

By Email

23 March 2022

To Senior Executive Officers of DFSA Authorised Firms, Authorised Market Institutions, Designated Non-Financial Business or Professions (DNFBP's), Audit Principals of Registered Auditors and Principal Representatives of Representative Offices (collective referred to as "Regulated Entities")

RE: Whistleblowing Regime

The purpose of this letter is to inform you of the DFSA's new Whistleblowing regime.

Whistleblowers form a key part of a Regulated Entity's ability to detect, identify and escalate issues of misconduct. However, we know that potential Whistleblowers may be reluctant to speak up, therefore, an organisation's Whistleblower policies and procedures can play an important role in encouraging disclosures by informing potential Whistleblowers of the avenues they can use to report a concern, and the protections available to them.

Introduction

On this basis, we are introducing a new Whistleblowing regime which will come into force on 7 April 2022 and will apply to all DFSA Regulated Entities. This regime builds on existing requirements, and aims to help:

- a) provide better legal protection for persons who report concerns;
- b) improve the Whistleblowing culture in Entities and increase transparency around how Entities will handle regulatory concerns;
- c) encourage more disclosures of concerns; and
- d) deter wrongdoing, promote better compliance and an ethical culture, by increasing awareness that there is a higher likelihood that wrongdoing will be reported.

Whistleblower protection

Changes have been made to the Regulatory Law 2004 ("the Law") to enhance the legal protection provided to persons (for example, officers, employees or agents of a Regulated Entity) who in good faith report suspected misconduct internally within the Entity or externally to their auditor, the DFSA or a law enforcement agency.

The protection applies where the disclosure of information relates to a reasonable suspicion that the Regulated Entity, an officer or employee of the Regulated Entity or an Affiliate of an Authorised Person has or may have: a) contravened a provision of the Law, the Rules or any other legislation administered by the DFSA; or b) engaged in money laundering, fraud or any other financial crime.

A DFSA Regulated Entity should, as part of implementing these new requirements, inform all its officers and employees of the protections available to them.

Policies and Procedures

The new Rules also require all DFSA Regulated Entities to put in place appropriate and effective policies and procedures to facilitate the reporting and assessment of regulatory concerns, and where appropriate, the escalation of those concerns. Importantly, a DFSA Regulated Entity must also put in place measures to protect the identity of the Whistleblower and to protect them from suffering any detriment.

The policies and procedures put in place by DFSA Regulated Entities should be appropriate to the nature, scale and complexity of that Entities' business and must be reviewed periodically to ensure they are adequate, effective and up to date.

Lastly, all DFSA Regulated Entities must maintain records of each report made and include appropriate details of the regulatory concern and the outcome of the assessment made.

Further information on the regime can be found [here](#), and any whistleblowing reports can be sent to the DFSA on whistle@dfsa.ae.

Our expectations

We appreciate that for some DFSA Regulated Entities, the development of Whistleblowing policies and procedures may be new. For other Entities, there will be a need to adapt existing policies and procedures to meet the new requirements.

Regulated Entities will be given 6 months from 7 April to develop their policies and procedures, and from the 7 October 2022, all Entities should expect to discuss and demonstrate the application of their policies and procedures when engaging with the DFSA.

Regulated Entities should note however that the enhanced legal protections in the Law itself, referred to above, which prohibit Regulated Entities from subjecting whistleblowers to detriment, will commence on 7 April.

As set out in [CP 141](#), we intend to carry out a review of this regime and its implementation in mid-2023. This is to determine whether the requirements have been effective and implemented appropriately.

If you have any questions in relation to this letter, please contact us using the DFSA Supervised Firm Contact Form found on the [DFSA ePortal](#).

Yours faithfully,



Justin Baldacchino
Managing Director, Supervision