

# **DIFC REGULATION 10 ADVISORY COMMITTEE**

## **CHARTER**

### **Commissioner of Data Protection**

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## **DIFC Regulation 10 Advisory Committee – Charter**

The Regulation 10 Advisory Committee (the “Committee”) has been approved and established in accordance with Article 47 of the Data Protection Law, DIFC Law No. 5 of 2020 (the “DPL”). This Charter governs the Regulation 10 Advisory Committee and any associated Sub-committees<sup>1</sup> involved in the development and implementation of DIFC Data Protection Regulation 10 regarding Processing of Personal Data in Autonomous and Semi-autonomous Systems (the “Systems”). Membership in the Committee or any applicable Sub-committee is voluntary and will not be subject to remuneration. All terminology are defined within the text of the Charter or in Annex 2.

### ***Part A: Committee Charter***

#### **1. Charter Approval and Revisions**

1.1 A Regulation 10 Advisory Committee Charter must be established and adhered to in order to effectively administer the Committee.

1.2 The following sets out the means of approving and changing the Charter:

- a) The Committee will review and approve the Committee Charter no later than two (2) months from the date of its first meeting, unless an exception is agreed with the Commissioner and documented. The approval of the Charter must be documented using the Approval template provided in Annex 1.
- b) Any revisions to the Committee Charter shall be made in accordance with the following high level process:
  - i) Written proposal to change Charter submitted to Chair
  - ii) As applicable, discuss change with Chair to determine whether change is necessary
  - iii) If it is determined that the Charter change is necessary, share the proposed change(s) with all Members of the Committee for review and debate
  - iv) Change decision is voted on and confirmed by the Committee (as per a quorum<sup>2</sup>, if made during a meeting and by all Members if by circulation)

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<sup>1</sup> Proposed Sub-committees and related information are set out in Annex 3

<sup>2</sup> Please see Section 13 for quorum requirements.

and documented on the appropriate template (please see Annex 1 below), then submitted to Commissioner as a recommendation for change to the Charter

v) Commissioner must issue a decision within fourteen (14) business days of the change form submission

vi) Relevant stakeholders informed accordingly

1.3 If voting is required, the Committee will act in accordance with the procedure set out in Section 12.3 below

## **2. Regulations Establishing the Committee and Charter**

2.1 In accordance with Article 47(3), the Commissioner will submit proposed updates to DIFC DP Regulations regarding establishment of Committee and Sub-committees (as needed), as well as the Committee Charter for approval by the DIFC Legislative Committee and the DIFC Board of Directors.

2.2 The Commissioner's Office will seek views and consult the Members of the Committee (defined in Part C, below) on such proposals. Any views and consultation responses will be advisory in nature and the Commissioner's Office is not bound to follow them.

2.3 The Commissioner shall publish the updated Regulations upon final draft, review and approval of the proposed Regulations, as required to comply with Article 47(3).

## ***Part B: Scope, Purpose and Independence***

### **3. Committee Scope and Purpose**

#### **3.1 Scope**

3.1.1 The Committee shall provide targeted support and information to the Commissioner that will assist in the overall development and implementation of Regulation 10.

3.1.2 Membership and the scope of work of the Committee is advisory only, and does not create a legal partnership or employment with the DIFC or the Commissioner's Office.

3.1.3 Any guidance or information provided shall be non-binding and will not constitute professional, legal advice.

## **3.2 Purpose**

3.2.1 The Committee shall support the following functions in order to achieve the purposes of the Committee as specified under Article 47 of the DIFC Data Protection Law (the “Purpose”):

- a) advising the Commissioner on development or implementation of the requirements and public policy underpinning Regulation 10 in support of the Purpose, including but not limited to:
  - i. appropriate accountability, audit and certification requirements applicable to using, operating, providing, offering or otherwise making available for commercial use an Autonomous or Semi-autonomous System to engage in High Risk Processing Activities in accordance with Regulation 10.3.3;
  - ii. decisions regarding development and approval of Systems certification procedures, policies, codes of conduct, risk assessments or governance frameworks;
  - iii. promulgation of testing, sandbox or accelerator platforms alone or in collaboration with other entities with relevant objectives; or
  - iv. providing recommendations regarding the performance of the Commissioner’s functions and exercise of his powers vis a vis Regulation 10
- b) assisting the Commissioner with the drafting of guidelines, recommendations, and best practices for the Purpose and any related outcomes;
- c) assisting the Commissioner with respect to accreditation schemes, codes of conduct or mechanisms for data transfer, including but not limited to:
  - i. establishing the criteria for accreditation of a certification body;
  - ii. subsequent accreditation of a certification body empowered to create the necessary audit and certification requirements for compliance with Regulation 10.3.3(a), based on the Committee recommendations;

- iii. establishing guidance industry codes for development or deployment of relevant Systems;
  - iv. establishing additional authorities or bodies that administer such schemes or codes; or
  - v. other actions that support the Commissioner's functions and objectives in administering Regulation 10.
- d) drafting new, updated or supplemental Regulations governing the operation, provision or deployment of relevant Systems , including but not limited to supplemental obligations of Regulation 10, as necessary;
  - e) providing input, as requested by the Commissioner, regarding any relevant question arising under the Data Protection Law 2020 that the Commissioner is required to consider;
  - f) commissioning and reviewing reports to be provided to the Commissioner regarding Committee developments, ongoing requirements and achieved / recommended outcomes<sup>3</sup>; and
  - g) liaising with other data protection committees or authorities as directed by the Commissioner, including but not limited to furtherance of the Purpose.

3.2.2 Any additional Purpose or related functions of the Committee or any Sub-committees shall be discussed, agreed by the Committee Members voted on, and documented accordingly using approved templates and recorded with the Commissioner's Office.

#### **4. Independence and Accountability**

4.1 The Committee Chair and Members will always act independently and with integrity. Their work will not be directed or subject to any undue interference by the Commissioner's Office and other stakeholders.

4.2 A Committee Member's Conflict(s) of Interest, if any, shall be raised by the Member or other relevant party (i.e., Chair or Secretary (if one is appointed)), recorded using the appropriate Conflicts Declaration template and reviewed in accordance with the criteria and procedures set out by the DIFC Code of Values and Ethics.

4.3 To maintain the accountability of the Committee, the Committee's work will be subject to the following oversight and controls:

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<sup>3</sup> Please see Section 12.1 for information about reporting frequency.

- a) All Committee activities will be periodically reviewed by DIFC Audit Committee, which is a DIFC Board Committee, or by another independent stakeholder as directed by, and at the discretion of, the Commissioner.
- b) Decisions, outcomes and any governance changes resulting from the audit performed by the DIFC Audit Committee must be reviewed on a case by case basis by a three (3) person review panel (the “Review Panel”) to be selected by the Commissioner. The Review Panel may be selected from:
  - i. the Committee itself (apart from the potentially conflicted Member or Members);
  - ii. from general applicants who apply through an approved application process and using approved application forms (see Annex 1 for relevant templates);
  - iii. selected local or international professionals who demonstrate relevant, particular knowledge and expertise; or
  - iv. a combination of any of the above, provided that no further Conflict of Interest arises as a result such appointment.
- c) Where the Review Panel requests further explanation or revision of a decision, outcome or governance process change, a Committee meeting will be called to discuss and provide an action plan, as necessary, to address concerns with the decision, outcome or change.
- d) Without interference or discouragement from the Commissioner or Chair, a Secretariat Member may request an audit of the Committee activities at any time, providing a reason to substantiate the request and suggesting means for funding the audit, if necessary.

## ***Part C: Membership***

### **5. Membership Structure t**

5.1 The formation of the Committee shall be as follows:

- a) Chair – One (1)
- b) Secretary – One (1), if necessary / appointed
- c) General Committee - Five (5) General Members (minimum)
- d) Secretariat - Three (3) Secretariat Members (minimum)

and shall collectively be referred to as the “Committee” or “Committee Members”.

- 5.2 The Chair will be appointed by the Commissioner, in accordance with Article 47 of the DPL. The Chair's appointment will be recorded using the Appointments and Changes Form and distributed to the Committee for their information and comment, if any.
- 5.3 The Commissioner can elect to replace the Chair or Secretary (if one is appointed) at his discretion. Such change will be communicated to the Committee via email circulation as soon as practicable after the change is completed.
- 5.4 Where the Commissioner has not elected to replace the Chair or Secretary (if one is appointed), any Committee Member may recommend a new or replacement Chair or Secretary (if one is appointed) using the appropriate Recommendation to the Commissioner form, which shall set out the reasons for the recommended change and in accordance with the process as follows:
- 5.4.1 The Committee Member making such recommendation shall advise the Chair or Secretary (if one is appointed), or, if necessary, a Secretariat Member, of the need to submit the recommendation to the Commissioner.
- 5.4.2 With the assistance of the Chair or Secretary (if one is appointed), or Secretariat Member, as relevant, the Committee shall receive the change recommendation via circulation by email and will vote to approve the recommendation either at a Committee meeting or via email reply prior to sharing it with the Commissioner.
- 5.4.3 The Chair or Secretary (if one is appointed), or if necessary, the Secretariat Member, will share the proposed, Committee-approved recommendation with the Commissioner via email as soon as practicable after the necessary vote.
- 5.4.4 If the Commissioner agrees to the change, he shall without undue delay issue an Appointments and Changes form summarizing the above and appointing a new Chair.
- 5.5 The criteria for selection of the Chair (if appointed) are as follows:
- a) Should hold a leadership position in the DIFC, including DIFC Directors, DIFC Board committee members, or other locally based government authority committee or board members.<sup>4</sup> ;
  - b) Must have an understanding of and proven ability to administer governance obligations, in general and as set out in this Charter;

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<sup>4</sup> May include members of the DIFC Legislative Committee, or other DIFC or Dubai government related committees established from time to time.



- c) Must have knowledge of compliance and regulation, and specific understanding of privacy and technology is preferred;
- d) Other criteria the Commissioner deems necessary in order to further relevant functions and objectives set out in Article 46(2) of the DPL.

5.6 The criteria for selection of the Secretary are as follows:

- a) Should hold a managerial or similar position in the DIFC;
- b) Should have an understanding of and proven ability to administer governance obligations, in general and as set out in this Charter;
- c) Should have knowledge of compliance and regulation, and specific understanding of privacy and technology is preferred;
- d) Other criteria the Commissioner deems necessary in order to further relevant functions and objectives set out in Article 46(2) of the DPL.

5.7 **General Members** of the Committee are persons who have applied through a general call for membership (the “Open Applications” / “Open Application Process”) that is open to the public for a specified period ( the “Open Application Period”). The Open Application Process is described in further detail in Section 8 below.

5.8 General Members are requested to:

- a) attend Committee meetings on a regular basis;
- b) provide general advisory feedback and knowledge sharing during Committee meetings and through review of Committee outputs shared by circulation; and
- c) suggest potential projects or areas of focus for the Committee to pursue.

5.9 **Secretariat Members** or the Secretariat of the Committee are invited to participate at the request of the Commissioner largely based on body of work and specific expertise (the “Secretariat Invitation Process”). Secretariat Invitation Process and selection is based on additional criteria set out in Section 9 below.

5.10 Secretariat / Secretariat Members are requested to:

- a) attend Committee meetings on a regular basis;

- b) provide more specific, authoritative advisory feedback and knowledge sharing during Committee meetings and through review of Committee outputs shared by circulation;
- c) suggest potential projects or areas of focus for the Committee to pursue; and
- d) support the oversight and direction of the Committee's work and recommendations to the Commissioner;

5.11 General Members, Secretariat Members, the Chair and the Secretary (if one is appointed) are all deemed "Members" of the Committee, also known as "Committee Members". The names and contact details of all Committee Members shall be recorded using the Appointments and Changes Form, which shall be shared with the Commissioner upon request and updated accordingly by the Chair or Secretary (if one is appointed).

5.12 For the avoidance of doubt, in order to maintain objectivity and independence, the Commissioner shall not be a Member of the Committee.

## **6. Commitment**

6.1 Membership is through a voluntary appointment that is subject to strict confidentiality and requires declaration of any conflicts as set out above.

6.2 Members commitment includes but is not limited to:

- a) Attendance at General Committee meetings. Attendance at least one meeting is required in order to remain in the Committee.
- b) Support and participation in Sub-committees as needed or requested by the Commissioner or the Chair, but remains the option of the Member to accept

## **7. Term**

7.1 The term for General Members is three (3) years from the first Committee meeting (regardless of attendance at the meeting) or until resignation. General Members may renew their commitment on an ongoing basis for a maximum of two (2) terms, subject to the discretion of the Commissioner and Chair.

7.2 The term for Secretariat Members is two (2) years from the first Committee meeting (regardless of attendance at the meeting) or until resignation.

Secretariat Members may renew their commitment for a maximum of three (3) terms.

## **8. Committee Member Skills and Competencies**

8.1 Committee Members should possess at least several of the following skills and competencies:

- a) Demonstrated competency in the intersection of data protection law, policy, compliance and advanced technology development and deployment, specifically with respect to the development and deployment of autonomous and semi-autonomous systems that process personal data. Examples could include but are not limited to:
  - i. machine learning
  - ii. generative AI, including large language models and neural networks
  - iii. autonomous robots and vehicles
  - iv. biometric technologies
  - v. experiential, augmented, and mixed reality technologies
  - vi. systems processing genetic and other biological information
  - vii. autonomous or semi-autonomous Processing of information, including Personal Data at large
- b) Legal or compliance competency that includes general risk assessment experience, and understanding of potential impacts on the of rights of data subjects
- c) Demonstrated competency stemming from experience with developers and deployers of cutting-edge technology or experienced advisers of such developers and deployers.
- d) Understanding of global developments in law and regulation for technology, especially any regulation of AI and machine learning and data protection.
- e) Experience liaising with data protection regulators, technology regulators, or government authorities
- f) Strategic planning and problem-solving skills
- g) Forward thinking with respect to potential impacts of technology on privacy and other rights.
- h) Interest and experience in drafting white papers on relevant topics and participating in outreach activities as evidenced by examples of

publications (e.g., white papers, articles, blog posts or other thought leadership pieces)

- i) Willingness to commit to consistent participation in events and meetings with stakeholders, both in person and virtually
- j) Accountability, inclusivity, interoperability, transparency and general professional acumen

8.2 Committee Members may be based anywhere in the world, provided they can attend and participate in Committee meetings either in person or via virtual means.

## **9. Secretariat Member Skills and Competencies**

9.1 Secretariat Members should possess at least several of the following skills and competencies:

- a) Demonstrated expertise in the intersection of data protection law, policy, compliance and advanced technology development and deployment, specifically with respect to the development and deployment of autonomous and semi-autonomous systems that process personal data. Examples could include but are not limited to:
  - i. machine learning
  - ii. generative AI, including large language models and neural networks
  - iii. autonomous robots and vehicles
  - iv. biometric technologies
  - v. experiential, augmented, and mixed reality technologies
  - vi. systems processing genetic and other biological information
  - vii. autonomous or semi-autonomous Processing of information including Personal Data at large
- b) Legal or compliance expertise that includes extensive risk assessment experience, and understanding of potential impacts on the of rights of data subjects
- c) Expertise stemming from experience with developers and deployers of cutting-edge technology or experienced advisers of such developers and deployers.
- d) Direct involvement in global developments in law and regulation for technology, especially any regulation of AI and machine learning and data protection.

- e) Experience liaising with or former work experience with data protection regulators, technology regulators, or government authorities
- f) Strategic planning and problem-solving skills
- g) Forward thinking with respect to potential impacts of technology on privacy and other rights.
- h) Interest and experience in drafting white papers on relevant topics and participating in outreach activities as evidenced by examples of publications (e.g., white papers, articles, blog posts or other thought leadership pieces)
- i) Willingness to commit to consistent participation in events and meetings with stakeholders, both in person and virtually
- j) Accountability, inclusivity, interoperability, transparency and general professional acumen

9.2 Secretariat Members may be based anywhere in the world, provided they can attend and participate in Committee meetings either in person or via virtual means.

## **10. Membership Application and Selection Process**

### **10.1 Structure**

10.1.1 The structure and process for selection of Members shall consist of a combination of:

- a) inviting Secretariat Members as determined by the Commissioner and Chair through direct invitation (“Secretariat Invitations”); and
- b) Open Applications for General Members via non-legislative consultation setting out above Committee criteria and using the approved Open Application Form.

### **10.2 Secretariat Members Invitation Process**

10.2.1 Secretariat Invitations shall be based on the criteria set out above as well as consideration of:

- a) professional technical, legal or policy experience;
- b) direct relationship with the Commissioner’s Office;

- c) contributions to advancement of privacy and technology; and
- d) the criteria set out in Section 6 above.

10.2.2 Secretariat Invitations will be sent directly from the Commissioner's or Chair's inbox and will not be open to the general public.

10.2.3 Upon acceptance of Secretariat Invitations, Secretariat Members will receive confirmation in writing from the Commissioner or Chair of their membership in the Committee.

### **10.3 General Members Open Application Process**

10.3.1 Open Application Process for General Members shall be open to the public, and will be posted via DIFC social media channels, media or press release, the Commissioner's website or by other approved means.

10.3.2 The Commissioner and Chair will review Open Applications and shortlist potential members based on the criteria set out in Section 6 above together with a rigorous assessment of complementary and diverse skills needed to support fair, efficient and representative conduct of Committee's meetings and tasks.

10.3.3 The Open Application Process will be undertaken on an as needed basis, upon review by the Commissioner's Office and in any case no more than once every two years.

### **10.4 Process Governance**

10.4.1 Selection of General Members and confirmation of Secretariat Members will be completed no later than thirty (30) days from commencement of the Secretariat Invitation Process or the opening of the Open Application Period, unless an exception applies, the reasons for which shall be documented in writing by the Chair.

10.4.2 All decisions regarding the suitability and selection of Secretariat Invitees and those who applied through the Open Application Process (the "Open Applicants") shall be based on the criteria set out above and demonstrated through the Open Application Form or Secretariat Invitation response. Final decisions regarding Members shall be recorded using the appropriate Feedback form (please see template in Annex 1).

10.4.3 With limited exceptions, all Open Applicants and Secretariat Invitees will be held to a standard of strictest confidence regarding all relevant selection process communications. In some cases, a mutual NDA (corporate or

individual) will be required in order to confirm or maintain Committee membership.

10.4.4 New Members shall be interviewed by the Commissioner, Chair (or for General Members, by selected Secretariat Members) where required.

10.4.5 All documentation regarding the Membership Selection Process will be recorded in accordance with the templates provided in the Committee Document Repository (please see Annex 1).

## **11. Member Resignation, Removal and Replacement Process**

11.1 Committee Members may resign or be removed from the Committee at any time, with no less than thirty (30) days' notice, which shall be provided in writing, and undertaken in accordance with the terms set out below:

### **11.1.1 Resignation**

In order to resign from the Committee, the Member must do so in accordance with the following procedure:

- a) Complete resignation letter (please see template in Annex 1)
- b) Submit to Commissioner via [commissioner@dp.difc.ae](mailto:commissioner@dp.difc.ae) at least one (1) month prior to proposed resignation date
- c) Chair and Commissioner review and decide on resignation request, whether to accept or, where possible, request further review with the Member who submitted the resignation letter
- d) Communicate change announcement (subject to any applicable confidentiality or other non-disclosure obligations) to the remaining Members and advise other relevant stakeholders

### **11.1.2 Removal**

In order to remove a Member from the Committee, the Commissioner or Chair must do so in accordance with the following procedure:

- a) Transparently identify and agree the basis on which the Member should be removed, which may include, but is not limited to cases where a Member:
  - i. does not fulfil its duties as set out in the Charter ;
  - ii. no longer demonstrates or is deemed not to have the required competencies;

- iii. proves to be in a conflict of interests, whether reported or not reported (i.e., as determined by the Commissioner or Chair's own observation); or
  - iv. has given the Commissioner or Chair reason to deem removal necessary, based on an objective and documented risk assessment
- b) Issue removal letter listing reasons for proposed removal of Committee Member to the relevant Member
- c) On the basis of an automatic appeal, have follow up discussion with relevant Member to confirm whether removal is warranted and the rationale is accepted by the Member, unless the Member determines that an appeal for such discussion is not needed.
- d) Communicate change announcement (subject to any applicable confidentiality or other non-disclosure obligations) to the remaining Members, advise other relevant stakeholders and prepare plans for following up efficiently on ongoing Members' tasks

### **11.1.3 Replacement**

- a) If necessary, the Commissioner or Chair can determine whether the Committee Member will be replaced, based on any of the following factors including but not limited to need, available resources, interest of relevant parties, or other appropriate criteria, such as the need to respect diversity within the Committee or specific criteria as per Sections 8 and 9 above, on a case-by-case basis.
- b) The Secretariat collectively or Secretariat Members individually can, of its / his / her own volition, provide a recommendation to the Commissioner regarding replacements, as necessary.

11.2 Committee Members may recommend a replacement in limited circumstances, either upon resignation or at the request of the Commissioner or Chair.

## ***Part D: Governance***

### **12. Decisions, Outcomes or Governance Changes and Reports**

#### **12.1 Committee Decisions and Outcomes**

12.1.1 The following general obligations or processes shall apply with respect to decisions and outcomes related to the work of the Committee:



- a) Decisions, outcomes or committee governance changes must be documented using the relevant template (please see Annex 1)
- b) Where a decision, outcome or governance process change results in the need for a legislative update, the DIFC Legislative Coordinator must manage the process of drafting it into the relevant legislative document and submitted for a public consultation period of no less than thirty (30) days. After the consultation process, suggestions and updates must be considered and adjustments to the proposed final regulations must be made where necessary.
- c) Legislative updates must be submitted for approval by the DIFC Board of Directors. They will adhere generally to the DIFC Legislative Process.

12.1.2 Any additional, supplemental or revised decisions or outcomes determined by the Committee or any Sub-committees shall be discussed and documented accordingly using approved templates and recorded with the Commissioner's Office.

## **12.2 Decision Making and Voting**

12.2.1 Where required by recommendation of the Chair or of a Committee or Secretariat Member, all Committee Members may vote regarding relevant decisions, outcomes or governance changes. Any decisions will be subject to the following process:

- a) A general decision, general or specific opinion or recommendation, outcome or governance change will be authorised by a majority vote of the entire Committee.
- b) The Secretariat collectively or Secretariat Members individually can, of its / his / her own volition request to review the vote and provide feedback about whether the decision, outcome or governance change is appropriate.
- c) If a review or re-vote is suggested by the Secretariat or a Secretariat Member, the Chair may determine the next steps and provide any recommendations or updates to the Commissioner.

12.2.2 Not all decisions or outcomes require voting. Voting is required in limited instances such as those set out in the following, non-exhaustive, list:

- a) a new Sub-committee or Purpose is proposed by at least one Member of the Committee;

- b) there will be a material impact (direct or perceived) on the ability to implement or comply with Regulation 10 or the DPL generally;
- c) a change of legislation is required or is recommended;
- d) there is a substantial enough risk that a recommendation may result in reputational damage for the Committee, its Members or the DIFC; or
- e) there will be a material impact on or that creates a Substantial Public Interest as defined in Schedule 1, Article 3 of the DPL.

12.2.3 In other instances, the Chair may initiate a vote or the Secretariat collectively or Secretariat Members individually, of its / his / her own volition may recommend directly to the Commissioner that a vote is initiated.

12.2.4 Where it is determined either by the Chair or the Committee that voting is not required in a limited, specific circumstance, the relevant matter may be discussed and an outcome or action decided during Committee meetings or by circulation to the Committee for review, feedback and approval.

### **12.3 KPIs**

12.3.1 The Chair must agree key performance indicators (KPIs) for the Committee's work and activities with the Chair and the Commissioner and is responsible for collecting data regarding meeting KPI obligations.

12.3.2 Based on this information and any other relevant feedback, minutes, etc., the Chair or Secretary (if one is appointed) must complete a Reporting Form detailing Committee updates and activities, including reporting on meeting KPI obligations. The Reporting Form must be submitted to the Chair once per month or upon request with at least three (3) business days' notice and retained in the Committee Document Repository.

12.3.3 The Reporting Forms must be shared at least twice per year with the Commissioner, who will provide an executive summary to the DIFC Executive Committee at the Executive Committee meeting following the most recent submission.

### **12.4 Recommendations**

12.4.1 Recommendations must be communicated to stakeholders and the Commissioner using the relevant Recommendations template (please see Annex 1) .

- 12.4.2 They should contain the purpose of the recommendation, background information, general information about current requirements, a brief risk statement and a clear, final recommendation to the Commissioner.
- 12.4.3 Upon majority approval by the Committee, the Chair will submit the Recommendation to the Commissioner.
- 12.4.4 The Commissioner will either approve or reject the recommendation, or may request more information. If approved, the subject matter of the Recommendation will be confirmed or as necessary, adopted. The approval in this regard shall be documented on the appropriate form and circulated to the Committee for its information and retained in the Committee Document Repository

## **12.5 General Governance and Changes**

- 12.5.1 Meeting Minutes will be recorded by the Chair if there is no Secretary available or appointed.
  - a) Within one (1) business week after a Committee Meeting, the Chair will circulate a draft of Meeting Minutes for review and comment by the Committee.
  - b) The Committee must revert with any comments or questions within one (1) business week of receipt of the Meeting Minutes, unless an exception is noted by the Chair or Secretary (if one is appointed).
  - c) The Chair will circulate final Meeting Minutes to the Committee upon review and approval of the Chair.
- 12.5.2 For document management purposes, templates set out in Annex 1 must be used unless otherwise agreed with and permitted in writing by the Chair.
- 12.5.3 Governance changes must be proposed in writing, communicated to the Committee in a reasonably common format and voted on in accordance with the above outlined process and conditions.
- 12.5.4 The Chair will update the Charter accordingly once a governance change has been agreed and approved by the Committee and accepted by the Commissioner.
- 12.5.5 For the avoidance of doubt, any governance changes described in this process shall be documented as needed and retained in the Committee Document Repository.

### **13. Frequency, Format and Attendance of Meetings**

- 13.1 The Committee shall meet at least twice a year. Sub-committees will meet as needed on an ad hoc basis.
- 13.2 Given the global nature of the Committee Membership, meetings can be conducted virtually or in person, as circumstances permit.
- 13.3 A Committee Meeting will be conducted if a quorum of all Members is present. A quorum will be met if two thirds (2/3) of all Members are present.

## ***Part E: External Engagement***

### **14. Communications and Publications**

- 14.1 Official, external announcements about the Committee actions, changes, progress or publications, will be made at the discretion of the Commissioner and DIFC Communications team, in line with the Communications Plan or Publication Form templates, whichever is relevant (please see Annex 1).
- 14.2 Committee Members' personal details or other information will not be shared in any external communications, publications or engagements with the explicit notice to and consent of the referenced Member.
- 14.3 If Committee Members wish to comment or post publicly about their work and involvement in the Committee, they may do so provided they use best endeavours to provide advanced written notice to the Chair or Secretary (if one is appointed) to both review and to amend or provide comments if needed or to amplify if appropriate. For clarity, all such content must comply with the following:
  - 14.3.1 If content appears to be inappropriate or may cause reputational damage to any individual Committee Member, the Committee or any Committee Member's organisation, the Chair may request a review of the content with the individual wishing to post.
  - 14.3.2 Content must not include inappropriate or offensive language, and should only refer to or tag individuals who have agreed to sharing their name or other related personal information.

## **15. Training and Outreach**

- 15.1 From time to time, the Committee may engage in outreach or training sessions to share information, updates and learning from Committee activities with other data protection authorities, other regulatory bodies or autonomous or semi-autonomous systems developers, users or deployers. To do so, a Communications Request must be submitted to the Secretariat and the Chair for review and approval.
- 15.2 All training or outreach materials may be reviewed by the Committee for consistency with Committee recommendations or decisions, or to ensure confidentiality obligations are met.

## **Annex 1 – Governance Templates**

The Committee will approve governance templates that facilitate the documentation of Committee actions. The following list of templates may be updated from time to time upon agreement of the Committee or at the discretion of the Commissioner and Chair.

	<b>Template</b>
	<i>Membership Forms</i>
<b>1</b>	Open Application form  <i>For open applications to become a Member of the Committee or of any Sub-Committee</i>
<b>2</b>	Secretariat Invitation form  <i>For invitations to individuals to become a Secretariat Member of the Committee</i>
<b>3</b>	Member Removal Letter  <i>For removal of Committee / Sub-committee Member</i>
<b>4</b>	Member Resignation Letter  <i>For resignation of Committee / Sub-committee Member</i>
	<i>Communications and Reporting Forms</i>
<b>6</b>	Publication / Communications Request Form  <i>Form for proposed Committee publications or communications – please see Multi-use Template</i>
<b>7</b>	Communications Form  <i>Form for proposed Committee communications or other announcements – please see Multi-use Template</i>
<b>8</b>	Publication Form  <i>Form for final, approved Committee publications – please see Multi-use Template</i>

	<b>Template</b>
	<i>Governance Forms</i>
<b>11</b>	Board Paper  <i>Informing the DIFC Board of adopted recommendations</i>
<b>12</b>	Board Resolution  <i>Resolution by the DIFC Board regarding Committee governance, regulatory updates, adopted recommendations or other relevant requirements</i>
<b>13</b>	Change Request Form  <i>Documents all changes to any documentation or template used for the Committee – please see Multi-use Template</i>
<b>14</b>	Adoption Form  <i>Form to be used, as necessary, to record adoption of a resolution, report, recommendation, appointment / change, or other actions undertaken by the Committee – please see Multi-use Template</i>
<b>15</b>	Budget Request (as needed) – <i>please see Multi-use Template</i>
<b>16</b>	KPI / Reporting Form  <i>A monthly report to Commissioner on Committee progress (as needed) – please see Multi-use Template</i>
<b>17</b>	Meeting Agenda template
<b>18</b>	Meeting Minutes template
<b>19</b>	Appointments and Changes Form  <i>Form used to record any Committee member, Chair and other appointments or changes.</i>
<b>20</b>	Delegation Form  <i>Form used to record a request to delegate obligations, functions or activities to a Committee Member or other person, as relevant.</i>

	<b>Template</b>
<b>21</b>	<p>Feedback Forms: Approval / Rejection / Request for Information from the Commissioner</p> <p><i>Feedback regarding approvals, rejections or requests for information or further review of recommendations made by the Committee or Sub-committees, including comments and other relevant information – please see Multi-use Template</i></p>
<b>22</b>	<p>Recommendations to the Commissioner</p> <p><i>Documents discussion points, research, relevant information and recommendations to the Commissioner of the outcomes for any Advisory Committee or Sub-committee activities</i></p>
<b>23</b>	<p>Committee Document Repository</p> <p><i>Maintained locally by Chair or Secretary (if one is appointed) and updated on an ongoing basis</i></p>
	<i>Legal Forms</i>
<b>24</b>	<p>Non-disclosure Agreement (NDA)</p> <p><i>Standard DIFC mutual NDA (corporate and individual), to be used as needed</i></p>
<b>25</b>	<p>Committee Participation MOU</p> <p><i>Standard DIFC mutual MOU, to be used as needed.</i></p>
	<i>Miscellaneous</i>
<b>26</b>	<p>Any other forms to be discussed and adopted on selection and installation of Committee</p>



## ***Annex 2 - Definitions***<sup>5</sup>

*Chair* – the individual appointed by the Commissioner in accordance with Article 47 of the DPL to run Committee Meetings

*Commissioner* – the DIFC Commissioner of Data Protection

*Commissioner's Office* – the office of the DIFC Commissioner of Data Protection

*Committee Charter* – the document (this document) setting out rules and governance structures for Committee administration

*Conflict of Interest* – in accordance with the DIFC Code of Values and Ethics, a conflict of interest (potential, perceived, or actual) exists any time a person entrusted with proprietary information acting in an advisory or employment capacity faces a choice between what is in his or her personal interest (financial or otherwise) and the interests of the DIFC. These situations present the risk that a person will make a decision based on, or affected by, these influences, rather than in the best interests of DIFC and must be managed accordingly.

*DIFC Legislative Coordinator* – the person in the DIFC Legal Affairs team responsible for supervising and implementing the legislative updates process for relevant DIFC legislation.

*Data Protection Law, DIFC Law No 5 of 2020 / DPL* – the currently enacted version of the data protection law in the DIFC

*DIFC Code of Values and Ethics* – a DIFC policy setting out DIFC's commitments to upholding ethical standards, including conflicts of interests that may undermine independence of an individual (copy available upon request)

*DIFC Data Protection Regulations* - the currently enacted version of the regulations setting out procedures and specific details related to the content of the data protection law in the DIFC

*DIFC Legislative Process* – the process approved by the DIFC as per applicable UAE and Dubai laws for amending or enacting new DIFC legislation.

*General Member* - persons who have applied through a general call for membership, as described in Sections 5 and 8 above

*Regulation 10* - a regulation enacted by the DIFC Authority for governing processing Personal Data via autonomous and semi-autonomous systems.

*Secretariat* – a person or group of persons with specific expertise in data protection and information security policy and development, appointed by the Commissioner in

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<sup>5</sup> Where a defined term is set out in the DPL, it shall have the same meaning herein.

accordance with Article 47 of the DPL in order to perform the role described in Sections 5 and 9 above.

*Secretariat Member* – persons invited to participate at the request of the Commissioner, as defined above

*Secretary* – the person, if appointed, responsible for administration, distribution or receipt of Committee documentation, such as meeting minutes, and for scheduling upcoming Committee meetings. The Secretary may be designated by the Chair and may act as the Chair's delegate, only with the approval of the Commissioner, which the Chair may request using the appropriate form.

*Templates* – the standard documents approved for the purposes of administering the Committee's governance

## ***Annex 3 – Proposed Initial Sub-committees***

The following are required at the outset of establishing the primary Committee for the purpose of implementing specific obligations of Regulation 10. Any additional Sub-committees will be established as needed in accordance with this Charter. For the fort

### **Article 51 Sub-committee - Criteria and Procedures for Accreditation of Regulation 10 Certification Body**

The purpose of this sub-committee of the Committee is to determine the Accreditation application process in accordance with Article 51 of the DIFC DP Law 2020. Additional application requirements to be promulgated by the Article 51 Sub-committee ("A51 Sub-committee") and reviewed and approved by the Committee. and reviewed and approved by the Committee.

Four (4) outcomes of the A51 sub-committee are to establish the:

1. Accreditation Application Process;
2. Accreditation Issuance Process;
3. Accreditation Body Monitoring Procedures and Structures; and
4. Accreditation Body Conflicts Handling and Ethics Procedures

A skeleton outline of the outcomes that will be determined by the A51 Sub-committee and reviewed and approved by Committee is provided below. The A51 Sub-committee shall submit its recommendations to the Commissioner no later than April 30, 2024, using the Recommendations template approved by the Committee.

Accreditation Application Process (Specific detail to be determined by 10.3.3 sub-committee)

The Commissioner shall only award accreditation where a prospective Accreditation Body has:

- (a) demonstrated independence and expertise in relation to the subject matter of the certification to the satisfaction of the Commissioner;
- (b) undertaken in writing to respect the criteria of the proposed scheme;

- (c) established procedures for the issuing, periodic review, and withdrawal of data protection certification, seals, and marks in connection with the proposed scheme, including establishing explicitly defined, specific criteria for granting or not granting certification to an applicant;
- (d) established procedures and structures to handle complaints about infringements of the certification or the manner in which the certification has been, or is being, implemented by a Controller or Processor, and has made those procedures and structures transparent to Data Subjects and the public;
- (e) demonstrated, to the satisfaction of the Commissioner, that its tasks and duties do not result in a conflict of interests; and
- (f) demonstrated its compliance with any criteria for accreditation approved by the Commissioner and made public from time to time, whether via Regulations or otherwise.

Applicant must also provide:

- Name, place of incorporation, commercial license
- Contact person
- Authorized Signatory
- Confirmation Statement

Accreditation Issuance Process	Accreditation Body Monitoring Procedures and Structures	Accreditation Body Conflicts Handling and Ethics
<p><b><i>TBD by the A51 Sub-committee and reviewed and approved by Regulation 10 Advisory Committee</i></b></p> <p>- explicitly defined, specific criteria for granting or not granting accreditation of an applicant</p>	<p><b><i>TBD by the A51 Sub-committee and reviewed and approved by Regulation 10 Advisory Committee</i></b></p> <p>- periodic review            - withdrawal process            - complaints handling regarding infringements of the certification or the manner in which the accreditation has been, or is being, implemented by a Certification Body (include elements of Regulation 6.2)</p>	<p><b><i>TBD by the A51 Sub-committee and reviewed and approved by Regulation 10 Advisory Committee</i></b></p> <p>- declaration of conflicts of interest process            - ethical violations and investigations process</p>

### **Regulation 10.3.3 Sub-committee - Criteria and Procedures for Certifying an Entity's Compliance with Regulation 10.3.3 (vis a vis Regulation 10.2.2(b) and 10.2.2(c))**

The purpose of this Sub-committee of Committee is to determine the Accreditation application process in accordance with Article 50 of the DIFC DP Law 2020.

The outcome of the Regulation 10.3.3 Sub-committee ("Reg 10.3.3 Sub-Committee") is to establish the criteria for compliance with each sub-article of Regulation 10.3.3.

A skeleton outline of the outcome that will be determined by the Reg 10.3.3 Sub-committee and reviewed and approved by the Committee is provided below. The Reg 10.3.3 Certification Sub-committee shall submit its recommendations to the Commissioner by no later than April 30, 2024, using the Recommendations template approved by the Committee.

#### Regulation 10.3.3(a, b and c) Obligations

- (a) audit and certification requirements applicable to Systems used in High Risk Processing Activities;
- (b) the System complies with all such requirements;
- (c) the System Processes Personal Data solely for human-defined or human-approved purposes

Certification Body issues certification to Controller or Processor engaged in the development or deployment of a System that is subject to Regulation 10 based on the following audit and certification scheme:

#### *10.3.3(a) Audit and Certification of Systems*

To be determined by the Reg 10.3.3 Sub-committee and reviewed and approved by the Committee

#### *10.3.3(b) Compliance*

To be determined by the Reg 10.3.3 Sub-committee and reviewed and approved by the Committee

#### *10.3.3(c) Criteria for Human-defined or Human-approved Purposes of System*

To be determined by the Reg 10.3.3 Sub-committee and reviewed and approved by the Committee

### 10.3.3(d) Obligations

- (d) the Deployer or Operator has appointed an Autonomous Systems Officer (ASO), who will have the same or substantially similar competencies, status, role and task of a DPO as set out in Article 17 and Article 18 of the Law

### *10.3.3(d) Autonomous Systems Officer (“ASO”)*

An ASO must meet the requirements of Regulation 10.3.3(d) and must also have additional competencies to be determined by the Reg 10.3.3 Sub-committee and reviewed and approved by the Committee.