

## Annex B

In this Annex, underlining indicates new text and striking through indicates deleted text.

### 9.4 Temporary cover

- 9.4.1** (1) An Authorised Firm may, subject to (2), appoint an individual, who is not an Authorised Individual, to carry out the functions of an Authorised Individual where the following conditions are met:
- (a) the absence of the Authorised Individual is temporary or reasonably unforeseen;
  - (b) the functions are carried out for 12 weeks maximum in any consecutive 12 months; and
  - (c) the Authorised Firm has assessed that the individual has the relevant skills and experience to carry out these functions.
- (2) An Authorised Firm may not appoint under (1) an individual to carry out the Licensed Functions of a ~~Licensed Representative~~, Licensed Director or Licensed Partner.
- (3) The Authorised Firm must take reasonable steps to ensure that the individual complies with all the Rules applicable to Authorised Individuals.
- ~~**9.4.2** An Authorised Firm may permit an individual who is an Employee of the Authorised Firm to carry out the Licensed Function of a Licensed Representative during one or more occasional visits to the DIFC, without requiring such an individual to have Authorised Individual status, provided:~~
- ~~(a) such visits do not exceed 45 days in any consecutive 12 months;~~
  - ~~(b) the individual is appropriately supervised by a Licensed Representative of the Authorised Firm; and~~
  - ~~(c) the individual has been assessed by the Authorised Firm as fit and proper having the relevant skills and experience commensurate with the role to be performed.~~
- 9.4.3** Where an individual is appointed under this section, the DFSA may exercise any powers as it would otherwise be entitled to do, as if the individual held Authorised Individual status.

## **10.2 Functions**

**10.2.1** Pursuant to Article 43, the functions specified in Rule 10.2.2 are Licensed Functions.

**10.2.2** Licensed Functions:

### **Senior executive officer**

- (a) The Senior Executive Officer function is carried out by an individual who:
  - (i) has, either alone or jointly with other Authorised Individuals, ultimate responsibility for the day-to-day management, supervision and control of one or more (or all) parts of an Authorised Firm's Financial Services carried on in or from the DIFC; and
  - (ii) is a Director, Partner or Senior Manager of the Authorised Firm.

### **Licensed director**

- (b) Subject to Rule 10.3.3, the Licensed Director function is carried out by an individual who is a Director of an Authorised Firm which is either a Body Corporate or an unincorporated association.

### **Licensed partner**

- (c) Subject to Rule 10.3.4, the Licensed Partner function is carried out by an individual who is a Partner of an Authorised Firm which is either a Partnership or Limited Liability Partnership.

### **Finance officer**

- (d) The Finance Officer function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Firm who has responsibility for the Authorised Firm's compliance with the applicable Rules in PIN or PIB.

### **Compliance officer**

- (e) The Compliance Officer function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Firm who has responsibility for compliance matters in relation to the Authorised Firm's Financial Services.

**Senior manager**

- (f) The Senior Manager function is carried out by an individual who is responsible either alone or jointly with other individuals for the management, supervision or control of one or more parts of an Authorised Firm's Financial Services who is:
- (a) an Employee of the Authorised Firm; and
  - (b) not a Director or Partner of the Authorised Firm.

**Money laundering reporting officer**

- (g) The Money Laundering Reporting Officer function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Firm who has responsibility for the Authorised Firm's compliance with the Rules in AML and any relevant anti money laundering legislation applicable in the DIFC.

**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; [Added] [VER3/01-06]~~
- ~~on behalf of an Authorised Firm where such Financial Services are carried on from an establishment maintained by the Authorised Firm in the DIFC.~~

**Responsible officer**

- (i) The Responsible Officer function is carried out by an individual who:
  - (i) has significant responsibility for the management of one or more aspects of an Authorised Firm's affairs;
  - (ii) exercises a significant influence on the firm as a result of (a); and
  - (iii) is not an Employee of the Authorised Firm.

### **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 or combine Licensed Functions with other functions 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 any other functions 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.

### **11.2 Assessing competence**

**11.2.1** 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.

### **~~11.3~~ Qualifications**

~~11.3.1 (1) In order for an individual to be assessed by an Authorised Firm as competent as a Licensed Representative with respect to a particular Financial Service carried on by the Authorised Firm, the individual must hold, except as provided by Rule 11.3.2, a relevant qualification.~~

~~(2) In (1), a relevant qualification is one recognised:~~

~~(a) by a Zone 1 Financial Services Regulator; or~~

~~(b) by the DFSA;~~

~~and is relevant to the particular Financial Service to be performed.~~

~~11.3.2 An Authorised Firm may assess an individual as competent for the purposes of being a Licensed Representative without that individual having to hold a relevant qualification where the individual has:~~

~~(a) engaged in an activity substantially similar to the proposed Financial Service or Financial Services in the previous 12 months;~~

~~(b) gained three years relevant experience in the past five years; or~~

~~(c) been exempted from the requirement to hold a relevant qualification by the DFSA.~~

**Guidance**

~~In regard to 11.3.2(b), if called upon to do so, an Authorised Firm must be able to demonstrate the grounds for considering the experience relevant.~~