

Appendix 3

In this appendix underlining indicates new text and striking through indicates deleted text.



The DFSA Rulebook

General Module

(GEN)

Contents

The contents of this module are divided into the following chapters, sections and appendices:

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1 INTRODUCTION

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1.2 Overview of the module

Guidance

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9. Chapter 10 contains Transitional Rules. These Rules impact on various modules of the Rulebook, particularly COB and CIR. These Rules enable Authorised Firms to make a smooth transition to the Current Regime that came into force on 1 July 2008 under Rulemaking Instrument No 56, following the DFSA’s “Key Policy Review” outlined in Consultation Paper 52. They also provide for the continued application of some of the provisions of the Previous Regime under the Current Regime.

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

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3.2 Permitted Financial Services for Authorised Firms

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- 3.2.5** A Financial Service may be carried on with or for a Retail Client only by an Authorised Firm which is permitted to do so by endorsement on its Licence.

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10 TRANSITIONAL RULES

10.1 Application

10.1.1 (1) This chapter applies to every Person to whom a provision of the Previous Regime applied.

(2) For the purposes of this chapter:

“Commencement Date” means 1 July 2008, the date on which the Current Regime came into force under rule-making instruments No 56 and No.58.

“Current Regime” means the Rules in force on the Commencement Date;

“Previous Regime” means the Rules that were in force immediately prior to the Commencement Date;

“Transitional Rules” mean the Rules in this chapter; and

any specific reference to a module is a reference to that module under the Current Regime, unless otherwise specified.

10.2 General

10.2.1 An Authorised Firm must continue to maintain any records required to be maintained under the Previous Regime as if any such requirements continued to apply.

10.3 Specific relief – COB Module

10.3.1 An Authorised Firm, when carrying on Investment Business, Accepting Deposits, Providing Credit or Providing Trust Services under chapters 3 to 6 of COB:

- (a) may treat a Person as a Professional Client without having to undertake the determination referred to in COB Rule 2.3.1(1) where the Authorised Firm:
 - (i) had determined that Person to be a Client under the Previous Regime, including where such determination had been made under a waiver or modification in force under the Previous Regime; and
 - (ii) carries on the same Financial Service it had carried on with or for that Person under the Previous Regime;
- (b) may treat a Person as a Market Counterparty without having to comply with the requirements in COB Rule 2.3.4(1) if that Person was so treated by the firm under the Previous Regime;
- (c) may, for a period of not more than 6 months after that Commencement Date, distribute marketing material that was produced in accordance with the requirements under the Previous Regime to a Person:
 - (i) to whom it could have distributed such material under the Previous Regime; or
 - (ii) who is a Professional Client pursuant to this Rule or pursuant to COB chapter 2; and
- (d) may carry on a Financial Service with or for a Person without having to comply with COB Rule 3.3.2(1) where the Authorised Firm carries on the same Financial Service it carried on with or for that Person under the Previous Regime and there is a client agreement in force in respect of that service.

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- 10.3.2** (1) An Authorised Firm, when carrying on Insurance Business, Insurance Intermediation or Insurance Management as provided under chapter 7, may treat a Person it had treated as a Commercial Customer under the Previous Regime as a Professional Client without having to undertake the determination referred to in COB Rule 2.3.1(1) to the extent that it carries on the same Financial Service as it had carried on with or for that Person under the Previous Regime.
- (2) For the purposes of (1), a “Commercial Customer” means in relation to an Insurer, Insurance Manager or Insurance Intermediary, a customer who was an Undertaking or natural person carrying on a trade or business, with or without a view for profit.

10.4 Specific relief – CIR Module

10.4.1 Within a period no later than 6 months after the Commencement Date:

- (a) an Operator of a Fund may make an Offer in respect of a Unit of a Fund it operates by means of a Prospectus that complies with the requirements under the Previous Regime; and
- (b) an Authorised Firm may, for the purpose of complying with the requirements in CIR 3.2.1(1) or 3.4.3(1), make available to a Client a Prospectus in respect of a Unit of a Fund where that Prospectus complies with the requirements under the Previous Regime.

10.5 Specific relief – ISF Module

- 10.5.1** An Authorised Firm may distribute marketing material without having to comply with the requirements in ISF Rule 2.1.2 provided the marketing material complies with the Previous Regime and is distributed no later than 6 months after the Commencement Date.