

Appendix 9

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



The DFSA Rulebook

Islamic Finance Rules

(IFR)

2 ISLAMIC FINANCE

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2.4 Islamic financial instruments and products

Guidance

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Profit Sharing Investment Accounts (PSIAs)

4. PSIAs do not fall within the GEN definitions of Investments. They are contractual arrangements under which ~~Islamic banks~~ Authorised Firms invest clients' funds, often (though not always) on a pooled basis, and are generally treated by the ~~bank firm~~ as off balance sheet. They are ~~generally sometimes~~ structured under Mudaraba, so that the investor in principle bears the full investment risk. Although PSIAs have the characteristics of a Collective Investment Fund, under an express exclusion provided under CIR Rule 2.1.13, they are not treated as such. Instead, Managing a PSIA is a distinct Financial Service as defined in GEN Rules 2.2.2(r) and 2.21.

5. ~~Because~~ As Managing a PSIA is a Financial Service, the DFSA regulatory regime that applies to Persons carrying on Financial Services in or from the DIFC applies to ~~Islamic banks~~ Authorised Firms that manage PSIAs. As PSIAs are not ~~Investments financial products~~, the ~~issue offer~~ of PSIAs, ~~or any advising or arranging activities conducted in relation to PSIAs, especially by a third party,~~ does not attract prospectus-like disclosure ~~or any advising or dealing related COB requirements (such as a suitability assessment)~~. Instead, ~~it~~ they attracts a tailored regulatory regime that applies to the entity, i.e. an ~~Islamic bank~~, Authorised Firm that manages the PSIAs (see IFR chapter 5 for these Rules). The Financial Service of Advising on Financial Products will apply to a Person giving advice on the merits of investing in a PSIA (as a PSIA is defined as a 'financial product' for the purposes of that activity). However, other activities such as dealing and arranging and COB requirements relating to those activities do not apply to a PSIA (as it is not an Investment as defined in GEN).

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