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# The DFSA Rulebook

Price Stabilisation Module

**(PRS)**

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## PRICE STABILISATION (PRS)

### 1 INTRODUCTION

#### 1.1 PRS Rules

##### 1.1.1 These Rules constitute the prescribed Price Stabilisation requirements for the purposes of Article 48(1) of the Markets Law 2004.

###### Guidance

1. The Rules in PRS prescribe the circumstances in which Price Stabilisation of a Share or Debenture is permitted and the conditions which attach to such conduct.
2. The Rules in PRS are designed to protect market integrity by helping to maintain an orderly market for Shares (thereby avoiding volatility and market disruption) and enhance market confidence.
3. These Rules operate as a defence from the Market Misconduct provision set out in Article 36 of the Markets Law 2004. The Market Misconduct provisions are relevant to any conduct which may affect DIFC markets or users of DIFC markets. *Prima facie*, the stabilisation of a price of a Share is market manipulation. However, Article 48(1) provides limited statutory relief for the initial period of trading. This defence is available to any Person who can demonstrate that his behaviour is in accordance with the Rules and thereby does not constitute Market Misconduct.

#### 1.2 Interpretation and other modules

###### Guidance

1. Chapter 6 of GEN applies to those to whom this module (PRS) applies. These sections provide, amongst other things, rules to be applied in the interpretation of this and other modules of the DFSA Rulebook.
2. The Glossary module (GLO) also applies to those to whom this module (PRS) applies.
3. The matters mentioned above do not in any way limit or otherwise alter the application of any module of the Rulebook to any Person to whom PRS applies. For example the OSR module applies to, among others, Issuers.

## **1.3 Application**

**1.3.1** This module (PRS) applies to every Person to whom the Markets Law 2004 applies and to the same extent in relation to every such Person as that Law, except to the extent that a provision of PRS provides for a narrower application.

## **1.4 Price Stabilisation activity**

- 1.4.1** (1) For an activity to constitute Price Stabilisation it must be an activity of a type described in chapter 2 conducted within the period covered by the Stabilisation Window by a Person specified in (4) in accordance with PRS, which might reasonably have, or is intended to have, the effect of stabilising the price of the Shares or Debentures referred to in (2).
- (2) The Shares and Debentures referred to in (1) are Shares or Debentures:
- (a) which are publicly Offered in or from the DIFC for the first time by way of a Prospectus Offer, that is, Shares or Debentures which are the subject of an initial public offer or of an additional public offer of further Shares or Debentures to rank alongside those already in issue;
  - (b) in respect of which the total cost of the Shares or Debentures subject to the Offer at the Offer Price is at least \$10,000,000; and
  - (c) which have been admitted to trading, or are the subject of an application for admission to trading, on an Authorised Market Institution.
- (3) The period covered by the Stabilisation Window is the period beginning on the date on which the Offer Price is made public and ending on the earlier of:
- (a) the 30<sup>th</sup> calendar day after the closing date of acceptances for the Offer; or

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- (b) the 60th calendar day after the date of allotment on which amounts of the Share are allotted to subscribers, including the date of initial allotments.
- (4) The Person conducting the activities mentioned in (1) must be the Stabilisation Manager or any of his Stabilisation Agents.

## **2 PRICE STABILISATION**

### **2.1 Application**

**2.1.1** This chapter applies to a Stabilisation Manager and to any Stabilisation Agents appointed by him.

### **2.2 Permitted Price Stabilisation**

- 2.2.1** (1) A Stabilisation Manager and, if applicable, his Stabilisation Agents may in respect of Shares or Debentures of a type specified in Rule 1.4.1(2):
- (a) purchase, or agree to purchase, such Shares or Debentures; or
  - (b) offer or attempt to do anything in (a) with a view to stabilising the Market Price of such Shares or Debentures.
- (2) A Stabilisation Manager and, if applicable, his Stabilisation Agents must, when engaging in an activity described in (1), in respect of Shares, act in accordance with Rule 2.3.1.

#### **Guidance**

Pricing limits do not extend to Debentures hence Rules 2.2.1(2) and 2.3.1 do not apply with respect to Debentures. Pricing for Debentures is subject instead to the requirement in 2.2.1(1) that the stabilising action is taken to support the Market Price.

- 2.2.2** A Stabilisation Manager and his Stabilisation Agents may, in respect of Shares of a type specified in Rule 1.4.1(2) and where in a position to do so:
- (a) make allotments of a greater number of the Shares than will be offered;
  - (b) sell or agree to sell Shares so as to establish a short position in them;
  - (c) buy or agree to buy Shares in order to close out or liquidate any position that has been established by Price Stabilisation under (a) or (b);
  - (d) sell or agree to sell Shares in order to close out or liquidate any position that has been established by Price Stabilisation under (a) or (b); or

- (e) offer or attempt to do anything permitted by (a), (b), (c), and (d).

**Guidance**

- (1) The Stabilisation Manager may also often be the lead manager in respect of the same offer and therefore can over-allot Shares in the initial allocation and then facilitate the stabilisation by purchasing Shares during the Stabilisation Window. A Stabilisation Manager and his Stabilisation Agents may also sell short on the market to facilitate stabilisation or in order to close out or liquidate positions established by Price Stabilisation.
- (2) For the avoidance of doubt, Rule 2.2.2 would include the ability of a Stabilisation Agent to exercise an over-allotment option.

**2.3 Pricing limits for Shares**

**2.3.1** No Price Stabilisation in respect of Shares may be conducted by a Stabilisation Manager or his Stabilisation Agent at a price higher than the applicable price as prescribed by Rule 2.3.2.

**2.3.2** Pricing table:

<b>Time of Action</b>	<b>Applicable Price</b>
(1) Initial Price Stabilisation	The Offer Price
(2) Later than (1), but where there has been an independent trade at a price above the initial Price Stabilisation on the relevant exchange.	The Offer Price , or the price at which that independent trade was done, whichever is the lower.
(3) Later than (1), but where there has been no trade as described in (2).	The Offer Price.

### **3. APPOINTMENT OF STABILISATION MANAGER AND AGENTS**

#### **3.1 Application**

**3.1.1** This chapter applies to an Issuer and its Stabilisation Manager and is of relevance to any appointed Stabilisation Agent.

#### **3.2 Appointment**

**3.2.1** An Issuer who intends that its Shares or Debentures be subject to Price Stabilisation must:

- (a) appoint in writing a Stabilisation Manager;
- (b) notify the DFSA of the appointment, including the name and business address of the Stabilisation Manager and the date of the commencement of the appointment; and
- (c) prior to the appointment of the Stabilisation Manager, take reasonable steps to ensure that the Stabilisation Manager has the required skills, resources and experience to conduct the functions of a Stabilisation Manager.

**3.2.2** (1) An Issuer must notify the DFSA immediately if the appointment of the Stabilisation Manager is or is about to be terminated, or on the resignation of its Stabilisation Manager, giving the reasons for the cessation of the appointment.

- (2) An Issuer must appoint a Stabilisation Manager to fill any vacancy in relation to the occurrence of an event specified in (1) and ensure that the replacement Stabilisation Manager can serve as such at the time the vacancy arises or as soon as reasonably practicable.

**3.2.3** Where a Stabilisation Manager appointed by an Issuer is not suitable in the opinion of the DFSA, or where a Stabilisation Manager has not been appointed, the DFSA may direct the Issuer to replace or appoint a Stabilisation Manager in accordance with the requirements in this chapter.

### **3.3 Terms of appointment for a Stabilisation Manager**

**3.3.1** The terms of any appointment of a Stabilisation Manager must include at least the following information:

- (a) the period of the Stabilisation Window;
- (b) the Offer Price;
- (c) whether the Stabilisation Manager has discretion to commence Price Stabilisation at the Offer Price;
- (d) whether the Stabilisation Manager is permitted to appoint Stabilisation Agents for the Price Stabilisation; and
- (e) any other information that the Stabilisation Manager believes it will reasonably need to conduct Price Stabilisation effectively.

### **3.4 Terms of appointment for a Stabilisation Agent**

- 3.4.1** (1) The Stabilisation Manager may appoint in writing one or more Stabilisation Agents to assist him in conducting Price Stabilisation.
- (2) The terms of appointment of a Stabilisation Agent must not create a legal relationship other than that of principal and agent whereby the Stabilisation Manager as principal is responsible and liable for any acts carried out by his Stabilisation Agent.

### **3.5 Restrictions on transactions with Stabilisation Agents**

- 3.5.1** (1) The Stabilisation Manager must not during the Stabilisation Window enter into a transaction for the purchase or sale of Shares referred to in Rule 1.4.1(2) as principal with any of his Stabilisation Agents.
- (2) The requirement in (1) does not apply:

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- (a) if at the time of the transaction, neither the Stabilisation Manager nor his Stabilisation Agent knew or could reasonably have known the identity of his counterparty; or
- (b) where the transaction between the Stabilisation Manager and his Stabilisation Agent is undertaken solely for the purpose of reallocating the risk of positions that were taken by the Stabilisation Manager and his Stabilisation Agent in the course of Price Stabilisation and the transaction is priced accordingly.

### Guidance

Some participants in the Price Stabilisation may have accrued positions during stabilisation and Rule 3.5.1 permits transactions to ‘square-off’ the positions between participants. The terms on which these transactions may be carried may often be agreed in the terms of engagement between the Stabilisation Manager and his Stabilisation Agents. The DFSA may when inspecting records kept relating to stabilisation seek the rationale for any of these transactions and the price at which they were conducted.

## **4 GENERAL CONDITIONS**

### **4.1 Application**

**4.1.1** This chapter applies to an Issuer and its Stabilisation Manager and any appointed Stabilisation Agent.

### **4.2 General conditions relating to the carrying out of Price Stabilisation**

- 4.2.1** (1) If Price Stabilisation is able to occur, the Issuer of the relevant Shares or Debentures must ensure that a prominent statement appears in the Prospectus or any other offering document which clearly states that the Offer of Securities may be subject to Price Stabilisation and also identify by name the Stabilisation Manager and the likely expected costs associated with the Price Stabilisation.
- (2) For the purpose of (1), “prominent” means that the statement must appear under its own separate heading in the first few pages of a Prospectus.
- (3) The existence and principal terms of any option or right to purchase the Shares which are the subject of the Price Stabilisation from the Issuer, must be disclosed in the relevant Prospectus.

#### **Guidance**

The existence of any Stabilisation Agents does not have to be disclosed.

- 4.2.2** (1) A Stabilisation Manager must not conduct, or permit his Stabilisation Agent to conduct, any Price Stabilisation in the Shares or Debentures unless he has taken all reasonable steps to satisfy himself that:
- (a) the requirements of Rule 4.2.1 are fulfilled;
- (b) any requirements of the Authorised Market Institution or other exchange on which the Shares are admitted to trading have been informed that Price Stabilisation in those Shares may take place during the Stabilisation Window and that any requirements been complied with; and

- (c) there are systems and controls in place to ensure compliance.
- (2) A Stabilisation Manager must establish a register of Price Stabilisation and take reasonable steps to satisfy himself that the mechanisms required to update the register are in place.

**4.2.3** The Stabilisation Manager must not conduct, nor allow his Stabilisation Agent to conduct, Price Stabilisation in any case where:

- (a) at the time when the Offer Price of the Shares or Debentures was determined, the Market Price of the Shares or Debentures, whether in informal trading or otherwise, was falsely higher than the price which would otherwise have prevailed; and
- (b) the Stabilisation Manager knew or reasonably ought to have known that the falsity in the Market Price was attributable in whole or in part to any conduct by a Person who was in breach of the Market Misconduct provisions; or
- (c) any requirements of an Authorised Market Institution or any other exchange have not been complied with.

**4.3 Post Price Stabilisation Market Disclosure**

**4.3.1** If a Stabilisation Manager has conducted Price Stabilisation during the Stabilisation Window, then he must within two Business Days following the end of the Stabilisation Window disclose to the market the following details:

- (a) the total number of Shares bought by the Stabilisation Manager and any Stabilisation Agents during the Stabilisation Window;
- (b) the average price of Shares bought on market during the Stabilisation Period;
- (c) if the Stabilisation Manager has an outstanding short position, the number of Shares in that short position; and
- (d) any additional information which the DFSA requires the Stabilisation Manager to disclose.

**Guidance**

Rule 4.3 requires a Stabilisation Manager to disclose to the market details of the Price Stabilisation support conducted during the Stabilisation Window. The purpose of this Rule is to provide the market with an understanding of the level of price support afforded to the Shares during the Stabilisation Window.

## **5 REGISTER**

### **5.1 Application**

**5.1.1** This chapter applies to a Stabilisation Manager and is of relevance to his Stabilisation Agents.

### **5.2 The creation and maintenance of the Register**

**5.2.1** The Stabilisation Manager must, before carrying out any Price Stabilisation:

- (a) create a register to record the details relating to the Price Stabilisation as required by this chapter; and
- (b) establish and implement systems and controls to keep the register updated.

**5.2.2** The Stabilisation Manager must ensure that the register contains either on a real-time or daily updated basis the following information:

- (a) the names and contact details of all Stabilisation Agents appointed by him;
- (b) details of the appointment of each Stabilisation Agent, including the date of the appointment;
- (c) the general terms and instructions (including details of the Price Floor and Stabilisation Window) determined by the Stabilisation Manager for his Stabilisation Agents and the date and time of the communication, variation or revocation of that information and instructions;
- (d) details of all correspondence passing between the Stabilisation Manager and his Stabilisation Agent that relate to the Price Stabilisation, including all instructions and variations or revocation of appointments;
- (e) each and every transaction undertaken by the Stabilisation Manager and Stabilisation Agent in the course of the Price Stabilisation, including not but limited to the following transaction details:

- (i) the type of Shares;
- (ii) the Share price;
- (iii) the size;
- (iv) the date and time; and
- (v) details of the counterparty (if known); and
- (vi) details of the allotment of the Shares.

**Guidance**

1. Rule 5.2.2 (e)(v) acknowledges that some market structures, for example anonymous order books or anonymous indications of interest, cause the identity of counterparties to sometimes be unknown prior to the effecting of transactions.
2. Rule 5.2.2 also accepts that some participants in the Price Stabilisation may have accrued uneconomic positions during stabilisation and therefore permits a single transaction, probably at the end-of day, to ‘square-off’ the positions between participants. The terms on which these transactions may be carried may often be agreed in the terms of engagement between the Stabilisation Manager and his Stabilisation Agents. The DFSA may when inspecting records kept relating to stabilisation seek the rationale for any of these transactions and the price at which they were conducted.

**5.2.3** The Stabilisation Manager must keep the register in the English language and keep it in a location that would allow for it, or a certified copy, to be available within a reasonable time to any person permitted by these Rules to inspect it.

**Guidance**

Reasonable time generally means no more than three business days from the time of request.

**5.2.4** The following persons are permitted to inspect the register upon written request:

- (1) the DFSA;
- (2) the Authorised Market Institution upon which the Shares are traded; and
- (3) any other person that the DFSA considers appropriate.

**5.2.5** During the Stabilisation Window and within three months from the end, the Stabilisation Manager must, on any business day, permit the Issuer of the Shares

to which this chapter applies to inspect that part of the register kept in accordance with Rule 5.2.2(e).

- 5.2.6** The Stabilisation Manager must keep the register for a period of six years from the end of the Stabilisation Window.

## **6 DUAL-LISTINGS AND PRICE STABILISATION ACTIVITIES**

### **6.1 Application**

- 6.1.1** (1) This chapter applies to a Person who, during the period covered by the Stabilisation Window, engages in any activity, in relation to a dual-listed Share or Debenture which has been admitted to trading, or which is the subject of an application for admission to trading, on an Authorised Market Institution in the DIFC and on an exchange located outside the DIFC, where that activity might reasonably have, or be intended to have, the effect of stabilising the price of the Share or Debenture.
- (2) The Shares and Debentures referred to in (1) are Shares or Debentures:
- (a) which are publicly Offered in or from the DIFC for the first time by way of a Prospectus Offer, that is, Shares or Debentures which are the subject of an initial public offer or of an additional public offer of further Shares or Debentures to rank alongside those already in issue; and
  - (b) in respect of which the total cost of the Shares or Debentures subject to the Offer at the Offer Price is at least \$10,000,000.
- (3) For the purposes of (1), a “dual listed Share or Debenture” includes a Share or Debenture which is the subject of an application to have the Share or Debenture admitted to an Official List of Securities or its equivalent in another jurisdiction.

### **6.2 Price Stabilisation in the DIFC: listing on Exchanges in Recognised Jurisdictions**

- 6.2.1** (1) Where the dual listing of the Shares or Debentures referred to in 6.1.1, is on an Authorised Market Institution in the DIFC and on an exchange in a Recognised Jurisdiction, and is in place at or near the same time, then (2) applies with respect to any Price Stabilisation activity conducted or to be conducted by a Person on an Exchange in the DIFC.

- (2) In relation to any such Price Stabilisation activities the Person must comply with either PRS or, subject to (3), the law of that Recognised Jurisdiction
- (3) If, in accordance with (2), a Person intends to comply with the law of a Recognised Jurisdiction instead of the PRS then such a Person must obtain the prior written consent of the DFSA. The DFSA may attach conditions to any such approval.

**Guidance**

This Rule allows a Person who is acting as a Stabilisation Manager in respect of a dual-listing of Shares to rely on this chapter or on the laws of another jurisdiction (which is recognised by the DFSA) to conduct those activities. The Rule is designed to provide Stabilisation Managers with some limited flexibility in respect of their activities in the DIFC, so long as those activities are adequately regulated.

### **6.3 Price Stabilisation carried out on a Foreign Exchange**

- 6.3.1**
- (1) Where the dual listing of Shares or Debentures referred to in 6.1.1 is on an Authorised Market Institution in the DIFC and on an exchange in a jurisdiction other than the DIFC, and is in place at or near the same time, then (2) applies to a Person who, from the DIFC, engages or proposes to engage in any Price Stabilisation Activity in relation to such Shares or Debentures.
  - (2) In relation to any Price Stabilisation Activity, such a Person must comply with the law of that other jurisdiction.
  - (3) Such a Person must notify the DFSA prior to engaging in any such Price Stabilisation Activity.
  - (4) This Rule does not apply where Rule 6.2.1 applies.

**Guidance**

This Rule allows a Person who is acting as a Stabilisation Manager in respect of a dual-listing of Shares to rely on the laws of another jurisdiction to conduct those activities outside the DIFC. The Rule is designed to provide Stabilisation Managers with some limited flexibility in respect of their activities.