

In this document, underlining indicates new text and striking through indicates deleted text



Dubai International
Financial Centre

DIFC LAWS AMENDMENT LAW

DIFC LAW NO. [X] of 2021

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PART 1: GENERAL

1. **Title**

This Law may be cited as the “DIFC Laws Amendment Law, DIFC Law No. [X] of 2021”.

2. **Legislative Authority**

This Law is made by the Ruler of Dubai.

3. **Date of enactment**

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

4. **Commencement**

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

PART 2: AMENDMENTS TO DATA PROTECTION LAW 2020

5. The Data Protection Law 2020 is amended as prescribed in this Part.
6. The following Articles of the Data Protection Law 2020 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

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PART 1: INTRODUCTION AND SCOPE

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7. Schedules

- (1) Schedule 1 contains:

- (a) interpretative provisions that apply to this Law; and
- (b) a list of defined terms used in this Law.

- (2) Schedule 2 contains a list of administrative fines that may be issued under Article 62(2) of this Law.

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PART 2: GENERAL REQUIREMENTS**Part 2A: Requirements for legitimate and lawful Processing**

9. General requirements

- (1) Personal Data shall be:

- (a) Processed in accordance with Article 10;
- (b) Processed lawfully, fairly and in a transparent manner in relation to a Data Subject;
- (c) Processed for specified, ~~explicit~~ and ~~legitimate~~ lawful purposes determined at the time of collection of Personal Data;
- (d) Processed in a way that is not incompatible with the purposes described in Article 9(1)(c);
- ~~(d)~~(e) Processed in a manner that permits ready access to the Personal Data for compliance with the Law, in particular but not limited to, Articles 9, 14 and 33;
- ~~(e)~~(f) relevant and limited to what is necessary in relation to the purposes described in Article 9(1)(c);
- ~~(f)~~(g) Processed in accordance with the application of Data Subject rights under this Law;
- ~~(g)~~(h) accurate and, where necessary, kept up to date, including via erasure or rectification, without undue delay;

~~(h)~~(i) kept in a form that permits identification of a Data Subject for no longer than is necessary for the purposes described in Article 9(1)(c); and

~~(i)~~(j) kept secure, including being protected against unauthorised or unlawful Processing (including transfers), and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

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33. Rights to access, rectification and erasure of Personal Data

- (1) Upon request, a Data Subject has the right to obtain from a Controller without charge and within one (1) month of the request:
 - (a) confirmation in writing as to whether or not Personal Data relating to him is being Processed and information at least as to the purposes of the Processing, the categories of Personal Data concerned, and the recipients or categories of recipients to whom the Personal Data are disclosed;
 - (b) a copy of the Personal Data undergoing Processing either in electronic form or hardcopy form and of any available information as to its source, including up-to-date information corresponding with the information requirements set out in Articles 29 and 30; and
 - (c) subject to Article 33(4), the rectification of Personal Data unless it is not technically feasible to do so.
- (2) Subject to Article 33(3), the Data Subject has the right to require the Controller to erase the Data Subject's Personal Data where:
 - (a) the Processing of the Personal Data is no longer necessary in relation to the purposes for which it was collected;
 - (b) a Data Subject has withdrawn consent to the Processing where consent was the lawful basis for Processing and there is no other lawful basis, provided that in such circumstances the Controller must comply with Article 22;
 - (c) the Processing is unlawful or the Personal Data is required to be deleted to comply with Applicable Law to which the Controller is subject; or
 - (d) the Data Subject objects to the Processing and there is no overriding legitimate grounds for the Controller to continue with the Processing.
- (3) The Controller is only required to comply with a request by a Data Subject to erase Personal Data where:
 - (a) one of the conditions in Article 33(2) applies; and
 - (b) subject to Article 33(4), the Controller is not required to retain the Personal Data in compliance with Applicable Law to which it is subject or for the establishment or defence of legal claims
- (4) Where rectification or erasure of Personal Data is not feasible for technical reasons, then the Controller is not in violation of this Law for failing to comply with a request for rectification or erasure of the Personal Data, in accordance with Articles 33(1)(c), 33(2)(a) or Article 33(2)(d) as applicable, if:
 - (a) the Controller collected the Personal Data from the Data Subject; and

- (b) the information provided to the Data Subject under Article 29(1)(h)(ix) was explicit, clear and prominent with respect to the manner of Processing the Personal Data and expressly stated that rectification or erasure (as the case may be) of the Personal Data at the request of the Data Subject would not be feasible.
- (5) Where a Data Subject suffers adverse effects as a result of the inability of a Controller to rectify Personal Data and where the need for rectification was not caused by the Data Subject's own provision of inaccurate data, the Controller shall provide all reasonable assistance to the Data Subject to enable the Data Subject to take steps to mitigate the adverse effects.
- (6) A Controller shall direct all recipients and Processors to rectify or erase Personal Data where the respective right is properly exercised or to cease Processing and return or erase the Personal Data where the right to object is validly exercised. In such circumstances, Article 22 applies to the erasure of the Personal Data by both the Controller and the Processor.
- (7) If a Data Subject request under Article 33(1) is particularly complex, or requests are numerous, the Controller may send notice to the Data Subject, within one (1) month, to increase the period for compliance by a further two (2) months citing the reasons for the delay.
- (8) Subject to Article 33(9), where requests from a Data Subject are manifestly unfounded or excessive, in particular because of their repetitive character, the Controller may either:
- (a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or
- (b) refuse to act on the request, providing written confirmation to the Data Subject reasons for the refusal.
- ~~(9)~~ A Controller shall maintain a register of instances where it relies on Article 33(7) to extend the period for compliance with the request, or on Article 33(8) to charge a fee or refuse to act on the request setting out the reasons why the request was particularly complex or is manifestly unfounded or excessive (as the case may be).
- ~~(9)(10)~~ The Commissioner may inspect the register in Article 33(9) and may at any time request additional information, raise a query or an objection to the extension of time, fee or refusal (as the case may be) or conduct an investigation to determine whether the exercise of the powers conferred by Articles 33(7) or 33(8) complies with the Law. The Commissioner's determination whether the Controller was entitled to so act is final and conclusive, subject to any appeal under Article 63(1).
- ~~(11)~~ A Controller that contravenes Article 33(1) by invalidly relying on either of Articles 33(7) or 33(8) shall be subject to the remedies, liabilities and sanctions set out in Part 9.
- ~~(10)(12)~~ If a Controller has reasonable doubts as to the identity of a Data Subject asserting a right under this Article 33, it may require the Data Subject to provide additional information sufficient to confirm the individual's identity. In such cases, the time period for complying with the Data Subject request does not begin until the Controller has received information or evidence sufficient to reasonably identify that the person making the request is the Data Subject.
- ~~(11)(13)~~ Where a Controller complies with a request under Article 33(1)(b) it shall not disclose the Personal Data of other individuals in a way that may infringe their rights under Applicable Law and the Controller may redact or otherwise obscure Personal Data relating to such other individuals. Where the Data Subject's request is received by electronic means, and unless otherwise requested by the Data Subject, the information may be provided in a commonly used electronic form.
- ~~(12)(14)~~ The information to be supplied pursuant to a request under this Article 33 must be supplied by reference to the data in question at the time the request is received, except that it may take account of any amendment or deletion made between that time and the

time when the information is supplied, being an amendment or deletion that would have been made regardless of the receipt of the request.

~~(13)~~(15) Without derogating from the requirements on DIFC Bodies as set out in Article 65(2), a Controller may restrict, wholly or partly, the provision of information to the Data Subject under Article 33(1) to the extent that and for so long as the restriction is, having regard to the fundamental rights and legitimate interests of the Data Subject, a necessary and proportionate measure to:

- (a) avoid obstructing an official or legal inquiry, investigation or procedure;
- (b) avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- (c) protect public security;
- (d) protect national security; or
- (e) protect the rights of others.

~~(14)~~(16) Where the provision of information to a Data Subject under Article 33(1) is restricted in accordance with Article 33(13), a Controller must inform the Data Subject in writing without undue delay:

- (a) that the provision of information has been restricted;
- (b) of the reasons for the restriction;
- (c) of the Data Subject's right to lodge a complaint with the Commissioner under Article 60; and
- (d) of the Data Subject's right to apply to the Court under Article 63.

~~(15)~~(17) Article 33(14)(a) and (b) do not apply to the extent that complying with them would undermine the purpose of the restriction.

PART 8: THE COMMISSIONER

43. Appointment of the Commissioner

- (1) The President shall appoint a person to be the Commissioner who is appropriately experienced and qualified.
- (2) The President shall consult with the DIFCA Board of Directors prior to appointing, re-appointing or removal of the Commissioner.
- (3) The Commissioner shall be appointed for a specified period of time not exceeding five (5) years, and may be re-appointed provided that such period may not extend beyond the day when the Commissioner turns seventy-five (75) years of age.
- (4) The Commissioner shall not be held personally liable for any act or omission committed by him under or in relation to this Law or in relation to his duties and functions as Commissioner, save for where the Commissioner has acted in bad faith. The DIFCA will indemnify and hold harmless the Commissioner with respect to all Liabilities whatsoever that may be incurred by or suffered by the Commissioner in relation to the discharge of the Commissioner's duties and functions under or in relation to this Law and his duties and functions as Commissioner.
- (5) "Liabilities" as used in Article 43(4) includes, without limitation, the costs of settlements, judgments, damages and expenses including legal fees, costs and expenses, including legal fees, costs and expenses incurred in establishing a right to indemnity hereunder.

- (6) The Commissioner is not required to pay any court costs for proceedings initiated by the Commissioner in relation to this Law or incurred in the course of carrying out his regulatory functions. The Court has the discretion to award costs against the Commissioner in proceedings in which the Commissioner is the unsuccessful party where the Court is satisfied that the Commissioner has acted in bad faith or in excess of his statutory functions.

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46. Powers, Functions and Objectives of the Commissioner

- (1) The Commissioner has such powers, duties and functions as conferred on him under this Law and any Regulation made under this Law and shall exercise such powers and perform such functions in pursuit of the objectives of this Law and the Regulations.
- (2) In performing his functions and exercising his powers, the Commissioner shall pursue the following objectives:
- (a) to monitor, ensure and enforce compliance with this Law;
 - (b) to promote good practices and observance of the requirements of this Law and the Regulations by a Controller or Processor; and
 - (c) to promote greater awareness and public understanding of data protection and the requirements of this Law and the Regulations in the DIFC.
- (3) Without limiting the generality of Article 46(1), the Commissioner has the following powers, duties and functions:
- (a) auditing a Controller or Processor, which includes having the right to obtain access to any premises and to any Processing equipment or means of a Controller or Processor who is subject to this Law, as well as having the right to require the production of information under Article 52. A Controller or Processor shall not be required to provide access to or produce legally privileged material or material subject to a conflicting obligation of non-disclosure under Applicable Law. The Commissioner shall seek to minimise unreasonable interruption to the Controller or Processor in the exercise of its rights under this Article 46(3)(a) and shall give reasonable notice of its access requirements, in each case taking into account the purpose of the audit, the perceived risk to the rights of Data Subjects, the need to act urgently, the risk of loss or unavailability of information and the seriousness of any suspected contravention of this Law;
 - (b) conducting investigations and inspections to verify compliance with this Law;
 - (c) issuing directions in accordance with Article 59, and issuing warnings or admonishments and making recommendations to a Controller or Processor, including ordering the appointment of a DPO as described in Article 16(3);
 - ~~(e)~~(d) issuing findings both of contravention of the Law, and of no contravention of the Law;
 - ~~(d)~~(e) initiating proceedings for contraventions of the Law before the Court that may be self-initiated or initiated in response to an investigation of a complaint or a request from a Data Subject; for such purposes, the Commissioner shall be available for a Data Subject to contact in order to make complaints and shall take such action as he sees fit in furtherance of his primary objectives described in Article 46(1);
 - ~~(e)~~(f) imposing fines in the event of non-compliance with a direction;
 - ~~(f)~~(g) imposing imposing for non-compliance with the Law and any Regulations, including from time to time setting any limits or issuing schedules of fines applicable to specific breaches of the Law and any Regulations;

- ~~(g)~~(h) initiating a claim for compensation on behalf of a Data Subject before the Court where there has been a ~~material~~ contravention of the Law to the detriment of the Data Subject;
- ~~(h)~~(i) preparing or causing to be prepared in a timely and efficient manner:
- (i) draft Regulations;
 - (ii) draft standards or codes of practice; and
 - (iii) guidance;
- ~~(i)~~(j) submitting such draft Regulations, draft standards, and draft codes of practice to the DIFCA Board of Directors for approval and advising it of any guidance that is issued;
- ~~(j)~~(k) promoting, as appropriate, and dealing with codes of conduct intended to contribute towards the application of this Law, as further described in Article 48;
- ~~(k)~~(l) prescribing forms to be used for any of the purposes of this Law or any Applicable Law administered by the Commissioner;
- ~~(l)~~(m) acquiring, holding and disposing of property of any description;
- (m)(n) making contracts and other agreements;
- ~~(n)~~(o) with the prior consent of the President, borrowing monies and providing security for such borrowings;
- ~~(o)~~(p) employing and appointing persons on such terms as he considers appropriate to assist him in the exercise of his powers and performance of his functions;
- ~~(p)~~(q) where he considers it appropriate to do so, delegating such of his functions and powers as may more efficiently and effectively be performed by his officers or employees and, with the approval of the President either generally or in relation to any particular matter, by any other person;
- ~~(q)~~(r) taking such steps as he deems appropriate in order to develop and participate in international cooperation mechanisms to facilitate data sharing and enforcement standards, including communicating with other competent data protection authorities with respect to breaches of this Law involving multi-jurisdictional organisations or Groups; and
- ~~(r)~~(s) exercising and performing such other powers and functions as may be delegated to the Commissioner by the President pursuant to the provisions of this Law.
- (4) The Commissioner has power to do whatever he deems necessary, for or in connection with, or reasonably incidental to, the performance of his functions.
- (5) In exercising his powers and performing his functions the Commissioner shall act in an independent and impartial manner and will not accept instructions from any other party.
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PART 9: REMEDIES, LIABILITY AND SANCTIONS

59. Directions

- (1) If the Commissioner is satisfied, either on the basis of a complaint under Article 60(1) or on the basis of other information within his knowledge, that a Controller or Processor has contravened or is contravening the Law or Regulations ~~made for the purpose of the Law~~,

- he may issue a direction requiring the Controller or Processor ~~him to do either or both of the following:~~
- (a) to do or refrain from doing any act or thing within such time as may be specified in the direction; or
 - (b) to refrain from Processing any Personal Data specified in the direction or to refrain from Processing Personal Data for a purpose or in a manner specified in the direction.
- (2) The Commissioner may undertake reasonable and necessary inspections or investigations for the purposes of Article 59(1).
- (3) A direction issued under Article 59(1) shall contain:
- (a) a statement of the contravention of the Law or Regulations that the Commissioner is satisfied is being or has been committed; and
 - (b) a statement to the effect that the Controller or Processor may seek judicial review by the Court of:
 - (i) the decision of the Commissioner to issue the direction; or
 - (ii) the terms of the direction.
- (4) A Controller or Processor that fails to comply with a direction of the Commissioner ~~under this part of the Law~~ contravenes this Law and may be:
- (a) subject to fines; or
 - (b) liable for payment of damages and compensation to the Data Subject.
- (5) If the Commissioner considers that a Controller or Processor or any officer of either has failed to comply with a direction, he may apply to the Court for one (1) or more of the following orders:
- (a) an order directing the Controller or Processor or officer to comply with the direction or any provision of the Law or the Regulations or of any Applicable Law administered by the Commissioner relevant to the issue of the direction;
 - (b) an order directing the Controller or Processor or officer to pay any costs incurred by the Commissioner or other person relating to the issue of the Commissioner's direction or the contravention of such Law, Regulations or Applicable Law relevant to the issue of the direction; or
 - (c) any other order that the Court considers appropriate.
- (6) Any affected party may make submissions to the Court in relation to the Commissioner's application for an order under Article 59(5).
- (7) Any affected party may ask the Commissioner to review the direction within fourteen (14) days of receiving a direction under this part of the Law. The Commissioner may receive further submissions and amend or discontinue the direction.
- (8) The Commissioner may, but is not obliged to, issue warnings to a Controller or Processor that its intended Processing operations are likely to infringe this Law.
- (9) The Commissioner may, but is not obliged to, issue public reprimands to a Controller or Processor where its Processing operations have infringed this Law (in addition to imposing any other sanction provided for under this Law).
- (10) The issuing of any direction by the Commissioner is without prejudice to the Commissioner's ability to impose fines under Article 62.
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60. Lodging complaints and mediation

- (1) A Data Subject who contends that there has been a contravention of the Law or an alleged breach of his rights under the Law may lodge a complaint with the Commissioner.
- (2) Multiple Data Subjects affected by the same alleged contravention or breach of rights referred to in Article 60(1) may raise such complaints collectively. The Commissioner may choose to deal collectively with multiple allegations which relate to the same contravention or breach of rights, whether not such allegations are brought collectively.
- (3) The Commissioner may investigate the matters that are the subject of the complaint or mediate between the complainant and the relevant Controller or Processor.
- (4) On the basis of the investigation or mediation referred to in Article 60(3), the Commissioner may issue a direction under Article 59(1) or make a declaration of contravention or no contravention of the Law and, if the Commissioner makes a declaration that there has been a contravention of the Law, mediate between the complainant and the Controller as to the terms of any direction the Commissioner may make in respect of the contravention.
- (5) The DIFCA Board of Directors may make Regulations on the procedures relating to the conduct of mediation under this Article 60.

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62. Imposition of fines

- (1) The DIFCA Board of Directors shall make Regulations on the procedures relating to the imposition and recovery of fines under this Article 62.
- (2) Subject to Article 62(3), where the Commissioner considers that a Controller or Processor (including a Sub-processor) has contravened the Law, the Commissioner may issue an administrative fine to the Controller or Processor in respect of a contravention referred to in Schedule 2 in an amount he considers appropriate but not exceeding the amount specified in Schedule 2 in respect of each contravention, payable by the date specified in such notice.
- (3) The Commissioner may in addition to Article 62(2) issue a general fine for a contravention of the Law by a Controller or Processor (including a Sub-processor), in an amount, not limited to the amounts specified in Schedule 2, which he considers appropriate and proportionate, taking into account the seriousness of the contravention and the risk of actual harm to any relevant Data Subject. Such fine shall be issued by written notice and shall be payable by the date specified in such notice.
- (4) If, within the period specified in the notice referred to in Article 62(2) or 62(3), the Controller or Processor (as applicable) pays the prescribed fine to the Commissioner, then he may commence no further proceedings against the person in respect of the relevant contravention, but he may take action in relation to any continuing contravention, including where, in addition to the fine, a direction to the relevant Controller or Processor has been issued and has not been complied with.
- (5) Provided an objection instigated in accordance with Article 62(6) is not in progress, if a Controller or Processor (as applicable) has not paid the prescribed fine to the Commissioner's office within the period specified in the notice referred to in Article 62(2) or 62(3) or within ten (10) days following the determination of any objection instigated in accordance with Article 62(6) in such terms that a fine is payable, then the Commissioner may apply to the Court for, and the Court may so order, the payment of the fine or so much of the fine as is not paid and make any further order as the Court sees fit for recovery of the fine including any order for interest, costs of enforcement (including legal costs) and other expenses directly arising from the failure to pay.

- (6) A Controller or Processor (as applicable) may object to the imposition of a fine in accordance with procedures specified in Regulations referred to in Article 62(1).
- (7) A certificate that purports to be signed by the Commissioner and states that a written notice was given to a person pursuant to Article 62(2) or 62(3) imposing a fine on the basis of specific facts is:
- (a) conclusive evidence of the giving of the notice to the person; and
 - (b) prima facie evidence of the facts contained in the notice, in any proceedings commenced under Article 62(4).
- (8) In addition to any fine, the Commissioner may request the Court to make an order for damages or compensation payable to a Data Subject, even if he has not made a claim in accordance with Article 64. The principles in Article 64 will be considered when making the request to the Court. The Commissioner shall not make such requests unless in his opinion the Data Subject in question has suffered material damage as a result of the breach in question and is disadvantaged in his ability to bring a claim to the Court in his own name.

63. Application to the Court

- (1) Any Controller or Processor who is found to contravene this Law or a direction of the Commissioner may appeal to the Court against the finding within thirty (30) days.
- (2) A Data Subject who disagrees with a finding by the Commissioner of contravention of the Law or of no contravention of the Law may appeal against the finding to the Court within thirty (30) days.
- (3) In any appeal to the Court under this Article, the appellant may rely only on the material before the Commissioner at the time he made the relevant finding.
- (4) The Court may make any orders that it may think just and appropriate in the circumstances, including remedies for damages or compensation, penalties and imposition of administrative fines and findings of fact or alternative findings of fact in relation to whether or not the Law has been contravened.
- (5) In any proceeding before the Court of First Instance under this Law to which the Commissioner is a party, the Commissioner or any other to the proceedings may, appeal the decision of the Court of First Instance to the Court of Appeal:
 - (a) without the need to obtain leave to appeal from Court of Appeal; and
 - (b) notwithstanding any rule of procedure limiting second appeals.

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PART 10: GENERAL EXEMPTIONS

65. General exemptions

- (1) The DIFCA Board of Directors may make Regulations exempting Controllers from compliance with this Law or any parts of this Law. Such Regulations shall be consistent with the principles contained within this Article.
- (2) When any case, without limiting the generality of Article 65(1), and having regard to the fundamental rights and legitimate interests of the Data Subject, Articles 26, 29, 30, 32, 33, 34, 35, 37, 38, 39 and 42 shall not apply to a DIFC Body, where such DIFC Body acts as a Controller, if, and only to the extent that, compliance with such Article would in a any specific case be likely to cause material prejudice to the proper discharge by such DIFC Body of its powers and functions under any laws administered by it (including any delegated powers and functions), provided that such powers and functions:

- (a) are designed for protecting members of the public against financial loss due to dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons concerned in the provision of banking, insurance, investment or other banking and financial activities and services, including insurance and reinsurance services, financial markets and financial and monetary brokerage services;
 - (b) are designed for protecting members of the public against dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons concerned in the provision of banking, insurance, investment or other financial services; or
 - (c) are designed for the detection, investigation and prosecution of criminal or unlawful behaviour.
- (3) A DIFC Body shall maintain a register of ~~any specific case instances~~ where it relies on an Article 65(2) exemption, setting out:
- (a) the Article concerned, to the extent that the exemption is a necessary and proportionate measure to carry out the powers and functions described in Article 65(2)(a) to (c); and
 - (b) the reasons for reliance on the exemption in such case.
- (4) The Commissioner may inspect the register referred to in Article 65(3) and may at any time request additional information, raise a query or an objection to the exemption or conduct an investigation into the Applicable Law, regulation or public policy that supports the exemption to determine whether the exercise of the exemption complies with this Law.
- (5) A DIFC Body that contravenes Article 65(2) by invalidly relying on an exemption shall be subject to any of the remedies, liabilities and sanctions set out in Part 9.

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SCHEDULE 2

The following table sets out administrative fines that may be applied for the corresponding contraventions of this Law. This list is not exhaustive and may be updated from time to time.

Article	Contravention	Maximum Fine (USD)
9	Failing to comply with general requirements specified under Article 9 of the Law made for the purpose of this Law	\$50,000
10	Failure to comply with requirements for lawful Processing specified under Article 10 of the Law made for the purpose of this Law	\$50,000
11	Failure to comply with requirements for obtaining consent specified under Article 11 of the Law made for the purpose of this Law	\$50,000
12	Failure to comply with requirements for lawful Processing specified under Article 12 of the Law made for the purpose of this Law	\$50,000
14(1)	Failure to comply with the requirements for accountability specified under Article 14(1) of the Law made for the purpose of this Law	\$25,000
14(2)	Failing to implement and maintain technical and organisational measures to protect Personal Data in accordance with Articles 14(2) of the Law made for the purpose of this Law	\$50,000
14(3)	Failure to comply with the requirements for accountability specified under Article 14(3) of the Law made for the purpose of this Law	\$25,000

Article	Contravention	Maximum Fine (USD)
14(4)	Failure to comply with the requirements for accountability specified under Article 14(4) of the Law made for the purpose of this Law	\$25,000
14(5)	Failure to comply with the requirements for accountability specified under Article 14(5) of the Law made for the purpose of this Law	\$25,000
14(7)	Failing to register with the Commissioner in accordance with Article 14(7)	\$25,000
15	Failing to maintain records of any Personal Data Processing operations in accordance with Article 15	\$25,000
16	Failing to appoint a DPO in accordance with Articles 16(2) and 16(3) of the Law made for the purpose of this Law	\$50,000
20	Failing to carry out a data protection impact assessment prior High Risk Processing Activities in accordance with Article 20 of the Law made for the purposes of this Law.	\$20,000
22	Failing to comply with the requirements specified under Article 22(1), 22(2), 22(5) or 22(6) of the Law made for the purpose of this Law	\$25,000
23	Failing to comply with the requirements specified under Article 23 of the Law made for the purpose of this Law	\$25,000
24	Failing to comply with the requirements specified under Article 24(1), 24(3) or 24(6) of the Law made for the purpose of this Law	\$25,000
25	Failing to comply with the requirements specified under Article 25 of the Law made for the purpose of this Law	\$25,000
26	Failing to comply with the requirements specified under Article 26 of the Law made for the purpose of this Law	\$25,000
27	Failing to comply with the requirements specified under Article 27 of the Law made for the purpose of this Law	\$50,000
28	Failing to comply with the requirements specified under Article 28 of the Law made for the purpose of this Law	\$10,000
29	Failing to comply with the requirements specified under Article 29 of the Law made for the purpose of this Law	\$75,000
30	Failing to comply with the requirements specified under Article 30 of the Law made for the purpose of this Law	\$75,000
31	Failing to comply with the requirements specified under Article 31 of the Law made for the purpose of this Law	\$75,000
32(3)	Failing to comply with the requirements specified under Article 32(3) of the Law made for the purpose of this Law	\$75,000
33	Failing to comply with the requirements specified under Article 33 of the Law made for the purpose of this Law	\$100,000
34	Failing to comply with the requirements specified under Article 34 of the Law made for the purpose of this Law	\$100,000
35	Failing to comply with the requirements specified under Article 35 of the Law made for the purpose of this Law	\$100,000
36	Failing to comply with the requirements specified under Article 36 of the Law made for the purpose of this Law	\$100,000
37	Failing to comply with the requirements specified under Article 37 of the Law made for the purpose of this Law	\$100,000

Article	Contravention	Maximum Fine (USD)
38	Failing to comply with the requirements specified under Article 38 of the Law made for the purpose of this Law	\$100,000
39	Failing to comply with the requirements specified under Article 39 of the Law made for the purpose of this Law	\$50,000
40	Failing to comply with the requirements specified under Article 40 of the Law made for the purpose of this Law	\$25,000
41	Failing to report Personal Data Breach in accordance with Article 41 of the Law made for the purpose of this Law	\$50,000
42	Failing to report Personal Data Breach in accordance with Article 42 of the Law made for the purpose of this Law	\$50,000
<u>59</u>	<u>Failing to comply with a direction in accordance with Article 59(4) of the Law</u>	<u>\$75,000</u>
65	Failing to comply with the requirements specified under Article 65 of the Law made for the purpose of this Law	\$75,000

PART 3: AMENDMENTS TO INSOLVENCY LAW 2019

7. The Insolvency Law 2019 is amended as prescribed in this Part.
8. The following Articles of the Insolvency Law 2019 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

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PART 3: REHABILITATION**13. Scope**

A Company is eligible to apply under this Part for a Rehabilitation Plan where the debtor is or is likely to become unable to pay its debts and there is a reasonable likelihood of a successful Rehabilitation Plan being reached between the Company and its creditors and Shareholders unless it is excluded from being eligible in such manner as prescribed in the Regulations. If the Company is an Authorised Person, the creditors shall notify the DFSA immediately upon filing the application.

14. Common provision of the Regulations that apply under this Part

Except where modified by this Part, the Regulations relating to the moratorium and the prevalence of the Business Rules of Authorised Financial Market Institutions over this Law and treatment of Financial Collateral shall apply.

15. Application for Rehabilitation Plan and automatic moratorium

- (1) The Directors of a Company may propose a Rehabilitation Plan under this Part of this Law.
- (2) Where the board of a Company notifies the Court in writing together with such other documents as may be prescribed that they intend to make a proposal to the Company's creditors the date of such notification is the Notification Date for a Rehabilitation Plan. The Court shall convene and an automatic moratorium shall immediately apply to all creditors, secured or unsecured and without their consent, in respect of such a Company and its assets wherever located from the ~~time of the Rehabilitation Plan Notification~~ Notification Date.

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20. Appointment of the Rehabilitation Nominee

The board of the Company shall appoint one (1) or more Rehabilitation Nominee(s) immediately prior to the ~~Rehabilitation Plan Notification~~ Notification Date. The name and qualification of each Rehabilitation Nominee shall be set out in the ~~Rehabilitation Plan Notification~~ Rehabilitation Plan notification. Where more than one Rehabilitation Nominee is appointed, each Rehabilitation Nominee may exercise its functions independently. The Rehabilitation Nominee will have the authority to perform such functions as are given to him under this Part and otherwise as the Court may from time to time order on application by the Company with the consent of the Rehabilitation Nominee.

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23. Termination and expiration of the moratorium period

- (1) Notwithstanding the moratorium and prior to the expiration of the Moratorium Period, the Court may terminate any Moratorium Period upon the request of a creditor of the Company, upon notice and hearing for cause shown, including bad faith. The Court makes such consequential orders as it considers appropriate, including taking steps to

wind up the Company in accordance with Chapter 5 of Part 6 of this Law or appoint an Administrator in circumstances where Article 22(2) applies.

- (2) Following the expiration or termination of the Moratorium Period, the Company shall take steps to either:
 - (a) seek directions in accordance with Article 24 below; or
 - (b) agree to an alternative Rehabilitation Plan proposed by any creditors or Shareholders; or
 - (c) seek to terminate the Rehabilitation Plan process by way of an application to the Court and wind up the Company under Part 6 of this Law.
- (3) In the event that the Company fails to take any steps in Article 23(2) above, upon the request of a creditor of the Company, the Court may appoint an Administrator in circumstances where Article 22(2) applies or alternatively take steps to wind up the Company in accordance with Chapter 5 of Part 6 of this Law.

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35. Common provisions of the Law and Regulations that apply under this Part

- (1) Except where modified by this Part, Articles 43, 45 to 47, 50, 88, 101, 107 to 116, 131 to 134 and Schedule 2 shall also apply to an Administrator under this Part and references to "Receiver" or "Liquidator" in these provisions shall be taken as references to an "Administrator" and references to "Liquidation" or "winding up" shall be taken as reference to Administration.
- (2) Where the Administrator seeks the approval of a Rehabilitation Plan under Part 3 or the approval of a Voluntary Arrangement under Part 2, those Parts shall apply to an Administrator unless modified by this Part 4. In such instances the Administrator may also act as the Nominee.
- (3) Except where modified by this Part the Regulations relating to the appointment of a Receiver apply and references to "Receiver" in these provisions shall be taken as references to an "Administrator".
- (4) For the purposes of the Regulations relating to mutual credits, mutual debts or other mutual dealings ~~does~~, such provisions do not include any debt arising out of an obligation where the Liquidation was immediately preceded by Rehabilitation or Administration and:
 - (a) at the time the obligation was incurred the creditor had notice of the Rehabilitation or Administration; or
 - (b) any debt arising out of an obligation incurred during Rehabilitation or Administration which immediately preceded the Liquidation; or
 - (c) any debt which has been acquired by a creditor by assignment or otherwise, pursuant to an agreement where that agreement was entered into:
 - (i) at a time when the creditor had notice of the Rehabilitation or Administration; or
 - (ii) during the Rehabilitation or Administration.

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38. Protection of interests of creditors and Shareholders

- (1) At any time that an Administrator is in office, a creditor or Shareholder of the Company may apply to the Court for an order under this Article 38 on the ground that:
 - (a) the Company's affairs, business and property are being or have been managed by the Administrator in a manner which is unfairly prejudicial to some or all of its creditors or Shareholders (including at least himself), or
 - (b) any actual or proposed act or omission of the Administrator is or would be so prejudicial.
- (2) On an application for an order under this Article 38 the Court may, subject as follows, make such order as it thinks fit for giving relief in respect of the matters complained of.
- (3) An order under this Article 38 shall not prejudice or prevent the implementation of a Rehabilitation Plan, or Voluntary Arrangement, or a scheme of arrangement under the Companies Law if it has been approved in accordance with the relevant ~~law~~ Law, or
- (4) Subject to Article 38(3), an order under this Article may in particular:
 - (a) regulate the future management of the Company's affairs, business and property by the Administrator;
 - (b) require the Administrator to refrain from doing or continuing an act complained of, or to do an act which he has omitted to do;
 - (c) require the summoning of a meeting of creditors or Shareholders for the purpose of considering such matters as the Court may direct; and
 - (d) discharge the appointment of the Administrator and make such consequential provision as the Court thinks fit.

Where the Administrator is discharged, within thirty (30) days after the making of the order effecting the discharge the Administrator shall send a copy of that order to the Registrar. If the Administrator fails to comply with this Article without reasonable excuse, he is liable to a fine, as set out in Schedule 5.

PART 5: RECEIVERSHIP**42. Powers of Receivers and Administrative Receivers**

- (1) Where a Company grants a person powers contained in an instrument to get in and sell any part of its property and to apply the proceeds in reduction of a debt due to that other person, such person, once appointed, shall be a Receiver and shall be subject to this Law in his performance of that function.
- (2) A Receiver of the property of a Company may be appointed under, and has all of the powers conferred upon him by, such instrument save as provided in this Law or the Regulations.
- (3) A Receiver of the property of a Company appointed under powers contained in an instrument, or the persons by whom or on whose behalf a Receiver has been so appointed, may apply to the Court in relation to any particular matter arising in connection with the performance of the functions of the Receiver.

- (4) On an application under Article 42(3), the Court may give such directions, or may make such order declaring the rights of persons before the Court or otherwise, as it thinks fit.
- (5) Where a Receiver is appointed in respect of the property of a Company under powers contained in an instrument, and the property over which he is appointed consists of all or substantially all of the undertakings of the Company, that Receiver, once appointed, shall be an Administrative Receiver. An Administrative Receiver has, in addition to the powers contained in the instrument, the powers set out in Schedule 2 to this Law.
- (6) In the application of Schedule 2 to the Administrative Receiver of a Company:
- (a) the words "he" and "him" refer to the Administrative Receiver; and
- (b) references to the property of the Company are to the property of which he is or, but for the appointment of some other person as the Receiver of part of the Company's property would be, the Receiver.

A Receiver or an Administrative Receiver appointed over property of a Company in the DIFC shall be a person who is registered as an insolvency practitioner under Part 10 of this Law.

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50. Committee of creditors

- (1) Where an Administrative Receiver has sent or published a report as mentioned in Article 49(2), the Company's unsecured creditors may, in accordance with the Regulations, establish a committee (the "Creditors' Committee") to exercise the functions conferred on it by or under this Law or the Regulations.
- (2) If such a Creditors' Committee is established, the committee may, on giving not less than seven (7) days' notice, require the Administrative Receiver to attend before it at any reasonable time and furnish it with such information relating to the carrying out by him of his functions as it may reasonably require.

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53. Powers of Liquidator

- (1) Any Liquidator appointed in a winding up shall have the powers set out in Schedule 3.
- (2) The Board of Directors of the DIFCA shall make such Regulations as it sees fit in relation to the exercise of the powers and functions of a Liquidator, including as to the forms and procedures to be adopted in a winding up and the responsibilities of officers of the Company (as defined in Article 53(5)) and other persons to co-operate with the Liquidator.
- (3) Without limiting the application of Article 53(2), such Regulations may provide for the power of the Liquidator to:
- (a) summon a person to be examined before the Court concerning the affairs of the Company;
- (b) inspect books and records of the Company;
- (c) direct an officer of the Company to deliver to the Liquidator all books and records in the officer's possession that relate to the Company or to advise the Liquidator of the whereabouts of any such book or record;

- (d) direct an officer of the Company to give to the Liquidator such information about the Company's business, property, affairs and financial circumstances as the Liquidator may require; and
 - (e) direct an officer of the Company to attend upon the Liquidator to provide books and records, information, or other assistance as the Liquidator may reasonably require.
- (4) An officer of a Company who:
- (a) fails to do whatever the Liquidator reasonably requires the officer to do to assist in the winding up;
 - (b) fails to comply with any reasonable direction given to the officer by the Liquidator pursuant to the Regulations; or
 - (c) hinders or obstructs a Liquidator in the performance of his powers or functions, commits a contravention and is liable to a fine, as set out in Schedule 5.
- ~~(5)~~—In this Article, an "officer" in relation to a Company means a person who is, or has been but is no longer, a Director, a secretary, an employee involved in the management of the Company, a Receiver or Administrative Receiver, an Administrator, a Nominee or Supervisor in relation to a Voluntary Arrangement, or a Liquidator or provisional Liquidator.
- ~~(6)~~(5) A Liquidator may exercise his powers under the Law and Regulations in respect of any person, whether that person is inside or outside the DIFC.
- ~~(7)~~(6) In exercising such powers, the Liquidator shall comply with local requirements relevant to the exercise of those powers including, where appropriate, informing or proceeding in collaboration with a local regulator or authority.

CHAPTER 3 – MEMBERS' VOLUNTARY WINDING UP

61. Appointment of Liquidator

- (1) In a Members' Voluntary Winding Up, the Shareholders of the Company, by Ordinary Resolution in accordance with the Articles of Association or any applicable laws, shall appoint one (1) or more Liquidators for the purpose of winding up the Company's affairs and distributing its assets.
- (2) On the appointment of a Liquidator all the powers of the Directors cease, except so far as the Company, by Ordinary Resolution in accordance with Articles of Association or any applicable laws, or the Liquidator sanctions their continuance.

62. Liquidator's ~~R~~report at each year's end

- (1) In the event that the winding up continues for more than one (1) year, the Liquidator shall provide the Shareholders of the Company with a Liquidator's Report setting out an account of his acts and dealings, and of the conduct of the winding up, during the previous year:
 - (a) at the end of the first year from the commencement of the winding up, and of each succeeding year; or
 - (b) at the first convenient date within three (3) months from the end of the year or such longer period as the Court may allow.

(2) ~~The Liquidator shall send a copy of the Liquidator's Report to the Registrar and where the Company is an Authorised Person to the DFSA, before the end of that period (but not before sending it to the Shareholders of the Company).~~

~~(2)(3)~~ If the Liquidator fails to comply with this Article 62~~(4)~~, he is liable to a fine, as set out in Schedule 5.

63. Final ~~A~~ccount

(1) As soon as the Company's affairs are fully wound up, the Liquidator shall make up a Final Account ~~an account~~ of the winding up, showing:

- (a) how it has been conducted and how the Company's property has been disposed of;
- (b) details of the remuneration charged and expenses incurred by the Liquidator during the period since the last Liquidator's Report (if any);
- (c) a description of the work done by the Liquidator during the period since the last Liquidator's Report (if any) in respect of which the remuneration was charged and the expenses incurred; and
- (d) a summary of the receipts and payments during that period.

(2) The Liquidator shall send a copy of the account referred to in Article 63(1) to the Shareholders of the Company within fourteen (14) days beginning on the day the account is made up. The Liquidator shall send the account to the last known addresses of the Shareholders of the Company as recorded by the Company. If there is no known address for a Shareholder of the Company, the Liquidator shall not be required to send a copy of the account to that Shareholder, and shall not be liable pursuant to Article 63(4).

(3) The Liquidator shall send a copy of the account to the Registrar and where the Company is an Authorised Person to the DFSA, before the end of that period (but not before sending it to the Shareholders of the Company).

(4) If the Liquidator fails to comply with each requirement of this Article 63, he is liable to a fine, as set out in Schedule 5.

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CHAPTER 4 – CREDITORS' VOLUNTARY WINDING UP

67. Directors to lay Statement of Affairs ~~statement of affairs~~ before creditors

(1) The Directors of the Company shall, within seven (7) days beginning the day on which the Company passes a Resolution for Voluntary Winding Up:

- (a) make a Statement of Affairs ~~statement as to the affairs~~ of the Company, and
- (b) send the Statement of Affairs ~~statement~~ to the Company's creditors.

(2) The Statement of Affairs ~~statement as to the affairs of the Company~~ shall ~~show~~ include the content as set out in Annex 3 of the Regulations:

- ~~(a) particulars of the Company's assets, debts and liabilities;~~
- ~~(b) the names and addresses of the Company's creditors;~~
- ~~(c) the securities held by them respectively;~~
- ~~(d) the dates on which the securities were respectively given; and~~
- ~~(e) such further or other information as may be prescribed.~~

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73. Liquidator's Rreport at each year's end

- (1) In the event of the winding up continuing for more than one (1) year, the Liquidator shall provide the creditors and the Shareholders of the Company with an account of his acts and dealings, and of the conduct of the winding up, during the previous year:
- (a) at the end of the first year from the commencement of the winding up, and of each succeeding year; or
- (b) at the first convenient date within three (3) months from the end of the year or such longer period as the Court may allow.
- (2) The Liquidator shall send a copy of the Liquidator's Report to the Registrar and where the Company is an Authorised Person to the DFSA, before the end of that period.
- ~~(2)~~(3) If the Liquidator fails to comply with this Article 73~~(4)~~, he is liable to a fine, as set out in Schedule 5.
- ~~(3)~~(4) Where under Article 65 a Members' Voluntary Winding Up has become a Creditors' Voluntary Winding Up, and the Liquidator sends a statement ~~of affairs~~ to the Company's creditors under Article 64(2) three (3) months or less before the end of the first year from the commencement of the winding up, the Liquidator is not required by this Article to report to the creditors at the end of that year.

74. Final Account

- (1) As soon as the Company's affairs are fully wound up the Liquidator shall make up a Final Account ~~an account~~ of the winding up, showing:
- (a) how it has been conducted and how the Company's property has been disposed of;
- (b) details of the remuneration charged and expenses incurred by the Liquidator during the period since the last Liquidator's Report~~report~~ (if any);
- (c) a description of the work done by the Liquidator during the period since the last Liquidator's Report~~report~~ (if any) in respect of which the remuneration was charged and the expenses incurred; and
- (d) a summary of the receipts and payments during that period.
- (2) The Liquidator shall, before the end of the period of fourteen (14) days beginning with the day on which the Final Account ~~account~~ is made up:
- (a) send a copy of the Final Account ~~account~~ to the Company's Shareholders, and
- (b) send a copy of the Final Account ~~account~~ to the Company's creditors.
- (3) The Liquidator shall send the Final Account ~~account~~ to the last known addresses of the Shareholders and creditors of the Company as recorded by the Company. If there is no known address for a Shareholder or creditor (as applicable) of the Company, the Liquidator shall not be required to send a copy of the Final Account ~~account~~ to that Shareholder or creditor (as applicable).
- (4) The Liquidator shall, before the end of that period (but not before sending it to the Shareholders and creditors of the Company), send to the Registrar (and where the Company is an Authorised Person to the DFSA) a copy of the Final Account ~~account~~.
- (5) If the Liquidator fails to comply with this Article, he is liable to a fine, as set out in Schedule 5.

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CHAPTER 5 – PROVISIONS APPLYING TO BOTH KINDS OF VOLUNTARY WINDING UP**75. Distribution of Company's property**

Subject to the provisions of this Law as to preferential payments and to any Regulations made under Article 127~~8~~ and the application of any other laws as described in Article 136, the Company's property in a voluntary winding up shall be applied in satisfaction of the Company's liabilities which rank *pari passu* and, subject to that application, distributed among the Shareholders according to their rights and interests in the Company (unless the Articles of Association of the Company otherwise provide).

76. Appointment or removal of Liquidator by the Court

- (a) If for any cause whatever there is no Liquidator acting, the Court may appoint a Liquidator.
- (b) The Court may, on cause shown, remove a Liquidator and appoint another.

77. Reference of questions to Court

- (a) The Liquidator, any Shareholder or other person liable to Contribute to the assets of the Company or creditor may apply to the Court to determine any question arising from the winding up of a Company, or to exercise, as respects the enforcing of calls or any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court.
- (b) The Court may make such order on the application as it thinks just.

78. Expenses of voluntary winding up

All expenses properly incurred in the winding up, including the remuneration of the Liquidator, are payable out of the Company's assets in priority to all other claims.

79. Saving for certain rights

The voluntary winding up of a Company does not bar the right of any creditor or any Shareholder or other person liable to Contribute to the assets of the Company to apply to have it wound up by the Court.

80. Removal or resignation of Liquidator

- (1) This Article 80 applies with respect to the removal from office and vacation of office of the Liquidator of a Company which is being wound up voluntarily.
- (2) The Liquidator may be removed from office only by an order of the Court or:
 - (a) in the case of a Members' Voluntary Winding Up, by an Ordinary Resolution of the Shareholders of the Company, or
 - (b) in the case of a Creditors' Voluntary Winding Up, by a decision of a meeting of the Company's creditors summoned for that purpose.
- (3) A Liquidator shall vacate his office if he ceases to be a person who is qualified to act as an insolvency practitioner in relation to the Company.
- (4) A Liquidator may resign from his office in the following circumstances:
 - (a) on grounds of ill health;
 - (b) because of the intention to cease to practice as an insolvency practitioner; or

- (c) because the further discharge of the duties of Liquidator is prevented or made impracticable by a conflict of interest or a change in personal circumstances.
- (5) Before resigning, a Liquidator shall deliver a notice to the Court, creditors, Shareholders, the Registrar and where the Company is an Authorised Person, to the DFSA and:
 - (a) in the case of a Members' Voluntary Winding Up, require the Shareholders to consider whether a replacement should be appointed by way of an Ordinary Resolution; or
 - (b) in the case of a Creditors' Voluntary Winding Up, summon the creditors to a meeting to consider whether a replacement should be appointed.
- (6) In the case of a Members' Voluntary Winding Up where the Liquidator has produced a Final Account ~~an account~~ of the winding up under Article 63, the Liquidator vacates office as soon as the Liquidator has complied with Article 63(3).
- (7) In the case of a Creditors' Voluntary Winding Up where the Liquidator has produced a Final Account ~~an account~~ of the winding up under Article 74, the Liquidator vacates office as soon as the Liquidator has complied with Article 74(3).

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91. Appointment of provisional Liquidator

The Court may, at any time after an application for winding-up has been made, appoint a ~~p~~Provisional Liquidator. The powers of the ~~p~~Provisional Liquidator may be limited by the order appointing him.

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95. Final Account

- (1) If it appears to the Liquidator that ~~how~~ the winding up of the Company is for practical purposes complete, the Liquidator shall make a ~~u~~~~p~~~~an~~~~account~~ Final Account of the winding up, showing:
 - (a) how it has been conducted and the Company's property has been disposed of;
 - (b) details of the remuneration charged and expenses incurred by the Liquidator during the period since the last Liquidator's Report (if any);
 - (c) a description of the work done by the Liquidator during the period since the last Liquidator's Report ~~report~~ (if any) in respect of which the remuneration was charged and the expenses incurred; and
 - (d) a summary of the receipts and payments during that period.
- (2) The Liquidator shall, within fourteen (14) days beginning with the day on which the Final Account ~~account~~ is made up send a copy of the Final Account to the Company's creditors.
- (3) The Liquidator shall send the Final Account ~~account~~ to the last known addresses of the creditors of the Company as recorded by the Company. If there is no known address for a particular creditor of the Company, the Liquidator shall not be required to send a copy of the ~~account~~ Final Account to that particular creditor.
- (4) The Liquidator shall, before the end of that period (but not before sending it to the creditors of the Company), send to the Registrar and where the Company is an Authorised Person to the DFSA a copy of the Final Account ~~account~~.
- (5) If the Liquidator fails to comply with this Article 95, he is liable to a fine, as set out in Schedule 5.

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99. Preferential debts

- (1) In a winding up the Company's preferential debts shall be paid in priority to all other debts, subject to the application of any other laws as described in Article 1356.
- (2) The Board of Directors of the DIFCA may make such Regulations as it sees fit to designate certain types of claims on a Company as preferential debts and to prescribe any priorities as to their payment.

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101. Rescission of contracts by the Court

- (1) ~~The Court may, on the application of a person who is, as against the Liquidator, entitled to the benefit of or subject to the burden of a contract made with the Company, make an order rescinding the contract on such terms as to payment by or to either party to the contract of damages for the non performance of the contract, or otherwise as the Court thinks fit.~~
- (2) ~~Any damages payable under the order to such a person may be proved by him as a debt in the winding up.~~

102. Notification that Company is in Liquidation

~~When a Company is being wound up, whether by the Court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the Company, a Liquidator of the Company, a Receiver of the Company's property, being a document on or in which the name of the Company appears, shall contain a statement that the Company is being wound up.~~

103.101. Liquidator's Report at each year's end Information as to pending Liquidations

- (1) ~~If the winding up of a Company is not concluded within one (1) year after its commencement, the Liquidator shall provide all creditors of the Company with a Liquidator's Report setting out an account of his acts and dealings, and of the conduct of the winding up, during the previous year: shall, at such intervals as may be prescribed, until the winding up is concluded, send to the Registrar and where the Company is an Authorised Person to the DFSA, a statement in the form prescribed under the Regulations and containing the prescribed particulars with respect to the proceedings in, and position of, the Liquidation.~~
 - (a) ~~at the end of the first year from the commencement of the winding up, and of each succeeding year; or~~
 - (b) ~~at the first convenient date within three (3) months from the end of the year or such longer period as the Court may allow.~~
- (2) ~~The Liquidator shall send a copy of the Liquidator's Report to the Registrar and where the Company is an Authorised Person to the DFSA, before the end of that period.~~
- (3) ~~If the Liquidator fails to comply with this Article 62(1), he is liable to a fine, as set out in Schedule 5.~~

104.102. Reference of questions to Court

- (1) The Liquidator, any Shareholder or other person liable to Contribute to the assets of the Company or creditor may apply to the Court to determine any question arising in the winding up of a Company by the Court.
- (2) The Liquidator or any aggrieved person may apply to the Court for an order in relation to the exercise of the powers or functions of the Liquidator.
- (3) The Court may make such order on an application under this Article as it thinks just,

including where appropriate an order enforcing or setting aside any direction given or requirement made, by the Liquidator to a person.

~~105.~~ Dissolution and early dissolution

- ~~(1) — Where a Company is being wound up, Articles 105(2) and 105(3) apply, where the Liquidator has sent his final account and return to creditors and the Registrar.~~
- ~~(2) — On the expiration of three (3) months from the date of dispatch of the final account and return the Company is deemed to be dissolved.~~
- ~~(3) — However, the Court may, on the application of the Liquidator or any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the Company is to take effect for such time as the Court thinks fit.~~
- ~~(4) — If it appears to the Liquidator that the realisable assets of the Company are insufficient to cover the expenses of the winding up, and the affairs of the Company do not require any further investigation, the Liquidator may at any time apply, to the Registrar and where the Company is an Authorised Person to the DFSA for the early dissolution of the Company.~~
- ~~(5) — Before making an application under Article 105(4), the Liquidator shall give at least twenty eight (28) days' notice of his intention to do so to the Company's creditors and Contributors.~~
- ~~(6) — On receipt of the application made under Article 105(4), the Registrar shall within a reasonable time register it on the Public Register and, at the end of the period of three (3) months beginning on the day of the registration, the Company shall be dissolved.~~
- ~~(7) — Where a notice has been given under Article 105(4), the Liquidator, any creditor or Contributor of the Company, or the Administrative Receiver of the Company (if there is one) (1) may apply to the Registrar and where the Company is an Authorised Person to the DFSA for directions on the grounds that:~~
- ~~(a) — the realisable assets of the Company are sufficient to cover the expenses of the winding up;~~
- ~~(b) — the affairs of the Company do require further investigation; or~~
- ~~(d) — for any other reason the early dissolution of the Company is inappropriate.~~
- ~~(8) — Directions from the Registrar or DFSA under Article 105(7):~~
- ~~(a) — are directions making such provision as the Registrar or DFSA thinks fit for enabling the winding up of the Company to proceed as if no notice has been given under Article 105(4); and~~
- ~~(b) — may include a direction deferring the date at which the dissolution of the Company is to take effect for such period as the Registrar or DFSA thinks fit.~~
- ~~(9) — It is the duty of the person on whose application any directions are given under this Article, within seven (7) days of the directions, to deliver them to the Registrar and where the Company is an Authorised Person to the DIFC for registration.~~

~~106.~~103. Removal or resignation of Liquidator

- (1) This Article ~~106~~3 applies with respect to the removal from office and vacation of office of the Liquidator or a ~~p~~Provisional Liquidator of a Company that is being wound up by the Court.
- (2) The Liquidator may be removed from office only by an order of the Court or by a decision of a meeting of the Company's creditors and in accordance with the Regulations, and a provisional Liquidator may be removed from office only by an order of the Court.

- (3) A Liquidator or a provisional Liquidator shall vacate office if he ceases to be a person who is qualified to act as an insolvency practitioner in relation to the Company.
- (4) A Liquidator may resign his office in the following circumstances:
 - (a) on grounds of ill health;
 - (b) because of the intention to cease to practice as an insolvency practitioner; or
 - (c) because the further discharge of the duties of Liquidator is prevented or made impracticable by a conflict of interest or a change in personal circumstances
- (5) Before resigning, a Liquidator shall deliver a notice to the Court, creditors, the Registrar and where the Company is an Authorised Person to the DFSA, and shall summon the creditors to a meeting to consider whether a replacement should be appointed.
- (6) Where the Liquidator has produced ~~an account~~ a Final Account of the winding up under Article 95, the Liquidator vacates office as soon as the Liquidator has complied with Article 95(3).

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CHAPTER 7 – GENERAL PROVISIONS APPLICABLE TO ALL TYPES OF WINDING UP

104. Notification that Company is in Liquidation

When a Company is being wound up, whether by the Court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the Company, a Liquidator of the Company, a Receiver of the Company's property, being a document on or in which the name of the Company appears, shall contain a statement that the Company is being wound up.

105. Rescission of contracts by the Court

- (1) The Court may, on the application of a person who is, as against the Liquidator, entitled to the benefit of or subject to the burden of a contract made with the Company, make an order rescinding the contract on such terms as to payment by or to either party to the contract of damages for the non-performance of the contract, or otherwise as the Court thinks fit.
- (2) Any damages payable under the order to such a person may be proved by him as a debt in the winding up.

106. Dissolution and early dissolution

- (1) Where a Company is being wound up, Articles 106(2) and 106(3) apply, where the Liquidator has sent his Final Account and return to creditors and the Registrar.
- (2) On the expiration of three (3) months from the date of dispatch of the Final Account and return the Company is deemed to be dissolved.
- (3) However, the Court may, on the application of the Liquidator or any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the Company is to take effect for such time as the Court thinks fit.
- (4) If it appears to the Liquidator that the realisable assets of the Company are insufficient to cover the expenses of the winding up, and the affairs of the Company do not require any further investigation, the Liquidator may at any time apply, to the Registrar and where the Company is an Authorised Person, to the DFSA for the early dissolution of the Company.

- (5) Before making an application under Article 106(4), the Liquidator shall give at least twenty eight (28) days' notice of his intention to do so to the Company's creditors and Contributors.
- (6) On receipt of the application made under Article 106(4), the Registrar shall within a reasonable time register it on the Public Register and, at the end of the period of three (3) months beginning on the day of the registration, the Company shall be dissolved.
- (7) Where a notice has been given under Article 106(4), the Liquidator, any creditor or Contributory of the Company, or the Administrative Receiver of the Company (if there is one) (1) may apply to the Registrar, and where the Company is an Authorised Person, to the DFSA for directions on the grounds that: (a) the realisable assets of the Company are sufficient to cover the expenses of the winding up; (b) the affairs of the Company do require further investigation; or (c) for any other reason the early dissolution of the Company is inappropriate.
- (8) Directions from the Registrar or DFSA under Article 106(7): (a) are directions making such provision as the Registrar or DFSA thinks fit for enabling the winding up of the Company to proceed as if no notice has been given under Article 106(4); and (b) may include a direction deferring the date at which the dissolution of the Company is to take effect for such period as the Registrar or DFSA thinks fit.
- (9) It is the duty of the person on whose application any directions are given under this Article, within seven (7) days of the directions, to deliver them to the Registrar and where the Company is an Authorised Person to the DFSA for registration.

CHAPTER 78--: PROTECTION OF ASSETS IN LIQUIDATION

107. Fraud in anticipation of winding up

When a Company is ordered to be wound up by the Court, or passes a Resolution for Voluntary Winding Up, or an Administrator is appointed, Article 115 shall apply in respect of any person, being a past or present Officer of the Company, who, within the twelve (12) months immediately preceding the commencement of the winding up, or the appointment of an Administrator has:

- (a) concealed any part of the Company's property to the value of \$1,000 or more, or concealed any debt due to or from the Company;
- (b) fraudulently removed any part of the Company's property to the value of \$1,000 or more;
- (c) concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the Company's property or affairs;
- (d) made any false entry in any book or paper affecting or relating to the Company's property or affairs;
- (e) fraudulently parted with, altered or made any omission in any document affecting or relating to the Company's property or affairs; or
- (f) pawned, pledged or disposed of any property of the Company which has been obtained on credit and has not been paid for (unless the pawning, pledging or disposal was in the ordinary way of the Company's business),

in each case with the intention of defrauding the creditors of the Company or concealing the state of affairs of the Company from any person or to deliberately circumvent or contravene this Law.

108. Transactions in fraud of creditors

- (1) When a Company is ordered to be wound up by the Court or passes a Resolution for Voluntary Winding Up, or an Administrator is appointed, Article 115 shall apply in respect of any person, being at the time an Officer of the Company, who:
 - (a) has made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the levying of any execution against, the Company's property; or
 - (b) has concealed or removed any part of the Company's property since, or within two (2) months before, the date of any unsatisfied judgment or order for the payment of money obtained against the Company.
- (2) Article 115 shall not apply to any person if he proves that, at the time of the conduct constituting a breach of this Law he had no intent to the Company's creditors.

109. Falsification of Company's books

When a Company is being wound up, or an Administrator is appointed, Article 115 shall apply to an Officer or Shareholder or other person liable to Contribute to the assets of the Company if he destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the Company with intent to defraud or deceive any person.

110. Material omissions from the Statement of Affairs ~~statement relating to Company's affairs~~

When a Company is being wound up, whether by the Court or voluntarily, or an Administrator is appointed, Article 115 shall apply to any person, being a past or present Officer of the Company, who makes any material omission in any Statement of Affairs ~~statement relating to the Company's affairs~~ with an intent to defraud any person.

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PART 7: RECOGNISED AND FOREIGN COMPANIES

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~~**120. Outstanding property of a defunct Recognised Company**~~

- ~~(1) This Article applies where, after the dissolution or deregistration of a Recognised Company, outstanding property of the Recognised Company remains in the DIFC.~~
- ~~(2) The estate and interest in the property of the Recognised Company or of its Liquidator at the time, together with all claims, rights and remedies that the Recognised Company or the Liquidator then had in respect of the property, vests by force of this Article with the DIFCA or if the Recognised Company is an Authorised Person with the DFSA.~~
- ~~(3)(5) Where any claim, right or remedy of a Liquidator may under this Law be made, exercised or availed of only with the approval or concurrence of the Court or some other person, the DIFCA or DFSA (as applicable) may, for the purpose of this Article, make, exercise or avail itself of the claim, right or remedy without such approval or concurrence.~~

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PART 8: OTHER TYPES OF COMPANY

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121-120. Application of the Law to other types of Company

- (1) Where, pursuant to Part 11 of the Companies Law, a type of Company is prescribed in Regulations made under that Part, the Board of Directors of the DIFCA may make Regulations:
- (a) prescribing:
- (i) the circumstances and manner in which such a type of Company may enter into a Voluntary Arrangement, Rehabilitation, Administration, or Receivership or be wound up;
- (ii) any requirements or obligations in relation to the appointment of an insolvency practitioner to such a type of Company; and
- (iii) forms and procedures for the Voluntary Arrangement, Rehabilitation, Administration, Receivership and winding up of such a Company; and
- (b) extending, excluding, waiving or modifying the application of provisions of this Law or the Regulations, where considered necessary or desirable to facilitate the orderly application of this Law in relation to such types of Companies.
- (2) The Law will apply to a type of Company to which this Article applies except where a provision of or the context of the Law or Regulations or other Legislation administered by the Registrar provides otherwise.

PART 9: APPLICATION OF THE LAW TO LIMITED LIABILITY PARTNERSHIPS**122-121. Application to Limited Liability Partnerships**

All of the provisions of this Law and the Regulations shall apply to a Limited Liability Partnership, except where the context otherwise requires, with the following modifications:

- (a) references to a Company shall include references to a Limited Liability Partnership;
- (b) references to a Director or to an Officer of a Company shall include references to a member of a Limited Liability Partnership;
- (c) references to a Shareholder of a Company shall include references to a member of a Limited Liability Partnership;
- (d) references to the Companies Law or Operating Law or to provisions of the Insolvency Law shall include references to those provisions as they apply to Limited Liability Partnership in accordance with this Law;
- (e) references to the Articles of Association of a Company shall include references to the Limited Liability Partnership agreement of a Limited Liability Partnership;
- (f) references to a resolution of a Company shall include references to a determination of a Limited Liability Partnership;
- (g) the following specific modifications shall apply:

- (i) in Article 7(1), for “The Directors of a Company” substitute “A Limited Liability Partnership” and delete “to the Company and”;
- (ii) in Article 7(2), for "The Directors" substitute "A Limited Liability Partnership";
- (iii) for Article 54, substitute the following:
 - ~~(iv)~~ "A Limited Liability Partnership may be wound up voluntarily when it determines that it is to be wound up voluntarily";
 - (iv) in Article 59, for "Directors" (wherever it appears) substitute "Designated Members", and for "Director" (wherever it appears) substitute "Designated Member";
 - (v) in Article 60, for "Directors" substitute "Designated Members";
 - (vi) in Article 64(1), for "Directors" substitute "Designated Members";
 - (vii) in Article 67(1), for "Directors" substitute "Designated Members";
 - ~~(viii)~~ in Article 85, for "any transfer of shares" substitute "any transfer by a member of the Limited Liability Partnership of his interest in the property of the Limited Liability Partnership"; and
 - (ix) in Article 109, substitute "an Officer or Shareholder" for "an Officer or member".
- (h) such further modifications as the context requires for the purpose of giving effect to that legislation as applied by this Law.

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PART 10: INSOLVENCY PRACTITIONERS

~~123.~~122. Restrictions on service as Liquidator or Receiver

- (1) No person may be appointed as or serve as a Nominee, Administrator, Receiver, an Administrative Receiver, a Liquidator or provisional Liquidator of a Company under this Law or any other DIFC Law unless he is registered as an insolvency practitioner under this Part.
- (2) Without limiting the generality of Article 1223(1), no insolvency practitioner may be appointed by the Court as:
 - (a) Liquidator under Articles 61, 76 or 90 of the Law; or
 - (b) provisional Liquidator under Article 91 of the Law,
 unless he is further registered as an official Liquidator under this Part.
- (3) The registration of an insolvency practitioner as an official Liquidator constitutes an acknowledgement of that insolvency practitioner that he will accept any appointment made by the Court as a Liquidator or provisional Liquidator to a Company in accordance with the provisions of any rules of procedure as may be made by the Court.

~~124.~~123. Qualification and registration of insolvency practitioners

- (1) In this Law, unless expressed otherwise, a reference to:

- (a) an insolvency practitioner is a reference to an insolvency practitioner who is registered under this Law; and
 - (b) an official Liquidator is a reference to an official Liquidator who is registered under this Law.
- (2) The Board of Directors of the DIFCA shall make Regulations containing a set of requirements which an application for registration as an insolvency practitioner or as an official Liquidator shall meet before such application can be accepted and registration granted by the Registrar. Such Regulations may include requirements relating to the qualifications, experience and fitness and propriety of applicants, and any bonding arrangements that they must put in place.
 - (3) The Board of Directors of the DIFCA may make Regulations providing for such requirements referred to in Article 1234(2) to be varied in cases where an application is made by a person who is, at the time of application, regulated in a jurisdiction other than the DIFC.
 - (4) The Registrar may in his absolute discretion refuse to grant an application for registration of an insolvency practitioner or an official Liquidator.
 - (5) The Registrar may cancel the registration of an insolvency practitioner or an official Liquidator on that person's request or as otherwise provided under this Law.

125.124. Register of insolvency practitioners and official Liquidators

- (1) The Registrar shall publish and maintain registers of current and past registrations of insolvency practitioners and official Liquidators in such manner as may be prescribed in the Regulations.
- (2) The Registrar shall make a reasonably current version of any registers maintained under this Article freely available for viewing by the public on the website of the DIFC.

126.125. Obligation of disclosure to the Registrar

- (1) Subject to Article 1256(2), an insolvency practitioner appointed to a Company shall disclose to the Registrar, and where the Company is an Authorised Person to the DFSA, any matter which reasonably tends to show one (1) of the following:
 - (a) a breach, or likely breach of a provision of the Law, Regulations, other Legislation administered by the Registrar or other legislation administered by the DFSA as applicable;
 - (b) a failure, or likely failure, to comply with any obligation that a person is subject to under such legislation; or
 - (c) any other matter as the Board of Directors of the DIFCA may prescribe in Regulations,

which may be attributable to the conduct of the relevant Company or of its Officers, employees or agents.

- (2) Article 1256(1) shall not apply to the extent that compliance with such requirement would disclose a Privileged Communication.
- (3) Any provision in an agreement between a Company and an Officer, employee, agent or insolvency practitioner is void in so far as it purports to hinder any person from causing or assisting a Company to comply with an obligation under Article 1256(1).

- (4) No person shall be subjected to detriment or loss or damage merely by reason of undertaking any act to cause or assist an insolvency practitioner to comply with an obligation under Article 1256(1).
- (5) A Court may, on application of an aggrieved person, make any order for relief where the person has been subjected to any such detriment or loss or damage referred to in Article 1256(4).
- (6) Without limiting the application of any other provision of this Law, an insolvency practitioner does not contravene any duty to which he is subject merely, because he gives the Registrar or the DFSA (as applicable):
 - (a) a notification as required under this Article; or
 - (b) any other information or opinion in relation to any such matter,

~~127-126.~~ Supervision of insolvency practitioners

- (1) The Court may, on application of the Registrar, and upon being satisfied that an insolvency practitioner:
 - (a) has contravened a provision of the Law, Regulations, or other Legislation administered by the Registrar; or
 - (b) has failed, whether within or outside the DIFC, to carry out or perform duties or functions adequately or properly; or
 - (c) is otherwise not a fit and proper person to remain registered as an insolvency practitioner or, where applicable, as an official Liquidator,
 make one or more of the following orders:
 - (d) an order that the Registrar may cancel, or suspend for a specified period, the registration of the insolvency practitioner or as an official Liquidator;
 - (e) an order imposing conditions or restrictions on the future conduct of the insolvency practitioner;
 - (f) an order requiring the insolvency practitioner to do, or refrain from doing, any act or thing; or
 - (g) any other order as the Court sees fit.
- (2) For the avoidance of doubt:
 - (a) any cancellation or suspension of the registration of a person as an insolvency practitioner is deemed to constitute a cancellation or suspension of any registration of the person as an official Liquidator; and
 - (b) the imposition of any condition or restriction on the future conduct of an insolvency practitioner is deemed, as the context may permit, to constitute the imposition of such a condition or restriction on the future conduct of the insolvency practitioner acting in his capacity as an official Liquidator.
- (3) Nothing in this Article affects the powers that any person or the Court may have apart from this Article.

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PART 11: MISCELLANEOUS

125.127. Power to make Regulations and waivers and modifications of the Law and Regulations

- (1) The Board of Directors of the DIFCA may make Regulations for the purposes of this Law to facilitate the administration of, or further the objects of, this Law;
- (2) Without limiting the generality of Article 1287(1), such Regulations may be made in respect of:
 - (a) the practice and procedures under this Law including the valuation of liabilities, the ranking of debts (other than preferential debts) and the identification and application of assets; and
 - (b) ~~the powers to waive and modify the Law or Regulations are contained in Article 60 of the Operating Law 2018, which shall apply to this Law and the Regulations, extending, excluding, waiving or modifying the application of provisions of this Law as may appear to the Board of Directors of DIFCA to be necessary or desirable to amend the powers, duties or responsibilities of any person under this Law.~~
- (3) Without limiting the generality of Article 1287(1), Regulations under this Article may:
 - (a) make different provisions for different cases or circumstances including different descriptions of Companies and different descriptions of creditors;
 - (b) include supplementary, incidental and consequential provision;
 - (c) require the doing of an act or thing, the default of which may result in a fine payable under the Operating Law; and
 - (d) make transitional provision and savings.
- (4) Article 1287(2) shall apply not only in relation to Regulations made under Article 1287(1) on or after the date on which this Law comes into force, but also in relation to Regulations made under a provision equivalent to Article 1287(1) before that date.
- (5) Where any legislation made for the purposes of this Law purports to be made in exercise of a particular power or powers, it shall be taken also to be made in the exercise of all powers under which it may be made.
- (6) Articles 46 and 47 of the Operating Law apply to the making of Regulations in the manner prescribed under Article 1404 of this Law.

126.128. Getting in the Company's property

- (1) This Article 1289 applies in the case of a Company where:
 - (a) a Receiver or Administrative Receiver is appointed;
 - (b) an Administrator is appointed;
 - (c) the Company goes into Liquidation; or
 - (d) a provisional Liquidator is appointed,

and the "office-holder" means the Receiver, the Administrative Receiver, the Administrator, the Liquidator or the provisional Liquidator, as the case may be.

- (2) Where any person has in his possession or control any property, books, papers or records to which the Company appears to be entitled, the Court may, on application by an office-holder, require that person within a reasonable period (or within such period as the Court may direct) to pay,

deliver, convey, surrender or transfer the property, books, papers or records to the office-holder.

- (3) Where the office-holder:
- (a) seizes or disposes of any property which is not property of the Company; and
- (b) at the time of seizure or disposal believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the Court or otherwise) to seize or dispose of that property,

the office-holder is not liable to any person in respect of any loss or damage resulting from the seizure or disposal (except in so far as that loss or damage is caused by the office-holder's own negligence), and has a lien on the property, or the proceeds of its sale, for such expenses as were incurred in connection with the seizure or disposal.

127-129. Duty to co-operate with office-holder

- (1) This Article ~~12930~~ applies in the cases mentioned in Article ~~1289~~(1).
- (2) Each of the persons mentioned in Article ~~130~~129(3) shall:
- (a) give to the office-holder such information concerning the Company and its promotion, formation, business, dealings, affairs or property as the office-holder may at any time after the effective date (as defined in Article ~~130~~129(4)) reasonably require;
- (b) attend on the office-holder at such times as the latter may reasonably require.
- (3) The persons referred to in Article ~~129~~130(2) are:
- (a) those who are or have at any time been Officers of the Company;
- (b) those who have taken part in the formation of the Company at any time up to one (1) year before the effective date (as defined in Article ~~129~~130(4));
- (c) those who are in the employment of the Company, or have been in its employment (including employment under a contract for services) within that year, and are in the office-holder's opinion capable of giving information which he requires;
- (d) those who are, or have within that year been, Officers of, or in the employment (including employment under a contract for services) of, another Company which is, or within that year was, an Officer of the Company in question; and
- (e) in the case of a Company being wound up by the Court, any person who has acted as a Receiver, Administrative Receiver, Administrator, provisional Liquidator or Liquidator of the Company.

- (4) For the purposes of Articles ~~130~~129(2) and (3), the "effective date" is whichever is applicable of the following dates:
- (a) the date on which the Receiver or Administrative Receiver was appointed or, if he was appointed in succession to another Receiver or Administrative Receiver, the date on which the first of his predecessors was appointed;
 - (b) the date on which the Administrator was appointed;
 - (c) the date on which the provisional Liquidator was appointed; and
 - (d) the date on which the Company went into Liquidation.
- (5) Any person referred to in Article ~~130~~129(3) that fails to comply with the obligations in this Article shall be liable to a fine, as set out in Schedule 5.

~~128-130.~~130.Inquiry into Company's dealings

- (1) The Court may order:
- (a) any Officer of the Company;
 - (b) any persons known or suspected to:
 - (i) have in his possession any property of the Company or
 - (ii) be indebted to the Company; or
 - (c) any person whom the Court thinks capable of giving information concerning the promotion, formation, business, dealings, affairs or property of the Company, to produce to it or to the office holder an account of his dealings with the Company or any books, papers or records in his possession relating to the Company or to any such dealings.
- (2) Any person that fails to comply with the obligations in this Article shall be liable to a fine, as set out in Schedule 5.

~~129-131.~~131.Transactions at an undervalue

- (1) This Article ~~132~~1 applies in the case of a Company where:
- (a) an Administrator is appointed; or
 - (b) the Company goes into Liquidation; or
 - (c) a provisional Liquidator is appointed,
- and the "office-holder" means the Administrator, Liquidator or the provisional Liquidator, as the case may be.
- (2) Where the Company has at a relevant time (defined in Article ~~135~~4) entered into a transaction with any person at an undervalue, the Court may, on application of the office-holder, make an order restoring the position to what it would have been if the Company had not entered into that transaction.
- (3) A Company enters into a transaction with a person at an undervalue if it makes a gift to that person or otherwise enters into a transaction with that person on terms that provide

for the Company to receive no consideration, or consideration the value of which, in money or money's worth, that is significantly less than the value, in money or money's worth, of the consideration provided by the Company.

- (4) The Court shall not make an order under this Article ~~1312~~ in respect of a transaction at an undervalue if it is satisfied:
- (a) that the Company which entered into the transaction did so in good faith and for the purpose of carrying on its business; and
 - (b) that at the time it did so there were reasonable grounds for believing that the transaction would benefit the Company.

~~130-132.~~ Preferences

- (1) This Article applies in the circumstances prescribed in Article ~~1321~~(1).
- (2) Where the Company has at a relevant time (defined in Article ~~1354~~) given a preference to any person, the Court may, on application of an office-holder (as defined in Article ~~1321~~), make an order restoring the position to what it would have been if the Company had not given that preference.
- (3) For the purposes of this Article ~~1332~~ a Company gives a preference to a person if:
- (a) that person is one (1) of the Company's creditors or a surety or guarantor for any of the Company's debts or other liabilities; and
 - (b) the Company does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event of the Company going into insolvent Liquidation, will be better than the position he would have been in if that thing had not been done.
- (4) The Court shall not make an order under this Article ~~1323~~ in respect of a preference given to any person unless the Company which gave the preference was influenced in deciding to give it by a desire to produce in relation to that person the effect mentioned in Article ~~1323~~(3)(b).
- (5) A Company which has given a preference to a person connected with the Company (otherwise than by reason only of being its employee) at the time the preference was given is presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in Article ~~1323~~(4).

~~131-133.~~ Invalid security interests

- (1) Where a Company becomes insolvent, a security interest in all or substantially all of the Company's property is invalid where:
- (a) the security interest is created in favour of a person connected with the Company and was created within two (2) years ending with the date on which the Company goes into Liquidation or an Administrator is appointed pursuant to a rehabilitation proposal; or
 - (b) the security interest is created in favour of any person within one (1) year ending with the date on which the Company goes into Liquidation or an Administrator is appointed pursuant to a rehabilitation proposal and the Company either was at the date of the creation or became pursuant to the

transaction in respect of which the charge was created unable to pay its debts as they fell due; or

- (c) the security interest was created after the commencement of a Voluntary Arrangement.
- (2) Article 1334(1) does not invalidate a security interest to the extent of the value transferred to the Company or Liabilities of the Company released as a result of the transaction giving rise to the grant of the security interest.

~~132-134.~~ Relevant time under Articles 1321 and 1323

- (1) The time at which a Company enters into a transaction at an undervalue or gives a preference is a relevant time if the transaction is entered into, or the preference given:
- (a) in the case of a transaction at an undervalue or of a preference which is given to a person who is connected with the Company (otherwise than by reason only of being its employee), at a time in the period of two (2) years ending with the date on which the Company goes into Liquidation or an Administrator is appointed pursuant to a rehabilitation proposal; and
 - (b) in the case of a preference which is not such a transaction and is not so given, within a period of six (6) months ending with the date on which the Company goes into Liquidation or an Administrator is appointed.

~~133-135.~~ Application of other laws in relation to receivership and winding up

- (1) The provisions of this Law and Regulations are subject to the application of other DIFC Laws and rules and regulations made under those laws which may be inconsistent with or otherwise extend, exclude, modify, or waive the application of provisions of this Law and Regulations in relation to companies.
- (2) In particular, and without limiting the generality of Article 1365(1), such other laws, rules or regulations may provide for the orderly conduct of affairs or winding up of a Company which is licensed as an Authorised Firm or Authorised Market Institution under the Regulatory Law in relation to which the legislation may prescribe procedures and priorities for the dealing with assets of the Company or other persons in the event of pending or actual Insolvency or other default.

~~134-136.~~ Power of Court to declare dissolution of Company void

- (1) Where a Company has been dissolved under this Law or the Operating Law, the Court may at any time within six (6) years of the date of the dissolution, on an application made for the purpose by a Liquidator of the Company or by any other person appearing to the Court to be interested, make an order, on such terms as the Court sees fit, declaring the dissolution to have been void and the Court may by the order give such directions and make such determination as it thinks just for placing the Company and all other persons in the same position as nearly as may be as if the Company had not been dissolved.
- (2) Upon the Court making an order under Article 1367(1), such proceedings may be taken which might have been taken if the Company had not been dissolved.

~~135-137.~~ Contraventions and administrative notice of fine

- (1) Where:

- (a) a provision of the Law or of the Regulations provides that a failure to comply with a provision constitutes a contravention and prescribes a maximum fine in relation to the contravention; and
 - (b) the Registrar considers that a person has committed such a contravention,

the Registrar may impose by written notice given to the person a fine, in respect of the contravention, of such amount as he considers appropriate but not exceeding the prescribed maximum amount in respect of each contravention. The imposition of a fine under this Law and Regulations is subject to the Decision Making Procedures.
- (2) If a person is knowingly concerned in such a contravention committed by another person, the aforementioned person as well as the other person commits a contravention and is liable to be proceeded with and dealt with under Article 1387(1).
 - (3) If, within the period specified in the notice issued under Article 1387(1):
 - (a) the person pays the fine imposed by the Registrar, then no proceedings may be commenced by the Registrar against the person in respect of the relevant contravention; or
 - (b) the person takes such action as is prescribed in the Regulations as applicable under Article 138(4) to object to the imposition of the fine or has not paid the imposed fine to the Registrar, then the Registrar may apply to the Court for, and the Court may so

order, the payment of the fine or so much of the fine as is not paid and make any further order as the Court sees fit for recovery of the fine.
 - (4) The Operating Law applies in relation to the giving of a notice under this Article with such modifications as the context requires for the purpose of giving effect to that legislation as applied by this Law.
 - (5) A certificate that purports to be signed by the Registrar and states that a written notice was given to a person pursuant to Article 1387(1) imposing a fine on the basis of specific facts is:
 - (6) Nothing in this Article limits the powers that the Registrar may otherwise have in relation to a failure to comply with the Law or Regulations, including the powers under the Companies Law or Operating Law, to issue and enforce a direction to a Company or any Officer of it to make good a failure.

~~136.138.~~ Remote attendance at meetings

- (1) Subject to Article 1389(2), this Article applies to:
 - (a) any meeting of the creditors of a Company summoned under this Law or the Regulations; or
 - (b) any meeting of the Shareholders of a Company summoned by the Office-holder (as defined in Article 1398(10) under this Law or Regulations, other than a meeting of the Shareholders of the Company in a Members' Voluntary Winding Up.
- (2) This Article does not apply where a Receiver or an Administrative Receiver is appointed under Part 5 of the Law.

- (3) Where the person summoning a meeting ("the convener") considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.
- (4) Where a meeting is conducted and held in the manner referred to in Article 1398(3), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.
- (5) For the purposes of this Article:
 - (a) a person is able to exercise the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting; and
 - (b) a person is able to exercise the right to vote at a meeting when:
 - (i) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (ii) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (6) The convener of a meeting which is to be conducted and held in the manner referred to in Article 139(3) shall make whatever arrangements the convener considers appropriate to:
 - (a) enable those attending the meeting to exercise their rights to speak or vote, and
 - (b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.
- (7) Where in the reasonable opinion of the convener:
 - (a) a meeting will be attended by persons who will not be present together at the same place, and
 - (b) it is unnecessary or inexpedient to specify a place for the meeting,any requirement under this Law or the Regulations to specify a place for the meeting may be satisfied by specifying the arrangements the convener proposes to enable persons to exercise their rights to speak or vote.
- (8) In making the arrangements referred to in Article 1398(6) and in forming the opinion referred to in Article 1398(7)(b), the convener shall have regard to the legitimate interests of the members and others attending the meeting and to the efficient dispatch of the business of the meeting.
- (9) If:
 - (a) the notice of a meeting does not specify a place for the meeting,
 - (b) the convener is requested in accordance with the Regulations to specify a place for the meeting, and

- (c) that request is made by members representing not less than ten percent (10%) of the total voting rights of all the members having at the date of the request a right to vote at the meeting,

it shall be the duty of the convener to specify a place for the meeting.

- (10) In this Article 1398, "the office-holder", in relation to a Company, means:

- (a) its Liquidator or provisional Liquidator of a Company, or
- (b) its Rehabilitation Nominee; or
- (c) its Administrator; or
- (d) its Nominee or Supervisor.

137-139. Use of websites

- (1) Subject to Article ~~1394~~(2), where any provision of this Law or the Regulations requires the office-holder (as defined in Article ~~1389~~(10)) to give, deliver, furnish or send a notice or other document or information to any person, that requirement is satisfied by making the notice, document or information available on a website:
 - (a) in accordance with the Regulations, and
 - (b) in such circumstances as may be prescribed.

138-140. Public Register

The events specified in this Article 1401 shall be notified to the Registrar by the person specified in each case within seven (7) days of the occurrence of the event:

- (a) the date of commencement and the date of cessation of:
 - (i) a Voluntary Arrangement by the Nominee (in the case of commencement) and by the Nominee or the Supervisor as applicable (in the case of cessation);
 - (ii) a Receivership by the Receiver or the Administrative Receiver as applicable;
 - (iii) a Rehabilitation by the Rehabilitation Nominee;
 - (iv) an Administration by the Administrator; and
 - (v) a Liquidation by the Liquidator or provisional Liquidator (as the case may be);
- (b) the name, address, date of appointment and date of vacation of office of:
 - (i) each Nominee and Supervisor of a Voluntary Arrangement;
 - (ii) each Rehabilitation Nominee of a Rehabilitation;
 - (iii) each Administrator of an Administration;

- (iv) each office-holder; and
- (c) the date of the dissolution of the Company by the Liquidator.

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SCHEDULE 1

INTERPRETATION

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3. Defined terms

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

Term	Definition
Adequate Protection	shall mean an interest reasonably sufficient to protect the holder of a valid security interest against a diminution in the value of such security interest to the extent such diminution is occasioned by the moratorium, any grant of a Security Interest pursuant to Article 31 or the Company's use, sale, or Lease of the property subject to such security interest following <u>the Rehabilitation Plan</u> . Rehabilitation Plan Notification.
Administration	means the procedure under Part 4.
Administrative Receiver	has the meaning in Article 42(5).
Administrator	has the meaning given to it in Article 22(2) of Part 3.
Appointed Publication	has the meaning given to it in the Companies Law.
Articles of Association	has the meaning given to it in the Companies Law.
Authorised Firm	has the meaning set out in the Regulatory Law.
Authorised Market Institution	has the meaning set out in the Regulatory Law.
Authorised Person	has the meaning set out in the Glossary.
Board of Directors of the DIFCA	the governing body of the DIFCA.
Companies Law	the Companies Law DIFC Law No. 5 of 2018.
Company	a company incorporated under the Companies Law.
Company Voluntary Arrangement	means the procedure under Part 2.
Contributory	any person who, on the commencement of any insolvency procedure in respect of a Company, was at the date of commencement of that procedure liable to contribute any amount to the share capital of the Company, either by way of unpaid calls on shares or otherwise.
Court	the DIFC Court as established under Dubai Law.
Creditors' Committee	means a committee of creditors established in accordance with Article 50.
Creditors' Voluntary Winding Up	a winding up other than a Members' Voluntary Winding Up.

Term	Definition
Decision Making Procedures	has the meaning given to the term in the Operating Law.
Designated Members	has the meaning given to the term in the Limited Liability Partnership Law.
DFSA	the Dubai Financial Services Authority.
DIFC	the Dubai International Financial Centre.
DIFC Law	has the meaning given in Article 2 of Schedule 1 to the Law.
DIFCA	the DIFC Authority established under Dubai Law.
Directions Hearing	means the court hearing at which the classification creditors, proposed notice of meetings and voting procedures are considered in accordance with
Director	has the meaning given to it in the Companies Law.
Dubai Law	has the meaning given in Paragraph 2 of Schedule 1 to the Law.
<u>Final Account</u>	<u>the account required under Article 63, Article 74 or Article 95 of the Law (as applicable)</u>
Financial Collateral	has the meaning given to the term in regulations issued under Article 44 of the Security Law.
Foreign Company	has the meaning given to it in the Companies Law.
General Meeting	has the meaning given to it in the Companies Law.
Glossary	the Glossary module of the DFSA.
Insolvency	has the meaning given in Article 4(1) of Schedule 1 to the Law.
Lease	has the meaning as defined in the Real Property Law DIFC Law No. 10 of
Lessee	has the meaning as defined in the Real Property Law DIFC Law No. 10 of
Lessor	has the meaning as defined in the Real Property Law DIFC Law No. 10 of
Liability	means a liability to pay money or money's worth, including any liability under an enactment, any liability for breach of trust, any liability in contract, tort or bailment, and any liability arising out of an obligation to make restriction or as otherwise defined in the Law of Obligations DIFC Law No.
Limited Liability Partnership	a partnership with limited liability established under the Limited Liability Partnership Law (DIFC Law No. 5 of 2004).
Liquidating Company	has the meaning set out in Article 116(1).
Liquidation	means the procedures under Part 6.
Liquidation Committee	a committee appointed in accordance with Article 69(1) or 92(1), as the case may be.
Liquidator	includes, where the context allows, a Liquidator appointed provisionally.
<u>Liquidator's Report</u>	<u>the report required under Article 62, Article 73 or 101 of the Law (as applicable) having the content set out in Annex 4 of the Regulations.</u>
Members' Voluntary Winding Up	a winding up in the case of which a Director's statutory declaration has been made in accordance with Article 59.
Nominee	a person appointed to act in relation to a Voluntary Arrangement in accordance with Article 7(2).
Notification Date	has the meaning given to it in Article 15(2).

Term	Definition
Officer	has the meaning given to it in the Companies Law.
Operating Law	means the Operating Law No. 7 of 2018.
Ordinary Resolution	has the meaning given to it in the Companies Law.
Post Plan Hearing	means the hearing at which the Court considers whether or not to sanction the Rehabilitation Plan in accordance with Article 27.
Privileged Communication	a communication attracting a privilege arising from the provision of professional legal advice and any other advice or from the relationship of lawyer and client or other similar relationship, but does not include a general duty of confidentiality.
Public Register	has the meaning given to it in the Companies Law.
Receiver	has the meaning in Article 42(1).
Receivership	means the procedure under Part 5.
Recognised Company	has the meaning given to it the Companies Law.
Registrar	the Registrar of Companies appointed under the Companies Law.
Regulations	has the meaning given in Article 2 of Schedule 1 to the Law.
Regulatory Law	the Regulatory Law DIFC Law No. 1 of 2004.
Rehabilitation	means the procedure under Part 3.
Rehabilitation Nominee	means the insolvency practitioner appointed by the board of the company in accordance with Article 20.
Rehabilitation Plan	is the arrangement proposed to the creditors and/or Shareholders of the Company under Part 3.
Rehabilitation Plan Notification	has the meaning given to it in Article 15.
Resolution for Voluntary Winding Up	a resolution passed under Article 54.
Ruler	the ruler of the Emirate of Dubai.
Schedule	a schedule to the Law.
Security Interest	has the meaning set out in the Security Law.
Security Law	the Security Law DIFC No. 8 of 2005.
Shareholder	has the meaning given to it in the Companies Law.
<u>Statement of Affairs</u>	<u>has the meaning given to the term in the Regulations.</u>
Supervisor	has the meaning set out in Article 12(2).
UNCITRAL Model Law	means the Model Law on cross border insolvency as adopted by the United Nations Commission on International Trade Law on 30 May 1997.
Unimpaired	means where a class of creditors or Shareholders, and each holder of a claim or interest of such class is unaffected under the terms of the Rehabilitation
Voluntary Arrangement	has the meaning set out in Article 8(1).

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SCHEDULE 5

FINES

<i>Article</i>	<i>Contravention</i>	<i>Maximum Fine (USD)</i>
38(4)	Administrator failing to submit copy of the Court order discharging the Administrator to the Registrar	\$100 per day
39(4)	Administrator failing to submit copy of the Court order discharging or varying the order appointing the Administrator	\$100 per day
53(4)	Officer failing to co-operate with the Liquidator	\$15,000
59(4)	Director making a statutory declaration of solvency without reasonable grounds	\$20,000
62 (3)	Liquidator failing to make a year-end <u>Liquidator's Report</u> report in a Members' Voluntary Winding Up	\$5,000
63(4)	Liquidator failing to comply with the requirements in respect of a <u>Final Account</u> final account on the conclusion of a Members' Voluntary Winding Up	\$5,000
73(2 3)	Liquidator failing to make a <u>Liquidator's Report</u> year-end report in a Creditors' Voluntary Winding Up	\$5,000
74(5)	Liquidator failing to comply with the requirements in respect of a <u>Final Account</u> final account on the conclusion of a Creditors' Voluntary Winding Up	\$5,000
<u>95</u> (5)	<u>Liquidator failing to comply with the requirements in respect of a Final Account on the conclusion of Compulsory Winding Up.</u>	<u>\$5,000</u>
<u>101</u> (3)	<u>Liquidator failing to make a year-end Liquidator's Report in a compulsory winding up.</u>	<u>\$5,000</u>
116(2)	Restriction on the re-use of Company names	\$10,000
129 <u>30</u> (5)	Relevant person failing to comply with the duty to co-operate with the office-holder	\$15,000
134 <u>0</u> (2)	Relevant person failing to provide an account of dealings to the office-holder	\$15,000