

By Email

4 February 2020

Dear Senior Executive Officers (SEO) of DFSA Authorised Firms

Ensuring Fitness and Propriety of Authorised Individuals and Employees

In this “Dear SEO letter”, the DFSA reminds Authorised Firms about their responsibility to ensure, as far as reasonably practical, that all their Employees are fit and proper. See Rules 5.3.19(1) and 7.6.9 of the General Module of the DFSA Rulebook (**GEN**).

Consideration as to the suitability of an individual to fulfil any role within an Authorised Firm that is connected with the provision of Financial Services should include the factors listed in Rule 7.6.3 of GEN. These include the individual’s integrity, competence and capability, financial soundness and any other relevant matters.

With this letter, we would like to highlight the statement in GEN Rule 7.6.4 that an individual may not be considered as fit and proper where they have been convicted of a serious criminal offence. This includes offences that were committed in the UAE or elsewhere.

Individuals Involved in the Provision of Financial Services

The DFSA’s Rules in GEN 7.6, as referred to above, set out the criteria with regard to the licensing of Authorised Individuals. They also form the reference point for exercising the DFSA’s power to restrict individuals under Article 59(1) of the Regulatory Law 2004, if the DFSA reasonably believes that a natural person is not fit and proper to perform any functions in connection with the provision of Financial Services. Accordingly, we expect that, even where an employee is not carrying out a Licensed Function, an Authorised Firm should nonetheless ensure that it only employs individuals that are fit and proper to perform functions in connection with the provision of Financial Services.

Where the DFSA becomes aware that a person who is not fit and proper may be carrying out such functions, we will take steps, including restricting them as appropriate, to protect the reputation of the DIFC and foster and maintain confidence in the financial services industry in the DIFC, in line with our statutory objectives.

Being Fit and Proper

The DFSA considers it to be unlikely that someone who has been convicted of a serious criminal offence involving financial crime, whether in the UAE or elsewhere, will meet the test of fitness and propriety. Equally, however, we recognise that fitness and propriety can only be assessed on an individual case-by-case basis and it involves consideration of factors and circumstances that may vary greatly from person to person and/or be highly specific. Therefore, should an Authorised Firm be of the view that a person who has committed a serious financial crime is



nonetheless suitable for a role connected to the provision of Financial Services, this is something of which the DFSA reasonably expects to be notified under Principle 10.

The DFSA also wishes to make it clear that Authorised Firms should ensure they have regard to all relevant factors involving a person's previous conduct, in the UAE or elsewhere, when assessing an individual's fitness and propriety. These factors include, for example, whether the person has ever been the subject of regulatory action or disciplinary proceedings by another financial services regulator, government body or agency.

Authorised Firms are reminded that general communications with the DFSA should be made using the Supervised Firm Contact Form. This includes any questions regarding the contents of this letter.

Yours faithfully,

Justin Baldacchino
Managing Director, Supervision