

**Appendix 8**

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



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# The DFSA Rulebook

## Collective Investment Rules

### (CIR)

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## PART 1: INTRODUCTION

### 1 APPLICATION AND INTERPRETATION

#### 1.1 Application

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**1.1.3** CIR applies to every Person who is, or intends to be:

- (a) a Fund Manager;
- (b) an External Fund Manager;
- (c) a member of the Governing Body;
- (d) an Eligible Custodian;
- (e) a Trustee; and
- (f) an oversight provider; ~~and~~
- (g) ~~the Auditor.~~

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- 1.1.5**
- (1) CIR also applies to a Fund whether or not it has a separate legal personality.
  - (2) Where a Rule imposes an obligation on a Fund, each Director, Partner or other Person charged with the management of that Fund must take reasonable steps to ensure compliance with the requirement by the Fund.

#### **Guidance**

- 1. The Rules in this module (CIR) establish a regime to regulate Domestic Funds, which may be Public Funds, ~~Private Funds or~~ Exempt Funds or Qualified Investor Funds. Domestic Funds include External Funds as defined in Article 14(1) of the Law. In addition, this module also regulates Fund Managers, which include External Fund Managers as defined in Article 20(5) of the Law.
- 2. CIR also applies to marketing and selling of Units of Foreign Funds in or from the DIFC and to the provision of a Financial Service to a Foreign Fund where any such activity is undertaken by an Authorised Firm. In that regard, the COB Rules also apply to the provision of Financial Services by an Authorised Firm.

3. If a Domestic Fund or Foreign Fund intends to list its Units on an Authorised Market Institution (AMI), it will need to comply with the relevant Rules in the MKT module and the AMI's listing Rules in respect of Domestic Funds. ~~Private Funds and Exempt Funds~~ and Qualified Investor Funds cannot be listed.
4. A Public Property Fund is required to be a closed-ended and Listed Fund and to be structured as an Investment Company or an Investment Trust.

## **1.2 Interpretation**

- 1.2.1** Any references to "the Law" or to "Articles" are to be construed as references to the Collective Investment Law 2010 and to Articles in that law.

## **1.3 Client Classification**

- 1.3.1** For the purposes of Article 16(7)(a) of the Law:

- (a) the criteria to be classified as a Professional Client are specified in COB Rule 2.3.2, and
- (b) the criteria to be classified as a Retail Client are specified in COB Rule 2.3.5.

## **1.4 The different types of Domestic Funds**

### Guidance

Article 13 of the Law defines Funds as either Domestic Funds or Foreign Funds. Article 15 of the Law then further divides Domestic Funds into three categories which are listed below in terms of the level of regulation (from most intensively regulated to least intensively regulated):

- (a) Public Funds;
- (b) Exempt Funds; and
- (c) Qualified Investor Funds.

This table illustrates the different Rules applicable to the three categories of Domestic Fund.

<u>CIR chapters</u>	<u>Public Fund</u>	<u>Exempt Fund</u>	<u>QIF</u>
Chapter 1: Application & Interpretation	✓	✓	✓
Chapter 2: Arrangements not constituting a CIF	✓	✓	✓
Chapter 3: Specialist Classes of Fund	✓	✓	✓
Chapter 4: Excluded Offers	✓	✓	✓

**COLLECTIVE INVESTMENT RULES (CIR)**

<u>Chapter 5: Fund Administrator</u>	<u>✓</u>	<u>✓</u>	<u>✓</u> Rule 5.1.4 does not apply
<u>Chapter 6: External Fund Managers and External Funds</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Chapter 7: Constitution</u>	<u>✓</u>	<u>✓</u>	Only Rules 7.1.1; 7.1.2(1)(b); 7.1.2(2) & 7.1.4 apply
<u>Chapter 8: Management and Operation of a Fund</u>	<u>✓</u>	<u>✓</u>	Only Rules 8.1.1, 8.4.1(1)(a) and 8.10.1 apply
<u>Chapter 9: Accounting, Audit &amp; Periodic Reporting of a Fund</u>	<u>✓</u>	<u>✓</u> A comparative table for the annual report is not required	<u>✓</u> Rules on interim reports do not apply unless there has been a material change during the interim accounting period. A comparative table for the annual report is not required
<u>Chapter 10: Requirements specific to Public Funds</u>	<u>✓</u>	<u>X</u>	<u>X</u>
<u>Chapter 12: Requirements specific to Exempt Funds</u>	<u>X</u>	<u>✓</u>	<u>X</u>
<u>Chapter 12A: Requirements specific to Qualified Investor Funds</u>	<u>X</u>	<u>X</u>	<u>✓</u>
<u>Chapter 13: Additional Requirements for Specialist Funds</u>	<u>✓</u>	<u>✓</u>	Only Rules 13.1.1, 13.6.3 and 13.7 apply
<u>Chapter 14: Marketing of Domestic Funds and Prospectus Disclosure</u>	<u>✓</u>	<u>✓</u>	Only Rules 14.1.1, 14.2.1, 14.2.4-14.2.7, 14.4.6, 14.5.1, 14.5.2 & section 14.6 apply
<u>Chapter 15: Marketing of Foreign Funds</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Chapter 16: Transfer Schemes relating to Domestic Funds</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Chapter 17: Winding up of Domestic Funds</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>APP 1: Delegation &amp; Outsourcing</u>	<u>✓</u>	<u>✓</u>	<u>X</u>
<u>APP 2: Meeting Procedures</u>	<u>✓</u>	<u>X</u>	<u>X</u>
<u>APP 3: Approvals and Notifications</u>	<u>✓</u>	<u>X</u>	<u>X</u>
<u>APP 4: Guidance of Asset Valuation and Pricing</u>	<u>✓</u>	<u>✓</u>	<u>X</u>
<u>APP 5: Constitution of a Domestic Fund</u>	<u>✓</u>	<u>✓</u>	<u>X</u>
<u>APP 6: Guidance of Fitness and Propriety for Oversight Functions</u>	<u>✓</u>	<u>X</u>	<u>X</u>
<u>APP 7: Public Fund Prospectus Disclosure</u>	<u>✓</u>	<u>X</u>	<u>X</u>
<u>APP 8: Guidance for Hedge Fund Managers</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>

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## PART 3: FUND FUNCTIONARIES

### 5 FUND ADMINISTRATORS

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#### Delegation and service level agreements

- 5.1.4** (1) A Fund Administrator of a Domestic Fund for which it is Providing Fund Administration must have a Delegation Agreement that meets the requirements in App1 with the Fund Manager or Trustee of the Fund.
- (2) Paragraph (1) does not apply to a Fund Administrator of a Qualified Investor Fund.

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## PART 4: CORE RULES RELATING TO ESTABLISHMENT AND MANAGEMENT OF DOMESTIC FUNDS

### 7 CONSTITUTION

#### 7.1 Application

- 7.1.1** (1) This chapter applies to a Fund Manager, and where appointed a Trustee, of a Domestic Fund.
- (2) Only this Rule and Rules 7.1.2(1)(b), 7.1.2(2) and 7.1.4 apply to a Fund Manager and, where appointed, a Trustee, of a Qualified Investor Fund.

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## **8 MANAGEMENT AND OPERATION OF A FUND**

### **Guidance**

While most of the provisions in this chapter are of general application to all Domestic Funds, in a few instances, some provisions which are specific to a certain type of Domestic Fund, for example a Public Fund, are retained in this Part. We have, instead of removing such provisions to Part 5 which contains provisions applicable to specific types of Domestic Funds, retained them in this Part because those requirements are integral to the main provisions applying to all Domestic Funds and therefore need to be read together.

### **8.1 General management Duties**

#### **Application**

- 8.1.1** (1) This chapter applies to a Fund Manager, and if appointed, the Trustee, of all Domestic Funds, except as provided in (3) or where otherwise provided in this chapter.
- (2) This chapter also applies, where expressly provided, to a Fund Administrator or Eligible Custodian of a Domestic Fund.
- (3) Only this Rule and Rules 8.4.1(1)(a) and 8.10.1 in this chapter apply to, or in relation to, a Qualified Investor Fund.

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### **8.8 Meetings of Unitholders**

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- 8.8.2** The Fund Manager of a Fund other than an Exempt Fund must hold at least one general meeting of the Unitholders of the Fund in every 12 month period (i.e. an annual general meeting). The annual general meeting must be held in the case of a Public Fund within 12 months from the date of registration of the Fund and in the case of a Private Fund within 12 months from the date of the initial issue of the Units of the Fund. The annual report required under Rule 9.4.2(1)(a) must be presented at that annual general meeting.

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#### **Unitholder meetings procedures**

- 8.8.5** (1) A Fund Manager must set out, if it is a Public Fund, in its procedures manual and, if it is a Private Fund, in the Fund's Constitution, the

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procedures for holding Unitholder meetings and the conduct of such meetings including but not limited to, the following matters:

- (a) voting rights;
  - (b) right to demand a poll;
  - (c) proxies;
  - (d) minutes; and
  - (e) variation of class rights and class meetings.
- (2) The meeting procedures under (1) must comply with the provisions in App2. Any provisions in such procedures that are inconsistent with the procedures in App2 are void.
- (3) In the case of a Public Fund, the Fund Manager must distribute the meetings procedures manual to all Unitholders.
- (4) If the Fund is structured as an Investment Trust, the Fund Manager must obtain the prior approval of the Trustee in respect of its meetings procedures.

## **8.9 Approvals and notifications**

**8.9.1** A Fund Manager of a Public Fund ~~or Private Fund~~ must comply with the provisions in App3 in regard to:

- (a) fundamental changes requiring prior approval of the Unitholders;
- (b) significant changes requiring pre-event notification to the Unitholders; and
- (c) notifiable changes, that is, a change other than one in (a) or (b) which requires post notification to the Unitholders.

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## **8.11 Capital**

**8.11.1** (1) In the case of a Public Fund ~~or a Private Fund~~, if at any time after the size of the Fund's capital has reached the minimum size provided in its Constitution the size of that capital falls below that minimum size, the Fund Manager must immediately notify the DFSA of that fact.

- (2) The notification under (1) must also:

- (a) state the Fund Manager's grounds for believing that the Fund is still commercially viable and the purpose of the Fund can still be accomplished; and
- (b) be accompanied by the relevant Unitholders' resolution supporting the Fund Manager's views in (1); or
- (c) state what steps the Fund Manager has taken or will take to wind up the Fund.

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## **9 ACCOUNTING, AUDIT AND PERIODIC REPORTING OF A FUND**

### **9.1 Application**

- 9.1.1** (1) This chapter applies to a Fund Manager, and a Trustee ~~and an Auditor~~ of a Domestic Fund.
- (2) In this Chapter, references to a "Fund" mean a "Domestic Fund".

#### **Guidance**

The IFR module contains specific requirements relating to reporting that apply to a Fund and its Fund Manager where that Fund is an Islamic Fund.

### **9.2 Preparation of Fund ~~accounts~~ financial statements**

#### **~~Accounting standards~~ Financial statements and financial reporting standards**

- 9.2.1** (1) A Fund Manager of a Fund must prepare financial statements for each financial year of the Fund.
- (2) A Fund Manager must, in respect of a Domestic Fund, prepare and maintain all financial ~~accounts and~~ statements in accordance with the International Financial Reporting Standards (IFRS) or USGAAP as supplemented by the Statement of Recommended Practice (SORP) ~~issued from time to time by the United Kingdom's Investment Managers Association (IMA).~~



### Accounting Records

**9.2.2** A Fund Manager must keep Accounting Records that are sufficient to show and explain transactions and are as such, to:

- (a) be capable of disclosing the financial position of the Fund on an ongoing basis; and
- (b) record the financial position of the Fund as at its financial year end.

**9.2.3** Accounting Records must be maintained by a Fund Manager such as to enable the Governing Body and, if appointed, the Trustee or any Persons providing the oversight function of the Fund to ensure that any ~~accounts~~ financial statements prepared by the Fund Manager in relation to the Fund comply with the legislation applicable in the DIFC.

**9.2.4** The Accounting Records must be:

- (a) retained by the Fund Manager or Fund for at least six years from the date to which they relate;
- (b) at all reasonable times, open to inspection by the DFSA or the Registered Auditor of the Fund; and
- (c) capable of reproduction, within a reasonable period not exceeding 3 business days, in hard copy and in English.

## 9.3 Auditors of a Fund

### Guidance

1. ~~Article 27(1)(c) of the Law requires every Domestic Fund to have a Registered Auditor appointed to it in accordance with Part 8 of the Regulatory Law and any Rules made for the purposes of that Part~~ an auditor appointed to that Fund.
2. ~~While Part 6 8 of the Regulatory Law sets out how an Aauditor must be appointed to each Domestic Fund and the main duties and functions of the aAuditor, ~~†~~This section sets out additional requirements that apply in relation to Registered aAuditors and the audit function of a Fund.~~
2. ~~Only an auditor registered by the DFSA (Auditor) can undertake the audit function of a Domestic Fund.~~
3. Under Article 97C(1) of the Regulatory Law a Person is prohibited from providing any Audit Service to a Domestic Fund unless that Person is a Registered Auditor.

### Appointment and termination of auditors

**9.3.1** A Fund Manager must:

- (a) notify the DFSA of the appointment of an a Registered Auditor to the Fund by completing and submitting the appropriate form in AFN, including the name and business address of the Auditor and the date of the commencement of the appointment;
- (b) prior to the appointment of the Registered Auditor, take reasonable steps to ensure that the Registered Auditor has the required skills, resources and experience to audit the type of Fund for which the Registered Auditor has been appointed; and
- (c) ensure that the Registered Auditor, at the time of appointment and for the duration of the engagement ~~as Auditor of the Fund,~~ is registered with the DFSA as a Registered Auditor.

**Guidance**

~~Section 8.7 and 8.8 of GEN contain provisions in respect of registration and qualifications of Auditors.~~

**9.3.2** A Fund Manager must notify the DFSA immediately if the appointment of the Registered Auditor is or is about to be terminated, or on the resignation of the Fund's Registered Auditor, by completing and submitting the appropriate form in AFN giving the reasons for the cessation of the appointment.

**9.3.3** A Fund Manager must appoint ~~an~~ a Registered Auditor to fill any vacancy in the office of Registered Auditor and ensure that the replacement Registered Auditor can take up office at the time the vacancy arises or as soon as reasonably practicable.

**9.3.4** (1) A Fund Manager must take reasonable steps to ensure that the Registered Auditor and the relevant audit staff of the Registered Auditor are independent of, and not subject to, any conflict of interest with respect to the Fund Manager, the Trustee or the Fund.

(2) A Fund Manager or Trustee must notify the DFSA if it becomes aware, or has reason to believe, that the Registered Auditor or the relevant audit staff of the Registered Auditor ~~or any member thereof~~ are no longer independent of the Fund Manager, the Trustee or the Fund, or have a conflict of interest which may affect their judgement in respect of the Fund ~~and take immediate steps to rectify the situation.~~

~~(3) The relevant staff of an Auditor are independent for the purposes of (1) if their appointment or retention by a Fund Manager is not contrary to any applicable ethical guidance issued by their professional supervisory body.~~

**Guidance**

1. A Fund Manager should consider whether there is any financial or personal relationship between it or any of its relevant Employees and the Registered Auditor or any of the relevant Employees of the Registered Auditor that may affect the judgement of the Registered Auditor when conducting an audit of the Fund or complying with all its legal obligations, including the Regulatory Law, AUD, AML and other relevant modules of the DFSA Rulebook.

2. ~~A Fund Manager should consider~~ Consideration should be given to rotating the appointed relevant staff of the Registered Auditor on a regular basis every five years to ensure that the relevant staff of the Registered Auditor remain independent.

~~9.3.5~~ ~~Where an Auditor appointed by a Fund Manager is not suitable in the opinion of the DFSA, or where an Auditor has not been appointed, the DFSA may direct a Fund Manager to replace or appoint an Auditor to the Fund in accordance with the requirements in this section.~~

### Co-operation with auditors

~~9.3.65~~ (1) ~~A Fund Manager must take reasonable steps to ensure that it and its the Fund's Employees:~~

- (a) ~~provide any information to its Registered Auditor that its Registered Auditor reasonably requires, or is entitled to receive as Registered Auditor such assistance as the Auditor reasonably requires to discharge its duties;~~
- (b) ~~give the Registered Auditor right of access at all reasonable times to relevant records and information within its possession;~~
- (c) ~~allow the Registered Auditor to make copies of any records or information referred to in (b);~~
- (e) ~~do not interfere with the Registered Auditor's ability to discharge its duties;~~
- (d) ~~do not provide false or misleading information to the Auditor; and~~
- (e) ~~report to the Registered Auditor any matter which may significantly affect the financial position of the Fund; and~~
- (f) ~~provide such other assistance as the Registered Auditor may reasonably request it to provide.~~

~~9.3.6~~ (2) ~~A Trustee must take reasonable steps to ensure that it and its Employees act in compliance with Rule 9.3.5(1)(a)-(e f).~~

**9.3.7** A Fund Manager must, in writing, require any Person to whom the Fund Manager has delegated or outsourced any functions to co-operate with the Fund's Registered Auditor in accordance with the provisions specified in Rule 9.3.5.

### Function of the Registered Auditor

#### Guidance

~~Article 44(1) of the Law requires an Auditor of a Domestic Fund to prepare an audit report.~~

**9.3.8** A Fund Manager must, in writing, require the Fund's its Registered Auditor to:

- (a) conduct an audit of the Fund's ~~accounts~~ financial statements in accordance with the requirements of the relevant standards published by the International Auditing and Assurance Standards Board (IAASB); and
- (b) produce a Fund Auditor's Report ~~report~~ on the audited ~~accounts which states:~~ financial statements in accordance with AUD App5.
  - ~~(i) whether, in the Auditor's opinion, the accounts have been properly prepared in accordance with the accounting standards adopted by the Fund in accordance with the Rules in this module and the Constitution;~~
  - ~~(ii) whether the accounts give a true and fair view of the financial position of the Fund, including the net income and the net gains or losses of the Fund Property, or, as the case may be, the Fund Property attributable to the Sub-Fund for the annual accounting period in question and the financial position of the Fund or Sub-Fund as at the end of the annual accounting period;~~
  - ~~(iii) whether, in the Auditor's opinion, proper accounting records for the Fund, or as the case may be, Sub-Fund have not been kept, or that the accounts are not in agreement with the accounting records and returns, or that the accounts do not comply with the applicable accounting standards; and~~
  - ~~(iv) any other matter or opinion required by the Law or the Rules; and~~
- ~~(c) in addition to the opinion's referred to in (b), statements about:~~
  - ~~(i) whether the Auditor has been given all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit; and~~
  - ~~(ii) whether the Auditor is of the opinion that the information given in the report of the directors or in the report of the Fund Manager for that period is consistent with the accounts.~~

**9.3.9** ~~The Fund Manager must ensure that the Fund's Auditor prepares and provides to the Fund Manager an audit report for inclusion in the annual report of the Fund containing all the opinions and statements specified in Rule 9.3.8(b) and (c).~~

## 9.4 Periodic Reports

### Annual and interim reports

**9.4.1** (1) In order to provide the Unitholders with relevant and up-to-date information about the performance and management of a Fund, a Fund Manager must, subject to (2), produce one interim report and

one annual report in respect of each Fund it operates in accordance with the Rules in this section.

- (2) The Fund Manager of a Qualified Investor Fund is not required to comply with the requirements in (1) relating to the production of an interim report for that Fund unless there has been a material change relating to the Fund during the relevant period.
- (3) For the purposes of (2), the relevant period in relation to a Qualified Investor Fund is the 6 month period referred to in Rule 9.4.2(4).

**9.4.2** (1) A Fund Manager must produce the required annual report and interim report as follows:

- (a) an annual report within four months after the end of each annual accounting period; and
- (b) an interim report within two months after the end of each interim accounting period.

(2) For the purposes of (1), the first annual accounting period of a Fund begins:

- (a) in the case of a Public Fund, on the date of registration by the DFSA; or
- (b) in the case of ~~a Private Fund~~ an Exempt Fund or a Qualified Investor Fund, on the date of notification to the DFSA; and

ends 12 months later. Thereafter, annual accounting periods cover the period between each subsequent financial year end.

(3) Notwithstanding the requirement in (2), a Fund Manager may, subject to the prior approval of the DFSA, produce the Fund's reports and ~~accounts~~ financial statements in accordance with the Fund Manager's reporting periods.

(4) For the purposes of (1), an interim accounting period is the period covering:

- (a) 6 months after the date of registration of the Fund with the DFSA in the case of a Public Fund, or the date of notification to the DFSA in the case of an Exempt Fund or ~~Private Fund~~ Qualified Investor Fund; and
- (b) 6 months after the anniversary of each annual accounting period.

(5) If a Fund intends to change its annual or interim accounting period, the Fund Manager must:

- (a) obtain written confirmation from its Registered Auditor that the change of its annual accounting period would not result in any significant distortion of the financial position of the Fund; and

- (b) obtain the DFSA's prior consent before implementing the change.
- (6) For a Fund which is an Umbrella Fund, the Fund Manager must prepare an interim report for each Sub-Fund, but this is not necessary for the Umbrella Fund as a whole.
- (7) The Fund Manager must prepare the annual and interim reports of the Fund in accordance with Rule 9.2.1.
- (8) The reports must:
  - (a) be supplied free of charge to Unitholders;
  - (b) be available in English,
  - (c) be sent to the DFSA; and
  - (d) if the Fund is a Public Fund, be available for inspection free of charge during ordinary office hours at a place specified.

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### **Contents of the annual report**

**9.4.5** An annual report of a Fund, other than a Fund which is an Umbrella Fund, must contain:

- (a) the full audited ~~accounts~~ financial statements for the annual accounting period;
- (b) the report produced by ~~of~~ the Registered Auditor in accordance with Rule 9.3.8(b) ~~9.3.9~~;
- (c) the report of the Fund Manager in accordance with Rule 9.4.9; ~~and~~
- (d) if the Fund is a Public Fund, the comparative table in accordance with Rule 9.4.10; ~~or~~ and
- ~~(e) if the Fund is a Private Fund, a statement on the performance of the Fund in accordance with the Constitution and Prospectus; and~~
- (ef) if the Fund is a Public Fund, the Oversight report in accordance with Rule 10.3.13.

**9.4.6** An annual report on a Fund which is an Umbrella Fund must contain:

- (a) for each Sub-Fund:
  - (i) the full audited ~~accounts~~ financial statements for the annual accounting period;

- (ii) the report of the Fund Manager in accordance with Rule 9.4.9; and
  - (iii) if the Fund is a Public Fund, the comparative table in accordance with Rule 9.4.10; or
  - ~~(iv) if the Fund is a Private Fund, a statement on the performance of the Sub-Fund in accordance with the Constitution and Prospectus;~~
- (b) an aggregation of the ~~accounts~~ financial statements required by (a)(i) for each Sub-Fund;
  - (c) the report produced by ~~of~~ the Registered Auditor in accordance with Rules 9.3.8(b)~~9.3.9~~; and
  - (d) if the Fund is a Public Fund, the Oversight Report in accordance with Rule 10.3.13.

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**9.4.8** The Fund Manager must ensure that the ~~accounts~~ financial statements give a true and fair view of the net income and the net gains and the losses on the Fund Property of the Fund, or, the Sub-Fund, for the annual accounting period in question and the financial position of the Fund or Sub-Fund as at the end of that period.

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**9.5 Table illustrating content of the annual report**
**Guidance**

Type of Report	CIR Ref	Public Funds	Private Funds	Exempt Funds	QIF
Annual and interim reports	9.4.2	✓	✓	✓	<u>Annual Report only. An interim report is required only if there has been a material change during the interim accounting period</u>
Fund Manager's Report	9.4.9	✓	✓	✓	✓
Fund Auditor's Report	<del>9.4.6</del> 9.3.8(b)	✓	✓	✓	✓
Oversight Report	10.3.13	✓	Not applicable	Not applicable	Not applicable
Comparative Table	9.4.10	✓	Performance Statement (9.4.5(e))	Not applicable	Not applicable
Eligible Custodian Report	9.4.7(2)	Hedge Funds only	Hedge Funds only	Hedge Funds only	Hedge Funds only
<u>Investment Independent Committee</u>	9.4.7(1) <u>13.3.1</u> & 13.4.3	Private Equity Funds; and Property Funds and where appropriate	<del>Private Equity Funds; Property Funds</del> and where appropriate	Private Equity Funds; and Property Funds and where appropriate	Not applicable

This table illustrates the different content requirements for ~~an annual reports of a Public Domestic Fund and a Private Fund.~~



## PART 5: RULES SPECIFIC TO DIFFERENT TYPES OF DOMESTIC FUNDS

### Guidance

Article 13 of the Law defines Funds as either Domestic Funds or Foreign Funds. Article 15 of the Law further defines Domestic Funds as falling into three categories, i.e. Public Funds, ~~Private Funds~~ and Exempt Funds and Qualified Investor Funds. While the core requirements in Part 4 of this module are of common application to most types of Domestic Funds, the requirements in this Part apply only to certain types of Domestic Funds, depending on whether they are Public Funds, ~~Private Funds~~ or Exempt Funds or Qualified Investor Funds. Where a certain type of Fund is also a specialist class of Funds, there are additional requirements that are prescribed in Part 6.

## 10 REQUIREMENTS SPECIFIC TO PUBLIC FUNDS

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### Requirements for registration

#### 10.2.3 .....

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### Rejection of an application

#### Guidance

- ~~1.~~ Under Article 30(1) of the Law, the DFSA may ~~in its absolute discretion~~, refuse to grant an application for the registration of a Fund if it is not satisfied that the requirements referred to in Article 28 of the Law have been met.
- ~~2.~~ ~~Upon refusing to grant registration, the DFSA must, under Article 30(2) of the Law, inform the applicant in writing without any undue delay and, where requested by the Fund Manager, the reasons for such refusal.~~

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### Principles and disclosure of interests

#### 10.3.6 .....

#### Guidance

1. The principles do not apply to an individual in respect of any other functions he may carry out, although his conduct in those functions may be relevant to his fitness and propriety.

2. Breaching a principle makes an individual liable to disciplinary action and may indicate that he is no longer fit and proper to perform an oversight function and the DFSA may consider exercising its power under Article 39(24) of the Law to object to the appointment and require the Fund Manager to appoint a replacement.
3. The onus will be on the DFSA to show that he is culpable, taking into account the standard of conduct required under the principle in question. In determining whether or not the particular conduct of an individual complies with the principles, the DFSA will take into account whether that conduct is consistent with the requirements and standards relevant to an individual's role and the information available to him.

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## **10.4 Prospectus requirement for Public Funds**

### **Guidance**

The disclosure requirements relating to a Prospectus that apply to a Public Fund are somewhat more extensive than the Prospectus disclosure that apply to other types of Funds, in particular, ~~Private Funds and Exempt Funds~~ and Qualified Investor Funds. However, as Prospectus disclosure is a matter closely linked to the marketing of Funds, Prospectus requirements relating to the relevant types of Funds are set out in Part 7 of this module, which deals with the Offer of Units of Funds.

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## ~~11 DELETED REQUIREMENTS SPECIFIC TO PRIVATE FUNDS~~

### ~~11.1 Notification Requirement for a Private Fund~~

~~11.1.1 A Fund Manager of a Private Fund, when notifying the DFSA pursuant to Article 34 of the Law, must also include:~~

- ~~(a) a general description of the Fund, including the nature of its investments and the intended size of the Fund in monetary terms;~~
- ~~(b) if it is a Hedge Fund which has appointed a prime broker pursuant to Rule 13.6.3:
 
  - ~~(i) the details relating to the identity of the prime broker and its Regulator; and~~
  - ~~(ii) a legal certification that all the requirements in Rule 13.6.3 relating to the use of prime brokers have been fully complied with by the Fund Manager; and~~~~
- ~~(c) the name of the jurisdiction in which the Fund Manager is domiciled if it is an External Fund Manager, and the details of the Appointed Fund Administrator or Trustee to that Fund for the purposes of Rule 6.1.3.~~

### ~~11.2 Meeting the criteria to be classified as a Private Fund~~

#### ~~Guidance~~

- ~~1. Article 16(2) of the Law provides that a Domestic Fund may be constituted as a Private Fund only if it meets the criteria in Article 16(3). The Private Fund criteria under Article 16(3) provide that such a Fund:
 
  - ~~a has or intends to have 100 or fewer Unitholders;~~
  - ~~b has its Units offered to persons only by way of a private placement; and~~
  - ~~c has only Unitholders each of whom meets the criteria to be classified as a Professional Client.~~~~
- ~~2. Under Article 16(6), the DFSA has the power to prescribe, among other things, the relevant criteria to be classified as a Professional Client and what activities constitute private placement.~~
- ~~3. Under Article 26(1) of the Law, a Private Fund is required to have one of the permitted forms, i.e. an Investment Company, Investment Partnership or an Investment Trust. However, certain types of Private Funds which belong to a specialist class of Funds may be permitted to use only some and not all the permitted forms. See Part 6 for those variations.~~

- ~~4. If a Private Fund can no longer meet the relevant criteria to be classified as a Private Fund, the Fund Manager of that Fund is required, under Article 34(3) of the Law, to apply for the winding up of that Fund. Alternatively, the Fund Manager may have that Fund moved to the classification of either a Public Fund or Exempt Fund, which requires the satisfaction of the requirements and formalities specific to those types of Funds.~~
- ~~5. In addition to the requirements specific to Private Funds, such a Fund must also meet the core requirements that are common to most Domestic Funds, which are set out in Part 4 of this module.~~

**11.2.1** ~~(1) A Fund may be classified as a Private Fund only if it fulfils the criteria in Article 16(3) of the Law at the inception of the Fund and, on an on-going basis.~~

~~(2) A Fund Manager must ensure that a Fund which is or is intended to be established and operated as a Private Fund meets the criteria in Article 16(3) of the Law both at the inception of the Fund and on an on-going basis.~~

~~(3) For the purposes of (2), where a Fund Manager makes arrangements with other Authorised Firms or Persons in other jurisdictions to Offer to issue or sell the Units of a Private Fund, then it must take reasonable steps to ensure that those Authorised Firms or other Persons do not Offer to issue or sell the Units in a manner that would result in a breach of the criteria in Article 16(3) of the Law.~~

~~(4) As soon as a Fund Manager becomes aware that a Private Fund it manages no longer meets or is likely to not meet the criteria in Article 16(3) of the Law, it must immediately:~~

~~(a) commence proceedings relating to the winding up of the Fund, or alternatively, take necessary steps to have the Fund registered as a Public Fund or an Exempt Fund; and~~

~~(b) notify the DFSA of that fact and the measures it has already taken and proposes to take under (a).~~

**11.2.2** ~~(1) The following criteria are hereby prescribed by the DFSA for the purposes of Article 16(7)(a) and (b) of the Law:~~

~~(a) a Person meets the criteria to be a Professional Client if that Person is a Client specified under COB Rule 2.3.2; and~~

~~(b) Units of a Fund are Offered by private placement if, and only if, an Offer of the Units 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 he is interested in Offers of that kind.~~

**Guidance**

~~Generally a firm will not be able to undertake mass marketing activities relating to Units of Exempt Funds because such marketing would likely amount to a public offer, which can only be made in respect of a Unit of a Public Fund.~~

### **11.3 Private Fund Prospectus**

**Guidance**

~~The disclosure requirements relating to a Prospectus that apply to a Private Fund are different to the Prospectus disclosure required for other types of Funds, in particular, Private Funds and Exempt Funds. However, as Prospectus disclosure is a matter closely linked to the marketing of Funds, Prospectus requirements relating to the relevant types of Funds are set out in chapter 14.~~

## **12 REQUIREMENTS SPECIFIC TO EXEMPT FUNDS**

### **12.1 Meeting the criteria conditions to be classified as an Exempt Fund**

**Guidance**

1. Article 16(2) of the Law provides that a Domestic Fund may be constituted as an Exempt Fund only if it ~~meets the criteria~~ satisfies all of the conditions in Article 16(4). ~~The Exempt Fund criteria under Article 16(4) provides that such a an Exempt Fund must:~~
  - a. ~~have or intend to have~~ 100 or fewer Unitholders;
  - b. have its Units offered to persons only by way of a Private Placement;
  - c. have only Unitholders each of whom meets the criteria to be classified as a Professional Client; and
  - d. have a minimum subscription of at least US\$50,000 for a person to become a Unitholder in the Fund;

and not satisfy the conditions in Article 16(5) to be a Qualified Investor Fund.
- ~~2. Under Article 16(6), the DFSA has the power to prescribe, among other things, the relevant criteria to be classified as a Professional Client and what activities constitute private placement.~~
- ~~23.~~ Under Article 26(1) of the Law, an Exempt Fund is required to have one of the permitted forms, i.e. an Investment Company, Investment Partnership or an Investment Trust. However, certain types of Exempt Funds which belong to a specialist class of Funds may be permitted to use only some and not all the permitted forms. See Part 6 for those variations.

- 34. If an Exempt Fund can no longer meet the relevant criteria conditions to be classified as an Exempt Fund, the Fund Manager of that Fund is required, under Article 34(3), to apply for the winding up of that Fund. Alternatively, the Fund Manager may have that Fund moved to the classification of a Public Fund, which requires the satisfaction of the requirements and formalities specific to that type of Fund. An Exempt Fund may also, if it wishes to, convert to a Qualified Investor Fund provided it meets the conditions applicable to a Qualified Investor Fund in Article 16(5) of the Law.
- 45. In addition to the requirements specific to Exempt Funds, such a Fund must also meet, except where otherwise provided, the other requirements that are common to all Domestic Funds, which are set out in Part 4 of this module.
- 56. Units of Exempt Funds, ~~like Units of Private Funds,~~ can only be Offered by way of ~~Private Placement~~ and to Professional Clients, but must meet the additional criterion of a minimum subscription test of US\$50,000. The definitions of Professional Client ~~these terms provided in relation to Private Funds~~ is set out in Rule 1.3.1 ~~1.2.2 apply equally to Exempt Funds.~~
- 6. Generally a firm will not be able to undertake mass marketing activities relating to Units of Exempt Funds because such marketing would not meet the Private Placement requirement, and would be likely to amount to a public offer, which can only be made in respect of a Unit of a Public Fund.

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## 12A REQUIREMENTS SPECIFIC TO QUALIFIED INVESTOR EXEMPT FUNDS

### 12A.1 Meeting the conditions to be classified as a Qualified Investor Exempt Fund

#### Guidance

- 1. Article 16(2) of the Law provides that a Domestic Fund may be constituted as a Qualified Investor Fund only if it satisfies all of the conditions in Article 16(5). Article 16(5) provides that a Qualified Investor Fund must:
  - (a) have 50 or fewer Unitholders;
  - (b) have its Units offered to persons only by way of Private Placement;
  - (c) have only Unitholders each of whom meets the criteria to be classified as a Professional Client; and
  - (d) have an initial subscription to be paid by a person to become a Unitholder in the Fund of at least US\$500,000.
- 2. The definition of “Professional Client” is set out in Rule 1.3.1.
- 3. Generally a firm will not be able to undertake mass marketing activities relating to Units of Qualified Investor Funds because such marketing would not meet the Private Placement requirement, and would be likely to amount to a public offer, which can only be made in respect of a Unit of a Public Fund.

- 12A.1.1**
- (1) A Fund may be classified as a Qualified Investor Fund only if it fulfils the conditions in Article 16(5) of the Law at the inception of the Fund and on an on-going basis.
  - (2) A Fund Manager must ensure that a Fund which is or is intended to be established and operated as a Qualified Investor Fund meets the conditions in Article 16(5) of the Law both at the inception of the Fund and on an on-going basis.
  - (3) For the purposes of (2), where a Fund Manager makes arrangements with other Authorised Firms or Persons in other jurisdictions to Offer to issue or sell the Units of a Qualified Investor Fund, then it must take reasonable steps to ensure that those Authorised Firms or other Persons do not Offer to issue or sell the Units in a manner that would result in a breach of the conditions in Article 16(5) of the Law.
  - (4) As soon as a Fund Manager becomes aware that a Qualified Investor Fund it manages no longer meets or is likely not to meet the conditions in Article 16(5) of the Law, it must immediately:
    - (a) commence proceedings relating to the winding up of the Fund, or alternatively, take necessary steps to have the Fund reconstituted as an Exempt Fund or registered as a Public Fund; and
    - (b) notify the DFSA of that fact and the measures it has taken and proposes to take under (a).

**12A.2**      **Responsibilities of a Fund Manager of a Qualified Investor Fund**

**Guidance**

1. While a Fund Manager of a Qualified Investor Fund is exempt from many of the detailed requirements applicable to Public Funds and Exempt Funds, it will continue to be subject to most of the main obligations of Fund Managers. Therefore, such a Fund Manager should be mindful that when managing a Qualified Investor Fund, it is subject to some of the overarching obligations applicable to Fund Managers, particularly:
  - (a) Article 22 of the Law (Fund Manager’s general duties and functions);
  - (b) Article 38 of the Law and GEN chapter 5 (Systems and controls requirements); and
  - (c) GEN section 4.2 (The Principles for Authorised Firms).
2. For example, a Fund Manager of a Qualified Investor Fund needs to observe high standards of integrity and fair dealing, and apply due skill, care and diligence, in managing the Fund. Similarly, it must have adequate systems and controls to ensure that the affairs of the Fund are effectively managed, taking into account the nature, scale and complexity of the Fund’s operations and the investment objectives and needs of its investors.

**12A.3 Custody of Fund Property**

- 12A.3.1** (1) For the purposes of Article 27(1)(e) of the Law, the Fund Manager of a Qualified Investor Fund that is not an Investment Trust must ensure that the legal title to Fund Property is registered with an Eligible Custodian.
- (2) The requirement in Article 27(1)(e) of the Law does not apply in relation to Fund Property of a Qualified Investor Fund that is:
- (a) a Property Fund; or
  - (b) a Private Equity Fund.
- (3) If the Fund Manager of a Qualified Investor Fund itself holds Fund Property of a kind referred to in (2), it must have in place effective arrangements which ensure that the Fund Property is not available to creditors in the event of the insolvency of the Fund Manager.

**Guidance**

Article 27(1)(e) of the Law requires a Domestic Fund that is not an Investment Trust to have legal title to the Fund Property registered with an eligible person (unless the Rules provide otherwise). Rule 12A.3.1(1) specifies that the person must be an Eligible Custodian. Rule 12A.3.1(2) disappplies the requirement in relation to Fund Property of certain kinds of Qualified Investor Funds. Regardless of who holds title to Fund Property, the Fund Manager must always ensure that, in accordance with Article 22(2)(f) of the Law, Fund Property is clearly identified as such and held separately from property of the Fund Manager and any other Funds.



## PART 6: RULES SPECIFIC TO SPECIALIST CLASSES OF DOMESTIC FUNDS

### Guidance

1. Article 17 of the Law confers on the DFSA the power to prescribe any type of Domestic Fund (i.e. a Public Fund, ~~Private Fund~~ or an Exempt Fund, or a Qualified Investor Fund) as a “specialist class” of a Domestic Fund and in so doing apply any requirements as are suitable for that specialist class of Funds. This Part sets out the requirements that apply to such a Fund by virtue of being a specialist class of Fund.
2. Most of the requirements that are set out in this part as applying to specialist classes of Domestic Funds are generally in addition to the core requirements that apply to every Domestic Fund (see Part 4). Further, depending on whether it is a Public Fund, ~~Private Fund~~ or an Exempt Fund or a Qualified Investor Fund, the additional requirements in Part 5 of this module would also apply to a specialist class of Fund.
3. A Qualified Investor Fund may be constituted as a specialist class of a Domestic Fund without being subject to most of the detailed requirements that would normally apply to such specialist classes of Funds. However, there are some requirements which need to be met as the obligation to do so arises under the general provisions applicable to certain specialist classes of Funds, regardless of whether such Funds are Public Funds, Exempt Funds or Qualified Investor Funds. An example is a Fund constituted as an Islamic Fund. While some of the detailed requirements such as the appointment of a Shari’a Supervisory Board do not apply to the Fund Manager of an Islamic Qualified Investor Fund (see IFR 6.2.1), the other general requirements such as ensuring compliance with Shari’a requirements continue to apply to such Funds and the Fund Manager.
4. The only specialist class requirements in this chapter that apply to a Qualified Investor Fund are those in Rule 13.6.3 and section 13.7 (Umbrella Funds).

## 13. ADDITIONAL REQUIREMENTS FOR SPECIALIST FUNDS

### 13.1 Application to Qualified Investor Funds

13.1.1 Only Rule 13.6.3 and section 13.7 of this chapter apply to, or in relation to, a Qualified Investor Fund.

#### 13.1A Fund of Funds

##### Guidance

See Rule 3.1.3 for the definition of a Fund of Funds.

- 13.1.1A** (1) A Fund manager of a Fund of Funds may not invest in:
- (a) another Fund of Funds;

- (b) a Feeder Fund;
  - (c) any Fund which is dedicated to investment in a number of Funds;
  - (d) any Fund which is dedicated to investment in a single Fund or in a single investment trust; and
  - (e) any Sub-Fund of an Umbrella Fund or Sub-Fund of any other Fund which is equivalent to a Fund within (a) to (d).
- (2) Not more than 25% in value of the Fund Property is to consist of Units in any one Fund.
- (3) For the purpose of (1) and (2), each Sub-Fund of an Umbrella Fund and of an equivalent Fund is to be treated as if it were a separate Fund.

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## **13.4 Property Funds**

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### **Borrowing**

- 13.4.5** (1) The Fund Manager of a Public Property Fund may borrow either directly or through its Special Purpose Vehicle for financing investment or operating purposes but aggregate borrowings must not at any time exceed 80% of the total net asset value of the Fund.
- ~~(2) The Fund Manager of a Private Property Fund may borrow either directly or through its Special Purpose Vehicle for financing investment or operating purposes but aggregate borrowings must not at any time exceed 100% of the total net asset value of the Fund.~~
- (~~2~~3) The Fund Manager of a Fund may pledge the Fund's assets to secure borrowings under (1) and (~~2~~).
- (~~3~~4) In the event that the borrowing limit under (1) and (~~2~~) is exceeded, the Fund Manager must inform the Trustee (if appointed), the Unitholders and the DFSA of the magnitude of the breach, the cause of the breach, and the proposed method of rectification. The Fund Manager must use its best endeavours to reduce as soon as reasonably possible the excess borrowings.
- (~~4~~5) All borrowings by the Fund must be conducted at arm's length.

- (56) Borrowings by any Special Purpose Vehicles held by the Fund must be aggregated for the purpose of calculating borrowings of the Fund for the purposes of this Rule.

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## 13.6 Hedge Funds

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### Use of prime brokers

**13.6.3** A Fund Manager of a Hedge Fund may only grant to a prime broker authority to combine the assets of the Fund with any other assets held by or available to the prime broker as collateral for any financing activities to be undertaken by the prime broker where, and so long as, all the following conditions are met:

- (a) the Fund is ~~a Private Fund~~ or an Exempt Fund or a Qualified Investor Fund;
- (b) the Prospectus of the Fund contains, in addition to the disclosure required under chapter 14, the following mandatory disclosure and warnings:
  - (i) the identity and profile of the prime broker, including where it is located and how it is regulated;
  - (ii) the services which the prime broker provides to the Fund and the nature and extent to which the prime broker has the power and authority to combine the assets of the Fund with any other assets held by or available to the prime broker as collateral for any financing activities undertaken by the prime broker; and
  - (iii) a prominent health warning in the Prospectus to alert prospective Unitholders to the facts that:
    - (A) the Fund's appointed prime broker has the power and authority to use as collateral the assets of the Fund in conjunction with any other assets held by or available to the prime broker; and
    - (B) where the prime broker uses Fund assets as collateral pursuant to the above power, the Unitholders may lose all the assets of the Fund in the event of the insolvency of the prime broker;

- (c) the Person appointed as the prime broker qualifies as an Eligible Custodian;
- (d) the agreement between the prime broker and the Fund Manager contains mandatory contractual provisions that:
  - (i) prohibit the prime broker from using as collateral the assets of the Fund to an extent exceeding 140% of the Fund's indebtedness to the prime broker at any given time; and
  - (ii) create an irrevocable right in favour of the Fund that enables any indebtedness of the Fund to the prime broker to be set off against any amounts that are owing by the prime broker to the Fund, including in the event of the insolvency of the prime broker; and
- (e) the Fund Manager has in place adequate valuation procedures to mark positions to market daily in order to meet on an ongoing basis the restriction referred to in (d)(i) relating to the limit to which the prime broker may use as collateral the assets of the Fund.

**Guidance**

1. If the prime broker holds the legal title to the Fund assets, the prime broker must, in any event, qualify as an Eligible Custodian. However, even if a prime broker does not hold the legal title to the Fund assets, Rule 13.6.2(c) requires it to meet the Eligible Custodian requirements in certain circumstances. This is where it has the power to use Fund assets as collateral for its financing activities (e.g. by having a charge over the Fund assets) in conjunction with any other assets held by or available to it.
2. In relation to the matters referred to in Rules 13.6.1 and 13.6.2 and in relation to management of Hedge Fund investments, the DFSA expects Fund Managers of Hedge Funds to have proper regard to best practice standards and guidance set out in App 7, DFSA's Hedge Fund Code of Practice as well as international developments relating to Hedge Funds.

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## 14      **MARKETING OF DOMESTIC FUNDS AND PROSPECTUS DISCLOSURE**

### 14.1    **Prospectus disclosure for Domestic Funds**

#### **Guidance**

1. While a Person is required by virtue of Article 50(1) of the Law when making an Offer of a Unit of a Domestic Fund to another Person to make available to that other Person a Prospectus, the obligation to produce a Prospectus is imposed under Article 51(a) of the Law on the Fund Manager of a Domestic Fund.
2. This chapter sets out the detailed requirements that apply to the Fund Manager who is obliged to produce a Prospectus, and the obligations and liabilities relating to Prospectuses, as well as the obligation relating to making available a Prospectus which applies to the activity of making an Offer of Units.
3. Some requirements relating to Prospectus disclosure are common to all Domestic Funds. However, in other areas, particularly relating to the content of disclosure required in a Prospectus, and the manner of distribution, different requirements apply depending on whether the Fund is a Public Fund, ~~Private Fund or Exempt Fund~~ or Qualified Investor Fund. Further, specialist class of Funds attract additional disclosure requirements that are unique to their activities. This chapter sets out those requirements and where necessary by reference to the types and classes of Domestic Funds.
4. Article 14(2) of the Law provides that the requirements relating to Domestic Funds do not apply to an External Fund (i.e. a Fund established in a jurisdiction other than the DIFC by a DFSA licensed Fund Manager), unless otherwise provided in the Law or Rules. As a result, the general Prospectus requirements set out in the Law and this module do not apply to External Funds, except that:
  - a. any offer document prepared for the purposes of complying with the requirements applicable in the jurisdiction in which the External Fund is established is regarded as a Prospectus for the purposes of the requirements relating to the Offer of Units of such a Fund in or from the DIFC (see Article 50(3)(~~c~~) of the Law); and
  - b. the DFSA has the power to prescribe any additional disclosure to be included in such a document (see Articles ~~and~~ 51(2) of the Law).

Those requirements are specified in Rules 14.2.4 – 14.2.7.

#### **Application**

- 14.1.1 (1) This chapter applies, subject to (4), to a Fund Manager of a Domestic Fund, and each Director or partner of the Fund Manager and, if it has a Governing Body, each member of that body.
- (2) This chapter also applies to an Authorised Firm, and each of its Directors or partners, where such a Firm is not the Fund manager and undertakes the marketing of Units of a Domestic Fund.

- (3) This chapter also applies to other specified Persons to the extent so specified.
- (4) Only this Rule and the following requirements in this chapter apply to, or in relation to, a Qualified Investor Fund:
  - (a) Rule 14.2.1;
  - (b) Rules 14.2.4 to 14.2.7;
  - (c) Rule 14.4.6;
  - (d) Rules 14.5.1 and 14.5.2; and
  - (e) Rules in section 14.6.

**Guidance**

An External Fund Manager must also comply with the requirements in this chapter, because it is managing a Domestic Fund (i.e. a Fund established or domiciled in the DIFC- See Article 13(2)(a) of the Law).

**14.2 General Requirements relating to Prospectuses**

**14.2.1 .....**

**Supplementary and Replacement Prospectuses**

**Guidance**

1. Article 52(4) of the Law requires a Fund manager to issue, if, at any time after the issue of a Prospectus there is a material change affecting any matter contained in the Prospectus or a significant new matter arises, a Supplementary or a Replacement Prospectus in the manner prescribed in the Rules.
2. Under Article 50(3) of the Law, any reference in the Law and the Rules to a Prospectus includes ~~a Short Form Prospectus of a Private Fund~~, an Information Memorandum of an Exempt Fund and any Supplementary or Replacement Prospectus, unless otherwise provided. Accordingly, all requirements that apply to a Prospectus apply equally to each of those documents except where stated otherwise.

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- 14.2.5** Where a Fund Manager or other Authorised Firm Offers a Unit of an External Fund to a Person, it must make available to that Person at the time of the Offer a copy of a current Prospectus relating to the Fund which contains the additional requirements in Rule 14.2.6.

**Guidance**

Under Article 50(3)(c) of the Law, a Prospectus includes, in the case of an External Fund the Units of which are marketed in or from the DIFC, any prospectus or other disclosure document prepared in accordance with the laws applicable to that Fund in the jurisdiction in which the Fund is established or domiciled.

**14.3 Prospectus content**

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**Short Form Prospectus of a Private Fund**

~~14.3.2 Without limiting the generality of the Prospectus disclosure required under Article 52 of the Law, the Fund Manager must, in the case of a Private Fund, include in the Prospectus of the Fund:~~

- ~~(a) the information in Rule 14.3.5;~~
- ~~(b) if it is a specialist class of a Private Fund, any information that is relevant to that specialist class of Fund as set out in section 14.4; and~~
- ~~(c) the mandatory statement required under Rule 14.3.4.~~

**14.3.23 Information Memorandum of an Exempt Fund or a Qualified Investor Fund**

**Guidance**

1. Under Article 50(3)(a) of the Law, an Information Memorandum of an Exempt Fund or a Qualified Investor Fund is a Prospectus for the purposes of the Law and the Rules unless otherwise provided. In limited circumstances, the Rules prescribe additional disclosure to be included in a Prospectus of an Exempt Fund (for example Rule 13.6.3 where an Exempt Fund appoints a prime broker with certain additional powers).
2. There is no detailed prescribed disclosure content for the Information Memorandum of an Exempt Fund or a Qualified Investor Fund. However, as an Information Memorandum is a Prospectus, it is subject to the disclosure obligation in Article 50(2) of the Law. As a result, a Fund Manager of such an Exempt Fund must include all the information which Professional Clients to whom it intends to Offer Units of the Exempt Fund would reasonably require and expect to find in such a Prospectus. This is to enable such Clients to make an informed decision relating to investing in the Fund.

**Mandatory statement**

~~14.3.34 (1) A Fund Manager of a Public Fund other than that of an Exempt Fund must include in the Fund's Prospectus, with appropriate adjustments to indicate whether it is a Prospectus, Short Form~~

~~Prospectus or Information Memorandum as is relevant, the following statement displayed prominently on its front page:~~

~~“This Prospectus relates to a DIFC Fund in accordance with the Collective Investment Law [2010] and Rules of the Dubai Financial Services Authority (“DFSA”).~~

~~The DFSA has no responsibility for reviewing or verifying any Prospectus or other documents in connection with this Domestic Fund. Accordingly, the DFSA has not approved this Prospectus or any other associated documents nor taken any steps to verify the information set out in this Prospectus, and has no responsibility for it.~~

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

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

~~(2) In the case of a Public Fund which is a Listed Fund, the Fund Manager must include, instead of the statement referred to in (1), the statement required under MKT Rule 6.3.1(1)(b)(iii).~~

~~(2) If the Fund is a Private Fund, the Fund Manager must ensure that the statement referred to in (1) includes the following statement:~~

~~“This Short Form Prospectus is intended for distribution only to Professional Clients as specified in those Rules and must not, therefore, be delivered to, or relied on by, a Retail Client.”~~

~~(3) If the Fund is an Exempt Fund, the Fund Manager must include, in addition to the statement referred to in (1), ensure that the statement referred to in (1) includes the following statement:~~

~~“This Information Memorandum is intended for only Professional Clients who can make a minimum subscription of US\$50,000 as specified in those Rules and must not, therefore, be delivered to, or relied on by, a Retail Client or a Professional Client not able to make that minimum subscription.”~~

**Content of a Short Form Prospectus**

~~14.3.5 A Short Form Prospectus must contain the following information:~~

- ~~(a) the name of the Private Fund;~~
- ~~(b) particulars of the Fund Manager and, if applicable the Trustee and its regulatory status;~~



- ~~(c) — details of the Eligible Custodian, any independent investment committee or other similar arrangements in respect of the Fund;~~
- ~~(d) — a detailed description of the Fund, its investment objectives and policy, and the nature of its investments;~~
- ~~(e) — particular risks to a prospective Unitholder associated with the type of Fund and its investments;~~
- ~~(f) — particulars of management of the Fund and other service providers including:
 
  - ~~(i) — the name of any Service Provider;~~
  - ~~(ii) — which Financial Services Regulator regulates that Person; and~~
  - ~~(iii) — details of the arrangements;~~~~
- ~~(g) — any applicable charges and the basis upon which such charges will be calculated;~~
- ~~(h) — details of dealing and redemption or other exit arrangements and any costs to the Unitholders as a result thereof;~~
- ~~(i) — details of investment and borrowing powers and, if the Fund is permitted by its Constitution and the Rules to borrow money in excess of 200% of the net asset value of the Fund, full details of the manner in which the risk posed by such borrowing is to be managed;~~
- ~~(j) — a statement that this document is the Prospectus of the Private Fund valid as at a particular date which shall be the date of the Prospectus;~~
- ~~(k) — a statement that no Units will be issued on the basis of the Prospectus after the expiry date specified in the Prospectus; and~~
- ~~(l) — if the Fund is an Umbrella Fund, information relating to its Sub-Funds and any costs or restrictions relating to switching between Sub-Funds.~~

## **14.4 Additional Prospectus disclosure for specialist Funds**

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- 14.4.3** A Fund Manager of a Public Property Fund must also disclose in the Fund's Prospectus, in addition to the standard disclosure requirements, in respect of investment limits, the following information:

- (a) what percentage of the Property Fund's net assets may consist of property related assets which are not traded in or dealt on markets provided for in the Constitution;
- (b) unless the Constitution and the Prospectus state that the Fund invests in a single property, the maximum percentage of the Fund's net assets which may be invested in any single property or, if applicable, the conditions under which the Fund may derogate from this restriction;
- (c) the maximum percentage of the Property Fund's net assets which may be invested in properties which are vacant, in the process of development or requiring development; and
- (d) the maximum percentage of the Property Fund's net assets which may be invested in properties which are subject to a mortgage; and
- ~~(e) If it is a Private Fund, that borrowing may not exceed 100% of the value of the net assets of the Property Fund, which may be generally secured on the properties of the Fund.~~

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## **14.5 Obligation relating to making a Prospectus available**

- 14.5.1**
- (1) A Fund Manager of a Domestic Fund must make the Fund's most recent Prospectus available free of charge to any Unitholder and to any Person who is eligible to invest in the Fund when making an Offer to issue or sell a Unit of the Fund to such a Person, and, in any case, must not enter into a Transaction relating to the issue or sale of a Unit of the Fund with a Person unless that Transaction results from an Excluded Offer as defined in section 4.1 of this module.
  - (2) A Fund Manager of a Domestic Fund which is ~~a Private Fund or an Exempt Fund~~ or a Qualified Investor Fund must not, and must not cause any other Person to, make an Offer of Units of such a Fund in a manner that would result in a breach of the requirements in Article 16~~(3) or (4)~~ or (5) of the Law as is applicable to that Fund.

### **Guidance**

1. Section 4.1 of this module contains the definitions of Excluded Offers, such as Execution-only Transactions and Transactions with market Counterparties.
2. A Fund Manager should note the requirements in Article 50(1) of the Law. Accordingly, a Prospectus drawn up pursuant to Rule 14.1.3 should be made available to prospective Unitholders for as long as the Offer is open and once the

Offer is closed, the Fund Manager's obligation to make the Prospectus available would cease.

3. ~~Articles 16(3) and (4) and (5)~~ of the Law sets out the conditions that must be satisfied criteria for Private Funds and Exempt Funds and Qualified Investor Funds. In particular, these articles require that Units in an ~~Private Fund or Exempt Fund or a Qualified Investor Fund~~ may only be Offered for issue or sale by means of a Private Placement with Professional Clients, and in a manner which does not result in the Fund having more than 100 Unitholders or 50 Unitholders, as is applicable.

- 14.5.2**
- (1) Where an Authorised Firm Offers a Unit of a Domestic Fund to a Person it must make available to that Person a copy of the most recent Prospectus at the time of the Offer or before effecting the Transaction in relation to the Units, unless that Transaction results from an Excluded Offer as defined in section 4.1 of this module.
  - (2) An Authorised Firm must not make an Offer of Units of a ~~Private Fund or an Exempt Fund~~ or a Qualified Investor Fund in a manner that would result in a breach of the requirements in Articles 16(3) ~~or (4) or (5)~~ of the Law as is applicable to that Fund.

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## **15 MARKETING OF FOREIGN FUNDS**

### **15.1 Access to Foreign Funds and availability of Prospectus**

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#### **Prospectus disclosure relating to Foreign Funds**

- 15.1.2** Where an Authorised Firm Offers a Unit of a Foreign Fund to a Person, it must make available to that Person a copy of a current Prospectus relating to the Fund which complies with the additional requirements in Rule 15.1.3 at the time of the Offer.

#### **Guidance**

Under Article 50(3)(~~cd~~) of the Law, a Prospectus includes, in the case of a Foreign Fund the Units of which are marketed in or from the DIFC, any prospectus or other disclosure document prepared in accordance with the laws applicable to that Foreign Fund.

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**Offer of Units of Foreign Funds under Article 54(1)(c) of the Law that meet Exempt Fund criteria**

- 15.1.9**
- (1) An Authorised Firm may not make an Offer of a Unit of a Foreign Fund under the criteria in Article 54(1)(c) of the Law unless:
    - (a) it has first satisfied itself on reasonable grounds that the Fund meets the ~~Exempt Fund~~ criteria specified in Article ~~46(4)~~ 54(1)(c)(i),(iii) and (iv) of the Law; and
    - (b) it makes the Offer in a manner that is in accordance with the criteria in Article ~~46(4)~~ 54(1)(c)(ii) of the Law.
  - (2) An Authorised Firm that relies on (1) for Offering Units of a Foreign Fund must be able to demonstrate to the DFSA that it conducted adequate due diligence to ensure compliance with (1)(a).

**Guidance**

Rule 15.1.9 allows an Authorised Person to make an Offer of a Unit in a Foreign Fund where the Fund and the Offer of the Unit satisfy criteria equivalent to those applicable to an Exempt Fund or Qualified Investor Fund.

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## 17 Winding up of Domestic Funds

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### 17.1 Application

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#### 17.1.3 .....

#### Guidance

The grounds for winding up of a Domestic Fund under this Rule are in addition to the grounds specified in the Law. Under Article 64(1)(a) and (b) of the Law, a Fund which is no longer commercially viable or the purpose of which is either already accomplished or cannot be accomplished can be wound up. Similarly, under Article 34(3) of the Law, if a Domestic Fund which is a ~~Private Fund or an Exempt Fund~~ or a Qualified Investor Fund can no longer meet the relevant criteria conditions to be classified as a Fund of that type, the Fund Manager of such a Fund must either ~~be registered~~ it as a Public Fund (or alternatively reconstitute it as an Exempt Fund if it is a Qualified Investor Fund) or it must be wound up.

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#### Funds that are not commercially viable

- 17.1.6**
- (1) If the Fund Manager of a Fund believes on reasonable grounds that the Fund is not commercially viable or the purpose of the Fund cannot be accomplished, the Fund Manager must notify the DFSA and include the information specified in (2).
  - (2) The information referred to in (1) is:
    - (a) name of the Fund;
    - (b) size and type of Fund;
    - (c) number of Unitholders;
    - (d) whether dealing in the Fund's Units has been suspended;
    - (e) why the request is being made;
    - (f) what consideration has been given to the Fund entering into a transfer scheme with another Fund and the reasons why a transfer scheme is not possible;

- (g)
    - (i) whether Unitholders have been informed of the intention to seek winding up or revocation; and
    - (ii) if not, when they will be informed;
  - (h) details of any proposed preferential switching rights offered or to be offered to Unitholders if it is an Umbrella Fund;
  - (i) details of any proposed rebate of charges to be made to Unitholders who recently purchased Units;
  - (j) where the costs of winding-up will fall;
  - (k) a statement obtained from the Trustee or Eligible Custodian or other Persons providing the oversight function if the Fund is a Public Fund or a statement from the Auditor if the Fund is an Exempt Fund or a Qualified Investor Fund Private Fund:
    - (i) that the Fund Manager, having taken reasonable care in considering the matter, is certain that a transfer scheme is not practical;
    - (ii) an explanation of what steps have been considered that would result in the Fund not needing to wind up;
    - (iii) confirmation that the Fund Manager has carried out its function and duties in accordance with the Law and Rules; and
    - (iv) whether the Fund's investment and borrowing powers have been exceeded;
  - (l) the preferred date for the commencement of the winding up; and
  - (m) any additional information considered relevant to the DFSA's consideration.
- (3) The DFSA may request further information after receipt of the notification.

## ~~PART 9: TRANSITIONAL RULES~~

### ~~18 TRANSITIONAL RULES~~

#### ~~18.1 Application~~

~~18.1.1 (1) This chapter applies, subject to (2), to every Person to whom the Collective Investment Law 2006 and any Rules made for the purposes of that law applied immediately prior to the Effective Date.~~

~~(2) The Effective Date for the purposes of the Rules in this chapter is the date on which the Collective Investment Law 2010 comes into force.~~

#### **Guidance**

1. Article 1 of the Collective Investment Law 2010 provides as follows:

~~“(a) This Collective Investment Law 2010 repeals and replaces the Collective Investment Law 2006 (“the Previous Law”) and may be cited as the “Collective Investment Law 2010” (“this Law”).~~

~~(b) Except where otherwise provided in the Rules, anything done or omitted to be done pursuant to or for the purposes of the Previous Law is deemed to be done or omitted to be done pursuant to or for the purposes this Law.~~

~~(c) Without limiting the generality of Article 1(b), such repeal shall not affect:~~

~~(i) any right, privilege, remedy, obligation or liability accrued to or incurred by any person; or~~

~~(ii) any investigation or legal or administrative proceeding commenced or to be commenced in respect of any right, remedy, privilege, obligation or liability,~~

~~under the Previous Law and, any such investigation or legal or administrative proceeding may be instituted, continued or enforced, including any penalty, fine or forfeiture, under this Law.~~

~~(d) The DFSA may, by Rules, prescribe any transitional or saving provisions as are or are deemed necessary to give effect to, or to facilitate, the transition from the Collective Investment Law 2006 to this Law.”~~

## 18.2 Licences

~~18.2.1~~ Any Person who has a Licence authorising that Person to carry on the Financial Service of Operating a Collective Investment Fund immediately prior to the Effective Date is, subject to Rule 18.3.1, hereby deemed to be authorised under its Licence to carry on the Financial Service of Managing a Collective Investment Fund on the Effective Date. Such deeming has effect subject to the same conditions or restrictions as were applicable to that Person's Licence immediately prior to the Effective Date.

## 18.3 Private Funds

~~18.3.1 (1)~~ Any Person whose Licence authorised that Person to Operate a Private Fund immediately prior to the Effective Date is hereby deemed, subject to Rule 18.3.2, to be authorised to Manage an Exempt Fund as defined in Article 16(4) of the Collective Investment Law 2010.

~~(2)~~ Nothing in (1) prevents a Person who was the Operator of a Private Fund immediately prior to the Effective Date from continuing to operate the Private Fund during the Transitional Period.

~~(3)~~ The Transitional Period, for the purposes of this Rule and Rules 18.3.2 and 18.3.3, is the period of 2 years commencing on the Effective Date.

### Guidance

1. The DFSA will not permit the creation of new Private Funds after the Effective Date. The provisions relating to Private Funds will cease to be in force, pursuant to Rule 18.3.3, upon the expiry of the Transitional Period.
2. As a result of the deeming under Rule 18.3.1, a Person whose Licence permitted that Person to Operate a Private Fund before the Effective Date need not change its Licence to be able to Manage an Exempt Fund.

~~18.3.2 (1)~~ A Person referred to in Rule 18.3.1 may either:

- ~~(a)~~ continue to treat that Fund as a Private Fund during the Transitional Period; or
- ~~(b)~~ convert that Fund, at any time during the Transitional Period, to:
  - ~~(i)~~ an Exempt Fund by complying with the requirements in (2); or
  - ~~(ii)~~ a Public Fund by complying with all the requirements that apply to Public Funds.



- ~~(2) For the purposes of converting a Private Fund to an Exempt Fund, the Fund Manager of that Fund must lodge with the DFSA a notice specifying the name of the Fund and the Fund Manager and the date from which the Fund is to be converted to an Exempt Fund.~~
- ~~(3) The Fund Manager of a Private Fund must take necessary steps to wind up any Private Fund where it does not intend to convert such a Fund to either an Exempt Fund or a Public Fund as soon as practicable but in any case before the expiry of the Transitional Period.~~

**Guidance**

- ~~1. If a Fund Manager decides to continue to treat a Private Fund that was in operation on the Effective Date as a Private Fund for any period during the Transitional Period, it needs to comply with all the requirements relating to Private Funds in the Collective Investment Law 2010 and the Rules made for the purposes of that law.~~
- ~~2. If a Fund Manager who wishes to convert an existing Private Fund to an Exempt Fund finds it not practicable or overly burdensome in having to comply with any of the specific requirements that apply to an Exempt Fund, it should promptly apply to the DFSA for an appropriate waiver or modification of the relevant requirements.~~

~~**18.3.3** The provisions in the Collective investment Law 2010 and the Rules made for the purposes of that law, so far as they relate to Private Funds, will cease to have force upon the expiry of the Transitional Period.~~

**App 1 DELEGATION AND OUTSOURCING**

**A1.1 Application**

- A1.1.1** (1) This Appendix (App 1) applies to a Fund Manager and if appointed the Trustee in relation to every:
  - (a) Delegation Agreement; and
  - (b) Outsourcing Agreement.

made or entered into pursuant to these Rules.
- (2) This Appendix does not apply to a Qualified Investor Fund.

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**APP 2 ~~meeting procedures~~ MEETING PROCEDURES**

**A 2.1 Nomination of a chair**

- A2.1.1** (1) A Fund Manager of a Public Fund ~~or a private Fund~~, or in the case of a Fund which is structured as an Investment Trust, the Trustee, must nominate in writing a Person to be the chairman of a meeting of Unitholders and such a Person must be a Unitholder other than the Fund Manager.

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## APP 3 APPROVALS AND NOTIFICATIONS

### A 3.1 Alterations to a Fund

- A 3.1.1** (1) A The Fund Manager of a Public Fund must, by way of a Special Resolution, obtain prior approval from the Unitholders for any proposed change to a the Domestic Fund which is a fundamental change.
- (2) In addition to the specific fundamental changes in relation to a Fund prescribed under Article 35(1) of the Law and also under Rules ~~6.4.1(4), 10.2.3, 13.5.4(2) and 20.5.2~~ 8.3.2, 8.13.3, 13.4.4(2) and 16.1.3(2), a “fundamental change” under (1) is a change or event which:
- (a) changes the purpose or nature of the Fund;
  - (b) may materially prejudice a Unitholder;
  - (c) alters the risk profile of the Fund; or
  - (d) introduces any new type of payment out of Fund Property.
- (3) Notwithstanding (2) above, any change may be fundamental depending on its degree of materiality and effect on the Fund and its Unitholders. Consequently, the Fund Manager must determine whether in each case a particular change is fundamental in nature and, if the Fund is an Investment Trust, obtain the Trustee’s agreement to the outcome of the determination.

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- A 3.1.2** (1) A The Fund Manager of a Public Fund ~~must~~ is expected to give prior written notice to Unitholders in respect of any proposed change to the operation of a Fund where the change constitutes a significant change.
- (2) A “significant change” in (1) is a change or event which is not a fundamental change under Rule A 3.1.24 but:
- (a) affects a Unitholder's ability to exercise his rights in relation to his investment;
  - (b) would reasonably be expected to cause the Unitholder to reconsider his participation in the Fund;
  - (c) results in any increased payments out of the Fund Property to the Fund Manager, the Trustee or any other director or an associate of either; or

- (d) materially increases other types of payment out of Fund Property.
- (3) Changes may be significant depending in each case on their degree of materiality and effect on the Fund and its Unitholders. Consequently the Fund Manager will need to determine whether in each case a particular change is significant in nature or not and if the Fund is an Investment Trust obtain the Trustee’s agreement of the outcome of the determination.

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## **App 5 CONSTITUTION OF A DOMESTIC FUND**

### **A5.1 Contents of Constitution**

- A5.1.1**
- (1) The Constitution of a Domestic Fund must contain all the information prescribed in the following table except where it is an Exempt Fund, in which case, it must contain the information specified in A, C, F, G, H, K and M.
  - (2) The requirements in the following table do not apply in respect of the Constitution of a Qualified Investor Fund.

<b>A</b>	<b>General Information</b>
	<p>The following information:</p> <ul style="list-style-type: none"> <li>(1) The name of the Fund.</li> <li>(2) The Fund Manager’s and, if the Fund is structured as an Investment Trust, the Trustee’s name and the principal place of business in the DIFC as recorded by the Registrar of Companies.</li> <li>(3) That the Fund is a Domestic Fund, the Constitution of which is governed by the laws of the DIFC.</li> <li>(4) That the Fund is a Public Fund, <del>Private Fund</del> or Exempt Fund, as the case may be.</li> <li>(5) The legal form of the Fund and whether it is open or closed ended.</li> <li>(6) If the Fund is a specialist class of a Fund as defined in chapter 3 of this module, the relevant specialist class, and if applicable, that the Fund is an Islamic Fund and</li> </ul>

	<p>consequently the Fund's entire business operations are conducted in accordance with Shari'a.</p> <p>(7) If the Fund is managed by an External Fund Manager, that fact and the details of the Appointed Fund Administrator or Custody Provider of the Fund.</p> <p>(8) If the Fund is an External Fund, the name of the jurisdiction in which the Fund is domiciled.</p>
<b>B</b>	<b>General Statements</b>
	<p>The following information:</p> <p>(1) The Fund Manager is responsible, pursuant to the Law, for all operations concerning the Fund and may from time to time delegate activities or outsource functions, but not the responsibility for conducting those activities and functions, to another Person in accordance with the CIR Rules.</p> <p>(2) (a) The Fund Property is entrusted to the Fund Manager and the Fund Manager remains responsible for the property even when an Eligible Custodian holds the legal title to the Fund Property; or</p> <p>(b) The Fund Property is held on trust by the Fund's Trustee, as the case may be.</p> <p>(3) Whether the duration of the Fund is limited and, if so, for how long.</p> <p>(4) That fees, charges and other expenses of the Fund may be taken out of Fund Property and the basis for determination of the quantum of such fees, charges and other expenses.</p> <p>(5) The maximum and minimum sizes of the Fund's capital, if any.</p> <p>(6) That the Unitholders are not liable for the debts of the Fund, unless the applicable legislation prescribes otherwise and, if so, those circumstances.</p> <p>(7) That a Unitholder is not liable to make any further payment after he has paid the price of his Units and that no further liability can be imposed on him in respect of the Units he holds.</p> <p>(8) That payments to the Fund Manager, Trustee, any Eligible Custodian, or the Person providing the oversight function (including a Shari'a Supervisory Board) by way of remuneration are authorised to be paid (in whole or in part) out of the Fund Property.</p>

<b>C</b>	<b>Where the Fund is a Trust</b>
	<p>The following information:</p> <p>(1) The Trust Deed is made under and governed by the Investment Trust Law 2006 and:</p> <p style="padding-left: 40px;">(a) is binding on each Unitholder as if he had been a party to it and that he is bound by its provisions; and</p> <p style="padding-left: 40px;">(b) authorises and requires the Fund Manager and the Trustee to do the things required or permitted of them by its terms and the Investment Trust Law 2006 and the Law.</p> <p>(2) Subject to the provisions of these Rules:</p> <p style="padding-left: 40px;">(a) the Fund Property (other than sums held to the credit of the distribution account) is held by the Trustee on trust for the Unitholders according to the number of Units held by each Unitholder or, where relevant, according to the number of individual shares in the Fund Property represented by the Units held by each Unitholder; and</p> <p style="padding-left: 40px;">(b) the sums standing to the credit of any distribution account are held by the Trustee on trust to distribute or apply in accordance with these Rules relating to income.</p>
<b>D</b>	<b>Investment Objectives</b>
	<p>(1) Information covering the investment objectives of the Fund and in particular:</p> <p style="padding-left: 40px;">(a) whether the aim of the Fund is to spread investment risks and, if a Property Fund, whether the Fund invests in a single property;</p> <p style="padding-left: 40px;">(b) the types of Investments or assets in which it and (where applicable) each Sub-Fund may invest; and</p> <p style="padding-left: 40px;">(c) if the Fund is a specialist class of Fund, the class of Fund.</p> <p>(2) Details of any investment, borrowing or stock lending restrictions or, in the event that there are no such restrictions, a statement to that effect.</p>
<b>E</b>	<b>Units in the Fund</b>
	<p>A statement specifying:</p> <p style="padding-left: 40px;">(a) the classes of Units which the Fund may issue; and</p> <p style="padding-left: 40px;">(b) the rights attaching to Units of each class (including any</p>

	provisions for the expression in two or more denominations of such rights).
<b>F</b>	<b>Limitations</b>
	Details as to:  (a) the provisions relating to any restrictions on the right to redeem Units in any class; and  (b) the circumstances in which the issue of the Units of any particular class may be limited.
<b>G</b>	<b>Income and distribution</b>
	(1) Details of who is carrying out the calculation, transfer, allocation and distribution of income for any class of Unit issued and outstanding during the accounting period.  (2) Information regarding the provision for the payment of income, if any, and the date on which such distribution shall be made.
<b>H</b>	<b>Base currency</b>
	A statement specifying the base currency of the Fund.
<b>I</b>	<b>Meetings</b>
	Details of the procedures for the convening of meetings and the procedures relating to resolutions, voting and the voting rights of Unitholders.
<b>J</b>	<b>Oversight arrangements</b>
	Details of the oversight arrangements, and if the Fund is an Islamic Fund, details of its Shari'a Supervisory Board.
<b>K</b>	<b>Termination and suspension</b>
	Details as to:  (a) the grounds under which the Fund Manager may initiate a suspension of the Fund and any associated procedures; and  (b) the methodology for determining the rights of Unitholders to participate in the Fund Property on winding up.
<b>L</b>	<b>Modification of the Constitution documents</b>
	Details of the manner in which alterations to the Constitution may be made.
<b>M</b>	<b>Responsibility statement</b>

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	A statement that nothing in the Constitution has the effect of exempting the Fund Manager and, if the Fund is structured as an Investment Trust, the Trustee, from any liability to Unitholders imposed under DIFC law and the Rules.
<b>N</b>	<b>Other relevant matters</b>
	Details of those matters which enable the Fund, Fund Manager or any Person providing the oversight function of the Fund to obtain any privilege or power conferred by the Rules which is not otherwise provided for in the Constitution.

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