

ANNEX A

This Annex sets out the proposed amendments to the GEN module.
In this Annex, underlining indicates new text.



The DFSA Rulebook

General Module

(GEN)

2.2 Financial Service activities

2.2.1 An activity constitutes a Financial Service under the Regulatory Law 2004 and these Rules where:

- (a) it is an activity specified in Rule 2.2.2; and
- (b) such activity is carried on by way of business in the manner described in section 2.3.

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) Operating 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;



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- (p) Insurance Broking;
- (q) Insurance Management;
- (r) Managing a Profit Sharing Investment Account;
- (s) Operating an Alternative Trading System; and
- (t) Providing Trust Services.

Guidance

Note that the ambit of these activities in Rule 2.2.2 may be restricted under COB and may be fettered by the continuing operation of Federal Law.

2.2.3 Each activity specified in Rule 2.2.2:

- (a) is to be construed in the manner provided under these Rules; and
- (b) is subject to exclusions under these Rules which may apply to such an activity.

2.3.3 A Person does not carry on an activity specified under paragraphs (d), (e), (f) or (h) of Rule 2.2.2 by way of business if the activity is carried on solely for the purposes of or in connection with the acquisition or disposal of Shares in a Body Corporate, other than an investment company or investment limited liability partnership, provided that:

- (a) such Shares carry at least 50% of the voting rights or the acquisition will take an existing holding to at least 50%; or
- (b) the object of the transaction may reasonably be regarded as being the acquisition of day to day control of the Body Corporate; and
- (c) he is to enter as principal into the transaction.

2.3.4 (1) A Person who is an Exchange does not carry on any of the other activities, save for the activity of Operating a Clearing House or Operating an Alternative Trading System, specified under Rule 2.2.2 by way of business in circumstances where the relevant activity, is carried on as a necessary part of the Exchange's business as an exchange. [Amended][VER4/08-05]

(2) A Person who is a Clearing House does not carry on any of the other activities, save for the activity of Operating an Exchange or Operating an Alternative Trading System, specified under Rule 2.2.2 by way of business in circumstances where the relevant activity is carried on for the purpose of, or in connection with the provision of clearing or settlement services by the Clearing House. [Amended][VER4/08-05]

(3) A Person who is an Authorised Market Institution and authorised to operate both as an Exchange and as a Clearing House does not carry on any of the other activities save for the activity of Operating an Alternative Trading System, specified under Rule 2.2.2 by way of business in circumstances where the relevant activity:

- (a) is carried on as a necessary part of the Authorised Market Institution's business as an Exchange; or
- (b) is carried on for the purposes of, or in connection with, the provision of clearing or settlement services by the Authorised Market Institution.

2.3.5 (1) A Person who is a Trustee does not carry on an activity specified under paragraphs (d), (g), and (j) of Rule 2.2.2 by way of business in circumstances where he is acting as a trustee.

- (2) A Person who is an individual does not carry on an activity specified under paragraph (t) by way of business where he is acting as trustee, enforcer or protector or where he is arranging for a Person to act as trustee, in respect of less than three (3) trusts.

2.23 Providing Trust Services

2.23.1 In Rule 2.2.2 Providing Trust Services means:

- (a) the provision of services with respect to the creation of an express trust;
- (b) arranging for any Person to act as a trustee in respect of any express trust;
- (c) acting as trustee in respect of an express trust;
- (d) the provision of Trust Administration Services in respect of an express trust; or
- (e) acting as protector or enforcer in respect of an express trust.

Guidance

Providing generic advice on the desirability of using a trust does not amount to Providing Trust Services as defined in Rule 2.23.1.

Exclusions

2.23.2 Subject to 2.23.3 the following Persons are exempt from the requirement to hold a Licence in respect of Providing Trust Services:

- (a) a Private Trust Company; or
- (b) an ASP which Provides Legal Services or Accountancy Services.

2.23.3 Under 2.23.2(b) an ASP may only:

- (a) arrange for a Person to act as trustee in respect of an express trust; or
- (b) provide services with respect to the creation of an express trust;
provided that:
 - (i) the provision of such services is solely incidental to the practice of law or accounting as the case may be; and
 - (ii) the ASP is not holding itself out as Providing Trust Services.

Guidance

Acting as trustee, protector or enforcer or Providing Trust Administration Services are not activities incidental to the practice of law or accounting and require a Licence.



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3.2 Permitted Financial Services for Authorised Firms

3.2.1 Pursuant to Article 42(1)(a) an Authorised Firm, subject to the Rules in this section, may carry on any one or more of the following Financial Services:

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

A1.1.3 A sum is not a Deposit if it is received:

- (a) by a lawyer registered as an Ancillary Service Provider and acting in his professional capacity;
- (b) by an accountant registered as an Ancillary Service Provider and acting in his professional capacity;
- (c) by an Authorised Firm or an Authorised Market Institution authorised under its Licence to carry on any one or more of the following Financial Services:
 - (i) Dealing in Investments as Principal;
 - (ii) Dealing in Investments as Agent;
 - (iii) Arranging Credit or Deals in Investments;
 - (iv) Managing Assets;
 - (v) Operating a Collective Investment Fund;
 - (vi) Effecting Contracts of Insurance;
 - (vii) Carrying Out Contracts of Insurance;
 - (viii) Operating an Exchange;
 - (ix) Operating a Clearing House;
 - (x) Insurance Broking;
 - (xi) Insurance Management;
 - (xii) Managing a Profit Sharing Investment Account; or
 - (xiii) Providing Trust Servicesin the course of or for the purpose of any such Financial Service disregarding any applicable exclusions in chapter 2; or
- (d) by a Person as consideration for the issue by him of a Debenture.



App 5 FEES

A5.1 Fees table

A5.1.1 The fees table.

(a)	Accepting Deposits or Providing Credit	\$50,000
(b)	Dealing in Investments as Principal	\$30,000
(c)	(i) Dealing in Investments as Agent; or (ii) Arranging Credit or Deals in Investments; or (iii) Managing Assets; or (iv) Advising on Financial Products or Credit; or (v) Providing Custody; or (vi) Arranging Custody; or (vii) Insurance Broking; or (viii) Insurance Management; or (ix) Effecting Contracts of Insurance or Carrying out Contracts of Insurance: (A) where the applicant is intending to carry on business as a Captive Insurer; or (B) where the Authorised Firm is carrying on business as a Captive Insurer; or (x) Managing a Profit Sharing Investment	\$10,000

<p style="text-align: center;">Account; or</p> <p>(xi) <u>Providing Trust Services.</u></p>	
<p>(d) Operating an Alternative Trading System.</p>	\$30,000
<p>(e) Effecting Contracts of Insurance or Carrying out Contracts of Insurance:</p> <p style="padding-left: 40px;">(i) where the applicant is not also intending to carry on business as a Captive Insurer; or</p> <p style="padding-left: 40px;">(ii) where the Authorised Firm is not carrying on business as a Captive Insurer.</p>	\$50,000