

To the Senior Executive Officers  
Of DFSA Authorised Firms

20<sup>th</sup> April 2009

Dear SEO

**Re: Suitability & Fair Treatment of Customers Theme Review**

During the first quarter, the DFSA conducted a thematic review of the suitability and fair treatment of customers by Authorised Firms ("AFs"). A representative cross-section of AFs were reviewed. The DFSA is grateful for the assistance provided from Firms in undertaking this thematic review.

DFSA requires all AFs to satisfy rules concerning suitability and fair treatment of customers and recognizes the importance of an AF having adequate systems and controls to ensure that standards are maintained at all times. Maintaining adequate records to evidence the suitability of decision making is not just a regulatory requirement and a sound business practice for AFs, but is also a legal necessity to avoid complaints and mitigate the risk of litigation from dissatisfied customers.

Let me summarize the main findings that may help you in the future:

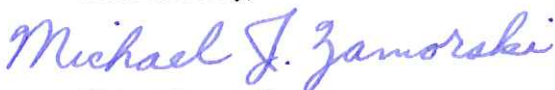
- The review disclosed that most AFs were aware of their obligations and had adequate systems, processes and controls. However, a small number need better documentation in relation to suitability. This deficiency was mainly seen where business was ultimately being booked to another office (often overseas) and there appeared to be a misunderstanding as to their ongoing DFSA obligations. The AFs with identified weaknesses have been contacted separately, with a requirement to carry out appropriate remedial action.
- In addition, there were instances where AFs included in the transaction of "execution only" an aspect of providing advice. This is not correct. We can define *execution only* as where the firm will only carry out the client's instructions to buy or sell an investment. The instances we came across were clearly *advisory services*, where the firm had ascertained the client's investment objectives, provided a selection of suitable investments for the client, but left the final decision to the investor. This is again distinct from a *discretionary service*, where the firm will, as with *advisory services*, have ascertained the client's investment objectives and then makes all investment decisions on the client's behalf. AFs should be cautious of introducing ambiguity into the services they offer their clients, especially where a client agreement makes clear that the service agreed is either discretionary investment management or advisory. Again, this is as much about these AFs fulfilling their duty to customers as well as for their own legal protection and avoiding regulatory breach.

Suitability and fair treatment of customers continues to be accorded a high priority by the DFSA and consequently will continue to be vigorously monitored by the DFSA to ensure systems and controls are effective.

Notwithstanding the generally favourable results, the DFSA believes AFs should *not* become complacent with their current systems and controls for suitability and fair treatment of customers. The DFSA expects all AFs actively to monitor compliance with DFSA laws and rules and to ensure the ongoing adequacy of their monitoring programmes at all times.

Should you have any questions or comments, please do not hesitate to contact your Relationship Manager or me.

Yours sincerely,



Michael Zamorski  
Managing Director, Supervision

