



Dubai International  
Financial Centre

## **EMPLOYMENT REGULATIONS**

**(Qualifying Scheme requirements under Article 66 of the Law)**

Consolidated Version No. [2]

**In force on [ ] 2021**

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The Board of Directors of the DIFCA, in the exercise of the powers conferred on them by Article 9(1) of the Employment Law DIFC Law No. 2 of 2019 and also pursuant to the requirements of Article 66 of the Law, hereby make these Regulations.

## 1. INTRODUCTION

### 1.1 Application and interpretation

1.1.1 These Regulations apply to:

- (a) Employers and Employees;
- (b) any person who is an Operator, ~~Administrator, Investment Adviser~~ of a Qualifying Scheme; and
- (c) any other person to whom the Law applies.

1.1.2 Defined terms are identified throughout these Regulations by the capitalisation of the initial letter of a word or phrase. Where capitalisation of the initial letter is not used, an expression has its natural meaning.

1.1.3 The following defined terms have the meaning given below:

Defined Term	Definition
Administrator	a person appointed to act as an administrator of a Qualifying Scheme.
AML Requirements	any applicable anti-money laundering or counter-terrorist financing requirements imposed <del>on functionaries or service providers to a Qualifying Scheme in accordance with applicable law</del> by the DFSA Rules.
Benefits	means in respect of each Member the assets held in a Member Account for and on behalf of a Member in accordance with the Qualifying Scheme Rules.
<u>Companies Law</u>	<u>the Companies Law No. 5 of 2018 and any amendments.</u>
DFSA	the Dubai Financial Services Authority.
<u>DFSA Rules</u>	<u>the applicable rulebook modules of the DFSA.</u>
DIFC Trust	a trust established in the DIFC pursuant to the Trust Law, DIFC Law No. 4 of 2018.
<del>Eligible Custodian Exempt</del> <u>Scheme</u>	<del>has the meaning set forth in the GLO Module of the DFSA rulebook.</del> <u>a Scheme that meets the requirements set out in Regulation 2.1.3 and in respect of which an Exemption Certificate has been issued.</u>
<u>Exemption Certificate</u>	<u>a certificate issued in respect of an Exempt Scheme pursuant to the requirements of Regulation 8.1.4.</u>

<b>Defined Term</b>	<b>Definition</b>
Fund Manager	a manager of any one (1) or more funds offered on the Investment Platform.
<u>Group</u>	<p><u>means a group of entities which includes the entity (the “first entity”) and:</u></p> <p><u>(a) any Holding Company or Ultimate Holding Company of the first entity;</u></p> <p><u>(b) any Subsidiary of the first entity, or the first entity’s Holding Company or Ultimate Holding Company; and</u></p> <p><u>(c) any branch of a Group member.</u></p> <p><u>where the terms “Holding Company”, “Ultimate Holding Company” and “Subsidiary” are used in accordance with their definitions in paragraph 4 of Schedule 1 to the Companies Law (Interpretation).</u></p>
<u>Group Scheme</u>	<p><u>a Scheme that is:</u></p> <p><u>(a) available in multiple countries exclusively to the employees of a Group; and</u></p> <p><u>(b) regulated and supervised by a financial services regulator, or the person that has the function of operating the Scheme is regulated and supervised by a financial services regulator in respect of its functions relating to the Scheme.</u></p>
Investment Adviser	an investment adviser appointed by an Operator to advise it in respect of a Qualifying Scheme’s Investment Platform, inclusive of its composition, performance, governance and fitness for purpose in accordance with the Qualifying Scheme’s objectives.
Investment Platform	the facility on which investment funds are offered to Members of a Qualifying Scheme.
Law	the Employment Law DIFC Law No. 2 of 2019.
Member	<p>(a) an Employee for whom Member Contributions are made by a Participating Employer to a Qualifying Scheme under the Law;</p> <p>(b) any individual, who is not defined as an Employee under the Law but is employed by, or in the service of, a Participating Employer, or its holding company, parent or branch, for whom the Employer wishes to make Member Contributions to a Qualifying Scheme; or</p> <p>(c) any other individual permitted by an Operator to be a member of a Qualifying Scheme.</p>
Member Account	an account maintained for a Member by the Operator in accordance with Regulation 3.2.

Defined Term	Definition
Member Contribution	each contribution made by a Participating Employer on behalf of a Member into a Qualifying Scheme consisting of, where relevant: <ul style="list-style-type: none"> <li>(a) Core Benefits;</li> <li>(b) any Voluntary Contribution; and</li> <li>(c) any other amount agreed to by the Operator.</li> </ul>
Operator	a person appointed to operate a Qualifying Scheme.
Qualifying Scheme Rules	the rules, including any constitutive documents, by which a Qualifying Scheme is operated by its Operator.
Participating Employer	an Employer making Member Contributions to a Qualifying Scheme.
Recognised Jurisdiction	<del>the DIFC, and any other jurisdiction determined by the Board of Directors of the DIFCA to be a recognised jurisdiction pursuant to the requirements in Regulation 2.1.6.</del>
<del>Scheme</del> <u>scheme</u>	any scheme, plan <del>or</del> , superannuation, provident fund <u>or similar arrangement</u> established for purposes of pension benefits, retirement contributions, <u>gratuity</u> or saving.
Scheme Material	any information in respect of a Qualifying Scheme, excluding the Qualifying Scheme Rules but including, without limitation, guidance notes, leaflets, brochures, manuals, handbooks, and forms (in any format, including electronic format) that may be prepared and amended from time to time by or on behalf of a Participating Employer, the Operator, the Administrator, a Fund Manager or a Third Party Service Provider which is made available to a Member for the purpose of providing the Member with information on the operation or management of a Qualifying Scheme and the investment options available thereunder.
Supervisory Body	the supervisory body of a Qualifying Scheme referred to in Regulation 2.2.
Third Party Service Provider	any functionary or platform involved in providing administrative, operational or technical services or support to a Qualifying Scheme.
Voluntary Contribution	any contribution a Member decides on a voluntary basis to make to a Qualifying Scheme in the manner provided in Article 66(11) of the Law.

1.1.4 A term that is used in these Regulations which does not appear in the table above and is defined in the Law shall have in these Regulations, the same meaning as it has in the Law.

1.1.5 The Rules of interpretation in the Law apply to these Regulations.

**1.2 References to writing**

- 1.2.1 If a provision in these Regulations refers to a communication, notice, agreement or other document ‘in writing’ then, unless the contrary intention appears, it means in legible form and capable of being reproduced on paper, irrespective of the medium used. Expressions related to writing must be interpreted accordingly.
- 1.2.2 This does not affect any other legal requirements which may apply in relation to the form or manner of executing a document or agreement.

## 2. QUALIFYING SCHEME REQUIREMENTS

### 2.1 Qualifying requirements

2.1.1 An Employer shall not make any contributions pursuant to the requirements of Article 66 of the Law to any scheme, unless it:

- (a) ~~it~~ meets the Qualifying Scheme criteria set out in Regulation 2.1.2; or
- (b) is ~~exempt~~ an Exempt Scheme under Regulation 2.1.73.

2.1.2 To meet the Qualifying Scheme criteria for the purposes of Regulation 2.1.1(a), a ~~scheme~~ Scheme must:

- (a) be an Employee Money Purchase Scheme;
- (b) make provision for the payment of contributions by an Employer, at no less than the applicable rates stipulated in Article 66(7) of the Law;
- ~~(c) make provision for the payment of Benefits in the event of~~ be a Member, or their legal successor in title, being entitled to withdraw Benefits under Regulations 3.1.3, 3.1.4 or 5.2;
- ~~(d) have~~ DIFC Trust with an Operator and Administrator regulated:
- ~~(e)~~ (c) by the ~~DFSA; or~~ DFSA;
  - ~~(i) have~~ a Recognised Jurisdiction; and
- ~~(f) obtain a Certificate of Compliance from the Board of Directors of the DIFCA.~~

~~2.1.3 The Board of the Directors of the DIFCA shall only issue a Certificate of Compliance to a Qualifying Scheme for the purposes of Regulation 2.1.1, if it meets:~~

- ~~(a) the requirements in Regulation 2.1.4, where it is established in the DIFC; or~~
- ~~(b) the requirements in Regulation 2.1.5, where it is not established in the DIFC.~~

~~2.1.4 In the case of a Qualifying Scheme established in the DIFC:~~

- ~~(a) it is a DIFC Trust;~~
- ~~(b) it has a DFSA licenced Operator and Administrator that meet the requirements of Regulations 2.3 and 2.4 respectively;~~
- ~~(c) its Operator:~~
- ~~(g)~~ (d) has a Supervisory Body Supervisory Body in line with the requirements set out in Regulation 2.2.1; ~~or~~
  - ~~(i) is able to demonstrate to the satisfaction of the Board of Directors of the DIFCA that its oversight function provides similar protections to those have Qualifying Scheme Rules that meet the requirements of the DFSA Rules and the requirements set out in Regulation 2.2.1, also with reference to Regulation 2.2.3; and~~
- ~~(h)~~ (e) its Qualifying Scheme Rules adhere to the requirements set out in Regulations 3 to 7-; and

~~2.1.5~~ In the case obtain a Certificate of a Qualifying Scheme not established in the DIFC:

- ~~(a)~~ it is established in a Recognised Jurisdiction ~~Compliance from the Board of Directors of the DIFCA in accordance with the regulatory requirements applicable to Employee Money Purchase Schemes in that jurisdiction;~~
- ~~(b)~~ each of the persons undertaking the functions of the Operator and Administrator meet the requirements of Regulations 2.3 and 2.4, respectively, and is regulated and supervised to an equivalent level of regulation as applicable in the DIFC;
- ~~(c)~~ without prejudice to (b), the Operator either:
  - ~~(i)(f)~~ has a Supervisory Board in line with the requirements set out in Regulation 2.2.1; ~~or~~ 8.1.1.
  - ~~(ii)~~ is able to demonstrate to the satisfaction of the Board of Directors of the DIFCA that its oversight function provides similar protections to those set out in Regulation 2.2.1, also with reference to Regulation 2.2.3; and
- ~~(d)~~ its Qualifying Scheme Rules have substantially similar requirements to those set out Regulations 3 to 7.

~~2.1.6~~ The Board of Directors of DIFCA shall only accept a jurisdiction as providing an equivalent level of regulation as applicable in the DIFC for the purposes of these Regulations, if the jurisdiction is acceptable to the DFSA as providing an equivalent level of regulation to that of the DFSA regime.

2.1.3 The Board of Directors of the DIFCA may exempt an Employer from the requirements of these Regulations upon application of the Employer, in respect of specific Employees, where the Employer is able to demonstrate to the satisfaction of the Board of Directors of the DIFCA that the Scheme involved is an Exempt Scheme that meets one of the following criteria:

- (a) the Employer is under a statutory duty in another country to make pension, retirement, saving, gratuity or any substantially similar contributions into a ~~scheme~~ Scheme in such other country in respect of ~~an Employee~~ the Employees applied for; or
- (b) the Employer, with the prior written consent of ~~an Employee~~ the Employees concerned, is ~~paying defined benefits~~ making payments to an Employee under a scheme Group Scheme on behalf of such Employees, where the ~~defined benefits are~~ value of such payments is in excess of the value of the Core Benefits required to be ~~contributed~~ made to a Qualifying Scheme in favour of Employees under Article 66(7) of the Law, ~~and the person undertaking the function of operating the scheme is subject to regulation and supervision in respect of its function either by:~~
  - ~~(iii)~~ the DFSA; or
  - ~~(iv)~~ a regulator in a Recognised Jurisdiction to an equivalent level of regulation as applicable to an Operator in the DIFC.

~~2.1.7~~ A scheme referred to in Regulation 2.1.7:

2.1.4 An Exempt Scheme:

- (a) shall be deemed to be a Qualifying Scheme;



- (b) the ~~statutory~~ contributions made or ~~defined~~ benefits paid to the ~~scheme~~ Exempt Scheme in respect of the Employees applied for under Regulation 2.1.3 shall be deemed to be Core Benefits for the purposes of compliance with Article 66(7) of the Law; and
- (c) shall not be required to comply with these Regulations, other than Regulations 2.1.73, 2.1.8 and 4, 2.1.5, 2.1.96, 8.1.4 and 8.1.5 for as long as the Board of Directors of the DIFCA exempts it from the requirements of these Regulations.
- 2.1.5 The Board of Directors of the DIFCA may impose on Employers exempted under Regulation 2.1.73 such conditions and obligations as it considers appropriate, including to ensure that:
- (a) the statutory duty referred to in Regulation 2.1.73(a) remains applicable to the Employer and the Employees concerned at all times;
- (b) the value of the ~~defined benefits paid~~ payments made by an Employer for the benefit of Employees referred to in Regulation 2.1.73(b) exceeds the value Core Benefits required to be paid under Article 66(7) of the Law for a particular period, inclusive of requesting an ~~actuarial~~ assessment made by a suitably qualified independent third party in respect of such payments; and
- (c) the Scheme or the person undertaking the function of operating the scheme continues to be subject to regulation and supervision in respect of its functions relating to the ~~scheme in the manner required in Regulation 2.1.7(b)~~ Scheme,
- failing which it may revoke any exemption provided under Regulation 2.1.73.

~~2.1.82.1.6~~ A Certificate of Compliance does not authorise a person to provide financial services.

2.1.7 An Employer who was granted a Certificate of Compliance or an Exemption Certificate prior to the effective date of these amended Regulations in respect of a Scheme which fails to meet the requirements for a Certificate of Compliance or an Exemption Certificate under these amended Regulations shall have a grace period of twelve (12) months from the effective date of these amended Regulations to apply for a new Certificate of Compliance or Exemption Certificate, whichever applies, in respect of a Scheme that does meet the requirements of these amended Regulations, failing which their Certificate of Compliance or Exemption Certificate in respect of such non-compliant Scheme shall become invalid on the expiry of the grace period, provided also that the Employer concerned continues to satisfy in the interim the relevant requirements of:

- (a) Regulations 2.1.2, 2.1.3, 2.1.4, 2.1.5 and 2.1.6, in the case of Qualifying Schemes that was issued a Certificate of Compliance; or
- (b) Regulations 2.1.7, 2.1.8 and 2.1.9, in the case of an Exempt Scheme that was issued an Exemption Certificate,

in their unamended form dated 1 February 2020.

2.1.8 An Employer who agreed in writing with Employees to make contributions on their behalf into a Scheme pursuant to Article 66(6) of the Law prior to its replacement by Employment Law Amendment Law, DIFC Law No. 4 of 2020, shall have a grace period of twelve (12) months from the effective date of these amended Regulations to apply for a Certificate of Compliance or Exemption Certificate for such Scheme pursuant to these Regulations, failing which the Employer shall be obliged to pay Core Benefits into a Scheme that does have a Certificate of Compliance or an Exemption Certificate from the expiry of the grace period onwards.

## 2.2 Supervisory Body

2.2.1 ~~If a Qualifying Scheme has a~~The Supervisory Body referred to in Regulation 2.1.4 or 2.1.5, the Supervisory Body of a Qualifying Scheme shall:

- (a) have appointment and removal powers in respect of the Operator in accordance with the requirements of the Qualifying Scheme Rules;
- (b) have oversight over the fees and charges incurred by an Operator in respect of a Qualifying Scheme;
- (c) be constituted in a manner which:
  - ~~(v)~~(i) considers and protects the interests of Employers and Members; and
  - ~~(vi)~~ makes provision for independent oversight; and
  - ~~(vii)~~(ii) ensures the Operator applies high standards of integrity and fair dealing, due skill, care and diligence, and high standards of corporate governance in respect of its duties to a Qualifying Scheme.

2.2.2 Under no circumstances shall a Supervisory Body, or any member thereof, perform any service or function that is a financial service or a fiduciary function, whether it is in relation to a Qualifying Scheme, or in respect of any functionary or service provider to a Qualifying Scheme.

~~2.2.3 Subject to the requirements of applicable law and its terms of appointment, a protector of a trust may qualify as an oversight function that provides similar protections to those set out in Regulation 2.2.1, in which case the fiduciary responsibilities of a protector under applicable legislation shall override the provisions of Regulation 2.2.2.~~

## ~~2.3~~ Operator requirements

~~2.3.1 The Operator of a Qualifying Scheme shall be responsible for the overall management and operation of the Qualifying Scheme in accordance with its Qualifying Scheme Rules and any applicable legislation.~~

~~2.3.2 Without derogating from the generality of Regulation 2.3.1, the Operator shall be responsible for:~~

- ~~(a) establishing the Investment Platform and the funds placed on it;~~
- ~~(b) selecting and appointing the Administrator, the Investment Adviser (if any) and the Fund Managers, whose funds shall be placed on the Investment Platform, on behalf of the Qualifying Scheme;~~
- ~~(c) overseeing the performance of the Administrator, Investment Adviser (if any), Fund Managers and Third Party Service Providers to the Qualifying Scheme;~~
- ~~(d) ensuring that all Member Contributions and the assets in a Member Account are properly accounted for;~~
- ~~(e) ensuring that an Investment Platform that has the range of investment options and risk profiles prescribed by the Qualifying Scheme Rules, inclusive of a Shari'a compliant investment optionality; and~~
- ~~(f) reporting in respect of the above to any relevant regulator and the Supervisory Body in respect of the above;~~

~~in accordance with the requirements of the Qualifying Scheme Rules and applicable legislation.~~

~~2.32.2.3~~ The Operator shall be required to meet with the Supervisory Body, ~~or such other person providing an oversight function to the Qualifying Scheme~~ at least two (2) times per annum, at which meetings it shall produce:

- (a) a report in respect of the management and operation of the Qualifying Scheme, including operational statistics and information relating to the Qualifying Scheme as may be reasonably required by the Supervisory Body from time-to-time;
- (b) the most recent financial statements relating to the Qualifying Scheme;
- (c) the latest reports provided to it by the Administrator and Investment Adviser in respect of the Qualifying Scheme;
- (d) a review of the Qualifying Scheme's investment objectives, its fitness for purpose, and the investment performance of the Investment Platform;
- (e) details of its fulfilment of the corporate governance requirements set out in the Qualifying Scheme Rules; and
- (f) the details of any communications exchanged and reports filed with relevant regulators.

#### ~~2.4~~ Administrator requirements

~~The Administrator shall be responsible (without derogating from the primary obligations of the Operator in this regard) for, inter alia, the following:~~

- (a) ~~the technical, operational and administrative functions of a Qualifying Scheme, including:~~
  - (viii) ~~collecting and processing all Member Contributions and distributing them to the relevant funds on the Investment Platform;~~
  - (ix) ~~ensuring that all Qualifying Scheme assets are held by an Eligible Custodian;~~
  - (x) ~~performing reconciliations in respect of Qualifying Scheme assets; and~~
  - (xi) ~~making payments to Members;~~
- (b) ~~reporting to Members, the Operator, and any relevant regulator in respect of the Qualifying Scheme, including the details of:~~
  - (xii) ~~Member Contributions;~~
  - (xiii) ~~their Member Account and the Benefits held in it;~~
  - (xiv) ~~the choices to be offered on the Investment Platform;~~
  - (xv) ~~providing Members with Scheme Material; and~~
  - (xvi) ~~the performance of the funds on the Investment Platform;~~
- (c) ~~providing Member communications and support services, inclusive of a helpline and complaints handling services for Members and Participating Employers; and~~

~~(d) — overseeing the operation of the Investment Platform and the functions of Third Party Service Providers.~~

## **2.5 — Investment Adviser requirements**

~~2.5.1 — If appointed by an Operator, the Investment Adviser shall (without derogating from the primary obligations of the Operator in this regard) be responsible for:~~

~~(a) — assisting the Operator in the compilation, establishment and ongoing maintenance of an Investment Platform;~~

~~(b) — advising the Operator in respect of the funds that meet the prescribed range of investment options and risk profiles set out in the relevant Qualifying Scheme Rules;~~

~~(c) — overseeing the performance of the Fund Manager(s);~~

~~(d) — measuring the performance of each of the funds on an Investment Platform;~~

~~(e) — considering whether the investment options are fit for purpose and the risk parameters proposed for an Investment Platform by the Qualifying Scheme Rules are in line with its objectives; and~~

~~(f) — reporting in respect of the above to an Operator.~~

~~2.5.2 — The Investment Adviser function in respect of a Qualifying Scheme may be an internal or affiliated function of an Administrator, provided that:~~

~~(a) — the Investment Adviser function is a regulated function of the Administrator in a Recognised Jurisdiction; and~~

~~(b) — sufficient measures are taken to ensure that conflicts of interest are properly disclosed and managed.~~

## **2.6 — Investment Platform requirements**

~~2.6.1 — Each fund on an Investment Platform shall be established and regulated in a Recognised Jurisdiction.~~

~~2.6.2 — The Investment Platform of a Qualified Scheme may be an internal or affiliated function of the Administrator or the Investment Adviser, provided:~~

~~(a) — the Fund Manager function is a regulated function of the Administrator or Investment Adviser in a Recognised Jurisdiction; and~~

~~sufficient measures are taken to ensure that conflicts of interest are properly disclosed and managed.~~

### 3. MEMBERSHIP

#### 3.1 Membership requirements

- 3.1.1 An Employee of a Participating Employer must become a Member of a Qualifying Scheme within the period allowed under the Law.
- 3.1.2 A Member must cease their membership of a Qualifying Scheme when all the Benefits payable under the Qualifying Scheme Rules have been paid.
- 3.1.3 Subject to Regulation 3.1.4, Benefits shall be paid to a Member from a Qualifying Scheme on the termination of the Member's employment with a Participating Employer, unless the Qualifying Scheme Rules permit the Member, at their discretion, to elect that payment of Benefits be deferred ~~defer payments of Benefits~~ until a later date.
- 3.1.4 The provisions of Regulation 3.1.3 shall not apply to any Voluntary Contributions, which shall be capable of withdrawal as Benefits from a Qualifying Scheme in a manner permitted in the Qualifying Scheme Rules; and the DFSA Rules.

#### 3.2 Member Accounts

- 3.2.1 The Qualifying Scheme Rules must ensure that a Member Account is maintained for each Member to enable an Operator to derive and reflect the value of the reference assets held for the time being by the Operator under a Qualifying Scheme for the purpose of providing Benefits for a Member pursuant to the provisions of Regulation 3.1.
- 3.2.2 A Member Account must be credited with:
- (a) Member Contributions paid to a Qualifying Scheme for a Member;
  - (b) any other sums paid to a Qualifying Scheme for a Member's benefit;
  - (c) positive investment return reflected in the price for the units in relation to the assets representing a Member Account; and
  - (d) any positive adjustments considered by an Operator to be necessary in the circumstances in accordance with applicable Qualifying Scheme Rules.
- 3.2.3 A Member Account must be debited with:
- (a) amounts paid to or for a Member as Benefits;
  - (b) negative investment return in relation to the assets representing a Member Account;
  - (c) amounts representing charges in relation to a Member's share of fees, expenses or indemnified losses chargeable under the Qualifying Scheme Rules;
  - (d) amounts payable to a Member's Participating Employer under the Qualifying Scheme Rules or falling into any Qualifying Scheme reserve;
  - (e) any negative adjustments considered by an Operator to be necessary in the circumstances, in accordance with applicable Qualifying Scheme Rules; and

- (f) any transfers made to another Qualifying Scheme.
- 3.2.4 Entries reflecting amounts credited or debited in respect of a Member Account shall be made to a Member Account with effect from the same day as the underlying transaction to which they relate.
- 3.2.5 The Qualifying Scheme Rules must indicate the manner in which the values shown in the Member Account in relation to units in funds on an Investment Platform are calculated by reference to the price for such units at the time the entry is made in the Member Account.

## 4. CONTRIBUTIONS

### 4.1 Member Contribution requirements

4.1.1 The Qualifying Scheme Rules must make provision for the payment of Member Contributions into a Qualifying Scheme.

4.1.2 Where a Member is an Employee, the amount so contributed by a Participating Employer shall be at least equal to the Core Benefits ~~of~~due to the Member under the Law.

4.1.3 Where a Member is not an Employee, the amount so contributed by a Participating Employer shall be as agreed with the Member.

### 4.2 Participating Employer duties

The Qualifying Scheme Rules must make provision for Participating Employers' obligations in respect of:

- (a) assisting the Operator and the Administrator in respect of any requests related to AML Requirements;
- (b) paying Employer Contributions in accordance with Regulation 4.1;
- (c) deducting Member Contributions from a Member's Remuneration and remitting them to the account designated by the Operator for such purpose;
- (d) providing information to an Operator regarding its Members including, where relevant, their employment commencement dates and each Member's Basic Monthly Wage;
- (e) notifying the Operator on a timely basis of any change in a Member's Monthly Wage, or any other change in circumstances that will affect the amount of the Member Contributions due; and
- (f) notifying an Operator on a timely basis when it becomes aware that a Member's employment has ceased.

### 4.3 Non-payment of Member Contributions

The Qualifying Scheme Rules must make provision for:

- (a) follow-up procedures with Participating Employers in case of any non-performance of their obligations under Regulation 4.2; and
- (b) notifying the Board of Directors of the DIFCA in respect of such non-performance for the purpose of issuing a fine pursuant to Article 66(17) of the Law.

## 5. PAYMENT AND TRANSFER OF BENEFITS

### 5.1 Payment of Benefits

5.1.1 The Qualifying Scheme Rules must make provision for the payment of Benefits in the event of a Member, or their legal successor in title, being entitled to withdraw Benefits under Regulations 3.1.3, 3.1.4 or 5.2.

5.1.2 The amount payable under Regulation 5.1.1 shall be made to the Member or at the direction of the Member, unless the withdrawal entitlement occurs by reason of the Member's death, in which case the Qualifying Scheme Rules must provide to whom such Benefits shall be paid.

### 5.2 Transfer of Benefits

5.2.1 Subject to Regulation 5.2.2, the Qualifying Scheme Rules must provide for the transfer of Members' Benefits to another Qualifying Scheme or Exempted Scheme when requested to do so by a Participating Employer, in circumstances where:

(a) the Qualifying Scheme:

(i) ceases to exist;

(i) does not hold a valid Certificate of Compliance; or

(ii) loses its ~~exempted~~ Exempt Scheme status ~~under Regulation 2.1.7;~~ or

(b) the Participating Employer has selected a different Qualifying Scheme to pay Core Benefits to in respect of one (1) or more of its Employees.

5.2.2 The Operator of a Qualifying Scheme, or any other relevant person, who receives a transfer request in any of the circumstances referred to in Regulation 5.2.1 must:

(a) satisfy itself that the ~~Qualifying Scheme~~ where the Benefits are to be transferred to has a valid Certificate of Compliance; ~~and~~ or an Exemption Certificate relevant to the Members concerned; and

(b) take reasonable steps to inform each relevant Member of such transfer.



## 6. INVESTMENT REQUIREMENTS

### 6.1 Investment directions

6.1.1 The Qualifying Scheme Rules must make provision for the investment of Member Contributions units in funds on the Investment Platform in accordance with investment directions provided, either:

- (a) in accordance with the Member's chosen investment and risk profile, which may be changed over time; or
- (b) where a Member has not provided investment directions, by reference to a default investment profile an Operator has constructed with the assistance of an Investment Adviser.

6.1.2 The Qualifying Scheme Rules and the Investment Platform must make provision for Members to keep their Member Contributions in cash or cash-like products, such as money-market funds.

6.1.3 The Qualifying Scheme Rules must also make provision for circumstances where a Member, or in the opinion of an Operator:

- (a) is incapable of managing their affairs (without any person being validly appointed as attorney to do so on his or her behalf); or
- (b) cannot be traced,

and what the powers and discretions of an Operator will be in respect of varying a Member's investment choices in such circumstances.

### 6.2 Information to be provided to Members

6.2.1 The Qualifying Scheme Rules shall provide for the following basic information to be made available to each Member at the time that they become a Member (or as soon as reasonably practicable thereafter):

- (a) a summary of the Qualifying Scheme Rules applying to the Member in relation to Employer Contributions and Voluntary Contribution requirements;
- (b) a statement of their options under the Qualifying Scheme from time to time;
- (c) the details as to how investment directions and switching directions are to be exercised;
- (d) any options in relation to nominating beneficiaries of Benefits;
- (e) any option to defer the withdrawal of Benefits beyond a Termination Date;
- (f) a statement as to how information will or may be provided to the Member during the period of their membership to the Qualifying Scheme; and
- (g) a statement of how the Member may contact the Operator, the Administrator of the Qualifying Scheme, and the procedure for making complaints about the administration of the Qualifying Scheme.

6.2.2 The Operator shall also be obliged to provide a Member with any updated information in respect of a Qualifying Scheme referred to in Regulation 6.2.1 as soon as reasonably practicable.

- 6.2.3 The Operator shall supply or make available to the Member, within one (1) month of receipt of a written request by a Member, a copy of each of the constitutive documents, Qualifying Scheme Rules, or both, and any participation agreement or deed in relation to the Member's participation in the Qualifying Scheme at no charge.
- 6.2.4 As soon as reasonably practicable after each anniversary of a Qualifying Scheme Commencement Date, the Operator shall supply each Member with a statement showing the amount of their accrued Benefits at that date.
- 6.2.5 Within two (2) months of presenting its annual report and accounts to the Supervisory Body, the Operator shall provide each Member with a summary of the annual report and accounts and with information about how the Member may receive a copy.

## **7. QUALIFYING SCHEME FEES AND CHARGES**

### **7.1 Investment charges and fees**

7.1.1 A Qualifying Scheme may not charge any initial charge or front-end fees in respect of the price at which units are purchased in funds on the Investment Platform and all Member Contributions must be reflected in the value of units acquired, subject to:

- (a) applicable bank charges;
- (b) value added or general sales tax; and
- (c) any bid/offer spread for purchasing such units.

7.1.2 Subject to any applicable bank charges, no rear-end, exit fee or penalties for withdrawal of Benefits may be levied by a Qualifying Scheme when units are disinvested for such purpose.

7.1.3 Any fund management, or related fund, administration and trustee charges, for each of the funds on the Investment Platform must be levied by the Fund Managers on an Investment Platform out of funds under their management and must be reflected in the unit prices relevant to a Member Account.

### **7.2 Plan administration and fees**

The Scheme Material of a Qualifying Scheme provided to a Member must clearly indicate:

- (a) the fees charged by the Operator, the Administrator, any Investment Adviser and (where paid for separately by the Qualifying Scheme) any Third Party Service Provider, as agreed from time to time with the Supervisory Body (in the case of the Operator), or the Operator in terms of all other Third Party Service Providers to the Qualifying Scheme;
- (b) the charges, if any, for processing investment or switching directions by a Member;
- (c) the manner in which any of these fees are to be charged to Members' Accounts; and
- (d) the details of any indemnities provided by the Qualifying Scheme.

### **7.3 Disinvesting units towards fees and charges**

Where an amount is chargeable to a Member Account under Regulation 7.2, the Operator shall be authorised to disinvest such units in funds held in a Member Account as are equal in aggregate to the amount being charged, less the amount of any uninvested cash then held for the Member in their absolute discretion.

**8. ~~APPLYING FOR A CERTIFICATE OF COMPLIANCE~~ APPLICATIONS****8.1 Application and ongoing compliance**

8.1.1 A Participating Employer shall be required to obtain a Certificate of Compliance in the manner and form prescribed by the Board of Directors of the DIFCA in respect of each Qualifying Scheme it pays Member Benefits to against payment of the fee set out in Schedule 1 hereto, and such Certificate of Compliance shall remain valid for as long as the Qualifying Scheme adheres to the requirements set out in these Regulations.

~~8.1.2 A Participating Employer must apply for a Certificate of Compliance in the manner and form prescribed by the Board of Directors of the DIFCA:~~

~~(a) prior to 31 March 2020, in accordance with the time period prescribed by the Board of Directors of the DIFCA; and~~

~~(b) thereafter, within a time period of sixty (60) days prior to 1 February of each subsequent anniversary of the Scheme Commencement Date, unless the circumstances in Regulation 8.1.3 apply.~~

~~8.1.38.1.2~~ A Participating Employer shall be under a duty to inform the Board of Directors of the DIFCA, in the form and manner prescribed, as soon as practicable in the event of a Qualifying Scheme no longer being compliant with these Regulations, as well as to submit (at the same time) an application for a Certificate of Compliance in respect of the replacement Qualifying Scheme that it selects to continue to pay Member Benefits to.

~~8.1.48.1.3~~ The Board of Directors of the DIFCA may require of a Participating Employer to make regular filings (on an annual or such other suitable period in the circumstances) in respect of each Qualifying Scheme it pays Member Benefits to, to ensure compliance with these Regulations.

8.1.4 An Employer who is required or wishes to make contributions to an Exempt Scheme, that are deemed Core Benefits on behalf of Employees under Regulation 2.1.4(b), shall be required to obtain an Exemption Certificate in respect of each Exempt Scheme in the manner and form prescribed by the Board of Directors of the DIFCA against payment of the fee set out in Schedule 1 hereto, inclusive of any amendments thereto relating to the Employees covered by the Exemption Certificate.

8.1.5 The Board of Directors of the DIFCA may require of an Employer who has been provided with an Exemption Certificate to make regular filings (on an annual or such other suitable period in the circumstances) in respect of each Exempt Scheme it pays deemed Core Benefits to, to ensure compliance with these Regulations

**8.2 Deemed Qualifying Scheme status for DEWS**

8.2.1 Until otherwise notified by the DIFCA Board of Directors with at least six (6) months' written notice to relevant Participating Employers, the DIFC Employee Workplace Savings Plan ("DEWS Plan") shall be deemed to be a Qualifying Scheme and to have a Certificate of Compliance.

8.2.2 Until otherwise notified by the DIFCA Board of Directors under Regulation 8.2.1, the provisions of Regulations 8.1.1, 8.1.2, 8.1.3 and 8.1.4 shall not apply to the DEWS Plan.

**8.3 Qualifying Scheme List**

The Board of Directors of the DIFCA shall be required to publish a list of Qualifying Schemes that hold a valid Certificate of Compliance and a Participating Employer may rely on such list to confirm whether a Qualifying Scheme meets all the requirements to take Member Contributions from that Employer on behalf of its Employees.

**8.38.4 Delegation**

The Board of Directors of the DIFCA may delegate its powers and duties under these Regulations, provided that it is made in writing and specific in nature.

SCHEDULE 1FEES

<u>Certificate</u>	<u>Fee</u>
<u>Certificate of Compliance</u>	<u>US\$500</u>
<u>Exemption Certificate</u>	<u>US\$300</u>
<u>Any amendment request in respect of Employees referred to in an Exemption Certificate</u>	<u>US\$100</u>