

**ANNEX B**

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



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# The DFSA Rulebook

Authorisation Module

**(AUT)**

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## **6 WITHDRAWAL OF A LICENCE**

### **6.1 Application**

**6.1.1** This chapter applies to an Authorised Firm applying to have its Licence withdrawn.

### **6.2 Withdrawal of a licence at an Authorised Firm's request**

**6.2.1** An Authorised Firm seeking to have its Licence withdrawn must submit a request in writing stating:

- (a) the reasons for the request;
- (b) that it has ceased or will cease to carry on Financial Services in or from the DIFC;
- (c) the date on which it ceased or will cease to carry on Financial Services in or from the DIFC;
- (d) that it has discharged, or will discharge, all obligations owed to its customers in respect of whom the Authorised Firm has carried on, or will cease to carry on, Financial Services in or from the DIFC; and
- (e) if it is providing Trust Services, that it has made appropriate arrangements for the transfer of business to a new trust service provider and the appointment, where necessary, of new trustees.

## **9.5 Fitness and propriety of Authorised Individuals**

**9.5.1** In considering whether an individual is fit and proper to be an Authorised Individual in respect of one or more Licensed Functions, the DFSA will consider the individual's:

- (a) integrity;
- (b) competence and capability;
- (c) financial soundness;
- (d) proposed role within the Authorised Firm; and
- (e) any other matters set out in App1.3.

**9.5.2** In Rule 9.5.1, an individual may not be considered as fit and proper where:

- (a) he is bankrupt;
- (b) he has been convicted of a serious criminal offence; or
- (c) he is incapable, through mental or physical incapacity, of managing his affairs.

### Guidance

Article 58 provides that the DFSA may suspend or withdraw an Authorised Individual's status where he is no longer considered fit and proper to hold such status.



When suspending or withdrawing an Authorised Individual status of a Person acting as trustee, the Trust Service Provider shall ensure that a new trustee is appointed to replace the trustee in question and that proper arrangements for the transfer of legal ownership are made.

## 10.2 Functions

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### 10.2.2 Licensed representative

- (h) The Licensed Representative function is carried out by an individual who is performing one or more of the following Financial Services:
  - (i) Managing Assets;
  - (ii) Arranging Credit or Deals in Investments;
  - (iii) Advising on Financial Products or Credit;
  - (iv) Dealing in Investments as Agent;
  - (v) Dealing in Investments as Principal;
  - (vi) Managing a Profit Sharing Investment Account; or
  - (vii) Providing Trust Services excluding the Provision of Trust Administration Services;

on behalf of an Authorised Firm where such Financial Services are carried on from an establishment maintained by the Authorised Firm in the DIFC.

## **10.3 Mandatory appointments**

**10.3.1** An Authorised Firm must 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.

### **Guidance**

1. The DFSA will only authorise an individual to perform more than one Licensed Function where it is satisfied that the individual is fit and proper to perform each Licensed Function or combination of Licensed Functions concerned.
2. In the above situation the DFSA will need to be satisfied that the individual will be able to carry out his role effectively, is fit and proper to do so, and that there are no conflicts of interest or that any actual or potential conflicts of interest are appropriately managed.
3. Notwithstanding this Rule an Authorised Firm would generally be expected to separate the roles of Compliance Officer and Senior Executive Officer. In addition, the roles of Compliance Officer, Finance Officer and Money Laundering Reporting Officer would not expect to be combined with that of Licensed Representative unless appropriate monitoring and control arrangements independent of the individual concerned will be implemented by the Authorised Firm. However, it is recognised that, on a case by case basis, there may be exceptional circumstances in which this may not always be practical or possible.

**10.3.2** The Authorised Individuals referred to in Rule 10.3.1(a), (c) and (d) must be ordinarily resident in the U.A.E.

**10.3.3** The Authorised Individuals referred to in Rule 10.3.1 (c) and (d) must not act also as trustees on behalf of the Trust Service Provider.

**10.3.4** An Authorised Firm which is a Body Corporate, other than a Limited Liability Partnership:

- (a) whose head office and registered office is located in the DIFC, must register with the DFSA all of its Directors as Licensed Directors;
- (b) whose head office and registered office is not located in the DIFC must register with the DFSA at least one of its Directors as a Licensed Director who is ultimately responsible for the Authorised Firm's Financial Services carried on in or from the DIFC.

## **11.2 Assessing competence**

**11.2.1** (1) An Authorised Firm must not permit an individual to perform a Licensed Function on its behalf, except as permitted by section 9.4 unless that individual is an Authorised Individual who:

- (a) has been assessed by the Authorised Firm as competent to perform that Licensed Function in accordance with Rule 11.2.2; and
- (b) in respect of the Licensed Function of Licensed Representative;
  - (i) that individual holds, or is exempt from having to hold, a relevant qualification in accordance with Rule 11.3.1; or
  - (ii) only performs that Licensed Function while under appropriate supervision by an Authorised Individual assessed as competent under Rule 11.2.2 and Rule 11.3.1 in respect of the same activity.

**11.2.2** In assessing the competence of an individual, an Authorised Firm must:

- (a) obtain details of the knowledge and skills of the individual in relation to the knowledge and skills required for the role;
- (b) take reasonable steps to verify the relevance, accuracy and authenticity of any information acquired;
- (c) determine whether the individual holds any relevant qualifications with respect to the Licensed Function or Licensed Functions performed, or proposed to be to performed, within the Authorised Firm;
- (d) determine the individual's relevant experience; and

- (e) determine the individual's knowledge of the Authorised Firm's relevant systems and procedures with respect to the type of business to be, or being, conducted by the individual on behalf of the Authorised Firm.

**11.2.3** An Authorised Firm must be satisfied that an Authorised Individual:

- (a) continues to be competent in his proposed role;
- (b) has kept abreast of relevant market, product, technology, legislative and regulatory developments; and
- (c) is able to apply his knowledge.

## 12.3 Dismissal or resignation of an Authorised Individual

- 12.3.1** An Authorised Firm must request the withdrawal of an Authorised Individual status within seven days of the Authorised Individual ceasing to be employed by the Authorised Firm to perform a Licensed Function.
- 12.3.2** In requesting the withdrawal of an Authorised Individual status, the Authorised Firm must submit the appropriate form in PFN, including details of any circumstances where the Authorised Firm may consider that the individual is no longer fit and proper.
- 12.3.3** If an Authorised Individual is dismissed or requested to resign, a statement of the reason, or reasons, for the dismissal or resignation must be given to the DFSA by the Authorised Firm.
- 12.3.4** If the Authorised Individual was acting as trustee, the Trust Service Provider must confirm to the DFSA in writing that a new trustee has been appointed in place of the trustee in question.