

Appendix 10

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



The DFSA Rulebook

Representative Office Module

(REP)

2 AUTHORISATION

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2.2 Consideration and assessment of applications

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2.2.4 For the purposes of Article 9 (2) of the Law Regulating Islamic Financial Business 2004, a Representative Office will not be taken to be holding itself out as conducting Islamic Financial Business in or from the DIFC in circumstances where it:

- (a) does not represent that it provides, in or from the DIFC, any services that are in accordance with Shari'a; and
- (b) acts within the scope of its Licence, that is, does not carry on in or from the DIFC a Financial Service other than Operating a Representative Office.

Guidance

The Law Regulating Islamic Financial Business 2004, contains a prohibition against an Authorised Firm holding itself out as conducting Islamic Financial Business without first obtaining an endorsement to its Licence. An Islamic Financial Institution may operate a Representative Office in the DIFC but it is deemed not to be conducting Islamic Financial Business through its Representative Office. This is because of the limited nature of the financial services activity it is permitted to carry on and because it does not enter into client relationships in the DIFC. Accordingly, there is no requirement to obtain an appropriate endorsement to its Licence and the ~~ISF~~ IFR module does not apply.

4. GENERAL PROVISIONS

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4.7 Marketing of Foreign Funds

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4.7.3 (1) A Representative Office may market a Unit of a Foreign Fund where:

(a) one or more of the following apply:

- (i) the custodian of the Fund meets one of the requirements in (4) and the investment manager of the Fund meets one of the requirements in (5);
- (ii) both the custody and investment management activities of the Fund are performed by a Person who meets the requirements in (6); or
- (iii) the Fund has been rated in accordance with the requirement in (7);

and

(b) if the Fund is a Property Fund, the requirements in Rule 4.7.4 are satisfied.

(2) For the purposes of (1)(a), the “custodian” is a Person who is retained by the Fund, the Fund Manager ~~Operator of the Fund~~ or the Fund’s Directors or Partners under a commercial arrangement which is not an employee contract of service to safeguard the Fund’s assets.

(3) For the purposes of (1)(a), the “investment manager” is a Person who is retained by the Fund, the Fund Manager ~~Operator of the Fund~~ or the Fund’s Directors or Partners under a commercial arrangement which is not an employee contract of service to manage the Fund’s assets.