

## **By Email**

5 September 2010

To the Senior Executive Officers  
of DFSA Authorised Firms

Dear SEO

### **New Risk Management Concerns**

In the aftermath of the financial crisis, governments around the globe are increasingly under pressure to find new, or augment existing, sources of revenue. We have all seen recent international press commentary concerning governmental crackdowns on tax evasion and the closing of various tax loopholes. These crackdowns have often placed a degree of emphasis on global wealth management services. Another area of focus seems to be the use of transfer pricing as a means of avoiding, or at least minimizing, tax liability. In this context, transfer pricing occurs where companies elect to realise profits in low-tax jurisdictions rather than in high-tax jurisdictions regardless of economic substance. This subject is covered by a Firm's regulatory obligations regarding risk management.

Risk management remains an integral aspect of an Authorised Firm's systems and controls and continues to receive close scrutiny on DFSA visits. This has even greater relevance given the ongoing financial challenges facing the world. I am writing to remind you as SEO of the importance of risk management to firm with global operations.

The DFSA's Principle 1 (integrity), Principle 2 (due skill, care and diligence), Principle 3 (management, systems and controls) all have relevance to this subject, as does Principle 10 (relations with regulators). Firms are reminded to deal with their regulators in an open and co-operative manner and keep the DFSA informed of significant events or anything else of which it should reasonably be expected to be notified. Risk management systems and controls should also be in place to enable the firm to identify, assess, mitigate, control and monitor its risks. Other relevant areas of the GEN module include Internal Audit, which should be independent from the operational and business functions and ensure that it monitors the appropriateness and effectiveness of a firm's systems and controls. Regulated entities should amend policies and controls to mitigate the specific risks identified pursuant to any risks identified.



Incidents of inventive methods of tax avoidance and fraud often rise significantly during an economic downturn and this problem is one faced by organisations across the world. Whilst tax avoidance may not be itself a criminal offence, tax avoidance taken too far can be challenged by tax authorities as actual tax evasion which is a criminal offence in many jurisdictions. It is important to note that any tax liability imposed retrospectively may have a material impact on the capital of a company, especially where a tax claim dates back several years. It is thus vital that firms engaging in tax planning do so in a manner that does not run the risk of a substantial future contingent liability for group firms, including those operating in or from the DIFC.

Finally, Firms are reminded that increased incidents of fraud may well mean that they themselves become victims with associated cost implications – this may involve not only actual cost and likely reputational damage but also significant lost opportunity cost with staff being distracted in remedying identified problems. The need for vigilance, both locally and globally, has never been greater.

Please do not hesitate to contact your DFSA Relationship Manager if you have any questions or if we may provide any additional information.

Yours sincerely,



Paul Koster  
Chief Executive

