

# Annex C

# Format for providing public comments to DIFCA on Consultation Paper No. 3 of 2023

# Proposal relating to enactment of DIFC Law Amendment Law No 1 of 2023 and DIFC Operating

# Regulations (the “Proposed Legislation”)

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| Note 1: DIFCA reserves the right to publish, including on its website, any comments you provide. However, if you wish to remain anonymous, you must expressly request at the time of making comments that this should be the case. Note 2: The second column, ‘comments on proposed policy’ relates to the policy explained in the Consultation Paper paragraphs specified. The third column, ‘comments on legislation’ refers to the draft legislation reflecting the proposed policy.Note 3: It is possible that you may not have any comments, either on the proposed policy or draft legislation, or may have comments on one and not the other. You may leave a blank column if you either agree to the proposed position, or you have no concerns relating it. Note 4: If there are any ambiguities relating to the proposed policy or draft legislation, you may raise those in your comments. |

| **Name of individual / entity providing comments:** |  |
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| No.  | Comments on proposed policy | Comments on legislation |
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| Part A – Proposed Amendments to the Employment Law |
| Q1: Do you agree that where there is a discrepancy between a UAE/GCC national Employee’s pension contribution under the GPSSA and what they would have received had they not been a UAE/GCC national Employee, by way of Core Benefits contributions into a Qualifying Scheme, that the difference should be paid into a Qualifying Scheme? Please provide a detailed explanation for your response. |
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| Q2: Do you agree with the de minims threshold of AED1000? If not, please provide an explanation. |
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| Q3: Do you agree that such obligation to pay an adjusted Core Benefits contribution in the circumstances described above, should begin following enactment of the proposed law (i.e. from the first day of the month following the enactment date of the amended Employment Law)? Please provide a detailed explanation for your response. |
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| Q4: Do you have any other comments or suggestions in relation to the proposed amendments? |
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| Proposed Amendments to the Operating Law and Operating Regulations  |
| Q5: Do you have any concerns regarding the retention requirements included as Article 32(1) of the Operating Law? If so, what are they, and how should they be addressed? |
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| Q6: Do you agree with the revision of the Privileged Communication definition? If not, what types of communication do you consider should be deemed privileged under this definition? |
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| DIFC Operating Regulations  |
| Q7: Do you have any concerns regarding the additional requirements imposed on Licensees carrying out Qualified Retail Activities? If so, what are they, and how should they be addressed? |
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| Q8: Are there any other types of activity that you think should be included in the definition of Qualified Retail Activity? If so, please provide an explanation.  |
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| Q9. Do you have any concerns with the proposed maximum level of fine being increased from US$25,000 to US$100,000 pursuant to Article 34(1) of the Operating Law. If so, please provide an explanation. |
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| Proposed Amendments to the Trust Law - Part 2 (Choice of Governing law; Place of Administration) |
| Q10: Do you have any concerns regarding the proposed enhancements to the provision relating to governing law under Article 12, and Article 41(11)-(12)? If so, what are they, and how should they be addressed?  |
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| Q11: Do you agree with the expansion of Article 14 dealing with antecedent transactions by a settlor and the trust’s liability in this regard? If not, please provide an explanation. |
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| Q12. Do you agree with the proposed expansion of Article 16-17 and the restrictions placed on the jurisdiction of foreign courts? If not, please provide an explanation. |
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| Proposed Amendments to the Trust Law - Part 4 (Creation, Validity and Modification of a DIFC Trust); Part 5 (The Beneficiaries of a Trust) |
| Q13: Do you agree with the proposed change to Article 34, that a trust does not need to be in writing in order for it to come into existence? If not, please provide an explanation. |
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| Q14. Do you have any concerns with the proposed changes to Article 49 relating to the termination of a trust as a result of a beneficiary’s actions? If so, please provide an explanation. |
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| Proposed Amendments to the Trust Law - Other amendments (Part 6, Part 8 and Part 10 of the Trust Law) |
| Q15: Do you have any other concerns relating to any one or more proposed changes referred to in paragraph 35? If so, what are they and how should they be addressed? |
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| Proposed Amendments to the Foundations Law - Part 2 (Nature of a DIFC Foundation) and Part 3 (Establishment of a DIFC Foundation Creation) |
| Q16. Do you agree with the expansion of Article 14 dealing with antecedent transactions by a settlor and the trust’s liability in this regard? If not, please provide an explanation. |
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| Q17. Do you agree with the proposed expansion of Article 16-17 and the restrictions placed on the jurisdiction of foreign courts? If not, please provide an explanation. |
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| Q18. Do you have any other concerns relating to any one or more proposed changes referred to in paragraph 41 or 42? If so, what are they and how should they be addressed? |
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| Proposed Amendments to the Foundations Law – Part 6 (Registrar) |
| Q19. Do you agree with the expansion of the role of the Registered Agent with regard to Foundations? If not, please provide an explanation. |
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| Miscellaneous amendments |
| Q20. Do you have any other concerns relating to any one or more proposed changes referred to in paragraph 45? If so, what are they and how should they be addressed? |
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| Other or general comments |
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