

Appendix 3

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



The DFSA Rulebook

Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Module

(AML)

1 INTRODUCTION

1.1 Application

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1.1.2 For the purposes of these Rules, a Relevant Person means:

- (a) an Authorised Firm other than a Credit Rating Agency;
- (b) an Authorised Market Institution;
- (c) a DNFBP; or
- (d) an a Registered Auditor.

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1.3 Application table

Guidance

* Partially applicable. Relevant Persons should consider these chapters and determine which provisions apply.

Relevant Person	Applicable Chapters			
Authorised Person	1 - 14			
Representative Office	1 - 5	10- 14		
<u>Registered Auditor</u>	1 - 8	10 - 14		
Real estate developer or agency	1 - 8	10 - 16		
Law firm, notary firm, or other independent legal business	1 - 8	10 - 16		
Accounting firm, audit firm or insolvency firm	1 - 8	10 - 16		
Company service provider	1 - 8	10 - 16		
Single Family Office	1 - 8	10 - 16		
Dealer in precious metals or precious stones	1 - 8	12	13*	14 - 16
Dealer in high-value goods	1 - 8	12	13*	14 - 16

2 OVERVIEW AND PURPOSE OF THE MODULE

Guidance

1. The AML module has been designed to provide a single reference point for all persons and entities (collectively called Relevant Persons) who are supervised by the DFSA for Anti-Money Laundering (AML), Counter-Terrorist Financing (CTF) and sanctions compliance. Accordingly it applies to Authorised Firms, Authorised Market Institutions, Designated Non-Financial Businesses and Professions (DNFBP), and Registered Auditors, but to each in different degrees. The AML module takes into consideration the fact that Relevant Persons have differing AML risk profiles. A Relevant Person should familiarise itself with this module, and assess the extent to which the chapters and sections apply to it.

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3 INTERPRETATION AND TERMINOLOGY

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3.2 Glossary for AML

Guidance

1. A Relevant Person should note that, in order to make this module easier to read, some of the defined terms in this module have not had the initial letter of each word capitalised in the same way as in other Rulebook modules.
2. Some of the defined terms and abbreviations in this module may also be found in the DFSA's Glossary module (GLO). Where a defined term in this module does not appear in Rule 3.2.1, a Relevant Person should look in GLO to find the meaning.

3.2.1 In this module, the terms and abbreviations listed in the table below have the following meanings:

Auditor	<p>Means a partnership or company that is registered by the DFSA to provide audit services to:</p> <p>(a) an Authorised Person;</p> <p>(b) a Domestic Fund; or</p> <p>(c) a Public Listed Company.</p>
Designated Non-Financial Business or Profession (DNFBP)	<p>Means:</p> <p>(1) The following class of persons whose business or profession is carried on in or from the DIFC:</p> <p>(a) a real estate developer or agency which carries out transactions with a customer involving the buying or selling of real property;</p> <p>(b) a dealer in precious metals or precious stones;</p> <p>(c) a dealer in any saleable item of a price equal to or</p>

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	<p>greater than \$15,000;</p> <p>(d) a law firm, notary firm, or other independent legal business;</p> <p>(e) an accounting firm, audit firm or insolvency firm;</p> <p>(f) a company service provider; or</p> <p>(g) a Single Family Office.</p> <p>(2) A person who is an Authorised Person or an a <u>Registered Auditor</u> is not a DNFBP.</p>
Prescribed Low Risk Customer	<p>Means any of the following customer types:</p> <p>(a) an Authorised Firm;</p> <p>(b) an Authorised Market Institution;</p> <p>(c) a Financial Institution whose entire operations are subject to regulation, including AML, by a Financial Services Regulator or other competent authority in a jurisdiction with AML regulations which are equivalent to the standards set out in the FATF Recommendations and it is supervised for compliance with such regulations;</p> <p>(d) a Subsidiary of a Financial Institution referred to in (c), provided that the law that applies to the parent company ensures that the Subsidiary also observes the same AML standards as its Parent;</p> <p>(e) a law firm, notary firm, or other independent legal business or an equivalent person in another jurisdiction whose entire operations are subject to AML regulation and supervision by a competent authority in a jurisdiction with AML regulations which are equivalent to the standards set out in the FATF Recommendations;</p> <p>(f) an accounting firm, <u>Registered Auditor</u> or other audit firm or insolvency firm or an equivalent person in another jurisdiction whose entire operations are subject to AML regulation and supervision by a competent authority in a jurisdiction with AML regulations which are equivalent to the standards set out in the FATF Recommendations;</p> <p>.....</p>
Public Listed Company	Has the meaning given in <u>Schedule 1 to Article 97(2)</u> of the Regulatory Law 2004.
<u>Registered Auditor</u>	<u>Has the meaning given to that term in the Regulatory Law.</u>

senior management	<p>Means, in relation to a Relevant Person every member of the Relevant Person’s executive management and includes:</p> <p>(a) for a DIFC entity, every member of the Relevant Person’s Governing Body;</p> <p>(b) for a Branch, the person or persons who control the day to day operations of the Relevant Person in the DIFC and would include, at a minimum, the SEO or equivalent, such as the managing director; or</p> <p>(c) for an <u>a Registered Auditor</u>, every member of the Relevant Person’s executive management in the U.A.E.</p>
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14 GENERAL OBLIGATIONS

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14.5 Annual AML return

14.5.1 A Relevant Person which is:

- (a) an Authorised Person;
- (b) a Registered Auditor; or
- (c) a person who is a DNFBP in one of the following classes:
 - ~~(b)~~(i) a real estate developer or agency which carries out transactions with a customer involving the buying or selling of real property;
 - ~~(c)~~(ii) a law firm, notary firm, or other independent legal business;
 - ~~(d)~~(iii) an accounting firm, audit firm or insolvency firm; or
 - ~~(e)~~(iv) a company service provider,

must complete the AML Return form in AFN on an annual basis and submit such form to the DFSA within four 4 months of its financial year end.

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15 DNFBP REGISTRATION AND SUPERVISION

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15.2 Withdrawal of registration

15.2.1 A DNFBP must notify the DFSA in writing when it proposes to cease carrying on its business activities in or from the DIFC.

15.2.2 A DNFBP which proposes to cancel its registration as a DNFBP must provide the DFSA with 14 days' written notice of such cancellation and provide written evidence of the basis of its withdrawal.

15.2.3 (1) The DFSA may cancel the registration of a DNFBP:

- (a) if the DNFBP notifies the DFSA of the cancellation in accordance with Rule 15.2.2 and the DFSA is satisfied with the evidence provided;
- (b) if the DNFBP's commercial licence is cancelled or expires and a reasonable time has passed without such licence being renewed;
- (c) following a request by the ROC;
- (d) in the event of the insolvency or the entering into administration of the DNFBP; or
- (e) if the DFSA considers it necessary or desirable in the interests of the DIFC.

(2) The procedures in Schedule 3 to the Regulatory Law apply to a decision of the DFSA to cancel registration under (1)(b) to (e).

(3) If the DFSA decides to exercise its power to cancel registration under (1)(b) to (e), the DNFBP may refer the matter to the FMT for review.

~~**15.2.4** (1) The DFSA may only cancel the registration of a DNFBP under Rule 15.2.3 (b) to (e) if it has given the person an opportunity to make representations in relation to the proposed cancellation.~~

~~(2) If the DFSA cancels the registration of a DNFBP under Rule 15.2.3, the DFSA shall without delay inform the DNFBP in writing of:~~

- ~~(a) such decision;~~
- ~~(b) the reasons for the decision; and~~

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~~(c) — the date on which the decision shall be deemed to take effect.~~

~~**15.2.5** A DNFBP may appeal to the DFSA's Regulatory Appeals Committee against any decision of the DFSA to cancel its registration under Rule 15.2.3 (b) to (e).~~

Guidance

1. A DNFBP may request a cancellation of its registration because, for example, it no longer meets the definition of a DNFBP, becomes insolvent or enters into administration, or proposes to leave the DIFC.
2. The DFSA would expect to use the power to cancel the registration of a DNFBP under Rule 15.2.3(1)(e) once its supervisory tools have been exhausted. Examples of when it might use this power include where a DNFBP commits serious or persistent breaches of the AML Rules which it fails to rectify, or where the DNFBP or its activities in or from the DIFC create risks to the DFSA's regulatory objectives.
- ~~3. Under Article 28 of the Regulatory Law, a person wishing to appeal to the Regulatory Appeals Committee a decision of the DFSA must submit a written notice of appeal within 30 days of the notification of the relevant decision. The form of submission that an appeal must take is specified in the rules of procedures of the Regulatory Appeals Committee. Information on the DFSA's Regulatory Appeals Committee can be found on the DFSA website.~~

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