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**LAW REGULATING  
ISLAMIC FINANCIAL BUSINESS  
DIFC LAW No.13 of 2004**

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Consolidated Version  
(August 2014)

## CONTENTS

<b>PART 1 : GENERAL PROVISIONS</b> .....	1
1. Title.....	1
2. Legislative Authority .....	1
3. Application of the law .....	1
4. Date of enactment.....	1
5. Commencement.....	1
6. Interpretation .....	1
7. Administration of this Law.....	1
8. Relationship between this Law and the Regulatory Law and the Markets Law.....	1
<b>PART 2: CONDUCT OF ISLAMIC FINANCIAL BUSINESS</b> .....	2
9. Prohibition from conducting Islamic Financial Business .....	2
10. Islamic Financial Business .....	2
11. Application for an endorsement .....	2
12. Conditions, restrictions and withdrawal .....	3
13. Requirements to conduct Islamic Financial Business .....	4
<b>SCHEDULE 1</b> .....	5

## **LIST OF AMENDMENTS MADE TO THIS LAW SINCE ENACTMENT**

(This list does not form part of the Law)

**This Law was enacted and came into force on 16 September 2004 and was subsequently amended by:**

- (a) DIFC Laws Amendment Law 2005, DIFC Law No.2 of 2005 on 19 April 2005;
- (b) DIFC Laws Amendment Law 2007, DIFC Law No.2 of 2007 on 15 February 2007; and
- (c) DIFC Laws Amendment Law DIFC Law No.1 of 2010 on 2 May 2010;
- (d) DIFC Laws Amendment Law, DIFC Law No. 7 of 2012 on 23 December 2012; and
- (e) DIFC Laws Amendment Law, DIFC Law No. 1 of 2014 on 21 August 2014.

## **PART 1: GENERAL PROVISIONS**

1. **Title**

This Law may be cited as “Law Regulating Islamic Financial Business 2004.”

2. **Legislative Authority**

This Law is made by the Ruler of Dubai.

3. **Application of the law**

This Law applies in the jurisdiction of the DIFC.

4. **Date of enactment**

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

5. **Commencement**

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

6. **Interpretation**

Schedule 1 contains:

- (1) interpretative provisions which apply to this Law; and
- (2) a list of defined terms used in this Law.

7. **Administration of this Law**

This Law is administered by the DFSA.

8. **Relationship between this Law and the Regulatory Law and the Markets Law**

The provisions of this Law are additional to the provisions of the Regulatory Law 2004 and the Markets Law 2012, and the provisions of those Laws, as far as they are applicable, shall apply accordingly.

## **PART 2: CONDUCT OF ISLAMIC FINANCIAL BUSINESS**

### **9. Prohibition from conducting Islamic Financial Business**

- (1) An Authorised Firm or Authorised Market Institution shall not hold itself out as conducting Islamic Financial Business unless it has an endorsed Licence authorising it to conduct Islamic Financial Business:
  - (a) as an Islamic Financial Institution; or
  - (b) by operating an Islamic Window.
- (2) The DFSA Board of Directors may make Rules prescribing circumstances in which an Authorised Firm or Authorised Market Institution will be taken to, or will be taken not to, hold itself out as conducting Islamic Financial Business.

### **10. Islamic Financial Business**

- (1) Conducting Islamic Financial Business means carrying on one or more Financial Services in accordance with Shari'a.
- (2) Islamic Financial Institution means an Authorised Firm or Authorised Market Institution whose entire business operations are conducted in accordance with Shari'a.
- (3) An Authorised Firm or Authorised Market Institution, other than an Islamic Financial Institution, operates an Islamic Window if it conducts Islamic Financial Business as part of its overall business operations.

### **11. Application for an endorsement**

- (1) An application for an endorsement on a Licence authorising an Authorised Person to conduct Islamic Financial Business as an Islamic Financial Institution or by operating an Islamic Window may be made to the DFSA by any:
  - (a) body corporate; or
  - (b) partnershipwhen applying for a Licence under Article 45 of the Regulatory Law 2004.
- (2) An Authorised Person may apply to the DFSA for an endorsement to conduct Islamic Financial Business as an Islamic Financial Institution or by operating an Islamic Window, or to vary such an endorsement.
- (3) The DFSA Board of Directors may make Rules providing that certain persons or categories of person may not be granted an endorsement in relation to Islamic Financial Business.
- (4) The DFSA Board of Directors may make Rules:
  - (a) prescribing the requirements an applicant applying for an endorsement must meet before an endorsement can be granted by the DFSA. Such Rules may include requirements relating to the legal form an applicant must adopt;

- (b) providing for such requirements referred to in Article 11(4)(a) to be varied in cases where an application is made by a person which is, at the time of application, regulated in a jurisdiction other than the DIFC;
  - (c) prescribing certain persons or categories of person to be exempted from the requirements referred to in Article 11(4)(a); and
  - (d) providing for any such exemptions to be:
    - (i) limited to certain Islamic Financial Business activities or specified circumstances; or
    - (ii) subject to certain conditions and restrictions.
- (5) The DFSA may grant an application for an endorsement or for a variation to an endorsement if it is satisfied that the requirements for an endorsement or variation of an endorsement under this Article have been met.
- (5A) The DFSA may refuse an application if it not satisfied that the requirements for an endorsement or variation of an endorsement under this Article have been met.
- (6) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under Article 11(5A).
- (7) If the DFSA decides to exercise its power under Article 11(5A), the applicant may refer the matter to the FMT for review.

## 12. **Conditions, restrictions and withdrawal**

- (1) The DFSA may at any time by written notice to an Authorised Person;
- (a) impose conditions and restrictions in relation to an endorsement;
  - (b) vary or withdraw conditions and restrictions imposed in relation to an endorsement; or
  - (c) withdraw an endorsement.
- (2) The DFSA may act under Article 12(1) on its own initiative or at the request of an Authorised Person.
- (3) The DFSA may withdraw an endorsement on its own initiative under Article 12(1)(c) if:
- (a) the Authorised Person is in breach of, or has been in breach of, one or more restrictions or conditions applicable to the endorsement;
  - (b) the Authorised Person is in breach of, or has been in breach of, the Law or Rules or other legislation administered by the DFSA;
  - (c) the Authorised Person is no longer fit and proper to carry on Islamic Financial Business; or
  - (d) the DFSA considers that the exercise of the power is necessary or desirable in the pursuit of its objectives.

- (4) The procedures in Schedule 3 to the Regulatory Law 2004 apply to a decision of the DFSA under this Article.
- (5) If the DFSA decides to exercise its power under this Article, the Authorised Person may refer the matter to the FMT for review.

13. **Requirements to conduct Islamic Financial Business**

- (1) An Authorised Firm or Authorised Market Institution which has an endorsed Licence authorising it to conduct Islamic Financial Business shall appoint a Shari'a Supervisory Board.
- (2) The DFSA Board of Directors may make Rules prescribing the appointment, formation, conduct and operation of a Shari'a Supervisory Board.

## **SCHEDULE 1**

### **INTERPRETATION**

#### **1. Rules of interpretation**

- (1) In the Law, a reference to:
  - (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
  - (b) a person includes any natural person, body corporate or body incorporated, including a company, partnership, unincorporated association, government or state;
  - (c) an obligation to publish or cause to be published a particular document shall, unless expressly provided otherwise in the Law, include publishing or causing to be published in printed or electronic form;
  - (d) unless stated otherwise, a day means a calendar day. If an obligation falls on a calendar day which is either a Friday or Saturday or an official State holiday in the DIFC, the obligation shall take place on the next calendar day which is a business day;
  - (e) a calendar year shall mean a year of the Gregorian calendar; and
  - (f) a reference to the masculine gender includes the feminine.
- (2) The headings in the Law shall not affect its interpretation.

#### **2. Legislation in the DIFC**

References to legislation and Guidance in the Law shall be construed in accordance with the following provisions:

- (a) Federal Law is law made by the federal government of the State;
- (b) Dubai Law is law made by the Ruler, as applicable in the Emirate of Dubai;
- (c) DIFC Law is law made by the Ruler (including, by way of example, the Law), as applicable in the DIFC;
- (d) the Law is The Law Regulating Islamic Financial Business, DIFC Law No.13 of 2004 made by the Ruler;
- (e) the Rules are legislation made by the DFSA under the Law and are binding in nature;
- (f) Guidance is indicative and non-binding and may comprise (i) guidance made and issued by the Chief Executive as notations to the Rules; and (ii) any standard or code of practice issued by the DFSA Board of Directors which has not been incorporated into the Rules; and

- (g) references to “legislation administered by the DFSA” are references to DIFC Law and Rules conferring functions and powers on the DFSA.

### 3. Defined Terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

<b>Term</b>	<b>Definition</b>
Authorised Firm	a person who holds a Licence to carry on one or more Financial Services prescribed pursuant to Article 42(1) of the Regulatory Law 2004.
Authorised Market Institution	a person who is licensed by the DFSA in relation to the carrying on of one or more Financial Services prescribed pursuant to Article 42(1) of the Regulatory Law 2004.
Authorised Person	has the meaning given in Schedule 1 to the Regulatory Law 2004.
DFSA Board of Directors	the governing body of the DFSA, established under Chapter 2 of Part 2 of the Regulatory Law 2004.
DFSA	the Dubai Financial Services Authority.
DIFC	the Dubai International Financial Centre.
Financial Markets Tribunal	the Financial Markets Tribunal referred to in Article 26 of the Regulatory Law 2004.
Financial Service	is an activity prescribed in the Rules made under Article 41 (3) of the Regulatory Law.
FMT	the Financial Markets Tribunal.
Law	the Law Regulating Islamic Financial Business 2004.
Licence	a Licence granted by the DFSA under Chapter 2 of Part 3 of the Regulatory Law.
Markets Law	the Markets Law 2012.
Regulatory Law	the Regulatory Law 2004.
Rules	has the meaning given in Article 2 of Schedule 1 to the Regulatory Law 2004.
Shari’a Supervisory Board	a board appointed by an Authorised Firm or Authorised Market Institution pursuant to Article 13(1) of this Law.
State	United Arab Emirates