

A GUIDE TO THE DIFC FINANCIAL PROMOTIONS PROHIBITION

This guide aims to explain the Financial Promotions Prohibition, to help readers understand what a Financial Promotion is, who can make one in or from the Dubai International Financial Centre (DIFC) and under what circumstances. We will provide an overview of the Financial Promotions Prohibition, but this guide should not be relied on as legal advice. You should refer to DFSA-administered legislation for the precise details of the law and Rules you need to know.

The Financial Promotions Prohibition is set out in [Article 41A](#) of the Regulatory Law 2004. Chapter 3 of the General Module (GEN) of the DFSA Rulebook sets out Rules and Guidance about it. To view this legislation, click [here](#).

Defined terms are identified in this guide by an acronym, the capitalisation of the initial letter of a word or of each word in a phrase, and are defined either in this Notice or in the DFSA Rulebook, Glossary Module (GLO).

What is a Financial Promotion?

A Financial Promotion is any communication, however made, which invites or induces a person to:

- (a) enter into, or offer to enter into, an agreement in relation to the provision of a financial service; or
- (b) exercise any rights conferred by a financial product or acquire, dispose of, underwrite or convert a financial product.

The communication could be oral, written, or electronic; this includes advertisements, letters, face-to-face meetings, conferences, seminars, telephone calls and emails.

What financial products or financial services are included?

For the purposes of the Financial Promotions Prohibition, a financial service includes any of the Financial Service activities prescribed by [GEN Module section 2.2](#), such as Accepting Deposits, Providing Credit, Arranging Deals in Investments, Advising on Financial Products, or Arranging Credit and Advising on Credit.

A financial product means:

- (a) an Investment, which is either a Security (e.g. a Share, Debenture or Unit) or a Derivative (an Option or a Future);
- (b) a Credit Facility;
- (c) a Deposit or a Profit Sharing Investment Account;
- (d) a Contract of Insurance; or
- (e) a Crowdfunding Loan Agreement.

Who can (and cannot) make a Financial Promotion?

Subject to some exceptions, it is unlawful for a Person to make a Financial Promotion in or from the DIFC, unless that Person:

- (a) is a DFSA Authorised Firm or Authorised Market Institution;
- (b) is licensed and supervised by a Financial Services Regulator in the UAE, such as the Central Bank of the UAE, the Emirates Securities and Commodities Authority and the UAE Insurance Authority;
- (c) is a Recognised Body or External Fund Manager;
- (d) is a Reporting Entity making the Financial Promotion exclusively for the purpose of making a mandatory disclosure; or
- (e) makes an exempt Financial Promotion.

What are the exceptions?

A communication is an exempt Financial Promotion if it is:

- (a) approved by an Authorised Firm other than a Representative Office;
- (b) approved by a Representative Office and it is a communication relating to a financial service or financial product offered by a related party of the Representative Office;
- (c) directed at and capable of acceptance exclusively by a Person who appears on reasonable grounds to be a “deemed” Professional Client (e.g. a publicly listed company, an Authorised Firm, or a government);
- (d) made to a Person as a result of an unsolicited request by the Person (i.e. the Person expressly seeks out, or asks for, the promotion);
- (e) made or issued by or on behalf of a government or non-commercial government entity or;
- (f) made by a Person in the course of providing legal or accountancy services and which may reasonably be regarded as incidental to and a necessary part of the provision of such services.

In addition, the Financial Promotion is excluded from the prohibition if:

- (a) the Person causes a Financial Promotion to be made in the course of providing a facility which is a mere conduit for the making of the Financial Promotion. Examples include a newspaper or magazine, a website carrying third-party banner advertisements, a postman or courier, or a person paid to hand out promotional material – unless in each case they were the originator of the Financial Promotion;
- (b) the Person is located outside the DIFC and makes a Financial Promotion which appears, on reasonable grounds, to be a communication which is not directed at or intended to be acted upon by a Person in the DIFC; or

- (c) the Financial Promotion is not made for a commercial or business purpose.

Requirements for all Financial Promotions

All Financial Promotions must:

- (a) be clear, fair and not misleading;
- (b) include the name, address, and regulatory status of the person or company who is making it.

Requirements for Financial Promotions intended only for Professional Clients

A Financial Promotion that is intended only for Professional Clients must not be sent or directed to any Person who appears, on reasonable grounds, not to be a Professional Client. It must clearly state that only a Person meeting the criteria for a Professional Client should act upon it.

Requirements for Financial Promotions provided to or directed at Retail Clients

If a Financial Promotion is provided to or directed at Retail Clients and contains any information or representation relating to past performance, or any forecast based on past performance, or any other assumptions, then it must:

- (a) present a balanced view of the financial products or financial services to which the Financial Promotion relates;
- (b) identify, in an easy to understand manner, the information from which the past performance or forecast is taken and how any key facts and assumptions used in that context are drawn; and
- (c) contain a prominent warning that past performance is not necessarily a reliable indicator of future performance.

When does a Financial Promotion constitute a Financial Service (which requires a DFSA Licence)?

A Person who is permitted to make a Financial Promotion in the DIFC should ensure that in doing so it does not breach the Financial Services Prohibition in [Article 41](#) of the Regulatory Law.

Depending on the nature and scale of the activities, if a Person makes Financial Promotions on a regular basis or for a prolonged period while physically located in the DIFC, for example by way of a booth, meetings or conferences, the DFSA may consider such activities as constituting the carrying on of a Financial Service, such as Operating a Representative Office. A “regular basis” would be anything more than occasional and “prolonged period” would usually be anything more than three consecutive days.

Why was the prohibition introduced?



The Financial Promotions Prohibition was introduced by the DFSA to protect investors from, and alert the public to, unregulated Financial Promotions in or from the DIFC, such as:

- (a) unauthorised persons setting up a marketing presence in the DIFC;
- (b) unregulated conferences promoting financial products and services;
- (c) pressure sales by unregulated persons; and
- (d) financial scams.

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