

Appendix 6

The text in this appendix has not been underlined and struck through in the usual manner. Where **text is highlighted in yellow** this indicates that text is either completely new or has been amended from the current version set out in the Authorisation (AUT) or Supervision (SUP) module, as the case may be.

Where text is not highlighted this is existing text which has simply been relocated into GEN.



The DFSA Rulebook

General Module (GEN)

Chapter 5 – Outsourcing Chapter 8 – Accounting and Auditing

5 MANAGEMENT, SYSTEMS AND CONTROLS

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5.3 Systems and controls

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Outsourcing

- 5.3.21** (1) An Authorised Person which outsources any of its functions or activities directly related to Financial Services to **service** providers (including within its Group) is not relieved of its regulatory obligations and remains responsible for compliance with legislation applicable in the DIFC.
- (2) The outsourced function **or activity** under this Rule shall be deemed as being carried out by the Authorised Person itself.
- (3) An Authorised Person which uses such **service** providers must ensure that it:
- (a) has undertaken due diligence in choosing suitable **service** providers;
 - (b) effectively supervises the outsourced functions or activities; and
 - (c) deals effectively with any act or failure to act by the **service** provider that leads, or might lead, to a breach of any legislation applicable in the DIFC.
- 5.3.22** (1) An Authorised Person must inform the DFSA about any material outsourcing arrangements.
- (2) **An Authorised Person which has a material outsourcing arrangement must:**
- (a) **establish and maintain comprehensive outsourcing policies, contingency plans and outsourcing risk management programmes;**
 - (b) **enter into an appropriate and written outsourcing contract; and**
 - (c) **ensure that the outsourcing arrangements neither reduce its ability to fulfil its obligations to customers and the DFSA, nor hinder supervision of the Authorised Person by the DFSA.**

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- (3) An Authorised Person must ensure that the terms of its outsourcing contract with each service provider under a material outsourcing arrangement requires the service provider to:
- (a) provide for the provision of information under section 11.1 in relation to the Authorised Person and access to their business premises; and
 - (b) deal in an open and co-operative way with the DFSA.

Guidance

1. An Authorised Person's outsourcing arrangements should include consideration of:
 - a. applicable guiding principles for outsourcing in financial services issued by the Joint Forum; or
 - b. any equivalent principles or regulations the Authorised Person is subject to in its home country jurisdiction.
2. An outsourcing arrangement would be considered to be material if it is a service of such importance that weakness, or failure of that service would cast serious doubt on the Authorised Person's continuing ability to remain fit and proper or to comply with DFSA administered Laws and Rules.

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8 ACCOUNTING AND AUDITING

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8.6 Function of the auditor

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8.6.1

Guidance

In producing a Safe Custody Auditor's Report an auditor will need to consider which parts of COB App6 are relevant to the Authorised Firm and only include an opinion to the extent relevant to the Authorised Firm's activity. For example, the application of COB App6 to an Authorised Firm carrying on the Financial Service of Arranging Custody is much more limited than its application to an Authorised Firm carrying on the Financial Service of Providing Custody. In this particular instance an auditor producing a Safe Custody Auditor's Report for an Authorised Firm carrying on the Financial Service of Arranging Custody, will generally need to consider COB App Rules 6.5.1(1), 6.5.1(2), 6.5.1(3), 6.5.2 and 6.7.1(1).