



By Email

11 June 2024

To Senior Executive Officers (“SEO”) of DFSA Authorised Firms

Re: Findings from the 2023-2024 Thematic Review on Firm Disclosures

Dear SEOs,

The purpose of this letter is to share the key findings and observations from the 2023-2024 Thematic Review on Firm Disclosures¹ (“Thematic Review”). By ‘disclosures’, we mean all client communications, including, but not limited to, Financial Promotions and other marketing materials that Authorised Firms use in relation to their scope of services and responsibilities, terms and conditions of engagements, and financial services and financial products.

The Thematic Review aimed to:

- Assess Authorised Firms’ compliance with the DFSA’s Financial Promotions rules in GEN 3 and COB 3 – in particular, whether Financial Promotions made in or from the DIFC are clear, fair, and not misleading and include appropriate risk warnings;
- Determine whether Authorised Firms are accurately representing their regulatory status and scope of their Financial Services licence in their disclosures;
- Determine whether Authorised Firms clearly distinguish between and convey how responsibilities are divided between themselves and their group entities in communications to Clients and potential Clients;
- Identify areas of good and poor practice for wider communication to Authorised Firms; and
- Identify any outliers and instances of material non-compliance for further action.

Capitalised terms used in this letter have the same meaning as set out in the Glossary Module (GLO), General Module (GEN), and Conduct of Business Module (COB) of the DFSA Rulebooks unless the context requires otherwise.

Methodology

The Thematic Review was conducted in three phases:

- Phase one consisted of an initial desk-based review of 386 Authorised Firms’ websites. Representative Offices were excluded given that different rules apply to them, and that the

¹ [Dear SEO Letter](#) on 3 August 2023: Disclosures Thematic Review

DFSA conducted a sectoral review on this population in 2020/2021² and a follow-up review in 2023. We assessed whether Authorised Firms' websites accurately reflect the scope of their Licence and that there are clear distinctions and clarity of responsibilities between DFSA-regulated firms and any other group entities.

- Phase two consisted of a survey to a selected sample of 38 Authorised Firms with different business models, focusing on those offering structured products, Restricted Speculative Investments ('RSIs'), and/or those that have a Retail Endorsement. Through this survey, we reviewed c.130 Financial Promotions and details of Authorised Firms' governance arrangements, systems, and controls to determine whether they present risk to Clients or in respect of the DFSA's objectives.
- Phase 3 of the review consisted of senior management meetings with a small number of Authorised Firms to carry out a more detailed analysis of their governance arrangements, systems, and controls in relation to Financial Promotions.

Key Findings

The key findings from the Thematic Review are set out in detail in the Annex to this letter. Those findings were observed across multiple (but not necessarily all) Authorised Firms. Weaknesses were identified in the following areas:

- Financial Promotions Requirements
- Approval and Ongoing Monitoring of Financial Promotions
- Marketing Material Intended for Professional Clients
- Disclosures in Marketing Materials
- Scope of Services
- Disclosure of Regulatory Status and Contact Details
- Use of DFSA's Logo

The DFSA has also provided specific feedback, including Risk Mitigation Programmes where necessary, to individual Authorised Firms to address deficiencies in their approach to Financial Promotions, and related policies, procedures, systems, and controls.

Required Actions

Authorised Firms are expected to review their marketing materials, and associated policies, procedures, systems and controls in light of these findings and ensure compliance against their obligations under the applicable DFSA Rules. Where gaps are identified, Authorised Firms are

² [Dear SEO Letter: Outcomes Of 2020/2021 Representative Office Sectoral Review](#)

³ [Dear SEO Letter: Outcomes of 2023 Representative Office Sectoral Review](#)



expected to make the necessary enhancements, and document actions taken. The DFSA may request evidence of any actions taken during future engagements with Authorised Firms.

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

Yours faithfully,

Mohamad El Khalil
Director, Supervision

CC: Compliance Officers

Annex: Key Findings from 2023 Thematic Review on Firm Disclosures

1. Financial Promotions Requirements

Some Authorised Firms may be unclear on the applicable Financial Promotions requirements. A small number of Authorised Firms' policies and procedures merely restate the DFSA's Rules without demonstrating how those Authorised Firms have implemented codes of conduct, systems, controls and practices to comply with the relevant Rules.

The majority of Authorised Firms demonstrated, through the quality of their marketing materials and related policies and procedures, a good level of understanding of the Financial Promotions requirements set out in Chapter 3 of GEN and Section 3.2 of COB.

In response to our survey, some Authorised Firms provided copies of their stationery (e.g. business cards, email signatures, letterhead) and/or generic market outlook reports (which did not reference any particular financial services or products), as examples of their Financial Promotions. We do not consider such materials to fall within the definition of Financial Promotions.

We also reviewed Authorised Firms' policies and procedures governing Financial Promotions, which were either a standalone document or part of their compliance manual. We observed that a small number of Authorised Firms' policies and procedures simply restated the COB and GEN requirements and were therefore generic in nature. Such policies and procedures do not demonstrate how the Authorised Firms have applied the rules and guidance to reflect their specific business models, and marketing channels.

We expect Authorised Firms to develop and implement tailored and effective policies and procedures in relation to their making and distribution of Financial Promotions. Doing so would demonstrate the adequacy of the Authorised Firm's systems and controls as required under GEN 5.3.1.

2. Approval and Ongoing Monitoring of Financial Promotions

Some Authorised Firms need to enhance their ongoing monitoring of Financial Promotions to ensure marketing materials remain compliant with the DFSA's rules.

None of the Authorised Firms sampled relied on third-party service providers to make and approve their Financial Promotions. These Authorised Firms either produced those themselves or relied on their group compliance function to produce them and thereafter approved them. All of the Authorised Firms sampled undertook some form of ongoing monitoring of Financial

Promotions, although we observed that the monitoring of some Authorised Firms was less comprehensive and effective than others.

Some Authorised Firms maintained a register of all their marketing materials in circulation, including whether they were live or not, their distribution channels, target audience, and the dates of approval, issue, and most recent periodic review. We consider such practice to be an effective way of maintaining an adequate record of marketing materials and ensuring they remain current and compliant with the regulatory requirements.

We expect Authorised Firms to ensure they only approve Financial Promotions that comply with the requirements in Chapter 3 of the GEN module on an ongoing basis, as required under GEN Rule 3.6.3.

3. Marketing Material Intended for Professional Clients

A significant number of Authorised Firms do not make it clear that their marketing materials are intended for Professional Clients only.

Of the Authorised Firms that only deal with Professional Clients, we identified a significant number which did not make it clear that the information on their websites was intended for Professional Clients only, contrary to the requirements in COB Rules 3.2.4(1)(c) and 3.2.5(a).

All Authorised Firms that issue marketing materials intended for Professional Clients only, must ensure that such materials are clearly marked as such, including on their websites and social media. This can include having a disclaimer on the website which states that the information is addressed to Professional Clients only and/or is provided only for the use of Professional Client or Market Counterparty and cannot be relied upon by Retail Clients.

Nevertheless, we identified some effective practices that Authorised Firms dealing with both Retail and Professional Clients employed to comply with the requirements: some Authorised Firms ensured their marketing materials met regulatory requirements for Retail Clients as a minimum; in other cases, Authorised Firms had a separate and clearly marked section on their websites for Professional Clients only.

We expect all Authorised Firms that issue marketing materials intended for Professional Clients only, to ensure that such materials are clearly marked as such and are neither sent nor directed to Persons who are not Professional Clients, as required under COB Rules 3.2.4(1)(c) and 3.2.5(a).

4. Disclosures in Marketing Materials

Some Authorised Firms do not give a fair and balanced view of financial products or services in their marketing materials and do not make adequate disclosures in relation to past performance data and assumptions.

A number of Authorised Firms, in their marketing materials aimed at Retail Clients, made references to past performance and forecasts which were not balanced or easy to understand, and/or did not include prominent risk warnings about past performance. Furthermore, some of those marketing materials specifically invited Clients to act/invest based on past performance and forecasts without identifying the source of information from which the past performance was derived. Likewise, they did not include a prominent warning that past performance is not necessarily a reliable indicator of future results. Those Authorised Firms therefore did not comply with COB 3.2.1 and 3.2.6.

Furthermore, where the marketing material included reference to past performance, in certain cases it did not present a fair and balanced view of the financial products or financial services to which the information or representation related. For example, one promotion relied on volatility observed over the course of ten days and invited Clients to act based on a positive performance observed over this short period, without including any further disclosures or warnings about reliance on past performance.

We expect all Authorised Firms to have systems and controls in place to ensure that all marketing materials are clear, fair, and not misleading (COB 3.2.1). For marketing materials aimed at Retail Clients, we expect Authorised Firms to additionally ensure that the information provided presents a fair and balanced view of the products/services and includes appropriate risk warnings, as required under COB 3.2.6.

4.1. *Restricted Speculative Investments*

In addition to the above requirements, Authorised Firms that issue communications, including marketing materials, in relation to RSIs, are required to have a risk warning in a prominent place at or near the top of each page of the materials or communication as per COB Rule 6.16.5.

Overall, we observed good compliance with this requirement on Authorised Firms' websites and other distribution channels, such as video adverts and digital banners. However, we observed a few instances where Authorised Firms' risk warnings were limited to stating the investments were 'Restricted Speculative Investments' or used the acronym 'RSIs'. Such wording is considered inadequate and unlikely to be understood by Retail Clients.

We expect the risk warning in relation to RSIs required under COB 6.16.5 to set out the risks associated with trading in RSIs in a manner that is clear, concise and easy to understand.

5. Scope of Services

Authorised Firms that are part of larger groups are not distinguishing their services, jurisdictions and target Clients from those of their group affiliates. In some cases, their websites offer services that do not fall within the Authorised Firm's DFSA Licence.

5.1. Distinction between the DIFC entity and group entities

We reviewed the websites of 254 Authorised Firms that are part of a group and found that 161 (c. 63%) did not clearly distinguish on their website between the services offered the DIFC entity and its group/associated entities. In 67 cases, there was no clear indication that the group had a presence in the DIFC nor was there a mention of the Authorised Firm's name, address, and regulatory status. Those Authorised Firms therefore did not meet the requirements set out under COB 3.2.4 and GEN 4.2.6. Those Authorised Firms also did not make clear what services are provided from the DIFC entity and to which type of Clients. This is particularly concerning where the marketed services on the group website are wider than the scope of the Authorised Firm's DFSA Licence.

The DFSA expects all Authorised Firms that are part of groups and/or have associated entities to clearly distinguish between the DIFC entity and the rest of the group, including in respect of services provided, jurisdiction covered and targeted Clients. An Authorised Firm should not misrepresent the scope of its DFSA licence in its marketing materials or websites.

We observed some examples of good practice where the group website had separate pages for each group entity or had a website dedicated to the DIFC entity only. Other good practices included differentiating between the DIFC entity and other group entities by clearly listing the products/services offered at by the DIFC entity, splitting group services by client types, including a disclaimer before agreeing to enter the site that some products/services will differ across locations, and providing contact information for different group offices and regulated entities.

In line with COB 3.2.4 and GEN 4.2.6, the DFSA expects all Authorised Firms that are part of groups and/or have associated entities to clearly distinguish between the DIFC entity and other group entities, including in respect of services provided, jurisdiction and client coverage.

5.2. Scope of Financial Services

We also observed instances where the services described on the websites of Authorised Firms (which are not part of a group) did not correspond to their DFSA Licence. We expect Authorised Firms to continuously review the content on their websites and ensure that the products and services described are in line with their regulatory permissions. Authorised Firms should clearly state the scope of the services offered and corresponding financial services permissions, products offered, and the type of Clients they cater to. This is in line with the requirements of

GEN 4.2.6 which requires Authorised Firms to pay due regard to the interests of its customers and communicate information to them in a way which is clear, fair, and not misleading.

We expect Authorised Firms to ensure on an ongoing basis that the services described on their websites are in line with their regulatory permissions, as required by GEN 4.2.6.

6. Disclosure of Regulatory Status and Contact Details

A significant number of Authorised Firms are not making it clear that they are regulated by the DFSA and are not providing their contact details. Some Authorised Firms are also using trading names that have not been approved by the DFSA.

We identified some marketing materials, and a large number of websites, that did not include the Authorised Firm's regulatory status as required by COB 3.2.4 and GEN 6.4.2(3). Authorised Firms should ensure that their regulatory status is disclosed in all marketing materials communicated to Clients or potential Clients. The disclosure required in this case should be as stipulated in GEN 6.4.2(3): either 'Regulated by the Dubai Financial Services Authority' or 'Regulated by the DFSA'.

Furthermore, a significant number of Authorised Firm's websites do not include the Authorised Firm's name and address. We also observed instances where the contact details we have on file do not match those on the Authorised Firm's website. Some Authorised Firms use trading names on their website that have not been approved by, or registered with, the DFSA.

In line with COB 3.2.4 and GEN 6.4.2(3), the DFSA expects all Authorised Firms to disclose their regulatory status and contact details in all marketing materials. In line with GEN 11.10.2, the DFSA also expects Authorised Firms to provide reasonable advance notice of changes to their contact details or business/trading names, prior to these being used in marketing materials.

7. Use of the DFSA's logo

A few Authorised Firms are using the DFSA's logo in their marketing materials without the DFSA's permission.

We identified a small number of Authorised Firms are using the DFSA's logo on their websites and in their marketing material. We would like to remind Authorised Firms that GEN Rule 6.4.2(4) stipulates that the DFSA logo must not be reproduced without express written permission from the DFSA and in accordance with any conditions for use.

The DFSA expects all Authorised Firms to comply with the requirements of GEN Rule 6.4.2(4).