

Appendix 11

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



The DFSA Rulebook

Recognition

(REC)

2 ADMISSION TO THE LIST OF RECOGNISED PERSONS

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2.3 Determination of applications and references appeals

~~2.3.1~~ The DFSA may, in its absolute discretion, refuse to recognise an applicant as a Recognised Person if it appears to the DFSA that such applicant does not satisfy, or will not be able to satisfy, the Recognition Criteria at the date of application and on an ongoing basis.

~~2.3.2~~ Upon refusing such an application, the DFSA shall without undue delay, inform the applicant in writing of such refusal and the reasons for such refusal.

Guidance

Determination of applications

1. Where the DFSA recognises a Person pursuant to Article 37 of the Law, it will include such person in its list of Recognised Persons.

References Appeals

2. If the DFSA proposes to refuse an application for Recognition it is required under Article 37(9) of the Law to comply with the procedures in schedule 3 to the Regulatory Law.
23. If the DFSA decides to refuse an application for Recognition, the applicant may refer the matter to the FMT for review under Article 37(10) of the Law. Under Article 37(9) of the Law, an applicant for Recognition may appeal to the DFSA's Regulatory Appeals Committee against any determination by the DFSA in relation to an application for Recognition.
34. Under Article ~~28~~ 29 of the Regulatory Law, a Person ~~wishing to~~ who commences a reference appeal to the FMT Regulatory Appeals Committee a decision of the DFSA, must do so submit a written notice of appeal within 30 days of the notification of the relevant decision.
45. The form of submission that a reference an appeal must take is specified in the rules of procedures of the FMT Regulatory Appeals Committee.

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4.4 Removal from the list of Recognised Persons by the DFSA

~~4.4.3~~ Subject to Rule 4.4.4, the DFSA will only exercise its power under Article 37(7) of the Law after it has given the relevant Recognised Person a suitable opportunity to make representations in person or in writing to the DFSA in relation to the proposed removal.

- ~~4.4.4~~ The restriction imposed on the DFSA under Rule 4.4.3 does not apply if the DFSA concludes that any delay likely to arise as a result of such requirement would be disproportionate or prejudicial to the interests of the DIFC.
- ~~4.4.5~~ Where the DFSA has received a representation from a Recognised Person under Rule 4.4.3, the DFSA will without undue delay inform such Recognised Person in writing of its response to such representation.
- ~~4.4.6~~ If the DFSA removes a Person from its list of Recognised Persons, the DFSA will without undue delay inform the relevant person in writing of the decision, giving reasons, and the date on which the decision takes effect.

Guidance

1. Where, pursuant to Article 37(7) of the Law, the DFSA removes a Person from its list of Recognised Persons, the DFSA will generally only do so if:
 - a. the Recognised Person is in breach of, or has otherwise been in breach of, the Law or Rules or other legislation administered by the DFSA;
 - b. the Recognised Person is failing, has failed, or is likely to fail, to satisfy the Recognition Criteria;
 - c. the Recognised Person requests to have its name removed from the list of Recognised Persons; or
 - d. the DFSA considers that the exercise of the power is otherwise necessary or desirable in the pursuit of its objectives.
2. For the avoidance of doubt, the DFSA may remove a Person from the list of Recognised Persons in circumstances where such Person continues to meet the Recognition Criteria. This may include where the DFSA considers it necessary or desirable in the pursuit of its objectives to prevent damage to the reputation of the DIFC or to protect direct or indirect users of the financial services industry in the DIFC.
3. If the DFSA proposes to remove a Person from its list of Recognised Persons, it is required under Article 37(9) of the Law to comply with the procedures in Schedule 3 to the Regulatory Law.
4. If the DFSA decides to remove a Person from its list of Recognised Persons, the Person may refer the matter to the FMT for review.

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