



By Email

24 June 2022

Principal Representatives of Representative Offices

Re: Outcomes of 2020/2021 Representative Office Sectoral Review

Dear All,

In line with its regulatory objectives, the Dubai Financial Services Authority (DFSA) has carried out its first Representative Office (Rep Office) sectoral review. The purpose of this letter is to update you on certain observations stemming from that review. The scope of the sectoral review assessed whether Rep Offices:

- operate within the scope of their licence;
- have a sound understanding of their obligations under applicable DFSA Rules; and
- have implemented an appropriate control framework to monitor and ensure compliance with applicable DFSA Rules.

We would like to thank those Rep Offices who participated in the review. Your cooperation in providing documentation and access to relevant employees made this review more effective and efficient and facilitated our observations summarised below.

Unless the context requires otherwise, capitalised terms used in this letter have the same meaning as set out in the Glossary Module (GLO) of the DFSA Rulebook.

Background

The sectoral review comprised six stages and was conducted during 2020 and 2021. First, the DFSA created a specific survey to gather information from existing Rep Offices to measure their level of compliance with applicable DFSA Rep Office Rules and AML Rules. The survey template was then sent to the Principal Representative of each Rep Office for completion. The DFSA analysed the survey responses via desk-based reviews. This was followed by emails and calls to a number of Rep Offices to obtain further information and clarifications, which the DFSA considered together with survey responses when formulating its internal risk assessment reports and findings letters.

This letter provides a summary of the key observations emerging from the review, which are set out in more detail in the Annex below. The DFSA expects all Rep Offices to consider these key observations in the context of their specific activities and obligations under the AML Rules. It is the responsibility of each Rep Office to demonstrate compliance with applicable DFSA Rules, which includes enhancing systems and controls (where appropriate) to demonstrate such compliance.

Key observations

The following is a summary of our key observations divided into three main subject areas. Please refer to the Annex to this letter for further details. Also, please keep in mind that these are thematic observations, and as such, are common to multiple but not all firms, rather than being isolated instances.

➤ Principal Representative:

1. A number of Principal Representatives are not residents of the UAE.

➤ Conduct Compliance:

2. Rep Offices' key business documents do not reflect the DFSA Rule requirements concerning disclosure of their Representative Office regulatory status.
3. Rep Offices' promotional materials do not reflect the DFSA Rule requirements concerning marketing content.

➤ Financial Crime Compliance:

4. Rep Offices do not have updated and current Business AML Risk Assessments available for review.
5. Rep Offices relied on group AML policies and procedures without considering or referencing applicable DFSA Rules and requirements.

Next steps

We will arrange a virtual outreach session for Rep Offices in the near future to elaborate on the key observations from our review. We encourage you and members of your team to participate in this event.

Rep Offices should consider the observations of this Sectoral Review and should perform a self-review of their compliance against their obligations under applicable DFSA Rules. Where this self-review identifies any gaps, these should be reported along with a related remediation programme to the DFSA no later than 30 September 2022. Following this we will conduct a further sample testing to ensure compliance in respect of the findings set out in the Annex.

If you have questions about the DFSA's regulatory expectations or how they may apply to your Rep Office, we encourage you to lodge an enquiry via the [Supervised Firm Contact Form](#) available on the DFSA's website.

We look forward to your support as we continue to examine Rep Office practices in the DIFC.

Yours sincerely,



Justin Baldacchino
Managing Director, Supervision

Annex – Sectoral Review of Representative Offices: Observations

The following information addresses the key findings observed by the DFSA in connection with its recent review of Rep Offices.

Observation 1

A number of Principal Representatives are not residents in the UAE.

REP Rule 4.2.2 (1) requires that “*A Representative Office must at all times have a Principal Representative who is resident in the UAE and who has satisfied the DFSA as to fitness and propriety.*”

The survey revealed that most Rep Offices had a Principal Representative who is a resident in the UAE, however, our follow up calls with certain Rep Offices revealed that some Principal Representatives had not been resident in the UAE during 2020 and/or 2021.

The sectoral review was performed against the backdrop of the global Covid-19 pandemic. The DFSA recognises that travel during this period was difficult and that many individuals were displaced from their normal place of residence. Most of those Rep Offices whose Principal Representative was not resident in the UAE at the time of the review cited the global Covid-19 pandemic as the reason.

Given international travel restrictions have now largely been removed, the DFSA expects all Principal Representatives to be resident in the UAE.

*Rep Offices are required to comply with REP Rule 4.2.2 (1) **at all times**. Rep Offices who fail to comply with this requirement will breach this Rule.*

Observation 2

Rep Offices’ key business documents do not reflect the DFSA Rule requirements concerning disclosure of their Representative Office regulatory status.

The obligations of Rep Offices concerning disclosure of regulatory status are set out in REP Section 4.5. REP Rule 4.5.2 states:

- (1) *A Representative Office must take reasonable care to ensure that every key business document which is in connection with the Representative Office carrying on the Financial Service of Operating a Representative Office in or from the DIFC includes one of the disclosures under this Rule.*
- (2) *A key business document includes letterhead whether issued by post, fax or electronic means, written promotional materials, business cards, and websites but does not include compliment slips, or text messages.*
- (3) *The disclosure required under (1) is:*
 - (a) *‘Regulated by the Dubai Financial Services Authority as a Representative Office’; or*
 - (b) *‘Regulated by the DFSA as a Representative Office’.*

It was observed that a number of Rep Offices did not comply with the requirements of REP Rule 4.5.2. The documents were either outdated, being from the time of the application, or the Rep Office simply used the Head Office's documents, specifically the promotional materials. In addition, we observed that some of the marketing materials did not differentiate between the Rep Office and the Head Office.

Rep Offices are required to comply with the requirements under REP Rule 4.5.2 and update their key business documents to reflect their regulatory status before commencing any communication. All key business documents should provide a clear disclosure of the Rep Office's regulatory status as being regulated by the DFSA as a "Representative Office". Rep Offices should not be using Head Office key business documents when operating in or from the DIFC. There should be a clear distinction between the Rep Office and Head Office materials.

Observation 3

Rep Offices' promotional materials do not reflect the DFSA Rule requirements concerning marketing content.

Rep Offices must ensure that their communications are clear, fair and not misleading, including disclosure of their Representative Office status as required in REP Section 4.6. REP Rule 4.6.4 contains requirements in relation to "marketing material".

Our review of the marketing materials submitted by Rep Offices revealed that Rep Offices' understanding of the above Rule was limited to the disclosure of regulatory status only. Certain Rep Office marketing materials failed to:

- Specify the name of the Rep Office distributing the marketing material and the name of the specific entity which was being marketed in that communication; and
- Where the marketing material was directed at a specific class or category of investor, it did not include a clear statement to that effect and that no other Person should act upon it.

Rep Offices must comply with the "marketing material" requirements, including but not limited to those set out in REP Rule 4.6.5. Further, when the marketing material includes standard terms of a contract of insurance or banking services, or a prospectus or other offering document, the Rep Office must ensure that such material contains in a prominent position, or have attached to it, the relevant statement(s) as prescribed under that Rule and keep in mind relevant guidance.

Observation 4

Rep Offices do not have updated and current Business AML Risk Assessments available for review.

AML Rule 5.1.1 requires Rep Offices to take appropriate steps to identify and assess money laundering risks to which its Rep Office activities is exposed. This to be accomplished through a Business AML Risk Assessment (BARA).

It was noted that a number of Rep Offices did not have a BARA readily available for the DFSA's review, while others provided a copy of the Group's BARA that did not consider the Rep Office activities and the risks associated with those activities from an AML perspective.

Rep Offices must comply with the requirements under AML Chapter 5 and take appropriate steps to identify and assess the money laundering and terrorist financing risks relevant to the Rep Office's activities and implement appropriate systems and controls to mitigate those risks. The BARA should also take into consideration recent UAE National Risk Assessment results and be updated as and when the Rep Office considers new products or services, business practices or the use of new technologies (as applicable).

Observation 5

Rep Offices relied on group AML policies and procedures without considering or referencing applicable DFSA Rules and requirements.

AML Rule 5.1.2 requires Rep Offices to use the information obtained in undertaking its BARA to develop and maintain its AML policies, procedures, systems and controls and other applicable requirements set out in this Rule.

Our review of Rep Offices' AML policies and procedures revealed that a number of Rep Offices rely on group AML policies and procedures that are generic and do not factor in DFSA Rules that apply to Rep Offices in the DIFC. We observed that the Group's AML policies and procedures included customer acceptance forms, customer due diligence and onboarding procedures that are not applicable to Rep Offices. Certain AML policies and procedures did not include appropriate measures and guidelines in relation to the Money Laundering Reporting Officer, record keeping, suspicious activity reporting, breaches, sanctions screening and GoAML registration as per DFSA requirements and therefore were considered inadequate.

Rep Offices must comply with the "Applicable Chapters" that are specified in the "Application table" in AML Section 1.3. This includes establishing and maintaining effective policies, procedures, systems, and controls to prevent opportunities for money laundering and terrorist financing in relation to the Rep Office (including its Group) and its activities.