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# The DFSA Rulebook

Offered Securities Rules

**(OSR)**

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## **1 INTRODUCTION**

### **1.1 Application**

**1.1.1** The Rules in this module (OSR) are made to further the purpose of the Markets Law 2004. [Amended][VER4/04-06]

**1.1.2** (1) This module applies, subject to (2), to a Person in relation to an Offer of Securities.

(2) Pursuant to Article 11 of the Collective Investment Law 2006, this module does not apply to a Person in relation to an Offer of a Unit or any right of interest in a Unit.

[Added][VER4/04-06]

**1.1.3** This module applies to:

(a) a Person applying to have Securities admitted to an Official List of Securities; and

(b) a Person who is a Reporting Entity;

including for these purposes, an Operator of a Fund applying to have Units admitted to an Official List of Securities and to an Operator which is a Reporting Entity.

[Added][VER4/04-06]

**1.1.4** This module applies to:

(a) a Person who is, or was, a Connected Person; and

(b) a Person who has, or had a significant interest in a Listed Fund.

[Added][VER4/04-06]

**1.1.5** The module also applies to an Authorised Market Institution in relation to its operation and administration of an Official List of Securities.

[Added][VER4/04-06]

**1.1.6** Where a Rule prescribes a requirement on an Undertaking, each Director, Partner or other Person charged with the management of that Undertaking must take all reasonable steps within its control to secure compliance with the requirement by the Undertaking.

**1.1.7** Where a Rule prescribes a requirement relating to a Director, Partner or Employee of an Undertaking:

- (a) the Director, Partner or Employee, as the case may be, is bound to take all reasonable steps within his control to secure compliance with the requirement; and
- (b) the Undertaking must take all reasonable steps to ensure compliance with the requirement by the Director, Partner or Employee.

## **1.2 Overview of Module**

### **Guidance**

#### **Introduction**

1. The Markets Law 2004 makes provision for the regulation of Offers of Securities in or from the DIFC, together with the initial and ongoing responsibilities of Offerors and Reporting Entities. Reporting Entities include Persons with Securities admitted to an Official List of Securities operated and administered by an Authorised Market Institution, whether or not an Offer of Securities has been made in or from the DIFC.
2. This module further defines the concepts of Offer and Exempt Offer and also contains Rules relating to initial disclosure, continuing disclosure and other obligations that arise at the time of, or as a result of, Offering or having Securities admitted to an Official List of Securities.
3. The structure of the module is organised so that the main provisions are contained in each of the chapters, which are linked to appendices at the back of the module, detailing the requirements relating to the various product-specific categories including Shares, Debentures, Certificates and Warrants. These products are defined in App2 of GEN.

#### **Offers**

4. The Rules in chapter 2 further define Offer by prescribing certain Offers for the sale of Securities as constituting an Offer. The Rules in that chapter also define Exempt Offers and provide for a particular class of Exempt Offer to which the standard Exempt Offer requirements set out in chapter 3 do not apply.

#### **Obligations**

5. Chapter 4 sets out specific requirements that apply to Prospectus Offers. Chapter 5 sets out the Prospectus content requirements and chapter 6 provides the Rules in respect of responsibility for Prospectuses.

#### **Official lists of securities**

6. Chapter 7 sets out the DFSA's powers in relation to Official Lists of Securities.

#### **Reporting Entity**

7. Chapter 8 sets out the ongoing responsibilities of Reporting Entities. Chapter 9 provides for disclosures by Connected Persons.

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**Sponsors and compliance advisers**

8. Chapter 10 contains Rules in respect of the appointment, termination and obligations of sponsors. Chapter 11 contains Rules in respect of the appointment and termination of compliance advisers and the obligations of Reporting Entities to compliance advisers. [Amended][VER5/06-06]

**General provisions**

9. Chapters 12, 13 and 14 complete the regulatory scheme by setting out Rules relating to contraventions, fees and applications for waivers and modifications. [Amended][VER5/06-06]

**Units and Listed Units**

10. Article 12 of the Markets Law 2004 provides as follows:

“The application of this Part 3 and any Offered Securities Rules made for the purpose of this Part is subject to any provision of a DIFC collective investment law or of any rules made for the purpose of that law which may govern the offer of Securities comprised of units or shares in a collective investment fund or any rights or interests in such units or shares”.

11. Article 11 of the Collective Investment Law 2006 provides as follows:

- (1) Subject to Article 11(2), the Markets Law 2004 applies to the offer, issue or sale of a Unit or any right or interest in a Unit.
- (2) Part 3 of the Markets Law 2004 and the Offered Securities Rules made for the purpose of that Part do not apply to the offer, issue or sale of a Unit or any right or interest in a Unit.

12. Article 12 of the Collective Investment Law 2006 defines what an Offer is for the purposes of that Law in relation to the Units of Funds. It also prescribes the circumstances in which such an Offer is to be construed as being made “in the DIFC” and also “from the DIFC”. Consequently, all the provisions in this module (OSR) relating to Offers do not apply to a Fund or its Operator. The provisions relating to Offers concerning Funds, both Foreign Funds and Domestic Funds, are set out in the conduct of business module (COB).

13. Accordingly, chapters 2 to 6 of this module inclusive do not apply to a Person in respect of Offers of Securities which are Units.

14. However, the other provisions of OSR do apply to a Fund in relation to the listing of Units, Listed Funds and to Operators which are Reporting Entities. Consequently, chapters 7 to 14 of this module apply as appropriate in relation to Funds and Operators. [Amended][VER5/06-06]

[Amended][VER4/04-06]

## **1.3 Interpretation**

**Guidance**

Sections 6.1, 6.2 and 6.7 of GEN apply to those to whom this module applies. Those sections provide, amongst other things, Rules to be applied in the interpretation of this and other modules of the DFSA Rulebook.



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## 2 OFFERS OF SECURITIES

### 2.1 Application

**2.1.1** This chapter applies to a Person in relation to an Offer of Securities in accordance with Rule 1.1.2. [Amended][VER4/04-06]

### 2.2 Offers

#### Guidance

Article 13(1) of the Markets Law 2004 reads as follows:

“(1) A person is to be regarded as making an offer of Securities if he:

- (a) makes an offer which, if accepted, would give rise to a contract for the issue of Securities by him or by another person with whom he has made arrangements for the issue of Securities; or
- (b) makes an offer or invitation in relation to an issue or sale of Securities in circumstances prescribed by the Offered Securities Rules.”

**2.2.1** (1) The DFSA, for the purposes of Article 13(1)(b) of the Markets Law 2004, prescribes the following activities, in relation to a sale of Securities, as constituting an Offer:

- (a)
    - (i) where a Person makes an offer to another Person which, if accepted, would give rise to a contract for the sale of Securities by him or by another Person with whom he has made arrangements for the sale of Securities; or
    - (ii) where a Person (the ‘first Person’) invites another Person to make an offer which, if accepted by the first Person, would give rise to a contract for the sale of Securities by him or by another Person with whom he has made arrangements for the sale of Securities; and
  - (b) the offer or invitation is a financial promotion of the Securities.
- (2) Admitting a Security or having a Security admitted to an Official List of Securities does not amount to an invitation or an offer for the purposes of (1)(a)(i) and (ii).

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- (3) In (1) a financial promotion is an advertisement or any other form of promotion or marketing inviting a Person to:
- (a) enter into an agreement;
  - (b) offer to enter into an agreement; or
  - (c) exercise any rights conferred by a Security;
- to acquire, dispose of, underwrite or convert a Security.
- (4) In (3) the financial promotion may be communicated in any manner including, but not limited to, the following:
- (a) orally;
  - (b) electronically; or
  - (c) in writing.
- (5) For the purposes of (1) and (3) where a Reporting Entity discloses information in accordance with the requirements of OSR, disclosure of such information is not a financial promotion provided the disclosure of the information does not:
- (a) include an express invitation or offer; or
  - (b) expressly encourage a Person;
- to engage in any of the activities specified in (3)(a), (b) or (c).

**Guidance****Offers in or from the DIFC**

1. By virtue of Article 13(3) of the Markets Law 2004, an Offer of Securities is regarded as being made in the DIFC if the Offer is directed at or received a Person in the DIFC at the time of the making of the Offer and it is capable of acceptance by such an Offeree.
2. By virtue of Article 13(5) of the Markets Law 2004, an Offer of Securities is regarded as being made from the DIFC if the Person making the Offer is located in the DIFC, the Person to whom the Offer is made is located outside the DIFC and the Offer is capable of being accepted by that Person.

**When is an Offer made in the DIFC?**

3. It will be a question of fact in each case whether a Person has in fact made an Offer in the DIFC. The DFSA considers that the following will be indications that an Offer (including via a website) has not in fact been made in the DIFC, however, these examples of indicators are not exhaustive, and satisfaction of them is not conclusive as to an Offer not being made in the DIFC: systems and controls on the part of the Person making the Offer to ensure that it, any member of its Group, any entity controlled, sponsored or managed by it, or any entity with whom it has arrangements in relation to the Offer does not sell or issue Securities to a Person in the DIFC.

**Cross border offers**

4. This guidance is primarily intended for Persons located outside the DIFC who undertake cross-border offers. Many cross-border offers with a DIFC element will be caught by these Rules. It is important that Persons located outside the DIFC are aware of the scope and impact of the Rules applicable to them.
5. Cross-border offers of Securities made to Persons in the DIFC fall within the Rules. Any Person who makes such an Offer is required to comply with the obligations of an Offeror under the Rules regardless of whether he is established in the DIFC or elsewhere.
6. The scope of the regime applies without differentiating the media by which Offers take place. In the context of internet-based offerings, this means that an operator of a website on which Securities are Offered to Persons within the DIFC will be subject to these Rules regardless of whether the operator is established in the DIFC or elsewhere.

[Amended][VER4/04-06]

**2.3 Prohibition on offers****Guidance**

1. Article 13(2) of the Markets Law 2004 sets out the prohibition on Offering Securities in the DIFC as follows:  
  
“A person shall not make an offer of Securities in the DIFC unless the offer of Securities is made by way of an Exempt Offer or Prospectus Offer in accordance with this Part and the Offered Securities Rules.”
2. Article 13(2) refers to Exempt Offers and these are dealt with under section 2.4 and chapter 3 of this module.
3. Article 13(2) also refers to Prospectus Offers and these are dealt with under section 2.5 and chapter 4 of this module.
4. Article 13(4) prohibits a Person from making an Offer of Securities from the DIFC unless it is in accordance with the Offered Securities Rules. Rules in relation to Offering Securities from the DIFC are set out in section 2.7
5. The effect of Rule 1.1.2(2) is that chapters 2 to 6 do not apply to a Person in respect to Offers of Securities which are Units or any rights or interests in such Units.

[Amended][VER4/04-06]

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## **2.4 Exempt offers**

### **Guidance**

1. Article 14(2) of the Markets Law 2004 defines an Exempt Offer as follows:

“Exempt Offers are offers of Securities:

- a. by recognised governments or other Persons on the list of exempt offerors maintained by the DFSA in the Offered Securities Rules;
- b. made to and directed at Professional Investors;
- c. made in connection with a takeover bid; or
- d. as may be prescribed by the Offered Securities Rules”.

2. ‘Professional Investors’ is defined in the Markets Law 2004 as follows:

“persons whose ordinary activities involve them in acquiring, holding, managing or disposing of Investments and any other persons prescribed by the Offered Securities Rules”.

- 2.4.1** (1) The DFSA, for the purposes of Article 14(2)(d) of the Markets Law 2004, prescribes an Offer as an Exempt Offer where:

- (a) the Offer satisfies at least one of the following conditions:
  - (i) the Securities are Commercial Paper, certificates of deposit or bills of exchange;
  - (ii) the Offer is made to no more than 50 Offerees in the DIFC in any 12 month period;
  - (iii) the total consideration payable for the Securities does not exceed one million dollars; or
  - (iv) the Securities are Debentures and the minimum consideration which may be paid by any Person for the Securities acquired by him pursuant to the Offer is \$50,000; or

[Amended][VER4/04-06]

- (b) the Offer is of Securities that:
  - (i) are Shares and are offered by the Issuer to members, creditors or Employees of the Issuer or their Relatives;
  - (ii) are issued and offered by a Body Corporate to a member of the same Group as the Body Corporate;
  - (iii) result from the conversion of a Convertible and a Prospectus relating to the Convertible has been published in the DIFC under these Rules; or

- (iv) are Shares, Certificates representing Shares, or Warrants to subscribe for Shares in a Body Corporate offered by the Body Corporate in exchange for Securities in the same Body Corporate and the Offer does not result in any increase in the issued Share capital of that Body Corporate.
- (2) An Exempt Offer is a Personal Exempt Offer if it:
- (a) satisfies the conditions set out in Rules 2.4.1(1)(a)(ii) and (iii);
  - (b) may only be accepted by the Person to whom it is made; and
  - (c) is made to a Person who is likely to be interested in the Offer having regard to:
    - (i) previous contact between the Person making the Offer and that Person;
    - (ii) a professional or other connection between the Person making the Offer and that Person; or
    - (iii) statements or actions by that Person that indicate that they are interested in offers of that kind.

**Guidance**

Personal Exempt Offers are a special, and very limited, category of Exempt Offer. By virtue of the operation of Rule 3.1.1, Personal Exempt Offers are not subject to the operation of chapter 3 and, therefore, those making Personal Exempt Offers are not required to comply with the requirements applying to those making other types of Exempt Offers.

- 2.4.2** An Offer remains an Exempt Offer even if the Offer of Securities falls in whole or part within more than one of the conditions in Rule 2.4.1(1) as long as all of the Offer of Securities falls within at least one of the conditions.

**Guidance**

The exemption allowing Exempt Offers to be made to up to 50 Persons is viewed restrictively by the DFSA. This is because allowing marketing to be made widely, on terms that no more than 50 Offers will be made, would give firms an easy means to market or promote the Securities to a large number of Persons without being subject to the disclosure regime associated with Prospectus Offers. This would not be in the interests of the DIFC.

- 2.4.3** An Offeror is an Exempt Offeror if that Offeror is included in the list of Exempt Offerors set out in App5.

- 2.4.4** For the purposes of Article 14(2)(a) of the Markets Law 2004, Appendix 5 is the list of Exempt Offerors maintained by the DFSA.

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## **2.5 Prospectus offers**

### **Guidance**

1. Article 15(1) of the Markets Law 2004 states:  
  
“No offer of Securities in the DIFC other than an Exempt Offer, may take place under this Part unless:
  - a. a Prospectus has been filed with the DFSA and published; and
  - b. the Offeror has appointed a sponsor or underwriter or both, if required to do so by the DFSA.”
  
2. Article 15(2) of the Markets Law 2004 states:  
  
“A Prospectus shall comply with the Offered Securities Rules and contain all information as investors would reasonably require for the purpose of making an informed assessment of:
  - a. the assets and liabilities, financial position, profits and losses, and prospects of the offeror or issuer or both; and
  - b. the nature of the Securities and the rights attached to those Securities”.
  
3. Chapters 4, 5 and 6 contain provisions relating to Prospectus Offers in addition to those set out in this section.

### **2.5.1** A Person intending to make a Prospectus Offer in relation to the issue of Securities must be able to satisfy the DFSA before making the Offer that the Governing Body of the Undertaking whose Securities are to be offered:

- (a) is fulfilling or has systems and controls to enable it to comply with any applicable requirements set out in App2 and App4; and [Amended][VER2/08-05]
- (b) has obtained all the necessary consents from the holders of Securities in accordance with App3.

### **Guidance**

A Person will need to be able to produce information that readily enables the DFSA to be satisfied that the criteria set out in App3 and 4 have been fulfilled and will continue to be fulfilled.

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## **2.6 Offer documents from other jurisdictions**

- 2.6.1** (1) Where the DFSA is satisfied that an offer document produced under legislation in a jurisdiction other than the DIFC:
- (a) meets the standards prescribed in these Rules; and
  - (b) is compatible with the requirements prescribed in these Rules
- the DFSA may accept such document as meeting the requirements of an Offer document under these Rules.
- (2) The DFSA may accept such document subject to conditions or restrictions imposed by the DFSA as it sees fit.
- (3) Where the offer document referred to in (1) is not in the English language, it must be accompanied by an English translation.

### **Guidance**

1. The DFSA considers it in the interests of the DIFC to accept offer documents produced under the rules of other jurisdictions, provided that they meet the standards required by the DFSA.
2. A Person considering filing an offer document pursuant to Rule 2.6.1 should approach the DFSA at the earliest possible time to discuss how to proceed.

## **2.7 Offers from the DIFC**

- 2.7.1** (1) A Person who makes an Offer of Securities from the DIFC must:
- (a) advise the DFSA in writing of the nature of the Offer and the jurisdiction in which the Offer is made within 5 business days after the start of the Offer;
  - (b) comply with any initial and ongoing obligations that are applicable in that jurisdiction in relation to the Offer of Securities; and
  - (c) ensure that the Offer document in relation to the Offer of Securities contains, or has attached to it, a prominent disclaimer which states that such document has not been reviewed or approved by the DFSA.
- (2) The requirements in (1) do not apply to an Offer of Securities which, if such Offer had been made in the DIFC, would have qualified as a Personal Exempt Offer.

[Amended & Added][VER9/09-07][RM47/07]

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**Guidance**

1. A Person making an Offer of Securities from the DIFC must give to the DFSA the notice required under Rule 2.7.1 (1) (a). The notification requirement in the Rule is designed to ensure that the DFSA is kept informed of Offers of Securities that are made from the DIFC.
2. Under Rule 2.7.1 (1) (a) the day in which the Offer starts is to be determined under the law of the jurisdiction in which the Offer is made and, where there is more than one jurisdiction, under the law of the jurisdiction which provides for the earliest start.
3. The circumstances in which a Person is considered to be making an Offer of Securities from the DIFC are set out in Article 13 (5) of the Markets Law 2004. A Person making an Offer of Securities from the DIFC may do so through an agent appointed by that Person (either under a formal or an informal arrangement). The DFSA considers that the mere fact that such an agent is located outside the DIFC at the time of making of the Offer does not necessarily result in the Offer not being an Offer of Securities made from the DIFC where all the requirements in Article 13 (5) are met. This is because under agency principles, generally, the acts of an agent are deemed to be the acts of the principal. If a Person proposing to make an Offer of Securities through an agent located outside the DIFC is unsure whether the Offer constitutes an Offer of Securities made by that Person from the DIFC, that Person may seek guidance from the DFSA on the matter.
4. A Person advising the DFSA of “the nature of the Offer” for the purposes of Rule 2.7.1 (1) (a) should include information such as:
  - a. the type, number and value of Securities which are the subject of the Offer; and
  - b. whether the Offer is made by way of an initial public offering, a prospectus offer or a private placement.

[Added][VER9/09-07][RM47/07]

## **2.8 Bearer shares and certificates**

- 2.8.1** Except with the consent of the DFSA, a Person must not Offer Bearer Shares in or from the DIFC.
- 2.8.2** A Person must not Offer Certificates in or from the DIFC unless the underlying Security is, or underlying Securities are, subject to disclosure requirements considered acceptable to the DFSA.



### **3 EXEMPT OFFERS OF SECURITIES**

#### **3.1 Application**

**3.1.1** This chapter applies to a Person who makes or intends to make an Exempt Offer other than a Person who makes or intends to make a Personal Exempt Offer or an Offer of Securities which is exempt by virtue of Article 14(2)(a) or 14(2)(c) of the Markets Law 2004 or Rule 2.4.1(1)(b).

**Guidance**

Article 14(1) of the Markets Law 2004 states that a Person who makes an Exempt Offer shall comply with any requirements relating to that Exempt Offer which are prescribed by the Offered Securities Rules.

#### **3.2 Exempt offer statement**

**3.2.1** A Person making an Exempt Offer must ensure that he has provided each Offeree with an exempt offer statement prior to the formation of any binding contract in respect of the Securities except where:

- (a) the Securities are Commercial Paper, certificates of deposit or bills of exchange;
- (b) the Securities are issued by an Exempt Offeror; or
- (c) the Securities have been offered previously by way of a Prospectus Offer.

**3.2.2** (1) For the purposes of Rule 3.2.1 an exempt offer statement must contain at minimum the information set out in the table below:

**Table - Information to be included in an exempt offer statement**

(a)	The name of the Issuer and the address of its principal place of business and (if different) its registered office.
(b)	If different to the Issuer, the name and address of the Offeror.
(c)	The name and address of any professional advisors in relation to the Exempt Offer.
(d)	The nature of and rights attached to the Securities.

- (2) An exempt offer statement must also contain the following statement displayed prominently on its front page:

“This statement relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority.

This statement is intended for distribution only to Persons of a type specified in those rules. It must not be delivered to, or relied on by, any other Person.

The Dubai Financial Services Authority has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The Dubai Financial Services Authority has not approved this document nor taken steps to verify the information set out in it, and has no responsibility for it.

The Securities to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the Securities offered should conduct their own due diligence on the Securities.

If you do not understand the contents of this document you should consult an authorised financial adviser.”

**3.2.3** A Person who makes an Exempt Offer which requires an exempt offer statement must create and update the following records through the period of the Offer:

- (a) a copy of the exempt offer statement relating to the Offer;
- (b) a list containing:
  - (i) the name and address of each Offeree relating to the Offer;
  - (ii) the date on which the Offer was made to each Offeree;
  - (iii) the date on which an exempt offer statement was supplied to each Offeree who purchases Securities, including the acknowledgement of receipt by the Offeree who purchased the Securities;
  - (iv) a description of the Securities (if any) issued to, or purchased by or sold to, the Offeree including the number of Securities and consideration for them;
  - (v) the grounds for belief that the Offeree was a Person to whom an Exempt Offer could be made in accordance with the Rules; and
  - (vi) the condition under section 2.4 by reference to which the Offer to the Offeree is an Exempt Offer.

### **3.3 Professional Client**

- 3.3.1** A Person (first person) making an Exempt Offer must not enter into a binding contract arising out of an Exempt Offer with another Person (second person) unless the first Person has taken reasonable steps to ensure that the second Person meets the Professional Client criteria in COB Rule 2.3.2.

**Guidance**

A Professional Client includes a Market Counterparty.

[Amended][RM56][VER11/07-08]

### **3.4 Record keeping**

- 3.4.1** A Person must:

- (a) maintain sufficient records to demonstrate compliance with Rule 3.3.1 for a period of six years from the end of the period of the Exempt Offer; and
- (b) be capable of promptly providing to the DFSA access to such records in English upon request.

[Amended][RM56][VER11/07-08]

## 4 PROSPECTUS OFFERS OF SECURITIES

### 4.1 Application

**4.1.1** This chapter applies to a Person who makes or intends to make a Prospectus Offer and to members of its Governing Body.

#### Guidance

A Prospectus Offer, unlike an Exempt Offer may be made to Retail Clients and Professional Clients. Note Exempt Offers can only be made to Professional Clients in accordance with Rule 3.3.1.

[Added][RM56][VER11/07-08]

### 4.2 General requirements

**4.2.1** (1) A Person must ensure prior to making an Offer by way of a Prospectus Offer that:

- (a) a Prospectus in the English language relating to the Securities containing the information specified in chapter 5 has been filed with the DFSA;
- (b) the DFSA has not notified the Person proposing to make the Offer that he must not publish the filed Prospectus;
- (c) the filed Prospectus has been published;
- (d) there is a Reporting Entity in respect of the Securities to which the Prospectus relates; and
- (e) the Securities are in existence at the time of filing the Prospectus or are to be issued pursuant to the Offer to which the Prospectus relates.

(2) For the purposes of (1) a Prospectus is filed on the date the DFSA informs the Person in writing that the Prospectus has been accepted for filing.

#### Guidance

1. The effect of Rule 4.2.1(a) is that an Offeror must file its Prospectus with the DFSA before making its offer. Generally, the DFSA will require at least 3 business days to consider the basic content requirements. In considering the basic content of the Prospectus, the DFSA will not consider the merits of the Offer being made. It should not be assumed that because of this 3 business day period the DFSA will not use other powers available to it to issue a stop order in circumstances where the need for such further action is subsequently identified. [Amended][VER7/02-07][RM42/07]
2. The DFSA would regard a Prospectus as published where it has been made available on the Issuer's website or has been made available by other such means as the DFSA requires in accordance with Rule 8.2.1(3).

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3. In accordance with the Markets Law 2004, a Person who files a Prospectus becomes a Reporting Entity unless he falls within one of the exclusions to Reporting Entity status under paragraph (2) of the definition of that term.
  4. An Offeror of Securities who is not also the Issuer of the Securities will not in general be in a position to satisfy the disclosure requirements associated with a Prospectus Offer, or with those associated with Reporting Entity status in relation to the Securities.
  5. An Offeror who is not the Issuer would also need a waiver or modification of the Rules with which it cannot comply by virtue of it not being the Issuer. The DFSA will not generally grant such a waiver or modification to allow for a Prospectus Offer except in exceptional circumstances.
  6. In the case of Certificates, the issuer of the underlying Securities to which the Certificates relate (and not the custodian or depositary which issues the Certificates) is the Issuer.
- 4.2.2** (1) Subject to (2), a Person may only issue or sell Securities in response to Prospectus Offer acceptances where these are received within six months from the date of filing the Prospectus relating to the Securities.
- (2) The requirement in (1) does not apply to a Registration Statement which forms part of a Prospectus.
- 4.2.3** (1) An Offeror must not, and must ensure that its Associates do not, during the Offer period issue a financial promotion relating to a Prospectus Offer unless it states that a Prospectus has been published or is to be published, and gives an address where the Prospectus can be collected in the DIFC.
- (2) In (1) a financial promotion is an advertisement or any other form of promotion or marketing inviting a Person to:
- (a) enter into an agreement;
  - (b) offer to enter into an agreement; or
  - (c) exercise any rights conferred by a Security;
- to acquire, dispose of, underwrite or convert a Security.
- (3) In (2) the financial promotion may be communicated in any manner including, but not limited to, the following:
- (a) orally;
  - (b) electronically; or
  - (c) in writing.
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- (4) For the purposes of (2) and (3) where a Reporting Entity discloses information in accordance the requirements of OSR, disclosure of such information is not a financial promotion provided the disclosure of the information does not:
    - (a) include an express invitation or offer; or
    - (b) contain information calculated to encourage or lead a Person, to engage in any of the activities specified in (2)(a), (b) or (c).

**4.2.4** Where an Offeror has filed a Prospectus and the Offeror does not proceed with the Offer in accordance with the terms and conditions of the Prospectus he must ensure that any Prospectus filed by him offering Securities to which the original Prospectus relates contains a prominent statement:

- (a) explaining that the Securities had been the subject of a previous Offer which did not proceed; and
- (b) setting out the reasons for the previous Offer not proceeding.

**Guidance**

The DFSA may consent to an Offer of Securities in the circumstances described in Rule 4.2.4 where, for example, an Offeror decides not to proceed with a Prospectus Offer in good faith by reason of market volatility, lack of investor demand or other similar circumstances.

**4.2.5** The DFSA may require that a Prospectus Offer of Securities be underwritten by an underwriter acceptable to the DFSA.

**4.2.6** (1) A Person who makes or intends to make a Prospectus Offer must appoint a sponsor in sufficient time to enable that sponsor to comply with the requirements of chapter 10 of this module. [Amended][VER5/06-06]

(2) The appointment of a sponsor under Rule 4.2.6(1) remains in effect for the period the Prospectus Offer remains open. [Added][VER5/06-06]

**4.2.7** (1) If one or more members of the Governing Body of an Issuer are offering shares they hold in the Issuer as part of a Prospectus Offer an Issuer must ensure that the Prospectus contains a prominent statement of:

- (a) the identity of each member of the Governing Body offering his shares; and
- (b) the number of shares each member of the Governing Body is offering and the proportion of the holding of the member that those shares represent.

(2) A member of the Governing Body at the time of a Prospectus Offer must not divest any shares they hold in the Issuer for a period of twelve months from the date of the Prospectus Offer unless the divestiture occurs in accordance with the statement referred to in (1).

- (3) The DFSA may, during an Offer Period, impose escrow requirements on certain classes of Persons for a specified period after a Prospectus Offer of Securities has been made.

**4.2.8** An Offer or must ensure that:

- (a) an application form for the sale or issue of Securities the subject of a Prospectus Offer, is not provided to any Person unless it is included in or accompanied by the relevant Prospectus; and
- (b) only applications in the form contained in the Prospectus are accepted.

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## 5 PROSPECTUS REQUIREMENTS

### 5.1 Application

- 5.1.1** (1) Sections 5.1 to 5.5 apply to an Offeror who is required under chapter 4 to file a Prospectus with the DFSA.
- (2) Sections 5.1 and 5.6 apply to a Reporting Entity other than a Reporting Entity which is an Operator of a Fund. [Amended][VER4/04-06]

### 5.2 Contents requirements

#### Guidance

1. Article 15(2) of the Markets Law 2004 requires that a Prospectus contain:
- "all information as investors would reasonably require for the purpose of making an informed assessment of:
- (a) the assets and liabilities, financial position, profits and losses, and prospects of the offeror or issuer or both; and
  - (b) the nature of the Securities and the rights attached to those Securities".
2. The DFSA does not approve Prospectuses. It is for the Person who files the Prospectus (and the Issuer, where different) to ensure that the Prospectus complies with the requirements of this chapter.

- 5.2.1** An Offeror who files a Prospectus must ensure that the Prospectus complies with:

- (a) Article 15(2) of the Markets Law 2004; and
- (b) the requirements specified in this chapter.

- 5.2.2** (1) An Offeror must ensure that the Prospectus contains:

- (a) a summary of the Prospectus at or near the beginning of the document setting out:
  - (i) the identity of the Issuer of the Securities;
  - (ii) the nature of the Securities and the rights attached to those Securities;
  - (iii) the nature of the risks involved in investing in the Securities; and
  - (iv) details of all amounts payable in respect of the Securities; and



- (b) the relevant information specified in App1.
- (2) The version of the Prospectus submitted to the DFSA must be marked to indicate where the information required by the applicable paragraphs of App1 has been included. Where subsequent drafts or versions of the Prospectus are submitted, they must be marked to show changes from the previous version submitted.

**Guidance**

1. An Offeror intending to file a Prospectus may, for example, apply for a waiver or modification in respect of the relevant requirements by written application to the DFSA where:
  - a. the information required by App1 is not available or the Offeror, after having exercised reasonable diligence, is unable to obtain the information;
  - b. subject to Article 15 of the Markets Law 2004, disclosure of the information required by App1 would be unduly detrimental in the circumstances; or
  - c. in the opinion of the Offeror, the information is insignificant.

In (c), "insignificant" means not significant for the purpose of making an informed assessment under Article 15(2) of the Markets Law 2004.
2. An Offeror applying for a waiver or modification in respect of Prospectus requirements is required, in accordance with chapter 14, to complete and submit the appropriate form in AFN and:
  - a. identify the contents requirement which it seeks to waive or modify; and
  - b. provide a statement of the reasons why it believes the information should not or cannot be disclosed in the Prospectus, or should be disclosed in a modified manner.

**5.3 General requirements**

- 5.3.1** An Offeror filing a Prospectus must ensure that it is presented in a comprehensible form which may be easily analysed.

**Guidance**

It is important that information be presented as clearly as possible. At a minimum, information should be set out in a logical manner and, if also filed electronically, in a format which allows text searching.

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## **5.4 Structure requirements**

**5.4.1** Subject to section 5.5, an Offeror may produce a Prospectus structured as:

- (a) a single document; or
- (b) two documents comprising:
  - (i) a Registration Statement; and
  - (ii) an Issue Note.

**5.4.2** Where an Offeror has produced a Prospectus comprising two documents it must ensure that:

- (a) the Registration Statement contains all relevant information relating to the Issuer set out in App1 section A1.1; and
- (b) the Issue Note contains all relevant information relating to the Securities as set out in App1 section A1.2.

**5.4.3** A Registration Statement may form part of a Prospectus in respect of more than one Prospectus Offer provided that:

- (a) the Registration Statement includes the most recent set of audited accounts available in respect of the Issuer;
- (b) those accounts relate to a period ending not more than 12 months prior to the relevant Offer; and
- (c) since the date of the Registration Statement, the Reporting Entity filing the Prospectus has complied with its continuing disclosure obligations under chapter 8 relating to the category of Securities to which the Prospectus relates.

**5.4.4** (1) An Offeror may produce a single Registration Statement covering more than one category of Security.

- (2) A Registration Statement produced in this way may be used to make Prospectus Offers of any category of Security, provided that the Registration Statement makes all the required disclosures relating to that category.

**5.4.5** Where an Offeror has made a Prospectus Offer using a Registration Statement, an Issue Note must be produced relating to each subsequent Offer for the Prospectus to cover that Offer.

**5.4.6** Where a Prospectus contains a Registration Statement produced prior to the date of the Issue Note, an Offeror must ensure that the Issue Note:

- (a) states the date of preparation of the Registration Statement; and
- (b) updates any disclosure in the Registration Statement to the extent necessary in order to comply with these Rules by setting out on the front page of the issue note:
  - (i) the Internet address at which any subsequent disclosure is available; and
  - (ii) an address at which the full text of any such disclosures are made freely available.

## **5.5 Incorporation by reference**

**5.5.1** (1) Where a requirement under the Rules in this chapter requires disclosure of information in a Prospectus, an Offeror filing the Prospectus may incorporate that information by reference to another source of information, provided that:

- (a) the source of information is publicly available on a continuing basis;
  - (b) the information is clearly set out and easily accessible in that source;
  - (c) the information is in English; and
  - (d) the information may be accessed without charge.
- (2) A reference must also contain sufficient information to allow a recipient of the Prospectus to decide whether to obtain the information or any part of it.

**5.5.2** An Offeror responsible for filing the Prospectus must provide a copy of any information incorporated by reference under this section free of charge to any Person who requests it during the period in which applications may be made for the Securities under the terms of the Prospectus.

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## 5.6 Notification of significant changes during the offer period

**5.6.1** (1) If before the Offer period for the Securities to which the Prospectus relates closes:

- (a) there is a significant change affecting any matter disclosed in the Prospectus;
- (b) a significant new matter arises; or
- (c) there is a significant inaccuracy in the Prospectus,

a Reporting Entity must produce a Supplementary Prospectus, file it with the DFSA and make it available to each Offeree free of charge until the end of the period during which the Offer remains open.

- (2) If the Prospectus comprises a Registration Statement and Issue Note, then the Supplementary Prospectus must consist of an updated Issue Note.
- (3) For the purpose of (1), 'significant' means significant for the purpose of making an informed assessment of the matters mentioned in Article 15(2) of the Markets Law 2004.

**5.6.2** If Rule 5.6.1 applies then any reference in these Rules to a Prospectus must be read as including reference to a Prospectus as amended by a Supplementary Prospectus unless the context otherwise requires.

**5.6.3** A Reporting Entity must ensure that a Supplementary Prospectus:

- (a) is made available in the same media and through the same channels as the original Prospectus; and
- (b) is provided without undue delay to each Person who has subscribed for or offered to purchase the Securities.

**5.6.4** When a Supplementary Prospectus has been filed by a Reporting Entity and made available in accordance with Rule 5.6.3, the Reporting Entity must:

- (a) inform Offerees of their right to confirm or retract any subscription or Offer made on the basis of the original Prospectus and the manner in which to do so; and
- (b) allow the Offeree a period of at least seven days from the date of receipt of the Supplementary Prospectus in which to retract or confirm its subscription or Offer.

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## 6 RESPONSIBILITY FOR PROSPECTUSES

### 6.1 Application

**6.1.1** This chapter applies to any Person specified under Rule 6.2.1 and Rule 6.4.1 as being responsible for a Prospectus.

### 6.2 Responsibility for prospectus

- 6.2.1** (1) For the purposes of Article 51 of the Markets Law 2004, the following Persons are prescribed as being responsible for a Prospectus:
- (a) the Person who filed the Prospectus;
  - (b) where the Person is a Body Corporate, each Person who is a Director of that Body Corporate at the time when the Prospectus is filed;
  - (c) where the Person is a Body Corporate, each Person who is authorised to be named, and is named, in the Prospectus as a Director or as having agreed to become a Director of that body either immediately or at a future time;
  - (d) each Person who accepts, and is stated in the Prospectus as accepting responsibility for, or for any part of, the Prospectus;
  - (e) each Person who is deemed to accept responsibility for any part of a Prospectus under these Rules; and
  - (f) each Person not falling within any of the foregoing paragraphs who has authorised the contents of, or of any part of, the Prospectus.
- (2) A Person who has accepted responsibility for, or authorised, only part of the contents of any Prospectus, is responsible only for that part and only if it is included in, or substantially in, the form and context to which he has agreed.
- (3) Nothing in (1) makes a Person responsible for any part of a Prospectus by reason only of giving advice as to its contents in a professional capacity to a Person specified in (1)(a)-(f).

### 6.3 Exceptions from liability

**6.3.1** The circumstances set out in the Rules in this section are prescribed for the purposes of Article 51(2) of the Markets Law 2004.

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- 6.3.2** (1) A Person, with the exception of the Offeror, will not incur any liability under Article 51(1) of the Markets Law 2004 for any loss in respect of Securities caused by any such statement or omission if, at the time when the Prospectus was filed for registration he believed on reasonable grounds, having made such enquiries (if any) as were reasonable, that the statement was true and not misleading or that the matter whose omission caused the loss was properly omitted and:
- (a) he continued in that belief until the time when the Securities were acquired;
  - (b) they were acquired before it was reasonably practicable to bring a correction to the attention of Persons likely to acquire the Securities in question;
  - (c) before the Securities were acquired he had taken all such steps as it was reasonable for him to have taken to secure that a correction was promptly brought to the attention of Persons likely to acquire the Securities in question; or
  - (d) the Securities were acquired after such a lapse of time that he ought in the circumstances to be reasonably excused.
- (2) A Person will not incur any liability under Article 51(1) of the Markets Law 2004 for any loss in respect of Securities caused by a statement purporting to be made by or on the authority of another Person as an expert which is, and is stated to be, included in the Prospectus with that other Person's consent at the time when the Prospectus was filed for registration, if he believed on reasonable grounds that the other Person was competent to make or authorise the statement and had consented to its inclusion in the form and context in which it was included and:
- (a) he continued in that belief until the time when the Securities were acquired;
  - (b) they were acquired before it was reasonably practicable to bring the fact that the expert was not competent or had not consented to the attention of Persons likely to acquire the Securities in question;
  - (c) before the Securities were acquired he had taken all such steps as it was reasonable for him to have taken to secure that that fact was promptly brought to the attention of Persons likely to acquire the Securities in question; or
  - (d) the Securities were acquired after such a lapse of time that, in the circumstances, he ought reasonably to be excused.
- (3) Without prejudice to (1) and (2), a Person will not incur any liability under Article 51(1) of the Markets Law 2004 for any loss in respect of any Securities caused by any such statement or omission as is there mentioned if:
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- (a) before the Securities were acquired a correction or, where the statement was such as is mentioned in (2), the fact that the expert was not competent or had not consented had been published in a manner calculated to bring it to the attention of Persons likely to acquire the Securities in question; or
  - (b) he took all such steps as it was reasonable for him to take to secure such publication and believed on reasonable grounds that such publication had taken place before the Securities were acquired.
- (4) A Person will not incur any liability under Article 51(1) of the Markets Law 2004 for any loss resulting from a statement made by an official Person or contained in a public official document which is included in the Prospectus if the statement is accurately and fairly reproduced.
- (5) A Person will not incur any liability under Article 51(1) of the Markets Law 2004 if the Person suffering the loss acquired the Securities in question with knowledge:
  - (a) that the statement was false or misleading;
  - (b) of the omitted matter or of the change; or
  - (c) of the new matter or inaccuracy.

## **6.4 Experts**

**6.4.1** For the purposes of Article 51 of the Markets Law 2004, an expert is prescribed as accepting responsibility for any statement or report reproduced (in whole or in part) in a Prospectus with his written consent.

**6.4.2** A Person responsible for filing a Prospectus must:

- (a) keep a record of any consent received under Rule 6.4.1; and
- (b) include a statement in the Prospectus that the expert has consented to the reproduction of his statement or report.

## **7 LISTED SECURITIES**

### **7.1 Application**

- 7.1.1** (1) This chapter applies to:
- (a) a Person applying to have Securities admitted to an Official List of Securities;
  - (b) a Reporting Entity with Securities admitted to an Official List of Securities; and
  - (c) an Authorised Market Institution in relation to its operation and administration of an Official List of Securities.
- (2) For the purposes of (1)(a), this chapter applies, to the extent shown in Rule 7.1.2, to an Operator of a Fund applying to have the Units of its Fund admitted to an Official List of Securities. [Added][VER4/04-06]
- (3) For the purposes of (1)(b), this chapter applies to an Operator of a Listed Fund. [Added][VER4/04-06]

#### **Guidance**

1. An Authorised Market Institution operating and administering an Official List of Securities is required under the Markets Law 2004 to have a set of listing rules. The listing rules must include rules in relation to those matters set out in Article 18 of the Markets Law 2004, including rules in relation to applications for admission to an Official List of Securities and requirements to be met for Securities to be admitted. Further requirements in respect of listing rules are detailed in the AMI module.
2. Once a Person has Securities admitted to an Official List of Securities by an Authorised Market Institution, in most instances, it will become a Reporting Entity. A Reporting Entity, and some other associated Persons, become subject to the provisions of chapters 8, 9, 10 and 11 of this module and have obligations to the DFSA. A Reporting Entity may also be subject to ongoing obligations to an Authorised Market Institution under the listing rules. [Amended][VER5/06-06]
3. This chapter details the powers the DFSA has in respect of the listings process, including powers in relation to the admission of Securities and rules in relation to Securities admitted to an Official List of Securities.
4. The effect of Rule 1.1.3 is that this chapter, and those that follow which are relevant, apply to an Operator applying to have Units admitted to an Official List of Securities and to a Reporting Entity with Units admitted to an Official List of Securities, that is, the Operator of a Listed Fund. [Added][VER4/04-06]



- 7.1.2** (1) The Units of a Domestic Private Fund cannot be listed on an Authorised Market Institution.
- (2) The Units of a Foreign Fund which are Offered, issued or sold only by means of private placement cannot be listed on an Authorised Market Institution.
- (3) In addition to the restrictions in (2), where a Foreign Fund is a Property Fund in respect of which 60% or more of the Fund's assets comprise Real Property, it may be listed on an Authorised Market Institution but only if the Fund is a closed-ended investment vehicle.

[Added][VER4/04-06]

## **7.2 Admissions to an official list of securities**

### **Guidance**

1. The DFSA has powers under Article 17(14) of the Markets Law 2004 in relation to the admission of Securities to an Official List of Securities maintained by an Authorised Market Institution. Under that Article the DFSA may:
  - a. object to an admission of Securities to an Official List of Securities; or
  - b. impose conditions or restrictions on an admission of Securities to an Official List of Securities .
2. Where the DFSA objects to an application to an admission of Securities to an Official List of Securities, the Authorised Market Institution is prohibited from admitting Securities to its Official List of Securities by virtue of Article 17(15) of the Markets Law 2004.
3. The DFSA expects to exercise these powers rarely. An Authorised Market Institution is responsible for assessing applications to its Official List of Securities. This section sets out the process for dealing with applications for admission.

- 7.2.1** (1) Subject to (2), at least 5 business days prior to an admission of Securities to an Official List of Securities, an exchange must provide the DFSA with notice of the decision and include the following information in the notification:  
[Amended][VER7/02-07][RM42/07]
- (a) a copy of the listing application;
  - (b) a copy of the assessment of the listing application carried out by the exchange; and
  - (c) any information requested by the DFSA.
- (2) Where a notification obligation has arisen under (1) and the Securities to be admitted to the Official List of Securities are also the subject of a simultaneous Prospectus Offer in the DIFC then the notice in (1) is not required by the DFSA.
- (3) An Exchange must immediately notify the DFSA of any decision to suspend, restore from suspension or de-list any Securities from its Official List of Securities and the reasons for the decision.

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**7.2.2** A direction under Article 17(14) of the Markets Law 2004 will set out:

- (a) grounds for the DFSA's decision to object to or impose conditions or restrictions on the application; and
- (b) details of the applicant's right to make representations in relation to the action.

**Guidance**

1. Article 17(17) of the Markets Law 2004 provides that where the DFSA has objected or imposed conditions or restrictions on admission of Securities to an Official List of Securities, the applicant may make representations within fourteen days of the date of the notification. If representations are made, the DFSA shall provide a response and make any consequential variants or withdrawals without undue delay.
2. Pursuant to Article 17(18) of the Markets Law 2004, the Regulatory Appeals Committee has jurisdiction to hear and determine any appeal in relation to a decision by the DFSA to object or impose conditions or restrictions upon an admittance of Securities to an Official List of Securities.

### **7.3 Powers of the DFSA in relation to Securities admitted to an official list of securities**

**Guidance**

1. The DFSA has powers contained in Article 19 of the Markets Law 2004 to direct an Authorised Market Institution to de-list or suspend Securities from its Official List of Securities. Such powers may be exercised when there are special circumstances which preclude regular dealings in Securities or it is in the interests of the DIFC and the directions may take immediate effect or from such date and time as may be specified in the direction.
2. The DFSA expects to exercise these powers rarely. An Authorised Market Institution is responsible for maintaining its Official List of Securities, which would normally include decisions in relation to the de-listing, suspension and restoration from suspension of Securities from its Official List of Securities.
3. Upon making a decision in relation to a delisting or suspension of Securities from an Official List of Securities, the DFSA shall, without undue delay, notify the relevant Reporting Entity and relevant Authorised Market Institution in writing of its decision. Pursuant to Article 19(2) of the Markets Law 2004 the DFSA shall provide reasons for its decision upon request by the Reporting Entity and the Authorised Market Institution.

### **7.4 Directions to de-list or suspend**

- 7.4.1** Unless Rule 7.5.1 applies, if the DFSA is minded to direct an Authorised Market Institution to de-list or suspend Securities from an Official List of Securities, it will notify the Reporting Entity and the Authorised Market Institution in writing in advance of such suspension or delisting.

**7.4.2** A notification under Rule 7.4.1 will set out:

- (a) grounds for the DFSA's intention to direct an Authorised Market Institution to de-list or suspend Securities from an Official List of Securities; and
- (b) details of the Reporting Entity's right to make representations in relation to the proposed direction.

**7.4.3** (1) Within the time period specified in the notification, the Reporting Entity and the Authorised Market Institution may make representations to the DFSA in relation to any of the grounds set out in the notification.

- (2) The time period will be determined by the DFSA at its sole discretion.

**Guidance**

When making a representation the procedure in ENF App3 should be followed.

**7.4.4** The DFSA will notify the Reporting Entity and the Authorised Market Institution of its decision within 30 days of receiving representations under this section.

## **7.5 Urgent directions to suspend**

**7.5.1** This section applies where the DFSA concludes that any delay likely to arise as a result of allowing a Reporting Entity or Authorised Market Institution to make representations before suspending the Securities would be prejudicial to the interests of the DIFC.

**7.5.2** Where the DFSA has suspended Securities from an Official List of Securities without providing a prior opportunity to make representations, the DFSA will:

- (a) provide the Reporting Entity and the Authorised Market Institution with an opportunity to make representations in Person and in writing to the DFSA within the period of fourteen days, or such further period as may be agreed, from the date on which such suspension, or both, was notified; and
- (b) provide a response to any such submission, and make any consequential direction, variation or withdrawal of the notification, without undue delay.

**Guidance**

When making a representation the procedure in ENF App3 should be followed.

## 8 OBLIGATIONS OF REPORTING ENTITIES

### 8.1 Application

#### 8.1.1 This chapter applies to a Reporting Entity.

##### Guidance

1. The term Reporting Entity is defined in the Schedule to the Markets Law 2004 as follows:
  - "(1) Subject to (2), a person is a Reporting Entity if:
    - (a) the person has or had Securities admitted to an Official List of Securities at any time;
    - (b) the person has filed a prospectus with the DFSA under Article 15;
    - (c) the person merges with or acquires a Reporting Entity; or
    - (d) the person is declared in writing to be a Reporting Entity by the DFSA.
  - (2) A person is not a Reporting Entity if:
    - (a) the person is a properly constituted government, a government agency, a central bank or other type of national monetary authority of a country or jurisdiction, a supra-national organisation whose members are either countries, central banks or national monetary authorities, a public authority or a state investment body; or
    - (b)
      - (i) the person previously had Securities admitted to an Official List of Securities;
      - (ii) the person currently has no Securities admitted to an Official List of Securities;
      - (iii) the current holders of at least seventy five per cent of Securities in the Reporting Entity have agreed in writing that the person is no longer a Reporting Entity; and
      - (iv) the DFSA has confirmed in writing that the person is no longer a Reporting Entity; or
    - (c) the DFSA so determines."
2. For the purpose of the exclusion from Reporting Entity status set out in paragraph (2)(b) of the definition, a Person who ceases to be a Reporting Entity by virtue of an agreement of holders of the Securities should notify the DFSA of that fact in order no longer to be treated as a Reporting Entity.

#### 8.1.2 In relation to a Fund, the Operator of the Fund is the Reporting Entity.

[Added][VER4/04-06]

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## **8.2 Continuous disclosure**

- 8.2.1** (1) A Reporting Entity must make timely disclosure of Material Information, including the relevant matters set out in App2 in accordance with this chapter.
- (2) A Reporting Entity must ensure that its disclosure is complete, true, plain and not misleading, false or deceptive.
- (3) The Reporting Entity must, subject to section 8.3, disclose any matters as soon as reasonably practicable:
- (a) where App2 requires market disclosure, by way of an announcement made:
    - (i) on the website of the Reporting Entity;
    - (ii) to the DIFX or such other entity created by the DIFX for the purpose of public dissemination; and
    - (iii) to the DFSA; or
  - (b) otherwise, as required by App2. [Amended][VER2/08-05]

### **Guidance**

The disclosure to the DIFX, regardless of whether the Securities are traded on that exchange, is of particular significance given the requirement by the DFSA that the DIFX make all announcements publicly available through on-line sources and by dissemination to the media.

- 8.2.2** If a Reporting Entity fails to comply with an obligation to disclose any information under this chapter, the DFSA may:

- (a) require the Reporting Entity to disclose the information; or
- (b) take such other steps as it considers appropriate;

if it considers that to do so would be in the interests of the DIFC.

### **Guidance**

1. Under Article 22 of the Markets Law 2004, a Reporting Entity must make disclosures to the market in the circumstances prescribed by the Offered Securities Rules. This chapter, together with App2, sets out the obligations of Reporting Entities to make disclosures and provides guidance in relation to price sensitive information. [Amended][VER2/08-05]
2. Where a Reporting Entity realises that it has or may have breached its continuous disclosure obligations it should contact the DFSA to discuss the matter and seek guidance on taking steps to ensure that similar breaches are prevented from recurring.

3. The continuous disclosure obligations form an essential part of maintaining orderly markets and ensuring acceptable levels of investor protection. Where these obligations are not met and the DFSA considers it appropriate, one or more sanctions, which are set out in the Enforcement module may be imposed.
4. Article 32 of the Markets Law 2004 allows the DFSA to vary continuous disclosure requirements if:
  - a. at the time of the Offer of Securities in or from the DIFC, a Person has made an offer of Securities in a jurisdiction other than the DIFC; and
  - b. that jurisdiction has substantially the same disclosure requirements as provided in Part 6 of the Markets Law 2004 and the Offered Securities Rules.

**8.2.3** (1) A Reporting Entity must not disclose any information it is required to disclose by Rule 8.2.1 to any other Person prior to the market disclosure in accordance with Rule 8.2.1(3) of such information except in strict confidence to:

- (a) its advisors, underwriters, sponsors or compliance advisers;  
[Amended][VER5/06-06]
- (b) the custodian of the Listed Fund to which the information relates;
- (c) agent employed to release the information;
- (d) Persons with whom it is negotiating with a view to effecting a transaction or raising finance, including prospective underwriters or sponsors of an issue of Securities, providers of finance or loans or the placement of the balance of a rights issue not taken up by shareholders;
- (e) the DFSA or another Financial Services Regulator where such disclosure is necessary or desirable for the regulator to perform its functions;
- (f) a Person to whom the Reporting Entity discloses information in accordance with a lawful requirement; or
- (g) a Person to whom the information is disclosed in the necessary course of the business of the Reporting Entity.

[Amended][VER2/08-05]

- (2) A Reporting Entity must advise such recipients, except the DFSA, in writing, prior to them receiving the information, that the information is confidential and that they and any Person privy to the information should not deal in the relevant Securities, or any other related Investment, before the information has been made available to the market.

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**8.2.4** A Reporting Entity must nominate two Persons to be its main points of contact with the DFSA in relation to continuing disclosure and other continuous obligations under this chapter.

### **8.3 Disclosure exceptions**

**8.3.1** (1) A Reporting Entity who intends not to disclose information it would, but for Article 24(1) of the Markets Law 2004, be required to disclose under this chapter must notify the DFSA by written notice setting out:

- (a) a confidential report setting out the relevant information that it would, but for Article 24(1) of the Markets Law 2004, be required to be disclosed under the Rules; and
- (b) the reason why the Reporting Entity believes on reasonable grounds that the relevant information would fall within the grounds prescribed under Article 24(1) of the Markets Law 2004.

(2) A notification under (1) must be in English, and all documents accompanying the notification must be either in the English language or accompanied by an English translation.

**8.3.2** By making a notification under Rule 8.3.1 the Reporting Entity undertakes that the application is true, accurate and not misleading and does not omit anything of which the DFSA would reasonably be expected to be made aware of in the circumstances of the case.

**8.3.3** A Reporting Entity which has made a notification under Rule 8.3.1 in respect of which the DFSA has taken no action must notify the DFSA promptly if:

- (a) there is a material change of circumstances such that the reason for the notification is no longer valid; or
- (b) it becomes aware, or there are reasonable grounds to suspect, that Persons with knowledge of the material change are purchasing or selling Securities or any other related investment.

### **8.4 Other continuing obligations**

**8.4.1** A Reporting Entity must comply with the relevant continuing obligations set out in section A2.2, App3 and App4.

#### **Guidance**

Where the Reporting Entity cannot comply with a requirement in section A2.2, App3 or App4 because it is not the Issuer it may apply to the DFSA for a waiver or modification of the relevant requirement.

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- 8.4.2** (1) The DFSA may by written notice impose additional continuing obligations on a Reporting Entity with immediate effect or from such date and time as may be specified if it is satisfied that it is in the best interests of the DIFC.
- (2) If the DFSA is minded to impose additional continuing obligations and provide an opportunity to make representations on a Reporting Entity, it will notify the Reporting Entity in writing prior to imposing such obligations, unless (3) applies.
- (3) Where the DFSA concludes that any delay likely to arise as a result of allowing a Reporting Entity to make representations would be prejudicial to the interests of the DIFC, it will not provide the Reporting Entity with the prior opportunity to make representations.
- (4) Where the DFSA has imposed additional continuing obligations without providing a prior opportunity to make representations, the DFSA will:
- (a) provide the Reporting Entity with an opportunity to make representations in Person and in writing to the DFSA within the period of fourteen days or such further period as may be agreed from the date on which such additional continuing obligations were imposed; and
- (b) provide a response to any such representations and make any consequential direction, variation or withdrawal of the additional continuing obligations without undue delay.
- (5) The Regulatory Appeals Committee has jurisdiction to hear and determine any appeal in relation a decision to impose additional continuing obligations on a Reporting Entity.
- 8.4.3** (1) The DFSA may by written notice require a Reporting Entity to appoint a compliance adviser for a specified period to assist the Reporting Entity in meeting its continuing obligations under the Markets Law 2004 and this module.
- (2) A Reporting Entity that is required to appoint a compliance adviser in accordance with Rule 8.4.3(1) must ensure that a compliance adviser continues to fulfil the role of compliance adviser until such time as the DFSA advises the Reporting Entity in writing that a compliance adviser is no longer required.

[Amended][VER5/06-06]

## **8.5 The database**

- 8.5.1** Information which the DFSA believes, on reasonable grounds, may be prejudicial to the orderly operation of the market is prescribed as confidential for the purposes of Article 22(1) of the Markets Law 2004.



## **9 DISCLOSURE OF INTERESTS**

### **9.1 Application**

**9.1.1** This chapter applies to:

- (a) a Connected Person;
- (b) a Person when he ceases to be a Connected Person;
- (c) a Person who has a significant interest; as defined in Rule 9.3.1, in a Listed Fund; or
- (d) a Person when he ceases to have a significant interest, as defined in Rule 9.3.1, in a Listed Fund.

[Amended][VER2/08-05]

#### **Guidance**

1. Article 25 of the Market Law 2004 requires disclosures by Connected Persons of a Reporting Entity in relation to Financial Interests in or relating to Reporting Entities.
2. Under Article 25(5) of the Markets Law 2004, a Person is a Connected Person if:
  - a. he is a Director or is involved in the senior management of the Reporting Entity or an Associate Body Corporate of the Reporting Entity;
  - b. he owns or beneficially owns voting Securities carrying more than 5% of the votes attached to all voting Securities of the Reporting Entity or an Associate Body Corporate of the Reporting Entity; or
  - c. he is a Director of or is involved in the senior management of any Person who owns or beneficially owns voting Securities carrying more than 5% of the votes attached to all voting Securities of the Reporting Entity.
3. This chapter does not apply to a Person who is a Connected Person or ceases to be a Connected Person in relation to a Reporting Entity which is a Reporting Entity solely by reason of the admittance of its Designated Investments to an Official List of Securities. By virtue of Rule 9.2.1(c) such a Person is deemed not to have a financial interest in such a Reporting Entity. [Added][VER3/09-05]

## 9.2 Disclosures of financial interests

**9.2.1** For the purpose of Article 25(5)(b) of the Markets Law 2004:

- (a) a Person is deemed to have the financial interest of:
  - (i) himself;
  - (ii) any beneficial interest he holds;
  - (iii) any of his Close Relatives;
  - (iv) any Person controlled by him;
  - (v) any Body Corporate of which he is a Director, or partnership of which he is a partner; and
  - (vi) any Person with whom he acts in concert; and
- (b) a Person is deemed not to have a financial interest in (a) if:
  - (i) that Person holds the Securities for another Person; or
  - (ii) that Person is unaware of his ownership of or entitlement to the Securities because another Person manages his assets.
- (c) a Person is deemed not to have a financial interest in a Person who is a Reporting Entity solely by reason of the admittance of its Designated Investments to an Official List of Securities. [Added][VER3/09-05]

### Guidance

Article 25 provides as follows:

- “(1) A person who, as the consequence of any event, becomes connected to and has a financial interest in a Reporting Entity shall file a report with the DFSA and the relevant Reporting Entity within 5 business days of the event disclosing any financial interests in Investments in or relating to the Reporting Entity.
- (2) A person connected to a Reporting Entity shall file a report with the DFSA and the relevant Reporting Entity within 5 business days of the event on the occurrence of any event as a result of which:
  - (a) he acquires or ceases to have a financial interest in Investments in or relating to the Reporting Entity;
  - (b) the level of financial interest in Investments in or relating to the Reporting Entity in relation to which he has previously filed a report with the DFSA has changed by an amount or passed through a defined level as prescribed by the Offered Securities Rules, or
  - (c) he ceases to be a connected person.” [Amended][VER7/02-07][RM42/07]

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- 9.2.2** (1) For the purposes of Article 25(2)(b), a Person who is a Connected Person by virtue of:
- (a) being a Director or being involved in senior management of the Reporting Entity or an Associate body corporate of the Reporting Entity; or
  - (b) being a Director or being involved in senior management of any Person who owns or beneficially owns voting Securities carrying more than 5% of the votes attached to all voting Securities of the Reporting Entity;

must file a report in accordance with Rule 9.2.3 in relation to every change in the amount or level of Financial Interest previously filed.

- (2) For the purposes of Article 25(2)(b), a Person who is a Connected Person by virtue of owning or beneficially owning voting Securities carrying more than 5% of votes attached to all voting Securities of the Reporting Entity or an Associate body of the Reporting Entity must file a report in accordance with Rule 9.2.3 in relation to every change in Financial Interest which passes through a full percentage point from the previous level of Financial Report filed.

- 9.2.3** (1) Reports filed by Connected Persons must be filed with the DFSA and the relevant Reporting Entity and disclosed by the Reporting Entity in accordance with Rule 8.2.1(3).
- (2) Reports filed by Connected Persons must contain the following information:
- (a) the date on which the transaction or other event giving rise to the filing requirement was effected;
  - (b) the date on which the filing requirement was made; and
  - (c) the price, amount and class of Investments concerned in relation to the transaction or other event and the previous and new Financial Interest of the Person in the Reporting Entity.

[Amended][VER2/08-05]

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### 9.3 Significant interest in a Listed Fund

- 9.3.1** (1) A Person has a significant interest in a Listed Fund if that Person:
- (a) owns or beneficially owns Units carrying more than 5% of votes attached to all voting Units of the Listed Fund;
  - (b) is a Director or is involved in the senior management of the Listed Fund; or
  - (c) is a Director or is involved in senior management of any Person who owns or beneficially owns voting Units carrying more than 5% of the votes attached to all voting Units of the Listed Fund.
- (2) If a Person:
- (a) acquires or ceases to have a significant interest in a Listed Fund; or
  - (b) has a significant interest in a Listed Fund and there is a movement of at least 1% in that Person's holding;
- such a Person must file a report containing the information referred to in (4) with the DFSA and the Reporting Entity of that Listed Fund. In cases where the Person has not instigated the act which causes an event in (a) or (b) to occur, then that Person must report as soon as he becomes aware of such an event.
- (3) The Reporting Entity must disclose the information in the report in accordance with Rule 8.2.1(3).
- (4) The information to be given in the report in accordance with (2) is:
- (a) the name and registered address of the Listed Fund;
  - (b) the Person's name and address;
  - (c) the date on which the transaction or other event giving rise to the report was effected; and
  - (d) the price, amount and class of Units concerned in relation to the transaction or other event and the previous and new significant interest of the Person in the Listed Fund.

[Added][VER2/08-05]

## 10 SPONSORS

### 10.1 Application

#### 10.1.1 This chapter applies to:

- (a) sponsors; and
- (b) Persons required to appoint a sponsor under Rule 4.2.6.

[Amended][VER5/06-06]

#### **Guidance**

Rule 4.2.6 requires the appointment of a sponsor for a Prospectus Offer in the DIFC in sufficient time to enable the sponsor to comply with its obligations and for as long as the Offer is open. The requirement for the appointment of a sponsor is designed to ensure that a Person who makes or intends to make a Prospectus Offer is aware of, and complies with, the requirements under the Markets Law 2004 and this module.

In most cases the Person making a Prospectus Offer, will be the Issuer of the Securities in the Prospectus. However there may be situations where the Person making a Prospectus Offer, that is the Offeror, is not the Issuer.

In any event, the sponsor must make certain inquiries and assume certain obligations under the Rules. A sponsor must therefore be a Person familiar with the requirements of the Markets Law 2004 and this module and who has the necessary knowledge, experience, qualifications and resources to assist the Offeror to comply with the various requirements.

The DFSA's *Policy Statement 1/2006 Sponsors* describes in greater detail the role and regulatory obligations of a sponsor and the kind of knowledge, experience, qualifications and resources the DFSA expects a sponsor to have. The Policy explains that although a sponsor has certain regulatory obligations of its own, as prescribed in this module, its principal role is to assist a Person making a Prospectus Offer to comply with its regulatory responsibilities relating to the Offer. In the Policy Statement, the DFSA confirms that a Person making a Prospectus Offer does not, and cannot, avoid or diminish its regulatory obligations related to Offering Securities simply because it is required to have a sponsor. The regulatory obligations of the Person making the Prospectus Offer are not transferred to the sponsor but remain the responsibility of the Person making the Offer.

[Amended][VER5/06-06]

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## 10.2 Appointment of sponsors

[Amended][VER5/06-06]

- 10.2.1** (1) Prior to appointing a sponsor, a Person must:
- (a) take reasonable steps to ensure that the proposed sponsor has the required knowledge, experience, qualifications and resources to carry out its obligations under the Rules; and
  - (b) notify the DFSA of the proposed sponsor's name, its business address and an address in the DIFC for the service of documents.
- (2) If requested by the DFSA, a Person appointing a sponsor must provide the DFSA with information about the knowledge, experience, qualifications and resources of the appointed or proposed sponsor.
- 10.2.2** (1) A Person must take reasonable steps to ensure that the relevant sponsor and Employees of the sponsor are independent and have appropriately managed any conflict of interest that may arise.
- (2) A Person must notify the DFSA if it becomes aware, or has reason to believe, that the sponsor or relevant Employees of the sponsor are no longer independent or have a conflict of interest which has not been appropriately managed.
- 10.2.3** Where, in the opinion of the DFSA, a sponsor appointed by a Person is not suitable, or where a sponsor has not been appointed or has resigned, the DFSA may direct the Person to replace or appoint a sponsor.

## 10.3 Obligations of a sponsor

[Amended][VER5/06-06]

- 10.3.1** A sponsor appointed pursuant to Rule 4.2.6 must:
- (a) satisfy itself to the best of its knowledge and belief, having made due and careful enquiry that the Person who makes or intends to make a Prospectus Offer has satisfied all applicable conditions for Offering Securities and other relevant requirements under the Markets Law 2004 and this module;
  - (b) provide to the DFSA any information or explanation known to it in such form and within such time limit as the DFSA may reasonably require for the purpose of verifying whether this module is being, and has been, complied with by the Offeror and Issuer in a Prospectus Offer; and
  - (c) take other steps required in writing by the DFSA.

- 10.3.2** (1) Where a sponsor becomes aware of a failure by a Reporting Entity to comply with its obligations under the Markets Law 2004 and this module, the sponsor must without undue delay:
- (a) notify the Reporting Entity of the failure and take reasonable steps to ensure it rectifies the failure within a reasonable time; and
  - (b) if the Reporting Entity does not or is unable to rectify the failure as soon as practicable:
    - (i) notify the DFSA of that fact; and
    - (ii) if the continuing obligation is one of disclosure, make the disclosure to the DFSA.

## **10.4 Obligations in relation to reporting entities**

DELETED. [Amended][VER5/06-06]

## **10.5 Duty of care of sponsors**

- 10.5.1** A sponsor has a duty of care to the Person to which it is appointed. [Amended][VER5/06-06]

## **10.6 Co-operation with sponsors**

- 10.6.1** Persons who make or intend to make a Prospectus Offer must take reasonable steps to ensure that they and their Employees: [Amended][VER5/06-06]

- (a) provide such assistance as the sponsor reasonably requires to discharge its duties;
- (b) give the sponsor right of access at all reasonable times to relevant records and information;
- (c) do not interfere with the sponsor's ability to discharge its duties;
- (d) do not provide misleading or deceptive information to the sponsor; and
- (e) report to the sponsor any matter which may significantly affect the financial position of the Person issuing the Securities or the price or value of the Securities. [Amended][VER5/06-06]

- 10.6.2** A sponsor must notify the DFSA of any non co-operation by the Offeror, Issuer, or their Employees.

## 10.7 Termination of sponsorship

[Amended][VER5/06-06]

- 10.7.1** Where a Person who makes or intends to make a Prospectus Offer dismisses its sponsor, the Person must advise the DFSA in writing without delay of the dismissal, giving details of any relevant facts and circumstances.
- 10.7.2** Where a sponsor resigns, it must advise the DFSA in writing without delay of the resignation, giving details of any relevant facts and circumstances.



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## 11 COMPLIANCE ADVISERS

[Added][VER5/06-06]

### 11.1 Application

**11.1.1** This chapter applies to Reporting Entities that are required to appoint compliance advisers under Rule 8.4.3.

#### Guidance

The requirement for the appointment of a compliance adviser is designed to ensure that a Reporting Entity is aware of and complies with its continuing obligations under the Markets Law 2004 and this module. A compliance adviser should therefore be a person familiar with the requirements of the Markets Law 2004 and this module and should have the necessary knowledge, experience, qualifications and resources to assist a Reporting Entity to comply with its regulatory obligations.

The DFSA's *Policy Statement 2/2006 Compliance Advisers* describes in greater detail the purpose of a compliance adviser and the circumstances in which the DFSA is likely to require a Reporting Entity to appoint a compliance adviser. The Policy also describes how a compliance adviser can assist a Reporting Entity to meet its obligations in the Markets Law 2004 and this module generally, and specifically the continuing obligations prescribed in Rule 8 and App2, App3 and App4 of this module. The Policy explains that the compliance adviser does not take on any regulatory obligations or potential regulatory liability of its own under the Markets Law 2004 or this module if it agrees to act as a compliance adviser to a Reporting Entity. The relationship between the Reporting Entity and compliance adviser is a contractual one similar to one with any other professional adviser. In the Policy Statement the DFSA confirms its view that the compliance adviser role is merely to advise and assist the Reporting Entity to comply with its continuing regulatory responsibilities, all of which remain the responsibility of the Reporting Entity.

### 11.2 Appointment of compliance advisers

**11.2.1** The DFSA may, in its absolute discretion, require a Reporting Entity to:

- (1) appoint a compliance adviser; or
- (2) replace a compliance adviser already appointed.

**11.2.2** (1) A Reporting Entity required to appoint a compliance adviser must, prior to making the appointment:

- (a) take reasonable steps to ensure that the proposed compliance adviser has the required knowledge, experience, qualifications and resources to carry out its obligations under this module;
- (b) notify the DFSA of the proposed compliance adviser's name and business address; and

- (c) take reasonable steps to ensure that the proposed compliance adviser and its relevant Employees are independent and that any conflicts of interest are appropriately managed.
- (2) If requested by the DFSA, a Reporting Entity appointing a compliance adviser must provide the DFSA with such information as it may require including information regarding knowledge, experience, qualifications and resources of the compliance adviser.
- (3) A Reporting Entity must notify the DFSA if it becomes aware, or has reason to believe, that the compliance adviser or its relevant Employees have a conflict of interest which has not been appropriately managed.

### **11.3 Obligations of a Reporting Entity relating to a compliance adviser**

**11.3.1** Where a Reporting Entity is advised by its compliance adviser that it is failing or has failed to comply with its obligations under the Markets Law 2004 and this module, the Reporting Entity must without undue delay:

- (a) take reasonable steps to rectify the failure as soon as practicable; and
- (b) if the Reporting Entity does not or is unable to rectify the failure as soon as practicable notify the DFSA of that fact.

**11.3.2** A Reporting Entity must provide to the DFSA any information in such form and within such time as the DFSA may reasonably require regarding its compliance adviser or any advice the compliance adviser is providing, or has provided, to the Reporting Entity regarding its continuing obligations under the Markets Law 2004 and this module.

**11.3.3** A Reporting Entity must take reasonable steps to ensure its compliance adviser cooperates in any investigation conducted by the DFSA including answering promptly and openly any questions addressed to the compliance adviser, promptly producing the originals or copies of any relevant documents and attending before any meeting or hearing at which the compliance adviser is requested to appear.

### **11.4 Co-operation with compliance advisers**

**11.4.1** A Reporting Entity must take reasonable steps to ensure that it and its Employees:

- (1) provide such assistance as the compliance adviser reasonably requires to discharge its duties;
- (2) give the compliance adviser right of access at all reasonable times to relevant records and information;

- (3) do not hinder or interfere with the compliance adviser's ability to discharge its duties;
- (4) do not withhold information that would assist the compliance adviser advising the Reporting Entity of its duties;
- (5) do not provide misleading or deceptive information to the compliance adviser; and
- (6) report to the compliance adviser any matter which may significantly affect the financial position of the Reporting Entity or the price or value of the Securities.

## **11.5 Termination of compliance adviser**

**11.5.1** Where a Reporting Entity dismisses its compliance adviser, the Reporting Entity must advise the DFSA in writing without delay of the dismissal, giving details of all relevant facts and circumstances.

**11.5.2** Where a compliance adviser resigns, the Reporting Entity must without delay advise the DFSA in writing of the resignation, giving details of all relevant facts and circumstances.

## **11.6 Appeal to the Regulatory Appeals Committee**

The Regulatory Appeals Committee has jurisdiction to hear and determine any appeal of a decision of the DFSA to require a Reporting Entity to appoint a compliance adviser under Rules 8.4.3 and 11.2.

## **12 CONTRAVENTIONS, ENFORCEMENT AND STOP ORDERS**

[Renumbered][VER5/06-06]

### **12.1 Application**

**12.1.1** This chapter applies to every Person to whom the Markets Law 2004 applies and to the same extent in relation to every such Person as that Law.

#### **Guidance**

1. Part 9 of the Markets Law 2004 deals with contraventions. Article 54 of the Markets Law 2004 provides that the DFSA may apply to the Court or the Financial Markets Tribunal to obtain an order or orders against a Person who has contravened the Markets Law 2004 or the Rules as follows:

"(1) Without limiting the powers of the Court or the Financial Markets Tribunal, either may on the application of the DFSA, make one or more of the following orders in relation to a person, irrespective of whether a Contravention has occurred or not, if in its opinion, it is in the interest of the DIFC to make the order or orders:

- (a) an order restricting any conduct on such conditions or terms as the Court or the Financial Markets Tribunal thinks fit;
- (b) an order that trading in any Investments cease permanently or for such period as is specified in the order;
- (c) an order that any exemptions contained in the Markets Law 2004 or the Rulebook, do not apply permanently or for such period as is specified in the order;
- (d) an order that a person submit to a review by the DFSA of his practices and procedures and institute such changes as may be directed by the DFSA;
- (e) orders in relation to activities relating to Takeovers, Takeover Offers mergers or acquisitions of shares within the DIFC;
- (f) an order that a disclosure be made to the market;
- (g) an order reprimanding a person described in the order;
- (h) an order that a person resign one or more positions that the person holds as a Director or officer of a Company;
- (i) an order that a person is prohibited from becoming or acting as a Director or officer of any Company;
- (j) an order that a person is prohibited from making offers of Securities in or from the DIFC;
- (k) an order that a person is prohibited from being involved in listing companies or Securities within the DIFC;

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- (l) an order requiring a person to disgorge to the DFSA any amounts obtained as a result of the non-compliance with the Markets Law 2004 or the Rulebook;
    - (m) an order that a release, report, Prospectus, Supplementary Prospectus, return, financial statement or any other document described in the order:
      - (i) be provided by a person described in the order;
      - (ii) not be provided by a market participant described in the order;
      - (iii) be amended by a market participant to the extent that amendment is practicable;
    - (n) an order that a person pay a fine; or
    - (o) any order that the Court or Financial Markets Tribunal thinks fit, in order to maintain the integrity of the DIFC and ensure an efficient, honest, fair and transparent market.
  - (2) The Court or Financial Markets Tribunal may, on the application of the DFSA, make interim and ex parte orders specified in Article 54(1) (a), (b), (c), (d), (e), (f), (m) and (o).
  - (3) An order under Article 54(1) and (2) may be subject to such terms and conditions as the Court or the Financial Markets Tribunal may impose."
2. The purpose of the provisions of part 9, along with the powers of the DFSA set out in the Enforcement module of the Rules is:
- a. to foster and maintain fairness, transparency and efficiency in the financial services industry (namely, the financial services and related activities carried on) in the DIFC;
  - b. to foster and maintain confidence in the financial services industry in the DIFC;
  - c. to foster and maintain the financial stability of the financial services industry in the DIFC, including the reduction of systemic risk;
  - d. to prevent, detect and restrain conduct that causes or may cause damage to the reputation of the DIFC or the financial services industry in the DIFC, through appropriate means including the imposition of sanctions;
  - e. to protect direct and indirect users and prospective users of the financial services industry in the DIFC;
  - f. to promote public understanding of the regulation of the financial services industry in the DIFC; and
  - g. to pursue any other objectives as the Ruler may from time to time set under DIFC Law.
3. The enforcement powers of the DFSA will be exercised in accordance with the DFSA's enforcement philosophy as set out in the Enforcement module (ENF). In summary, the DFSA's enforcement philosophy is:
- a. to adopt a pro-active approach to enforcement, focusing on reducing the risk of non-compliance with applicable legislation;

- b. to work closely with home regulators of international firms to ensure a co-ordinated approach;
  - c. to exercise its enforcement powers only when necessary to ensure that the DIFC is operating fairly and transparently and in such a way as to ensure that it has the confidence of the financial services industry and its customers;
  - d. to act fairly, openly and accountably in the exercise of its enforcement powers;
  - e. to act swiftly and decisively to stop conduct which threatens the integrity of the DIFC, to minimise its effects and to prevent such conduct re-occurring; and
  - f. to publish details of enforcement action, but not to publicise the commencement or conduct of investigations.
4. Where there has been a contravention, the DFSA will use the enforcement powers set out above unless circumstances prevent it.
  5. It should be noted that the enforcement powers set out above may also be exercised against a Director or other officer of any entity that commits a contravention.

## 12.2 Stop orders

### Guidance

1. The DFSA has absolute discretion in its decision to issue a stop order under Article 16 of the Markets Law 2004, and any stop order will have immediate effect unless otherwise specified by the DFSA.
2. A stop order may be issued where the DFSA is satisfied that an Offer has contravened or would contravene these Rules or the Markets Law 2004. It is not necessary, therefore, that a contravention be established.
3. If an Offeror does not comply with the provisions of a stop order to which it is subject, the DFSA will be entitled to exercise its enforcement powers in relation to the Offeror and any purchaser or transferee of the Securities to which the stop order relates as it sees fit.
4. The DFSA has discretion to decide whether it is prejudicial to the interests of the DIFC or participants in the market to provide the opportunity to make representations prior to the issue of a stop order.
5. In determining whether it is prejudicial to the interests of the DIFC or participants in the market to provide the opportunity to make representations prior to the issue of a stop order, the DFSA will take into account all relevant surrounding circumstances, including, but not limited to, the following:
  - a. the seriousness of any suspected contravention of these Rules or the Markets Law 2004 and the steps that need to be taken to correct that contravention;
  - b. the Offeror's conduct in identifying the contravention and taking action in respect thereto; and
  - c. the impact that the issue of a stop order will have on the Offeror's business or on its customers.

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6. Where an opportunity to make representations is afforded, whether before or after the issue of a stop order, the DFSA will provide the Offeror in question with a notice setting out the following information:
    - a. that the DFSA has decided to issue a stop order in relation to the Offeror;
    - b. the DFSA's reasons for its decision;
    - c. that the Offeror may make representations in person and/or in writing within a specified time from the date of the notice; and
    - d. the name and contact details of the individual exercising the delegated authority of the DFSA in making the decision to issue a stop order.
  7. If the Offeror decides to make no representations, or to make representations in writing, then the DFSA will decide whether to issue the stop order on the basis of the material then available, subject to seeking clarification of any issues that arise from the written submissions.
  8. Should the Offeror wish to make representations in person, it should notify the DFSA as soon as possible and within the timeframe provided for making representations. The notification should specify matters on which the Offeror wishes to make oral representations, how long the Offeror expects the representations to take and provide the names of any representatives appointed to attend the meeting at which the representations will be made.
  9. If after notifying the DFSA of its intention to make representations in person, the Offeror chooses not to make those representations, the DFSA will nevertheless decide the matter.
  10. An Offeror may appoint one or more representatives of its choice (who may be legally qualified) to attend the meeting at which representations will be made. The representatives may make or assist in making the representations.
  11. The DFSA will specify a time as soon as is reasonably possible after receiving the notification for the meeting to take place. The DFSA may specify the place the meeting will take place and may specify that it will take place in private. The DFSA may limit the type, length and content of any representations. The DFSA may ask the Offeror or the Offeror's representative at the meeting to clarify any issues arising out of the representations.
  12. Once the DFSA has received submissions in writing or in person, the DFSA will inform the Offeror without undue delay of:
    - a. its decision;
    - b. the date of effect of the decision; and
    - c. the fact that the Offeror has the right to appeal the decision to the Regulatory Appeals Committee.



**13** [DELETED][VER10/12-07][RM52/07]



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## 14 WAIVERS OR MODIFICATIONS

[Renumbered][VER5/06-06]

### 14.1 Applications to waive or modify the Markets Law 2004 and rules

#### Guidance

Under Article 58 of the Markets Law 2004 and Article 25 of the Regulatory Law, the DFSA may waive or modify the application of the Markets Law 2004 and Rules.

**14.1.1** A Person wishing to seek a waiver or modification of a provision of the Law or Rules as it applies to him, must:

- (a) apply in writing to the DFSA;
- (b) clearly identify the provision in relation to which he seeks a waiver or modification; and
- (c) ensure that the application is accompanied by a statement of the reasons supporting the application.

**14.1.2** In considering the application, the DFSA may:

- (a) carry out any enquiries which it considers appropriate;
- (b) require the applicant to provide additional information in such form as the DFSA considers appropriate;
- (c) require any information furnished by the applicant to be verified in such manner as the DFSA may specify; and
- (d) take into account any information which it considers appropriate in relation to the application.

## APP 1 CONTENTS OF PROSPECTUS

### A1.1 Contents of prospectus – Information about the issuer (registration statement)

**A1.1.1** A Person filing a Prospectus in accordance with Rule 4.2.1(1) must provide the following information which are specific disclosure requirements in addition to the general requirements under Article 15 of the Markets Law 2004:

**Note:** A column marked with an “x” indicates that the disclosure requirements apply in relation to that type of Security. [Added][VER2/08-05]

		<b>A1.1.1</b>					
Criterion for contents of prospectus – registration statement		Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures
1.	The full name, registered number, address, jurisdiction, relevant law and date of incorporation of the Issuer.	X	X	X	X	X	X
2.	The principal administrative establishment if different from the registered office of the Issuer.	X	X	X	X	X	X
3.	If the Issuer is a member of a Group, a brief description of the Group explaining the Issuer’s position within that Group.	X	X	X	X	X	X
4.	The date the Prospectus was signed by the Directors in accordance with item 7. In the case of Securities issued by a government, the date the Prospectus was signed by the responsible or relevant authority.	X	X	X	X	X	X
5.	Brief details of how and on what basis the Securities will be distributed, the names of any sponsors, advisors and underwriters in relation to the Securities and a statement to the effect that no Securities will be distributed under the Prospectus later than twelve months after the date of the Prospectus.	X	X	X	X	X	X
6.	Where the Issuer has a fixed life, this must be stated together with the end date.	X	X	X	X	X	X
7.	A signed statement by the Directors of the Issuer that: (a) the Prospectus complies with the Offered Securities Rules and Markets Law 2004; and (b) the Directors accept responsibility jointly and severally for the information contained in the Prospectus and believe that there are no other facts, the omission of which, would make the Prospectus or any statement therein misleading or deceptive.	X	X	X	X	X	X
8.	The names, addresses and professional qualifications of the Directors of the Issuer and, where relevant, the Directors of the ultimate Holding Company of the Issuer.	X	X	X	X	X	X
9.	The names, addresses and professional qualifications of the auditors of the Issuer for the last three years.	X	X	X	X	X	X
10.	The financial accounts must be audited by an independent, competent and qualified auditor in accordance with the standards of the International Auditing and Assurance Standards Board (IAASB) or the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) where relevant or other standards	X	X	X	X	X	X

<b>A1.1.1</b>						
<b>Criterion for contents of prospectus – registration statement</b>	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures
acceptable to the DFSA. Audited financial accounts of the Issuer of the Securities for three completed financial years prior to the date of the Prospectus prepared in accordance with the International Financial Reporting Standards or other reporting standards acceptable to the DFSA, or where appropriate, AAOIFI standards. Where the Issuer is a member of a Group which prepares consolidated accounts, the requirement to present individual accounts may be dispensed with, provided that the consolidated accounts are published. Where the Issuer has been created for a special purpose, and does not fulfil the relevant accounting pre-requisites, the requirements may be dispensed with. [Amended][VER8/06/07][RM43/07]						
11. Where more than six months have elapsed since the end of the financial year to which the most recent audited accounts of the Issuer relate, an interim financial statement covering the period from the end of that financial year to the end of the quarter immediately preceding the date of the Prospectus.	X	X	X	X	X	X
12. A statement by the Directors that in their opinion the working capital available to the Issuer is sufficient or, if not, how it is proposed to provide the additional working capital.	X	X			X	
13. The name, address, professional qualifications of any expert responsible for an expert statement or report contained in the Prospectus and the date on which the expert statement or report was made or produced. Further, the Prospectus shall provide disclosure of any conflicts of interests or perceived conflicts of interests between the expert and the Issuer, including the nature and value of any benefit paid by the Issuer to the expert taking account of: Investments held or to be held by the expert, fees and commissions paid or to be paid to the expert or Persons associated with the expert.	X	X	X	X	X	X
14. In the case of a property, mineral or scientific research company, a report by an expert on the assets or rights owned by the Issuer prepared at a date which shall be no later than three months before the date of the Prospectus.	X	X	X	X	X	X
15. A detailed description of the Issuer's actual and proposed principal activities. The information should include the following: (a) the history of the Issuer; (b) a description of the principal activities and business of the Issuer; (c) any major customers, suppliers or other material dependencies of the Issuer; (d) relevant security or principal investments by the Issuer; and (e) where the Issuer belongs to a Group, relevant material information in relation to the Group's activities.	X	X	X	X	X	X
16. The Issuer must include the following information: (a) a statement as to the Issuer and the Group's material financial and trading position and trading prospects over the next twelve months; (b) a statement of any material adverse change in the financial position or trading prospects of the Issuer and the Group since the last audited accounts or later interim statement; and (c) a summary of the Issuer's annual accounts relating to the last completed financial year; and any significant events that may have had an effect on these accounts.	X	X	X	X	X	
17. The identity of any Person known to hold more than 5% of the voting rights of the Issuer.	X	X			X	
18. Details of the holdings of the Directors or proposed Directors in the voting rights of the Issuer, and of any contract, borrowings or other arrangement between the Directors or proposed Directors and the Issuer.	X	X			X	
19. A summary of the provisions of the constitution of the Issuer with regard to:	X	X			X	

<b>A1.1.1</b>						
<b>Criterion for contents of prospectus – registration statement</b>	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures
(a) any power enabling a Director to vote on a proposal, arrangement, or contract in which he is materially interested; (b) any power enabling the Directors, in the absence of an independent quorum to vote on remuneration (including pension or other benefits) to themselves or any members of the Governing Body; (c) borrowing powers exercisable by the Directors and how such borrowing powers be varied; (d) retirement or non-retirement of Directors in respect of an age limit; (e) any arrangements by which a single investor or group of investors may exercise significant influence over the Issuer; and (f) any other aspects of the constitution of the Issuer which may be relevant to investors.						
20. Summary of the total of any options or other rights granted in respect of Shares in the Issuer to any Person, along with an estimate of the number of Shares which would be created if such rights were to be exercised.	X	X			X	
21. Information on any legal proceedings, current or threatened, which could have a significant impact on the Issuer or Group's position or on the price or value of the Securities.	X	X	X	X	X	X
22. Disclosure of any conflicts or potential conflicts of interest that any Connected Persons may have. Any disclosures must include, where relevant, all transactions and relationships between the Issuer and any Connected Person, including: (a) the parties to the transaction; (b) the date of the transaction; (c) the relationship of each of the Connected Persons to the Issuer; (d) the value of the transaction; (e) any security holder approvals obtained in connection with the transaction; and (f) any future transactions involving those parties.	X	X	X	X	X	X
23. An explanation of any significant matter that investors would reasonably require in relation to the Issuer and the Issuer's jurisdiction. Any such explanation should be given appropriate prominence depending on the nature of the matter concerned and its significance.	X	X	X	X	X	X
24. A summary of the Issuer's responsibilities and obligations in respect of the Certificates including the obligations and responsibilities in making certain payments as and when payments on the underlying Securities are received.					X	X
25. Islamic Products Where the relevant Securities are held out as being in compliance with Shari'a: (a) the members of the Shari'a Supervisory Board appointed by the Issuer who have undertaken the review of the relevant Securities; and (b) details of the qualifications and experience of each of those Shari'a Supervisory Board members.	X	X	X	X	X	X
26. Where the Issuer has already filed a Registration Statement, the latest Issue Note must contain details of any change in the information provided in the Registration Statement and this information should be highlighted as an update to the previous Registration Statement.	X	X	X	X	X	X

## A1.2 Contents of prospectus – Information about the securities (issue note)

**A1.2.1** A Person filing a Prospectus in accordance with Rule 4.2.1(1) must provide the following information which are specific disclosure requirements in addition to the general requirements under Article 15 of the Markets Law 2004:

**Note:** A column marked with an “x” indicates that the disclosure requirements apply in relation to that type of Security. [Added][VER2/08-05].

		<b>A1.2.1</b>					
Criterion for contents of Prospectus – issue note		Shares	Warrants over shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures
1.	(a) The proposed dates for the following in respect of the Securities: (i) admission to an Official List of Securities by an Authorised Market Institution; (ii) admission to listing or trading by a Financial Service Regulator or exchange in a jurisdiction outside the DIFC; and (iii) any other such comparable event. (b) The actual dates of any of the following events in respect of the Securities: (i) when the Securities were admitted to the register of an Official List of Securities by an Authorised Market Institution; (ii) when the Securities were listed or admitted to trading by a Financial Services Regulator or exchange in a jurisdiction outside the DIFC; and (iii) any other such comparable event.	X	X	X	X	X	X
2.	Terms and conditions in relation to the Issue including: (a) the number of Securities offered; (b) the price or price range of the Securities; (c) the period in which the Securities may be offered, including the opening and closing dates; (d) the manner of allocation of Securities to applicants including the manner in which Securities are allotted in the event of over subscription; (e) where the Securities to be offered confer the right to subscribe for new Securities; details of such rights, including a statement of the maximum number of Securities which would be created if the rights were exercised in full; (f) proposed date for allotment of Securities; (g) details of the current constitution of the Share capital and the relevance of the Securities in relation to the Share capital; (h) all relevant details of the underwriter and the plan of distribution including the nature of the obligations of the underwriter; and (i) in the event of the Offer not proceeding, the details of the procedure and means under which the funds will be returned.	X	X	X	X	X	X
3.	A summary of the nature and the rights attaching to the Securities, including any restrictions on transferability and any arrangements for settlement of transfers.	X	X	X	X	X	X
4.	Methods of payment for the Securities, particularly as regards the paying up of Securities which are not fully paid or are payable by instalments.	X	X	X	X	X	X
5.	A description of the manner in which the capital raised by the issue will be used by the Issuer.	X	X	X	X	X	X

		<b>A1.2.1</b>					
	<b>Criterion for contents of Prospectus – issue note</b>	Shares	Warrants over shares	Debentures	Debentures over Warrants	Certificates over Shares	Certificates over Debentures
6.	Particulars of any commissions or other fees to be paid by the Issuer in relation to the issue.	X	X	X	X	X	X
7.	(a) A statement in bold, on the front page of the Prospectus as follows: “A copy of this Prospectus has been filed with the Dubai Financial Services Authority (DFSA) in accordance with the Markets Law 2004 and the Offered Securities Rules. In accordance with the Rules, the DFSA has no responsibility for reviewing or verifying any documents in connection with the offers of Securities. The DFSA has not approved this Prospectus nor has it reviewed or verified the information in it. If you do not understand the contents of this document you should consult an authorised financial advisor” and (b) Where the relevant Securities are held out as being compliant with Shari’a: “A copy of this Prospectus has been filed and registered with the Dubai Financial Services Authority (DFSA) in accordance with the Markets Law 2004 and the Offered Securities Rules. In accordance with the Rules, the DFSA has no responsibility for the contents of the Prospectus and has not approved this Prospectus nor has it reviewed or verified the information in it, nor has it determined whether it is Shari’a compliant. If you do not understand the contents of this document you should consult an authorised financial adviser”.	X	X	X	X	X	X
8.	The identity of the seller of the Securities where the Person making the Offer is not the Issuer.	X	X	X	X	X	X
9.	The nature of the risks involved in investing in the Securities including: (a) the material risks associated with investing in the Issuer, and where applicable, any risks associated with the assets to be acquired using the proceeds of the distribution; (b) the effect that the material risks may have on the Issuer together with a discussion of how the risk could affect the business, operating results and financial condition of the Issuer; (c) any steps proposed by the Issuer to mitigate or manage the risks; and (d) general and specific risks relating to the industry or jurisdiction in which the Issuer operates.	X	X			X	
10.	Sufficient information to enable a Person to form an opinion concerning the creditworthiness of the Issuer including earnings coverage ratio and relevant credit ratings.			X	X		X
11.	If the Securities or the underlying Securities are asset backed, describe all the material attributes of the asset backed Securities, including: (a) the asset backing the product; (b) rate of interest or stipulated yield or any premium; (c) the date for repayment of the principal return of capital; (d) provisions for permitting or restricting the issuance of additional Securities; (e) the nature, order and priority of the entitlements of holders; and (f) any events, covenants, standards or pre-conditions that may impact on payments or distributions to be made to the investor.			X	X		X
12.	An indication of the legislation under which the Certificates and the underlying Securities have been created and of the courts of competent jurisdiction in the event of litigation including details of the consequences in event of default occurring in respect of the underlying Securities.					X	X
13.	An indication of the possibility of obtaining the conversion of the Certificates into the underlying Securities, the procedure for such conversion, and commission and costs involved with such a conversion.					X	X
14.	The provisions relating to the exercise of and benefit from the rights attaching to the underlying Securities, in particular voting rights. The conditions on which the					X	X

		<b>A1.2.1</b>					
	<b>Criterion for contents of Prospectus – issue note</b>	Shares	Warrants over shares	Debentures	Debentures over Warrants	Certificates over Shares	Certificates over Debentures
	Issuer of the Certificates may exercise such rights and measures envisaged to obtain the instructions of the Certificate holders and the right to share in profits and any liquidation surplus.						
15.	The names and addresses of the paying agents and trustees and fiscal agents in relation to the creation of the Certificate.					X	X
16.	Details of any bank or other guarantees attached to the Certificates and intended to underwrite the Issuer's obligations.					X	X
17.	The amount of the commissions and costs to be borne by Certificate holders in connection with the payment of coupons or other income and the creation of additional certificates.					X	X
18.	An indication of the tax arrangements with regard to any taxes and charges to be borne by Certificate holders and levied in the jurisdictions where the Certificates are issued.					X	X
19.	Confirmation that under the laws governing the Issuer's activities the underlying Securities would not form part of the Issuer's assets in the event of bankruptcy or insolvency and that there is no credit risk to the Issuer attaching to the Certificates.					X	X
20.	The names of banks with which the main accounts relating to the underlying Securities are held.					X	X
21.	Where the relevant Securities are held out as being in compliance with Shari'a: (a) the opinion of the Shari'a Supervisory Board in respect of whether the Securities are Shari'a compliant; (b) a description of the structure of the underlying transaction and an explanation of the flow of funds; and (c) where applicable, the disclosures required by the Shari'a Standards published from time to time by AAOIFI in respect of investment sukuk.	X	X	X	X	X	X

## APP 2 CONTINUING OBLIGATIONS

### A2.1 Continuing obligations - disclosure relating to the reporting entity

**A2.1.1** On occurrence of an event in the “events” column, a Reporting Entity must make the type of disclosure in accordance with the “requirements” column and the “time” column. [Amended][VER2/08-05]

- Note:**
1. A column marked with an “x” indicates that the disclosure requirements apply in relation to that Security.
  2. Continuing obligations in relation to disclosure requirements for Listed Funds are located in section A2.3. [Added][VER2/08-05]

<b>A2.1.1</b>										
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Debentures	Certificates over Debentures	
<b>Price Sensitive Information Relating to the Reporting Entity</b>										
1.	(a) material developments relating to the Securities that may constitute Price Sensitive Information; (b) any change in the business, financial condition, performance or expectation of performance that may constitute Price Sensitive Information; and (c) impending or strategic developments or matters in the course of negotiations where there is reason to believe that a breach of confidence has or is likely to occur in relation to Price Sensitive Information.	Market disclosure of the development or change as the case may be, including all Price Sensitive Information relating to it.	Without delay.	X	X	X	X	X	X	
2.	Belief that a breach of confidence has occurred or is likely to occur in relation to Price Sensitive Information.	Disclosure to the DFSA of the breach or likely breach, including all Price Sensitive Information relating to it.	Without delay.	X	X	X	X	X	X	
<b>The Governing Body of the Reporting Entity</b>										
3.	Any change to the Governing Body of the Reporting Entity including: (a) the appointment of a new Director; (b) the resignation, retirement or removal of an existing Director; and	Market disclosure of: (a) the effective date of the change (if it has been	Without delay.	X	X			X		



<b>A2.1.1</b>									
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
	(c) changes to any important functions or executive responsibilities of a Director.	decided); (b) whether the position is executive or non-executive; (c) whether the position is considered to be independent; and (d) the nature of any functions or responsibility of the position.							
4.	Information in respect of a new Director.	Market disclosure of: (a) All directorships past or present held by the Director in any other Body Corporate in the previous five years; (b) the professional qualifications and experience of the Director; (c) details of the process by which the Director was selected; (d) any unspent convictions relating to serious criminal offences; (e) any bankruptcies or individual voluntary arrangements of the Director; (f) any compulsory liquidations, creditors voluntary liquidations, company voluntary arrangements, receivership	Within 7 days of the appointment.	X	X		X		

<b>A2.1.1</b>									
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
	<p>or any composition or arrangement with its creditors generally or any class of its creditors of any Issuer where such an individual was a Director at the time of or within the 12 months preceding such events; and</p> <p>(g) any public criticisms or disqualifications of the individual by statutory or regulatory authorities and whether the individual has ever been disqualified by a court from acting as a Director of a Body Corporate or from acting in the management or conduct of the affairs of any Body Corporate or, if there are no such details to be disclosed, that fact.</p>								
5.	<p>Shari'a Supervisory Board</p> <p>Where a Shari'a Supervisory Board has been appointed details of any changes to the membership of the Shari'a Supervisory Board.</p>	<p>Market disclosure of:</p> <p>(a) the identity, qualifications and experience of any new Shari'a Supervisory Board members;</p> <p>(b) the identity of any Shari'a Supervisory Board members who resign or are dismissed;</p>	Without delay.	X	X	X	X	X	X

<b>A2.1.1</b>									
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
	(c) the effective date of the change; and (d) reasons for the change in membership.								
<b>Business of the Reporting Entity</b>									
6.	Transactions undertaken which could result in: (a) any significant investments or material change to a significant investment outside the ordinary course of business of the Issuer (being any investments equal to or greater than 5 per cent of the book value of the existing net assets of the Issuer) or the purchase of long term assets for a significant amount; or (b) the incurring of any significant debt outside the usual and ordinary course of business of the Issuer (being debt with an amount equal to or greater than 5 per cent of the book value of the existing net assets of the issuer).	Market disclosure relating to: (a) any decision to enter into such a transaction; (b) any material change or new matter affecting any matter contained in an earlier disclosure; and (c) a full description of the event, activity or transaction proposed or effected as the case may be.	Without delay.	X	X			X	
<b>Transactions With Connected Persons And Associates by a Reporting Entity</b>									
7.	(a) A transaction other than a transaction of a revenue nature in the ordinary course of business between a Reporting Entity and a Connected Person, Associate or Group Director ; (b) any arrangements pursuant to which a Reporting Entity and a Connected Person, Associate or Group Director each invests in, or provides finance to a member of its Group; (c) a transaction other than a transaction of a revenue nature in the ordinary course of business between a Reporting Entity and any Person who exercises significant influence over the Reporting Entity; or (d) any transaction described by (a) and (b) between a Reporting Entity and any Person who is (or was within the 12 months preceding the date of the transaction) a Connected Person or Associate or Group Director.	Market disclosure of nature, content and details of any transactions.	Without delay.	X	X			X	
<b>Disclosures relating to Securities of the Issuer</b>									

<b>A2.1.1</b>									
	Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures
8.	Any decision to declare, recommend or pay any dividend or to make any other distribution on the Securities or any decision not to declare, recommend or pay any dividend which would otherwise have been expected to have been declared, recommended or paid in the normal course of events.	Market disclosure of the decision, including the rate and amount of and record date for the dividend or other distribution or the grounds for the decision in relation to non-payment.	Without delay and in any event no later than 5 days prior to the record date or the date of expected distribution.	X	X	X	X	X	X
9.	A listing of the same class of Securities on an exchange outside the DIFC.	Market disclosure of the listing.	Without delay.	X	X	X	X	X	X
10.	Other disclosure requirements outside the DIFC arising from the listing of the same class of Securities on an exchange in the DIFC which do not require disclosure in the DIFC.	Market disclosure of the information subject to market disclosure in another jurisdiction.	Without delay.	X	X	X	X	X	X
11.	Any change of custodian or depository in relation to Certificates representing shares and debentures.	Market disclosure of the new custodian or depository and any implication/effect of this change.	Without delay.					X	X
12.	Connected Persons disclosure made under Rule 9.2.3.	Market disclosure of the details required by Rule 9.2.3.  [Amended][VER2/08-05]	Without delay.	X	X	X	X	X	X
<b>Financial Information Relating to a Reporting Entity</b>									
13.	Annual report and annual financial statements.	(1) Market disclosure of the annual report and annual financial statements.	As soon as possible after the accounts	X	X	X	X	X	X



OFFERED SECURITIES RULES (OSR)

<b>A2.1.1</b>									
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
	<p>The annual report must include in respect of the financial year to which it relates:</p> <ul style="list-style-type: none"> <li>(a) a review of operations during the year and the results of those operations;</li> <li>(b) details of any significant changes in the Reporting Entity's state of affairs during the financial year;</li> <li>(c) the Reporting Entity's principal activities during the year and any significant changes in the nature of those activities during the year;</li> <li>(d) details of any matter or circumstance that has arisen since the end of the year that has significantly affected or may significantly affect:               <ul style="list-style-type: none"> <li>(i) the Reporting Entity's operations in future financial years;</li> <li>(ii) the results of</li> </ul> </li> </ul>	<p>have been approved but no later than 120 days after the end of the financial period. [Amended][VER 6/10-06]</p>							

<b>A2.1.1</b>									
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
	<p>those operations in future financial years; or</p> <p>(iii) the Reporting Entity's state of affairs in future financial years; and</p> <p>(e) likely developments in the Reporting Entity's operations in future financial years and the expected results of those operations;</p> <p>(f) A statement by the auditors that the accounts give a true and fair view of the state of the Reporting Entity's affairs, profit and loss and additional information as may be required.</p> <p>(2) The annual financial statements must be audited by an independent, competent and qualified auditor in accordance with the International Auditing and Assurance Standards Board Financial or other standards acceptable to the DFSA or where appropriate,</p>								

		<b>A2.1.1</b>							
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
	AAOIFI standards.								
14. Compliance with Corporate Governance.	Market disclosure in the annual report of a statement of how the Reporting Entity has applied the principles of Corporate Governance, and where it has not, provide an explanation.	As soon as possible after the accounts have been approved but no later than 120 days after the end of the financial period.	X	X			X		
15. Preliminary financial results.	Market disclosure of preliminary financial results.	Without delay, but no later than 30 minutes before the market opens on the day after Governing Body approval.	X	X			X		
16. Interim financial statements.	(a) A Reporting Entity must publish a semi-annual financial statement for the first six months of each financial year or period; and (b) if the figures have either been audited or reviewed by the auditors, comments to this effect should be included.	Without delay and in any event no later than 60 days of the end of the period to which the statement relates. Without delay and in any event no later than 60 of the end of the	X	X			X		

<b>A2.1.1</b>									
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures	
		period to which the statement relates.							
17. Change of accounting reference date.	Market disclosure of previous and proposed accounting reference date, and reasons for the change.	Without delay.	X	X			X		
18. On a change of accounting reference date extending the annual accounting period to more than 14 months.	Market disclosure of a second interim report.	Within six months of the new accounting reference date.	X	X			X		
<b>Matters relating to the capital of the Reporting Entity</b>									
19. Proposed, new issues and results of new issues of Securities.	Market disclosure of the class, number, date of issue, and consideration received for the issue of the Securities and details of changes in share capital.	Without delay.	X	X	X	X	X	X	
20. Results of new issues.	Market disclosure of confirmation of the results of the issue.	Without delay.	X	X	X	X	X	X	
<b>Decisions submitted to and approved by holders of Securities</b>									
21. Events requiring consent of holders of Securities under App3.	Market disclosure of: (a) nature, details, contents and effect of the relevant event, activity or transaction; (b) any material change affecting any matter contained in an earlier disclosure.	Without delay.	X	X	X	X	X	X	



<b>A2.1.1</b>										
Event	Requirements	Time	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Certificates over Debentures		
<b>Other communications required under the Rules</b>										
22.	Any resolution passed by the Directors of the Reporting Entity other than a resolution concerning ordinary business of the Reporting Entity.	Market disclosure of the resolution.	Without delay.	X	X		X			X
<b>Insolvency/winding up of the Reporting Entity</b>										
23.	Insolvency/winding up: (a) the presentation of any winding-up petition, the making of any winding-up order or the appointment of an administrator, liquidator or the commencement of any proceedings under the Insolvency Law in respect of the Reporting Entity or any member of its Group; or (b) the passing of any resolution by the Reporting Entity or any member of its Group that it be wound up by way of members' or creditors' voluntary winding-up, or the occurrence of any event or termination of any period of time which would cause a winding-up.	Market disclosure of the: (a) time and date of the presentation, details of the order, appointment, resolution or other event; (b) identity of the petitioner or other Person at whose instigation the event occurs; (c) court or tribunal responsible for making any order; or (d) administrator or liquidator appointed.	Without delay.	X	X	X	X	X		X

## A2.2 Other obligations of a reporting entity

**A2.2.1** On occurrence of an event in the “events” column, a Reporting Entity must ensure compliance in accordance with the “requirements” column and the “time” column. [Amended][VER2/08-05]

**Note:** A column marked with an “x” indicates that the disclosure requirements apply in relation to that Security. [Added][VER2/08-05]

<b>A2.2.1</b>										
Event	Requirements	Time	Shares	Shares	Warrants over Shares	Debentures	Debentures	Warrants over Debentures	Shares	Certificates over Debentures
<b>Equality of treatment of investors by a Reporting Entity</b>										
1.	Treatment of investors.	A Reporting Entity must ensure equality of treatment in respect of all holders of Securities who are in the same position in respect of all rights attaching to the Securities.	At all times.	X	X	X	X	X	X	X
2.	Reduction of Share capital.	A Reporting Entity may only purchase its own Shares if: [Amended][VER2/08-05] (a) the purchase does not materially prejudice the Issuer’s ability to pay creditors; (b) it obtains the consent set out in App3; and (c) prior to the meeting seeking the consent referred to in (b) files with the DFSA the notice of meeting and any accompanying documents relating to the purchase.	At all times.	X	X				X	
3.	Issue of Shares.	An Issuer of Shares must provide pre-emption rights under which, on an issue of Shares for cash by it or by a subsidiary, prior	At all times	X	X				X	

<b>A2.2.1</b>										
	Event	Requirements	Time	Shares	Shares	Warrants over	Debentures	Warrants over	Certificates over	Certificates over
				Shares	Shares	Warrants over	Debentures	Warrants over	Certificates over	Debentures
		Shareholders are offered any Shares to be issued in proportion to their existing holdings prior to the Shares being offered to third parties, unless the Issuer obtains the consent in App 3. to issue Shares without pre-emption rights. [Amended][VER2/08-05]								
	<b>Communications with holders of Securities</b>									
4.	Any event in relation to which holders of Securities have voting or other rights.	<p>A Reporting Entity must ensure that all the necessary facilities and information are available to enable holders of its Securities to exercise their rights.</p> <p>In particular it must:</p> <p>(a) inform holders of Securities of meetings which they are entitled to attend, enable them to exercise their right to vote, including any cross border voting rights; and</p> <p>(b) publish notices or circulars giving information in relation to the rights attached to the Securities.</p>	At all times.	X	X	X	X	X	X	X
5.	Notices of meetings in relation to Securities.	The Reporting Entity must send a proxy form along with the notice convening a meeting of holders of Securities to each Person entitled to vote at the meeting.	At the same time as the sending of the notice.	X	X	X	X	X	X	X
6.	Paying agency.	An Issuer must have appointed a paying agent (which may be the Issuer itself).	At all times.	X	X	X	X	X	X	X

## A2.3 Disclosures relating to Listed Funds

[Added][VER2/08-05]

- A2.3.1** (1) On occurrence of an event in the “event” column, the Reporting Entity (Operator) of a Listed Fund must make the type of disclosure described in accordance with the “requirements” column and the “time” column.
- (2) In cases where the Listed Fund is in the form of the trust, the Reporting Entity (Operator) of that Listed Fund must construe the items specified in the event column in an appropriate manner so as to achieve the fundamental purpose of disclosing relevant equivalent information in respect of the trust.

[Amended] [VER3/09-05] [Amended] [VER4/04-06]

			<b>A2.3.1</b>
Item	Event	Requirement	Time
	<b>Price sensitive information in relation to a Listed Fund</b>		
1.	(a) Material developments relating to the Units that may constitute Price Sensitive Information; (b) Any change in the business, financial condition, performance or expectation of performance that may constitute Price Sensitive Information; and (c) Impending or strategic developments or matters in the course of negotiations where there is reason to believe that a breach of confidence has or is likely to occur in relation to Price Sensitive Information.	Market disclosure of the development or change as the case may be, including all Price Sensitive Information relating to it.	Without delay.
2.	Belief that a breach of confidence has occurred or is likely to occur in relation to Price Sensitive Information.	Disclosure to the DFSA of the breach or likely breach, including all Price Sensitive Information relating to it.	Without delay.
	<b>The Governing Body of the Reporting Entity or Listed Fund</b>		
3.	Any change to the Governing Body of the Reporting Entity or of the Listed Fund including: (a) the appointment of a new Director or Partner; (b) the resignation, retirement or removal of an existing Director or Partner; and	Market disclosure of: (a) the effective date of the change (if it has been decided); (b) whether the position is executive or non-executive;	Without delay.

			<b>A2.3.1</b>
Item	Event	Requirement	Time
	(c) changes to any important functions or executive responsibilities of a Director or Partner.	(c) whether the position is considered to be independent; and (d) the nature of any functions or responsibility of the position.	
4.	Information in respect of a new Director or Partner.	Market disclosure of: (a) All directorships or Partnerships past or present held by the Director or Partner in any other Body Corporate, Partnership in the previous five years; (b) the professional qualifications and experience of the Director or Partner; (c) details of the process by which the Director or Partner was selected; (d) any unspent convictions relating to serious criminal offences; (e) any bankruptcies or individual voluntary arrangements; (f) any compulsory liquidations, creditors voluntary liquidations, company voluntary arrangements, receivership or any composition or arrangement with its creditors generally or any class of its creditors of any Issuer where such an individual was a Director or Partner at the time of or within the 12 months preceding such events; and (g) any public criticisms or disqualifications of the individual by statutory or regulatory authorities and whether the individual has ever been disqualified by a court from acting as a Director of a Body Corporate or from acting in the management or conduct of the affairs of any Body Corporate or Listed Fund, if there are no such details to be disclosed, that fact.	Within 7 days of the appointment.

			<b>A2.3.1</b>
Item	Event	Requirement	Time
5.	Shari'a supervisory board  Where a Shari'a supervisory board has been appointed details of any changes to the membership of the Shari'a supervisory board.	Market disclosure of: (a) the identity, qualifications and experience of any new Shari'a supervisory board members; (b) the identity of any Shari'a supervisory board members who resign or are dismissed; (c) the effective date of the change; and (d) reasons for the change in membership.	Without delay.
6.	A breach of directors' dealing rules in Appendix 4.	Disclosure to the DFSA of the nature, content and details of the breach.	Without delay
7.	Transactions undertaken which could result in: (a) any significant investments or material change to a significant investment outside the stated investment strategy of the Listed Fund (being any investments equal to or greater than 5 per cent of the net asset value of the fund); or (b) the incurring of any significant debt outside the usual and ordinary course of business of the Listed Fund (being debt with an amount equal to or greater than 5 per cent of the net asset value of the fund) taking into account the stated investment strategy.	Market disclosure relating to: (a) Any decision to enter into such a transaction; (b) Any material change or new matter affecting any matter contained in an earlier disclosure; and (c) A full description of the event, activity or transaction proposed or effected as the case may be.	Without delay.
8.	(a) A transaction other than a transaction of a revenue nature in the ordinary course of business between a Reporting Entity and a Person with a significant interest, Associate or Group Director ; (b) Any arrangements pursuant to which a Reporting Entity and a Person with a significant interest, Associate or Group Director each invests in, or provides finance to a member of its Group; (c) A transaction other than a transaction of a revenue nature in the ordinary course of business between a Reporting Entity and any Person who exercises significant influence over the Reporting Entity; or (d) Any transaction described by (a) and (b) between a Reporting Entity and any Person who is (or was within the 12 months preceding the date of the transaction) a Person with a significant interest or Associate or Group Director.	Market disclosure of nature, content and details of any transactions.	Without delay.
9.	Any decision to declare, recommend or pay any dividend or to make any other distribution on the Units or any decision not to declare, recommend or pay any dividend which would otherwise have been expected to have been declared, recommended or paid in the normal course of events.	Market disclosure of the decision, including the rate and amount of and record date for the dividend or other distribution or the grounds for the decision in relation to non-payment.	Without delay and in any event no later than 5 days prior to the record date or the date of expected distribution.

			<b>A2.3.1</b>
Item	Event	Requirement	Time
10.	A listing of the same Units on an exchange outside the DIFC.	Market disclosure of the listing.	Without delay.
11.	Other disclosure requirements outside the DIFC arising from the listing of the same class of Units on an exchange in the DIFC which do not require disclosure in the DIFC.	Market disclosure of the information subject to market disclosure in another jurisdiction.	Without delay.
12.	Any change of custodian or depository in relation to the Listed Fund.	Market disclosure of the new custodian or depository and any implication/effect of this change.	Without delay.
13.	Annual report and annual financial statements of the Listed Fund.	<p>Market disclosure of the annual report and annual financial statements.</p> <p>The annual report must include in respect of the financial year to which it relates:</p> <ul style="list-style-type: none"> <li>(a) review of operations during the year and the results of those operations;</li> <li>(b) details of any significant changes in the Listed Fund's state of affairs during the financial year;</li> <li>(c) the Listed Fund's principal activities during the year and any significant changes in the nature of those activities during the year;</li> <li>(d) details of any matter or circumstance that has arisen since the end of the year that has significantly affected or may significantly affect: <ul style="list-style-type: none"> <li>(i) the Listed Funds' operations in future financial years;</li> <li>(ii) the results of those operations in future financial years; or</li> <li>(iii) the Listed Fund's state of affairs in future financial years; and</li> </ul> </li> <li>(e) likely developments in the Listed Funds operations in future financial years and the</li> </ul>	As soon as possible after the accounts have been approved but no later than 120 days after the end of the financial period. [Amended][VER6/10-06]

			<b>A2.3.1</b>
Item	Event	Requirement	Time
		<p>expected results of those operations;</p> <p>(f) A statement by the auditors that the accounts give a true and fair view of the state of the Listed Fund's affairs, profit and loss and additional information as may be required.</p> <p>The annual financial statements must be audited by an independent, competent and qualified auditor in accordance with the International Auditing and Assurance Standards Board Financial or other standards acceptable to the DFSA or where appropriate, AAOIFI standards.</p> <p>If the Listed Fund is a sub-fund of an umbrella fund, the financial statements must comprise consolidated financial statements of the sub-fund and umbrella fund.</p>	
14.	Compliance with corporate governance.	Market disclosure in the annual report of a statement of how the Listed Fund has applied the corporate governance provision in App4, and where it has not, provide an explanation.	As soon as possible after the accounts have been approved but no later than 120 days after the end of the financial period.
15.	Preliminary financial results.	Market disclosure of preliminary financial results.	Without delay, but no later than 30 minutes before the market opens on the day after Governing Body approval.
16.	Interim financial statements.	(a) A Listed Fund must publish a semi-annual financial statement for the first six months of each financial year or period;	Without delay and in any event no later than sixty days of the



			<b>A2.3.1</b>
Item	Event	Requirement	Time
		and (b) If the figures have either been audited or reviewed by the auditors, comments to this effect should be included.	end of the period to which the statement relates.
17.	Change of accounting reference date in respect of the Listed Fund.	Market disclosure of previous and proposed accounting reference date, and reasons for the change.	Without delay.
18.	On a change of accounting reference date, in respect of the Listed Fund, extending the annual accounting period to more than 14 months.	Market disclosure of a second interim report.	Within six months of the new accounting reference date.
19.	Proposed and new issues of Units. (Except for open ended Listed Funds as a result of issues and redemption in the normal course of business as described in the prospectus or offer document)	Market disclosure of the class, number, date of issue, and consideration received for the issue of the Securities and details of changes in share capital.	Without delay.
20.	Results of new issues.	Market disclosure of confirmation of the results of the issue.	Without delay.
21.	Events requiring consent of holders of Securities under App3.	Market disclosure of:  (a) nature, details, contents and effect of the relevant event, activity or transaction; (b) any material change affecting any matter contained in an earlier disclosure.	Without delay.
22.	Any resolution passed by the Directors or Partners of the Listed Fund other than a resolution concerning ordinary business of the Listed Fund.	Market disclosure of the resolution.	Without delay.
23.	Insolvency/winding up: (a) the presentation of any winding-up petition, the making of any winding-up order or the appointment of an administrator, liquidator or the commencement of any proceedings under the Insolvency Law in respect of the Listed Fund; or (b) the passing of any resolution by the Listed Fund or any members of the Listed Fund that it be wound up by way of members' or creditors' voluntary winding-up, or the occurrence of any event or termination of any period	Market disclosure of the:  (a) time and date of the presentation, details of the order, appointment, resolution or other event; (b) identity of the petitioner or other person at	Without delay.



**OFFERED SECURITIES RULES (OSR)**

			<b>A2.3.1</b>
Item	Event	Requirement	Time
	of time which would cause a winding-up.	whose instigation the event occurs; (c) court or tribunal responsible for making any order; or (d) administrator or liquidator appointed.	
24.	Change in the legal structure of the Listed Fund	Market Disclosure of any proposed change in the legal structure of the Listed Fund.	Without delay
25.	Change in fees (including management fees by whatever named called) or charges imposed on holders of Units.	Market Disclosure of any change in the fee structure of a Listed Fund.	Without delay
26.	Change in the investment management of the Listed Fund	Market Disclosure of any proposed change in the investment management of the Listed Fund.	Without delay

## A2.4 Disclosures relating to Listed Designated Investments

[Added][VER3/09-05]

**A2.4.1** On occurrence of an event in the “event” column, a Reporting Entity of a Designated Investment must make the type of disclosure described in accordance with the “requirements” column and the “time” column.

			<b>A2.4.1</b>
	<b>Event</b>	<b>Requirements</b>	<b>Time</b>
<b>Price Sensitive Information Relating to the Reporting Entity</b>			
1.	(a) material developments relating to the Securities that may constitute Price Sensitive Information; (b) any change in the business, financial condition, performance or expectation of performance that may constitute Price Sensitive Information; and (c) impending or strategic developments or matters in the course of negotiations where there is reason to believe that a breach of confidence has or is likely to occur in relation to Price Sensitive Information.	Market disclosure of the development or change as the case may be, including all Price Sensitive Information relating to it.	Without delay.
2.	Belief that a breach of confidence has occurred or is likely to occur in relation to Price Sensitive Information.	Disclosure to the DFSA of the breach or likely breach, including all Price Sensitive Information relating to it.	Without delay.
<b>The Governing Body of the Reporting Entity</b>			
3.	Shari'a Supervisory Board Where a Shari'a Supervisory Board has been appointed details of any changes to the membership of the Shari'a Supervisory Board.	Market disclosure of: (a) the identity, qualifications and experience of any new Shari'a Supervisory Board members; (b) the identity of any Shari'a Supervisory Board members who resign or are dismissed; (c) the effective date of the change; and (d) reasons for the change in membership.	Without delay.
<b>Business of the Reporting Entity</b>			
4.	Transactions undertaken which could result in: (a) any significant investments or material change to a significant investment outside the ordinary course of business of the Issuer (being any investments equal to or greater than 5 per cent of the book value of the existing net assets of the Issuer) or the purchase of long term assets for a significant amount; or (b) the incurring of any significant debt outside the usual and ordinary course of business of the	Market disclosure relating to: (a) any decision to enter into such a transaction; (b) any material change or new matter affecting any matter contained in an earlier disclosure; and (c) a full description of the event, activity or transaction proposed or effected as the case may be.	Without delay.

<b>A2.4.1</b>			
	Event	Requirements	Time
	Issuer (significant debt being debt with an amount equal to or greater than 5 per cent of the book value of the existing net assets of the issuer).		
<b>Disclosures relating to Securities of the Issuer</b>			
5.	Any decision to declare, recommend or pay any dividend or to make any other distribution on the Securities or any decision not to declare, recommend or pay any dividend which would otherwise have been expected to have been declared, recommended or paid in the normal course of events.	Market disclosure of the decision, including the rate and amount of and record date for the dividend or other distribution or the grounds for the decision in relation to non-payment.	Without delay and in any event no later than 5 days prior to the record date or the date of expected distribution.
6.	A listing of the same class of Securities on an exchange outside the DIFC.	Market disclosure of the listing.	Without delay.
7.	Other disclosure requirements outside the DIFC arising from the listing of the same class of Securities on an exchange in the DIFC which do not require disclosure in the DIFC.	Market disclosure of the information subject to market disclosure in another jurisdiction.	Without delay.
<b>Financial Information Relating to a Reporting Entity</b>			
8.	Annual report and annual financial statements.	(1) Market disclosure of the annual report and annual financial statements. The annual report must include in respect of the financial year to which it relates: <ul style="list-style-type: none"> <li>(a) a review of operations during the year and the results of those operations;</li> <li>(b) details of any significant changes in the Reporting Entity's state of affairs during the financial year;</li> <li>(c) the Reporting Entity's principal activities during the year and any significant changes in the nature of those activities during the year;</li> <li>(d) details of any matter or circumstance that has arisen since the end of the year that has significantly affected or may significantly affect:               <ul style="list-style-type: none"> <li>(i) the Reporting Entity's operations in future financial years;</li> <li>(ii) the results of those operations in future financial years; or</li> <li>(iii) the Reporting Entity's state of affairs in future</li> </ul> </li> </ul>	As soon as possible after the accounts have been approved but no later than 120 days after the end of the financial period. [Amended][VER6/10-06]

			<b>A2.4.1</b>
	<b>Event</b>	<b>Requirements</b>	<b>Time</b>
		<p>financial years; and</p> <p>(e) likely developments in the Reporting Entity's operations in future financial years and the expected results of those operations;</p> <p>(f) A statement by the auditors that the accounts give a true and fair view of the state of the Reporting Entity's affairs, profit and loss and additional information as may be required.</p> <p>(2) The annual financial statements must be audited by an independent, competent and qualified auditor in accordance with the International Auditing and Assurance Standards Board Financial or other standards acceptable to the DFSA or where appropriate, AAOIFI standards.</p>	
9.	Preliminary financial results.	Market disclosure of preliminary financial results.	Without delay, but no later than 30 minutes before the market opens on the day after Governing Body approval.
10.	Interim financial statements.	<p>(a) A Reporting Entity must publish a semi-annual financial statement for the first six months of each financial year or period; and</p> <p>(b) if the figures have either been audited or reviewed by the auditors, comments to this effect should be included.</p>	<p>Without delay and in any event no later than 60 days of the end of the period to which the statement relates.</p> <p>Without delay and in any event no later than 60 days of the end of the period to which the statement relates.</p>
11.	Change of accounting reference date.	Market disclosure of previous and proposed accounting reference date, and reasons for the change.	Without delay.

			<b>A2.4.1</b>
	<b>Event</b>	<b>Requirements</b>	<b>Time</b>
12.	On a change of accounting reference date extending the annual accounting period to more than 14 months.	Market disclosure of a second interim report.	Within six months of the new accounting reference date.
<b>Decisions submitted to and approved by holders of Securities</b>			
13.	Events requiring consent of holders of Securities under App3.	Market disclosure of: (a) nature, details, contents and effect of the relevant event, activity or transaction; (b) any material change affecting any matter contained in an earlier disclosure.	Without delay.
<b>Other communications required under the Rules</b>			
14.	Any resolution passed by the Directors of the Reporting Entity other than a resolution concerning ordinary business of the Reporting Entity.	Market disclosure of the resolution.	Without delay.
<b>Insolvency/winding up of the Reporting Entity</b>			
15.	Insolvency/winding up: (a) the presentation of any winding-up petition, the making of any winding-up order or the appointment of an administrator, liquidator or the commencement of any proceedings under the Insolvency Law in respect of the Reporting Entity or any member of its Group; or (b) the passing of any resolution by the Reporting Entity or any member of its Group that it be wound up by way of members' or creditors' voluntary winding-up, or the occurrence of any event or termination of any period of time which would cause a winding-up.	Market disclosure of the: (a) time and date of the presentation, details of the order, appointment, resolution or other event; (b) identity of the petitioner or other Person at whose instigation the event occurs; (c) court or tribunal responsible for making any order; or (d) administrator or liquidator appointed.	Without delay.

## A2.5 Other Obligations of a Reporting Entity in relation to Designated Investments

[Added][VER3/09-05]

**A2.5.1** On occurrence of an event in the “events” column, a Reporting Entity must ensure compliance in accordance with the “requirements” column and the “time” column. [Amended][VER2/08-05]

			<b>A2.5.1</b>
	<b>Event</b>	<b>Requirements</b>	<b>Time</b>
<b>Equality of treatment of investors by a Reporting Entity</b>			
1.	Treatment of investors.	A Reporting Entity must ensure equality of treatment in respect of all holders of Securities who are in the same position in respect of all rights attaching to the Securities.	At all times.
<b>Communications with holders of Securities</b>			
2.	Any event in relation to which holders of Securities have voting or other rights.	A Reporting Entity must ensure that all the necessary facilities and information are available to enable holders of its Securities to exercise their rights.  In particular it must: (a) inform holders of Securities of meetings which they are entitled to attend, enable them to exercise their right to vote, including any cross border voting rights; and (b) publish notices or circulars giving information in relation to the rights attached to the Securities.	At all times.
3.	Notices of meetings in relation to Securities.	The Reporting Entity must send a proxy form along with the notice convening a meeting of holders of Securities to each Person entitled to vote at the meeting.	At the same time as the sending of the notice.
4.	Paying agency.	An Issuer must have appointed a paying agent (which may be the Issuer itself).	At all times.

## APP3 CONSENT OF HOLDERS OF SECURITIES

### A3.1 Consent of holders of securities – events requiring consent of holders of securities

**A3.1.1** The holders of the Securities in a Reporting Entity must give consent as specified in the “threshold for decision” column in order for a Reporting Entity to undertake the action referred to in the “event” column of this section.

**Note:** A column marked with an “x” indicates that the disclosure requirements apply in relation to that Security. [Added][VER2/08-05]

				<b>A3.1.1</b>
	Event	Threshold for decision	Shares	Certificates Over Shares
1.	An alteration of the constitutional documents of the Reporting Entity including any alteration to the memorandum of association, articles of association, bye-laws or any other instrument constituting the Reporting Entity.	Majority.	X	X
2.	An alteration of the authorised or issued Share capital of the Issuer.	Majority.	X	X
3.	A purchase or an approval or contract to purchase its own Shares by the Issuer whether by the Issuer or by a 3 <sup>rd</sup> party on its behalf.	Majority	X	X
4.	The granting of Issuers' Directors' service contracts for a period longer than three years.	Majority.	X	X
5.	The granting of Share components to the Issuers' Directors' or Employees' compensation schemes.	Majority.	X	X
6.	The granting of authority to the Governing Body of the Issuer to allot Shares.	Majority.	X	X
7.	The dis-application by the Issuer of pre-emption rights on an issue of Shares.	Majority.	X	X
8.	The placing of the Issuer into voluntary liquidation.	Majority.	X	
9.	The provision of financial assistance: (a) by a Reporting Entity or any of its Subsidiaries to a Connected Person excluding financial assistance on normal commercial terms in the ordinary course of business; (b) by an Issuer or any of its Subsidiaries to a Person in which the Issuer or any of its Subsidiaries and a Connected Person otherwise than by reason only of his shareholding in the Person in question are both shareholders, where the Reporting Entity's proportional share of the financial assistance is greater than its proportional shareholding in such Person or, in the case of a guarantee, where the guarantee given by the Issuer is a joint and several guarantee; or (c) by a Connected Person to an Issuer or any of its Subsidiaries, excluding the granting of financial assistance upon normal or better commercial terms which is received by the Issuer or any of its Subsidiaries in the ordinary and usual course of its business.	Majority	X	X



<b>A3.1.1</b>			
	Event	Threshold for decision	Certificates Over Shares
10.	<p>Any acquisition or realisation of assets including Securities by a Reporting Entity where:</p> <ul style="list-style-type: none"> <li>(a) the value of the assets being acquired or realised represents fifty per cent or more of the assets or consolidated assets, as the case may be, of the acquiring or realising Group;</li> <li>(b) the net profit (after deducting all charges except taxation and excluding extraordinary items) attributable to the assets being acquired or realised as disclosed in the latest published, audited accounts represents fifty per cent or more of such net profit of the acquiring or realising Group;</li> <li>(c) the aggregate value of the consideration given or received represents fifty per cent or more of the assets or consolidated assets, as the case may be, of the acquiring or realising Group; or</li> <li>(d) the value of the Shares issued as consideration by the acquiring Issuer represents fifty per cent or more of the value of the Shares previously in issued.</li> </ul>	Majority	X
11.	<p>The approval of related party transactions where:</p> <ul style="list-style-type: none"> <li>(a) the Reporting Entity is agreeing to acquire or dispose of assets to or from a Director, Associate or a Connected Person and where the amount involved is greater than five per cent of the book value of the existing net assets of the Group;</li> <li>(b) agreeing to acquire or dispose of an interest in a Person in which a Connected Person or Associate of the Reporting Entity is a shareholder, where the amount involved is equal to or greater than five per cent of the net book value of the existing net assets of the Group; or</li> <li>(c) any series of transactions within a 12 month period would collectively fall or would fall within (a) or (b); but the following related party transactions that may fall under (a), (b) or (c) do not require approval:</li> <li>(d) the issue of new Securities for cash or pursuant to the exercise of conversion or subscription rights attaching to Securities where existing Shareholders have had the opportunity to subscribe for such Securities;</li> <li>(e) transactions made in accordance with an Employees' share scheme or long-term incentive scheme.</li> </ul>	Majority.	X

**A3.2 Consent of holders of securities – events requiring consent of holders of securities to vote**

**A3.2.1** The holders of the Securities in a Reporting Entity must give consent as specified in the “threshold for decision” column in order for a Reporting Entity to undertake the action referred to in the “event” column. [Amended][VER2/08-05]

**Note:** A column marked with an “x” indicates that the disclosure requirements apply in relation to that Security. [Added][VER2/08-05]

					<b>A3.2.1</b>
Item	Event	Threshold for decision	Shares	Certificates Over Shares	Units
1.	The removal or appointment of a Director or Partner to the Governing Body by an Issuer.	Majority.	X	X	X
2.	The removal of an auditor by an Issuer.	Majority.	X	X	X

[Amended][VER2/08-05]

**A3.3 Consent of holders of securities – other events giving rise to the right of holders of securities to vote**

**A3.3.1** The holders of the Securities in a Reporting Entity or Listed Fund must give consent as specified in the “threshold for decision” column in order for a Reporting Entity to undertake the action referred to in the “event” column.

**Note:** A column marked with an “x” indicates that the disclosure requirements apply in relation to that Security. [Added][VER2/08-05]

<b>A3.3.1</b>									
Item	Event	Threshold for decision	Shares	Warrants over Shares	Debentures	Warrants over Debentures	Certificates over Shares	Debentures over Certificates	Units
1.	Any alteration by the Issuer of the nature of or rights attached to a class of its Securities.	Majority of the class of Securities which are to be varied and the majority of any class of Securities which are negatively affected.	X	X	X	X	X	X	X

[Amended][VER/08-05]

### A3.4 Consent of holders of Units – events requiring consent of holder of Units

**A3.4.1** The holders of the Units in a Listed Fund must give consent as specified in the “threshold for decision” column in order for a Reporting Entity to undertake the action referred to in the “event” column.

		<b>A3.4.1</b>
<b>Item</b>	<b>Event</b>	<b>Threshold for decision</b>
1.	An alteration of the constitutional documents of the Listed Fund including any alteration to the memorandum of association, articles of association, bye-laws or any other instrument constituting the Listed Fund.	Majority.
2.	An alteration of the authorised or issued Share capital of the Listed Fund.	Majority.
3.	The granting of Issuers' Directors' service contracts for a period longer than three years.	Majority.
4.	The granting of Units components to the Reporting Entities or Listed Funds' Directors' or Employees' compensation schemes.	Majority.
5.	The granting of authority to the Governing Body of the Listed Fund or Reporting Entity to allot Units.	Majority.
6.	The dis-application by the Issuer of pre-emption rights on an issue of Units..	Majority.
7.	The placing of the Listed Fund into voluntary liquidation.	Majority.
8.	The approval of Related party transactions where: (a) the Reporting Entity is agreeing to acquire or dispose of assets to or from a Director, Associate or a Person with a significant interest and where the amount involved is greater than five per cent of the net asset value of the existing net assets of the Listed Fund; (b) agreeing to acquire or dispose of an interest in a Person in which a Person with a significant interest or Associate of the Listed Fund is a shareholder, where the amount involved is equal to or greater than five per cent of the net book value of the existing net asset value of the Listed Fund; or (c) any series of transactions within a 12 month period would collectively fall or would fall within (a) or (b); but the following related party transactions that may fall under (a), (b) or (c) do not require approval: (d) the issue of new Securities for cash or pursuant to the exercise of conversion or subscription rights attaching to Securities where existing Shareholders have had the opportunity to subscribe for such Securities; (e) transactions made in accordance with an Employees' share scheme or long-term incentive scheme.	Majority.

[Added][VER2/08-05]



**A3.5 Consent of holders of Designated Investments – other events giving rise to the rights of holders of securities to vote**

**A3.5.1** The holders of the Securities in a Reporting Entity must give consent as specified in the “threshold for decision” column in order for a Reporting Entity to undertake the action referred to in the “event” column of this section.

<b>A3.5.1</b>		
<b>Item</b>	<b>Event</b>	<b>Threshold for decision</b>
1.	Any alteration by the Issuer of the nature of or rights attached to a class of its Securities.	Majority of the class of Securities which are to be varied and the majority of any class of Securities which are negatively affected.

[Added][VER3/09-05]

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## APP 4 CORPORATE GOVERNANCE AND DIRECTORS' DEALINGS

### A4.1 Application

- A4.1.1** (1) This appendix applies to:
- (a) a Reporting Entity that has or has Shares admitted to an Official List of Securities by an Authorised Market Institution or has made a Prospectus Offer of Shares; and
  - (b) the Directors of such a Reporting Entity.
- (2) In relation to a Listed Fund which is a Body Corporate:
- (a) the corporate governance provisions of this appendix apply to the Listed Fund and to its Directors; and
  - (b) in this appendix, a reference to a Reporting Entity must be construed as a reference to the Listed Fund and a reference to a shareholder must be construed as a reference to a member or a holder of units in the Listed Fund.

#### Guidance

1. This App4 is made pursuant to Rule 8.4.1 for the purposes of Article 20 of the Markets Law 2004.
2. Article 20(1) of the Markets Law 2004 states:  
  
“A Reporting Entity and its Directors shall comply with the corporate governance principles set out in Article 21 together with requirements of this Law and the Offered Securities Rules.”
3. In accordance with Article 20(2) of the Markets Law 2004, a Reporting Entity shall include in its annual report a statement on how it applies the corporate governance principles and the Rules referred to in Article 20(1).
4. The obligations in this App4 are prescriptive and set high standards of corporate governance. Where, in exceptional circumstances, a Reporting Entity or a Directors is unable to comply with one or more of these obligations, they may apply to the DFSA for a waiver or modification of the relevant obligation.

[Added][VER2/08-05]

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## A4.2 Systems and controls

**A4.2.1** A Reporting Entity to which this appendix applies, and its Directors, must establish and maintain appropriate systems and controls that ensure, as far as practical, that the Reporting Entity, Directors and the Reporting Entity's:

- (a) Governing Body;
- (b) chairman; and
- (c) Employees who are in possession or are likely to be in possession of Material Information;

do not engage in conduct, or facilitate others to engage in conduct, that may constitute a failure to comply with the obligations in this appendix.

## A4.3 Part 1: Corporate governance

### The governing body

**A4.3.1** A Reporting Entity must appoint and maintain:

- (a) an effective Governing Body to lead and control the Reporting Entity; and
- (b) a chairman responsible for leadership of the Governing Body.

**A4.3.2** At least one third of the Governing Body must comprise non-executive Directors, of which at least two non-executive Directors must be independent.

### Guidance

1. The Governing Body should include a balance of executives and non-executives (including independent non-executives) such that no individual or small group of individuals can dominate the Governing Body's decision making.
2. The DFSA will consider a non-executive Director to be "independent" if the Director is found, on the reasonable determination by the Governing Body, to:
  - a. be independent in character and judgement; and
  - b. have no relationships or circumstances which are likely to affect or could appear to affect the Director's judgement in a manner other than in the best interests of the Reporting Entity.

3. In forming a determination the Governing Body should consider the length of time a director has served as a member of the Governing Body and whether the relevant director:
  - a. has been an employee of the company or group within the last five years;
  - b. has or has had, within the last three years, a material business relationship with the company, either directly or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;
  - c. receives or has received, in the last three years, additional remuneration or payments from the company apart from a director's fee, participates in the company's share option, or a performance-related pay scheme, or is a member of the company's pension scheme;
  - d. is or has been a director, partner or employee of a firm which is the company's auditor;
  - e. has close family ties with any of the company's advisors, directors or senior employees;
  - f. holds cross directorships or has significant links with other directors through involvement in other companies or bodies; or
  - g. represents a significant shareholder.
4. The chief executive of a Reporting Entity should not be appointed as chairman of the Governing Body.
5. In accordance with Article 21(1) of the Markets Law, there should be a clear and appropriate division of responsibilities at the head of the Reporting Entity which will ensure a balance of power and authority, such that no one individual has unfettered powers of decision. The division of their responsibilities should be clearly established, set out in writing and agreed by the Governing Body.
6. The chairman is responsible for leadership of the Governing Body, ensuring its effectiveness on all aspects of its role and setting its agenda. As required by Rule A4.3.3, the roles of chairman and chief executive must not be carried out by the same individual.

**A4.3.3** The Governing Body must:

- (a) meet sufficiently regularly throughout the year to discharge its duties effectively; and
- (b) hold a general meeting of shareholders of the Reporting Entity at least every twelve months.



**Guidance**

1. A Governing Body should use the annual general meeting to communicate with individual investors and encourage their participation. Shareholders should have the opportunity to ask questions of the Governing Body, to place items on the agenda of general meetings and to propose resolutions.
2. In addition to the annual general meeting, a Reporting Entity should maintain dialogue with its shareholders. In this regard, the Governing Body should ensure that shareholders have a reasonable opportunity to communicate with the members of the Governing Body and the Governing Body is responsible for ensuring that a satisfactory and constructive dialogue takes place.
3. A Governing Body should ensure that no steps are taken which may prevent shareholders consulting with other shareholders on issues concerning their basic shareholder rights, subject to exceptions to prevent abuse.
4. Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and have effective means of redress.

**A4.3.3** The chairman must ensure that the Governing Body and individual Directors are supplied with information in a timely manner and in a form and of a quality appropriate to enable them to discharge their duties.

**A4.3.4** A Director must act:

- (a) on a fully informed basis;
- (b) in good faith,
- (c) honestly;
- (d) with due diligence and care, and
- (e) in the best interests of the Reporting Entity.

**Guidance**

In order to meet the obligation to act with due diligence and care, a Director should (amongst other things) ensure that he has enough time and capacity available to devote to the job.

**A4.3.5** A Director must submit himself to:

- (a) election by shareholders at the first general meeting after his appointment; and
- (b) re-election thereafter at intervals of no more than three years.

**Guidance**

A Reporting Entity is unlikely to want its entire Governing Body to be put up for re-election at the same general meeting. Accordingly, Reporting Entities may adopt a rotational or staggered re-election process to ensure some degree of continuity of the Governing Body.

**A4.3.6** A Director must immediately disclose to the Governing Body any material interest he may have, whether directly, indirectly or on behalf of third parties, in any transaction or matter directly affecting the Reporting Entity.

**A4.3.7** Where a decision of the Governing Body may affect shareholder groups or classes differently, the Governing Body must, as far as possible, treat all shareholders fairly and shareholders of the same class similarly.

### **Nomination committee**

#### **Guidance**

1. A Governing Body should consider, taking into account the size and nature of its operations, establishing and maintaining a nomination committee to deal with the nomination of Directors (including the chairman) and make related recommendations to the Governing Body. Should the Governing Body establish such a committee, then it should appoint at least one independent non-executive Director to that committee.
2. The mandate, composition and working procedures of the nomination committee should be well defined. The nomination committee should make available (for instance on the website of the Reporting Entity and on request) its written terms of reference explaining its role and the authority delegated to it by the Governing Body.
3. The role of a nomination committee is to evaluate the balance of skills, knowledge and experience on the Governing Body and, in light of this evaluation, prepare a description of the role and capabilities required for a particular appointment.

### **Remuneration committee**

4. A Governing Body should consider, depending on the size and nature of its operations, establishing and maintaining a remuneration committee to assess the remuneration of Directors (including the chairman).
5. Generally, a remuneration committee should wholly comprise independent non-executive Directors. The committee should also recommend and monitor the level and structure of remuneration for senior management.
6. There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing remuneration packages of individual Directors. No Director should be involved in deciding his own remuneration and, ideally, all Directors' remuneration packages should be determined by an external consultant.
7. The mandate, composition and working procedures of the remuneration committee should be well defined. The remuneration committee should make available (for instance on the website of the Reporting Entity and on request) its written terms of reference explaining its role and the authority delegated to it by the Governing Body.
8. Levels of remuneration of Directors should be sufficient to attract and retain the Directors of the quality needed to run the Reporting Entity successfully, but the Reporting Entity should avoid paying more than is necessary for this purpose. An appropriate proportion of executive Directors' remuneration should be structured so as to link rewards to corporate and individual performance.
9. The remuneration committee should consult the chairman and Chief Executive about proposals relating to the remuneration of other executive Directors.

**Audit committee**
**A4.3.8** A Governing Body must:

- (a) establish and maintain an audit committee to monitor and review the Reporting Entity's internal audit function and to:
  - (i) appoint, remove and set the terms of engagement of external auditors; or
  - (ii) make recommendations to the Governing Body in respect of the appointment, removal and terms of engagement of external auditors; and
- (b) appoint at least two independent non-executive Directors to that committee.

**Guidance**

1. Ideally, at least one of the independent non-executive Directors appointed to the audit committee should have financial expertise.
2. The mandate, composition and working procedures of the audit committee should be well defined. The audit committee should make available (for instance on the website of the Reporting Entity and on request) its written terms of reference explaining its role and the authority delegated to it by the Governing Body. The terms of reference should include at least the following:
  - a. monitoring the integrity of the financial statements of the Reporting Entity and any formal announcements relating to the Reporting Entity's financial performance;
  - b. reviewing the Reporting Entity's internal financial controls;
  - c. monitoring and reviewing the effectiveness of the Reporting Entity's internal audit function;
  - d. making recommendations to the Governing Body in respect of the appointment, removal and terms of engagement of the external auditor;
  - e. reviewing and monitoring the external auditor's independence and objectivity; and
  - f. developing and implementing policy on the engagement of the external auditor to supply non audit services.

**Financial reporting and disclosures**
**A4.3.9** The Governing Body must maintain a sound system of internal control to safeguard shareholders' investment and the Reporting Entity's assets.

**Guidance**

1. The Governing Body should, at least annually, conduct a review of the effectiveness of the Reporting Entity's system of internal controls and should report to the shareholders that they have done so. The review should cover all material controls, including financial, operational and compliance controls and risk management systems. The Governing Body may satisfy this

requirement by instructing an external auditor to undertake the review and report to them on its outcome.

2. In accordance with Article 20(4) of the Markets Law, the Governing Body should present a balanced and understandable assessment of the Reporting Entity's position and prospects when carrying out any financial reporting or making any financial disclosures. This includes interim disclosures, Material Information disclosure, reports to the DFSA and any other information required to be disclosed under any other legal requirement.
3. The Reporting Entity's corporate governance framework should address and promote the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from material conflicts of interest that might compromise the integrity of their analysis or advice.

### **Annual report**

4. A Reporting Entity is required to produce and file with the DFSA an annual report pursuant to Article 27 of the Markets Law.
5. In accordance with Article 20(2) of the Markets Law, a Reporting Entity shall report in its Annual Report on how it applies the corporate governance principles set out in Article 21 of that Law together with the requirements of the Law and of the Offered Securities Rules. The Reporting Entity should confirm that it complies with the corporate governance principles and Rules and where it does not comply, provide an explanation.

#### **A4.3.10** The annual report of a Reporting Entity must:

- (a) identify the chairman, the Chief Executive, the Directors and the members of the nomination, audit and remuneration committees;
- (b) set out the number of meetings of the Governing Body and of those committees that were held;
- (c) set out a record of individual attendance by Directors at meetings;
- (d) describe the manner of operation of the Governing Body, including as to which types of decisions are taken by the Governing Body and which are delegated to management;
- (e) describe the work of the nomination committee, including the process it has used in relation to Governing Body appointments;
- (f) contain a statement of remuneration policy and detail the remuneration of each Director (including the chairman) and the Chief Executive; and
- (g) describe the work of the audit committee in discharging its responsibilities.

#### **A4.3.11** The Directors must, in the annual report:

- (a) explain their responsibility for the accounts; and

- (b) report whether or not, in their opinion, the business of the Reporting Entity is a going concern, with supporting assumptions or qualifications as necessary.

**Guidance**

The DFSA recognises that the accounts will actually be prepared by Persons other than the Directors but this Rule requires the Directors to explain in the annual report the fact that regardless of their preparation, they remain responsible for the accounts.

**A4.3.12** The annual report must contain a statement by the auditors detailing their reporting responsibilities.

## **A4.4 Part 2: Directors' dealing**

**Compliance**
**Guidance**

1. A Reporting Entity should ensure that all Directors and any Persons subject to the application of these Rules are aware of their obligations and should regularly remind its Directors and those Persons of those obligations.
2. A Reporting Entity should ensure that appropriate written records of decisions are maintained.
3. A Reporting Entity should discourage short-term speculative dealings by Directors in the securities or other investments related to the Reporting Entity.

**Prohibition on dealing**

**A4.4.1** A Director must not deal in the Securities of or Investments related to the Reporting Entity during a close period. For the purpose of this Rule, a “close period” is:

- (a) the period of one month immediately preceding the preliminary announcement of the Reporting Entity’s annual results or, if shorter, the period from the relevant financial year end up to and including the time of the announcement; and
- (b) if the Reporting Entity reports on a semi-annual basis, the period of one month immediately preceding the publication of the half-yearly report or, if shorter, the period from the relevant financial period end up to and including the time of such publication; or
- (c) if the Reporting Entity reports on a quarterly basis, the period of one month immediately preceding the announcement of the quarterly results or, if shorter, the period from the relevant financial period end up to and including the time of the announcement.

**A4.4.2** A Director must not deal in the Securities of or other Investments related to the Reporting Entity when he is in possession of undisclosed Material Information.

## Clearance to deal

### Guidance

1. To minimise the potential of allegations of improper dealing or of conflict of interest, a Director should not deal in the Securities of or other Investments related to the Reporting Entity unless he has advised the chairman (or one or more other Directors designated for this purpose) in advance and received written clearance to deal.
2. The chairman, or other Director designated for the purpose of providing clearances to deal, should not deal in the Securities of or other Investments related to the Reporting Entity unless he has advised the Governing Body in advance, or advised another Director designated for this purpose in advance, and receive written clearance to deal from the Governing Body or Director designated for this purpose, as relevant.
3. A Director (including a chairman) should not be given written clearance to deal in any Securities of or other Investments relating to the Reporting Entity during:
  - a. a close period as defined in Rule A4.4.2;
  - b. any period when there exists any matter which constitutes unpublished Material Information (whether or not the Director has knowledge of such matter) and the proposed dealing would (if permitted) take place after the time when it has become reasonably probable that an announcement will be required in relation to that matter; or
  - c. any period when the person responsible for the clearance otherwise has reason to believe that the proposed dealing is or may be in breach of the Law or these Rules.
4. A Reporting Entity and the relevant Director should maintain written records of:
  - a. any advice given by the Director in respect of potential dealing; and
  - b. any clearance given by the Reporting Entity.
5. Compliance with this Guidance does not constitute a safe harbour or defence from the application of Article 42 of the Markets Law (insider dealing) or of any other requirement or prohibition of law. If in doubt, a Director should at all times obtain independent legal advice to ensure the lawfulness of his dealings.

### Special circumstances

6. The grant of options by the Governing Body under an Employee Share scheme to individuals who are not Directors may be permitted during a period in which the Director cannot deal.
7. The chairman or other designated Director may allow the exercise of an option or right under an Employees' Share scheme, or the conversion of a convertible Security, where the final date for the exercise of such option or right, or conversion of such Security, falls during any period in which the Director cannot deal and the Director could not reasonably have been expected to exercise it at an earlier time when he was free to deal. Where an exercise or conversion is permitted, the chairman or other designated Director should not, however, give clearance for the sale of the Securities of or other Investments related to the Reporting Entity acquired pursuant to such exercise or conversion.
8. A Director may enter into a scheme under which Securities of or Investments related to the Reporting Entity:

- 
- a. are purchased pursuant to a regular standing order or direct debit arrangement; or
  - b. are acquired by way of a standing election to reinvest dividends or to other distributions received.
9. Compliance with this Guidance does not constitute a safe harbour or defence from the application of Article 42 of the Markets Law (insider dealing) or of any other requirement or prohibition of law. If in doubt, a Director should at all times obtain independent legal advice to ensure the lawfulness of his dealings.

#### **Interpretation of 'dealings' in this Part 2 of App4**

**A4.4.3** Subject to Rule A4.4.5, the following constitute "dealings" for the purposes of the Rules in this section A4.4 of App4 and are consequently subject to its provisions:

- (a) dealings between Directors and/or Employees of the Reporting Entity;
- (b) off-market dealings; and
- (c) transfers for no consideration by a Director other than transfers where the Director retains an interest.

**A4.4.4** The following dealings are not subject to the Rules in this section:

- (a) undertakings or elections to take up entitlements under a rights issue or other Offer (including an Offer of Shares in lieu of a cash dividend);
- (b) the take up of entitlements under a rights issue or other Offer (including an Offer of Shares in lieu of a cash dividend);
- (c) allowing entitlements to lapse under a rights issue or other Offer (including an Offer of Shares in lieu of a cash dividend);
- (d) the sale of sufficient entitlements nil-paid to allow take up of the balance of the entitlements under a rights issue;
- (e) undertakings to accept, or the acceptance of, a Takeover Offer under Takeover Rules;
- (f) dealing by a Director with a Person whose interest in Securities of or Investments related to the Reporting Entity is to be treated as the Director's interest including but not limited to Director's relatives; or
- (g) the cancellation or surrender of an option under an Employees' Share scheme.

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## APP 5 LIST OF EXEMPT OFFERORS

### A5.1 List of exempt offerors pursuant to Rule 2.4.3 and 2.4.4

**A5.1.1** The following entities are Exempt Offerors:

- (a) Properly constituted governments, government agencies, central banks or other national monetary authorities of the following countries or jurisdictions:
  - (i) Organisation for Economic Co-operation and Development (OECD) member countries;
  - (ii) member countries of the Gulf Co-operation Council (GCC); or
  - (iii) the Emirate of Dubai.
- (b) The International Monetary Fund and the World Bank.
- (c) Any other country, jurisdiction or supranational organisation that may be approved as an Exempt Offeror by the DFSA for the purpose of that offer.





**APP 6** [DELETED][VER10/12-07][RM52/07]

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## APP 7 PRICE SENSITIVE INFORMATION

### A7.1 Guidance in relation to section A2.1, A2.3 and A2.4

[Amended][VER3/09-05]

#### Guidance

##### Price sensitive information

1. This document provides guidance on the interpretation of the continuing obligations relating to Price Sensitive Information.
2. The DFSA recognises the importance to the market of accurate, up-to-date information about Reporting Entities and Listed Funds. Reporting Entities are therefore required to disseminate unpublished Price Sensitive Information without delay as part of the "continuing obligations" of Reporting Entities under the Offered Securities Rules. [Amended][VER2/08-05]
3. A Reporting Entity must ensure that any Price Sensitive information is disclosed to the market as a whole and must take all reasonable care to ensure that such information is sufficiently detailed and not misleading, false or deceptive. The information must be released without delay and in the manner required by chapter 9 of the Offered Securities Rules.

##### Identifying price sensitive information

4. Price Sensitive Information is information which is liable to lead to substantial movement in the price of Securities or, in the case of Debentures, affect significantly the ability of the Issuer to meet its commitments. The Reporting Entity is itself best placed to determine whether information is liable to lead to substantial movement in the price of its Securities, as what constitutes Price Sensitive Information will vary widely according to circumstances.
5. Reporting Entities must disclose Price Sensitive Information without delay. In practice, a short period before announcing Price Sensitive Information is permitted where a Reporting Entity is affected by an unexpected event and the Reporting Entity needs to clarify the situation so that any information released is accurate and not misleading. Where there is a danger of information leaking out in the meantime, the Reporting Entity should make a holding announcement giving an outline of the subject matter of the announcement, the reasons why a full announcement cannot yet be made and undertaking to give a full announcement as soon as possible.

##### Information not in the market

6. The Offered Securities Rules require information to be disclosed to the market by way of an announcement made on the web-site of the Reporting Entity and by such other means as the DFSA may prescribe.
7. Price Sensitive Information that is already available to the market, such as interest rate changes, does not need to be announced unless it has an unexpected or unusual effect on the Reporting Entity and Listed Fund. [Amended][VER2/08-05]

8. The obligation of a Reporting Entity to announce Price Sensitive Information is not discharged where a fee must be paid for access to the information or it is not a matter of general knowledge that the information can be obtained. In cases of doubt a Reporting Entity should consult with the DFSA.

#### **Exemptions from the duty to disclose information**

9. Article 24 of the Markets Law 2004 provides exemptions to the requirement to provide disclosure of Price Sensitive Information where disclosure would be unduly detrimental to the interests of the Reporting Entity or Listed Fund or where the information to be disclosed is commercially sensitive. Reporting Entities should ensure that any such information is kept confidential within the Reporting Entity. In these circumstances, the Reporting Entity should deliver without delay to the DFSA a notification requesting non-disclosure as set out in Rule 8.3 of the Offered Securities Rules. [Amended][VER2/08-05]

#### **Persons to whom price sensitive information may be disclosed**

10. Under Rule 8.2.3 of the Offered Securities Rules, a Reporting Entity may only disclose Price Sensitive Information, in strict confidence, to its advisors, an agent employed to release the information, Persons with whom it is negotiating with a view to effecting a transaction or raising finance or where the information is disclosed in the necessary course of business of the Reporting Entity or the Listed Fund. It is likely that Price Sensitive Information will be made known to certain Employees of the Reporting Entity or Listed Fund. A Reporting Entity must put in place procedures to ensure that Employees do not disclose such information, whether or not inadvertently, and that Employees are adequately trained in the handling of Price Sensitive Information. [Amended][VER2/08-05]

#### **Framework for the handling of price sensitive information**

11. Responsibility for a Reporting Entity's or Listed Fund's overall policy on the handling of Price Sensitive Information lies with the Directors of the Reporting Entity. Whilst responsibility for compliance with the continuing obligations set out in the Offered Securities Rules lies with the Reporting Entity, Directors should be aware that they may be held personally liable for breach of these rules. The enforcement procedures set out at chapter 11 of the Offered Securities Rules may be implemented against them. [Amended][VER2/08-05]
12. Reporting Entities should have a consistent procedure for assessing whether information is Price Sensitive and should clearly identify those within the Reporting Entity who are responsible for the communication of this information to the market.
13. Reporting Entities should put in place arrangements for maintaining the confidentiality of Price Sensitive information before announcement. This should include adequate training for Employees in the handling, distribution and announcement of Price Sensitive information as appropriate. Reporting Entities should guard against the risk of Price Sensitive information seeping into the market domain through leaked internal briefings or via trade journals for example. Where the Reporting Entity considers that this is likely to occur, an announcement should be made.

#### **Inadvertent disclosure on a selective basis**

14. In situations where the Reporting Entity will be open to questioning that may be designed to elicit or may have the effect of eliciting Price Sensitive Information (such as during shareholders' meetings or dealing with analysts or journalists), the Reporting Entity should plan in advance how it will respond to such questions. If the Reporting Entity intends to disclose Price Sensitive Information at such a meeting, an announcement must be made before or at the same time as the meeting.

15. Where Price Sensitive Information is given to, for example, an analyst or journalist, it will have been disclosed on a selective basis and therefore the Reporting Entity will be in breach of its continuing obligation of disclosure. The Reporting Entity should ensure that a full announcement is made to the market as soon as it becomes aware of the inadvertent disclosure.

**Correction of inaccurate or misleading information**

16. Where a Reporting Entity has made a market announcement such as a profit forecast, and the Reporting Entity becomes aware that there is likely to be a material difference between the forecast and the true outcome, the Reporting Entity should make an announcement correcting the forecast as soon as possible.

**Securities listed in more than one jurisdiction**

17. Reporting Entities whose Securities are listed in the same class in more than one jurisdiction should ensure that the release of announcements containing Price Sensitive Information is co-ordinated across jurisdictions. If the requirements for disclosure are stricter in another jurisdiction than in the DIFC, the Reporting Entity must ensure that the same information is released in the DIFC as in that jurisdiction.
18. Reporting Entities should not delay an announcement in the DIFC in order to wait for a market to open in another jurisdiction.