

Appendix 2

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



The DFSA Rulebook

General Module

(GEN)

1 INTRODUCTION

1.1 Application

- 1.1.1** This module (GEN) applies to every Person to whom the Regulatory Law 2004 or Markets Law 2005 applies and to the same extent in relation to every such Person as that law, except to the extent that a provision of GEN provides for a narrower application. [Amended][VER4/08-05]

1.2 Overview of the module

Guidance

1. Chapter 2 prescribes, pursuant to Article 41(2), the activities which constitute a Financial Service. It also specifies various exclusions in relation to the 'by way of business' requirement and, where applicable, in relation to each Financial Service. Further, the appendices contain detailed definitions of what constitutes a Deposit, Investment, Collective Investment Fund and Contract of Insurance.
2. Chapter 3 prescribes, pursuant to Article 42(1), the kinds of Financial Services that may be carried on by Authorised Firms and Authorised Market Institutions.
3. Chapter 4 sets out the Principles for Authorised Firms and Authorised Individuals.
4. Chapter 5 specifies the requirements upon senior management to implement effective systems and controls. There are also requirements upon the Authorised Firm to apportion material responsibility among its senior management.
5. Chapter 6 contains mainly guidance in respect of: interpretation of the Rulebook, emergency procedures, disclosure, the location of offices, close links, complaints against the DFSA and the public register. [Amended][VER4/08-05]
- ~~6. Chapter 7 sets out the fees provisions for Authorised Persons, applicants for a Licence and auditors registered with the DFSA. [Amended][VER4/08-05] [Deleted]~~
7. Chapter 8 specifies, in relation to Authorised Persons, the auditing and accounting requirements which deal with such matters as the appointment and termination of auditors, accounts and regulatory returns and the functions of an auditor. There are also requirements for auditors to register with the DFSA. [Amended][VER4/08-05]
8. Chapter 9 prescribes the manner in which an Authorised Firm must handle Complaints made against it by Retail Clients or Professional Clients. [Added][RM56] [VER19/07-08]

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2.19 Insurance intermediation

2.19.1

Guidance

An Authorised Firm when distributing material relating to Insurance Contracts or cover must comply with the requirements in ~~Rule 11.1~~ section 7.3 of COB. Communications can be oral, electronic or in print.

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8.6 Function of the auditor

8.6.1 An Authorised Firm or Authorised Market Institution, as applicable, must in writing require its auditor to:

- (a) conduct an audit of the Authorised Person's accounts
- (b) produce a report on the audited accounts.....
- (c) produce an Auditor's Annual Report
- (d) produce, if the Authorised Firm controls or holds Client Money, a Client Money Auditor's Report which states whether, in the opinion of the auditor:
 - (i) the Authorised Firm has maintained throughout the year systems and controls to enable it to comply with the relevant provisions of COB ~~chapter 9~~ chapter 6 and, if applicable, COB App5;
 - (ii) the Authorised Firm's controls are such as to ensure that Client Money is identifiable and secure at all times;
 - (iii) any of the requirements in COB ~~chapter 9~~ chapter 6 and the Client Money Provisions have not been met;
 - (iv) if applicable, Client Money belonging to Segregated Clients has been segregated in accordance with the Client Money Provisions;
 - (v) if applicable, the Authorised Firm was holding and controlling an appropriate amount of Client Money in accordance with COB ~~chapter 9~~ chapter 6 and with the Client Money Provisions as at the date on which the Authorised Firm's audited balance sheet was prepared; and

- (vi) if applicable, there have been any material discrepancies in the reconciliation of Client Money;
- (e) produce, if the Authorised Firm controls or holds Insurance Monies, an Insurance Monies Auditor's Report which states whether, in the opinion of the auditor:
 - (i) the Authorised Firm has maintained throughout the year systems and controls to enable it to comply with the relevant provisions of COB ~~chapter 14~~ section 7.12;
 - (ii) the Authorised Firm's controls are such as to ensure that Insurance Monies are identifiable and secure at all times;
 - (iii) any of the requirements in COB ~~chapter 14~~ section 7.12 have not been met;
 - (iv) if applicable, the Authorised Firm was holding and controlling an appropriate amount of Insurance Monies in accordance with COB ~~chapter 14~~ section 7.12 as at the date on which the Authorised Firm's audited balance sheet was prepared; and
 - (v) if applicable, there have been any material discrepancies in the reconciliation of Insurance Monies;
- (f) produce, if the Authorised Firm holds or controls Client Investments, Arranges Custody or Provides Custody in or from the DIFC, a Safe Custody Auditor's Report in respect of such business as applicable, which states whether, in the opinion of the auditor:
 - (i) the Authorised Firm has, throughout the year, maintained systems and controls to enable it to comply with the Safe Custody Provisions in COB App6;
 - (ii) the Safe Custody Investments are registered, recorded or held in accordance with the Safe Custody Provisions;
 - (iii) there have been any material discrepancies in the reconciliation of Safe Custody Investments; and
 - (iv) any of the requirements of the Safe Custody Provisions have not been met;
- (g) submit the reports produced pursuant to Rules 8.6.1(b)-8.6.1(f) above to the Authorised Person; and
- (h) notify the DFSA in writing if he resigns due to significant concerns which have previously been raised with senior management of the Authorised Person and which have not been addressed.

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