

Financial Markets Tribunal (FMT)

The DFSA can make a wide range of decisions affecting people – both legal entities (e.g., companies) and individuals. These people could be regulated, applying to be regulated, carrying on financial services without being regulated, or carrying on other activities. The DFSA can impose fines, can require firms to take certain actions, can prohibit individuals from employment in financial services in the DIFC, or can refuse an application for a licence, registration or listing.

When the DFSA makes these types of decisions, the principles of administrative law require fairness and due process. Our processes are designed to comply with those principles. This includes giving those affected by our decisions adequate information about the reasons for the decision, including the facts we relied upon, and an opportunity to make representations to the DFSA about the decision. Details about this process, and the decisions to which it applies, are set out in the Regulatory Law (DIFC Law No.1 of 2004) and in the DFSA Rules.

The DFSA's approach also follows international best practice by giving a person affected by such a decision the right to challenge it before an independent party. The Financial Markets Tribunal, or FMT, carries out the vital role of considering these challenges when they are made.

The FMT is a specialist tribunal, with relevant expertise and experience, which is independent of the DFSA. Having an effective mechanism in place to enable challenges to DFSA decisions, and the review of its regulatory decisions, is an important foundation to ensure confidence in the integrity and reputation of the financial services industry in the DIFC.

Overview of the FMT

The FMT was created in 2014 under the [Regulatory Law](#) to hear and determine:

- challenges against DFSA decisions; and
- other Regulatory Proceedings.

A challenge (technically a “referral”) is a hearing before the FMT to review a DFSA decision. The FMT conducts a full merits review of any decision referred to it and can consider any relevant new evidence that came to light after the original decision. This means that the FMT will take a fresh look at all the evidence, facts and law and arrive at its own decision. The FMT may confirm, vary or set aside the original decision and may remit the matter back to the DFSA with directions as to how the DFSA should make its decision.

A Regulatory Proceeding concerns certain other types of disputes between persons, prescribed under the DIFC Laws or Rules. For example, the dispute may relate to an offer of securities, a takeover offer or a merger or acquisition of shares. Any person (including the DFSA) may commence a regulatory proceeding in the FMT.

So far the FMT has considered 16 cases in total. All of them have been challenges (i.e., seeking a review of a DFSA decision).

Legal basis for the FMT

The DFSA is required by the Regulatory Law to maintain a specialist tribunal in the form of the FMT. The FMT has the power¹ to create its own rules of procedure that supplement the FMT's powers set out in the Regulatory Law. The FMT's operations are governed by the Regulatory Law and its rules of procedure, which set out how cases are managed, and the powers of the FMT including types of orders and directions that can be made.

It is possible for a party to appeal against a decision of the FMT to the DIFC Court but only on a point of law. This requires permission from either the FMT or the Court.

Independence

An important feature of the FMT is that its members, as well as its procedures, are independent of the DFSA. FMT members are appointed by the DFSA Board. A FMT member cannot be a member of the DFSA Board or an officer, director, employee or agent of the DFSA, or of any other agency or body of the DIFC.

In addition, to reinforce independence further, FMT members are appointed for a fixed term and can only be removed from their position on limited grounds. The independence of the FMT ensures those wishing to challenge DFSA decisions can do so in a fair and impartial forum.

Expertise

FMT members must have relevant qualifications, expertise and experience in the regulatory aspects of financial services and related activities. This is so that the FMT can deal with highly technical matters, such as those that arise in licensing, supervision and enforcement decisions by the DFSA. This requirement ensures that FMT decisions are credible and that the FMT can efficiently consider cases before it.

International best practice

In developing the structure, role, and powers of the FMT, the DFSA considered the expectations of international standard setters² as well as of other stakeholders. As the DIFC is an *international* financial centre - where large international financial institutions do business - it is important for the DFSA to follow relevant international standards.

The FMT is similar to bodies in other leading financial services jurisdictions that consider appeals or reviews of decisions made by financial regulators. These include:

- the UK Upper Tribunal that reviews decisions of the UK's Financial Conduct Authority and Prudential Regulation Authority;

¹ Under Article 27(6) of the Regulatory Law.

² The three main international standard setters in financial services are the Basel Committee on Banking Supervision (BCBS or Basel); the International Association of Insurance Supervisors (IAIS); and the International Organization of Securities Commissions (IOSCO).

- the Administrative Appeals Tribunal that reviews decisions of the Australian Securities and Investments Commission and Australian Prudential Regulatory Authority; and
- the Securities and Futures Appeal Tribunal that reviews decisions of the Hong Kong Securities and Futures Commission and Hong Kong Money Authority.

Conclusion

The FMT is a specialist tribunal, independent of the DFSA, with expertise and experience in regulatory financial services. It exists to fulfil the essential role of enabling those affected by DFSA decisions to challenge those decisions and to resolve certain other disputes arising from financial services matters.