

## **ANNEX A**

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

### **GEN**

## **2 FINANCIAL SERVICES**

### **2.1 Application**

**2.1.1** This chapter applies to every Person to whom the Regulatory Law 2004 applies, and to the same extent in relation to every such Person as that law.

### **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;
- (p) Insurance Intermediation;
- (q) Insurance Management;
- (r) Managing a Profit Sharing Investment Account;
- (s) Operating an Alternative Trading System;
- (t) Providing Trust Services; ~~and~~
- (u) Providing Fund Administration; and
- (v) Acting as the Trustee of a Fund.

**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.

## **2.23 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.

[Added][VER7/01/06]

**2.23.4** A Person is not Providing Trust Services if that Person is the Trustee of a Fund and the activities are in connection with or arise from, acting as the Trustee of the Fund.

## **2.24 Providing fund administration**

**2.24.1** .....

## **2.25 Acting as the Trustee of a Fund**

**2.25.1** In Rule 2.2.2. Acting as the Trustee of a Fund means holding the assets of a Fund on trust for the Unitholders where the Fund is in the form of trust.

### **3 FINANCIAL SERVICES WHICH MAY BE CARRIED ON IN OR FROM THE DIFC**

#### **3.1 Application**

**3.1.1** Chapter 3 applies to every Authorised Firm and Authorised Market Institution.

#### **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) Operating a Collective Investment Fund [Added][VER8/04-06]
- (i) Providing Custody;
- (j) Arranging Custody;
- (k) Effecting Contracts of Insurance;
- (l) Carrying Out Contracts of Insurance;
- (m) Insurance Broking;
- (n) Insurance Management;
- (o) Managing a Profit Sharing Investment Account;
- (p) Operating an Alternative Trading System;
- (q) Providing Trust Services; and

- (r) Providing Fund Administration; and
- (s) Acting as the Trustee of a Fund.

## **5 MANAGEMENT, SYSTEMS AND CONTROLS**

### **5.1 Application**

- 5.1.1** (1) This chapter applies to every Authorised Person with respect to the Financial Services carried on in or from the DIFC.
- (2) It also applies in a Prudential Context to a Domestic Firm with respect to all its activities wherever they are carried on.
- (3) Section 5.3 also applies to an Authorised Firm in a Prudential Context with respect to its entire DIFC branch's activities wherever they are carried on.
- (4) This chapter also applies to an Authorised Market Institution, if it has an endorsed Licence authorising it to maintain an Official List of Securities, with respect to such maintenance. [Added][VER3/04-05]

#### **Guidance**

1. The purpose of this chapter is:
  - a. to set out the requirements for senior management within an Authorised Person to take direct responsibility for their Authorised Person's arrangements on matters likely to be of interest to the DFSA wherever they may give rise to risks to the DFSA's objectives or they affect the DFSA's functions under the legislation applicable in the DIFC; and
  - b. to require an Authorised Firm to vest responsibility in senior management for effective and responsible organisation and to have effective systems and controls.
2. In relation to an Authorised Market Institution, this chapter should be read in conjunction with the AMI module. [Amended][VER3/04-05]
3. In relation to an Authorised Firm which is an Operator or the Trustee, this chapter should be read in conjunction with the CIR module and construed to take into account any Fund which the Authorised Firm operates or for which it acts as the Trustee.

## 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 Account; <u>or</u> (xi) Providing Trust Services; or	\$10,000

	(xii) Providing Fund Administration; <u>or</u> (xiii) <u>Acting as the Trustee of a Fund.</u>	
(d)	(i) Operating an Alternative Trading System; or  (ii) Operating a Collective Investment Fund. [Added][VER8/04-06]	\$30,000
(e)	Effecting Contracts of Insurance or Carrying out Contracts of Insurance:  (i) where the applicant is not also intending to carry on business as a Captive Insurer; or  (ii) where the Authorised Firm is not carrying on business as a Captive Insurer.	\$50,000