fund shall obtain the prior approval of the Trustee before carrying out any activities under this Article relating to the appointment or removal of an Auditor for that Domestic Fund.
- ~~(4)(7) A Relevant Person—An Authorised Firm, Authorised Market Institution or a Public Listed Company shall not appoint an auditor Auditor under this Article unless:~~
- (a) ~~the auditor Auditor has, prior to the appointment, consented in writing to the Relevant Person Authorised Firm, Authorised Market Institution or a Public Listed Company to hold such office; and~~
- (b) ~~the Relevant Person, and the Trustee of a Domestic Fund which is an Investment Trust, Authorised Firm, Authorised Market Institution or a Public Listed Company is not, on reasonable inquiry, aware of any matter which should preclude the auditor Auditor from giving his consent under Article 99(6)105(2).~~
- ~~(5) An auditor shall not consent to an appointment as an auditor of an Authorised Firm, Authorised Market Institution or a Public Listed Company if:~~
- (a) ~~the auditor has, or may reasonably be perceived to have, a conflict of interest of a nature prescribed in the Rules;~~
- (b) ~~the auditor does not have, or may reasonably be perceived not to have, a requisite degree of independence from the Authorised Firm, Authorised Market Institution or a Public Listed Company as prescribed in the Rules;~~
~~or~~
- (c) ~~the auditor or any associate of the auditor in a firm or business undertaking has acted as an auditor of the Authorised Firm, Authorised Market Institution or a Public Listed Company within such earlier period or frequency as prescribed in the Rules.~~

- ~~(6)~~(8) A Relevant Person ~~An Authorised Firm, Authorised Market Institution or a Public Listed Company~~ may at any time remove an ~~auditor~~ Auditor notwithstanding anything in any agreement between it and the ~~auditor~~ Auditor.
- ~~(7)~~(9) The DFSA may direct, or the Court on an application made by the DFSA may order, a Relevant Person to:
- ~~(a)~~ appoint an Auditor, where an Auditor has not been appointed by the Relevant Person; or
 - ~~(b)~~ the removal of remove an Auditor from and appoint a new Auditor, where in the opinion of the DFSA or the Court (as the case may be) the Auditor appointed by the Relevant Person is not suitable to provide Audit Services to the Relevant Person ~~an Authorised Firm, Authorised Market Institution or a Public Listed Company on such grounds and in such manner as prescribed in the Rules.~~
- ~~(8)~~(10) The appointment of a firm as an ~~auditor~~ Auditor of an Authorised Person, Firm, Authorised Market Institution or a Public Listed Company or a Domestic Fund is taken to be an appointment of all persons who are partners of the firm.
- ~~(9)~~(11) Nothing in this Article is to be taken as depriving an ~~auditor~~ Auditor removed under it of compensation or damages payable to the ~~auditor~~ Auditor in respect of the termination of appointment as ~~auditor~~ Auditor.

[105]. Auditor not to act in certain circumstances

- ~~(1)~~ In this Article, a Relevant Person means an Authorised Person, Public Listed Company and, in relation to a Domestic Fund, the Domestic Fund, the Fund Manager, the Trustee and any member of the Governing Body of the Domestic Fund.
- ~~(2)~~ A person shall not consent to an appointment, or if appointed continue to act, as the Auditor of an Authorised Person, Public Listed Company or Domestic Fund if:
- ~~(a)~~ the person has, or may on reasonable grounds be perceived to have, a conflict of interest with respect to the Relevant Person;
 - ~~(b)~~ the person does not have, or may on reasonable grounds be perceived not to have, a requisite degree of independence from the Relevant Person;
 - ~~(c)~~ the person provides prescribed non-audit services to the Relevant Person; or

- (d) the person or any associate of the person or an Audit Principal appointed by the person has provided Audit Services to the Relevant Person within such earlier period or such frequency as may be prescribed in the Rules.
- (3) The DFSA may make Rules for the purposes of Article 105(2) including prescribing what constitutes a conflict of interest, a requisite degree of independence and a prescribed non-audit service.

CHAPTER 5 – AUDITORS REPORTS AND DUTIES

100[106]. Auditor's ~~reports~~ report to the ~~Authorised Firm, Authorised Market Institution or a Public Listed Company~~

- (1) In this Article, a Relevant Person means an Authorised Person, Public Listed Company or Domestic Fund.
- (2) The DFSA may make Rules in relation to:
 - (a) ~~the functions to be carried out by an auditor~~ Auditor when auditing ~~the accounts of a Relevant Person an Authorised Firm, Authorised Market Institution or a Public Listed Company;~~
 - (b) the scope of the ~~auditor's~~ Auditor's report; ~~and~~
 - (c) the scope of ad-hoc reports of the ~~auditor~~ Auditor; ~~and~~
 - (d) the submission of Auditor's reports to the DFSA.

101[107]. Auditors' duties

- (1) In this Article, a Relevant Person means an Authorised Person, Public Listed Company or Domestic Fund.
- ~~(1)~~(2) ~~An auditor of an Authorised Firm, Authorised Market Institution or a Public Listed Company~~ An Auditor shall, in preparing the report in relation to ~~accounts of a Relevant Person an Authorised Firm, Authorised Market Institution or a Public Listed Company;~~ carry out such investigations as will enable the ~~auditor~~ Auditor to form an opinion as to the following matters:
 - (a) whether proper accounting records have been kept by the Relevant Person ~~the Authorised Firm, Authorised Market Institution or a Public Listed Company~~ and proper returns adequate for the audit have been received from branches not visited by the ~~auditor~~ Auditor;

- (b) whether the financial statements of the Relevant Person ~~Authorised Firm, Authorised Market Institution or a Public Listed Company~~ accounts are in agreement with the accounting records and regulatory returns;
 - (c) whether the financial statements of the Relevant Person ~~Authorised Firm, Authorised Market Institution or a Public Listed Company~~ accounts have been prepared in compliance with the applicable accounting financial reporting standards; and
 - (d) whether the ~~accounts~~ financial statements of the Relevant Person ~~Authorised Firm, Authorised Market Institution or a Public Listed Company~~ represent a true and fair view of the financial condition and the state and of affairs of the Relevant Person ~~Authorised Firm, Authorised Market Institution or a Public Listed Company~~.
- (2)(3) If the ~~auditor~~ Auditor is of the opinion that proper accounting records have not been kept, or that proper returns adequate for the audit have not been received from branches not visited by the ~~auditor~~ Auditor, or if the ~~accounts~~ financial statements are not in agreement with the accounting records and regulatory returns, or that the ~~accounts~~ financial statements do not comply with accounting standards or they do not represent a true and fair view, the ~~auditor~~ Auditor shall state that fact in the report.
- (3)(4) If the ~~auditor~~ Auditor fails to obtain all the information and explanations which, to the best of the ~~auditor's~~ Auditor's knowledge and belief are necessary for the purposes of the audit, the ~~auditor~~ Auditor shall state that fact in the report.
- (5) An Auditor of a Domestic Fund shall disclose to the Trustee of the Domestic Fund, if appointed, and to the person providing the oversight function of a Domestic Fund which is a Public Fund, any information relevant to that person's role.

102[108]. Resignation of an auditor

(1) In this Article, a Relevant Person means an Authorised Person, Public Listed Company or Domestic Fund.

~~(1)~~(2) An auditor Auditor of a Relevant Person~~an Authorised Firm, Authorised Market Institution or a Public Listed Company~~ may resign from office by depositing a notice in writing to that effect together with a statement ~~under~~ referred to in Articles 102(2) 108(3) and (4) at the registered office of the Relevant Person~~Authorised Firm, Authorised Market Institution or the Public Listed Company~~ registered office; and any such notice operates to bring its term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.

~~(2)~~(3) When an auditor Auditor ceases for any reason to hold office act as the auditor Auditor of a Relevant Person, it shall deposit at the registered office of~~the Authorised Firm, Authorised Market Institution or the Public Listed Company:~~

(a) the Authorised Person;

(b) the Public Listed Company; or

(c) in the case of a Domestic Fund:

(i) the Domestic Fund; and

(ii) if appointed, the Trustee of that Fund.

a notice setting out the matters specified in Article 108(4).

(4) The notice must contain either:

(a) a statement to the effect that there are no circumstances connected with the ceasing to hold office which the ~~auditor~~ Auditor considers should be brought to the notice of the relevant members or Unitholders, or creditors of the Relevant Person~~Authorised Firm, Authorised Market Institution or a Public Listed Company~~; or

(b) if there are any circumstances referred to in (a), a statement of the nature of those circumstances~~any circumstances as are mentioned above.~~

~~(3)~~(5) Where a notice contains information referred to in ~~statement under~~ Article 102(2) 108(4)(b) falls within sub-paragraph (b) of that Article, the Authorised Firm, Authorised Market Institution or a Public Listed Company;

- (a) the Authorised Person;
- (b) the Public Listed Company; or
- (c) in the case of a Domestic Fund, the Fund Manager of the fund, or failing which, the other members of the Governing Body of the Fund, or if appointed the Trustee of the Fund,

shall provide to the DFSA ~~send~~ a copy of the statement ~~to the DFSA~~ and any response by that person.

CHAPTER 6 – CO-OPERATION WITH AUDITORS AND AUDITORS OBLIGATIONS OF DISCLOSURE TO THE DFSA

103-[109]. Co-operation with auditors

- (1) In this Article, a Relevant Person means:
 - (a) an Authorised Person;
 - (b) a Public Listed Company;
 - (c) in relation to a Domestic Fund, the Fund Manager and where appointed the Trustee of the Fund, any person providing oversight of the Fund and any member of the Governing Body of the Fund; and
 - (d) an officer, employee or agent of a person referred to in (a), (b) or (c).
 - (2) A Relevant Person shall co-operate with its Auditor and, without limiting the generality of that obligation, shall comply with such measures relating to co-operation with its Auditor as may be prescribed in the Rules.
 - (3) A Relevant Person shall not knowingly or recklessly:
 - (a) provide information to its Auditor that is materially false, misleading or deceptive; or
 - (b) omit to provide information to its Auditor, that its Auditor reasonably requires, or is entitled to require, where the omission of such information is likely to mislead or deceive its Auditor.
- ~~(1) An Authorised Firm, Authorised Market Institution or a Public Listed Company, and any director, officer or employee of an Authorised Firm, Authorised Market Institution or a Public Listed Company, shall not knowingly or recklessly make to the auditor of an Authorised Firm, Authorised Market~~

~~Institution or a Public Listed Company a statement (whether written or oral) which:~~

~~(a) conveys or purports to convey any information or explanation which the auditor requires, or is entitled to require, as auditor of the Authorised Firm, Authorised Market Institution or a Public Listed Company; and~~

~~(b) is either or both:~~

~~(i) false, misleading or deceptive in a material particular; or~~

~~(ii) is such that it omits information where the omission of such information is likely to mislead or deceive the auditor.~~

~~(2)(4) An Authorised Firm, Authorised Market Institution or a Public Listed Company, or any director, officer or employee of an Authorised Firm, Authorised Market Institution or a Public Listed Company, A Relevant Person or any person acting under the direction or authority of such Relevant Person an Authorised Firm, Authorised Market Institution or a Public Listed Company, or director, officer or employee, shall not without reasonable excuse engage in any of the following conduct, including without limitation the:~~

~~(a) destruction or concealment of documents;~~

~~(b) coercion, manipulation, misleading, or influencing of the Auditor auditor;~~

~~(c) failure to provide access to information or documents specified by the Auditor auditor; or~~

~~(d) failure to give any information or explanation which the person is able to give;~~

~~where that the Authorised Firm, Authorised Market Institution or a Public Listed Company, director, officer, employee or other person knows or ought to know that such conduct could, if successful:~~

~~(e) obstruct the ~~auditor~~ Auditor in the performance of his duties under this Part or Rules made for the purposes of this Part~~Chapter~~; or~~

~~(f) result in the rendering of the ~~accounts~~ financial statements of the Authorised ~~Person, Firm, Authorised Market Institution or a Public Listed Company or Domestic Fund~~, or the ~~auditor's~~ Auditor's report materially misleading.~~

104 [110]. Obligation of Disclosure to the DFSA

- (1) An Auditor ~~auditor~~ is subject to the obligations of disclosure under Article ~~104(3)~~ 110(3).
- (2) Without limiting the application of any other provision of this Law, an Auditor ~~auditor~~ does not contravene any duty to which the Auditor ~~auditor~~ is subject merely because the Auditor ~~auditor~~ gives to the DFSA:
 - (a) a notification as required under this Article ~~104~~; or
 - (b) any other information or opinion in relation to any such matter;

if the Auditor ~~auditor~~ is acting in good faith and reasonably believes that the notification, information or opinion is relevant to any functions of the DFSA.

- (3) Subject to Article ~~104(4)~~ 110(4), an Auditor ~~auditor~~ shall disclose to the DFSA any matter which reasonably tends to show one of the following:
 - (a) a breach, or likely breach of a provision of the Law or other legislation administered by the DFSA;
 - (b) a failure, or likely failure, to comply with any obligation to which a person is subject under such legislation; or
 - (c) any other matter as the DFSA may prescribe in Rules;

which may be attributable to the conduct of the relevant ~~Authorised Firm, Authorised Market Institution or a Public Listed Company, or of its directors, officers, employees or agents;~~

- (d) Authorised Person;
 - (e) Public Listed Company;
 - (f) Domestic Fund, Fund Manager, Trustee or the Governing Body of a Domestic Fund; or
 - (g) officer, employee or agent of a person referred to in (d), (e) or (f).
- (4) Article ~~104(3)~~ 110(3) shall not apply to the extent that compliance with such requirement would disclose a Privileged Communication.
 - (5) An Authorised Person Firm, Authorised Market Institution, or a Public Listed Company or the Fund Manager of a Domestic Fund shall establish and

implement appropriate systems and internal procedures to enable it ~~and~~ its Auditor ~~auditor~~ to comply with Article ~~104(3)~~ 110(3).

- (6) Any provision in an agreement between an Authorised Person, ~~Firm~~, ~~Authorised Market Institution~~ or a Public Listed Company or a Domestic Fund, and a director, officer, employee, agent or Auditor ~~auditor~~ is void in so far as it purports to hinder any person from causing or assisting the Auditor ~~auditor~~ to comply with an obligation under Article ~~104(3)~~ 110(3).
- (7) No person shall be subjected to detriment or loss or damage merely by reason of undertaking any act to cause or assist an Auditor ~~auditor~~ to comply with an obligation under Article ~~104(3)~~ 110(3).
- (8) A Court may, on application of an aggrieved person, make any order for relief where the person has been subjected to any such detriment or loss or damage referred to in Article ~~104(7)~~ 110(7).

~~105.~~ Supervision of auditors

- ~~(1) The DFSA may in its absolute discretion suspend the registration of an Auditor.~~
- ~~(2) The DFSA may make Rules setting out the grounds and manner in which registration may be suspended by the DFSA.~~

[111]. Saving and Transitional

- (1) For the purposes of this Article:
 - (a) “previous Law” means the Regulatory Law 2004 as it was in force immediately prior to the commencement of the [DIFC Laws Amendment Law of 2014]; and
 - (b) “current Law” means the provisions of this Law that came into force under the [DIFC Laws Amendment Law 2014].
- (2) The DFSA may, by Rules, prescribe any transitional or saving provisions as appear to the DFSA necessary so as to give effect to, or facilitate, the transition from the previous Law to the current Law.

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**SCHEDULE 1
INTERPRETATION**

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3. Defined Terms

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

Term	Definition
<u>Audit Service</u>	<u>has the meaning given to that term in Article 97(d) of this Law.</u>
<u>Auditor</u>	<u>has the meaning given to that term in Article 97(a) of this Law.</u>
<u>Audit Principal</u>	<u>has the meaning given to that term in Article 97(c) of this Law.</u>
<u>Authorised Person</u>	<u>an Authorised Firm or an Authorised Market Institution.</u>
<u>Domestic Firm</u>	<u>an Authorised Person which:</u> <u>(a) has its registered and head office in the DIFC; or</u> <u>(b) if it is a subsidiary of a legal entity whose principal place of business and head office is in a jurisdiction other than the DIFC, has its registered office in the DIFC.</u>
<u>Governing Body</u>	<u>has the meaning given to that term in Article 3 of Schedule 1 of the Collective Investment Law 2010.</u>
<u>Investment Trust</u>	<u>has the meaning given to that term in Article 3 of Schedule 1 of the Collective Investment Law 2010.</u>
<u>officer</u>	<u>in relation to an entity means an officer of that entity including a director.</u>
<u>Public Fund</u>	<u>has the meaning given to that term in Article 3 of Schedule 1 of the Collective Investment Law 2010.</u>
<u>Public Listed Company</u>	<u>has the meaning given to that term in Article 97(2) of this Law, a person incorporated or formed in the DIFC and who is admitted to an official list of securities in the DIFC or an equivalent list of securities in another jurisdiction.</u>

Term	Definition
<u>Registered Auditor</u>	<u>has the meaning given to that term Article 97(b) of this Law.</u>
Trustee	has the meaning given in Article 2 of Schedule 1 to the Investment Trust Law 2006 <u>a Trustee within the meaning of the Investment Trust Law 2006 and the Collective Investment Law 2010.</u>