



Dubai
International
Financial
Centre

COMPANIES LAW

DIFC LAW NO. 3 OF 2017*

[*ISSUED FOR CONSULTATION PURPOSES ONLY]

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PART 1: GENERAL**1. Title and repeal**

- (1) This Companies Law 2017, repeals and replaces the Companies Law 2009 (DIFC Law No. 2 of 2009) as it was in force immediately prior to the commencement of this Law (the “Previous Law”), and may be cited as the “Companies Law 2017” or “this Law”.
- (2) Except where otherwise provided in this Law, anything done or omitted to be done pursuant to or for the purposes of the Previous Law is deemed to be done or omitted to be done pursuant to or for the purposes of this Law.
- (3) Without limiting the generality of Article 1(2), and subject only to Article 1(4), such repeal and replacement shall not affect:
 - (a) any right, privilege, remedy, obligation or Liability accrued to or incurred by any person; or
 - (b) any investigation or legal or administrative proceeding commenced, or to be commenced, in respect of any such right, remedy, privilege, obligation or Liability,

under the Previous Law, and any such investigation or legal or administrative proceeding may be instituted, continued or enforced, including any penalty, fine or forfeiture, under this Law.
- (4) Where there is no equivalent provision in this Law to a provision in the Previous Law, the relevant provision in the Previous Law is deemed to survive the repeal and replacement under this Article 1 until such time as necessary for the purposes of any investigation or legal or administrative proceeding specified in Article 1(3)(b).
- (5) Unless otherwise provided, any reference to:
 - (a) the Previous Law includes Regulations made under the Previous Law; and
 - (b) this Law includes a reference to the Regulations made under this Law.

2. Legislative authority

This Law is made by the Ruler.

3. Application of this Law

- (1) This Law applies in the jurisdiction of the DIFC.
- (2) This Law applies to any person who conducts or attempts to conduct business in or from the DIFC.
- (3) To the extent that this Law or the Regulations apply to any person to whom any provision of the DFSA administered Legislation also applies, this Law and the Regulations shall not exempt such person from any requirement applicable to that person under the DFSA administered Legislation.

4. Prohibition against conduct of business

- (1) No person shall conduct business in or from the DIFC unless that person is a:
 - (a) Public Company;
 - (b) Private Company;
 - (c) Recognised Company;

- (d) General Partnership;
 - (e) Limited Partnership;
 - (f) Limited Liability Partnership;
 - (g) Recognised General Partnership;
 - (h) Recognised Limited Partnership;
 - (i) Recognised Limited Liability Partnership; or
 - (j) Non Profit Incorporated Organisation, and
- holds a Commercial Licence.
- (2) The prohibition in Article 4(1) does not apply to a person if that person:
- (a) is prescribed as an exempt person under Regulations;
 - (b) is exempted from the requirement to hold a Commercial Licence by the Registrar pursuant to Article 9(3)(e)(i); or
 - (c) holds a commercial permission issued by the Registrar pursuant to Article 9(3)(e)(iii).
- (3) A person who fails to comply with the requirements in Article 4(1) is liable to a fine, as set out in Schedule 2.

5. Date of enactment

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

6. Effect of Regulations

Any Regulations made under the Previous Law which are not expressly repealed or amended shall be deemed to be Regulations made under this Law only so far as, and to the extent, such Regulations do not conflict with this Law.

7. Schedules

- (1) Schedule 1 contains:
- (a) interpretative provisions which apply to this Law; and
 - (b) a list of defined terms used in this Law.
- (2) Schedule 2 contains prescribed fines for contraventions of this Law.

PART 2: THE APPOINTMENT OF AND ROLE OF THE REGISTRAR**8. Appointment of the Registrar**

- (1) The office of the Registrar of Companies is created as a corporation sole.
- (2) The Board of Directors of the DIFCA shall appoint an individual to serve as Registrar and may dismiss such a person from the office of Registrar for proper cause.
- (3) The Board of Directors of the DIFCA shall consult the President prior to appointing or dismissing the Registrar.
- (4) In exercising the Registrar's powers and performing the Registrar's functions, the Registrar shall act in an independent manner, notwithstanding that the Registrar is an agency of the government of the Emirate of Dubai.

9. The objectives, functions and powers of the Registrar

- (1) In performing the Registrar's functions and exercising the Registrar's powers, the Registrar shall pursue the following objectives:
 - (a) to promote good practices and observance of the requirements of this Law;
 - (b) to administer this Law in an effective and transparent manner;
 - (c) to prevent, detect and restrain conduct which is, or may be, in contravention of this Law; and
 - (d) to maintain a reliable and up-to-date Register of Companies and, to provide access to the public of that Register, in accordance with this Law.
- (2) The Registrar has such powers and functions as may be conferred, or expressed to be conferred, on the Registrar:
 - (a) by or under this Law ; and
 - (b) by or under any other law, decree or direction made by the Ruler,and shall exercise such powers, and perform such functions, only in pursuit of the Registrar's objectives under those laws, regulations, decrees and directions, as applicable.
- (3) Without limiting the generality of Article 9(2), such powers and functions of the Registrar shall include, so far as is reasonably practicable:
 - (a) preparing or causing to be prepared in a timely and efficient manner:
 - (i) draft Regulations to be adopted pursuant to this Law;
 - (ii) draft standards or codes of practice; and
 - (iii) Guidance,reasonably required to enable the Registrar to perform the Registrar's statutory functions;
 - (b) submitting such draft Regulations and draft standards or codes of practice to the Board of Directors of the DIFCA for approval and advising the Board of Directors of the DIFCA of any Guidance that has been issued;

- (c) issuing or prescribing forms to be used for any of the purposes of this Law or any other Legislation administered by the Registrar;
 - (d) issuing or prescribing procedures and requirements relating to this Law or any other Legislation administered by the Registrar;
 - (e) where the Registrar considers it appropriate to do so:
 - (i) exempting a person from the obligation under Article 17(1) to hold a Commercial Licence;
 - (ii) issuing a Commercial Licence to a person:
 - (A) for any period less than the period specified in Article 17(6)(a); or
 - (B) subject to any conditions or restrictions; or
 - (iii) issuing a commercial permission to a person to undertake a specified activity in the DIFC;
 - (f) acquiring, holding and disposing of property of any description;
 - (g) making contracts and other agreements;
 - (h) with the prior written consent of the President and the Board of Directors of the DIFCA, borrowing monies and providing security for such borrowings;
 - (i) employing or appointing persons on such terms as the Registrar considers appropriate to assist the Registrar in the exercise and performance of its powers and functions;
 - (j) where the Registrar considers it appropriate to do so, delegating such of the Registrar's functions and powers as may more efficiently and effectively be performed, either generally or in relation to any particular matter, by the Registrar's officers or the DIFCA employees, or by any other person:
 - (i) to such officers or employees; or
 - (ii) with the approval of the Board of Directors of the DIFCA, to any such other person.
 - (k) specifying the method of delivery of Documents pursuant to this Law or any other Legislation administered by the Registrar, whether by electronic means or by any other means; and
 - (l) exercising and performing such other powers and functions as may be delegated to the Registrar by the Board of Directors of the DIFCA pursuant to the provisions of this Law or any other Legislation administered by the Registrar.
- (4) The Registrar may permit or require the use of an electronic or computer based system for the filing, delivery or deposit of, Documents or information required under or governed by this Law or any other Legislation administered by the Registrar and may specify the circumstances in which persons shall be deemed to have signed or certified Documents on an electronic or computer-based system for any purpose under this Law, the Regulations or any other Legislation administered by the Registrar.
- (5) The Registrar shall assist the United Arab Emirates in complying with its obligations under any international treaty or other agreement to which the United Arab Emirates is a party through the exercise of the Registrars' powers and functions.

- (6) The Registrar has the power to do whatever the Registrar deems necessary, for or in connection with, or reasonably incidental to, the exercise and performance of his powers and functions, inclusive of the power of delegation, subject to the applicable Decision-Making Procedures.
- (7) Subject to Article 9(8), neither the Registrar nor any delegate or agent of the Registrar can be held liable for anything done or omitted to be done in the performance or purported performance of the functions of the Registrar (including any function delegated to the Registrar) or in the exercise or purported exercise of any power or discretion of the Registrar (including any power delegated to the Registrar).
- (8) Article 9(7) does not apply if the act or omission is shown to have been in bad faith.

PART 3: INCORPORATION AND REGISTRATION OF COMPANIES

10. Types of companies

- (1) The types of companies that may be incorporated under this Law are a:
 - (a) Private Company, if it meets the requirements in Article 36(1); and
 - (b) Public Company, if it meets the requirements in Article 36(2).
- (2) A Foreign Company may be registered under this Law as a Recognised Company if it meets the requirements in Part 12.

11. Legal personality

A Company incorporated pursuant to Article 10(1) shall have a separate legal personality from that of its Shareholders. The liabilities of a Company, whether arising in contract, tort or otherwise, are the Company's liabilities and not the personal liabilities of any Shareholder or Officer of the Company, except where otherwise provided in this Law.

PART 4: COMPANY FORMATION & INCORPORATION**12. Method of forming a Company**

- (1) A Company may be incorporated under this Law by any one (1) or more persons making an application to the Registrar in accordance with the requirements in this Part.
- (2) A Company shall not be incorporated for any unlawful purpose.
- (3) The application for incorporation under Article 12(1) shall be filed with the Registrar by the Incorporators or their duly authorised representative, and shall state:
 - (a) the proposed name of the Company;
 - (b) whether the proposed Company is to be a Private Company or a Public Company;
 - (c) the nature of the business to be conducted by the proposed Company;
 - (d) the amount of the initial share capital and shareholdings of the Incorporators;
 - (e) the nominal value of each Share;
 - (f) the address of the proposed Company's registered office;
 - (g) the following information relating to each Incorporator:
 - (i) the full name, nationality and address of the Incorporator; and
 - (ii) if the Incorporator is:
 - (A) a natural person and were to hold Shares in trust for another person, the full name, nationality and address of the beneficial owner of the Shares; or
 - (B) a body corporate, the beneficial ownership information of the body corporate as prescribed in Regulations.
 - (h) the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of the individuals who are to serve as the Directors and, if applicable, the Secretary;
 - (i) the Articles of Association, signed by or on behalf of each Incorporator; and
 - (j) such other particulars as the Registrar may require or as prescribed by Regulations.

13. Articles of Association

- (1) A Company's Articles of Association shall be in the English language and shall be divided into sub-paragraphs numbered consecutively.
- (2) A Company's Articles of Association shall contain:
 - (a) a statement as to whether the Company is a Private Company or a Public Company;
 - (b) the information set out under Articles 12(3)(a) to 12(3)(e);
 - (c) matters required by this Law to be included in the Articles of Association of a Company; and

(d) such other matters as the Shareholders wish to include in the Articles of Association,

provided that the Articles of Association shall not contain a provision which is contrary to or inconsistent with this Law or, any other DIFC laws prescribed by Regulation.

- (3) The Board of Directors of the DIFCA may prescribe in the Regulations model articles of association to be known as the Standard Articles for Private Companies and Public Companies. A Company may adopt, as its Articles of Association, the whole or any part of such Standard Articles as are relevant to that Company.
- (4) If Standard Articles have not been adopted by a Company in their entirety, the Company shall submit to the Registrar, prior to such Articles of Association being adopted by the Company, a statement by the Incorporators that the Articles of Association proposed to be adopted by the Company complies with the requirements of this Law and any other applicable DIFC laws.
- (5) If any change to this Law or any other applicable DIFC laws results in an inconsistency between the provisions of a Company's Articles of Association and the provisions of this Law or any other applicable DIFC laws:
 - (a) the provisions of this Law and any other applicable DIFC laws shall prevail; and
 - (b) the Company shall not be obliged to amend its Articles of Association except where it is expressly required to do so under this Law or any other applicable DIFC laws.

14. Incorporation

- (1) The Registrar may refuse to incorporate a Company for such reason as the Registrar believes to be proper grounds for refusing such incorporation.
- (2) Where the Registrar refuses to incorporate a Company, the Registrar shall not be bound to provide any reason for the Registrar's refusal and the Registrar's decision shall not be subject to appeal or review in any court.
- (3) Where the Registrar incorporates a Company, the Registrar shall register the Articles of Association filed with the Registrar under Article 12(3)(i).

15. Effect of incorporation

- (1) On the incorporation of a Company and registration of its Articles of Association, the Registrar shall:
 - (a) issue a certificate of incorporation confirming that the Company is incorporated as either a Private Company or a Public Company;
 - (b) assign to the Company a number, which shall be the Company's registered number; and
 - (c) enter the name of the Company in the Register.
- (2) On the date of incorporation mentioned in the certificate of incorporation:
 - (a) the Incorporators shall be the shareholders of the Company; and
 - (b) the Company, having the name contained in the certificate of incorporation, shall become a body corporate, capable of exercising all the functions of an incorporated Company.
- (3) A certificate of incorporation issued by the Registrar is conclusive evidence of the following matters:
 - (a) that the Company has been duly incorporated;

- (b) whether the Company is a Public Company or a Private Company; and
- (c) that the requirements of this Law have been complied with in respect of the incorporation of the Company.
- (4) Without prejudice to Article 15(3), the Registrar may make alternative arrangements relating to the issue of certificates of incorporation to Companies in circumstances prescribed in Regulations.

16. Change in Registered Details of a Company

- (1) If there is a change to any of the Registered Details contained in the Register relating to a Company as specified in this Law, the Company shall notify the Registrar in writing of such change within fourteen (14) days of the change and comply with the requirements set out in the Regulations in this regard.
- (2) A Company which fails to comply with the requirements in Article 16(1) is liable to a fine, as set out in Schedule 2.

17. Commercial Licence

- (1) A person referred to in Article 4(1)(a) to (j), and any other person to whom a Commercial Licence has been issued, shall maintain, at all times, a valid Commercial Licence. A person who fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (2) A person referred to in Article 17(1) shall only conduct the activities that are permitted under that person's Commercial Licence. A person who fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (3) The Registrar may revoke, suspend, or vary the terms of, the Commercial Licence issued to a person.
- (4) Upon deciding to exercise the Registrar's powers under Article 17(3), the Registrar shall inform the person holding a Commercial Licence in writing of:
 - (a) its decision; and
 - (b) the date on which the decision shall be deemed to take effect (not being a date earlier than that of the notice).
- (5) If the Registrar decides to exercise the powers under Article 17(3) on the Registrar's own initiative, the Registrar shall only do so:
 - (a) if the Registrar:
 - (i) is satisfied that the person holding the Commercial Licence or any of its employees, officers or agents has breached, is breaching or is likely to breach any DIFC laws, rules or regulations; or
 - (ii) considers that the exercise of the power is necessary or desirable in the interests of the DIFC; and
 - (b) in accordance with the Decision-Making Procedures.
- (6) A Commercial Licence shall have effect for:
 - (a) a period of twelve (12) months from the date of its issue by the Registrar; or
 - (b) such other period for which such a licence has been issued by the Registrar under Article 9(3)(e).

- (7) A person referred to in Article 17(1) shall, at least fifteen (15) days prior to the expiry of its Commercial Licence, make an application to the Registrar for the renewal of its licence, unless it has:
 - (a) ceased to carry on business in the DIFC; and
 - (b) given to the Registrar the notification prescribed in Regulations.
- (8) A person referred to in Article 17(1) who fails to comply with the requirements in Article 17(7) is liable to a fine, as set out in Schedule 2.
- (9) A person referred to in Article 9(3)(e)(ii), to whom a Commercial Licence has been issued may only apply to the Registrar for renewal of its licence in the circumstances prescribed by Regulations.

18. Effect of Articles of Association

- (1) Subject to the provisions of this Law, the Articles of Association, when registered, bind the Company and its Shareholders to the same extent as if they had been signed by the Company and by each Shareholder, and contain covenants on the part of the Company and each Shareholder to observe all the provisions of the Articles of Association.
- (2) Money payable by a Shareholder to the Company under the Articles of Association is a debt due from that Shareholder to the Company.

19. Alteration of Articles of Association

- (1) Subject to the provisions of this Law, a Company may amend its Articles of Association, only by Special Resolution.
- (2) Unless the amendment relates solely to a change of its name, correcting manifest errors or increasing the amount of its authorised or Issued Share Capital, the Company shall, prior to any amendment to its Articles of Association taking effect, submit to the Registrar:
 - (a) those amendments; and
 - (b) a certification by at least one (1) of the Directors of the Company stating that the proposed amendments to the Articles of Association comply with the requirements of this Law and any other applicable DIFC laws.
- (3) If the Articles of Association are amended, the rights and obligations of the Shareholders and/or the Company which have arisen under the Articles of Association prior to the date of such amendment shall not be affected unless the amendment expressly provides for such effect.
- (4) Notwithstanding anything in the Articles of Association, a Shareholder of a Company is not bound by an amendment made to the Articles of Association after the date on which that Shareholder became a Shareholder, in so far as the amendment:
 - (a) requires that Shareholder to take or subscribe for more Shares than held by that Shareholder at the date on which the amendment was made; or
 - (b) in any way increases that Shareholder's Liability as at that date to contribute to the Company's share capital or otherwise to pay money to the Company,

unless that Shareholder agrees in writing, either before or after the amendment was made, to be bound by it.

20. Copies of Articles of Association for Shareholders

- (1) A Company shall, on being so requested by a Shareholder, provide to such Shareholder a copy of the Articles of Association subject to payment of such reasonable fee as the Company may require.
- (2) A Company which fails to comply with the requirements in Article 20(1) is liable to a fine, as set out in Schedule 2.

21. Prohibition against the use of misleading, deceptive or conflicting Company names

- (1) A Company shall not use a name which, by virtue of any fact, matter or circumstance, is, or is reasonably likely to become, misleading, deceptive or conflicting with another name, including an existing name of another company.
- (2) A Company shall, within thirty (30) days or such other time as agreed to by the Registrar, change its name if, by virtue of any fact, matter or circumstance, its name is, has become, or is reasonably likely to become, misleading, deceptive or conflicting with another name, including an existing name of another company.
- (3) For the purposes of Articles 22(1) and 22(2), a Company is deemed to be aware of the fact, matter or circumstance which causes its name to be, or become, misleading, deceptive or conflicting with another name, including an existing name of another company, if it is reasonably likely to be aware of that fact, matter or circumstance.
- (4) A Company which fails to comply with the requirements in Article 22(1) or 22(2) is liable to a fine, as set out in Schedule 2.

22. Change of Company name

- (1) A Company may change its name by Special Resolution, provided that the new name is acceptable to the Registrar. A Company shall file the Special Resolution by which it changed its name with the Registrar within fourteen (14) days of the date of the Special Resolution. A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (2) Where a Company has complied with the requirement under Article 22(1), the Registrar shall, as soon as practicable:
 - (a) enter the new name on the Register in place of the former name; and
 - (b) issue a certificate of name change showing the previous name and the new name of the Company.
- (3) The change of name shall take effect from the date on which the Registrar issues the certificate of name change.
- (4) A change of name by a Company under Article 22(1) does not:
 - (a) affect any rights or obligations of the Company; or
 - (b) render defective any legal proceedings by or against it; and

any legal proceedings that might have been commenced or continued against it under its former name may be commenced or continued against it under its new name.

23. Power to require change of name

- (1) Without prejudice to the requirements in Article 21, if, in the opinion of the Registrar, the name by which a Company is registered is, has become or is reasonably likely to become, misleading, deceptive or conflicting with another name, including an existing name of another company, or

otherwise undesirable, the Registrar may direct the Company to change it. The Registrar shall follow the Decision-Making Procedures when giving a direction under this Article.

- (2) A Company shall comply with a direction given by the Registrar under Article 23(1) within thirty (30) days from the date specified in the direction unless a longer period has been allowed by the Registrar.
- (3) A Company which fails to comply with a direction under this Article is liable to a fine, as set out in Schedule 2.

24. Registered office and conduct of business

- (1) A Company shall, at all times, have a registered office in the DIFC to which all communications and notices to the Company may be addressed. A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (2) A Document may be served on a Company by leaving it at, or sending it by post to, the registered office of the Company.
- (3) A Company shall carry on its principal business activity in the DIFC, unless the Registrar otherwise permits. A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.

25. Particulars in company communications

- (1) The name of a Company, and the address of its registered office, shall appear in legible characters in all its business letters and order forms.
- (2) A Company shall not include any misleading or deceptive information in its communications, including in the Company's stationary and order forms.
- (3) Without limiting the generality of the obligation in Article 25(2), a Company shall not include in its letter heads, receipts, order forms and other correspondence any Registered Details of the Company where such information is inaccurate, false or misleading. Any reference to the amount of share capital of the Company included in such correspondence shall only be to the Company's fully Paid Up share capital.
- (4) A Company which fails to comply with the requirements in Article 25(3) liable to a fine, as set out in Schedule 2.
- (5) For the purposes of Article 25(3), Registered Details of the Company are those included in the Register.

26. Annual return

- (1) Every Company shall, at the same time as it applies for renewal of its Commercial Licence (and, in any event, prior to the date on which its Commercial Licence would expire), file with the Registrar an annual return containing:
 - (a) its financial statements, unless exempted under Article 131(6);
 - (b) a statement, in respect of each class of Shares in the Company, setting out either:
 - (i) the name and address of each Shareholder who, on the filing date, held not less than five per cent (5%) of the allotted Shares of that class and the number of Shares of that class held by that Shareholder, together with the number of Shareholders each of whom on that date held less than five per cent (5%) of the allotted Shares of that class and the total number of Shares comprised in those holdings; or

- (ii) the name and address of every Shareholder who, on the filing date, held any Shares of that class and the number of Shares of that class held by that Shareholder;
 - (c) those particulars as set out in Article 12(3)(h) in respect of each Director and, if applicable, the Secretary;
 - (d) an entry relating to any treasury shares held as required by Article 62(7); and
 - (e) any other information or declarations prescribed by Regulations.
- (2) The annual return shall be accompanied by the filing fee prescribed by the Registrar from time to time.
 - (3) A Company which fails to file an annual return by the date specified in Article 26(1) is liable to a fine, as set out in Schedule 2.
 - (4) A Company which provides incorrect or misleading information in its annual return is liable to a fine, as set out in Schedule 2.
 - (5) A person may, on payment of such reasonable fee as the Company may require, request a copy of the annual return of a Public Company. The Public Company shall, within ten (10) days of receipt of the payment, cause a written copy of the annual return to be provided to or be made available to that person at the Company's registered office. A Company which fails to comply with this requirement is liable to a fine as set out in Schedule 2.

27. Company Records

- (1) The Records, which a Company is required by this Law to keep, may be kept in the form of a bound or loose-leaf book, or photographic film, or may be entered or recorded by a system of mechanical or electronic data processing or any other medium that is capable of reproducing any required information in intelligible written form within a reasonable time.
- (2) A Company shall take reasonable precautions to:
 - (a) prevent the loss or destruction of;
 - (b) prevent the falsification of entries in; and
 - (c) facilitate the detection and correction of inaccuracies in,
 the Records required to be kept under this Law.
- (3) If any record referred to in this Article is kept otherwise than in intelligible written form, any duty imposed on the Company by this Law to allow inspection and copying of, or to require the giving or production of, information or Documents shall be treated as a duty to allow inspection and copying of, or to require the giving or production of, information or Documents in intelligible written form.

28. Filing of Special Resolutions and certain other resolutions and agreements

- (1) This Article applies to:
 - (a) any circumstances where a Special Resolution is required to be passed under this Law;
 - (b) any resolution or agreement agreed to by all the Shareholders of a Company that, if not so agreed to, would not have been effective for its purpose, unless passed as a Special Resolution;

- (c) any resolution or agreement agreed to by all the holders of a class of Shares that, if not so agreed to, would not have been effective for its purpose, unless passed by some particular majority or otherwise in some particular manner; and
 - (d) any resolution or agreement that effectively binds all the holders of a class of Shares, though not agreed to by all those holders.
- (2) References in Article 28(1) to a Shareholder of a Company, or to a class of Shareholders of a Company, do not include the Company itself where it is such a Shareholder by virtue only of its holding shares as treasury shares.
- (3) A copy of every Resolution or agreement to which this Article applies, or (in the case of a Resolution or agreement that is not in writing), a written memorandum setting out its terms, shall be submitted to the Registrar within fifteen (15) days after it is passed or made.
- (4) A Company which fails to comply with the requirements of Article 28(3) is liable to a fine, as set out in Schedule 2.

PART 5: CORPORATE CAPACITY AND TRANSACTIONS**29. Capacity of Company**

- (1) A Company has the capacity, rights and privileges of a natural person.
- (2) The validity of an act done by a Company shall not be called into question on the ground of lack of capacity by reason of anything in its Articles of Association or by any act of its Shareholders.
- (3) Without limiting the generality of Article 29(2), a person acting in good faith when dealing with the Company is not affected by any limitations in its Articles of Association relating to its Directors' powers to bind the Company, or authorise another to bind the Company.

30. Form of contracts

A person acting under the express or implied authority of a Company may make, vary, revoke or discharge a contract or sign an instrument on behalf of that Company in the same manner as if the contract were made, varied, revoked or discharged or the instrument signed by a natural person.

31. Pre-incorporation contracts

- (1) A contract that purports to be made by or on behalf of a Company prior to its incorporation has effect as a contract made with the person so purporting to act for or on behalf of the Company, and that person is personally liable on the contract and entitled to the benefits of the contract unless Article 31(2) applies.
- (2) A Company may, within such period as may be specified in the relevant contract and, if no such period is specified, within a reasonable time after the Company has been incorporated, adopt any contract referred to in Article 31(1) by act or conduct signifying its intention to be bound by such contract. Where it does so:
 - (a) the Company shall be bound by the terms of such contract and be entitled to its benefits; and
 - (b) the person who purported to act for or on behalf of the Company prior to its incorporation shall cease both to be bound by such contract and to be entitled to the benefits of such contract.

32. Participation in a holding company

- (1) A body corporate cannot be a Shareholder of a Company which is its holding company, unless Article 32(2) applies. An Allotment or transfer of Shares in a Company to its subsidiary shall be void except to the extent otherwise provided in this Article.
- (2) Article 31(1) does not prevent a subsidiary which is, when it becomes a subsidiary, a Shareholder of its holding company, from continuing to be such a Shareholder for a period of twelve (12) months from the date on which it became the subsidiary, provided it:
 - (a) has no right to vote at meetings of the holding company or a class of its Shareholders; and
 - (b) shall not acquire further Shares in the holding company except on an Allotment of Shares to all Shareholders in proportion to the number of Shares held by such Shareholders immediately prior to the Allotment, by way of bonus issue.
- (3) Article 32(1) also applies to a nominee acting on behalf of a subsidiary as if it were the subsidiary itself.

PART 6: CLASS RIGHTS**33. Variation of class rights**

- (1) This Article applies to a variation or abrogation of the rights attached to a class of Shares in a Company.
- (2) If provision for the variation or abrogation of the rights attached to a class of Shares is made in the Articles of Association or pursuant to the terms of issue of the relevant Shares, those rights may only be varied or abrogated in accordance with those provisions.
- (3) If no provision is made as set out under Article 33(2), the rights attached to a class of Shares may only be varied or abrogated by:
 - (a) consent in writing of the holders of at least seventy five per cent (75%) of the nominal value of the Shares of that class; or
 - (b) a Special Resolution passed at a separate meeting of the holders of Shares of that class approving the variation or abrogation.
- (4) For the purposes of this Article, any alteration of a provision in the Articles of Association for the variation or abrogation of the rights attached to a class of Shares, or the insertion of any such provision into the Articles of Association themselves, is to be treated as a variation or abrogation of the relevant rights.

34. Shareholders' right to object to variation or abrogation

- (1) If the rights attached to any class of Shares are varied or abrogated in a manner referred to in Article 33(2) or 33(3), the holders of not less in the aggregate than fifteen per cent (15%) of the nominal value of the Shares of that class (being persons who did not consent to, or vote in favour of a resolution for, the variation or abrogation) may apply to the Court to have the variation or abrogation cancelled. If such an application is made, the variation or abrogation has no effect unless and until it is confirmed by the Court.
- (2) The application to the Court shall be made within twenty eight (28) days after the consent was given under Article 33(3)(a) or the resolution was passed under Article 33(3)(b). Such an application may be made on behalf of the holders of Shares entitled to make it by one (1) or more of them as appointed in writing.
- (3) Notice signed by or on behalf of the applicants that an application to the Court has been made under this Article shall be given by or on behalf of the applicants to the Registrar within seven (7) days after it is made.
- (4) The Court, after being satisfied that Article 34(2) has been complied with, and after hearing the applicant and any other persons who appear to the Court to be interested in the application, may, if satisfied having regard to all the circumstances that the variation or abrogation would unfairly prejudice the holders of Shares of the relevant class, disallow the variation or abrogation. If the Court is not so satisfied, it shall confirm the variation or abrogation.

PART 7: PRIVATE COMPANIES AND PUBLIC COMPANIES

CHAPTER 1– FEATURES OF A COMPANY

35. Limited Liability

- (1) The Liability of a Shareholder of a Company is limited to the amount, if any, that remains unpaid on the Shares held by that Shareholder.
- (2) A reference to a Private Company or a Public Company is a reference to a company limited by shares.

36. Definitions of Public and Private Companies

- (1) A Private Company is a Company which:
 - (a) has, at least, one (1) Shareholder;
 - (b) has no more than fifty (50) Shareholders; and
 - (c) is not a Public Company.
- (2) A Private Company does not breach the fifty (50) Shareholder limit in Article (b)36(1)(b) if the number of Shareholders in the Company is increased beyond fifty as a result of any transfer or transmission of Shares by operation of law.
- (3) A Private Company which registers a transfer of shares such that it would have more than fifty (50) Shareholders except in the circumstances set out in Article 36(2) is liable, to a fine, as set out in Schedule 2.
- (4) A Public Company is a Company which:
 - (a) is not prohibited from making an offer of its Securities to the public pursuant to Article 50;
 - (b) holds a minimum share capital as specified in Article 43; and
 - (c) has at least one (1) Shareholder, but may otherwise have any number of Shareholders.

37. Name of a Private Company

A Private Company shall exist under a name approved by the Registrar which shall be immediately followed by the word “Limited” or its abbreviation “Ltd.”, which shall be inserted wherever the Company’s name appears. A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.

38. Name of a Public Company

A Public Company shall exist under a name approved by the Registrar which shall be immediately followed by the words “public limited company” or its abbreviation “PLC” or “plc”, which shall be inserted wherever the Company’s name appears. A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.

CHAPTER 2 –ALTERATION OF COMPANY TYPE

39. Re-registration of a Public Company as a Private Company

- (1) A Public Company may, subject to 39(2) and (3), be re-registered as a Private Company if:
 - (a) it has no more than fifty (50) Shareholders;

- (b) a Special Resolution that it should be so re-registered is passed; and
 - (c) either:
 - (i) no application has been made under Article 39(2); or
 - (ii) such an application has been made and an order has been made by the Court confirming the Special Resolution; and
 - (d) an application for re-registration is delivered to the Registrar which includes:
 - (i) a statement of the Company's proposed name upon re-registration;
 - (ii) a copy of the Special Resolution that the Company be re-registered as a Private Company;
 - (iii) a copy of the Articles of Association as proposed to be amended; and
 - (iv) a written legal opinion from the Company's external legal adviser stating that the proposed amendments to the Articles of Association comply with the requirements of this Law, and any other applicable DIFC laws
- (2) In the case of a Public Company, the holders of not less in the aggregate than five percent (5%) of the nominal value of the Shares, or not fewer than ten (10) Shareholders of that company, who have not voted in favour of the resolution to convert to a Private Company, may apply to the Court within twenty eight (28) days of the Special Resolution to have that resolution set aside by the Court. Upon such an application being made, the Court may;
- (a) dismiss it, if no grounds are found that the rights of persons making the application are adversely affected; or
 - (b) confirm the Special Resolution; or
 - (c) impose conditions that need to be met before the Company can be registered as a Private Company.
- (3) Where an application is made to the Court under Article 39(2), the Registrar shall not re-register the Public Company as a Private Company, except on the grounds specified in Article 39(1)(a), (b) or (c).
- (4) If the Registrar is satisfied that the Company making the application meets the requirements under this Article to be re-registered as a Private Company, the Registrar shall re-register the Company accordingly. The Registrar shall issue a certificate of conversion to meet the circumstances of the case and stating the date on which it is issued.
- (5) On issue of the certificate of conversion, the Company becomes a Private Company and the proposed change in the Company's name and Articles of Association, as set out in its application, takes effect.

40. Re-registration of a Private Company as a Public Company

- (1) A Private Company may be re-registered as a Public Company if:
 - (a) a Special Resolution that it should be so re-registered is passed;
 - (b) it has a share capital that meets the minimum share capital requirement for a Public Company in Article 43;

- (c) the requirements in Article 40(2) and, where applicable, the requirements in Article 40(3), are met;
 - (d) an application for re-registration is delivered to the Registrar which includes:
 - (i) a statement of the Company's proposed name upon re-registration;
 - (ii) a copy of the Special Resolution that the Company be re-registered as a Public Company;
 - (iii) a copy of the Articles of Association as proposed to be amended;
 - (iv) if Article 40(3), applies, a copy of the relevant valuation report required under Article 46; and
 - (v) a written legal opinion from the Company's external legal adviser stating that the proposed amendments to the Articles of Association comply with the requirements of this Law, and any other applicable DIFC laws.
- (2) A Private Company applying to re-register as a Public Company shall obtain:
- (a) a balance sheet prepared as at a date not more than seven (7) months before the date the application is delivered to the Registrar;
 - (b) an unqualified report by the Company's auditors that such balance sheet has been prepared in accordance with the accounting principles or standards prescribed in the Regulations or otherwise approved by the Registrar; and
 - (c) a written statement by the Company's auditors that in their opinion, at the balance sheet date, the amount of the Company's net assets was not less than the aggregate of the Company's share capital and its reserves.
- (3) If Shares are allotted by the Company:
- (a) in the period between the date as at which the balance sheet required under Article 40(2) is prepared and the passing of the Special Resolution that the Company be re-registered as a Public Company; and
 - (b) are Paid Up otherwise than in cash,
- the Company shall (other than where the Allotment is in connection with a share exchange) comply with the requirements in Article 46 in respect of the Allotment.
- (4) For the purposes of this Article 40, Shares are allotted by a Company in connection with a share exchange if:
- (a) the consideration for such an Allotment is the transfer of shares in another body corporate or the cancellation of shares in another body corporate, and such Allotment is open to all holders (or all of a particular class of holders) of shares in such other body corporate; or
 - (b) there is a proposed merger with another body corporate where the Company proposes to acquire all the assets and liabilities of the other body corporate in exchange for the issue of its Shares or other securities to the shareholders or members of the other body corporate.
- (5) If the Registrar is satisfied that the Company making the application meets the requirements under this Article 40 to be re-registered as a Public Company, the Registrar shall re-register the Company accordingly. The Registrar shall issue a certificate of conversion to meet the circumstances of the case and stating the date on which it is issued.

- (6) On issue of the certificate of conversion, the Company becomes a Public Company and the proposed changes in the Company's name and Articles of Association, as set out in its application, take effect.

CHAPTER 3 – SHAREHOLDERS AND SHARES GENERALLY

41. Shareholders

- (1) The Incorporators of a Company are deemed to have agreed to become Shareholders of the Company and, on the registration of the Company, shall be entered as Shareholders in the Company's register of Shareholders.
- (2) Persons other than Incorporators may, by:
 - (a) agreeing to become a Shareholder in the Company;
 - (b) acquiring a Share in the Company; and
 - (c) having their name entered in the Company's register of Shareholders,become Shareholders of the Company.

42. Nature of Shares

- (1) Subject to the Articles of Association and the terms of their issue, each Share shall:
 - (a) carry the right to vote at a meeting of the Company;
 - (b) represent a proportionate interest in the Company; and
 - (c) rank, if fully Paid Up, in all respects equally with each other Share of the same class of Shares in the Company.
- (2) Subject to Article 54, the Shares or other interests of a Shareholder of a Company are transferable in the manner provided in its Articles of Association.
- (3) A Company may create different classes of Shares to the extent permitted by its Articles of Association.

43. Minimum share capital

- (1) Each Share in a Company must have a fixed nominal value. A Share may not be allotted by a Company at less than its nominal value. An Allotment of a share that does not have a fixed nominal value, or is allotted at less than its nominal value, is void.
- (2) A Private Company shall have no minimum share capital.
- (3) A Public Company:
 - (a) shall have an issued and allotted share capital (excluding treasury shares) of no less than \$100,000 at any time; and
 - (b) shall not allot a Share except as Paid Up at least as to one-quarter ($\frac{1}{4}$) of its value, provided that this provision does not apply to any Shares allotted pursuant to an Employee Share Scheme.

44. Alteration of share capital

- (1) A Company may, by Special Resolution, alter its share capital unless prohibited by its Articles of Association, or it results in a contravention of the minimum capital requirement for Public Companies under Article 43(3)(a). A Company may:
 - (a) increase its share capital by creating new Shares of an existing class with the same nominal value, or a new class of Shares of such nominal value as it thinks fit;
 - (b) consolidate and divide its share capital (whether allotted or not) into Shares representing a larger nominal value than their existing nominal value; and
 - (c) sub-divide its Shares, or any of them, into Shares representing a smaller nominal value than their existing nominal value, provided that the proportion between the amount paid, and the amount unpaid, if any, on each sub-divided Share shall be the same as it was in the case of the Share from which the sub-divided Share is derived.
- (2) A Company which fails to comply with the requirements of Article 44(1) is liable to a fine, as set out in Schedule 2.
- (3) Subject to Article 48, the Directors may exercise a power of the Company to:
 - (a) allot Shares; or
 - (b) grant rights to subscribe for or convert any Securities into Shares,
 if they are authorised to do so by its Articles of Association or by Ordinary Resolution.

45. Non-cash consideration for Shares in a Private Company

- (1) A Private Company shall not, except as provided under Article 45(2), allot Shares as Paid Up (in part or in full) other than for cash consideration.
- (2) Where a Private Company allots Shares for consideration other than cash, the board of Directors of the Company shall:
 - (a) determine the reasonable cash value of the consideration for the relevant Shares;
 - (b) resolve that, in its opinion, the consideration for the Shares is fair and reasonable to the Company and to all existing Shareholders;
 - (c) resolve that, in its opinion, the present cash value of the consideration to be provided for the Shares is not less than the nominal value to be credited for the issue of the Shares; and
 - (d) submit a copy of the relevant resolutions to the Registrar along with the Allotment notice.
- (3) The resolutions required under Article 45(2) shall describe the consideration in sufficient detail and the present cash value of that consideration, as determined by the board of Directors, and the basis of their valuation.
- (4) Nothing in this Article applies to:
 - (a) the Allotment of Shares in a Company on the conversion of any convertible Securities;
 - (b) the exercise of an option to acquire Shares in a Company;
 - (c) the Allotment of Shares that are fully Paid Up from the reserves of a Company to all Shareholders in proportion to the number of Shares held by each Shareholder; or

- (d) the consolidation and division, or subdivision, of Shares, or any class of Shares, in a Company in accordance with Article 44(1).

46. Non-cash consideration for Shares in a Public Company

- (1) Subject to Article 46(3), a Public Company shall not allot Shares as Paid Up (in part or in full) otherwise than in cash unless:
 - (a) the Company has obtained an independent valuation of the non-cash consideration for the Allotment in accordance with this Article not more than six (6) months prior to the Allotment; and
 - (b) a copy of the valuation report has been sent to the proposed allottee; and
 - (c) copies of the valuation report and the relevant resolutions have been submitted to the Registrar along with the Allotment notice.
- (2) A Public Company shall not accept at any time, in payment up of its Shares or any premium on them, an undertaking given by any person that such person or another should do work or perform services for the Company or any other person, which may be performed five (5) years after the date of such Allotment.
- (3) Nothing in this Article applies to:
 - (a) the Allotment of Shares in a Company in connection with a share exchange;
 - (b) the Allotment of Shares in a Company in connection with a proposed merger;
 - (c) the Allotment of Shares in a Company on the conversion of any convertible Securities;
 - (d) the exercise of an option to acquire Shares in a Company;
 - (e) the Allotment of Shares that are fully Paid Up from the reserves of a Company to all Shareholders in proportion to the number of Shares held by each Shareholder; or
 - (f) the consolidation and division, or subdivision, of Shares, or any class of Shares, in a Company in proportion to those Shares or the Shares in that class.
- (4) The valuation report required under Article 46(1) shall be made by any person registered as an auditor pursuant to this Law who is not:
 - (a) an officer or employee of the Company or a partner or employee of such a person, or a partnership in which such a person is a partner;
 - (b) an officer or employee of an associated undertaking of the Company or a partner or employee of such a person, or a partnership in which such a person is a partner; or
 - (c) connected in any way with the Company, as prescribed under Regulations.
- (5) The person carrying out the valuation is entitled to require from the Officers and Employees of the Company such information and explanation as such person thinks necessary, and such Officers and Employees shall take reasonable steps to comply with those requests. A person who knowingly or recklessly makes a statement to which this Article applies, that is misleading, false or deceptive in a material way is liable to a fine in Schedule 2.
- (6) For the purposes of this Article 46, an Allotment is in connection with:
 - (a) a share exchange, if the consideration for such an Allotment is the transfer of shares in another body corporate or the cancellation of shares in another body corporate, and such

Allotment is open to all holders (or all of a particular class of holders) of shares in such other body corporate; and

- (b) a proposed merger with another body corporate, if the Company proposes to acquire all the assets and liabilities of the other body corporate in exchange for the issue of its Shares or other Securities to the shareholders or members of the other body corporate.

47. Bearer Shares

It shall be unlawful for a Company to issue bearer Shares. Any Shares issued by a Company which purport to be bearer Shares shall be void.

48. Shareholders' pre-emption rights

- (1) Subject to Article 49, a Company shall not allot Equity Securities to a person on any terms unless:
 - (a) it has made an offer to each person who holds Equity Securities to allot to that person on the same or more favourable terms a proportion of those Equity Securities that is as nearly as practicable equal to the proportion of the Equity Securities held by that person in the Company's share capital; and
 - (b) the period during which any such offer may be accepted has expired or the Company has received notice of the acceptance or refusal of every offer so made.
- (2) A reference to the Allotment of Equity Securities includes:
 - (a) the grant of a right to subscribe for, or to convert Securities into, Ordinary Shares; and
 - (b) the sale of Equity Securities in the Company that, immediately before the sale, were held by the Company as treasury shares.
- (3) Shares held by the Company as treasury shares are disregarded for the purposes of this Article, so that the Company is not treated as a person who holds Equity Securities and treasury shares forming part of the Company's share capital.
- (4) A Company's Articles of Association may prohibit a Company from allotting Shares of a particular class in respect of an offer referred to in Article 48(1)(a), unless the Company has complied with the equivalent pre-emption rights included in its Articles of Association. Article 48(1) does not apply in such circumstances and the Company may allot the Shares in accordance with those equivalent pre-emption rights, provided such an offer is communicated in accordance with Article 48(5).
- (5) An offer made pursuant to Article 48(1)(a):
 - (a) may be made in hard copy or electronic form;
 - (b) may, if a holder of Equity Securities has not given an address to the Company, be made by causing it, or a notice specifying where a copy of it can be obtained or inspected, to be published in the Appointed Publications;
 - (c) shall be open for acceptance for a period of not less than fourteen (14) days from the date on which:
 - (i) the offer is deemed to have been received in accordance with the Articles of Association (or, if the Articles of Association do not contain such provisions, when the offer is reasonably expected to have been received by the offeree); or
 - (ii) the offer is published in the Appointed Publications.

- (6) A Company does not contravene this Article where:
 - (a) an offer has been made to holders of Equity Securities in accordance with this Article; and
 - (b) the Company allots Equity Securities to:
 - (i) an existing holder of Equity Securities; or
 - (ii) a person in whose favour an existing holder of Equity Securities has renounced his right to allotment.
- (7) A Company which fails to comply with the requirements of Article 28(3) is liable to a fine, as set out in Schedule 2.

49. Exceptions to the Pre-emption Right

Article 48 does not apply in respect of an Allotment of Equity Securities:

- (a) which are bonus Shares;
- (b) which would be held under, or allotted or transferred pursuant to, an Employee Share Scheme;
- (c) to be wholly or partly Paid Up otherwise than in cash in accordance with Article 45 or 46;
- (d) in a Private Company, to the extent that the Pre-emption right has been excluded or varied by its Articles of Association; or
- (e) by any Company, to the extent that such restrictions have been excluded or varied by Special Resolution (unless a higher threshold is required by the Articles
- (f) of Association) provided that such Special Resolution has been recommended by the Directors of the Company in a written statement circulated to all Shareholders which also sets out:
 - (i) the Directors' reasons for making the recommendation;
 - (ii) the amount to be paid to the Company in respect of such Allotment; and
 - (iii) the Directors' justification of that amount.

CHAPTER 4– PROHIBITION OF PUBLIC OFFERS BY PRIVATE COMPANIES

50. Prohibition of public offers by Private Companies

- (1) A Private Company shall not:
 - (a) make an offer of its Securities to the public; or
 - (b) allot or agree to allot its Securities to any person with a view to such Securities being offered to the public.
- (2) Unless the contrary is proved, an Allotment or agreement to allot Securities is presumed to be made with a view to such Securities being offered to the public if an offer of the Securities (or any of them) is made to the public:
 - (a) within six (6) months after the Allotment or agreement to allot; or

- (b) before the receipt by the Company of the whole of the consideration to be received by the Company in respect of the Securities.
- (3) A Private Company does not contravene this Article if it:
 - (a) acts in good faith in pursuance of arrangements under which it is to re-register as a Public Company before the Securities are allotted; or
 - (b) undertakes, as part of the terms of the offer, to re-register as a Public Company within six (6) months from the date on which the offer is first made, and that undertaking is complied with.
- (4) For the purposes of this Article:
 - (a) an offer to the public includes an offer to any section of the public, however selected;
 - (b) an offer is not regarded as an offer to the public if it can be properly regarded, in all the circumstances, as:
 - (i) not being calculated to result, directly or indirectly, in the Securities becoming available to persons other than those receiving the offer;
 - (ii) being made to an existing Shareholder, Officer or Employee of the Company (or a member of their immediate family), an existing debenture holder of the Company, or a trustee of such persons, and if it is made on terms renounceable, it can only be renounced in favour of another person who is entitled to receive that offer; or
 - (iii) being an offer for Securities to be held under an Employee Share Scheme and, if it is made on terms renounceable, it can only be renounced in favour of another person who is entitled to receive that offer.
- (5) A Company which fails to comply with the requirements of Article 50(1) is liable to a fine, as set out in Schedule 2.

51. Enforcement of the prohibition in Article 50

- (1) If it appears to the Court:
 - (a) on an application for an order made by a Shareholder or Creditor of the Company or by the Registrar under this Article; or
 - (b) in a proceeding brought under Article 175,

that a Company is acting or proposing to act in contravention of Article 50, the Court shall make an order restraining the Company from contravening or continuing to contravene Article 50.
- (2) If it appears to the Court:
 - (a) on an application for an order made by a Shareholder (being a person holding Shares at the time the offer was made or who became a Shareholder as a result of the offer) or Creditor of the Company or by the Registrar under this Article; or
 - (b) in a proceeding brought under Article 175,

that a Company has acted in contravention of Article 50, the Court may make any one (1) or more orders as specified in Article 51(3).
- (3) The Court may:

- (a) in the case of an application under Article 51(1), make an order restraining the Company from contravening or continuing to contravene that prohibition;
- (b) in the case of an application under Article 50(2), issue an order requiring the Company to be re-registered as a Public Company; or
- (c) if it appears to the Court that the Company does not meet the requirements for re-registration as a Public Company and/or it is impractical or undesirable to require the Company to take steps to do so, make one (1) or more of the following orders against either the Company or any person knowingly concerned in the breach (whether or not such person is an Officer of the Company):
 - (i) a remedial order so as to put the affected party back in the position that party would have been in, but for the contravention of Article 50;
 - (ii) without limiting the generality of Article 51(3)(c)(i), an order that any person knowingly concerned in the contravention of Article 50 shall offer to purchase Securities at such price and on such other terms as the court thinks fit;
 - (iii) in the event that a remedial order is made against the Company, an order that the Company's share capital be reduced accordingly;
 - (iv) an order that the Company be subject to a compulsory winding up; or
 - (v) such other order as the Court sees fit.
- (4) For the purposes of this Article, an affected party is a Shareholder or Creditor of the Company.

CHAPTER 5 – REGISTERS OF SHAREHOLDERS AND DEBENTURE HOLDERS AND SHARE CERTIFICATES

52. Register of Shareholders

- (1) Every Company shall establish and maintain a register of its Shareholders and promptly enter in it:
 - (a) the names and addresses of its Shareholders, together with a statement of the Shares held by each Shareholder, distinguishing each Share by its number (so long as the Share has a number) and, where the Company has more than one (1) class of issued Shares, by its class;
 - (b) the date on which each person was registered as a Shareholder;
 - (c) the date on which any person ceased to be a Shareholder;
 - (d) the date on which the number of Shares held by any Shareholder increased or decreased;
 - (e) in the case of Shares which are not fully paid, the amount remaining unpaid on each Share; and
 - (f) in the case of joint holders of Shares in a Company, unless otherwise provided in its Articles of Association:
 - (i) the names of each joint holder;
 - (ii) the nominee shareholder for the purposes of voting; and
 - (iii) a nominated single address to which all communications required to be sent to a Shareholder can be sent.

- (2) A Company which fails to comply with the requirements of Article 52(1) is liable to a fine, as set out in Schedule 2.

53. Register of debentures

- (1) If a Company has issued debentures, it shall establish and maintain a register of debenture holders containing the information set out in Article 53(2).
- (2) The register of debenture holders shall contain the name and address of, and the amount of the debentures held by, each debenture holder.
- (3) A Company's failure to comply with the requirements in Article 53(1) in relation to a debenture does not affect the validity of that debenture.
- (4) A Company which fails to comply with the requirements of this Article 53 is liable to a fine, as a set out in Schedule 2.

54. Transfer and registration of Shares and debentures

- (1) Notwithstanding anything in the Articles of Association, and without prejudice to Article 54(5), a Company shall only register a transfer of a Share in, or debenture of, the Company where an instrument of transfer in writing has been delivered to it by the transferee or the transfer is in accordance with any Regulations which enable title to Securities to be evidenced and transferred without a written instrument. The Company shall register any such transfer promptly.
- (2) Nothing in Article 54(1) shall prejudice any power of the Company to register as a Shareholder or debenture holder any person to whom the right to any Share in, or debenture of, the Company has been transmitted by operation of law, including pursuant to any order made by a court of competent jurisdiction.
- (3) A transfer of a Share or debenture of a deceased Shareholder or debenture holder made by his personal representative, although the personal representative is not himself a Shareholder or debenture holder, is as valid as if the personal representative had been a Shareholder or debenture holder at the time of the execution of the instrument of transfer.
- (4) On the application of the transferor of a Share in or debenture of a Company, the Company shall promptly enter in its register of Shareholders or register of debenture holders (as the case may be) the name of the transferee in the same manner and subject to the same conditions as if the application for the entry was made by the transferee under Article 54(1).
- (5) If a Company has reasonable grounds to refuse to register a transfer of Shares in, or debentures of, the Company, it shall, as soon as reasonably practicable and in any case within fourteen (14) days after the date on which the transfer was lodged with it, give to the transferor and transferee notice of its reasons for the refusal. Failure by the Company to do so shall be a contravention by the Company of Article 54(1) or 54(4), as applicable.
- (6) A Company which fails to comply with the requirements in this Article 54, without having reasonable grounds pursuant to Article 54(5), is liable to a fine, as set out in Schedule 2.

55. Place where the registers are kept

- (1) A Company's register of Shareholders and, if it has issued debentures, its register of debenture holders, shall be kept at its registered office except as otherwise provided in Article 55(2).
- (2) A Company's register of Shareholders and, if it has issued debentures, its register of debenture holders, may be maintained by an agent of the Company at the premises of the agent, provided that the Company has immediate access to such registers. For this purpose, the Company may maintain a copy of the register and, where it does so, the Company shall update the copy of the register to

reflect any changes to the information contained in the register of Shareholders or register of debenture holders within ten (10) days of the relevant change.

- (3) A Company which fails to comply with the requirements of Article 55(1) or 55(2) is liable to a fine, as set out in Schedule 2.

56. Inspection of registers

- (1) The register of Shareholders and any register of debenture holders shall be open for inspection by any Shareholder or debenture holder of the Company (respectively) during business hours without charge, and, in the case of a Public Company, by any other person on payment of such reasonable sum as the Company may require, in one (1) of the places specified below:
 - (a) if the register is maintained at the registered office of the Company, at that office;
 - (b) if the register of Shareholders or register of debenture holders is kept at the offices of an agent, at the offices of such agent if that office is located in the DIFC; or.
 - (c) if the register of Shareholders or register of debenture holders is maintained at an office of an agent outside the DIFC, a copy of those registers at its registered office in the DIFC.
- (2) A person other than a Shareholder or debenture holder seeking to exercise the rights conferred under Article 56(1) in respect of a register maintained by a Public Company shall make a request in writing to the Company to that effect and shall include with such request, the following information:
 - (a) in the case of an individual, his name and address;
 - (b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation;
 - (c) the purpose for which the information is to be used; and
 - (d) whether the information will be disclosed to any other person, and if so:
 - (i) where that person is an individual, his name and address;
 - (ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf; and
 - (iii) the purpose for which the information is to be used by the person referred to in Article 56(2)(d)(i) or (ii).
- (3) If a Company refuses to allow inspection of its registers upon a request made by a person in accordance with the requirements in Articles 56(1) or 56(2) as applicable, the Registrar may, on application by the person seeking to exercise such right, issue a direction to the Company requiring it to provide immediate inspection of the registers by the applicant. Any application made by a person other than a Shareholder or debenture holder under this Article shall include the information set out in Article 56(2).
- (4) A Company which fails to comply with each of the requirements in this Article 56 is liable to a fine, as set out in Schedule 2.

57. Rectification of registers

- (1) If:

- (a) the name of a person, or the number of Shares held or the class of Shares held by that person is, without sufficient reason, not entered correctly or omitted from a Company's register of Shareholders; or
- (b) there is a failure or unnecessary delay in entering on the register of Shareholders the fact that a person has ceased to be a Shareholder;

the person aggrieved, or a Shareholder of the Company, may apply to the Registrar for rectification of the register of Shareholders.

(2) If:

- (a) the name of a person, or the number of debentures held or the type of debentures held by that person is, without sufficient reason, not entered correctly in, or omitted from, a Company's register of debentures; or
- (b) there is a failure or unnecessary delay in entering on the register of debentures the fact that a person has ceased to be a debenture holder;

the person aggrieved, or a debenture holder of the Company, may apply to the Registrar for rectification of the register of debenture holders.

(3) Upon receipt of a request under Article 57(1) or 57(2), the Registrar:

- (a) may order the Company to rectify the register of Shareholders or the register of debenture holders (as the case may be);
- (b) may refuse the application for reasonable cause, which includes (but is not limited to) a dispute relating to the application or the relevant holding; and
- (c) shall promptly inform the applicant of the Registrar's decision and, if the application is refused, the reasons for the refusal.

(4) Without prejudice to the Registrar's powers under Article 57(3) the Court may make one (1) or more of the following orders:

- (a) on application of the Registrar, an order enforcing any orders made by the Registrar under Article 57(3);
- (b) on application of a person aggrieved, a Shareholder of the Company or a debenture holder of the Company, an order directing the Company to, or not to, rectify the register of Shareholders or register of debenture holders (as the case may be), or to do any act or thing; or
- (c) on application of a person aggrieved, an order requiring the Company to pay damages or to do any act or thing.

(5) A Company which fails to rectify its register of Shareholders or register of debenture holders, to the extent ordered by the Registrar, is liable to a fine, as set out in Schedule 2.

58. Share certificates

(1) Subject to Article 58(2), every Company shall:

- (a) within fourteen (14) days after the Allotment of any of its Shares; and
- (b) within fourteen (14) days after the date on which a transfer of any of its Shares is lodged with the Company,

complete and have ready for delivery the certificates of all Shares allotted or transferred, unless title to Shares is evidenced in accordance with other requirements prescribed in Regulations.

- (2) Article 58(1) does not apply to a transfer of Shares which the Company is, for any reason, entitled to refuse to register and does not register.
- (3) If the title or transfer is evidenced without a written instrument, then the registration of the Allotment or transfer shall be completed within fourteen (14) days from the date on which the Allotment occurs or the transfer is notified to the Company.
- (4) A Company which fails to comply with each of the requirements in this Article 58 is liable to a fine, as set out in Schedule 2.

59. Right of Public Company to request information about interests in its Shares

- (1) A Public Company may give notice to any person whom it knows or has reasonable grounds to believe:
 - (a) to be interested in the Company's Shares; or
 - (b) to have been so interested at any time in the three (3) years preceding the date of such notice.
- (2) The notice may require the person to confirm any interest that person has, or has had, in the Shares and, to provide details relating to such interest as specified in the notice.
- (3) For the purposes of this Article, a person has an interest in Shares of a Company if that person:
 - (a) enters into a contract to acquire the relevant Shares; or
 - (b) not being the registered holder of the relevant Shares, is entitled to:
 - (i) exercise any right conferred by the holding of the Shares; or
 - (ii) control the exercise of any such right.
- (4) Where a person fails to comply with a notice served on that person by a Company pursuant to Article 59(1), the Company may apply to the Court for an order directing that the relevant Shares be subject to the restrictions that:
 - (a) any transfer of the Shares be void;
 - (b) no voting rights be exercisable in respect of the Shares;
 - (c) no further Shares be issued in lieu of the Shares, or in pursuance of an offer made to their holder; and
 - (d) except in a liquidation, no payment be made of sums due from the Company on the Shares, whether in respect of capital or otherwise.
- (5) The Court may make any such order, as specified under Article 58(4), as it sees fit, having regard to the rights of third parties in respect of such Shares.
- (6) Any person whose rights are, or are likely to be, unfairly affected by an order of the Court made under Article 59(5) may apply to the Court on those grounds. If the Court is satisfied that its order may unfairly affect the rights of the applicant or any other third party, it may, for the purpose of protecting the rights of the applicant or any third party, and subject to such terms as it thinks fit, direct that:

- (a) to the extent set out in the order, the acts of a person or persons (or category of persons) do not constitute a contravention of the restrictions imposed under Article 59(4); or
 - (b) the relevant Shares or any part of those Shares shall cease to be subject to the restrictions.
- (7) Where there is a restriction imposed in respect of Shares pursuant to Article 59(4), except to the extent otherwise provided under Article 59(6):
- (a) any agreement to transfer the Shares or take any other actions reliant on a vote cast in respect of the Shares; or
 - (b) any issue of Shares in lieu of right of the Shares, or in pursuance of an offer made to their holder; or
 - (c) any payment made of sums due from the Company on the Shares, whether in respect of capital or otherwise, except in a liquidation,
- shall be void.
- (8) An application may be made to the Court, by the Company or any person aggrieved, for an order directing that the Shares shall cease to be subject to restrictions. The Court may not make such an order unless:
- (a) it is satisfied that the relevant facts about the Shares have been disclosed to the Company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure; or
 - (b) the Shares are to be transferred for valuable consideration and the Court approves the transfer.

CHAPTER 6 – REDEMPTION AND PURCHASE OF SHARES

60. Power to issue redeemable Shares

- (1) Subject to the provisions of this Article and Article 61, a Company may, if authorised to do so by its Articles of Association:
- (a) issue and allot; or
 - (b) convert existing non-redeemable Shares, whether allotted or not, into,
- Shares which are to be redeemed, or are liable to be redeemed, either in accordance with their terms or at the option of the Company or the Shareholder.
- (2) A Company shall not convert existing non-redeemable Shares into redeemable Shares if, as a result, there are no issued Shares that are not redeemable.
- (3) Shares may be redeemed only if they are fully paid and from the following sources:
- (a) in the case of the nominal value of the Shares, from the Paid Up share capital, Share premium and other reserves of the Company; and
 - (b) in the case of any premium, from realised or unrealised profits, Share premium or other reserves of the Company.
- (4) A Company shall not redeem any of its Shares unless all of the Directors sign a certificate that they have formed the opinion:

- (a) that, immediately following the date on which the payment for the redemption is proposed to be made, the Company will be able to discharge its liabilities as they fall due;
- (b) that, having regard to:
 - (i) the prospects of the Company and to the intentions of the Directors with regard to the management of the Company's business; and
 - (ii) the amount and character of the financial resources that will, be available to the Company,
 the Company will be able to:
 - (iii) continue to carry on its business; and
 - (iv) discharge its liabilities as they fall due,
 until the expiry of the period of twelve (12) months immediately following the date on which the payment for the redemption is proposed to be made.
- (5) A Director who signs a certificate under Article 60(4) without having reasonable grounds for the opinions expressed in the certificate is liable to a fine, as set out in Schedule 2.
- (6) Upon the redemption of Shares pursuant to this Article, the Shares shall be treated as cancelled and the amount of the Company's share capital shall be reduced accordingly by the nominal value of the Shares redeemed, unless they are held by the Company as treasury shares.
- (7) Where a Company is about to redeem Shares pursuant to this Article, it may issue Shares up to the value of the Shares to be redeemed, as if those Shares had never been issued.
- (8) A Company shall not redeem its Shares pursuant to this Article if as a result of the redemption:
 - (a) there would no longer be a Shareholder of the Company holding Shares other than redeemable Shares; or
 - (b) the Company would be in contravention of any applicable minimum capital requirement under Article 43 or any other applicable DIFC Laws.
- (9) A Company which redeems any of its Shares shall notify the Registrar of the redemption and confirm to the Registrar the share capital of the Company following completion of the redemption.

61. Power of Company to purchase its own Shares

- (1) Subject to any restrictions in its Articles of Association, a Company may purchase its own Shares to the extent permitted by this Article.
- (2) A purchase under this Article shall be:
 - (a) sanctioned by a Special Resolution, unless the Company is a wholly-owned subsidiary, if it is an off-market purchase; or
 - (b) sanctioned by an Ordinary Resolution if it is a market purchase.
- (3) The holders of the Shares to be purchased shall not have any right to vote on the Special Resolution or Ordinary Resolution referred to in Article 61(2) as is relevant.
- (4) A Company may not, under this Article, purchase its Shares if:

- (a) as a result of the purchase, there would no longer be a Shareholder of the Company holding Shares other than redeemable Shares or Shares held as treasury shares;
 - (b) such Shares are not fully paid; or
 - (c) the Company would be in contravention of any applicable minimum capital requirement under Article 43.
- (5) Articles 60(4) and 60(5) apply to the purchase by a Company under this Article of its own Shares as it applies to the redemption by the Company of its redeemable Shares.
- (6) Where a Company purchases its own Shares, the Shares shall be paid for, if it is:
 - (a) an off-market purchase, upon purchase; or
 - (b) a market purchase, in accordance with the rules of the relevant Regulated Market.
- (7) A copy of the contract setting out the terms for the purchase by the Company of its Shares shall:
 - (a) be sent to each Shareholder at or before the time at which the proposed Resolution is sent to him;
 - (b) in the case of a Resolution to be passed at a meeting, be made available for inspection by Shareholders at the Company's registered office for a period no less than fifteen (15) days prior to the date of the meeting, and at the meeting itself; and,

if the Company is a Public Company, such a contract shall be kept available for inspection, upon request by any Shareholder, at the Company's registered office for a period of 10 years from the date of purchase.
- (8) For the purposes of this Article, a purchase is:
 - (a) a 'market purchase', if it is made by a Public Company on a Regulated Market; and
 - (b) an 'off-market purchase' if it is not made on a Regulated Market.
- (9) A Company which purchases its own Shares shall notify the Registrar of the purchase and confirm to the Registrar the share capital of the Company following completion of the purchase within a period of fourteen (14) days.
- (10) A Company which fails to comply with any of the requirements in Articles 61(2), 61(3), 61(4) and 61(6) is liable to a fine not exceeding the amount set out in Schedule 2.
- (11) Where a Company fails to comply with the requirements in either Article 61(7) or Article 61(9), the Company and any Employee of the Company in default are liable to a fine, not exceeding the amount set out in Schedule 2.
- (12) For the avoidance of doubt, if a director contravenes Article 60(5), as applied by Article 61(5), the director is liable to a fine as set out in Schedule 2.

62. Treasury shares

- (1) A Company may hold any Shares that have been purchased by it under Article 61 as treasury shares provided that:
 - (a) there is no restriction in its Articles of Association which prohibits it to do so;
 - (b) it is sanctioned by an Ordinary Resolution; and

- (c) it complies with the requirements of this Article 62.
- (2) A Company that holds Shares as treasury shares may:
- (a) cancel the Shares – in which case, the amount of the Company’s share capital shall be reduced accordingly by the nominal value of the Shares cancelled;
 - (b) sell the Shares;
 - (c) transfer the Shares for the purposes of, or pursuant to, an Employee Share Scheme;
 - (d) transfer the Shares to existing Shareholders as fully paid bonus Shares; or
 - (e) continue to hold the Shares.
- (3) While Shares are held by a Company as treasury shares:
- (a) the Company shall not, for the purposes of Article 26(1)(a), Article 95 and Article 98, be treated as being a Shareholder or as holding Shares in the Company;
 - (b) no voting rights (direct or through proxy) shall attach to the Shares held as treasury shares;
 - (c) if a provision of this Law requires:
 - (i) a proportion of votes attaching to Shares held in the Company to be obtained; or
 - (ii) a proportion of the holders of Shares of the Company, (which may include persons representing by proxy other holders of Shares of the Company), to consent or not to consent,

in order for a Resolution to be passed or an action or decision to be taken or not to be taken by any person, the Shares held as treasury shares shall not, for the purposes of that provision, be taken into account in determining:

 - (A) the total number of Shares held in the Company; or
 - (B) whether such a proportion has been attained;
 - (d) the Company shall not make or receive any dividend, or any other Distribution (whether in cash or otherwise) of the Company’s assets (including any Distribution of assets to Shareholders on a winding up), in respect of the Shares held as treasury shares;
 - (e) the rights in respect of the treasury shares shall not be exercised by or against the Company;
 - (f) the obligations in respect of the treasury shares shall not be enforceable by or against the Company; and
 - (g) any purported exercise or enforcement of a right, obligation or requirement referred to in Article 62(3)(b) to (f) is void.
- (4) Nothing in Article 62(3) shall prevent:
- (a) an Allotment of Shares as fully paid bonus Shares in respect of treasury shares; or
 - (b) the payment of any amount payable on the redemption of redeemable Shares that are held as treasury shares.

- (5) If under Article 62(2)(a), a Company is about to cancel Shares, it may issue Shares up to the Paid Up amount of the Shares to be cancelled as if those Shares had never been issued.
- (6) Any Shares allotted as fully paid bonus Shares in respect of Shares held as treasury shares by a Company shall be treated as if they were purchased by the Company at the time they were allotted.
- (7) If Shares are held by a Company as treasury shares:
 - (a) the register of Shareholders kept under Article 52 shall include an entry relating to the number of Shares held as treasury shares;
 - (b) the Register shall, to the extent it contains details of the Shareholders of the Company, include an entry relating to the number of Shares held as treasury shares; and
 - (c) the annual return filed under Article 26 shall include an entry relating to the number of Shares held as treasury shares on 1st January in the year of the return.

63. Prohibition on financial assistance to acquire Shares

- (1) A Company shall not:
 - (a) if it is a Public Company, provide financial assistance for a person to acquire Shares, or any units of Shares, in itself, or its holding company; and
 - (b) if it is a Private Company, provide financial assistance for a person to acquire Shares, or units of Shares, in a holding company which is a Public Company, unless the giving of the financial assistance falls within Articles 63(2) to Article 63(6).
- (2) The giving of the financial assistance:
 - (a) does not materially prejudice the interests of the Company or its Shareholders or the Company's ability to discharge its liabilities as they fall due; and
 - (b) is approved by a Resolution of Shareholders holding not less than ninety per cent (90%) in nominal value of the Shares giving a right to attend and vote at any Shareholders' meeting.
- (3) The Company's ordinary business includes providing finance and the financial assistance is given in the ordinary course of that business and on ordinary commercial terms.
- (4) The financial assistance is given in connection with, or for the purposes of, an Employee Share Scheme of the Company.
- (5) The financial assistance is only an incidental part of some larger purpose of the Company and the financial assistance is given in good faith in the interest of the Company.
- (6) The financial assistance is of a kind prescribed in the Regulations as exempted from the prohibition in this Article.
- (7) In this Article a reference to 'financial assistance' is a reference to financial assistance of any kind and includes:
 - (a) making a loan;
 - (b) making a gift;
 - (c) issuing a debenture;
 - (d) giving security over the Company's assets; and

(e) giving a guarantee or an indemnity in respect of another person's Liability,

but excludes:

(f) any Distribution of the Company's assets by way of dividend lawfully made or a Distribution in the course of a Company's winding up;

(g) an Allotment of fully paid bonus Shares;

(h) a redemption or purchase by a Company of its own Shares pursuant to Chapter 6 of Part 7 of this Law; and

(i) a reduction of share capital pursuant to Chapter 7 of Part 7 of this Law;

(8) When a Company fails to comply with any of the requirements in this Article 63, the Company and any Officer in default are liable to a fine, as set out in Schedule 2.

CHAPTER 7 – REDUCTION OF CAPITAL

64. Reduction of share capital

- (1) A Private Company may reduce its share capital by a Special Resolution supported by a solvency statement under Article 65.
- (2) A Public Company or a Private Company may reduce its share capital by a Special Resolution confirmed by the Court, following the procedures in Articles 66 and 67.
- (3) A Company shall not reduce its share capital under Article 64(1) or (2) if:
 - (a) its Articles of Association contain any prohibition or restriction relating to capital reduction;
 - (b) as a result of the reduction, there would no longer be any Shareholder of the Company other than holders of redeemable Shares; or
 - (c) in the case of a Public Company, its share capital falls below the minimum share capital required under Article 43 or any other applicable DIFC laws, except in the circumstances set out in Article 69.
- (4) Subject to Article 64(1), (2) and (3), a Company may reduce its share capital in any way on such terms as it may decide, and in particular:
 - (a) by extinguishing or reducing the Liability on any of its shares in respect of share capital not Paid Up, or
 - (b) either with or without extinguishing or reducing Liability on any of its Shares, by
 - (i) cancelling any paid-up share capital that is lost or unrepresented by available assets, or
 - (ii) by repaying any paid-up share capital in excess of the Company's requirements; and
 - (c) by causing any of its Shares which have been issued otherwise than as fully paid to be forfeited for failure to pay any sum due and payable on them or by accepting their surrender instead of causing them to be so forfeited.
- (5) For the purposes of this Chapter 7
 - (a) a reference to share capital of a Company includes any capital reserve of that Company; and
 - (b) a redemption or purchase by a Company of its Shares in accordance with Chapter 6 is not a reduction of the share capital of the Company.
- (6) Subject to Articles 65(3) and (4), a Company which reduces its share capital otherwise than in accordance with this Chapter 7 is liable to a fine, as set out in Schedule 2.

65. Reduction of share capital by a Private Company supported by a solvency statement

- (1) A resolution for reducing share capital of a Private Company is supported by a solvency statement for the purposes of Article 64(1) if:

- (a) at a date not more than thirty (30) days and not less than fifteen (15) days before the date from which the reduction of the share capital is to have effect, the Company has caused a notice to be published in the Appointed Publications stating:
 - (i) the amount of the share capital as most recently determined by the Company;
 - (ii) the nominal value of each Share;
 - (iii) the amount by which the share capital is to be reduced; and
 - (iv) the date from which the reduction is to have effect; and
 - (b) it contains a solvency statement in accordance with Article 65(2).
- (2) A solvency statement is a statement by each Director of the Company that he:
 - (a) has formed the opinion, as regards the Company's situation at the date of the statement, that there is no ground on which the Company could be found to be unable to discharge its debts as they fall due; and
 - (b) has also formed the opinion that:
 - (i) if the Company intended to commence its winding up within twelve (12) months of the date of the statement, the Company will be able discharge its debts in full within twelve (12) months of the commencement of the winding up; or
 - (ii) in any other case, the Company will be able to discharge its debts as they fall due during the year immediately following the date of the statement.
- (3) No Director of the Company shall make a solvency statement specified in Article 65(1)(b) unless he has reasonable grounds for the opinion expressed in that statement. In forming his opinion, each Director must take into account all of the Company's liabilities (including any contingent or prospective liabilities).
- (4) A Director who makes a declaration without having reasonable grounds for the opinion expressed in the declaration is liable to a fine, as set out in Schedule 2.
- (5) Where a Company reduces the amount of its share capital, it shall file within thirty (30) days after the date from which the reduction has effect, a copy of the notice and solvency statement referred to in Article 65(1)(a).

66. Reduction of share capital by Special Resolution confirmed by a Court order

- (1) Where a Company is permitted to do so under its Articles of Association and has passed a Special Resolution for reducing its share capital, it may apply to the Court for an order confirming the reduction.
- (2) If the proposed reduction of share capital involves the payment to a Shareholder of any Paid Up share capital or a diminution of Liability in respect of any unpaid share capital, the requirements in Articles 66(3), 66(4) and 66(5) shall apply, unless the Court directs otherwise pursuant to Article 66(6).
- (3) Where this Article applies, any Creditor of the Company is entitled to object to the reduction of capital if that Creditor, at the date fixed by the Court is entitled to a debt or claim, that would be admissible in proof against the Company, if that date were the commencement of the winding up of the Company.
- (4) The Court shall settle a list of Creditors entitled to object as provided in Article 66(3). For that purpose, the Court:

- (a) shall ascertain, as far as possible, without requiring an application from any Creditor, the names of those Creditors and the nature and amount of their debts or claims; and
 - (b) may publish notices fixing a day or days within which Creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction of capital.
- (5) If a Creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the Court may dispense with the consent of that Creditor, on the Company securing payment of the Creditor's debt or claim by appropriating, as the Court may direct, the following amount:
 - (a) if the Company admits the full amount of the debt or claim or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim; or
 - (b) if the Company does not admit, and is not willing to provide for, the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court.
- (6) The Court may, having regard to any special circumstances of the case it thinks proper, direct that Articles 66(3), 66(4) and 66(5) shall not apply as regards any class or any classes of Creditors.
- (7) An Officer of the Company who:
 - (a) intentionally or recklessly:
 - (i) conceals the name of a creditor entitled to object to the reduction of capital, or
 - (ii) misrepresents the nature or amount of the debt or claim of a creditor, or
 - (b) is knowingly concerned in any such concealment or misrepresentation,
 is liable to a fine, as set out in Schedule 2.

67. Court order confirming reduction of share capital

- (1) The Court, if satisfied with respect to every Creditor of the company who under Article 66(3) is entitled to object to the reduction of share capital that either:
 - (a) the Creditor's consent to the reduction has been obtained; or
 - (b) the Creditor's debt or claim has been discharged or has determined, or has been secured,
 may make an order confirming the reduction of share capital on such terms and conditions as it thinks fit.
- (2) Where the Court so orders, it may also make an order:
 - (a) requiring the Company to publish the reasons for the reduction of share capital or such other information in regard to it as the Court thinks appropriate and expedient with a view to giving proper information to the public and the causes which led to the reduction; and/or
 - (b) if there is any reserve arising out of the reduction of share capital, whether or not it is distributable.

68. Registration of order and statement of capital

- (1) Where the Court confirms the reduction of a Company's share capital, the Company shall deliver to the Registrar:

- (a) the order of the Court confirming the reduction; and
- (b) a statement of capital, approved by the Court, showing in respect of the Company's share capital:
 - (i) the total number of issued Shares;
 - (ii) the aggregate nominal value of those Shares; and
 - (iii) the amount Paid Up and unpaid (if any) on each Share (whether on account of the nominal value or by way of premium).
- (2) The Registrar shall register the order and statement of capital, and thereupon the Special Resolution for reducing the share capital as confirmed by the order shall take effect.
- (3) The Registrar shall certify the registration of the order and statement of capital, and that certificate:
 - (a) shall be signed by the Registrar; and
 - (b) is conclusive evidence that all the requirements of this Law with respect to the reduction of share capital have been complied with, and the Company's share capital is as stated in the statement.
- (4) The statement of capital when registered is deemed to be substituted for the corresponding part of the Articles of Association.

69. Public Company reducing its share capital below its authorised minimum

- (1) No order of the Court which would have the effect of reducing the share capital of a Public Company below the authorised minimum capital under Article 43(3) shall be registered by the Registrar unless either the Company is first re-registered as a Private Company pursuant to Article 39 or the Court has made an order pursuant to Article 69(2).
- (2) The Court may, by order, authorise the Company to be re-registered as a Private Company without it having passed the Special Resolution required under Article 39 and, if it does, it shall specify in the order the changes to the Articles of Association and name in connection with such re-registration.
- (3) The Registrar shall, on receipt of an order referred to in Article 69(2), issue a certificate of incorporation altered to meet the circumstances of the case. On the issuance of such a certificate, the Company shall become a Private Company and the changes to the Articles of Association and its name shall take effect.

70. Liability to Creditors in respect of reduction of share capital by a Court order

- (1) If:
 - (a) a Creditor entitled to object to the reduction of share capital is not entered on the list of Creditors by reason of the Creditor's ignorance of the proceedings for reduction of share capital, or of the nature and effect of the proceedings with respect to the Creditor's claim; and
 - (b) after the reduction of capital, the Company is unable to pay the amount of the Creditor's debt or claim,

every person who was a Shareholder of the Company at the date on which the Special Resolution for reducing the share capital as confirmed by the Court order took effect under Article 67(1) is liable to contribute for the payment of the debt or claim in question an amount not exceeding that which the person would have been liable to contribute if the Company had commenced to be wound up on the day before that date.

- (2) If the Company is wound up under this Law, the Court, on the application of the Creditor in question and proof of ignorance referred to in Article 70(1)(a), may settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.
- (3) Nothing in this Article affects the rights of the contributories among themselves.

71. Treatment of reserves arising from reduction of capital

Any reserve arising from the reduction of a Company's share capital is not distributable, except as provided in the Articles of Association or authorised by a Special Resolution, unless otherwise provided by a Court order under Article 67(2)(b).

CHAPTER 8 –DISTRIBUTIONS

72. Restrictions on Distributions

- (1) A Company may only make a Distribution out of profits available for Distribution, which shall be its accumulated, realised profits, so far as not previously utilised by Distribution or capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital duly made.
- (2) A Public Company may only make a Distribution:
 - (a) if the amount of its net assets is not less than the aggregate of its share capital and Undistributable Reserves; and
 - (b) if, and to the extent that, the Distribution does not reduce the amount of those net assets to less than that aggregate.
- (3) Whether a Distribution may be made by a Company without contravening this Article is determined by reference to the following items as stated in the relevant accounts:
 - (a) profits, losses, assets and liabilities;
 - (b) provisions of any kind; and
 - (c) share capital and reserves (including Undistributable Reserves).
- (4) The relevant accounts are the Company's last annual accounts, except that:
 - (a) where the Distribution would be found to contravene this Article by reference to the Company's last annual accounts, it may be justified by reference to interim accounts; and
 - (b) where the Distribution is proposed to be declared during the Company's first accounting reference period, or before any accounts have been prepared in respect of that period, it may be justified by reference to initial accounts.
- (5) Where the relevant accounts are:
 - (a) the Company's last annual accounts, such accounts shall be the accounts that were circulated to Shareholders pursuant to Article 131(4);
 - (b) interim accounts, such accounts shall be properly prepared so as to enable a reasonable judgment to be made as to the amounts of the items mentioned in Article 72(3);
 - (c) initial accounts, such accounts shall be properly prepared so as to enable a reasonable judgment to be made as to the amounts of the items mentioned in Article 72(3) and, if the

Company is a Public Company, accompanied by a report from the Company's auditor stating whether, in its opinion, the accounts have been properly prepared.

- (6) If any applicable requirement in Article 72(5) is not complied with, the accounts may not be relied on for the purposes of this Article and the Distribution is accordingly treated as a contravention of this Article.
- (7) In this Article, "Distribution" means every description of Distribution of a Company's assets to its Shareholders, whether in cash or otherwise, except a Distribution by way of:
 - (a) an issue of bonus Shares;
 - (b) the redemption or purchase of any of the Company's own Shares out of share capital (including the proceeds of any fresh issue of Shares) or out of unrealised profits in accordance with this Law;
 - (c) the reduction of share capital either by:
 - (i) extinguishing or reducing the Liability of any of the Shareholders in respect of share capital not Paid Up; or by repaying any Paid Up share capital; and
 - (ii) a Distribution of assets to Shareholders of the Company on its winding up.
- (8) In this Article "Undistributable Reserves" means, in respect of a Company:
 - (a) its share premium account;
 - (b) any capital redemption reserve;
 - (c) the amount by which its accumulated unrealised profits (so far as not previously utilised by capitalisation) exceeds its accumulated, unrealised losses (so far as not previously written off in a reduction or reorganisation of capital duly made); and
 - (d) any other reserve that the Company is prohibited from distributing by its Articles of Association or under any applicable Legislation.
- (9) A Company which makes a Distribution in contravention of this Article is liable to a fine, as set out in Schedule 2.

73. Consequences of unlawful Distribution

Where a Distribution, or part of a Distribution, made by a Company to any of its Shareholders is made in contravention of Article 72 and, at the time of the Distribution, the Shareholder knows or has reasonable grounds for believing that it is so made, the Shareholder is liable to repay it, or that part of it, to the Company or, in the case of a Distribution made otherwise than in cash, to pay to the Company an amount equal to the value of the Distribution, or that part, at that time.

CHAPTER 9 – DIRECTORS AND SECRETARIES

74. Directors

- (1) A Private Company shall have at least one (1) Director and a Public Company shall have at least two (2) Directors.
- (2) No person shall be a Director who:
 - (a) is under the age of 18 years;
 - (b) is not a natural person;

- (c) is disqualified from being a Director by virtue of:
 - (i) having been convicted of a criminal offence, involving dishonesty or moral turpitude, in any jurisdiction in the past 10 years;
 - (ii) having been found guilty of insider trading or the equivalent in any jurisdiction at any time;
 - (iii) having been judged disqualified by any court;
 - (iv) having been disqualified by the DFSA; or
 - (v) a disqualification specified in the Articles of Association; or
- (d) is an undischarged bankrupt.

75. Election, term and removal of Directors

- (1) The first Directors of a Company shall be elected by the Incorporators and thereafter the Directors shall be elected by Shareholders by Ordinary Resolution, or as otherwise provided in the Articles of Association, for such term as the Shareholders may determine.
- (2) Each Director holds office until his successor takes office or until his earlier death, resignation or removal by Ordinary Resolution or as otherwise provided in the Articles of Association.
- (3) A vacancy created by the death, resignation or removal of a Director may be filled by an Ordinary Resolution, or in the absence of such Ordinary Resolution, by the remaining Directors, provided that:
 - (a) any Director appointed by the remaining Directors shall be subject to reappointment by an Ordinary Resolution at the next General Meeting; and
 - (b) if no such Ordinary Resolution is passed at that next General Meeting, shall cease to be a Director at the conclusion of that General Meeting.
- (4) The number of Directors shall be fixed by the Articles of Association subject to the requirements in Article 74(1).
- (5) If, at a General Meeting, it is proposed that two (2) or more persons be appointed as Directors, such appointments must be made by separate resolutions in respect of each person, except where unanimously agreed otherwise by the Shareholders at the meeting.

76. Duties of Directors

- (1) The duties of Directors set out in Articles 77 to Article 83 and Article 85 are owed by a Director of a Company to the Company.
- (2) A person who ceases to be a Director continues to be subject to:
 - (a) the duty in Article 81, as regards the exploitation of any property, information or opportunity of which he became aware at a time when he was a Director; and
 - (b) the duty in Article 82, as regards things done or omitted to be done by him before he ceased to be a Director.
- (3) Except as otherwise provided, more than one (1) of the duties of Directors may apply in any given case.
- (4) The Constitutional Documents of a Company shall not include any provision the effect of which would be to weaken the duties of Directors in this Chapter 9.

77. Duty to act within powers

A Director of a Company shall:

- (a) act in accordance with the Constitutional Documents; and
- (b) only exercise his powers for the purposes for which those powers have been conferred.

78. Duty to promote the success of the Company

- (1) A Director of a Company shall act in the way he considers, in good faith, would be most likely to promote the success of the Company for the benefit of its Shareholders as a whole, and in doing so, have regard, amongst other matters, to:
 - (a) the likely consequences of any decision in the long term;
 - (b) the interests of the Company's employees;
 - (c) the need to foster the Company's business relationships with suppliers, customers and others;
 - (d) the impact of the Company's operations on the community and the environment;
 - (e) the desirability of the Company maintaining a reputation for high standards of business conduct; and
 - (f) the need to act fairly as between Shareholders of the Company.
- (2) To the extent that the purposes of the Company consist of or include purposes other than the benefit of its Shareholders, the reference to the benefit of Shareholders in Article 78(1) has effect as if it included those other purposes.
- (3) The duty imposed under this Article has effect subject to any law applicable to the Company requiring Directors, in certain circumstances, to consider or act in the interests of a Company's Creditors or customers.

79. Duty to exercise independent judgement

- (1) A Director of a Company shall exercise independent judgment.
- (2) A Director of a Company does not infringe the duty under Article 79(1) if he is acting:
 - (a) in accordance with an agreement duly entered into by the Company that restricts the future exercise of discretion by its Directors; or
 - (b) in a way authorised by the Constitutional Documents.

80. Duty to exercise reasonable care, skill and diligence

A Director of a Company shall exercise the care, skill and diligence that would be exercised by a reasonably diligent person with:

- (a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the Director in relation to the Company; and
- (b) the general knowledge, skill and experience that the Director has.

81. Duty to avoid conflicts of interest

- (1) A Director of a Company shall avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or may possibly conflict, with the interests of the Company.
- (2) The duty under Article 81(1) applies in particular to the exploitation of any property, information or opportunity.
- (3) The duty under Article 81(1) does not apply to a conflict of interest arising in relation to a transaction or arrangement where the requirements in Article 83 or Article 85 as applicable, is met.
- (4) A Director of a Company does not contravene the duty under Article 81(1) if:
 - (a) the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (b) the Directors of the Company have authorised the situation in accordance with the Articles of Association and any applicable provisions of the Law.
- (5) A Company's Articles of Association may, subject to Article 81(4), include alternative procedures for avoiding conflicts of interests. A Director does not contravene the provisions of this Article by acting in accordance with such procedures.
- (6) Any reference in this Article to a conflict of interest includes a conflict of an interest and a duty and a conflict of duties.

82. Duty not to accept benefits from third parties

- (1) A Director of a Company shall not accept a benefit from a third party where the benefit is conferred on him:
 - (a) due to his position as a Director of the Company; or
 - (b) for him doing (or not doing) anything as a Director,

unless the acceptance of such benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
- (2) Any reference in this Article to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

83. Duty to declare interest in a proposed transaction or arrangement

- (1) This Article applies when a Director of a Company becomes aware, or ought reasonably to have become aware, that he is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the Company.
- (2) In the circumstances described in Article 83(1):
 - (a) The Director in question shall declare the nature and extent of his interest to the other Directors of the Company in accordance with the requirements of Article 85 and the provisions of this Law to which it refers.
 - (b) Such declaration must be made before entering into the relevant transaction or arrangement.

84. Contraventions

A breach by a Director of a Company of any one (1) or more of the duties in Articles 77 to 83 shall constitute a contravention by that Director of the relevant duty.

85. Duty of Directors to declare interest in existing transaction or arrangement

- (1) A Director of a Company who has, directly or indirectly, an interest in a transaction or arrangement entered into by the Company or by a subsidiary of the Company which, to a material extent, conflicts or may conflict with the interests of the Company and of which he is aware, shall, unless he has previously declared such interest pursuant to Article 83, declare to the other Directors of the Company the nature and extent of his interest in accordance with the requirements in Article 85(2) and (3).
- (2) The declaration under Articles 83 and 85(1) shall be made as soon as practicable after the Director became aware of the circumstances which gave rise to his duty to make such declaration.
- (3) For the purposes of Article 85(2), the declaration shall be made:
 - (a) at a meeting of the Directors; or
 - (b) by a general notice in writing given to the other Directors.
- (4) A declaration:
 - (a) made at a meeting of the Directors under Article 85(3)(a) shall be tabled at, and recorded in the minutes of, that meeting; and
 - (b) made by way of a general notice given to the other Directors under Article 85(3)(b) shall be tabled at, and recorded in the minutes of, the first meeting of the Directors after the declaration is made, or where it is not reasonably practicable to do so, at the next earliest meeting of the Directors.
- (5) A notice given to the Company by a Director that he is to be regarded as interested in a transaction or arrangement with a specified person is sufficient declaration of his interest in any such transaction or arrangement entered into after the notice is given.
- (6) If a declaration of interest for the purposes of Article 83 or this Article 85 proves to be, or becomes, inaccurate or incomplete, a further declaration shall be made, in the same manner as the initial declaration.
- (7) Subject to Articles 85(8) and 85(9), where a Director fails to declare an interest of his under this Article, the Company or a Shareholder of the Company or the Registrar may apply to the Court for an order and the Court may make such order as it thinks fit, including, without limiting the generality of the foregoing:
 - (a) an order setting aside the transaction or arrangement concerned; and/or
 - (b) a direction to the Director to account to the Company for any benefit, gain, or profit obtained by reason of the transaction or arrangement in question.
- (8) A transaction or arrangement is not voidable, and a Director is not accountable, under Article 85(7) where, notwithstanding a failure to comply with that Article:
 - (a) the transaction or arrangement is ratified by the Company in General Meeting; and
 - (b) the nature and extent of the Director's interest in the transaction or arrangement were declared in reasonable detail in the notice calling the General Meeting at which the ratification occurs in accordance with Article 86.
- (9) Without prejudice to its power to order that a Director account for any profit, gain or benefit realised, the Court shall not set aside a transaction or arrangement unless it is satisfied that:
 - (a) the interests of third parties who have acted in good faith would be unfairly prejudiced if the transaction or arrangement were not set aside; or

- (b) the transaction or arrangement was not reasonable and fair in the interests of the Company at the time it was made.

86. Ratification of interest in existing transaction or arrangement

- (1) This Article applies to the ratification of a transaction or arrangement, referred to in Article 85 of this Law, by a Company.
- (2) Where its Constitutional Documents do not prohibit it to do so, a Private Company may, by an Ordinary Resolution of the Shareholders of the Company, ratify a transaction or arrangement which would, if not for that ratification, be in contravention of Article 85.
- (3) Where its Constitutional Documents do not prohibit the Company to do so, a Public Company may, by an Ordinary Resolution of the Shareholders of the Company, ratify a transaction or arrangement which would, if not for that ratification, be in contravention of Article 85. For the purposes of that Resolution, any votes which have been cast by the Director or Directors who have the conflict of interest in the transaction or arrangement, and any other Connected Person to such a Director, shall be disregarded.
- (4) For the purposes of Article 86(3), a Connected Person to a Director is:
 - (a) in the case of an individual, the spouse, the child or stepchild, or a grand-child, of that Director;
 - (b) in the case of a body corporate, the Director, alone or together with an individual referred to in Article 85(4)(b):
 - (i) has at least 20% of the share capital of the body corporate; or
 - (ii) is entitled to exercise or control the exercise of more than 20% of the voting power at any general meeting of that body;
 - (c) in the case of a partnership in which the Director or an individual referred to in Article 86(4)(a) is also a partner, all the other partners; or
 - (d) any other person prescribed as a Connected Person in the Regulations.

87. Prohibition of financial assistance to Directors

- (1) Subject to Article 87(4), a Company shall not provide the following financial assistance to a Director:
 - (a) a loan, debenture, credit facility or other similar form of financial assistance;
 - (b) a guarantee or security or indemnity in connection with a loan, debenture, credit facility or other similar form of financial assistance, whether such financial assistance is provided by the Company or another person; or
 - (c) any other form of financial assistance as may be prescribed in the Regulations,
 unless:
 - (d) consent is given by Shareholders attending (in person or by proxy) a General Meeting who together hold not less than ninety per cent (90%) of the Shares which are voted at that meeting; and
 - (e) all of the Directors of the Company certify that the giving of the financial assistance does not materially prejudice either of the following:
 - (i) the interests of the Company and its Shareholders; or

- (ii) the Company's ability to discharge its liabilities as they fall due.
- (2) Any such financial assistance provided pursuant to Article 87(1) shall be:
 - (a) documented in writing; and
 - (b) prior to its provision, recorded in the minutes of the meeting of the Directors of the Company, under signature of all Directors, as being provided in compliance with the requirements of Article 87(1).
- (3) Financial assistance to a Connected Person shall be provided only in compliance with this Article.
- (4) Article 87(1) does not apply to financial assistance where:
 - (a) it consists of remuneration in the ordinary course paid to a Director for his services as a Director;
 - (b) it is Liability indemnity insurance related to the discharge of his duties to the Company;
 - (c) the Company's ordinary business includes providing finance and the financial assistance is given in the ordinary course of that business and on ordinary commercial terms; or
 - (d) it is of a kind prescribed in the Regulations as exempted from this Article.
- (5) Article 81 and Article 82 do not apply to any financial assistance provided in accordance with this Article 87.

88. Validity of acts of Director

The acts of a Director are valid notwithstanding any defect that may afterwards be found in his appointment or qualification.

89. Secretary

- (1) A Public Company shall have at least one (1) Secretary.
- (2) It is the duty of the Directors of a Public Company to take all reasonable steps to secure that the Secretary (or each joint Secretary) of the Company is a person who appears to them to have the requisite knowledge and experience to discharge the functions of Secretary of the Company and who:
 - (a) has held the office of secretary of a public body corporate for at least three (3) of the five (5) years immediately preceding his appointment as Secretary; or
 - (b) is a person who, by virtue of holding or having held any other position or by being a Shareholder of any other body, appears to the Directors to be capable of discharging the functions of Secretary of the Company.
- (3) A Private Company may have a Secretary.
- (4) In the case of a Private Company without a Secretary:
 - (a) anything authorised or required to be given or sent to, or served on, the Company by being sent to its Secretary may be given or sent to, or served on, the Company itself and anything addressed to the Secretary shall be deemed to be addressed to the Company; and
 - (b) anything else required or authorised to be done by the Secretary may be done by a Director or a person authorised generally or specifically in that behalf by the Directors.

90. Register of Directors and Secretary

- (1) Every Company shall maintain, at its registered office, a register of its Directors and, if applicable, a register of its Secretaries. The Board of Directors of the DIFCA may make Regulations prescribing particulars which each register shall contain.
- (2) Any register required to be kept pursuant to Article 90(1) shall, during business hours (subject to such reasonable restrictions as the Company may by its Articles of Association or in General Meeting impose, but so that not less than two (2) hours in each day be allowed for inspection), be open to the inspection of the Registrar and of a Shareholder or Director of the Company without charge.
- (3) In the case of a refusal of inspection of any register required to be kept pursuant to Article 90(1), the Registrar may issue a direction requiring the Company to provide immediate inspection by the Registrar, a Shareholder or Director.
- (4) A Company which fails to comply with each of the requirements in this Article is liable to a fine, as set out in Schedule 2.

91. Assumptions in relation to Directors and Secretary

- (1) Subject to Article 91(3), a person dealing with a Company is entitled to assume that anyone who appears, from the information that is available to the public on the Register, or the registers maintained by the Company, to be a Director or Secretary of the Company:
 - (a) has been duly appointed; and
 - (b) has authority to exercise the powers and perform the duties customarily exercised or performed by a director or company secretary of a similar company.
- (2) A Company is not entitled to assert in proceedings in relation to dealings of the Company that any such assumption is incorrect.
- (3) A person is not entitled to make an assumption under Article 91(1) if at the time of the dealing with the Company such person knew or could have reasonably suspected that the assumption was incorrect.

92. Disqualification orders

- (1) Without prejudice to any other powers available to the Registrar, where it appears to him that it is expedient in the public interest that a person should not, without the leave of the Court, be a Director of, or in any way whether directly or indirectly be concerned or take part in the management of, a Company, the Registrar may apply to the Court for an order to that effect against the person.
- (2) The Court may, on such an application, make the order applied for if it is satisfied that the person's conduct (including, without limitation, any breach by him of any one (1) or more of the duties set out in Articles 77 to 83 and Article 85) makes that person unfit to be involved in the management of a Company.
- (3) An order under Article 92(2) shall be made for such period as the Court considers appropriate but not exceeding 15 years.
- (4) A person who acts in contravention of an order made under this Article is liable to a fine, as set out in Schedule 2.

CHAPTER 10 – MEETINGS**93. Participation in meetings**

- (1) Subject to the Articles of Association, a Shareholder may participate in a meeting by phone or by other similar means of communication where each Shareholder present at the meeting can hear what is said by any other Shareholder present at the meeting and each Shareholder so participating at the meeting is deemed to be present at that meeting with the other Shareholders so participating.
- (2) Subject to the Articles of Association, a Director may participate in a meeting by phone or other similar means of communication where each Director present at the meeting can hear what is said by any other Director present at the meeting, and each Director so participating at the meeting is deemed to be present at that meeting with the other Directors so participating.

94. Annual General Meeting

- (1) A Private Company is not required to hold an Annual General Meeting unless expressly required to do so under its Articles of Association.
- (2) Every Public Company shall hold a General Meeting as its Annual General Meeting within six (6) months of the end of each financial year (in addition to any other meetings held during that period) and not more than eighteen (18) months shall elapse between the date of one (1) Annual General Meeting and the date of the next.
- (3) A Public Company which fails to comply with the requirements of Article 94(2) is liable to a fine, as set out in Schedule 2.
- (4) A notice calling an Annual General Meeting of a Public Company shall state that the meeting is an Annual General Meeting.

95. Request of meetings

- (1) On a Shareholders' request, the Directors or if appointed, the Secretary, of a Company shall, notwithstanding anything in the Articles of Association, forthwith proceed to call a General Meeting or, as the case may be, a meeting of holders of any class of Shares, to be held as soon as practicable but in any case not later than two (2) months after the date of the request.
- (2) For the purposes of this Article, a Shareholders' request is a request of Shareholders of the Company holding, at the date of the request, not less than five per cent (5%) of the share capital of the Shares which at that date carry the right to vote at the meeting requested.
- (3) The Shareholders' request shall state the purpose of the meeting, and shall be made by or on behalf of each Shareholder making the request and be deposited at the registered office of the Company. Such a request may consist of several Documents in similar form each signed by or on behalf of one (1) or more of such Shareholders.
- (4) If, within twenty one (21) days from the date of the deposit of the request, the Directors or Secretary of the Company do not proceed to call a meeting to be held within two (2) months of the date of the request, the Shareholders making the request, or any of them representing more than one half ($\frac{1}{2}$) of the total voting rights of all of them, may themselves call a meeting, but a meeting so called shall not be held after three (3) months from that date.
- (5) A meeting called under this Article shall be called in the same manner, as nearly as possible, as that in which meetings are to be called by Directors or Secretary.

96. Registrar's power to call meeting in default

- (1) If default is made in holding a meeting in accordance with Articles 94 or 95, the Registrar may, on the application of any Director or Shareholder of the Company, call, or direct the calling of, a General Meeting of the Company.
- (2) The Company shall, unless with reasonable excuse, comply with a direction of the Registrar made under Article 96(1). A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.

97. Notice of meetings

- (1) Any General Meeting (other than an Annual General Meeting of a Public Company or an adjourned such meeting) shall be called by at least fourteen (14) days' notice in writing. An Annual General Meeting of a Public Company shall be called by at least twenty one (21) days' notice in writing.
- (2) If a General Meeting is called by shorter notice than that specified in Article 97(1), it is deemed to have been duly called if it is so agreed by a majority in number of the Shareholders having a right to attend and vote at the General Meeting, being:
 - (a) in respect of a Private Company, a majority together holding not less than ninety per cent (90%) of the share capital represented by the Shares giving a right to attend and vote at the General Meeting;
 - (b) in respect of a General Meeting other than an Annual General Meeting of a Public Company, a majority together holding not less than ninety five per cent (95%) of the share capital represented by the Shares giving a right to attend and vote at the General Meeting; and
 - (c) in respect of an Annual General Meeting of a Public Company, all Shareholders of the Company.
- (3) A notice of a General Meeting of a Company shall:
 - (a) set out the time, place and date for the General Meeting;
 - (b) state the general nature of the General Meeting's business;
 - (c) set out the intention to propose any Ordinary Resolution or Special Resolution and state such Resolution; and
 - (d) include, in relation to a Public Company, a copy of any accounts and auditors report that are to be laid before the General Meeting.

98. General provisions as to meetings and votes

The following provisions apply to any General Meeting of a Company or of the holders of any class of Shares in a Company unless the Articles of Association provide otherwise:

- (a) A notice of every meeting shall be given to every Shareholder entitled to receive it:
 - (i) by delivering or posting it to such Shareholder's registered address;
 - (ii) in such electronic form as agreed by the intended recipient;
 - (iii) by making it available on such website as agreed by the intended recipient; or
 - (iv) in such other manner or form as may be agreed by the intended recipient.

- (b) Except in the case of a Company having a single Shareholder, at any General Meeting of the Company, two (2) Shareholders personally present or represented by proxy shall be a quorum, unless otherwise provided in the Articles of Association.
- (c) At any meeting dealing with a variation of any class rights other than an adjourned meeting, the quorum shall be persons holding or representing by proxy at least one-third ($\frac{1}{3}$) in nominal value of the issued and allotted Shares of that class, and at any such adjourned meeting, one (1) person holding Shares of the class or such person's proxy shall be a quorum.
- (d) Any Shareholder elected by the Shareholders present at any such meeting may be chairman.
- (e) On a show of hands, every Shareholder present in person at any such meeting has one (1) vote and, on a poll, every Shareholder has one (1) vote for every Share held by that Shareholder.

99. Representation of body corporate at meetings

- (1) A body corporate may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of a Company, or of the holders of any class of Shares of a Company, or of Creditors of a Company which it is entitled to attend.
- (2) A person so authorised is entitled to exercise the same powers on behalf of the body corporate which such person represents as that body corporate could exercise if it were an individual Shareholder or Creditor of the Company.

100. Resolutions in writing of a Private Company

- (1) Subject to any restrictions in its Articles of Association, anything that may be done by a Resolution of a Private Company (excluding a resolution to remove an auditor or Director) passed at a Shareholders' meeting may be done either by an Ordinary Resolution or by a Special Resolution in writing in accordance with this Article.
- (2) An Ordinary Resolution in writing is passed as an Ordinary Resolution if it is passed by Shareholders representing a simple majority of the total voting rights of Shareholders who, at the date when the Ordinary Resolution is deemed to be passed, would be entitled to vote.
- (3) A Special Resolution in writing is only passed as a Special Resolution if:
 - (a) it stated that it was proposed as a Special Resolution; and
 - (b) it is passed by Shareholders representing not less than seventy five per cent (75%) of the total voting rights of Shareholders who, at the date when the Resolution is deemed to be passed, would be entitled to vote.
- (4) An Ordinary Resolution or Special Resolution in writing may consist of several instruments in the same form each signed by or on behalf of one (1) or more Shareholders.
- (5) An Ordinary Resolution or Special Resolution under this Article shall be deemed to be passed when the instrument, or the last of several instruments, is last signed or on such later date as is specified in the Ordinary Resolution or Special Resolution.
- (6) Any Document attached to an Ordinary Resolution or Special Resolution in writing under this Article shall be deemed to have been laid before a meeting of the Shareholders signing the Ordinary Resolution or Special Resolution.
- (7) Article 104 applies to an Ordinary Resolution or Special Resolution in writing under this Article as if it had been passed at a meeting.

- (8) Nothing in this Article affects or limits any provisions in the Articles of Association relating to the effectiveness of the consent of Shareholders, or any class of Shareholders, of a Private Company given to any Document, act or matter otherwise than at a meeting of them.

101. Recording of decisions by sole Shareholder

- (1) If:
- (a) a Company has only one (1) Shareholder;
 - (b) the Shareholder takes a decision which may be taken by the Company in a General Meeting and has effect as if agreed by the Company in a General Meeting; and
 - (c) the decision is not taken by way of Ordinary Resolution in writing,
- the Shareholder shall provide the Company with a record in writing of the decision.
- (2) Failure to comply with Article 101(1) shall not affect the validity of the decision.

102. Proxies

- (1) A Shareholder of a Company entitled to attend and vote at a General Meeting or at a meeting of the holders of any class of Shares is entitled to appoint, by notice to the Company in writing, another person (whether a Shareholder or not) as such Shareholder's proxy to attend and vote instead of such Shareholder.
- (2) A proxy appointed to attend and vote for a Shareholder has the same rights as the Shareholder including without limitation to:
- (a) speak at the meeting;
 - (b) vote (but only to the extent allowed by the appointment or by the Articles of Association); and
 - (c) join in a demand for a poll.
- (3) Every notice calling a meeting of the Company shall contain a reasonably prominent statement that a Shareholder entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one (1) or more proxies to attend and vote instead of that Shareholder, and that a proxy need not also be a Shareholder.

103. Demand for poll

- (1) A provision contained in the Articles of Association is void in so far as it would have the effect either of:
- (a) excluding the right to demand a poll at a General Meeting, or at a meeting of the holders of any class of Shares on a question, other than the election of the chairman of the meeting or the adjournment of the meeting; or
 - (b) making ineffective a demand for a poll on any such question which is made either:
 - (i) by not less than five (5) Shareholders having the right to vote on the question; or
 - (ii) by a Shareholder or Shareholders representing not less than ten per cent (10%) of the total number of Shares having the right to a vote on the question.

- (2) The instrument appointing a proxy to vote at such a meeting is deemed also to confer authority to demand or join in demanding a poll, and for the purposes of Article 103(1), a demand by a person as proxy for a Shareholder is the same as a demand by the Shareholder.
- (3) On a poll taken at such a meeting, a Shareholder entitled to more than one (1) vote need not, if that Shareholder votes (in person or by proxy), use all such Shareholder's votes in the same way.

104. Minutes and examination of minute books

- (1) Every Company shall cause minutes of all proceedings at General Meetings, meetings of the holders of any class of Shares, meetings of its Directors and of committees of Directors to be entered in books kept for that purpose, and the names of the Directors present at each such meeting shall be recorded in the minutes.
- (2) Any such minutes, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, is evidence of the proceedings.
- (3) Where minutes have been made in accordance with this Article, unless the contrary is proved, the meeting is deemed duly held and convened, and all proceedings which took place at the meeting are deemed to have duly taken place.
- (4) The books containing the minutes of a General Meeting or of a meeting of the holders of a class of Shares shall be kept at the Company's registered office, and shall during business hours be open to examination by a Shareholder without charge.
- (5) A Shareholder may require, on submission to the Company of a written request and on payment of such reasonable sum as the Company may require, a copy of any such minutes (provided that a Shareholder shall not be entitled to require a copy of minutes of a meeting of the holders of a class of Shares if that Shareholder is not a holder of such class of Shares) and the Company shall, within seven (7) days after the receipt of the request and the payment, cause the copy so required to be provided to that Shareholder.
- (6) In the case of a refusal or default, the Registrar may make an order directing an immediate inspection of the books in respect of all proceedings of General Meetings, or meetings of the holders of a class of Shares or directing that the copies required be furnished to the persons requiring them.

CHAPTER 11– PROTECTION OF MINORITIES IN TAKEOVERS

105. Takeover offers

- (1) In this Chapter 11, "a takeover offer" means an offer to acquire all the Shares, or all the Shares of any class or classes, in a Company (other than Shares which at the date of the offer are already held by the offeror), being an offer on terms which are the same in relation to all the Shares to which the offer relates or, where those Shares include Shares of different classes, in relation to all the Shares of each relevant class.
- (2) In Article 105(1), "Shares" means Shares which:
 - (a) have been allotted on the date of the offer;
 - (b) that are subsequently allotted before a date specified in or determined in accordance with the terms of the offer; and
 - (c) any rights convertible into shares before a date specified or determined in accordance with the term of the offer.
- (3) The terms offered in relation to any Shares shall, for the purposes of this Article, be treated as being the same in relation to all the Shares or, as the case may be, all the Shares of a class to which the offer relates, notwithstanding any variation permitted by Article 105(4).

- (4) A variation is permitted where:
- (a) the law of a country or territory outside the DIFC precludes the acceptance of an offer in that jurisdiction in the form or the forms specified, or precludes it except after compliance by the offeror with conditions with which it is unable to comply or which it regards as unduly onerous; and
 - (b) the variation is such that the persons by whom the acceptance of an offer in that form is precluded are able to accept an offer in a different form but of substantially equivalent value.
- (5) The reference in Article 105(1) to Shares already held by the offeror includes a reference to Shares which the offeror has an unconditional right to acquire under an unconditional option to acquire. Where the terms of an offer make provision for their revision and for acceptances on the previous terms to be treated as acceptances on the revised terms, the revision shall not be regarded for the purposes of this Chapter 11 as the making of a fresh offer and references in this Chapter 11 to the date of the offer shall accordingly be construed as references to the date on which the original offer was made.
- (6) In this Chapter 11 “the offeror” means, subject to Article 111, the person making a takeover offer, and “the Company” means the Company, whose Shares are the subject of the offer.

106. Right of offeror to buy out minority Shareholders

- (1) If, in a case in which a takeover offer does not relate to Shares of different classes, the offeror has, by virtue of acceptances of the offer, acquired or contracted to acquire not less than nine-tenths ($\frac{9}{10}$) in value of the Shares to which the offer relates, the offeror may, within one hundred and twenty (120) days of the close of the takeover offer, give notice to the holder of any Shares to which the offer relates which the offeror has not acquired or contracted to acquire that the offeror desires to acquire those Shares.
- (2) If, in a case in which a takeover offer relates to Shares of different classes, the offeror has, by virtue of acceptances of the offer, acquired or contracted to acquire not less than nine-tenths ($\frac{9}{10}$) in value of the Shares of any class to which the offer relates, the offeror may, within one hundred and twenty (120) days of the close of the takeover offer, give notice to the holder of any Shares of that class which the offeror has not acquired or contracted to acquire that the offeror desires to acquire those Shares.
- (3) No notice shall be given under Article 106(1) or 106(2) unless the offeror has acquired or contracted to acquire the Shares necessary to satisfy the minimum specified therein before the end of the period of four (4) months beginning with the date of the offer, and no such notice shall be given after the end of the period of two (2) months beginning with the date on which the offeror has acquired or contracted to acquire Shares which satisfy that minimum.
- (4) When the offeror gives the first notice in relation to an offer, the offeror shall send a copy of it to the Company together with a declaration by the offeror stating that the conditions for the giving of the notice are satisfied. A person who makes such a declaration must have reasonable grounds for believing it to be true. An offeror which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (5) Where the offeror is a body corporate, the declaration shall be signed by a director of that body corporate. A director who makes such a declaration without having reasonable grounds for believing it to be true is liable to a fine, as set out in Schedule 2.
- (6) In a proceeding against a person for an alleged failure to send a copy of a notice as required by Article 106(4), it is a defence for such a person to prove that the person took reasonable steps for securing compliance with that Article.

- (7) Where, during the period within which a takeover offer can be accepted, the offeror acquires or contracts to acquire any of the Shares to which the offer relates but otherwise than by virtue of acceptances of the offer, then if:
- (a) the value of that for which they are acquired or contracted to be acquired (“the Acquisition Value”) does not, at that time, exceed the value of that which is receivable by an acceptor under the terms of the offer; or
 - (b) those terms are subsequently revised so that when the revision is announced, the Acquisition Value, at the time mentioned in Article 106(7)(a), no longer exceeds the value of that which is receivable by an acceptor under those terms,

the offeror shall be treated for the purposes of this Article as having acquired or contracted to acquire those Shares by virtue of acceptances of the offer; but in any other case those Shares shall be treated as excluded from those to which the offer relates.

107. Effect of notice under Article 106

- (1) The following provisions shall, subject to Article 110, have effect where a notice is given in respect of any Shares under Article 106.
- (2) The offeror shall be entitled and bound to acquire those Shares on the terms of the offer.
- (3) Where the terms of an offer are such as to give the holder of any Shares a choice of payment for such holder’s Shares, the notice shall give particulars of the choice and state:
 - (a) that the holder of the Shares may, within six (6) weeks from the date of the notice, indicate such holder’s choice by a written communication sent to the offeror at an address specified in the notice; and
 - (b) which payment specified in the offer is to be taken as applying in default of such holder indicating a choice as aforesaid,

and the terms of the offer mentioned in Article 107(2) shall be determined accordingly.

- (4) Article 107(3) applies whether or not any time-limit or other conditions applicable to the choice under the terms of the offer can still be met. If the payment chosen by the holder of the Shares:
 - (a) is not cash and the offeror is no longer able to make that payment; or
 - (b) was to have been made by a third party who is no longer bound or able to make that payment,

the payment shall be taken to consist of an amount of cash payable by the offeror which, at the date of the notice, is equivalent to the chosen payment.

- (5) At the end of six (6) the date of the notice, the offeror shall forthwith:
 - (a) send a copy of the notice to the Company; and
 - (b) make payment to the Company on behalf of the holders for the Shares to which the notice relates.
- (6) The copy of the notice sent to the Company under Article 107(5)(a) shall be accompanied by an instrument of transfer executed on behalf of the Shareholder by a person appointed by the offeror. On receipt of that instrument, the Company shall register the offeror as the holder of those Shares.
- (7) Where the payment referred to in Article 107(5)(b) is to be made in Securities to be issued by the offeror, the reference in that Article to the making of payment shall be construed as a reference to the

issuance of such Securities to the Company on behalf of the holders of the Shares to which the notice relates.

- (8) Any sum or other payment received by a Company under Article 107(5)(b) shall not be the property of the Company but shall be held by the Company on behalf of the person entitled to the Shares in respect of which the sum or other payment was received.
- (9) Any sum received, including any dividend or other sum accruing from any other payment, by a Company under Article 107(5)(b) shall be paid into a separate bank account, being an account the balance of which bears interest at an appropriate rate and can be withdrawn by such notice, if any, as is appropriate.

108. Right of minority Shareholder to be bought out by offeror

- (1) If, in a case in which a takeover offer does not relate to Shares of different classes, at any time before the end of the period within which the offer can be accepted:
 - (a) the offeror has, by virtue of acceptances of the offer, acquired or contracted to acquire some (but not all) of the Shares to which the offer relates; and
 - (b) those Shares, with or without any other Shares in the Company which the offeror has acquired or contracted to acquire, amount to not less than nine-tenths ($\frac{9}{10}$) in value of all the Shares in the Company,

the holder of any Shares to which the offer relates who has not accepted the offer may, by a written communication addressed to the offeror, require the offeror to acquire those Shares.

- (2) If, a takeover offer relates to Shares of any class other than that referred to in Article 108(1) and, at any time before the end of the period within which the offer can be accepted:
 - (a) the offeror has, by virtue of acceptances of the offer, acquired or contracted to acquire some (but not all) of the Shares of any class to which the offer relates; and
 - (b) those Shares, with or without any other Shares of that class which the offeror has acquired or contracted to acquire, amount to not less than nine-tenths ($\frac{9}{10}$) in value of all the Shares of that class,

the holder of any Shares of that class who has not accepted the offer may, by a written communication addressed to the offeror, require the offeror to acquire those Shares.

- (3) Within one (1) month of the time specified in Article 108(1) or 108(2), the offeror shall give any Shareholder or holder of Shares of that class who has not accepted the offer a notice of the rights setting out:
 - (a) the rights that are exercisable by that Shareholder or holder of Shares of that class under that Article, as is relevant; and
 - (b) the period within which the rights are exercisable,

and, if the notice is given before the end of the period within which the offer can be accepted, it shall state that the offer is still open for acceptance.

- (4) A notice under Article 108(3) may specify a period for the exercise of the rights conferred by this Article, and in that event, the rights shall not be exercisable after the end of that period. No such period shall end less than three (3) months after the end of the period within which the offer can be accepted.
- (5) Article 108(3) does not apply if the offeror has given the Shareholder notice in respect of the Shares in question under Article 106.

- (6) An offeror which fails to comply with the requirements in Article 108(3) or 108(4) is liable to a fine, as set out in Schedule 2.
- (7) In a proceeding against an offeror other than a Company for an alleged failure to comply with the requirements of this Article, it is a defence for such an offeror to prove that the offeror took all reasonable steps for securing compliance with this Article.

109. Effect of requirement under Article 108

- (1) The following provisions shall, subject to Article 110, have effect where a Shareholder exercises his rights in respect of any Shares under this Article.
- (2) The offeror shall be entitled and bound to acquire those Shares on the terms of the offer or on such other terms as may be agreed.
- (3) Where the terms of an offer are such as to give the holder of any Shares a choice of payment for his Shares, the holder of the Shares may indicate his choice when requiring the offeror to acquire them, in accordance with the terms specified in Article 107(3).
- (4) Article 109(3) applies whether or not any time limit or other conditions applicable to the choice under the terms of the offer can still be met. If the payment chosen by the holder of the Shares:
 - (a) is not cash and the offeror is no longer able to make that payment; or
 - (b) was to have been made by a third party who is no longer bound or able to make that payment,

the payment shall be taken to consist of an amount of cash payable by the offeror which, at the date when the holder of the Shares required the offeror to acquire them, is equivalent to the chosen payment.

110. Applications to the Court

- (1) Where a notice is given under Article 106 to the holder of any Shares, the Court may, on an application made by the holder within six (6) weeks from the date on which the notice was given:
 - (a) order that the offeror shall not be entitled and bound to acquire the Shares; or
 - (b) specify the terms of acquisition different from those of the offer.
- (2) If an application to the Court under Article 110(1) is pending at the end of the period mentioned in Article 107(5), then, unless otherwise ordered by the Court, that Article shall not have effect until the application has been disposed of.
- (3) Where the holder of any Shares exercises his rights under Article 108, the Court may, on an application made by such holder or the offeror, order that the terms on which the offeror is entitled and bound to acquire the Shares shall be such as the Court thinks fit.
- (4) On an application made under Article 109(1) or (3), the Court may not require consideration which is:
 - (a) a higher value than that specified in the notice containing the terms of the offer ('offer value') to be paid for the Shares to which the application relates, unless the holder of the Shares shows that the offer value would be unfair; or
 - (b) a lower value than the offer value in the notice to paid for the Shares.
- (5) No order for costs or expenses shall be made against a Shareholder making an application under Article (5) or (3) unless the Court considers:

- (a) that the application was unnecessary, improper or vexatious; or
 - (b) there has been unreasonable conduct on such Shareholder's part in conducting the proceedings on the application.
- (6) Where a takeover offer has not been accepted to the extent necessary for entitling the offeror to give notices under Article 106(1) or 106(2) the Court may, on the application of the offeror, make an order authorising the offeror to give notices under that Article if satisfied:
- (a) that the offeror has, after reasonable enquiry, been unable to trace one (1) or more of the persons holding Shares to which the offer relates;
 - (b) that the Shares which the offeror has acquired or contracted to acquire by virtue of acceptances of the offer, together with the Shares held by the person or persons mentioned in Article 110(6)(a), amount to not less than the minimum specified in Articles 110(1)106(1) or 106(2); and
 - (c) that the terms offered are fair and reasonable,
- but the Court shall not make an order under this Article unless it considers that it is just and equitable to do so having regard, in particular, to the number of Shareholders who have been traced but who have not accepted the offer.

111. Joint offers

- (1) A takeover offer may be made by two (2) or more persons jointly, and in that event, this Chapter 11 has effect with the following modifications.
- (2) The conditions for the exercise of the rights conferred by Articles 106 and 108 shall be satisfied by the joint offerors acquiring or contracting to acquire the necessary Shares jointly (as respects acquisitions by virtue of acceptances of the offer) and either jointly or separately (in other cases); and, subject to the following provisions, the rights and obligations of the offeror under those Articles and Articles 107 and 109 shall be respectively joint rights and joint and several obligations of the joint offerors.
- (3) It shall be sufficient compliance with any provision of those Articles requiring or authorising a notice or other Document to be given or sent by or to the joint offerors that it is given or sent by or to any of them, except that the declaration required by Article 106(4) shall be made by all of them and, in the case of a joint offeror being a body corporate, signed by a director of that body corporate.
- (4) In Article 105, Article 107(7) and Article 112, references to the offeror shall be construed as references to the joint offerors or any of them.
- (5) In Article 107(6), references to the offeror shall be construed as references to the joint offerors or such of them as they may determine.
- (6) In Article 107(4)(a), references to the offeror being no longer able to make the relevant payment shall be construed as references to none of the joint offerors being able to do so.
- (7) In Article 110, references to the offeror shall be construed as references to the joint offerors, except that any application under Article 110(3) or 110(6) may be made by any of them. The reference in Article 110(6)(a) to the offeror having been unable to trace one (1) or more of the persons holding Shares shall be construed as a reference to none of the joint offerors having been able to do so.

112. Associates

- (1) The requirements in Article 105(1) that a takeover offer shall extend to all the Shares, or all the Shares of any class or classes, in a Company shall be regarded as satisfied notwithstanding that the offer does not extend to Shares which associates of the offeror hold or have contracted to acquire. Subject to Article 105(2), Shares which any such associate holds or has contracted to acquire, whether at the

time when the offer is made or subsequently, shall be disregarded for the purposes of any reference in this Chapter 11 to the Shares to which a takeover offer relates.

- (2) Where, during the period within which a takeover offer can be accepted, any associate of the offeror acquires or contracts to acquire any of the Shares to which the offer relates, then, if the condition specified in Article 106(7)(a) or 106(7)(b) is satisfied in respect of those Shares, such Shares shall be treated for the purpose of that Article as Shares to which the offer relates.
- (3) In Article 108(1)(b) and Article 108(2)(b), the reference to Shares which the offeror has acquired or contracted to acquire shall include a reference to Shares which any associate of the offeror has acquired or contracted to acquire.
- (4) In this Article, “associate”, in relation to an offeror, means one (1) or more of the following:
 - (a) a nominee of the offeror;
 - (b) a holding company, subsidiary or fellow subsidiary of the offeror or a nominee of such a holding company, subsidiary or fellow subsidiary; or
 - (c) a body corporate in which the offeror is substantially interested.
- (5) For the purposes of Article 112(4)(b), a Company is a fellow subsidiary of another body corporate if both are subsidiaries of the same body corporate but neither is a subsidiary of the other.
- (6) For the purposes of Article 112(4)(c), an offeror has a substantial interest in a body corporate if:
 - (a) that body corporate or its directors are accustomed to act in accordance with the offeror’s directions or instructions; or
 - (b) the offeror is entitled to exercise or control the exercise of one-third ($\frac{1}{3}$) or more of the voting power at general meetings of that body corporate; or
 - (c) the offeror owns or controls directly or indirectly more than twenty per cent (20%) of the share capital of that body corporate.
- (7) Where the offeror is an individual, the offeror’s associates shall also include the offeror’s spouse and any child, step-child, or grandchild of the offeror.

PART 8: MERGERS

CHAPTER 1 – GENERAL

113. Application and interpretation

- (1) This Part applies only to the extent that a merging company is a Public Company.
- (2) In this Part, a reference to:
 - (a) a “Merging Body” is a body proposing to merge with any one (1) or more of the following:
 - (i) a Company or Recognised Company; or
 - (ii) a body corporate (other than a Recognised Company) incorporated in a jurisdiction outside the DIFC;
 (and “Merging Company” is to be read accordingly)
 - (b) a “Merged Body” is the body resulting from a merger under this Part which may be:
 - (i) a new Company, or a new body corporate incorporated in a jurisdiction outside the DIFC (“New Body”); or
 - (ii) an existing Company, or an existing body corporate incorporated in a jurisdiction outside the DIFC (“Survivor Body”)
 (and “Merged Company”, “New Company” and “Survivor Company” are to be read accordingly)
- (3) This Part does not apply to any Foreign Company where such Foreign Company is prescribed by the Regulations as an excluded body.
- (4) Nothing in Chapter 11 (Protection of Minorities in Takeovers) of Part 7 is to be construed as preventing the acquisition or takeover of one (1) Merging Body by another by way of a merger under this Part.
- (5) This Part does not apply to a Company if such company is being wound up pursuant to the provisions of the Insolvency Law.
- (6) In this Part, a “group merger” is a merger in which the merging bodies are:
 - (a) a holding company and one (1) or more wholly-owned subsidiaries of that holding company; or
 - (b) a wholly-owned subsidiary of a body corporate; and
 - (i) that body corporate; and/or
 - (ii) one (1) or more other wholly-owned subsidiaries of that body corporate.
- (7) For the purposes of this Part, the Regulations may prescribe:
 - (a) pre-registration steps – where all Merging Bodies are Companies;
 - (b) pre-registration steps – where a Merged Body is not a Company;
 - (c) pre-registrations – applicable in all other cases; and

- (d) any other procedures or matter that is required to assist or facilitate a merger to which this Part applies.

CHAPTER 2 – REQUIREMENTS APPLICABLE TO A MERGER

114. Merger agreement

- (1) For the purposes of a merger, each Merging Body shall enter into an agreement with each other Merging Body. Such an agreement (merger agreement) shall state the terms of the merger including:
 - (a) the details of the proposed Merged Body, including:
 - (i) whether it is to be a Survivor Body or a New Body;
 - (ii) whether it is to be a Company, Recognised Company or another body corporate incorporated in a jurisdiction outside the DIFC; and
 - (iii) the names and addresses of the persons who are proposed to:
 - (A) be its directors; or
 - (B) manage it, if it is to be a body corporate that does not have directors;
 - (b) the details of any arrangements necessary to complete the merger and to provide for the management of the Merged Body;
 - (c) the details of any payment, other than those specified in Article 114(2), proposed to be made to a shareholder, member or director of a Merging Company; and
 - (d) in the case of transfer of any Securities of a Merging Company, the information specified in Article 114(2).
- (2) The information referred to in Article 114(1)(d) is:
 - (a) if the Securities are to be converted into Securities of the Merged Body, the manner in which that conversion is to be made; or
 - (b) otherwise, what the holders are to receive instead, and the manner in which and the time at which they are to receive it.
- (3) If the Merged Body is to be a new company, the merger agreement shall also set out:
 - (a) the proposed articles of association of the new company; and
 - (b) a draft of any other Document or information that would be required to be delivered to the Registrar if that new company were to be incorporated under this Law otherwise than by merger.
- (4) If the Merged Body is to be a survivor company, the merger agreement shall also state if:
 - (a) any amendments to the articles of association of the survivor company are proposed, the details of those amendments; and
 - (b) any person is to become, or cease to be, a director of the survivor company upon merger, the name and address of each such person.
- (5) If shares of a Merging Body are held by or on behalf of another Merging Body and the Merged Body is to be a New Company:

- (a) the merger agreement shall provide for the cancellation of such shares, without any repayment of capital, when the merger is completed; and
 - (b) no provision may be made in the merger agreement for the conversion of such shares into Securities of the new company.
- (6) A merger agreement may provide that, at any time before the completion of the merger, the agreement may be terminated by any one (1) or more of the Merging Companies, notwithstanding that it has been approved by the shareholders or members of all or any of those Merging Companies.
 - (7) If an agreement is terminated pursuant to the terms of such agreement referred to in Article 114(6), nothing in this Part requires or authorizes any further steps to be taken to complete the merger.
 - (8) The requirement for a merger agreement in this Article 114 shall not apply in respect of a group merger.

115. Resolutions and certificates

- (1) Before notice is given of a meeting of a Merging Company to approve a merger agreement under Article 116, the Directors of that Company shall pass a Director's resolution that, in the opinion of the Directors voting for the resolution, the merger is in the best interests of the Company. Such a resolution shall contain either a solvency statement referred to in Article 115(2) or a statement referred to in Article 115(4).
- (2) If the Directors voting for the resolution under Article 115(1) are satisfied on reasonable grounds that they can properly make a solvency statement in respect of the Company, the resolution shall, include a statement that they are so satisfied.
- (3) For the purposes of this Article, a solvency statement is a statement that, having made full inquiry into the affairs of the Company, the person making the statement reasonably believes that the Company is, and will remain until the merger is completed, able to discharge its liabilities as they fall due.
- (4) If Article 115(2) does not apply, the resolution shall, instead, contain a statement that the Directors voting for it are satisfied on reasonable grounds that there is a reasonable prospect of obtaining the permission of the Court under Article 119.
- (5) After the resolution under Article 116(1) is passed, but before notice is given as mentioned in that Article, each Director who voted in favour of it shall sign a certificate setting out the grounds for the solvency statement under Article 115(2) or the statement under Article 115(4), as is relevant.
- (6) Before notice is given under Article 116(1), each person falling within Article 115(7) shall sign a certificate stating:
 - (a) that, in his opinion, the Merged Body will be able to continue to carry on business and discharge its liabilities as they fall due for a period of twelve (12) months after the signing of the certificate or the date on which the merger is completed, whichever is the later; and
 - (b) the grounds for that opinion, having particular regard to:
 - (i) the prospects of the Merged Body;
 - (ii) the proposals in any merger agreement with respect to the management of the Merged Body's business, or any proposals in the Special Resolutions proposed to be passed under Article 116(1) with respect to that matter; and
 - (iii) the amount and character of the financial resources that will, in the view of the person signing, be available to the Merged Body.
- (7) The persons referred to in Article 115(6) are:

- (a) the persons proposed in any merger agreement, or in a Special Resolution in the case of a group merger:
 - (i) to be directors of the Merged Body; or
 - (ii) to manage the Merged Body, if it is to be a body corporate that does not have directors; and
- (b) if none of the directors of the Merging Companies is a person referred to in Article 115(7)(a), each person who signs a certificate under Article 115(5).

116. Approval of merger

- (1) Each Merging Body which is a Company shall submit the merger for approval by a Special Resolution of that Company and, where there is more than one class of Shareholders, for approval by a Special Resolution of a separate meeting of each class.
- (2) Notice of each meeting:
 - (a) shall be accompanied by:
 - (i) a copy or summary of any merger agreement;
 - (ii) copies of the proposed Article of Association or other constitutional Documents for the Merged Body, or a summary of the principal provisions of those Documents;
 - (iii) if a summary is supplied under Article 116(2)(a)(i) information as to how a copy of the Document summarised may be inspected by the Shareholders of the Company;
 - (iv) a copy of the certificates signed under Article 115(5) and 115(6) in respect of that Company;
 - (v) a statement of the material interests in the merger of the Directors of each Merging Body, and of the persons managing any Merging Body that does not have directors; and
 - (vi) such further information as a Shareholder would reasonably require to make an informed decision with regard to the merger; and
 - (b) shall contain sufficient information to alert Shareholders to their right to apply to the Court under Article 117.
- (3) A Special Resolution to approve a group merger shall:
 - (a) provide that the capital accounts of each Merging Body are to be added to the capital accounts of the Merged Body;
 - (b) specify any changes to the articles of association of the Merged Body that are to take effect on the merger;
 - (c) state the names and addresses of the persons who are proposed to be the directors of the Merged Body after the merger; and
 - (d) provide that the shares of each Merging Body are to be cancelled without any repayment of capital.
- (4) A merger is approved under this Article when all the Special Resolutions referred to in Article 116(1) have been passed in respect of all the Merging Bodies that are Companies.

- (5) A merger may not be completed unless it is approved under this Article.

117. Objection by Shareholders

- (1) A Shareholder of a Merging Company may apply to the Court for an order under Article 175 on the ground that the merger would unfairly prejudice the interests of the Shareholder.
- (2) An application may not be made:
 - (a) more than twenty eight (28) days after the merger is approved under Article 116(4), or
 - (b) by a Shareholder who voted in favour of the merger under either of those Articles.

CHAPTER 3 – CREDITORS

118. Notice to Creditors

- (1) No later than twenty eight (28) days after a merger is approved under Article 116(4), each Merging Body that is a Company shall send written notice to each of its Creditors who, after its Directors have made reasonable enquiries, is known to the Directors to have a claim against the company exceeding \$5,000.
- (2) The notice shall state:
 - (a) that the Company intends to merge, in accordance with this Part, with one (1) or more bodies corporate specified in the notice; and
 - (b) that the merger agreement and the Company's Special Resolution is available to Creditors from the Company, free of charge, on request.
- (3) If Article 119 applies to the merger, the notice shall, in addition:
 - (a) state that a Merging Company has applied or will apply for the permission of the Court under that Article;
 - (b) state that any Creditor of any of the Merging Bodies may request the Company making the application to send a copy of the application to the Creditor; and
 - (c) set out information as to:
 - (i) a means by which a Creditor may contact the Company making the application, or a person representing it in that application; and
 - (ii) the effect of Article 119(4), including the date of the application if known at the time of the notice.
- (4) If Article 119 does not apply to the merger, the notice shall state (in addition to the matters in Article (4) that any Creditor of the Company may:
 - (a) object to the merger, within twenty eight (28) days of the date of the publication of the notice, under Article 120(2)(a); or
 - (b) require the Company to notify the Creditor if any other Creditor of the Company applies to the Court under Article 120(2)(b).
- (5) The Company shall, within the time set out in Article 118(6), publish the contents of the notice in an Appointed Newspaper or in any other manner approved by the Registrar.
- (6) The notice under Article 118(5) shall be published:

- (a) no later than twenty eight (28) days after the merger is approved under Article 116; or
- (b) as soon as practicable after the Company sends the last of the notices under Article 118(1),
whichever occurs earlier.

119. Company to apply to Court if solvency statement not made

- (1) This Article applies to a merger if a certificate signed by a Director of any of the Merging Companies under Article 115(5) does not contain the statement referred to in Article 115(3)
- (2) The merger may not be completed unless the Court has permitted the merger on the ground that the merger would not be unfairly prejudicial to the interests of any Creditor of any of the Merging Bodies.
- (3) A Merging Company to which a certificate mentioned in Article 119(1) relates, or all such Companies jointly if there are more than one, shall as soon as is practicable after the proposed merger is approved under Article 116:
 - (a) apply to the Court for permission for the merger; and
 - (b) send a copy of that application:
 - (i) to any Creditor known to the Directors, following reasonable enquiries to have a claim against any of the Merging Bodies exceeding the amount specified in Article 118(1);
 - (ii) to any other Creditor of any of the Merging Bodies who request a copy from that Company; and
 - (iii) the Registrar.
- (4) The Court shall not hear the application for at least twenty eight (28) days after it is made to the Court.

120. Objection by Creditor if a solvency statements is made

- (1) This Article applies to a merger where a certificate signed by a Director of any of the Merging Companies under Article 115(3) contains a solvency statement.
- (2) A Creditor of a Merging Company who objects to the merger:
 - (a) may, within twenty eight (28) days of the date of the publication of the notice under Article 118(5), give notice of the Creditor's objection to the Company; and
 - (b) may, within twenty eight (28) days of the date of the notice of objection, if the Creditor's claim against the merging company has not been discharged, apply to the Court for an order restraining the merger or modifying the merger agreement.
- (3) If a Creditor makes an application under Article 120(2)(b), the Company shall, within a reasonable time after receiving a copy of the application, send a copy of it to each other Creditor:
 - (a) to whom a notice was sent under Article 118(1);
 - (b) who has required notification under Article 118(3)(b);
 - (c) who has given notice of objection under Article 120(2)(a); or
 - (d) to whom the Court orders that a copy should be sent.

- (4) If on an application under Article 120(2)(b) the Court is satisfied that the merger would unfairly prejudice the interests of the applicant, or of any other Creditor of the Merging Company, the Court may make such order as it thinks fit in relation to the merger, including, but not limited to, an order:
 - (a) restraining the merger; or
 - (b) modifying the merger agreement (if any) or Special Resolution in such manner as may be specified in the order.
- (5) Article 120(6) applies if a Court is considering making an order under Article 120(4)(b) to modify a merger agreement or Special Resolution that does not contain a provision in accordance with Article 114(6) allowing each of the Merging Companies to terminate the merger following the modification.
- (6) The Court shall not make the order unless:
 - (a) the order also inserts such a provision in the merger agreement or Special Resolution; and
 - (b) the Court is satisfied that each Merging Company will have an adequate opportunity to reconsider whether to proceed with the merger following the modification.

121. Consent of Registrar required for mergers involving bodies other than Companies

- (1) If any one (1) or more of the Merging Bodies that are parties to the merger is not a Company:
 - (a) the Merging Bodies shall apply jointly, in the published form and manner (if any), to the Registrar for consent to the merger; and
 - (b) the merger may not be completed unless the Registrar gives consent and any conditions attached to the consent are complied with.
- (2) The application for consent shall not be made until after the date of the last publication of a notice under Article 118(5).
- (3) The application shall be accompanied by:
 - (a) a copy of any merger agreement and the Special Resolutions passed under Article 116;
 - (b) in the case where any Merging Body is a Company, a copy in respect of each Company, of:
 - (i) the resolution passed under Article 115(1), together with, if that information is not contained in the resolution, a list identifying the Directors who voted in favour of that resolution; and
 - (ii) the certificates signed under Article 115(5) and 115(6);
 - (c) a copy, in respect of each merging company, of the notice to Creditors under Article 118(5), with the date of its publication under Article 118(5); and
 - (d) information, as at the time of the application under this Article, as to:
 - (i) any application made by a Shareholder to the Court under Article 117; or
 - (ii) if no such application has been made to the Court, the date on which the time for doing so has elapsed or will elapse.
- (4) If Article 119 applies to the merger:

- (a) the application under this Article shall, in addition, be accompanied by information, as at the time of that application, as to the application made, or to be made, to the Court under Article 119; and
 - (b) the applicants shall:
 - (i) keep the Registrar informed of the progress of the application under that Article; and
 - (ii) provide, when available, a copy of the Court order permitting the merger.
- (5) If Article 115(1) applies to the merger, the application shall, in addition, be accompanied by:
 - (a) information, as at the time of the application under this Article, as to:
 - (i) any notice of objection given by a Creditor under Article 120(2)(a); or
 - (ii) if no such notice has been given, the date on which the time for doing so has elapsed or will elapse; and
 - (b) evidence satisfactory to the Registrar that the merger would not be unfairly prejudicial to the interests of any Creditor of any Merging Body that is a Company.
- (6) If the Merged Body is to be a Company, the application shall in addition be accompanied by:
 - (a) the consent of the proposed Directors to act as such; and
 - (b) a copy of its proposed Articles of Association, unless it is to be a Survivor Company, and there are no amendments proposed to its Articles of Association; and
- (7) If one or more of the merging companies is a Foreign Company, the application shall, in addition, be accompanied by evidence satisfactory to the Registrar, in respect of each Foreign Company, that:
 - (a) the laws of the jurisdiction in which the Foreign Company is incorporated do not prohibit either or both of:
 - (i) the proposed merger; or
 - (ii) if the Merged Body is to be a new body corporate incorporated in that jurisdiction, the incorporation of that body corporate as the result of that merger;
 - (b) if those laws or the constitution of the Foreign Company require that an authorisation be given for the application under Article 121 or for the merger, the authorisation has been given; and
 - (c) if the Foreign Company is not to be a survivor company, the Foreign Company will, in due course, after the completion of the merger, cease to be a body corporate incorporated under the law of the jurisdiction in which it is presently incorporated.
- (8) If the Merged Body is to be a Foreign Company, the application shall, in addition, be accompanied by evidence satisfactory to the Registrar that the laws of the jurisdiction in which the Merged Body is to be incorporated provide that upon the merger:
 - (a) the property and rights to which the transferor bodies were entitled immediately before the merger will become the property and rights of the Merged Body;
 - (b) the Merged Body will become subject to any criminal and civil liabilities, and any contracts, debts and other obligations, to which the transferor bodies were subject immediately before merger; and

- (c) any actions and other legal proceedings that, immediately before the merger, were pending by or against any of the transferor bodies may be continued by or against the Merged Body.
- (9) Articles 121(10) and 121(11) apply unless, at the time of the application under this Article:
 - (a) there has been no objection by a Shareholder or by a Creditor to the merger; and
 - (b) the time for making any objection has elapsed.
- (10) The applicants shall:
 - (a) notify the Registrar of any objection of which they become aware after the application;
 - (b) notify the Registrar of the result once any objection, whenever made, has been disposed of; and
 - (c) provide to the Registrar any further information or Document reasonably required by the Registrar in connection with any objection.
- (11) Until the applicants have complied with Article 121(11), the Registrar:
 - (a) shall not make any decision on the application other than to refuse consent on grounds unconnected to an objection; and
 - (b) may, in respect of the application, take any other action short of making a decision, or take no further action.
- (12) In Articles 121(9), 121(10) and 121(11), ‘objection’ means:
 - (a) the making by a Shareholder of an application to the Court under Article 117 in respect of any merging company; and
 - (b) the giving of notice of objection under Article 120(2)(a) by a Creditor of any merging company.

CHAPTER 4– COMPLETION OF MERGER AND CONTRAVENTIONS

122. Effect of completion of merger

- (1) On the completion date of a merger:
 - (a) the Merging Bodies are merged and continue as one merged body as provided in any merger agreement or the Special Resolution; and
 - (b) any Merging Company which is not a Survivor Company ceases to be incorporated as a separate Company.
- (2) When a merger is completed in which the Merged Body is a New Company:
 - (a) the new Company becomes entitled to all property and rights to which each Merging Body was entitled immediately before the merger was completed;
 - (b) the New Company becomes subject to—all criminal and civil liabilities, and all contracts, debts and other obligations, to which each of the Merging Body was subject immediately before the merger was completed; and
 - (c) any legal or other proceedings which, immediately before the merger, were commenced by or against any of the Merging Body may be continued by or against the New Company.

- (3) Entries made on the Register, as prescribed in the Regulations made pursuant to Article 113(7), are conclusive evidence of the following matters to which they refer:
 - (a) that, on the completion date specified in the entry, the Merging Bodies merged and are continued as the Merged Body; and
 - (b) that the requirements of this Law in respect of the merger of the Merging Bodies, including the matters precedent and incidental to the merger, have been fully complied with.
- (4) The operation of this Article shall not be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
 - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

123. Contraventions relating to merger

- (1) A person who, in or in connection with an application under this Part, knowingly or recklessly provides to the Registrar:
 - (a) any information which is false, misleading or deceptive in a material particular; or
 - (b) any Document containing any such information,is liable to a fine, as set out in Schedule 2.
- (2) A person who signs a certificate under Article 115 or as prescribed in the Regulations made pursuant to Article 113(7) without having reasonable grounds for the opinion expressed in the certificate or for the statement made in the certificate is liable to a fine, as set out in Schedule 2.

PART 9: COMPROMISES AND ARRANGEMENTS**124. Power of company to compromise with creditors and Shareholders**

- (1) This Article 124 applies where a compromise or arrangement is proposed between a Company and:
 - (a) its Creditors or a class of Creditors; or
 - (b) its Shareholders, or a class of Shareholders.
- (2) The Court may, on the application of:
 - (a) the Company;
 - (b) a creditor or Shareholder of the Company; or
 - (c) in the case of a Company being wound up, its liquidator,

order a meeting of the Creditors or class of Creditors, or of the Shareholders or class of Shareholders, of the Company (as the case may be), in a manner as the Court directs.
- (3) The Court may only sanction a compromise or arrangement if a majority in number representing:
 - (a) three quarter (3/4) in value of the Creditors or class of Creditors; or
 - (b) three quarter (3/4) of the voting rights of the Shareholders or class of Shareholders,

as the case may be, present and voting either in person or by proxy at the meeting, agree to the compromise or arrangement.
- (4) Where the Court has sanctioned a compromise or arrangement under Article 124(3), such a compromise or arrangement shall be binding on:
 - (a) all the Creditors or the class of Creditors; or
 - (b) all the Shareholders or class of Shareholders,

as the case may be, and also on the Company or, in the case of a Company in the course of being wound up, on the liquidator and contributories of that Company.
- (5) The Company, or the person on whose application the Court issued the order under Article 124(3), shall deliver a duly certified copy of that order, by the Registrar of the Court, to the Registrar as soon as practicable, and in any case, no later than within seven (7) days of the date of the order.
- (6) The court order referred to in Article 124(3) has no effect, until a duly certified copy of that order has been delivered to the Registrar.
- (7) The Registrar shall, as soon as practicable after receipt of a copy of the court order referred to in Article 124(5), include that order in the Company's Articles of Association.
- (8) If the person referred to in Article 124(5) fails to comply with the requirement in that Article, that person is liable to a fine, as set out in Schedule 2.

125. Information relating to compromise to be circulated

- (1) This Article applies where a meeting of creditors or a class of creditors, or of Shareholders or a class of Shareholders, is called under Article 124.

- (2) The notice calling for the meeting of creditors or Shareholders shall include a statement containing the following particulars:
 - (a) an explanation of the effect of the compromise or arrangement;
 - (b) any material interests of Directors in the compromise or arrangement, including his interest as an officer, creditor or Shareholder of the Company;
 - (c) if there any debentures issued by the Company, how the arrangement or compromise would affect the rights of the debenture holders; and
 - (d) any other matter which has a material impact on the Company, its creditors and Shareholders, and debenture holders, if any, resulting from the compromise or arrangement.
- (3) If the notice calling the meeting is given by advertisement, the advertisement shall include either the statement referred to in Article 125(2), or a notification of the place at which, and the manner in which the creditors or Shareholders entitled to attend the meeting may obtain copies of that statement.
- (4) Where a notice given by advertisement includes a notification that copies of the statement referred to in Article 125(2) can be obtained by creditors or Shareholders entitled to attend the meeting, the Company shall provide to such a creditor or Shareholder, upon application, a copy of the statement free of charge.
- (5) If a Company fails to comply with a requirement of this Article, the Company and every officer of it who is in default is liable to a fine, as set out in Schedule 2.

126. Provisions for facilitating company reconstruction or amalgamation

Where an application is made to the Court under Article 124 for the sanctioning of a compromise or arrangement proposed between a Company and any persons mentioned in that Article, the Court may make any orders as it considers appropriate to facilitate the compromise or arrangement, including a reconstruction of the Company, or an amalgamation of the Company with any other company.

PART 10: ACCOUNTS, REPORTS AND AUDIT

CHAPTER 1 – GENERAL

127. Application of this Part

- (1) This Part does not apply in relation to any Company which is an Authorised Person or Public Listed Company under the Regulatory Law 2004 and a Recognised Person under the Markets Law 2014.
- (2) The requirements of this Part as to accounts and audit apply in relation to each financial year of a Company.

128. Waiver and modification of Regulations

- (1) The Board of Directors of the DIFCA may, without limiting powers conferred upon it elsewhere under this Law, make Regulations extending, waiving or modifying the application of the provisions of this Part in relation to a specific person or class of persons.
- (2) In particular, such Regulations may provide for:
 - (a) the inclusion in accounts of group accounts dealing with the affairs of a Company and its subsidiaries;
 - (b) the inclusion in accounts of a report by the Directors dealing with such matters as may be specified;
 - (c) the accounting standards or principles to be applied in the preparation of accounts, including:
 - (i) the creation or adoption of one (1) or more accounting standards or principles, or codes of practice;
 - (ii) which of, and the manner in which, such accounting standards or principles may apply to particular Companies and in particular circumstances; or
 - (iii) periods in which an accounting standard or principle may apply;
 - (d) the extending or shortening of a financial year in certain circumstances, including to facilitate synchronisation of accounts;
 - (e) the appointment, qualifications, remuneration, removal, resignation, rights and duties of auditors;
 - (f) the creation or adoption of auditing standards or codes of practice; and
 - (g) the waiver of the requirement for the preparation of accounts and examination and reporting thereupon by auditors.
- (3) The provisions of this Article are subject to Article 195.

CHAPTER 2 – ACCOUNTS AND REPORTS

129. Maintenance of Accounting Records

- (1) Every Company shall keep Accounting Records which are sufficient to show and explain its transactions so as to:
 - (a) disclose with reasonable accuracy the financial position of the Company at any time; and

- (b) enable the Directors to ensure that any accounts prepared by the Company under this Part comply with the requirements of this Law.
- (2) A Company's Accounting Records shall be:
 - (a) kept at such place as the Directors think fit except where otherwise prescribed in the Regulations; and
 - (b) in the case of a Public Company where Accounting Records are kept outside of the DIFC, returns with respect to the business dealt with in the Accounting Records shall be kept in the DIFC;
 - (c) preserved by the Company for at least 6 years from the date upon which they were created, or for some other period as may be prescribed in the Regulations;
 - (d) open to inspection by an Officer or auditor of the Company at all reasonable times; and
 - (e) otherwise kept and maintained in such manner as may be provided in the Regulations.
- (3) A Company which fails to comply with each of the requirements in this Article 129 is liable to a fine, as set out in Schedule 2.

130. Financial years

- (1) Subject to Article 130(2), the first financial year of a Company starts on the day on which it is incorporated and lasts for a period not exceeding eighteen (18) months as may be determined by the Directors.
- (2) Where a body corporate has become a Company by virtue of a transfer of incorporation pursuant to Articles 151 and 152, the first financial year of that Company under this Law may, at the option of the Directors, be deemed to have started at the end of the previous financial year in the jurisdiction from which it transferred, in which case such financial year shall last twelve (12) months from the date it is deemed to have started.
- (3) The second and any subsequent financial year shall start at the end of the previous financial year and shall last twelve (12) months or some other period, which is within seven (7) days either shorter or longer than the twelve (12) months, as may be determined by the Directors.

131. Accounts

- (1) The Directors of every Company shall cause accounts to be prepared in relation to each financial year of the Company. Any reference to Company's accounts is a reference to accounts of the Company prepared in accordance with the requirements in this Article.
- (2) The accounts shall:
 - (a) be prepared in accordance with accounting principles or standards prescribed in the Regulations or otherwise approved by the Registrar;
 - (b) show a true and fair view of the profit or loss of the Company for the period and of the state of the Company's affairs at the end of the period; and
 - (c) comply with any other requirements of this Law.
- (3) A Company's accounts shall be approved by the Directors and signed on their behalf by at least one of them.
- (4) Within six (6) months after the end of the financial year, the accounts for that year shall be:

- (a) prepared and approved by the Directors;
 - (b) examined and reported upon by an auditor;
 - (c) in respect of a Public Company, laid before a General Meeting, together with a copy of the auditor's report and Directors' report, for discussion and, if thought fit, approval by the Shareholders; and
 - (d) in respect of all Companies, sent, together with (if applicable) a copy of the auditor's report and/or Directors' report, to every Shareholder, excluding those Shareholders for whom the Company does not have a current postal address.
- (5) A Company shall file with the Registrar within fourteen (14) days after circulation to Shareholders in accordance with Article 131(4)(d), a copy of the accounts and the auditor's report and, in the case of a Public Company, a copy of the Directors' report prepared in accordance with Article 133.
- (6) Unless otherwise provided in its Articles of Association, a Private Company is not required to comply with the requirements in Article 131(4)(b) and Article 131(5) if that Company, during the current year for which the accounts are being prepared and, if the Company has existed for more than one (1) financial year, the year immediately preceding that financial year, has:
- (a) an annual turnover of not more than \$5,000,000; and
 - (b) an average of not more than twenty (20) Shareholders.
- (7) Notwithstanding Article 131(6), the Shareholders representing not less than ten per cent (10%) of the nominal value of the share capital of a Company referred to in that Article may, by notice in writing given no earlier than the start of any financial year and no later than one (1) month before the end of such financial year, require the Company to obtain an audit of its accounts for that financial year.
- (8) A Company which fails to comply with each of the requirements in this Article 131 is liable to a fine, as set out in Schedule 2.

132. Provision of copy of accounts to a Shareholder

- (1) Any Shareholder of a Company is entitled, on written request made by that Shareholder to the Company and without charge, to be furnished with:
- (a) a copy of the Company's latest accounts, if Article 131(6) applies; or
 - (b) in all other cases, audited accounts and auditor's report.
- (2) A Company shall comply with such a request within seven (7) days of receipt of the request.
- (3) A Company which fails to comply with each of the requirements in this Article 132 is liable to a fine, as set out in Schedule 2.

133. Directors' report for Public Companies

- (1) The Directors of a Public Company shall prepare a Directors' report for each financial year of the Company.
- (2) The Directors' report for a financial year shall state:
- (a) the names of the persons who, at any time during the financial year, were Directors;
 - (b) the principal activities of the Company in the course of the year;

- (c) the amount if any that the Directors recommend should be paid by way of dividend or other Distribution;
 - (d) a business review containing:
 - (i) a fair view of the Company's business;
 - (ii) a description of the risks and uncertainties facing the Company;
 - (iii) an analysis of the development, performance and position of the Company's business; and
 - (iv) such other information as is necessary for an understanding of the development, performance and position of the Company's business;
 - (e) that the Directors are not aware of any relevant audit information of which the Company's auditor is not aware, and that they have taken all reasonable steps to become aware of such relevant audit information; and
 - (f) such other matters as may be prescribed in the Regulations.
- (3) The Directors' report shall be signed on behalf of the Directors by a Director or the secretary of the Company.
- (4) In the case of any failure to comply with the requirement to prepare a Directors' report or if any Directors' report does not comply with the requirements of this Article 133, each Director is liable to a fine, as set out in Schedule 2.

CHAPTER 3 – AUDITORS

134. Qualification and registration of auditors

- (1) In this Part, unless otherwise provided, a reference to an auditor is a reference to a person registered by the Registrar as an auditor in accordance with the requirements in this Chapter 3.
- (2) The Board of Directors of the DIFCA shall make Regulations setting out criteria that a person must meet to be registered, and to maintain registration, as an auditor. Such Regulations may include requirements relating to the qualifications, experience and fitness and propriety of applicants.
- (3) The Board of Directors of the DIFCA may make Regulations providing for such requirements referred to in Article 134(2) to be varied in cases where an application is made by a firm that is, at the time of application, regulated in a jurisdiction other than the DIFC.
- (4) The Registrar may:
 - (a) grant or refuse to grant an application for registration as an auditor; and
 - (b) impose any restrictions or conditions upon granting registration.
- (5) Upon granting or refusing to grant registration, the Registrar shall inform the applicant of that fact and whether there are any restrictions or conditions imposed upon the registration.
- (6) An auditor shall act within the scope of the relevant registration and comply with any restrictions and conditions imposed upon such registration.
- (7) The Registrar may, on its own initiative or at the request of an auditor, at any time, by written notice issued to an auditor:

- (a) impose restrictions or conditions on the registration of the auditor;
 - (b) vary or withdraw any restrictions or conditions imposed on such registration; or
 - (c) suspend or withdraw a registration.
- (8) The procedures which are prescribed by Regulations shall apply to a decision of the Registrar under this Article to refuse to grant an application for registration, or to impose or vary conditions or restrictions on any registration, and the suspension or withdrawal of registration.

135. Register of auditors

- (1) The Registrar shall publish and maintain a register of current and past registrations, including any restrictions and conditions applicable to registration, of auditors in such manner as may be prescribed in the Regulations.
- (2) The Registrar shall make a current version of any registers maintained under this Article freely available for viewing by the public during the normal business hours of the Registrar.

136. Appointment and removal of auditors

- (1) A Company which is required by this Law to have its accounts examined and reported on by an auditor shall appoint an auditor who shall examine and report in accordance with this Law upon the accounts prepared pursuant to Article 131.
- (2) A person shall not:
 - (a) consent to be appointed as an auditor of a Company;
 - (b) act as an auditor of a Company; or
 - (c) prepare any report required by this Law to be prepared by an auditor;

unless the person has applied, and been registered, as an auditor under this Law. A person who acts as an auditor of a Company contrary to the requirements of this Article is liable to a fine, as set out in Schedule 2.
- (3) The appointment of a firm as an auditor of a Company is taken to be an appointment of each person who is a partner of the firm.
- (4) A Company which is:
 - (a) a Public Company shall, at each Annual General Meeting at which the accounts for the previous year are laid, appoint an auditor to hold office from the conclusion of that meeting to the conclusion of the next Annual General Meeting at which the accounts are laid; and
 - (b) a Private Company shall, within six (6) months after the end of the financial year or, if earlier, before the date on which the accounts are sent to Shareholders, appoint an auditor to hold office from such date until the end of the next period for appointing auditors. The appointment of an auditor by a Private Company shall be by a resolution of its Directors unless the Shareholders, at a General Meeting, have appointed an auditor by an Ordinary Resolution.
- (5) The Directors may, in respect of a Public Company, at any time before the first General Meeting at which the accounts for the previous year are laid, appoint an auditor who shall hold office to the conclusion of such General Meeting.
- (6) The Directors of a Company may fill any casual vacancy in the office of auditor on such terms as they see fit, who shall hold office:

- (a) in respect of a Public Company, until the conclusion of the next General Meeting at which the accounts for the previous year are laid; or
 - (b) in respect of a Private Company, until the end of the next period for appointing auditors.
- (7) Subject to Article 136(6), the Company may, by Ordinary Resolution, fix the auditor's remuneration.
- (8) The Company shall not appoint an auditor under this Article unless:
 - (a) the auditor has, prior to the appointment, consented in writing to the Company; and
 - (b) the Company is not, on reasonable inquiry, aware of any matter which should preclude the auditor from giving the auditor's consent under Article 136(8)(a).
- (9) An auditor shall not consent to an appointment as an auditor of a Company if:
 - (a) the auditor has, or may reasonably be perceived to have, a conflict of interest;
 - (b) the auditor does not have, or may reasonably be perceived not to have, a requisite degree of independence from the Company; or
 - (c) the auditor or any associate of the auditor in a firm or business undertaking has acted as an auditor of the Company within such earlier period or frequency as prescribed in the Regulations.
- (10) A Company may, notwithstanding anything in any agreement between it and the auditor, remove an auditor at any time by Resolution.
- (11) The Court may, on application made by the Registrar, order the removal of the auditor of a Company.
- (12) Nothing in this Article is to be taken as depriving an auditor removed pursuant to it of compensation or damages payable to the auditor in respect of the termination of appointment as the auditor.
- (13) Every Company and its Officers shall take reasonable efforts to provide such information and assistance as required by an auditor for the purposes of the auditor carrying out its duties under this Law and the Regulations.

137. Auditor's report to the Company

- (1) A Company's auditor shall make a report to the Company's Shareholders on the accounts examined by the auditor.
- (2) The auditor's report shall state:
 - (a) whether, in the auditor's opinion, the accounts have been properly prepared in accordance with this Law;
 - (b) in particular, whether the accounts give a true and fair view of the profit or loss of the Company for the financial year and of the state of the Company's affairs at the end of the financial year; and
 - (c) any other matter or opinion required under the Regulations.
- (3) An auditor which fails to comply with each of the requirements of this Article 137 is liable to a fine, as set out in Schedule 2.

138. Auditors' duties and powers

- (1) A Company's auditor shall, in preparing the report in relation to the accounts of a Company, carry out such investigations as will enable the auditor to form an opinion as to the following matters:
 - (a) whether proper Accounting Records have been kept by the Company and proper returns adequate for the audit have been received from branches not visited by the auditor;
 - (b) whether the Company's accounts are in agreement with the Accounting Records and returns; and
 - (c) whether the Company's accounts have been prepared in compliance with any applicable accounting standards as prescribed in the Regulations.

An auditor which fails to comply with the requirements of Article 138(1), is liable to a fine, as set out in Schedule 2.

- (2) If the auditor is of the opinion that proper Accounting Records have not been kept, or that proper returns adequate for the audit have not been received from branches not visited by the auditor, or if the accounts are not in agreement with the Accounting Records and returns, or that the accounts do not comply with the applicable accounting standards, the auditor shall state that fact in the report.
- (3) The auditor has a right of access, at all reasonable times, to the Company's Records, and is entitled to require from the Company's Officers such information and explanations as the auditor considers necessary for the performance of its duties.
- (4) Every auditor is entitled to receive notice of, and attend, any meeting of Shareholders and to be heard on any part of the business of the meeting which concerns the auditor.
- (5) If the auditor fails to obtain all the information and explanations which, to the best of the auditor's knowledge and belief are necessary for the purposes of the audit, the auditor shall state that fact in the report. An auditor which fails to state that fact in the report is liable to a fine, as set out in Schedule 2.

139. Resignation of an auditor

- (1) An auditor of a Company may resign from office by depositing a notice in writing to that effect together with a statement under Article 139(2) at the Company's registered office. Such notice operates to bring the auditor's term of office to an end on the date on which the notice is deposited, or on such later date specified in the notice. The Company must send to the Registrar a copy of the notice of resignation of the auditor.
- (2) When an auditor ceases for any reason to hold office, the auditor shall deposit at the Company's registered office either:
 - (a) a statement to the effect that there are no circumstances connected with the ceasing to hold office which the auditor considers should be brought to the notice of the Shareholders or Creditors of the Company; or
 - (b) a statement of any circumstances as are mentioned in Article 139(2)(a).
- (3) In the case of a statement that falls within Article 139(2)(b), the Company shall, within fourteen (14) days of the Auditor depositing such notice at the Company's registered office, send a copy of the statement to every Shareholder of the Company and to every person entitled to receive notice of General Meetings. A Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (4) If an auditor ceases for any reason to hold office, the Directors shall, within thirty (30) days of the cessation of office, appoint a replacement pursuant to Article 136(6).

- (5) An auditor which fails to comply with the requirements in Articles 139(1) or 139(2) is liable to a fine, as set out in Schedule 2.

140. Co-operation with auditors

- (1) A Company, and any Officer of a Company, shall not, knowingly or recklessly:
- (a) provide information to its auditor which is false, misleading or deceptive; or
 - (b) omit to provide information to its auditor which the auditor reasonably requires, or is entitled to require, where the omission of such information is likely to mislead or deceive the auditor.
- (2) A Company, any Officer of a Company and any person acting under the direction or authority of such a Company or Officer, shall not, without reasonable excuse, engage in any of the following conduct:
- (a) destruction or concealment of Documents;
 - (b) coercion, manipulation, misleading, or influencing of the auditor;
 - (c) failure to provide access to information or Documents specified by the auditor; or
 - (d) failure to give any information or explanation which the person is able to give,

where the Company, Officer or other person knows or ought to know that such conduct could:
 - (e) obstruct the auditor in the performance of its duties or the exercise of its powers under this Chapter 3, or
 - (f) result in the rendering of the accounts of the Company or any other aspect of the auditor's report materially misleading.
- (3) A person who fails to comply with each of the requirements in this Article 140(3) is liable to a fine, as set out in Schedule 2.

141. Obligation of disclosure to the Registrar

- (1) An auditor is subject to the obligations of disclosure under Article 196.
- (2) Without limiting the application of any other provision of this Law or the Regulations, an auditor does not contravene any duty to which the auditor is subject merely because the auditor gives to the Registrar:
- (a) a notification as required under Article 196; or
 - (b) any other information or opinion in relation to any such matter,

if the auditor is acting in good faith and reasonably believes that the notification, information or opinion is relevant to any functions of the Registrar.

142. Court orders

- (1) The Court may, on application of the Registrar, and upon being satisfied that an auditor:
- (a) has contravened a provision of this Law, the 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 auditor,
make one (1) or more of the following orders:
 - (d) an order that the Registrar cancel, or suspend for a specified period, the registration of the auditor;
 - (e) an order imposing conditions or restrictions on the future conduct of the auditor;
 - (f) an order requiring the auditor to do, or refrain from doing, any act or thing; or
 - (g) any other order as the Court sees fit.
- (2) Nothing in this Article affects the powers that any person or the Court may have apart from this Article.

PART 11: OTHER TYPES OF COMPANY**143. Incorporation of prescribed types of Company**

- (1) A company may be incorporated as, or an existing Company may be converted to, a type of Company as specified in this Part or prescribed under the Regulations where such a type of Company is desirable in the interests of the DIFC.
- (2) The Board of Directors of the DIFCA may make Regulations:
 - (a) prescribing:
 - (i) such a type of Company;
 - (ii) the circumstances in which such a Company may be incorporated or an existing Company may be converted, including any requirements for approval by another regulatory authority;
 - (iii) any requirements or restrictions in relation to such a Company's articles of association or its constitution generally; and
 - (iv) forms and procedures for the incorporation and administration of such a Company; and
 - (b) extending, excluding, waiving or modifying the application of provisions of this Law, the Regulations or any other Legislation administered by the Registrar, with the exception of Part 1, Part 2 and Chapter 1 and Chapter 3 of Part 14 of this Law, where considered necessary or desirable to facilitate the incorporation of, conversion to, and management and functions of, such a Company.
- (3) Except where otherwise provided in the Regulations, this Law shall apply to a Company established pursuant to this Article.

PART 12: RECOGNISED COMPANIES**144. Foreign Companies**

- (1) A Foreign Company shall not carry on business in the DIFC unless it is registered as a Recognised Company under this Part. A Foreign Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.
- (2) The Board of Directors of the DIFCA may make Regulations prescribing what comprises 'carrying on business' for the purposes of this Part.
- (3) A Foreign Company may apply to the Registrar for registration as a Recognised Company in such manner as shall be prescribed in the Regulations.
- (4) Upon a Recognised Company becoming a Company, the Registrar shall strike off its registration as a Recognised Company.

145. Registration

- (1) The Registrar may refuse to register a Foreign Company for such reason as the Registrar believes to be proper grounds for refusing such registration.
- (2) Where the Registrar refuses to register a Foreign Company, the Registrar shall not be bound to provide any reason for the Registrar's refusal and the Registrar's decision shall not be subject to appeal or review in any court.

146. Effect of registration

- (1) Upon registration of a Foreign Company as a Recognised Company, the Registrar shall:
 - (a) issue a certificate of registration;
 - (b) assign a number, which shall be the Recognised Company's registered number; and
 - (c) enter the name of the Recognised Company in the Register.
- (2) A certificate of registration issued by the Registrar shall be conclusive evidence:
 - (a) of registration of a Foreign Company as a Recognised Company; and
 - (b) that the requirements of this Law have been complied with in respect of such registration.
- (3) Without prejudice to Article 146(1)(a), the Registrar may make alternative arrangements relating to the issue of certificates of registration to Recognised Companies in circumstances prescribed in Regulations.

147. Requirements of a Recognised Company

- (1) A Recognised Company shall:
 - (a) appoint and retain at all times at least one (1) person who is authorised to accept service of any Document or notice on behalf of the Recognised Company and to undertake any other function as may be prescribed in the Regulations;
 - (b) have a place of business in the DIFC to which all communications and notices may be addressed;
 - (c) file with the Registrar a notice of:

- (i) appointment of persons authorised to accept service for the Recognised Company;
 - (ii) address of the principal place of business of the Recognised Company in the DIFC;
 - (iii) details of persons authorised to accept service and the address of its principal place of business in the DIFC;
 - (iv) details of the Recognised Company's shareholders or members;
 - (v) details of the Recognised Company's directors or secretary,
- in the form and manner required in the Regulations;
- (d) submit to the Registrar on an annual basis a copy of any annual return filed in its jurisdiction of incorporation, within thirty (30) days from the date of filing of such return in its jurisdiction of incorporation; and
 - (e) comply with any other requirement as may be prescribed in the Regulations.
- (2) The Board of Directors of the DIFCA may make Regulations:
- (a) prescribing procedures in relation to the requirements under this Part; and
 - (b) waiving or modifying any requirements under this Part in relation to different cases or classes of case.
- (3) A Recognised Company which fails to comply with each of the requirements in this Article 147 is liable to a fine, as set out in Schedule 2.

148. Notification of change in Registered Details of a Recognised Company

If there is a change in the Registered Details of a Recognised Company prescribed in this Law or the Regulations, the Recognised Company shall notify the Registrar in writing within fourteen (14) days of any such change taking place. A Recognised Company which fails to comply with this requirement is liable to a fine, as set out in Schedule 2.

149. Maintenance of Accounting Records

- (1) A Recognised Company shall keep Accounting Records which are sufficient to show and explain its transactions so as to:
 - (a) disclose with reasonable accuracy the financial position of the Recognised Company at any time; and
 - (b) enable its directors or managers to ensure that any accounts prepared by the Recognised Company under this Part comply with the requirements of this Law.
- (2) A Recognised Company's Accounting Records shall be:
 - (a) kept at such place as the directors or managers think fit unless specifically prescribed in the Regulations;
 - (b) preserved by the Recognised Company for at least 6 years from the date upon which they were created, or for some other period as may be prescribed in the Regulations;
 - (c) open to inspection by an officer or auditor of the Recognised Company at all reasonable times; and
 - (d) otherwise kept and maintained in such manner as may be provided in the Regulations.

- (3) A Recognised Company which fails to comply with each of the requirements in this Article 149 is liable to a fine, as set out in Schedule 2.

150. Inspection and Remedies

The provision of Part 14 shall apply equally to Recognised Companies and references to "Company" in Part 14 shall be construed to include Recognised Companies.

PART 13: TRANSFER OF INCORPORATION**151. Transfer of incorporation to DIFC**

- (1) A Foreign Company may, if authorised by the laws of the jurisdiction in which it is incorporated, apply to the Registrar for the continuation of the Foreign Company as a Company.
- (2) An application for continuation shall be made to the Registrar in the manner prescribed in the Regulations and shall:
 - (a) be executed under seal and signed by an officer of the Foreign Company and verified by an affidavit, or other similar sworn statement, of the person signing the application;
 - (b) be accompanied by articles of continuation that comply with Articles 13(1) and 13(2); and
 - (c) be accompanied by any other Document prescribed by the Registrar.
- (3) The articles of continuation shall make any amendments to the original articles of incorporation and any amendments thereto necessary to make the articles of continuation conform to this Law and any other relevant law applicable in the DIFC.

152. Certificate of continuation

- (1) Once the Registrar approves the application, the Registrar shall:
 - (a) issue a certificate of continuation on the terms and conditions the Registrar considers appropriate;
 - (b) register the Company and enter its name on the Register; and
 - (c) allocate to the Company a number, which shall be the Company's registered number.
- (2) The Registrar may refuse to issue a certificate of continuation if the Registrar considers it appropriate to do so. This decision is final and not subject to appeal or review by the Court.
- (3) The Registrar is not required to provide reasons for refusing to issue a certificate of continuation.

153. Effect of certificate

From the date of continuation stated in the certificate of continuation:

- (a) the Foreign Company becomes a Company to which this Law applies as if it has been incorporated under this Law;
- (b) the articles of continuation become the Articles of Association of the Company; and
- (c) the certificate of continuation is treated as the certificate of incorporation of the Company.

154. Copy of certificate of continuation

The Registrar shall, if requested by the Company, send a copy of the certificate of continuation to the appropriate official or public body in the jurisdiction in which the application for continuation was authorised.

155. Rights and liabilities

Where a Foreign Company is continued as a Company under this Law, the Company:

- (a) continues to have all the property, rights and privileges and is subject to all the liabilities, restrictions and debts that it had before the continuation; and
- (b) remains a party in any legal proceedings commenced in any jurisdiction in which it was a party before the continuation.

156. Transfer of incorporation from DIFC to another jurisdiction

- (1) A Company may, if it is authorised by:
 - (a) a Special Resolution; and
 - (b) the Registrar in the manner prescribed in the Regulations,apply to the appropriate official or public body of a foreign jurisdiction to transfer its incorporation to the foreign jurisdiction and request that the Company be continued as a Foreign Company.
- (2) A Company shall not apply under Article 156(1) unless the laws of the foreign jurisdiction provide that the Foreign Company:
 - (a) shall continue to have all the property, rights and privileges and is subject to all the liabilities, restriction and debts that it had before the continuation; and
 - (b) shall remain a party in any legal proceedings commenced in any jurisdiction in which it was a party before the continuation.
- (3) A Company ceases to be a Company within the meaning of this Law when the Company is continued as a Foreign Company and when the Foreign Company files with the Registrar a copy of the certificate or instrument of continuation certified by the appropriate official of the foreign jurisdiction.
- (4) When the Registrar receives the foreign jurisdiction's certificate or instrument of continuation, the Registrar shall strike the name of the company off the Register.

157. Refusal to grant authorisation to transfer incorporation

- (1) The Registrar may refuse to authorise a Company to apply to be continued under Article 156(1).
- (2) The Company may appeal to the Court from a decision of the Registrar under Article 157(1).

PART 14: POWERS AND REMEDIES**CHAPTER 1 – POWERS OF INSPECTION AND INVESTIGATION****158. Application and Interpretation of this Part**

- (1) Each reference in this Part 14 to a Company shall be deemed to include a reference to a Recognised Company, except where expressly provided otherwise.
- (2) Without limiting the generality of the powers available to the Registrar, the Registrar may exercise any powers conferred upon the Registrar under this Law, the Regulations or any other Legislation administered by the Registrar, in respect of a Company, or an Officer or Employee of it, after the Company has been removed from the Register of Companies, for a period of three (3) years from the date on which the Registrar becomes aware of an act or omission which gives rise to the right to exercise the relevant power. For the purposes of this Article, the Registrar becomes aware of a contravention if it has information from which the contravention can reasonably be inferred.

159. Appointment of Inspectors

- (1) The Registrar may, if the Registrar consider it necessary or desirable in the pursuit of the Registrar's objectives, appoint one or more Inspectors to investigate the affairs of a Company and to submit such written report as the Registrar may direct.
- (2) Inspectors appointed under Article 159(1) may, with the consent of the Registrar, also investigate and report on the affairs of another Company that is or was related to the Company in respect of which they were initially appointed.
- (3) The Registrar shall inform the DFSA prior to appointing Inspectors under Article 159(1) to investigate the affairs of a Company licensed, registered or recognised by the DFSA.
- (4) The Registrar may appoint an Inspector to investigate an alleged contravention of this Law, the Regulations or any other Legislation administered by the Registrar.

160. Powers of Inspectors to obtain information and Documents

- (1) If Inspectors appointed under Article 159 consider that any person may be able to give information or produce a Document which is or may be relevant to the investigation, they may:
 - (a) enter the business premises of such person during normal business hours for the purpose of inspecting, obtaining and copying information or Documents stored in any form on such premises;
 - (b) require such person to produce, or procure the production of, any books, Records or other Documents in such person's custody or power relating to the investigation;
 - (c) require such person to give, or procure the giving of, specified information relating to the investigation;
 - (d) require such person to attend before them at specified times and on reasonable notice and answer all questions put to them relating to the investigation (a compulsory interview); and
 - (e) require such person to give reasonable assistance to them in connection with the investigation.
- (2) Where the Inspectors exercise their powers under Article 160(1), they may:
 - (a) require any appropriate person to make available any relevant information stored at those premises for inspection or copying;

- (b) require any appropriate person to convert any relevant information into a form capable of being copied;
 - (c) use the facilities of the occupier of the premises, free of charge, to make copies;
 - (d) require a person requested to attend a compulsory meeting to answer questions put to them in private.
- (3) Where the Inspectors exercise their power under Article 160(1)(d) to conduct a compulsory interview, they may give a direction:
- (a) concerning who may be present;
 - (b) preventing any person present during any part of the compulsory interview from disclosing to any other person any information provided to the interviewee or questions asked by the interviewer during the compulsory interview;
 - (c) concerning the conduct of any person present, including as to the manner in which they shall participate in the interview;
 - (d) requiring the interviewee to swear an oath or give an affirmation that the answers of the interviewee will be true;
 - (e) requiring the interviewee to answer any questions relevant to the investigation; and
 - (f) requiring the interview to be audio or video recorded.
- (4) If Inspectors appointed under Article 159 have reasonable grounds for suspecting that a Director, past Director, affiliate or other party related to a Company maintains or has maintained a bank account of any description, whether alone or jointly with another person, into or out of which has been paid money which is in any way related to the affairs of the Company which is the subject of investigation, the Inspectors may require such person to obtain and produce all books and Records in such person's custody or power relating to the bank account.
- (5) A person in respect of whom a requirement is made by an Inspector pursuant to this Article 160 shall comply with that requirement. A person who fails to comply with such requirement is liable to a fine, as set out in Schedule 2.
- (6) A person required under this Article to answer any question which is put to such person by an Inspector shall not:
- (a) knowingly or recklessly make a statement which is false, misleading or deceptive in a material particular; or
 - (b) knowingly or recklessly withhold any information the omission of which makes the information which is furnished misleading or deceptive in a material particular.
- A person who fails to comply with the requirements of this Article 160(6) is liable to a fine, as set out in Schedule 2.
- (7) The Inspectors may exercise their powers under this Article in respect of any person within, or outside of, the DIFC provided that, if the person is outside the DIFC, the Inspectors shall either:
- (a) use any arrangements it has with a relevant authority in the jurisdiction in which the person is resident or domiciled, or the premises are located, to assist it to exercise the power; or
 - (b) apply to the Court for an order compelling the person to provide the information, produce or procure the production of the Documents, or answer questions, or permitting the Inspectors to enter the premises of that person.

161. Use and effect of Documents and information obtained for investigations

- (1) Information given or a Document produced as a result of the exercise by the Inspectors of powers under Article 160 is admissible in evidence in any proceedings, provided that any such information or Document also complies with any requirements relating to the admissibility of evidence in such proceedings.
- (2) The requirement to give, produce or procure the information or Documents specified under Article 160 shall not apply if such information or Documents are subject to legal professional privilege.
- (3) The Inspectors shall not disclose a statement made by a person in answer to any question asked pursuant to a requirement made of the person under Article 160 to any law enforcement agency for the purpose of criminal proceedings against the person unless:
 - (a) the person consents to the disclosure; or
 - (b) the Inspectors are required by law or court order to disclose the statement.
- (4) The Inspectors may retain possession of any information and Documents given to them pursuant to a requirement made under Article 160 for so long as is necessary:
 - (a) for the purposes of the investigation to which the notice relates;
 - (b) for a decision to be made about whether or not a proceeding to which the information or Documents would be relevant should be commenced; or
 - (c) for such a proceeding to be completed.
- (5) A person is not entitled to claim a lien on any Documents as a basis for failing to comply with a requirement made under Article 160, but any lien is not otherwise prejudiced.
- (6) Where a person is unable to produce information or Documents in compliance with a requirement made under Article 160, the Inspectors may require the person to state, to the best of that person's knowledge or belief, where the information or Documents may be found and who last had possession, custody or control of the information or Documents.
- (7) Where the Inspectors consider that, if disclosed, the fact of the issuing of a notice requiring a person to:
 - (a) produce Documents;
 - (b) give information;
 - (c) attend a compulsory interview; or
 - (d) give assistance,
 may hinder the investigation to which it relates, the Inspectors may direct a person who receives a notice under this Article not to disclose the receipt of a notice or any information relating to compliance therewith to any other person, other than his legal representative under a duty of confidentiality.
- (8) A person is entitled to legal representation during the course of an investigation.

162. Obstruction of the Inspectors

- (1) A person shall not, without reasonable excuse, engage in conduct, including without limitation the:
 - (a) destruction of Documents;

- (b) failure to give or produce information or Documents specified by the Inspectors;
 - (c) failure to attend before the Inspectors at a specified time and place to answer questions;
 - (d) giving of information that is false or misleading; or
 - (e) failure to give any assistance in relation to an investigation which the person is able to give,
- that is intended to obstruct the Inspectors in the exercise of any powers under Article 160 or under the Law, the Regulations or any other Legislation administered by the Registrar.

- (2) If any person fails to comply with a requirement under Article 160 or refuses to answer any question put to such person by the Inspectors for the purpose of the investigation, the Inspectors may certify the refusal in writing to the Court. The Court may thereupon inquire into the case and make such orders as it sees fit.
- (3) A person who fails to comply with the requirements in Article 162(1) is liable to a fine, as set out in Schedule 2.

163. **Inspectors' reports**

- (1) The Inspectors shall make such written report to the Registrar that the Registrar may require at the conclusion of the investigation of the Inspectors.
- (2) The Inspectors shall make such interim reports, if any, to the Registrar that the Registrar may require.
- (3) The Registrar may, upon receipt of a report by an Inspector, do any one (1) or more of the following:
 - (a) provide a copy of the report to the Company to which the report relates with or without a direction that it be disclosed to the Shareholder(s);
 - (b) provide a copy of the report to any person whose financial interests may have been affected by the matters dealt with in the report;
 - (c) cause the report, or such parts of the report as the Registrar considers appropriate, to be published; or
 - (d) in the case of a Company licensed, registered or recognised by the DFSA, provide a copy of the report to the DFSA.

164. **Powers of Registrar to apply to Court**

- (1) The Registrar may apply to the Court for an order under this Article 164 if, from any report made or information obtained under this Part 14, the Registrar considers that:
 - (a) the Company's affairs are being, or have been, conducted in a manner which is:
 - (i) contrary to this Law or any other laws administered by the Registrar, or
 - (ii) unfairly prejudicial to the interests of the Company's Shareholders generally, or of some part of its Shareholders; or
 - (b) an actual or proposed act of the Company (including an act or omission on its behalf) is, or would be, so contrary or prejudicial.
- (2) If the Court is satisfied that an application by the Registrar under Article 164(1) is well founded, it may make such order as it thinks fit for giving relief in respect of the matters complained of.

CHAPTER 2 – OTHER POWERS OF THE REGISTRAR

165. Direction to Company to comply with this Law or other Legislation administered by the Registrar

- (1) If a Company or any Officer of it fails to comply with:
 - (a) a provision of this Law, the Regulations or any other Legislation administered by the Registrar; or
 - (b) a requirement made by the Registrar pursuant to any power under this Law, the Regulations or any other Legislation administered by the Registrar,

which requires any of them to provide to, or file with, the Registrar any information or Document, or to give notice to the Registrar of any matter, the Registrar may issue a direction that the Company or any Officer of it makes good the failure within a time specified in the direction.

- (2) If a Company or any Officer of it fails to comply with a provision of this Law, the Regulations or any other Legislation administered by the Registrar which requires any of them to comply with a lawful requirement in relation to another person, including without limitation:
 - (a) a requisition of Shareholders to call a General Meeting under Article 95(1); or
 - (b) the provision of a copy of accounts and report to a Shareholder pursuant to a request under Article 132(1),

the Registrar may issue a direction that the Company or any Officer of it makes good the failure within a time specified in the direction.

- (3) If the Registrar considers that the Company or any Officer of it has failed to comply with a direction under Articles 165(1) or 165(2), the Registrar may apply to the Court for one or more of the following orders:
 - (a) an order directing the Company or Officer to comply with the direction or with any provision of this Law, the Regulations or any other Legislation administered by the Registrar relevant to the issue of the direction;
 - (b) an order directing the Company or Officer to pay any costs incurred by the Registrar or other person relating to:
 - (i) the issue of the direction by the Registrar; or
 - (ii) the contravention of this Law, the Regulations or any other Legislation administered by the Registrar relevant to the issue of the direction; or
 - (c) any other order that the Court considers appropriate.
- (4) Nothing in this Article prejudices the operation of any other Article imposing penalties on a Company or any Officer of it in respect of a failure mentioned in this Article 165, or any powers that the Registrar or other person or the Court may have under any other provision of this Law, the Regulations or any other Legislation administered by the Registrar.

166. General power to obtain information

- (1) Where the Registrar considers necessary or desirable in the performance of the Registrar's powers and functions under this Law, the Regulations or any other Legislation administered by the Registrar, the Registrar may require any person incorporated or registered under any Legislation administered by the Registrar, including any Director, Officer, partner, employee or agent of such person, by written notice, to:

- (a) give, or procure the giving of, such specified information; or
- (b) produce, or procure the production of, such specified Documents,

to the Registrar and such person shall comply with the Registrar's request.

- (2) The Registrar may require any person incorporated or registered under any Legislation administered by the Registrar to allow the Registrar to enter its premises during normal business hours or at any other time as may be agreed for the purpose of inspecting and copying information or Documents stored in any form on such premises as the Registrar considers necessary or desirable in the performance of the Registrar's powers and functions under this Law, the Regulations or any other Legislation administered by the Registrar and such person shall comply with the Registrar's request.
- (3) Information given or a Document produced as a result of the exercise by the Registrar of powers under this Article is admissible in evidence in any proceedings, provided that any such information or Document also complies with any requirements relating to the admissibility of evidence in such proceedings.
- (4) The requirement to give, produce or procure the information or Documents specified under Article 166(1) or 166(2) shall not apply if such information or Documents are subject to legal professional privilege.
- (5) The Registrar may apply to the Court for an order to require a person to give, produce or procure the information or Documents prescribed under Article 166(1) and the Court may make such an order as it deems fit.

167. Powers to strike off names of Companies from the Register

- (1) The Registrar may, subject to Article 167(2), strike the name of a Company off the Register if the Registrar has reason to believe that:
 - (a) the Company is not carrying on business or is not in operation;
 - (b) the Company is acting in contravention of this Law, the Regulations or any other Legislation administered by the Registrar; or
 - (c) it is prejudicial to the interests of the DIFC for the Company to remain on the Register.
- (2) The Registrar shall, when exercising the Registrar's powers under Article 167(1), follow the Due Process Requirements prescribed in the Regulations prior to the following additional procedures:
 - (a) publish a notice in the Appointed Newspaper of the Registrar's intention to strike the name of the Company off the Register and to cause the Company to be dissolved before proceeding to do so; and
 - (b) obtain the consent of the DFSA prior to publishing the notice referred to in Article 167(2)(a) where the Company is licensed, registered or recognised by the DFSA.
- (3) Where a Company is being wound up in a Creditors' winding up and:
 - (a) the Registrar has reason to believe either that:
 - (i) no liquidator is acting; or
 - (ii) the affairs of the Company are fully wound up; and
 - (b) the returns required to be made by the liquidator have not been made for a period of six (6) consecutive months,

the Registrar may strike the name of the Company off the Register subject to the same procedures as specified in Article 167(2).

- (4) If an application is made by a Company to strike the Company's name off the Register following a voluntary winding up in accordance with the procedures in Chapter 4 of Part 2 of the Insolvency Law, the Registrar may strike the Company's name off the Register where the requirements in Article 167(6) to (8) are met.
- (5) The application referred to in Article 167(4) shall:
 - (a) be made on the Company's behalf by its Directors or a majority of them;
 - (b) be in the form prescribed by the Regulations; and
 - (c) within seven (7) days of being made, be copied to every person who, at the date of the application, is:
 - (i) a Shareholder of the Company;
 - (ii) an employee of the Company;
 - (iii) a Creditor of the Company; or
 - (iv) a Director of the Company (except where such Director is a party to the application).
- (6) An application under Article 167(4) on behalf of a Company shall not be made:
 - (a) if at any time in the previous three (3) months, the Company has:
 - (i) changed its name;
 - (ii) traded or otherwise carried on business;
 - (iii) made a disposal for value of property or rights held, prior to disposal, for gain, in the normal course of trading; or
 - (iv) engaged in any other activity, other than those which are necessary or expedient for the purposes of making an application under Article 167(4) for concluding the affairs of the Company or complying with the associated legal requirement, or
 - (b) at a time when any process in respect of the Company, or its property, has commenced pursuant to the Insolvency Law.
- (7) The Registrar may not strike a Company off the Register under Article 167(4) until the expiration of three (3) months from the publication of a notice, by the Registrar, in the Appointed Newspaper:
 - (a) stating that the Registrar may exercise the power to strike the Company off the Register; and
 - (b) inviting any person to show cause why that should not be done.
- (8) Where a Company is struck off the Register pursuant to Articles 167(1), (3) and (4), the Liability of every Director and Shareholder of the Company continues and may be enforced as if the Company had not been dissolved.
- (9) Where the Registrar strikes the name of the Company off the Register upon completion of the applicable procedures under this Article, the Company shall be dissolved.

- (10) A Public Company shall maintain its books and Records for a period of 6 years from the date on which its name has been struck-off the Register.

168. Restoration of a Company

- (1) The Court may, on application of:
- (a) any former Director of a Company;
 - (b) any person having an interest in any property that was subject to rights vested in the Company or that was benefited by obligations owed by the Company;
 - (c) any person who but for the Company's dissolution would have been in a contractual relationship with it;
 - (d) any person with a potential legal claim against the Company;
 - (e) any former Shareholder of the Company;
 - (f) any person who was a Creditor of the Company at the time of its striking off or dissolution; or
 - (g) any other person appearing to the Court to have an interest in the matter,
- make an order or orders to restore a Company to the Register and any other order as the Court considers appropriate, provided that such an order shall not be inconsistent with any provision in the Insolvency Law regarding the dissolution of companies.
- (2) The general effect of an order by the Court pursuant to Article 168(1) for restoration to the Register is that the Company is deemed to have continued existence as if it had not been dissolved or struck off the Register. The Company shall not be liable to a fine for failure to deliver accounts for any financial year in relation to which the period for filing accounts ended after the date of dissolution or striking off and before the restoration of the Company to the Register.
- (3) The Court may give directions and make such provisions as seems 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 or struck off the Register.
- (4) The copy of the order of the Court under this Article 168(1) shall, within fourteen (14) days from the making of the order, or such longer period as the Court may allow, be delivered to the Registrar by the person making the application for the order.
- (5) The Registrar shall, as soon as practicable upon receipt of a copy of the Court order, restore the Company to the Register.
- (6) The restoration of the Company shall take effect upon a copy of the Court's order being delivered to the Registrar..

CHAPTER 3– GENERAL CONTRAVENTIONS

169. General contraventions provision

- (1) A person who:
- (a) does an act or thing that the person is prohibited from doing by or under an Article of this Law, the Regulations or any other Legislation administered by the Registrar;

- (b) does not do an act or thing that the person is required or directed to do under an Article of this Law, the Regulations or any other Legislation administered by the Registrar; or
- (c) otherwise contravenes an Article of this Law, the Regulations or any other Legislation administered by the Registrar,

commits a contravention of this Law.

- (2) Under this Article, a ‘person’ does not include the DIFCA, Registrar, DFSA or President.

170. **Involvement in contraventions**

- (1) If a person is knowingly concerned in a contravention of this Law, the Regulations or any other Legislation administered by the Registrar committed by another person, the first person as well as the other person commits a contravention and is liable to be proceeded against and dealt with accordingly.
- (2) Without limiting the generality of Article 170(1), if an officer of a body corporate is knowingly concerned in a contravention of this Law, the Regulations or any other Legislation administered by the Registrar committed by a body corporate, the officer as well as the body corporate commits a contravention and is liable to be proceeded against and dealt with accordingly.
- (3) If the affairs of a body corporate are managed by its Shareholders, Article 170(2) applies in relation to the acts and defaults of a Shareholder in connection with that Shareholder’s functions of management as if that Shareholder were an officer of the body corporate.
- (4) For the purposes of this Article, “officer” means a director, member of a committee of management, chief executive, secretary or other similar officer of the body corporate or association, or a person purporting to act in such capacity, and an individual who is a controller of the body.
- (5) For the purposes of this Article 170, a person is ‘knowingly concerned’ in a contravention if, and only if, the person
 - (a) has aided, abetted, counselled or procured the contravention;
 - (b) has induced, whether by threats or promises or otherwise, the contravention;
 - (c) has in any way, by act or omission, directly or indirectly, been knowingly involved in or been party to, the contravention; or
 - (d) has conspired with another or others to effect the contravention.
 - (e) has, alone or in concert with others, directly or indirectly, done, attempted or planned any of the following:
 - (i) conceal the existence or extent or nature of a contravention; or
 - (ii) obstruct, impede or prevent competent authorities within the DIFC from detecting, investigating or prosecuting a contravention.
- (6) In this Article, a ‘person’ does not include the DIFCA, Registrar, DFSA or President.

CHAPTER 4 – ENFORCEMENT

171. **Enforceable undertakings**

- (1) The Registrar may accept a written undertaking given by a person where the Registrar considers the provision and acceptance of such an undertaking is necessary or desirable in the pursuit of the Registrar’s objectives.

- (2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Registrar.
- (3) If the Registrar considers that the person who gave the undertaking has been in breach of any of its terms, the Registrar may apply to the Court for an order under Article 171(4).
- (4) If the Court is satisfied that the person has been in breach of a term of the undertaking, the Court may make all or any of the following orders:
 - (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order directing the person to pay to any person or to the Registrar an amount up to the amount of any profit, gain or benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the Court considers appropriate.

172. **Administrative Censures**

- (1) The Registrar may censure a person where such person contravenes:
 - (a) any regulations, standards or codes of practice or Guidance administered by the Registrar; or
 - (b) a provision of any Legislation administered by the Registrar.
- (2) The Registrar shall, when exercising the Registrar's power under Article 172(1), follow the Decision-making Procedures prescribed in the Regulations.
- (3) The Registrar may censure a person by any means, including by way of publishing a notice of censure.

173. **Administrative imposition of fines**

- (1) Where the Registrar considers that a person has committed a contravention of a provision of this Law, the Regulations or any other Legislation administered by the Registrar, the Registrar may, where such a contravention is subject to a fine as specified in Schedule 2 of this Law or such other Legislation administered by the Registrar, impose on such person a fine not exceeding the amount specified as the maximum fine applicable to the relevant contravention.
- (2) The Registrar shall, in exercising the Registrar's power under Article 173(1), follow the Decision-making Procedures prescribed in the Regulations, except where such procedures are expressly disapplied.
- (3) The Board of Directors of the DIFCA shall, for the purposes of this Article, prescribe in Regulations the applicable procedures in relation to the imposition and recovery of fines, including any circumstances in which such procedures are inapplicable to the imposition of a fine.

CHAPTER 5– APPLICATIONS TO COURT

174. **Orders for compensation**

- (1) Where a person intentionally, recklessly or negligently commits a breach of any requirement, duty, prohibition, responsibility or obligation which is imposed by or under this Law or the Regulations, the person is liable to compensate any other person for any loss or damage caused to that other person as a result of such conduct, and is otherwise liable to restore such other person to the position they were in prior to such conduct.

- (2) Where a person suffers loss or damage caused as a result of conduct described in Article 174(1), the Court may, on application brought by the person, or the Registrar on behalf of such person, make orders for the recovery of damages or for compensation or for the recovery of property or any other order as the Court sees fit, except where such Liability is excluded under this Law, the Regulations or any other Legislation administered by the Registrar.
- (3) Nothing in this Article affects the powers that any person or the Court may have apart from this Article.

175. **Orders in event of unfair prejudice**

- (1) Where a Company's affairs are being or have been conducted in a manner whereby the conduct is unfairly prejudicial to the interests of its Shareholders generally or of one (1) or more Shareholders, or an actual or proposed act or omission of the Company (including an act or omission on its behalf) is or would be so prejudicial, the Court may, on application of one (1) or more Shareholders of the Company, make one (1) or more of the following orders:
 - (a) an order regulating the conduct of the Company's affairs in the future;
 - (b) an order requiring a person to do, or refrain from doing, any act or thing;
 - (c) an order authorising proceedings to be brought in the name of and on behalf of the Company by such person or persons and on such terms as the Court may direct;
 - (d) an order providing for the purchase of the rights of any Shareholders of the Company by other Shareholders or by the Company itself and, in the case of a purchase by the Company itself, the reduction of the Company's capital accounts accordingly; or
 - (e) any other order as the Court sees fit.
- (2) If an order under this Article requires the Company not to make any, or any specified, alterations in its Articles of Association, the Company shall not, without leave of the, Court make any such alteration.
- (3) An alteration to the Articles of Association made by virtue of an order under this Article is of the same effect as if duly made by Special Resolution of the Company, and the provisions of this Law apply to the Articles of Association as so altered accordingly.
- (4) The copy of the order of the Court under this Article 175 altering, or giving leave to alter, the Articles of Association shall, within fourteen (14) days from the making of the order or such longer period as the Court may allow, be delivered by the Company to the Registrar for registration.
- (5) Nothing in this Article affects the powers that any person or the Court may have apart from this Article.

176. **Compulsory winding up**

- (1) The Registrar may apply to the Court for the winding up of a Company if:
 - (a) either:
 - (i) a Company is acting or has acted in contravention of this Law, the Regulations or any other Legislation administered by the Registrar; or
 - (ii) it is in the interests of the Shareholders of the Company, or of the Creditors of the Company, for a Company to be wound up; and
 - (b) it is just and equitable and in the interests of the DIFC for the Company to be wound up, and

if such Company is licensed, registered or recognised by the DFSA, the DFSA has given its prior consent for such an application to be made.

- (2) The Court may make any orders considered necessary or desirable for the winding up of a Company referred to in Article 176(1).
- (3) Nothing in this Article affects the powers that any person or the Court may have apart from this Article.

177. Appointment of a receiver

- (1) In this Article, “relevant requirement” means a requirement, duty, prohibition, responsibility or obligation which is imposed by or under this Law, the Regulations or any other Legislation administered by the Registrar.
- (2) Subject to Article 177(4), where:
 - (a) the Registrar has appointed an Inspector or Inspectors to conduct an investigation into the affairs of a Company;
 - (b) a civil or regulatory proceeding has been instituted, by the Registrar or otherwise, against a person as a result of that person’s conduct in relation to the affairs of a Company; or
 - (c) a person has engaged, is engaging or is proposing to engage in conduct that constituted, constitutes or would constitute a contravention of a relevant requirement,

the Court may, on application of the Registrar or any other person, make an order appointing a receiver or receiver and manager, having such powers as the Court may see fit, of the property or any of the property of the relevant Company.

- (3) Nothing in this Article affects the powers that any person or the Court may have apart from this Article.
- (4) The Registrar shall not make an application under this Article in the case of a Company which is licensed, registered or recognised by the DFSA unless the prior consent of the DFSA to make such an application is obtained.

178. Power of Court to grant relief in certain cases

- (1) If, in proceedings relating to any contravention, default, negligence, or any breach of duty, obligation, prohibition, requirement, responsibility or trust imposed by or under this Law, the Regulations or any other Legislation administered by the Registrar commenced against an Officer of a Company or a person employed by a Company as auditor, it appears to the Court that such Officer or person is or may be liable in respect of his conduct but that such person has acted honestly and that having regard to all the circumstances of the case (including those connected with his appointment) such person ought fairly to be excused for such person’s conduct, the Court may relieve him, either wholly or partly, from his Liability on such terms as it thinks fit.
- (2) If an Officer or person mentioned in Article 178(1) has reason to apprehend that a claim will or might be made against him in respect of any contravention, default, negligence, or any breach of duty, obligation, prohibition, requirement, responsibility or trust imposed by or under this Law, the Regulations or any other Legislation administered by the Registrar, such person may apply to the Court for relief, and the Court on the application has the same power to relieve such person as it would have had if proceedings against that person for any such matter had been brought.

179. Effect of provisions

For the avoidance of doubt, nothing in any Article in this Part limits the generality of any other Article in this Part, or the generality of any other provision in this Law, the Regulations or any other Legislation administered

by the Registrar, which may provide for administrative remedies or the commencement of proceedings in the Court.

PART 15: GENERAL PROVISIONS

CHAPTER 1– THE BOARD OF DIRECTORS OF THE DIFCA

180. The powers and functions of the Board of Directors of the DIFCA

- (1) Without limiting the powers and functions conferred elsewhere under this Law or under any other law made by the Ruler, the Board of Directors of the DIFCA has the powers and functions to:
 - (a) ensure that the Registrar exercises its statutory powers and functions in accordance with the Registrar’s objectives as specified in Article 9;
 - (b) review the performance of the Registrar and the use of the Registrar’s resources; and
 - (c) after consultation with the President, give the Registrar written directions:
 - (i) to further any of the Registrar’s regulatory objectives; or
 - (ii) relating to the performance of the Registrar’s statutory functions,
 and such directions shall not constitute Regulations.
- (2) The Board of Directors of the DIFCA may delegate to the Registrar such of its regulatory powers and functions, other than those specified in Article 180(1), where such powers and functions may more efficiently and effectively be performed by the Registrar.

181. Power to make Regulations

- (1) The Board of Directors of the DIFCA may make Regulations in respect of:
 - (a) any matters relating to the objectives, powers or functions of the Registrar; or
 - (b) to facilitate the administration of, or further the purposes of, any law administered by the Registrar.
- (2) The Board of Directors of the DIFCA may, in the exercise of its power under Article 181(1), make Regulations in respect of:
 - (a) forms, procedures and requirements under this Law;
 - (b) the keeping of public registers and databases; and
 - (c) the conduct of the Registrar and the Registrar’s officers, employees and agents in relation to the exercise of powers and performance of functions, including those relating to the exercise of discretionary powers and powers to conduct investigations and hearings.
- (3) The Board of Directors of the DIFCA may issue a standard or code of practice which it may incorporate by reference into the Regulations. Such a standard or code of practice shall have the same effect as Regulations except where otherwise stated.
- (4) Without limiting the generality of Article 181(1), the Regulations under this Article may:
 - (a) make different provision for different cases or circumstances;
 - (b) include supplementary, incidental and consequential provision; and
 - (c) make transitional and savings provisions for the purposes of giving effect to, or to facilitate, the transition from the Previous Law to this Law, including in relation to the conversion of:

- (i) each Company Limited by Shares registered under the Previous Law, into a Private Company or a Public Company; or
 - (ii) each Limited Liability Company registered under the Previous Law, into a Private Company.
- (5) Where any Regulations made under this Law purports to be made in the exercise of a particular power or powers, it shall be taken also to be made in the exercise of all the powers under which it may be made.

182. **Publication of draft Regulations**

- (1) The Board of Directors of the DIFCA shall publish draft Regulations, including any draft standard or code of practice referred to in Article 181(3), by means of a notice.
- (2) The notice of draft Regulations shall include:
 - (a) a summary of the draft Regulations;
 - (b) the text of the draft Regulations;
 - (c) a statement of the substance and purpose of the material provisions of the draft Regulations; and
 - (d) if the draft Regulation includes by reference to a standard or code of practice, the information in 182(2)(a) - (c) as is relevant to such standard or code of practice.
- (3) Upon publication of a notice under Article 182(2), the Board of Directors of the DIFCA shall invite interested persons to make representations with respect to the draft Regulations within a period of at least thirty (30) days after the publication, or within such other period as the Board of Directors of the DIFCA may otherwise determine.
- (4) Articles 182(1), 182(2) and 182(3) shall not apply if the Board of Directors of the DIFCA concludes that:
 - (a) any delay likely to arise as a result of compliance with those Articles is prejudicial to the interests of the DIFC; or
 - (b) the draft Regulations are merely to correct unintended anomalies or inconsistencies in the Law or the Regulations, or are of a merely consequential nature which do not change the intended policy or effect of the relevant Rule or Regulations.
- (5) Any period of time during which the Board of Directors of the DIFCA has invited interested persons to make representations with respect to draft Regulations prior to this Article coming into effect shall be deemed to count as part or all of the period referred to in Article 182(3).

CHAPTER 2 - THE REGISTRAR

183. **Reporting by the Registrar**

- (1) The Registrar shall report to the Board of Directors of the DIFCA in such manner as the Board of Directors of the DIFCA may direct.
- (2) The Board of Directors of the DIFCA shall provide the President with a written report on the exercise of the powers and performance of the functions of the Registrar and of the Registrar's financial activities.

- (3) Such report shall be prepared and provided before the end of the first quarter of the financial year of the Registrar or within such other period as the President may require and shall relate to the previous financial year.
- (4) Such report shall be published by the Board of Directors of the DIFCA without undue delay, or within such time period as the President otherwise directs.

184. Record keeping

The Registrar shall make suitable arrangements for keeping appropriate Records in relation to the exercise of the Registrar's powers and the performance of the Registrar's functions.

185. Conflicts of interest

- (1) Officers, employees and agents of the Registrar shall disclose material conflicts of interest to which they are subject to in performing their functions. Such disclosure shall be made without undue delay to the person to whom such officer, employee or agent reports.
- (2) Officers, employees and agents of the Registrar shall not participate in the making of decisions on matters in relation to which they are subject to a material conflict of interest, save that such a breach shall not result in a decision being rendered invalid.

186. Confidential information

- (1) Subject to Article 186(3), confidential information shall not be disclosed by the Registrar or by any of the Registrar's officers, employees or agents, or by any person coming into possession of the information, without the consent of the person to whom the duty of confidentiality is owed.
- (2) Information is confidential when:
 - (a) it is received by the Registrar or any of the Registrar's officers, employees or agents in the course of the performance by such person of a function under this Law, the Regulations or any other Legislation administered by the Registrar; and
 - (b) it has not been made available to the public in circumstances in which disclosure is not prohibited under this Law, the Regulations or other DIFC Law.
- (3) The Registrar may, and shall where directed by the Board of Directors of the DIFCA, disclose confidential information where such disclosure is:
 - (a) permitted or required to be made under this Law, the Regulations or any other Legislation administered by the Registrar;
 - (b) permitted or required to be by any other law;
 - (c) made to the DFSA for the purpose of assisting the DFSA in performing its regulatory functions; or
 - (d) made in good faith for the purposes of the performance and exercise of the functions and powers of the Registrar.

187. Financial year

The financial year of the Registrar commences on 1 January in each calendar year or such other date as the President may specify.

188. The annual budget of the Registrar

- (1) The Board of Directors of the DIFCA shall, before the end of each financial year, submit to the President for the President's approval estimates of the annual income and expenditure of the Registrar for the next financial year.
- (2) Such estimates shall include figures relating to levels of remuneration and entitlement to expenses of the officers, employees and agents of the Registrar.
- (3) The President may:
 - (a) approve the estimates submitted under Article 188(1); or
 - (b) on reasonable grounds reject such estimates within thirty (30) days of receiving them, where such rejection is to be advised in writing, with reasons, to the Board of Directors of the DIFCA.
- (4) Unless the estimates have been expressly approved by the President under Article 188(3)(a) or rejected under Article 188(3)(b), they shall be deemed to have been approved on expiry of thirty (30) days from the date of submission referred to in Article 188(1).

189. Funding and fees

- (1) In respect of each financial year of the Registrar, the office of the President shall provide financial resources to the Registrar to the extent necessary to ensure that the Registrar is able adequately to perform the Registrar's functions and exercise the Registrar's powers.
- (2) The Registrar may invest the Registrar's financial resources which are not immediately required in accordance with an investment policy approved in advance by the President and the Board of Directors of the DIFCA.
- (3) The Board of Directors of the DIFCA may make Regulations requiring the payment to the Registrar of such fees as may be prescribed in respect of:
 - (a) the performance by the Registrar of such functions under this Law as may be specified in the Regulations, including the receipt by the Registrar of any Document under this Law which is required to be delivered to the Registrar; and
 - (b) the inspection of Documents or other material held by the Registrar under this Law.
- (4) The Registrar may charge a fee for any services provided by the Registrar otherwise than in pursuance of an obligation imposed on the Registrar by this Law.
- (5) Where a fee is provided for or charged under this Article for the performance of an act or duty by the Registrar, no action need be taken by the Registrar until the fee is paid, and where the fee is payable on the receipt by the Registrar of a Document required to be delivered to the Registrar, the Registrar shall be deemed not to have received it until the fee is paid.

190. Accounts

- (1) The Registrar shall keep proper accounts of the Registrar's financial activities.
- (2) The Registrar shall, before the end of the first quarter of the financial year, prepare financial statements for the preceding financial year in accordance with the accounting standards specified in Regulations made by the Board of Directors of the DIFCA.
- (3) Such financial statements shall in any event give a true and fair view of the financial activities of the Registrar as at the end of the relevant financial year and of the results of the Registrar's operations and cash flows in the relevant financial year.

- (4) On completion of their preparation, such statements shall be, where appropriate to do so, approved by the Board of Directors of the DIFCA.

191. Audit

- (1) The Board of Directors of the DIFCA shall appoint auditors to conduct an audit in relation to each financial year of the Registrar.
- (2) The Board of Directors of the DIFCA shall, as soon as reasonably practicable after the preparation and approval of the financial statements of the Registrar, provide such statements to the relevant auditors for audit.
- (3) The auditors shall prepare a report on the financial statements and send the report to the Board of Directors of the DIFCA.
- (4) Such report shall, where appropriate, include a statement by the auditors as to whether or not, in their opinion, the financial statements to which the report relates give a true and fair view of the state of the financial activities of the Registrar as at the end of the financial year to which the financial statements relate and of the results of the Registrar's operations and cash flows in that financial year.
- (5) The auditors shall have a right of access at all reasonable times to all information which is reasonably required by them for the purposes of preparing the report and which is held or controlled by any officer, employee or agent of the Registrar.
- (6) The auditors shall be entitled reasonably to require from the officers, employees and agents of the Registrar such information and explanations they consider necessary for the performance of their duties as auditors.
- (7) A person shall not without reasonable excuse intentionally engage in conduct that results in the obstruction of a person appointed under Article 191(1) in the exercise of that person's powers under this Article.
- (8) The Board of Directors of the DIFCA shall, before the end of the first quarter of the financial year of the Registrar or within such other period as the President may require, submit to the President copies of:
 - (a) the approved financial statements of the Registrar for the previous financial year; and
 - (b) the report of the auditors on the financial statements.

192. Taxation

The income of the Registrar shall not be subject to taxation.

193. Liability

- (1) Subject to Article 193(2), the Registrar may be sued in the Registrar's corporate capacity.
- (2) Neither the Registrar nor the DIFCA nor any officer, employee or agent of them can be held liable for anything done or omitted to be done in the performance or purported performance of the functions or in the exercise or purported exercise of any power of the Registrar or of the Board of Directors of the DIFCA.
- (3) Article 193(2) does not apply if the act or omission is shown to have been in bad faith.

194. Independent review of the Registrar

- (1) The President may appoint an independent person to review and report to the President on any aspect of the efficiency and effectiveness of the Registrar in the use of the Registrar's resources.

- (2) The office of the President shall meet the reasonable expenses incurred by such person in preparing the report.
- (3) A person appointed under Article 194(1) has a right of access at all reasonable times to all information which is reasonably required by that person for the purposes of preparing the report and which is held or controlled by any officer, employee or agent of the Registrar.
- (4) A person appointed under Article 194(1) shall be entitled reasonably to require from the officers, employees and agents of the Registrar such information and explanations as that person considers necessary for the purpose of preparing the report.
- (5) A person shall not, without reasonable excuse, intentionally engage in conduct that results in the obstruction of a person appointed under Article 194(1) in the exercise of his powers under this Article.

CHAPTER 3 – MISCELLANEOUS

195. Waivers and modification of this Law or the Regulations

- (1) In this Article, a reference to a “relevant provision” is a reference to:
 - (a) any provision of this Law or any other law administered by the Registrar which is expressed to be subject to this Article; or
 - (b) any provision of the Regulations or any other regulation administered by the Registrar which is expressed to be subject to this Article.
- (2) The Registrar may:
 - (a) on the application of a person; or
 - (b) with the consent of a person,

by means of a written notice provide that one (1) or more relevant provisions either:

 - (c) shall not apply in relation to such person; or
 - (d) shall apply to such person with such modifications as are set out in the written notice.
- (3) A written notice may be given subject to conditions.
- (4) A person to whom a condition specified in a written notice applies shall comply with the condition. In the event of failure to comply with a condition, the Registrar may, without limiting any other powers that the Registrar may have, apply to the Court for an order, including an order that the person shall comply with the condition in a specified way.
- (5) Unless the Registrar is satisfied that it is inappropriate or unnecessary to do so, the Registrar shall publish a written notice in such a way as the Registrar considers appropriate for bringing the notice to the attention of:
 - (a) those likely to be affected by it; and
 - (b) others who may be likely to become subject to a similar notice.
- (6) The Registrar may on the Registrar’s own initiative or on the application of the person to whom the written notice applies, withdraw or vary such notice.
- (7) The Board of Directors of the DIFCA may make Regulations in connection with the provision of a written notice under this Article, including Regulations prescribing procedures for the making of applications and providing of consents.

196. Obligation of disclosure to the Registrar

- (1) Subject to Article 196(2), a Company or an auditor of a Company shall disclose to the Registrar any matter which reasonably tends to show one of the following:
 - (a) a contravention, or likely contravention of a provision of this Law, the Regulations or any other Legislation administered by the Registrar;
 - (b) a failure, or likely failure, to comply with any obligation to which a person is subject under such Legislation; or
 - (c) any other matter as the Board of Directors of the DIFCA may prescribe in Regulations,

which, in each case, may be attributable to the conduct of the relevant Company or of its Employees or agents. A Company or an auditor of a Company which fails to comply with the requirements of this Article 196(1) is liable to a fine, as set out in Schedule 2.
- (2) Article 196(1) shall not apply to the extent that compliance with such requirement would disclose a Privileged Communication.
- (3) A Company shall establish and implement appropriate systems and internal procedures to enable its compliance with Article 196(1).
- (4) Any provision in an agreement between a Company and an Officer, employee, agent or auditor 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 196(1).
- (5) No person shall be subjected to detriment or loss or damage merely by reason of undertaking any act to cause or assist a Company to comply with an obligation under Article 196(1).
- (6) The 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 196(5).

197. Disclosures to the Registrar

A person is neither liable to a proceeding, nor subject to a Liability, nor in breach of any duty, merely by reason of the giving of information or production of a Document by the person to the Registrar:

- (a) in good faith; and
- (b) in reasonable belief that the information or Document is relevant to any functions of the Registrar,

whether such information or Document is given or produced pursuant to a requirement at law or otherwise.

198. Whistleblowing

- (1) A person who makes a disclosure of information specified in Article (1) to the Registrar, the Company's auditor or a member of the audit team, or a Director or other Officer of a Company, is entitled to the protection set out in Article 198(3)(c).
- (2) For the purposes of Article 198(1), the disclosure of fact made by the person must:
 - (a) include the identity of that person;
 - (b) relate to a reasonable suspicion that the Company has or may have contravened a provision of this Law, the Regulations or any other Legislation administered by the Registrar; and
 - (c) be made in good faith.

- (3) Where a person makes disclosure under Article 198(2):
 - (a) such person shall not be subject to any civil or contractual Liability for making that disclosure;
 - (b) no contractual, civil or other remedy or right shall be enforced against such person by another person for making that disclosure, or any consequence resulting from such disclosure; and
 - (c) such person shall not be dismissed from his current employment, or otherwise subject to any action by the employer or any related party of the employer which is reasonably likely to cause detriment to that person.
- (4) Any person who takes any action which contravenes the requirements in Article 198(2)(c) is liable to a fine, as set out in Schedule 2.

199. Irregularities

- (1) In this Article:
 - (a) “procedure” is a reference to any procedure including but not limited to the making of a decision, the conduct of a hearing, the giving of a notice, and any proceeding whether a legal proceeding or not; and
 - (b) “procedural irregularity” includes a reference to a defect, irregularity or deficiency of notice or time.
- (2) A procedure under this Law, the Regulations or any other Legislation administered by the Registrar is not invalidated because of any procedural irregularity unless the Court declares the procedure to be invalid.
- (3) A person may apply to the Court for an order:
 - (a) declaring that:
 - (i) any act or thing purporting to have been done; or
 - (ii) any procedure purporting to have been commenced or undertaken,

under this Law, the Regulations or any other Legislation administered by the Registrar is not invalid by reason of any contravention of a provision of such Law, Regulations or other Legislation; or
 - (b) extending or abridging the period for doing any act, matter or thing or commencing or undertaking any procedure under this Law or the Regulations or any other Legislation administered by the Registrar,

where any such act or thing, or procedure, is essentially of a procedural nature.

200. False or misleading information

- (1) A person shall not:
 - (a) provide information which is false, misleading or deceptive to the Registrar; or
 - (b) conceal information where the concealment of such information is likely to mislead or deceive the Registrar.

- (2) A person who fails to comply with the requirements in Article 200(1) is liable to a fine, as set out in Schedule 2.

201. Compliance with an order or direction of the Registrar

Where the Registrar makes an order, issues a direction or makes a requirement in relation to a person pursuant to a provision of this Law, the Regulations or any other Legislation administered by the Registrar, such person shall comply with such order, direction or requirement. A person who fails to comply with such order, direction or requirement is liable to a fine, as set out in Schedule 2.

202. Publication by the Registrar

- (1) The Registrar shall make available to the public without undue delay after the making or issuing of:
- (a) Regulations made by the Board of Directors of the DIFCA; and
 - (b) Guidance in the form of:
 - (i) guidance made and issued by the Registrar under this Law; and
 - (ii) a standard or code of practice issued by the Board of Directors of the DIFCA which has not been incorporated into the Regulations.
- (2) The Registrar may publish in such form and manner as the Registrar regards appropriate information and statements relating to the practices and procedures of the Registrar, decisions of the Court, and any other matters which the Registrar considers relevant to the conduct of affairs in the DIFC.
- (3) Publications made under this Article may be provided with or without charge as the Board of Directors of the DIFCA may determine.

203. Public registers

- (1) The Registrar shall publish and maintain a register of current and past registrations of Companies and Recognised Companies in such manner as may be prescribed in the Regulations.
- (2) The Registrar shall make a reasonably current version of any register maintained under Article 203(1) freely available for viewing by the public during the normal business hours of the Registrar.

204. Language

The Registrar may require communication to which the Registrar is a party to be conducted in the English language.

SCHEDULE 1**1. Rules of interpretation**

- (1) In this Law, unless otherwise provided, a reference to:
- (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
 - (b) a person includes any natural person, body corporate or body unincorporate, including a company, partnership, unincorporated association, government or state.
 - (c) an obligation to publish or cause to be published a particular Document shall, unless expressly provided otherwise in this Law, include publishing or causing to be published in Printed or electronic form;
 - (d) a day shall be to a business day, being a normal working day in the DIFC;
 - (e) a calendar year shall mean a year of the Gregorian calendar;
 - (f) a reference to the masculine gender includes the feminine and vice versa;
 - (g) the singular shall include the plural and vice versa; and
 - (h) this Law includes any Regulations made under this Law.
- (2) The headings in this Law shall not affect its interpretation.
- (3) References in this Law to a body corporate include a company incorporated outside the DIFC.
- (4) A reference in this Law to a Part, Chapter, Article or Schedule by number only, and without further identification, is a reference to the Part, Chapter, Article or Schedule of that number in this Law.
- (5) A reference in an Article or other division of this Law to an Article by number or letter only, and without further identification, is a reference to the Article of that number or letter contained in the Article or other division of this Law in which that reference occurs.
- (6) Unless the context otherwise requires, where this Law refers to an enactment, the reference is to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under another enactment, including any other provision of that enactment.
- (7) References in this Law to a writing, filing, instrument or certificate include any mode of communication that preserves a record of the information contained therein and is capable of being reproduced in tangible form, including electronic means. For the avoidance of doubt, a Company may, with the consent of a Shareholder, communicate with that Shareholder by electronic means.

2. Legislation in the DIFC

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

- (a) Federal Law is law made by the federal government of the United Arab Emirates;
- (b) Dubai Law is law made by the Ruler, as applicable in the Emirate of Dubai;
- (c) DIFC Law is law made by the Ruler (including, by way of example, this Law), as applicable in the DIFC;

- (d) this Law is the Companies Law, DIFC Law No. 3 of 2017 made by the Ruler;
- (e) the Regulations are Legislation made by the Board of Directors of the DIFCA under this Law and are binding in nature;
- (f) the Enactment Notice is the enactment notice pursuant to which this Law is brought into force.
- (g) Guidance is indicative and non-binding and may comprise (i) guidance made and issued by the Registrar under this Law or the Regulations; and (ii) any standard or code of practice issued by the Board of Directors of the DIFCA which has not been incorporated into the Regulations; and
- (h) references to “Legislation administered by the Registrar” are references to any DIFC Law and regulations conferring functions and powers on the Registrar.

3. Defined terms

In this Law, unless the context indicates otherwise, the defined terms listed in the table below shall have the corresponding meanings.

Terms	Definitions
Accounting Records	Records and underlying Documents comprising initial and other accounting entries and associated supporting Documents such as: <ul style="list-style-type: none"> (a) cheques; (b) Records of electronic funds transfers; (c) invoices; (d) contracts; (e) the general and subsidiary ledgers, journal entries and other adjustments to the financial statements that are not reflected in journal entries; and (f) work sheets and spread sheets supporting costs allocations, computations, reconciliations and disclosures.
Acquisition Value	has the meaning set out in Article 106(7)(a).
Allotment	in relation to Shares, a transaction by which a person acquires the unconditional right to be included in a Company’s register of Shareholders in respect of such Shares.
Annual General Meeting	the General Meeting held by the Shareholders of a Company as an annual General Meeting in each year.
Appointed Publication	A publication which is either: <ul style="list-style-type: none"> a. a website written in English and is appointed by the Registrar; or; b. a newspaper published in English with national circulation in the UAE and, if different, a newspaper with national circulation in the country where the Company has its principal place of business.

Terms	Definitions
Articles of Association	in relation to a Company, its articles of association as originally framed or as altered in accordance with this Law.
Board of Directors of the DIFCA	the governing body of the DIFCA.
Commercial Licence	the commercial licence of a Company issued by the Registrar.
Company	a Private Company or a Public Company.
Company Limited by Shares	a body corporate incorporated as such in the DIFC prior to the commencement date of this Law.
Connected Person	Has the meaning given under Article 86(4).
Constitutional Documents	For the purposes of Part 7chapter 9 of Part 7, the Articles of Association of a Company and any other resolutions and agreements of which a copy or a written memorandum, as appropriate, is submitted to the Registrar in accordance with Article 28.
Court	the DIFC Court as established under Dubai Law.
Creditors	includes present, prospective and contingent creditors.
Decision-making Procedures	the decision-making procedures prescribed in the Regulations for the exercise of the powers of the Registrar under the Law where are stated to be subject to such procedures.
DFSA	the Dubai Financial Services Authority.
DIFC	the Dubai International Financial Centre.
DIFCA	the DIFC Authority established under Dubai Law.
Director	a person, by whatever name called, who is: <ul style="list-style-type: none"> (a) appointed to the position of a director; or (b) appointed to the position of an alternate director, and is acting in that capacity; or (c) not validly appointed as a director, but is acting in the position of a director (i.e. a de-facto director).
Distribution	has the meaning given in Article 72(7).
Document	includes summons, notice, statement, return, account, order and other legal process, and registers.
Employee	in relation to a Company means any individual who is appointed or employed by the Company whose services are provided to, or for the purposes of the Company, and includes any Officer of the Company.

Terms	Definitions
Employee Share Scheme	<p>a scheme or arrangement for encouraging or facilitating the holding of Shares or debentures in a Company by or for the benefit of:</p> <p>(a) the bona fide Employees or former Employees of the Company, the Company's subsidiary or holding company or a subsidiary of the Company's holding company; or</p> <p>(b) the wives, husbands, widows, widowers or minor children or minor step-children of the individuals referred to in (a).</p>
Equity Securities	<p>means:</p> <p>(a) ordinary Shares in the Company; or</p> <p>(b) rights to subscribe for, or to convert securities into, Ordinary Shares in the Company, and</p> <p>ordinary share means any Shares in the Company other than those which carry limited rights to participate in dividends or capital (on a winding up of the Company).</p>
Financial Services Regulator	means the DFSA or any financial services regulator outside the DIFC.
Foreign Company	a body corporate incorporated in any jurisdiction other than the DIFC.
General Meeting	a meeting of Shareholders of a Company.
General Partnership	a general partnership formed in the DIFC under the General Partnership Law No. 11 of 2004.
Guidance	has the meaning given in Article 2 of Schedule 1 to this Law.
Incorporator	a person to whom issued Shares are allotted in a Company upon its incorporation.
Insolvency Law	The DIFC law relating to the insolvency of Companies.
Inspector	an inspector appointed by the Registrar pursuant to Article 159
Issued Share Capital	shares of a Company that have been issued.
Legislation	includes Regulations or rules made under Legislation.
Liability	includes any debt or obligation.
Limited Liability Company	a body corporate incorporated as such in the DIFC prior to the commencement date of this Law.
Limited Liability Partnership	a limited liability partnership formed in the DIFC under the Limited Liability Partnership Law No. 5 of 2004.
Limited Partnership	a limited partnership formed in the DIFC under the Limited Partnership Law No. 4 of 2006.

Terms	Definitions
Officer	in relation to a Company, means: (i) a Director or Secretary of that Company; (ii) a senior manager of that Company, (iii) a receiver or a receiver and manager of that Company; (iv) an administrator of a deed of company arrangement executed by that Company; (v) an official manager of that Company; or (vi) a liquidator or a provisional liquidator of that Company.
Ordinary Resolution	a resolution passed by a simple majority of the votes of such Shareholders as (being entitled to do so) vote in person or, where proxies are allowed, by proxy, at a General Meeting for which notice specifying the intention to propose the resolution has been duly given and includes an Ordinary Resolution in writing.
Ordinary Shares	Shares other than those which carry a right to participate in dividends or capital (i.e. Distributions) only up to a specified amount.
Paid Up	includes an amount paid or credited.
person	has the meaning given in Article 1 of Schedule 1 to this Law.
Personal Representative	the executor or administrator for the time being of a deceased person.
President	the president of the DIFC appointed by a decree of the Ruler pursuant to Dubai Law.
Previous Law	the Companies Law 2009 (DIFC Law No. 2 of 2009) as it was in force immediately prior to the commencement of this Law.
Printed	includes typewritten and a photocopy of a Printed or typewritten Document.
Private Company	a body corporate which is incorporated as, or converted to, a Private Company under this Law.
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 Company	a body corporate which is incorporated as, or converted to a Public Company under this Law.
Recognised Company	a Foreign Company registered pursuant to Article 144.
Records	Documents, information and other records however stored.
Register	The register of Companies incorporated under this Law and Recognised Companies, as maintained by the Registrar.
Registered Details of a Company	Information included in the Register
Registrar	the Registrar of Companies appointed pursuant to Article 8.

Terms	Definitions
Regulated Exchange	a multilateral system/facility operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third party buying and selling interests in Securities (in the system and in accordance with its non-discretionary rules) in a way that results in a contract, in respect of the financial instruments admitted to trading on the under its rules and/or systems, and which is authorised by a Financial Services Regulator and functions regularly.
Resolution	Special Resolution or Ordinary Resolution as appropriate.
Ruler	the Ruler of the Emirate of Dubai.
Schedule	a schedule to this Law.
Share	a share in the share capital of a Company.
Shareholder	a person entered in the register of Shareholders of a Company as the holder of a Share in that Company.
Secretary	a person occupying the position of Secretary of a Company, by whatever name called.
Securities	any negotiable instrument including but not limited to stocks, shares, debentures, warrants, certificates, units, options or any right to or interest in any such instrument.
Special Resolution	a resolution passed by at least seventy five per cent (75%) of the votes of such Shareholders as (being entitled to do so) vote in person or, where proxies are allowed, by proxy, at a General Meeting for which notice specifying the intention to propose the resolution has been duly given and includes a Special Resolution in writing.
Standard Articles	a model set of articles of association prescribed by the Registrar under Article 13.
Year	a calendar year having the meaning given in Article 1 of Schedule 1 to this Law.

4. Meaning of “holding company”, “ultimate holding company”, “subsidiary” and “wholly-owned subsidiary”

(1) A body corporate (the ‘first body corporate’) is a subsidiary of another body corporate (the ‘second body corporate’) if the second body corporate:

- (a) holds a majority of the voting rights in the first body corporate;
- (b) is a shareholder of the first body corporate and has the right to appoint or remove a majority of the board of directors or managers of the first body corporate; or
- (c) is a shareholder of the first body corporate and controls alone, pursuant to an agreement with other shareholders, a majority of the voting rights in the first body corporate,

or if the first body corporate is a subsidiary of another body corporate which is itself a subsidiary of the second body corporate, which is its holding company.

- (2) A body corporate is a wholly-owned subsidiary of another body corporate if the first body corporate has no shareholders except:
- (a) the second body corporate; and
 - (b) wholly-owned subsidiaries of or persons acting on behalf of the second body corporate or the second body corporate's wholly owned subsidiaries.
- (3) A body corporate is the holding company of another body corporate if the second body corporate is a subsidiary of the first body corporate, and a reference to a holding company includes an ultimate holding company.
- (4) A holding company is a holding body corporate which is a company and, a reference to an ultimate holding company is a reference to a holding company which is:
- (a) not itself a subsidiary of another body corporate; and
 - (b) the top-most holding company of a chain of bodies corporate which have a subsidiary and holding company relationship with each other.
- (5) In Article 4(1)(a) and (c) of this Schedule 1, the references to the voting rights in a body corporate are to the rights conferred on shareholders in respect of their shares , or (in the case of a body corporate not having a share capital) on partners, to vote at general meetings of the body corporate on all or substantially all matters.
- (6) In Article 4(1)(b) of this Schedule 1, the reference to the right to appoint or remove a majority of a board of directors or managers is to the right to appoint or remove directors or managers holding a majority of the voting rights at meetings of the board on all or substantially all matters; and for the purposes of that provision:
- (a) a body corporate shall be treated as having the right to appoint to a directorship or manager position if:
 - (i) a person's appointment to it follows necessarily from his appointment as director or manager of the body corporate; or
 - (ii) the directorship or manager position is held by the body corporate itself; and
 - (b) a right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship or manager position.
- (7) Rights which are exercisable only in certain circumstances shall be taken into account only:
- (a) when the circumstances have arisen, and for so long as they continue to obtain; or
 - (b) when the circumstances are within the control of the person having the rights,
- and rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.
- (8) Rights held by a person in a fiduciary capacity shall be treated as not held by that person.
- (9) Rights held by a person as nominee for another shall be treated as held by the other; and rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.
- (10) Rights attached to shares held by way of security shall be treated as held by the person providing the security:
- (a) where, apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions; and

- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.
- (11) Rights shall be treated as held by a body corporate if they are held by any of its subsidiaries. For the purposes of Article 4(11) of this Schedule, rights shall be treated as being exercisable in accordance with the instructions or in the interests of a body corporate if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of:
 - (a) any subsidiary or holding body corporate of the first body corporate; or
 - (b) any subsidiary of a holding body corporate of the first body corporate.
- (12) The voting rights in a body corporate shall be reduced by any rights held by the body corporate itself.
- (13) Reference in any of Article 4(9) to (13) of this Schedule 1 to rights held by a person include rights falling to be treated as held by such person by virtue of any other provision of those Articles.

5. Provision of information

Where any provision of this Law requires a Company to provide any information to a Shareholder or to any other person, the Company may provide such information either in print or in electronic form where accessible to such Shareholder or other person.

SCHEDULE 2

PART 1 – ADMINISTRATIVE FINES

<i>Article of Law creating contravention</i>	<i>General nature of contravention</i>	<i>Maximum Fine</i>
16(2)	Company failing to notify the Registrar of a change in Registered Details	\$2,000
23(3)	Company failing to change name on direction of Registrar	\$5,000
25(4)	Company failing to comply with requirements as to particulars in correspondence	\$5,000
26(3)	Company failing to file annual return	\$10,000
26(4)	Company providing incorrect or misleading information in its annual return	\$10,000
52(2)	Company failing to maintain a register of Shareholders	\$10,000
53(4)	Company failing to maintain a register of debenture holders	\$10,000
56(4)	Company failing to allow inspection of its register of Shareholders or register of debenture holders	\$15,000
57(5)	Company failing to comply with an order of the Registrar to rectify its register of Shareholders or register of debenture holders	\$2,000
58(4)	Company failing to comply with requirements in relation to Share certificates	\$2,000
90(4)	Company failing to maintain a current register of Directors and Secretaries and to make them available for inspection	\$2,000
96(2)	Company failing to comply with the Registrar's direction to call a General Meeting	\$15,000
148	Recognised Company failing to notify the Registrar of any change in Registered Details	\$2,000

PART 2 – OTHER FINES

*Article of Law General nature of contravention
creating
contravention*

4(3)	Person conducting business in the DIFC without due permission	\$50,000
17(1)	Person failing to maintain a valid Commercial Licence	\$15,000
17(2)	Person conducting activities not permitted under its Commercial Licence	\$25,000
17(8)	Person failing to renew its Commercial License	\$25,000
20(2)	Company failing to send a copy of its Articles of Association to a Shareholder	\$10,000
22(1)	Company failing to comply with requirements for changing its name	\$15,000
23(3)	Company failing to change its name when required	\$25,000
24(1)	Company failing to maintain a registered office in the DIFC	\$25,000
24(3)	Company failing to carry on its principal business activity in the DIFC	\$15,000
25(3)	Company failing to comply with requirements relating to particulars in correspondence	\$5,000
26(5)	Public Company failing to provide a copy of its annual return or make annual return available	\$10,000
28(4)	Company failing to file a resolution or agreement with the Registrar	\$5,000
37	Private Company failing to use its approved name	\$10,000
38	Public Company failing to use its approved name	\$15,000
39(1)(a)	Private Company having more than 50 Shareholders	\$30,000
44(2)	Company altering its share capital otherwise than by Special Resolution	\$10,000
46(5)	Person making a statement that is misleading, false or deceptive in a material way	\$20,000
48(7)	Company allotting Shares in breach of Shareholders' pre-emption rights	\$25,000
50(5)	Private Company making an offer to the public	\$30,000
54(6)	Company failing to register a transfer of Shares or debentures	\$10,000
55(3)	Company failing to keep its register of Shareholders or register of debenture holders (or a copy thereof) at its registered office	\$10,000
60(5)	Director signing a certificate without reasonable grounds	\$10,000
61(10)	Company failing to comply with requirements relating to the purchase of its own Shares	\$15,000
61(11)	Company and any Employee failing to comply with requirements relating to the purchase of its own Shares	\$10,000
61(12)	Director failing to comply with requirements relating to the purchase of the Company's own Shares	\$10,000
63(8)	Company giving unlawful financial assistance	\$15,000
64(6)	Company making an unlawful reduction in its share capital	\$15,000
65(4)	Director making a declaration in connection with a reduction in share capital without having reasonable grounds	\$10,000
66(7)	Officer of the company who conceals or misrepresents information relating to a creditor	\$10,000
72(9)	Company making an unlawful Distribution	\$20,000
92(4)	Person acting as a Director while disqualified	\$25,000
94(3)	Public Company failing to comply with Annual General Meeting requirements	\$30,000
106(4)	Offeror failing to send to Company whose Shares are the subject of the offer a notice and declaration	\$10,000
106(5)	Person making a declaration without have reasonable grounds	\$10,000
108(6)	Offeror failing to give minority Shareholder notice of rights	\$10,000
123	Merger Contravention	\$25,000
129(3)	Company failing to meet requirements relating to the maintenance of Accounting Records	\$25,000
131(8)	Company failing to meet requirements relating to accounts	\$10,000
132(3)	Company failing to provide accounts to a Shareholder on request	\$5,000

PART 2 – OTHER FINES

*Article of Law General nature of contravention
creating
contravention*

133(4)	Director failing to comply with requirements as to the Directors' report	\$10,000
136(2)	Person acting as an auditor in breach of requirements	\$15,000
137(3)	Auditor failing to make a report as required	\$15,000
138(1)	Auditor failing to carry out investigations required	\$15,000
138(5)	Auditor failing to state fact in report	\$10,000
139(3)	Company failing to comply with auditor resignation requirements	\$15,000
139(5)	Auditor failing to comply with resignation requirements	\$10,000
140(3)	Person failing to cooperate with the auditor	\$5,000
144(1)	Foreign company carrying out business in the DIFC without being registered as a Recognised Company	\$50,000
147(3)	Recognised Company failing to comply with its requirements	\$15,000
148	Recognised Company failing to notify change in requested details	\$15,000
149(3)	Recognised Company failing to keep proper Accounting Records as required	\$25,000
160(5)	Person failing to comply with requirements of an Inspector	\$25,000
160(6)	Person misleading an Inspector	
162(3)	Person obstructing an Inspector	\$25,000
196(1)	Company or auditor failing to disclose to the Registrar	\$10,000
198(4)	Person failing to comply with whistleblowing requirements	\$30,000
200(2)	Person providing false or misleading information to the Registrar	\$50,000
201	Person failing to comply with a direction or order of the Registrar	\$25,000