



**DUBAI INTEGRATED  
ECONOMIC ZONES AUTHORITY**

**IMPLEMENTING  
REGULATIONS 2023**

**DIEZ.AE**

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## PART 1 – GENERAL

### 1. TITLE

These Regulations are titled the Dubai Integrated Economic Zones Authority Implementing Regulations 2023.

### 2. LEGISLATIVE AUTHORITY

These Regulations have been issued by Dubai Integrated Economic Zones Authority pursuant to the authority vested in it under Law No. (16) of 2021 Regarding Establishing Dubai Integrated Economic Zones Authority.

### 3. APPLICATION OF LAWS

- 3.1 These Regulations apply in the jurisdiction of the Free Zone.
- 3.2 Federal Law No. (32) of 2021 Regarding Commercial Companies does not apply to a Company or a Branch.
- 3.3 The relevant Markets Laws apply to a PLC. The applicable Markets Laws prevail over these Regulations to the extent of an inconsistency between the Markets Laws and these Regulations.

### 4. REPEAL

These Regulations repeal and replace the following regulations:

- (a) Dubai Airport Free Zone Implementing Regulations 2021; and
- (b) Dubai Silicon Oasis Implementing Regulations.

### 5. DATE OF COMMENCEMENT

These Regulations will come into force on the date of issuance.

### 6. DEFINITIONS

In these Regulations, the following defined terms shall have the following meaning:

**“AED”** UAE Dirhams, the lawful currency of the UAE.

**“Allotment”** in relation to Shares, the action by which a person acquires the unconditional right to be included in a Company’s register of Shareholders in respect of such Shares.

**“Branch”** a branch of a Branch Parent Company.

**“Branch Parent Company”** a Foreign Company that registers a branch in the Free Zone.

**“Branches Register”** a register of Branches maintained by the Registrar under Regulation 10.13.

**“Company”** an FZCO, a PLC or any other company in the Free Zone that is notified in writing by the Registrar to be included as a Company under these Regulations. For the avoidance of doubt, a Branch is not a Company for the purpose of these Regulations.

**“Companies Register”** a register of Companies maintained by the Registrar under Regulation 10.1.

**“Connected Person”** has the meaning given under Regulation 43.7.

**“Court”** the courts of Dubai.

**“Creditor”** is a person who has a present, prospective or contingent claim.

**“DIEZA”** is the Dubai Integrated Economic Zones Authority, established pursuant to Law No. (16) of 2021 Regarding Establishing Dubai Integrated Economic Zones Authority, including its departments and functions, which authority has governance over the Free Zone.

**“DIEZA Regulations”** includes these Regulations and any other legislation, guidance or otherwise issued by DIEZA from time to time, including rules, regulations, guidelines, as well as circulars, directives or notices.

**“Director”** a person occupying the position of a director of a Company, including an alternate director.

**“Electronic”** includes electronic, electrical, digital, magnetic, optical, biometric, electrochemical, wireless or electromagnetic technology.

**“Electronic Document”** a document including a book, report, register, application, agreement, minutes of a meeting, a resolution, financial statement, notice, letter and accounts, that may be generated, communicated, received or stored by Electronic or other means in or from an Electronic system designed for sending, storing, receiving, or processing information.

**“Electronic Signature”** Electronic letters, numbers, symbols, images, characters or their combination, applied to or incorporated in a document, an Electronic Document, information, communication or transaction in Electronic form, with the intention of authenticating and approving the same.

**“Employee”** in relation to a Company or Branch, means any individual who is appointed or employed by the Company or a Branch Parent Company operating through a Branch whose services are provided to, or for the purposes of the Company or the Branch, and includes any Officer of the Company or Branch.

**“Employee Share Scheme”** a scheme or arrangement for encouraging or facilitating the holding of Shares or debentures in a Company by or for the benefit of:

- (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
- (b) the wives, husbands, widows, widowers or minor children or minor stepchildren of the individuals referred to in (a) above.

**“Federal Law”** is law made by the federal government of the UAE.

**“Financial Year”** in respect of a Company, a financial year is each successive period of twelve (12) months, commencing on the date of incorporation of the Company, or as may be amended in these Regulations.

**“Foreign Company”** is a company incorporated in a jurisdiction other than the Free Zone.

**“Free Zone”** the Dubai Integrated Economic Zones, established pursuant to Law No. (16) of 2021 Regarding Establishing Dubai Integrated Economic Zones Authority.

**“FZCO”** a free zone limited liability company, incorporated in the Free Zone in accordance with these Regulations.

**“FZE”** a free zone establishment, incorporated in the Free Zone in accordance with the previous implementing regulations applicable in the Free Zone. All FZEs are considered to be FZCOs under these Regulations.

**“General Meeting”** a meeting of the Shareholders held in accordance with these Regulations.

**“Holding Company”** has the meaning given under the definition of Subsidiary.

**“Incorporators”** a person who agrees to subscribe to Shares and to whom Shares are allotted and issued upon incorporation of a Company.

**“Licence”** a licence issued by the Registrar to conduct a licenced activity in the Free Zone.

**“Manager”** a natural person or persons occupying the position of manager of a Company or a Branch, by whatever name called, as named on the Licence of the Company or Branch as the ‘Manager’.

**“Markets Laws”** the securities laws and relevant regulations applicable to a PLC listing its Shares on a stock exchange, in the jurisdiction where the stock exchange is established.

**“Officer”** means:

- (a) in relation to a Company, a Director, Manager or Secretary of that Company;
- (b) in relation to a Branch, a Manager or Secretary of that Branch;
- (c) a receiver or a receiver and manager of that Company or Branch;
- (d) an administrator of a deed of company arrangement executed by that Company or Branch;
- (e) a treasurer; or
- (f) a liquidator or a provisional liquidator of that Company or Branch.

**“Ordinary Resolution”** a resolution passed at a General Meeting by at least fifty percent (50%) of the votes of Shareholders with voting rights, in person, or where proxies are allowed, by proxy.

**“Paid Up”** includes an amount paid or credited.

**“PLC”** a public limited company, incorporated in the Free Zone in accordance with these Regulations, with the features provided in Regulation 16.

**“Prescribed Publication”** a publication which is either:

- (a) 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 principle place of business and would reasonably be capable of bringing the matter to the attention of any persons who may be affected; or
- (b) a website written in English and approved in writing by the Registrar for such purpose.

**“Record”** a record maintained by the Company, including a book, report, register, document, minutes of a meeting, Ordinary Resolution, Special Resolution, resolution of the Directors, financial statement, notice and accounts, including Electronic Documents.

**“Registrar”** is the DIEZA department appointed as the registrar for the Free Zone.

**“Regulations”** means these Dubai Integrated Economic Zones Authority Implementing Regulations 2023, as may be amended from time to time by DIEZA.

**“Secretary”** a person or persons occupying the position of Secretary of a Company or a Branch, by whatever name called.

**“Securities”** any instrument including stocks, shares, debentures, warrants, certificates, units, options or any right to or any interest in such instrument.

**“Security Interests”** is a Creditor’s right to take possession of certain property offered as security or collateral and includes the following:

- (a) a Shareholder may pledge or otherwise charge its Shares as security for a debt or obligation of a Shareholder, the Company or any other person;



- (b) a Company may grant as security for a debt or obligation of the Company or any other person:
  - (a) a conditional assignment of a lease agreement of a Company, in favour of any person;
  - (b) a mortgage over its leased premises, in favour of a bank or financial institution;
  - (c) a pledge over its movable assets, in favour of any person; and
- (c) any other security interest available under the laws of UAE, in favour of any person, and as permitted by the Registrar.

**“Security Register”** a register of Security Interests maintained by the Registrar under Regulation 10.3.

**“Share”** a share in a Company.

**“Shareholder”** a person entered in the register of shareholders of a Company or a Foreign Company, as the case may be, as the holder of a share in that Company or Foreign Company.

**“Special Resolution”** a resolution passed at a General Meeting by at least seventy five percent (75%) of the votes of Shareholders with voting rights, in person, or where proxies are allowed, by proxy.

**“Subsidiary”** a company is a subsidiary of another company, its “Holding Company”, if that other company:

- (a) holds a majority of the voting rights in it; or
- (b) is a member of it and has the right to appoint or remove a majority of its board of directors; or
- (c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it; or
- (d) if it is a subsidiary of a company that is itself a subsidiary of that other company,

and a company is a **“wholly-owned Subsidiary”** of another company if it has no members except that other and that other’s wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries.

**“US Dollars”** or **“\$”** is the lawful currency of the United States.

**“US”** or **“United States”** is the United States of America, its territories and possessions, any State of the United States of America and the District of Columbia.

**“UAE”** the United Arab Emirates.

## 7. INTERPRETATION

7.1 In these Regulations, 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 these Regulations, include publishing or causing to be published in printed or electronic form;

- (d) a “day” means a calendar day, unless expressly stated otherwise. If an obligation falls on a calendar which is either a Saturday or Sunday, or an official public holiday, the obligation shall take place on the next calendar day which is a business day;
  - (e) a “week” shall mean a calendar week or seven (7) days, whichever is applicable in the circumstances;
  - (f) a “month” shall mean a period of thirty (30) days;
  - (g) a “year” shall mean a period of three hundred and sixty five (365) days and a “calendar year” shall mean a year of the Gregorian calendar;
  - (h) a reference to the masculine gender includes the feminine and vice versa;
  - (i) the singular shall include the plural and vice versa; and
  - (j) these Regulations includes any additional regulations made under these Regulations.
- 7.2 The headings in these Regulations shall not affect its interpretation.
- 7.3 Reference in these Regulations to a body corporate include a company incorporated outside the Free Zone.
- 7.4 A reference in these Regulations to a Part or Regulation of these Regulations by number only, and without further identification, is a reference to the Part or Regulation of that number in these Regulations.
- 7.5 References to these Regulations to 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 communicate with a Shareholder by Electronic means unless that Shareholder expressly withholds its consent to communication by Electronic means. This does not affect any other legal requirements, which may apply in relation to the form or manner of executing a document or agreement.

## **8. ENTITIES RECOGNISED IN THE FREE ZONE**

- 8.1 These Regulations recognise the following types of companies:
- (a) FZCO; and
  - (b) PLC.
- 8.2 An FZE is recognised as an FZCO under these Regulations.
- 8.3 A Foreign Company may register a Branch in the Free Zone pursuant to these Regulations.
- 8.4 The Registrar may by a written notification recognise an entity as a Company or a Branch.
- 8.5 A Company or a Branch cannot operate in the Free Zone without a valid Licence.
- 8.6 The Registrar shall allocate a unique Company or Branch number or a unique Licence number to each Company or Branch. The unique number cannot be changed. When a Company is wound up or a Branch is de-registered, that Company’s or Branch’s unique number or unique Licence number shall not be allocated to any other subsisting or newly incorporated Company or to any other subsisting or newly registered Branch.

## PART 2 – REGISTRAR

### 9. APPOINTMENT, POWERS AND FUNCTIONS OF THE REGISTRAR

- 9.1 The Registrar has the powers and functions granted to it under Law No. (16) of 2021 Regarding Establishing Dubai Integrated Economic Zones Authority, the DIEZA Regulations and by the chairman or the executive chairman of DIEZA. The chairman or the executive chairman of DIEZA may by a written notification revoke a power or function of a Registrar, or may grant a power or function to a Registrar.
- 9.2 The functions of the Registrar include to:
- (a) ensure compliance of the DIEZA Regulations by a Company or a Branch;
  - (b) administer the DIEZA Regulations;
  - (c) carry out acts required by DIEZA under the DIEZA Regulations;
  - (d) take action against a Company or a Branch for a breach of DIEZA Regulations;
  - (e) maintain the registers under Regulation 10;
  - (f) maintain a list of approved auditors;
  - (g) issue, suspend, revoke, terminate or cancel a Licence;
  - (h) undertake acts as may be required in furtherance of the functions and powers of the Registrar; and
  - (i) undertake acts as may be authorised and required to be done by a written notification of the chairman or the executive chairman of DIEZA.
- 9.3 In accordance with its powers and in furtherance of its functions, the Registrar may:
- (a) issue in writing, with or without conditions, a notification, waiver, clarification, circular, an authorisation, consent, approval, decision, guideline or communication in relation to a Regulation or any matter in these Regulations;
  - (b) require a Company or a Branch to provide its Records or information to the Registrar;
  - (c) prescribe guidelines or forms to be used for regulatory functions;
  - (d) employ and appoint persons in the office of the Registrar; and
  - (e) delegate the authority vested in the Registrar to a person inside or outside the UAE, including to a sub-registrar.
- 9.4 The Registrar may introduce a system for the use, storage, retention, transmission or processing of any Electronic information, including Electronic Documents. The Registrar may prescribe a procedure for the issuance and use of Electronic Signatures. An act done by a Company, a Branch or DIEZA in Electronic Documents, or the use of an Electronic Signature, in accordance with these Regulations and the applicable law, will not be without legal force merely on the grounds that it is in Electronic form.
- 9.5 The chairman or the executive chairman of DIEZA may appoint or remove a person as a sub-registrar by a written notification, and may grant to the sub-registrar any of the powers and functions of a Registrar.

## 10. REGISTERS

10.1 The Registrar will maintain a Companies Register containing information in relation to a Company, including:

- (a) in relation to an FZCO:
  - (a) its name and former names (including trade name, where applicable);
  - (b) registration or Licence number;
  - (c) date of incorporation;
  - (d) type of Company;
  - (e) registered office;
  - (f) the Company's Financial Year end;
  - (g) date of commencement and cessation of any voluntary arrangement, rehabilitation, administrations, receiverships or liquidations;
  - (h) the name of each Shareholder and the number of Shares held by each Shareholder pursuant to Regulation 10.5;
  - (i) the name of each current and former Director;
  - (j) the name of each current and former Manager;
  - (k) the name of each current and former Secretary;
  - (l) the details of the Licence;
  - (m) the number and class of issued Shares and the nominal value of each Share;
  - (n) the details of its premises; and
  - (o) any other information considered necessary by the Registrar.
- (b) in relation to a PLC:
  - (a) its name and former names (including trade name, where applicable);
  - (b) registration or Licence number;
  - (c) date of incorporation;
  - (d) type of Company;
  - (e) registered office;
  - (f) the Company's Financial Year end;
  - (g) date of commencement and cessation of any voluntary arrangement, rehabilitation, administrations, receiverships or liquidations;
  - (h) the name of each current and former Director;
  - (i) the name of each current and former Manager;
  - (j) the name of each current and former Secretary or joint Secretaries, as the case may be;
  - (k) the details of the Licence;

- (l) the number and class of issued Shares and the nominal value of each Share;
  - (m) the details of its premises;
  - (n) the details of any stock exchanges on which the Shares in the PLC are listed; and
  - (o) any other information considered necessary by the Registrar.
- 10.2 The Registrar may on the request of the Company issue a certificate confirming the corporate information of the Company, as recorded in the Companies Register.
- 10.3 The Registrar will maintain a Security Register containing information in relation to the creation, alteration, enforcement and discharge of Security Interests, including:
- (a) the date of creation and discharge;
  - (b) the type of Security Interest being created;
  - (c) the name of the person who creates the Security Interest;
  - (d) the name of the person in whose favour the Security Interest is created; and
  - (e) any other information considered necessary by the Registrar.
- 10.4 The Registrar may on the request of the Company or the person in whose favour the Security Interest is created, issue a certificate confirming the creation or discharge of a Security Interest, as recorded in the Security Register.
- 10.5 The Registrar shall maintain a register of Shareholders for FZCOs.
- 10.6 In addition to the certificates required to be issued under the DIEZA Regulations, the Registrar may issue any other certificate it considers necessary.
- 10.7 The Registrar shall, upon application and payment of the prescribed fee, produce an extract of the information maintained in the register in relation to any particular PLC.
- 10.8 The Registrar shall, upon application and payment of the prescribed fee, produce to a Shareholder an extract of the information maintained in the Companies Register, the register of Shareholders or the Security Register in relation to an FZCO in which that Shareholder holds Shares.
- 10.9 The Registrar shall, upon application and payment of the prescribed fee, produce to a Branch Parent Company an extract of the information maintained in the Branches Register in relation to its Branch.
- 10.10 An extract of information produced pursuant to Regulations 10.7, 10.8 and 10.9 is prima facie evidence of the matters stated in it.
- 10.11 The Registrar shall, upon application and payment of the prescribed fee, produce a certified copy of a certificate of incorporation of a Company, or any document filed with the Registrar.
- 10.12 A certified copy of a certificate of incorporation produced pursuant to Regulation 10.11 or a certificate of continuation is conclusive evidence of the incorporation of the Company.
- 10.13 The Registrar will maintain a Branches Register containing information in relation to a Branch, including:
- (a) its name and former names (including trade name, where applicable);
  - (b) registration or Licence number;
  - (c) date of registration;

- (d) date of commencement and cessation of any voluntary arrangement, rehabilitation, administrations, receiverships or liquidations;
  - (e) the details of the Branch Parent Company;
  - (f) the name of the Manager and, if appointed, the Secretary;
  - (g) the details of the Licence;
  - (h) the details of its premises; and
  - (i) any other information considered necessary by the Registrar.
- 10.14 The Registrar may on the request of the Branch Parent Company issue a certificate confirming the corporate information of the Branch, as recorded in the Branches Register.
- 10.15 Unless a different time period is otherwise specified in these Regulations, a copy of all resolutions of Companies and Branches (including board resolutions, Ordinary Resolutions and Special Resolutions) shall be filed with the Registrar within fourteen (14) days of the passing of such resolutions.
- 10.16 The Registrar may maintain any other register it considers necessary.

## **11. RECTIFICATION OF REGISTERS**

- 11.1 If any detail contained in the Companies Register, the register of Shareholders, the Security Register or the Branches Register is incorrect, or purported to be incorrect, a Shareholder, Manager or Director (in the case of a Company) or the Manager or Branch Parent Company (in the case of a Branch) may apply to the Registrar for rectification of the relevant register.
- 11.2 The Registrar may refuse the application or may rectify the relevant register. If the Registrar refuses the application, the Registrar shall provide written reasons for such refusal to the applicant.

## **12. INSPECTION OF REGISTERS**

- 12.1 The Companies Register for an FZCO, the register of Shareholders for an FZCO and the Security Register for an FZCO shall be open for inspection by any Shareholder of that FZCO.
- 12.2 The Branches Register shall be open for inspection by any Branch Parent Company of that Branch.
- 12.3 The Registrar has absolute discretion as to whether a person who is not a Shareholder of an FZCO or a Branch Parent Company has the right to receive an extract of the Companies Register for an FZCO, the register of Shareholders for an FZCO, the Security Register for an FZCO or the Branches Register.
- 12.4 The Companies Register for a PLC and the Security Register for a PLC shall be open for inspection by the public.

## **PART 3 – NAME, COMPANY INCORPORATION, BRANCH REGISTRATION AND LICENSING**

### **13. NAME OF FZCO**

- 13.1 The name of an FZCO must be approved by the Registrar which has absolute discretion in relation to the approval.

- 13.2 An FZCO may not register a name which is in use by another Company or Branch or which may violate the laws relating to the protection of intellectual property rights in the UAE or any other laws of the UAE.
- 13.3 An FZCO may change its name by a Special Resolution, or by a resolution passed by such greater percentage majority of Shareholders with voting rights as prescribed in the memorandum and articles of association.
- 13.4 The FZCO must file the change of name resolution with the Registrar within fourteen (14) days of the date of the resolution.
- 13.5 The name of a Company incorporated as an FZCO must be immediately followed by the abbreviation "FZCO".
- 13.6 The Registrar may direct an FZCO to change its name within the time prescribed by the Registrar.
- 13.7 The change of name of an FZCO comes into effect from the date of issuance of a certificate of change of name issued by the Registrar.

#### **14. NAME OF PLC**

- 14.1 The name of a PLC must be approved by the Registrar which has absolute discretion in relation to the approval.
- 14.2 A PLC may not register a name which is in use by another Company or Branch which may violate the laws relating to the protection of intellectual property rights in the UAE or any other laws of the UAE.
- 14.3 A PLC may change its name by a Special Resolution, or by a resolution passed by such greater percentage majority of Shareholders with voting rights as prescribed in the memorandum and articles of association.
- 14.4 The PLC must file the change of name resolution with the Registrar within fourteen (14) days of the date of the resolution.
- 14.5 The name of a Company incorporated as a PLC must be immediately followed by the words "Public Limited Company" or the abbreviation "PLC".
- 14.6 The Registrar may direct a PLC to change its name within the time prescribed by the Registrar.
- 14.7 The change of name of a PLC comes into effect from the date of issuance of a certificate of change of name issued by the Registrar.

#### **15. NAME OF BRANCH**

- 15.1 The name of a Branch must be approved by the Registrar which has absolute discretion in relation to the approval.
- 15.2 A Branch may not register a name which may violate the laws relating to the protection of intellectual property rights in the UAE or any other laws of the UAE.
- 15.3 The name of a Branch shall be the name of the Branch Parent Company of the Branch immediately followed by the word "Branch".
- 15.4 The Registrar may direct a Branch to change its name within the time prescribed by the Registrar.

## 16. FEATURES OF COMPANY

- 16.1 A Company has limited liability and must have one or more Shareholders.
- 16.2 A Company must have at least a minimum Share capital as specified in Regulation 23.
- 16.3 The liability of a Shareholder towards the Company, with respect to its shareholding, is limited to the capital paid by the Shareholder in the Company plus any amount that remains unpaid on the Shares held by that Shareholder.
- 16.4 A Company has a legal personality distinct from that of its Shareholders.
- 16.5 A Company has the capacity, rights and privileges of a natural person.
- 16.6 A Company must obtain a Licence to operate in the Free Zone. A Licence is valid for operations in the Free Zone and does not authorise the Company to carry out operations outside the Free Zone. A Company may operate in a jurisdiction other than the Free Zone subject to the laws of such jurisdiction.
- 16.7 A PLC may invite the public to subscribe to its Shares in accordance with the applicable Markets Laws.
- 16.8 A PLC may list its Shares on one or more stock exchanges in accordance with the applicable Markets Laws and any other laws which regulate the listing of companies in the UAE or the Emirate of Dubai.

## 17. FEATURES OF BRANCH

- 17.1 A Branch is a legally dependent part of the Branch Parent Company which has registered the Branch.
- 17.2 A Branch does not have any Shareholders.
- 17.3 The Branch Parent Company which has registered the Branch shall be responsible for all liabilities of its Branch. Any contracts entered into by a Branch shall be deemed to have been entered into by its Branch Parent Company.
- 17.4 A Branch does not have a legal personality distinct from that of its Branch Parent Company.
- 17.5 A Branch does not have the capacity, rights and privileges of a natural person.
- 17.6 A Branch Parent Company must obtain a Licence to operate through its Branch in the Free Zone. A Licence is valid for operations in the Free Zone and does not authorise the Branch Parent Company to carry out operations outside the Free Zone. A Branch Parent Company may operate in a jurisdiction other than the Free Zone subject to the laws of such jurisdiction.

## 18. INCORPORATION OF COMPANY

- 18.1 The persons incorporating a Company may apply to the Registrar for incorporation by filing an application in the prescribed form containing the following information related to the proposed Company:
  - (a) that the application relates to the incorporation of a Company;
  - (b) the following details of each of the Incorporators:
    - (a) where the Incorporator is a natural person:



- (A) the full name, nationality and address of the Incorporator; and
  - (B) if the Incorporator were to hold Shares in trust or as nominee for another person, the full name, nationality and address of the beneficial owner of the Shares; or
  - (b) where the Incorporator is a body corporate:
    - (A) the full name, place of incorporation and the registered office of the Incorporator; and
    - (B) details of the ultimate beneficial owners of the Incorporator;
  - (c) the proposed name;
  - (d) the proposed activities to be carried on by a Company;
  - (e) the type and size of premises required for the proposed activities and the proposed address of the proposed Company's registered office;
  - (f) the amount of the initial share capital and shareholdings of the Incorporators, including details of any classes of Shares;
  - (g) the nominal value of each Share;
  - (h) the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of each of the proposed Directors, the Manager and the Secretary;
  - (i) if applicable, the following information relating to each proposed Secretary:
    - (a) where the Secretary is a natural person, the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of the individual; or
    - (b) where the Secretary is a body corporate, the full name, place of incorporation, the registered office and Officers (including the particulars in paragraph (A) above for each such Officer); and
  - (j) any other document or information required by the Registrar.
- 18.2 An application made under Regulation 18.1 must be accompanied with:
- (a) a draft memorandum and articles of association which shall comply with the requirements set out in Regulation 21, for the approval of the Registrar;
  - (b) where an Incorporator is a body corporate, the application for a certificate of incorporation shall be accompanied by a copy of the Incorporator's current certificate of incorporation or registration in its place of origin, or a document of similar effect, certified by the relevant authority in the jurisdiction in which it is incorporated or otherwise to the satisfaction of the Registrar;
  - (c) any documents specified by the Registrar whether in connection with activities to be carried on by the Company or otherwise; and
  - (d) a business plan for the proposed activities.
- 18.3 Once a proposed application for the incorporation of a Company has been approved by the Registrar, the Company must lease premises within the Free Zone on terms and conditions acceptable to DIEZA.
- 18.4 On approval of the application and confirmation of the lease of premises, the Registrar may issue in relation to the Company:

- (a) a Licence;
- (b) a certificate of incorporation; and
- (c) a registered memorandum and articles of association.

18.5 A Company will be incorporated on the date specified on the certificate of incorporation.

## 19. REGISTRATION OF BRANCH

19.1 The Branch Parent Company proposing to register a Branch may apply to the Registrar for registration by filing an application in the prescribed form containing the following information related to the proposed Branch:

- (a) that the application relates to the registration of a Branch;
- (b) the following details of the proposed Branch Parent Company:
  - (a) its certificate of incorporation;
  - (b) its memorandum and articles of association;
  - (c) its register of directors (or equivalent document showing the full name, address and nationality of the directors of the Branch Parent Company); and
  - (d) details of the ultimate beneficial owners of the Branch Parent Company;
- (c) the proposed name;
- (d) the proposed activities to be proposed to be carried on by the Branch Parent Company through the Branch;
- (e) the type and size of premises required for the proposed activities and the proposed address of the proposed registered office for the Branch;
- (f) the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of each of the proposed Manager(s) of the Branch and, if any, the Secretary; and
- (g) any other document or information required by the Registrar.

19.2 Once an application of a proposed registration of a Branch has been approved by the Registrar, the Branch Parent Company must lease premises for the Branch within the Free Zone on terms and conditions acceptable to DIEZA.

19.3 On approval of the application and confirmation of the lease of premises, the Registrar may issue in relation to the Branch a Licence.

19.4 A Branch will be registered on the date of entry into the Branches Register.

## 20. LICENSING

20.1 Each:

- (a) Company; or
  - (b) Branch Parent Company for its Branch,
- must maintain a valid Licence at all times.

20.2 A Company or a Branch Parent Company operated through a Branch may only conduct the activities that are permitted under its Licence.

- 20.3 If a Company does not maintain a valid Licence, the Registrar may wind up the Company.
- 20.4 If a Branch Parent Company does not maintain a valid Licence for its Branch, the Registrar may de-register the Branch.
- 20.5 The Registrar may in its discretion vary the terms or conditions of a Licence at any time.

## **21. MEMORANDUM AND ARTICLES OF ASSOCIATION**

- 21.1 A Company must have a memorandum and articles of association. The memorandum and articles of association of a Company will come into effect on the date of the certificate of incorporation, and may be amended from time to time.
- 21.2 The memorandum and articles of association of a Company must include:
- (a) the name of the Company;
  - (b) the registered address of the Company;
  - (c) the names of the Incorporators;
  - (d) the purpose for which the Company is being formed;
  - (e) the authorised Share capital of the Company, the number of Shares and the nominal value of each Share;
  - (f) the creation of classes of Shares where the Company considers that it may seek to create classes of Shares;
  - (g) alteration of Share capital;
  - (h) the rights attaching to Shares or classes of Shares;
  - (i) the transfer of Shares;
  - (j) the holding of annual General Meetings;
  - (k) the requisition by Shareholders of General Meetings;
  - (l) the proceedings including voting at General Meetings;
  - (m) accounts and other information to be provided to Shareholders before every annual General Meeting;
  - (n) the maximum number of Directors;
  - (o) the appointment, retirement, disqualification and removal of Directors;
  - (p) the remuneration of Directors;
  - (q) the powers of Directors;
  - (r) proceedings of Directors;
  - (s) the appointment, retirement, disqualification and removal of Secretaries;
  - (t) the keeping of minutes of meetings of Shareholders or Directors;
  - (u) the appointment, retirement, disqualification and removal of Managers;
  - (v) the powers of Managers; and
  - (w) such other particulars as the Registrar may require.
- 21.3 Subject to these Regulations, a Company is governed by its memorandum and articles of association. The memorandum and articles of association bind the Company and its

Shareholders. In the event of any inconsistencies between these Regulations and provisions of the memorandum and articles of association of a Company, these Regulations shall prevail to the extent of inconsistencies.

- 21.4 The memorandum and articles of association of a Company may be amended by a Special Resolution, or by a resolution passed by such greater percentage majority of Shareholders with voting rights as prescribed in the memorandum and articles of association. An amendment to the memorandum and articles of association of the Company will come into effect once the resolution is passed at a General Meeting. A Company must within fourteen (14) days notify the Registrar of an amendment made to the memorandum and articles of association.
- 21.5 The memorandum and articles of association shall be in English. In the event of any inconsistency in a provision between different languages, the English language provision shall prevail.

## **22. ULTIMATE BENEFICIAL OWNERS**

- 22.1 A Company must complete and sign a declaration form setting out accurate details of the ultimate beneficial owners of that Company.
- 22.2 The declaration form shall be submitted to the Registrar on an annual basis and on each renewal of the Company's Licence.
- 22.3 The declaration form shall be prescribed by the Registrar and shall contain:
- (a) the full name, address, nationality, place of birth, date of birth and occupation of each ultimate beneficial owner;
  - (b) the percentage of beneficial ownership for each ultimate beneficial owner; and
  - (c) whether ownership is under a nominee, trust or similar arrangement.
- 22.4 A Company shall notify the Registrar of any changes in ultimate beneficial owners within fourteen (14) days of such change.
- 22.5 A PLC whose Shares are admitted to trading on a stock exchange is not required to complete or submit to the Registrar the declaration form.

## **PART 4 – CAPITAL AND SHARES**

### **23. MINIMUM SHARE CAPITAL**

- 23.1 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.
- 23.2 An FZCO shall have a minimum Share capital of AED 1 (or any currency equivalent to AED 1).
- 23.3 An FZCO shall not allot a Share except as Paid Up at least to twenty five percent (25%) of its value, provided that this provision does not apply to any Shares allotted pursuant to an Employee Share Scheme.
- 23.4 A PLC:
- (a) shall have an issued and allotted Share capital (excluding treasury Shares) of no less than AED 250,000 at any time (or the US Dollars equivalent (applying the pegged

AED:US Dollar rate or an appropriate spot rate of exchange to the AED amount and rounding to the nearest US\$100 in the event that there is no pegged AED:US Dollar rate)); and

- (b) shall not allot a Share except as Paid Up at least to twenty five percent (25%) of its value, provided that this provision does not apply to any Shares allotted pursuant to an Employee Share Scheme.
- 23.5 If a PLC is also required to have a minimum Share capital under applicable Markets Laws, the PLC shall have a minimum Share capital that is the higher of the minimum Share capital provided for in these Regulations or the applicable Markets Laws.

## **24. SHARES**

- 24.1 The capital of a Company must be divided into Shares or classes of Shares and each Share or class of Share shall have a fixed nominal value denominated in any currency.
- 24.2 A Share may be partly paid, provided it is Paid Up to at least twenty five percent (25%) of its value.
- 24.3 A Company may not issue bearer Shares.
- 24.4 A Company may not issue fractional Shares.
- 24.5 An FZCO may not issue treasury Shares.
- 24.6 Subject to the rights attached to different classes of Shares, as prescribed in the memorandum and articles of association, a Share:
- (a) carries the right to vote at a General Meeting;
  - (b) represents a proportionate interest in the ownership of a Company; and
  - (c) in all respects ranks equally with other Shares, and where there are different classes of Shares, then Shares in a class rank equal in all respects with other Shares in that class.
- 24.7 A Company shall file with the Registrar a notice of Allotment of Shares using the applicable form prescribed by the Registrar for any subsequent Allotment of Shares after the initial Allotment, within thirty (30) days of such Allotment.

## **25. INCREASE OF CAPITAL**

- 25.1 A Company may, by a Special Resolution or by a resolution passed by such greater percentage majority of Shareholders with voting rights as prescribed in the memorandum and articles of association, increase its capital.
- 25.2 The resolution for the increase in capital must be filed with the Registrar within thirty (30) days of being passed. The increase in capital will come into effect once the Registrar reflects the same in the Companies Register.

## **26. CONSOLIDATION AND DIVISION OF SHARES**

- 26.1 A Company may, by a Special Resolution or by a resolution passed by such greater percentage majority of Shareholders with voting rights as may be prescribed in the memorandum and articles of association, consolidate and divide its Shares into:

- (a) a lesser number of Shares than before the consolidation, resulting in an increase in the value of each Share; or
- (b) a greater number of Shares than before the consolidation, resulting in a decrease in the value of each Share.

26.2 The resolution for the consolidation or division of Shares must be filed with the Registrar within thirty (30) days of being passed. The consolidation or division of capital of a Company will come into effect once the Registrar reflects the same in the Companies Register.

## **27. NON-CASH CONSIDERATION FOR SHARES**

27.1 Subject to Regulation 27.3, a Company shall not allot Shares as Paid Up (in part or in full) otherwise than in cash unless:

- (a) in the case of a PLC, the PLC has obtained an independent valuation of the non-cash consideration for the Allotment in accordance with this Regulation not more than six (6) months prior to the Allotment;
- (b) in the case of a PLC, a copy of the valuation report has been sent to the proposed allottee;
- (c) a Director's resolution has been passed by a majority of the Directors, unless provided otherwise by the memorandum and articles of association, approving the Allotment of Shares for consideration other than cash; and
- (d) copies of any valuation report (in the case of a PLC) and the relevant resolutions have been submitted to the Registrar along with the Allotment notice.

27.2 A 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.

27.3 Nothing in Regulation 27.1 applies to:

- (a) the Allotment of Shares in a Company in connection with a share exchange;
- (b) the Allotment of Shares in a Company allotted pursuant to an Employee Share Scheme;
- (c) the Allotment of Shares in a Company in connection with a proposed merger;
- (d) the Allotment of Shares in a Company on the conversion of any convertible securities;
- (e) the exercise of an option to acquire Shares in a Company;
- (f) 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
- (g) 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.

27.4 The valuation report required under Regulation 27.1 shall be made by any person registered as an auditor 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.

27.5 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 Regulation applies, that is misleading, false or deceptive in a material way is liable to a fine.

27.6 For the purposes of this Regulation 27, an Allotment is in connection with:

- (a) a share exchange, if the consideration for such an Allotment is the transfer of shares in another company or the cancellation of shares in another company, and such Allotment is open to all holders (or all of a particular class of holders) of shares in such other company; and
- (b) a proposed merger with another merging company, if the Company proposes to acquire all the assets and liabilities of the other merging company in exchange for the issue of its Shares or other securities to the shareholders of the other merging company.

## **28. SHAREHOLDERS' PRE-EMPTION RIGHTS**

28.1 Subject to Regulation 28.8, a PLC shall not allot Shares to a person on any terms unless:

- (a) it has made an offer to each person who holds Shares to allot to that person on the same or more favourable terms a proportion of those Shares that is as nearly as practicable equal to the proportion of the Shares held by that person in the PLC's share capital; and
- (b) the period during which any such offer may be accepted has expired or the PLC has received notice of the acceptance or refusal of every offer so made.

28.2 A reference to the Allotment of Shares includes:

- (a) the grant of a right to subscribe for, or to convert securities into, Shares; and
- (b) the sale of Shares in the PLC that, immediately before the sale, were held by the PLC as treasury Shares.

28.3 Shares held by a PLC as treasury Shares are disregarded for the purposes of this Regulation, so that the PLC is not treated as a person who holds Shares and treasury Shares forming part of the PLC's Share capital.

28.4 A PLC's memorandum and articles of association may prohibit a PLC from allotting Shares of a particular class in respect of an offer referred to in Regulation 28.1(a) unless the PLC has complied with the pre-emption rights included in its memorandum and articles of association. Regulation 28.1(a) does not apply in such circumstances and the PLC may allot the Shares in accordance with those pre-emption rights, provided such an offer is communicated in accordance with Regulation 28.5.

28.5 An offer made pursuant to Regulation 28.1(a):

- (a) may be made in hard copy or by Electronic Document;
- (b) may, if a holder of Shares has not given an address to the PLC, be made by causing it, or a notice specifying where a copy of it can be obtained or inspected, to be published in the Prescribed Publications; and
- (c) shall be open for acceptance for a period of not less than fourteen (14) days from the date on which:

- (a) the offer is deemed to have been received in accordance with the memorandum and articles of association (or, if the memorandum and articles of association do not contain such provisions, when the offer is reasonably expected to have been received by the offeree); or
  - (b) the offer is published in the Prescribed Publications.
- 28.6 A PLC does not contravene Regulation 28.1 where the PLC allots Shares to a person in whose favour an existing holder of Shares has renounced his right to Allotment.
- 28.7 A PLC which fails to comply with the requirements of Regulation 28.1 is liable to a fine.
- 28.8 Regulation 28.1 does not apply in respect of an Allotment of Shares:
- (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 Regulation 27;
  - (d) in an FZCO which has provided for pre-emption rights in its memorandum and articles of association, to the extent that the pre-emption right has been varied by its memorandum and 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 memorandum and articles of association).
- 28.9 Unless provided for in an FZCO's memorandum and articles of association, Shareholders of an FZCO shall not have any pre-emption rights. Pre-emption rights, if any, of Shareholders of an FZCO shall be set out in the FZCO's memorandum and articles of association.

## 29. DECREASE OF CAPITAL

- 29.1 An FZCO may, if authorised by a Special Resolution or by a resolution passed by such greater percentage majority of Shareholders with voting rights as may be prescribed in the memorandum and articles of association, decrease its capital by reducing and cancelling Share(s).
- 29.2 Where a Share of an FZCO is cancelled in order to decrease the share capital in accordance with Regulation 29.1:
- (a) the share must be acquired for fair value;
  - (b) the decrease shall be made out of profits available for that purpose; and
  - (c) the majority of Directors of the FZCO shall certify that, immediately following the decrease of the share capital, the Company will be able to pay its debts as they fall due in the ordinary course of business.
- 29.3 A PLC may, if authorised by a Special Resolution or by a resolution passed by such greater percentage majority of Shareholders with voting rights as may be prescribed in the memorandum and articles of association, with or without extinguishing or reducing liability on its Shares, decrease its capital by:
- (a) reducing the value of the Shares, either by:
    - (a) reimbursing part of the value to the Shareholders; or
    - (b) by absolving the Shareholders of the unpaid amount of their Shares, if any; or



- (b) cancelling Paid Up share capital, due to:
  - (a) a loss sustained by the Company; or
  - (b) being unrepresented by the available assets of the Company.
- 29.4 Subject to Regulation 34.5, where a Share of a PLC is cancelled in order to decrease the share capital in accordance with Regulation 29.3:
  - (a) the loss sustained by the PLC or the capital that is unrepresented by available assets of the PLC, should be confirmed in a report by an auditor; and
  - (b) the Share must be acquired by the PLC at the lowest consideration, cash or non-cash, at which the Shares can be acquired, and not exceeding an amount, if any, stated in or determined by the memorandum and articles of association.
- 29.5 A PLC must, within fourteen (14) days of passing the resolution to decrease its capital in accordance with Regulation 29.3, publish a notice in the Prescribed Publications, stating:
  - (a) the amount of the share capital as last determined by the PLC;
  - (b) the value of each Share;
  - (c) the amount to which the share capital is to be decreased;
  - (d) the manner in which the decrease in share capital is taking place; and
  - (e) the period of notification of the decrease in capital, after which the decrease in capital may take effect. This period of notification must be at least thirty (30) days from the date of publication.
- 29.6 Where a decrease in Share capital is published to be effected through:
  - (a) extinguishing or reducing the liability of a Shareholder on its Shares; or
  - (b) reducing the value of Shares in accordance with Regulation 29.3(a),a Creditor of the PLC may object to the decrease in capital during the period commencing on the date of publication and concluding on the date the decrease in capital is proposed to take effect. Where a Creditor raises such an objection, the decrease in capital will not take effect until such objection is resolved by the parties or by the Court.
- 29.7 After the period of notification, or resolution of an objection by a Creditor, if any, the majority of Directors of a PLC must sign a certificate declaring:
  - (a) that the decrease in capital has been carried out in accordance with these Regulations; and
  - (b) in the event a Creditor objected to the decrease in capital, confirmation that the objection had been resolved, along with the withdrawal of the objection in writing, and where the objection was resolved by an order of a Court, a copy of the order of the Court approving the decrease in capital.
- 29.8 Within five (5) days of the expiry of the period of notification, and resolution of an objection, if any, the PLC must submit to the Registrar:
  - (a) the resolution in Regulation 29.3;
  - (b) the auditor's report referred to in Regulation 29.4(a), if applicable;
  - (c) a copy of the notices in the Prescribed Publications published in accordance with Regulation 29.5; and
  - (d) the certificate referred to in Regulation 29.7 and the documents supporting the certificate as may be required by the Registrar.

29.9 The decrease in capital of a Company will come into effect on the date the Registrar records the decrease in capital in the Companies Register.

### **30. CLASSES OF SHARES**

30.1 Shares are of one class if the rights attached to them are the same in all respects.

30.2 A Company may have different classes of Shares, as provided in its memorandum and articles of association.

### **31. VARIATION IN RIGHTS OF SHARES**

31.1 Rights attached to a class of Shares may be varied or abrogated by an amendment to the memorandum and articles of association, approved by:

- (a) a Special Resolution or by a resolution passed by a greater majority of Shareholders with voting rights as may be prescribed in the memorandum and articles of association; and
- (b) a resolution passed by all the Shareholders holding Shares of the class whose rights are being varied or abrogated.

31.2 Where a resolution to vary or abrogate the rights attached to a class of Shares is passed in accordance with Regulation 31.1(a), Shareholders representing not less than five percent (5%) of total Shares of such class, being Shareholders who did not resolve in favour of the variation or abrogation of the rights attached to such class of Shares, may within twenty eight (28) days of the resolution being passed in accordance with in Regulation 31.1(a), apply to the Court to have the variation or abrogation cancelled. Where an application is made to the Court, the variation will have no effect until the ruling of the Court. The Court may disallow the variation or abrogation of the rights attached to a class of Shares, may confirm it or may pronounce such other remedy as it may consider appropriate.

31.3 The Shareholder who applies to the Court to have the variation abrogated or cancelled in accordance with Regulation 31.2 must notify the Registrar in writing of such application within seven (7) days of such application having been made.

### **32. SHARE TRANSFER AND SHARE REGISTER**

32.1 Subject to Regulation of 32.2, the transfer of Shares of any Shareholder in a Company must take place in accordance with the memorandum and articles of association of the Company.

32.2 Transfer of a Share in a PLC whose Shares are admitted to trading on a stock exchange must take place in accordance with the rules of the relevant exchange and clearing house.

32.3 The transfer of Shares shall be effective upon entry of the new Shareholder's name into the register of Shareholders for that Company.

32.4 A PLC must maintain, itself or through an agent, an accurate register of Shareholders containing:

- (a) where the Shareholder is a natural person, the full name, address, nationality, passport number and place of birth of each Shareholder;
- (b) where the Shareholder is a body corporate, the name, legal form, registered address, registration number and country of incorporation of the Shareholder;
- (c) the date a natural person or body corporate became a Shareholder;

- (d) the number and class of Shares, and voting rights attached to such Shares, held by that Shareholder; and
  - (e) the date a natural person or body corporate ceased to be a Shareholder.
- 32.5 A PLC may maintain its register of Shareholders in the form of an Electronic Document or in hard copy.
- 32.6 A PLC must supply the contents of the register of Shareholders to the Registrar on request.
- 32.7 A trustee of a deceased Shareholder shall be treated as a Shareholder for the purposes of executing any share transfer instrument in respect of such Shareholder's shares or interest.
- 32.8 A liquidator or receiver of an insolvent Shareholder shall be treated as a Shareholder for the purposes of executing any share transfer instrument in respect of such Shareholder's shares or interest.

### **33. RIGHT OF PLC TO REQUEST INFORMATION ABOUT INTERESTS IN ITS SHARES**

- 33.1 A PLC may give notice to any person whom it knows or has reasonable grounds to believe:
- (a) to be interested in the PLC's Shares; or
  - (b) to have been so interested at any time in the three (3) years preceding the date of such notice.
- 33.2 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.
- 33.3 For the purposes of this Regulation, a person has an interest in Shares of a PLC 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:
    - (a) exercise any right conferred by the holding of the Shares; or
    - (b) control the exercise of any such right.
- 33.4 Where a person fails to comply with a notice served on that person by a PLC pursuant to Regulation 33.1, the PLC 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 PLC on the Shares, whether in respect of capital or otherwise.
- 33.5 The Court may make any such order, as specified under Regulation 33.4, as it sees fit, having regard to the rights of third parties in respect of such Shares.
- 33.6 Any person whose rights are, or are likely to be, unfairly affected by an order of the Court made under Regulation 33.5 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 Regulation 33.4; or
  - (b) the relevant Shares or any part of those Shares shall cease to be subject to the restrictions.
- 33.7 Where there is a restriction imposed in respect of Shares pursuant to Regulation 33.4, except to the extent otherwise provided under Regulation 33.6:
- (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 PLC on the Shares, whether in respect of capital or otherwise, except in a liquidation,
- shall be void.
- 33.8 An application may be made to the Court, by the PLC 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 PLC 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.

### **34. TREASURY SHARES**

- 34.1 Unless restricted by its memorandum and articles of association, a PLC may make a purchase of its own Shares, as treasury Shares, subject to:
- (a) the approval of the Registrar;
  - (b) an Ordinary Resolution, or a resolution passed by such greater percentage majority of Shareholders with voting rights as prescribed in the memorandum and articles of association; and
  - (c) compliance with the requirements of this Regulation 34.
- 34.2 The PLC must be entered as a Shareholder of the treasury Shares.
- 34.3 The purchase of treasury Shares must be made out of the distributable profits of the PLC.
- 34.4 The PLC may hold, transfer or cancel the treasury Shares. In the event of a transfer, the PLC may transfer the treasury Shares:
- (a) for cash consideration; or
  - (b) for the purposes of or pursuant to an Employee Share Scheme; or
  - (c) to existing Shareholders as fully paid bonus Shares.
- 34.5 If the PLC cancels any treasury Shares, the amount of the PLC's share capital is reduced accordingly by the nominal amount of the Shares cancelled. Unless otherwise specified in the memorandum and articles of association, the Directors of the PLC may take any steps required to cancel the treasury Shares under this Regulation 34 without following the process in Regulation 29.

34.6 In the event of a transfer or cancellation of the treasury Shares in accordance with Regulation 34.4, the PLC must notify the Registrar and its Shareholders of:

- (a) the number and value of the Shares which have been transferred or cancelled; and
- (b) the date on which they were transferred or cancelled.

In the event of a cancellation of the treasury Shares, the notice must be accompanied by a statement of capital.

34.7 The PLC may not exercise any other rights attached to the treasury Shares, including the right to vote, attend a meeting, and receive dividends or distributions of the PLC's assets (including any distribution of assets to Shareholders on a winding up).

34.8 If a provision of these Regulations requires:

- (a) a proportion of votes attaching to Shares held in the PLC to be obtained; or
- (b) a proportion of the Shareholders of the PLC, (which may include persons representing by proxy other Shareholders of the PLC), 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 PLC; or
  - (b) whether such a proportion has been attained.

34.9 Nothing in Regulations 34.5 and 34.7 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.

34.10 Any Shares allotted as fully paid bonus Shares in respect of Shares held as treasury Shares by a PLC shall be treated as if they were purchased by the PLC at the time they were allotted.

34.11 If Shares are held by a PLC as treasury Shares:

- (a) the register of Shareholders kept under Regulation 32 shall include an entry relating to the number of Shares held by the PLC as treasury Shares;
- (b) the register to be maintained by the Registrar pursuant to Regulation 10 shall, to the extent it contains details of the Shareholders of the PLC, include an entry relating to the number of Shares held by the PLC as treasury Shares.

## **35. FINANCIAL ASSISTANCE TO ACQUIRE SHARES**

35.1 A PLC or a company that is a Subsidiary of it may not provide financial assistance to a person to acquire Shares in the PLC, or to acquire Shares in a Holding Company of the PLC, unless:

- (a) the giving of the financial assistance does not materially prejudice the interests of the PLC or its Shareholders or the PLC's ability to discharge its liabilities as they fall due; and
- (b) the financial assistance is approved by a resolution of Shareholders holding not less than ninety percent (90%) in nominal value of the Shares with the right to attend and vote at a General Meeting; or

- (c) the PLC'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) the financial assistance is given in connection with, or for the purposes of, an Employee Share Scheme of the PLC; or
  - (e) the financial assistance is only an incidental part of some larger purpose of the PLC and the financial assistance is given in good faith in the interest of the PLC.
- 35.2 In Regulation 35.1, references to "financial assistance" includes making a loan, making a gift, issuing a debenture, giving security over the PLC's assets or giving a guarantee or an indemnity in respect of another person's liability.
- 35.3 Regulation 35.1 does not prohibit a PLC from giving financial assistance for the acquisition of Shares in it or its Holding Company if:
- (a) the PLC's principal purpose in giving the assistance is not to give it for the purpose of any acquisition of Shares in the PLC or in a Holding Company of the PLC; or
  - (b) the giving of assistance for that purpose is only an incidental part of some larger purpose of the PLC,
- and such assistance is given in good faith in the interests of the PLC.

### **36. REDEEMABLE SHARES**

- 36.1 A Company may issue shares that are to be redeemed or are liable to be redeemed at the option of the Company or the Shareholder provided that the memorandum and articles of association of the Company does not expressly exclude or restrict the issuance of redeemable shares.
- 36.2 Subject always to Regulation 36.1, redeemable shares may only be issued if the Company has Shares which are not redeemable in issue.
- 36.3 The terms of any redemption may be determined by the Directors of the Company if they are authorised to do so by:
- (a) the memorandum and articles of association; or
  - (b) an Ordinary Resolution.
- 36.4 If the Directors are not authorised to determine the terms of any redemption of redeemable shares, such terms must be included in the memorandum and articles of association.
- 36.5 Where Shares in a Company are redeemed, the Shares are treated as cancelled and the amount of the share capital of the Company must be reduced accordingly by the nominal amount of the Shares redeemed.
- 36.6 In the event of a redemption of Shares in accordance with this Regulation 36, the Company must notify the Registrar and its Shareholders of:
- (a) the number and value of the Shares which have been transferred or cancelled; and
  - (b) the date on which they were transferred or cancelled.
- The notice must be accompanied by a statement of capital.

### **37. DIVIDEND AND OTHER DISTRIBUTIONS**

- 37.1 A Company may by a resolution of the Directors declare a dividend or make a distribution, or recommend a dividend or distribution to the Shareholders to declare or make by an

Ordinary Resolution, whether in cash or otherwise, out of the accumulated and realised profits available for the purpose, after deducting the accumulated and realised losses of a Company, provided that:

- (a) after the dividend is declared, the amount of the net assets of the Company is not less than the aggregate of its share capital and, in the case of PLCs, the undistributable reserves; and
- (b) if, and to the extent that, the distribution does not reduce the amount of those assets to less than that aggregate.

37.2 Where a dividend is declared or a distribution is made, or the declaration of a dividend or making of a distribution is recommended to the Shareholders, the Directors must certify that immediately after a dividend is paid or a distribution is made the Company should, on reasonable grounds, be able to pay its debts as they become due in the normal course of business.

37.3 Any dividend or distribution declared by the Shareholders in accordance with Regulation 37.1 may not exceed the amount of such dividend or distribution recommended by the Directors.

37.4 In this Regulation 37:

- (a) “distribution” means the distribution of assets of a Company to its Shareholders, including dividends, whether in cash or otherwise, except distribution by way of an issue of bonus Shares, redemption or purchase of a Company’s own Shares, out of share capital or out of unrealised profits, reduction of share capital, by extinguishing or reducing the liability of any of the Shareholders on the Shares, and distribution of assets to Shareholders of a Company on its winding up;
- (b) “undistributable reserves” means a reserve account of the PLC maintained in accordance with the DIEZA Regulations or the applicable Markets Laws, including a share premium account, capital redemption reserve or the amount by which the PLC’s 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
- (c) “net assets” means the aggregate of the Company’s assets less the aggregate of its liabilities.

37.5 A Company which makes a distribution in contravention of this Regulation 37 is liable to a fine.

37.6 Whether a distribution made by a Company is in compliance with these Regulations must be determined by reference to the accounts of the Company as prepared and maintained in accordance with Regulation 67.

## **38. UNLAWFUL DISTRIBUTION**

A Shareholder must return any distribution, or part of a distribution, received from a Company if the distribution has been made in contravention of Regulation 37. Where the distribution received is in a form other than cash, the Shareholder must pay to the Company a sum equal to the value of the distribution, or that part, at that time.

## **PART 5 – DIRECTORS, MANAGER AND SECRETARY**

### **39. DIRECTORS**

- 39.1 The business and affairs of a Company will be managed by the Directors. In managing the business and affairs of the Company, the Directors may exercise all powers and authority except:
- (a) for matters required to be decided at a General Meeting; and
  - (b) as provided in the memorandum and articles of association of the Company and these Regulations.
- 39.2 An FZCO must have at least one Director, who must be a natural person.
- 39.3 A PLC must have at least two (2) Directors, one of whom must be a natural person.
- 39.4 A Branch may, but is not required to have, a Director.
- 39.5 A person cannot be a Director who:
- (a) if a natural person, is under the age of 21 years, unless approved by the Registrar;
  - (b) has been convicted of a criminal offence, involving dishonesty or moral turpitude in the past ten (10) years;
  - (c) has been guilty of insider trading or the equivalent;
  - (d) has been disqualified from holding the position of a Director by a court or competent authority;
  - (e) does not qualify based on the criteria provided in the memorandum and articles of association; or
  - (f) is an undischarged bankrupt.

### **40. ELECTION, TERM AND REMOVAL OF A DIRECTOR**

- 40.1 The Shareholders incorporating a Company must appoint the first Directors at the time of incorporation. The Directors may be appointed or removed by an Ordinary Resolution.
- 40.2 Each Director of a PLC appointed in accordance with Regulation 40.1 is subject to reappointment at the PLC's next annual General Meeting. If a person is not reappointed as a Director of the PLC at an annual General Meeting, such person will cease to be a Director from the date of the annual General Meeting.
- 40.3 A vacancy in the position of a Director may be filled by an Ordinary Resolution or in the absence of such resolution, by the Directors, provided that a Director appointed by the Directors must be subject to reappointment by an Ordinary Resolution at the next General Meeting. If such person is not reappointed as a Director at the General Meeting, the person will cease to be a Director from the date of the General Meeting.
- 40.4 The number of Directors may be fixed by the memorandum and articles of association.

### **41. DUTIES OF A DIRECTOR**

- 41.1 The duties of Directors set out in Regulations 41 to 43 are owed by a Director to the Company.
- 41.2 A Director of a Company, in exercising powers and discharging duties, has the duty to:



- (a) act within the powers granted to the Director by the memorandum and articles of association of the Company and only exercise the Director's powers for the purposes for which those powers have been conferred;
  - (b) act honestly and lawfully and in a 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;
  - (c) not to accept a benefit from a third party, being any person other than the Company, an associated body corporate or person acting on behalf of the Company or associated body corporate, conferred by reason of his being a Director or his doing (or not doing) anything as Director;
  - (d) exercise the care, diligence and skill that a reasonably prudent person, with the general knowledge, skill and experience that the Director has, would exercise in similar circumstances; and
  - (e) exercise independent judgment.
- 41.3 The memorandum and articles of association of a Company shall not include any provision to the effect of which would be to dilute the duties of a Director in Regulations 41 to 43.
- 41.4 No action or omission of a Director shall be treated as a breach of a duty referred to in Regulation 41.1 if:
- (a) all the Shareholders of the Company authorise or ratify the act or omission; and
  - (b) the Company remains able to discharge its liabilities as they fall due after the act or omission.

## **42. DUTY TO AVOID CONFLICTS OF INTEREST**

- 42.1 A Director of a Company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.
- 42.2 Regulation 42.1 applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the Company could take advantage of the property, information or opportunity).
- 42.3 This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the Company.
- 42.4 This duty is not infringed:
- (a) if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
  - (b) if the matter has been authorised by the Directors.
- 42.5 Authorisation may be given by the Directors in accordance with Regulation 42.4(b) where the memorandum and articles of association enables the Directors to authorise such matters.
- 42.6 An authorisation under Regulation 42.4(b) is effective only if any requirement as to the quorum at the meeting of Directors is considered as met without counting the conflicted Director and the matter was agreed without such Director's vote, or would have been agreed if such Director's vote had not been counted, and provided that all Directors constituting the quorum are acting in accordance with Regulation 41.

### 43. DUTY OF A DIRECTOR TO DISCLOSE INTERESTS

- 43.1 A Director, who has a direct or indirect interest in a transaction entered into or proposed to be entered into by the Company or by a Subsidiary of the Company, which interest to a material extent conflicts or may conflict with the interests of the Company and of which conflict the Director is aware, must disclose to the Company the nature and extent of the interest.
- 43.2 If the Director's interest under Regulation 43.1 is in a proposed transaction, the Company may not enter into the proposed transaction or arrangement until it has been approved by an Ordinary Resolution.
- 43.3 Once a Director becomes aware of the circumstances requiring the Director to make the disclosure under Regulation 43.1, the Director has a duty to disclose the interest.
- 43.4 The disclosure may be made at a meeting of the Directors or by giving notice in writing to the Directors in hard copy or by way of an Electronic Document. If the disclosure of interest is made by giving notice in writing, the disclosure is deemed to form part of the proceedings of the next meeting of the Directors.
- 43.5 The Company or a Shareholder may not claim a transaction to be void or hold a Director accountable where:
- (a) the transaction is confirmed by an Ordinary Resolution, provided that any votes cast by a Shareholder who is also a Director, or a Connected Person to such a Director, who has the conflict of interest in the transaction or arrangement shall be disregarded; and
  - (b) the nature and extent of the Director's interest in the transaction was disclosed in reasonable detail in the notice calling the General Meeting at which the resolution confirming the transaction is passed.
- 43.6 No disclosure is required under this Regulation:
- (a) if the matter in question cannot reasonably be regarded as likely to give rise to a conflict of interest; or
  - (b) if, or to the extent that, the other Directors are already aware of it (and for this purpose the other Directors are treated as being aware of anything of which they ought reasonably to be aware); or
  - (c) if, or to the extent that, it concerns the Directors terms of service that have been or are to be considered by a meeting of Directors.
- 43.7 For the purposes of Regulation 43.5, 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 Regulation 43.7(a), who:
    - (a) has at least twenty percent (20%) of the share capital of the body corporate; or
    - (b) is entitled to exercise or control the exercise of more than twenty percent (20%) of the voting power at any General Meeting of that body; or
  - (c) in the case of a partnership in which the Director or an individual referred to in Regulation 43.7(a) is also a partner, all the other partners; or
  - (d) any other person prescribed as a Connected Person in the memorandum and articles of association.

#### **44. PROHIBITION ON FINANCIAL ASSISTANCE TO A DIRECTOR**

- 44.1 A Company may not provide financial assistance to a Director, a Director's spouse or child, step-child, grandchild or to a company of which the Director is directly or indirectly a Shareholder owning twenty percent (20%) of the total shareholding, unless:
- (a) approved by a resolution passed by Shareholders holding Shares representing not less than ninety percent (90%) of the total voting rights of the Company; and
  - (b) all of the Directors resolve that giving the financial assistance to the Director does not materially prejudice:
    - (a) the interests of the Company and its Shareholders; and
    - (b) the Company's ability to discharge its liabilities as they fall due.
- 44.2 For purposes of this Regulation 44, "financial assistance" means:
- (a) a loan, debenture, credit facility or other similar form of financial assistance; or
  - (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.
- 44.3 For avoidance of doubt, financial assistance does not include:
- (a) remuneration of the Director paid in the ordinary course;
  - (b) liability indemnity insurance related to the discharge of the duties of the Director to the Company; or
  - (c) financial assistance by the Company where the business of the Company is to provide finance and the financial assistance is given in the ordinary course of that business and on ordinary commercial terms.

#### **45. ALTERNATE DIRECTOR**

- 45.1 Unless provided otherwise in the memorandum and articles of association, a Director may by a written instrument appoint a person as an alternate. An alternate director is not required to be a Director. The name of the alternate director must be given in writing to the Secretary prior to or at the time of commencement of a Directors' meeting.
- 45.2 An alternate director has the same rights as a Director has in relation to a meeting, including the right to attend and vote at a meeting.

#### **46. DIRECTORS' EMPLOYMENT CONTRACTS**

- 46.1 A PLC must keep available for inspection a copy of every Director's employment contract at its registered office.
- 46.2 The employment contracts must be retained by the PLC for at least one year from the date of termination or expiry of the contract and must be available for inspection at the registered office during that time.

#### **47. VALIDITY OF THE ACTS OF A DIRECTOR**

The acts of a Director are valid notwithstanding a defect in the appointment or qualification of a Director.

## 48. MANAGER

- 48.1 A Company must have a Manager. The name of the Manager will be recorded in the Companies Register and it must appear on the Licence of the Company.
- 48.2 A Branch must have a Manager. The name of the Manager will be recorded in the Branches Register and it must appear on the Licence of the Branch.
- 48.3 A Manager must be a natural person resident in the UAE.
- 48.4 No person can be a Manager who:
- (a) is under the age of twenty one (21) years unless approved by the Registrar;
  - (b) has been convicted of a criminal offence, involving dishonesty or moral turpitude in the past ten (10) years;
  - (c) has been guilty of insider trading or the equivalent;
  - (d) has been judged disqualified by the court or competent authority; or
  - (e) does not qualify based on the criteria provided in the memorandum and articles of association.
- 48.5 Subject to Regulation 49.2, a Shareholder, Director or a Secretary may also be appointed as a Manager.
- 48.6 A Manager of a Company may be appointed or removed by an Ordinary Resolution. In addition to the authority of a Manager under these Regulations, a Manager's authority may be provided in the memorandum and articles of association or by a resolution of the Company.
- 48.7 A Manager of a Branch may be appointed or removed by a resolution of the Branch Parent Company.
- 48.8 Regulations 39.1 and 40 to 43 (inclusive) shall apply mutatis mutandis to a Manager.

## 49. SECRETARY

- 49.1 A Company must have at least one (1) Secretary.
- 49.2 A Secretary of a PLC cannot be a Director of that PLC.
- 49.3 It is the duty of the Directors of a PLC to take all reasonable steps to ensure that the Secretary (or each joint Secretary) of the PLC is a person who appears to them to have the requisite knowledge and experience to discharge the functions of Secretary of the PLC.
- 49.4 If it appears to the Registrar that a PLC is in breach of Regulation 49.1 (requirement to have a Secretary), the Registrar may give the PLC a direction under this Regulation.
- 49.5 The direction must state that the PLC appears to be in breach of Regulation 49.1 and specify:
- (a) what the PLC must do in order to comply with the direction;
  - (b) the period within which it must do so (being not less than one month or more than three months after the date on which the direction is given); and
  - (c) the consequences of failing to comply with the direction.
- 49.6 If a PLC fails to comply with a direction under Regulation 49.4, the PLC and every Officer of it who is in default is liable to a fine.

- 49.7 A Branch may, but is not required to have, a Secretary.
- 49.8 A Secretary need not be a natural person.
- 49.9 A Secretary may be appointed or removed by an Ordinary Resolution (in the case of a Company) or by a resolution of the Branch Parent Company (in the case of a Branch).
- 49.10 A Secretary is primarily responsible for filing all documents required to be filed with the Registrar under these Regulations.

## **50. REGISTER OF OFFICERS**

- 50.1 A PLC must keep at its registered office a register of its Officers (including its Directors, Manager and Secretary). A PLC must supply the contents of the register to the Registrar on request.
- 50.2 The register for a PLC must be available for public inspection at its registered office during regular office hours of the PLC.
- 50.3 In case of a refusal of any inspection of a register required to be kept pursuant to Regulation 50.1, the Registrar may issue a direction requiring the PLC to provide immediate inspection by the Registrar, a Shareholder, Manager or Director.
- 50.4 The register of Officers of every PLC required under Regulation 50.1, shall set out, in respect of each Officer the following information:
- (a) full name;
  - (b) any former names, if any;
  - (c) date and place of birth;
  - (d) nationality;
  - (e) information identifying the person from their passport or other government-issued national identification document acceptable to the Registrar, including:
    - (a) identifying number;
    - (b) country of issue; and
    - (c) date of issue and of expiry;
    - (f) address;
    - (g) date of appointment; and
    - (h) date of cessation (if applicable).
- 50.5 If the Director or Secretary is not an individual, the register shall contain, the full name, place of incorporation, registered office and Officers (including the particulars in Regulation 18.1 of each Officer) of the Director or Secretary.

## **51. CHANGE OF OFFICERS**

- 51.1 Whenever:
- (a) a Director, Manager or Secretary is appointed to a Company after initial incorporation/ registration of the Company; or
  - (b) a Director, Manager or Secretary retires, is removed or for any other reason ceases to act,

the Company shall file a notice of change of Directors, Manager or Secretary with the Registrar within thirty (30) days of the change of Directors, Manager or Secretary.

50.2 Whenever there is any change in the name or address of a Director, Manager or Secretary of a Company, the Company shall file with the Registrar a notice of change of name or address.

## **52. DISQUALIFICATION OF OFFICERS**

52.1 If at any time:

(a) the Registrar:

- (a) has any concerns regarding a person's suitability as an Officer;
- (b) is aware that, or has evidence that, an Officer has breached one of his duties;
- (c) is aware that, or has evidence that, an Officer has been convicted of a criminal offence or any other offence involving fraud or dishonesty; or
- (d) believes that an Officer has acted or is acting in a manner which is detrimental to or prejudicial to the reputation and interests of the Free Zone, DIEZA or the general public; or

(b) an Officer is or has been disqualified from acting as an officer by any competent authority,

the Registrar may disqualify that Officer and remove that Officer from office. The Registrar shall notify the Company or Branch of any such disqualification and removal and shall provide written reasons for such disqualification and removal.

52.2 The Company or Branch whose Officer has been removed pursuant to Regulation 52.1 may replace that Officer by an Ordinary Resolution (in the case of a Company) or by a resolution of the Branch Parent Company (in the case of a Branch).

52.3 Where an Officer who has been removed pursuant to Regulation 52.1 results in the Company or Branch having no Manager or Director (as required in accordance with these Regulations), then the Company or Branch shall within fourteen (14) days of notification of removal appoint a replacement Manager or Director.

52.4 Until such time as a replacement Manager or Director has been appointed pursuant to Regulation 52.3, or if a Company otherwise has no Manager or Director, the Secretary (in the case of a PLC), the Shareholders (in the case of an FZCO) or the directors of the Branch Parent Company (in the case of a Branch) shall assume the responsibilities of the Manager or Director.

## **PART 6 – SHAREHOLDERS' MEETING**

### **53. CALLING A MEETING**

53.1 An FZCO is not required to hold a General Meeting unless expressly required to do so under its memorandum and articles of association.

53.2 Unless a shorter duration is prescribed in the memorandum and articles of association, a PLC must hold a General Meeting as its annual General Meeting within eighteen (18) months from the date of its incorporation and once every twelve (12) months thereafter. A meeting of the Shareholders other than the annual General Meeting will be referred to as an extraordinary General Meeting.

- 53.3 A Director, Manager or Secretary must, as soon as practicable and in any event not later than fourteen (14) days from the request of one or more Shareholders holding Shares representing:
- (a) five percent (5%) or more of the share capital of the PLC, issue a notice of a General Meeting;
  - (b) five percent (5%) or more of a class of Shares of a PLC, issue a notice of a meeting of that class;
  - (c) ten percent (10%) or more of the share capital of the FZCO, issue a notice of a General Meeting; or
  - (d) ten percent (10%) or more of a class of Shares of an FZCO, issue a notice of a meeting of that class.

A Shareholder's request should state the purpose of the meeting and be signed by each Shareholder requisitioning the meeting 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.

53.4 If a Director, Manager or Secretary does not within fourteen (14) days from the date of the deposit of the request issue a notice for the General Meeting, or a notice for a meeting of a class of Shareholders, as a case may be, the Shareholder who had made the request may issue such a notice.

53.5 The Directors may, at any time, call a General Meeting, or a meeting of a class of Shareholders, to consider a matter that the Directors determine requires consideration of the Shareholders.

#### **54. REGISTRAR'S POWER TO CALL MEETING IN DEFAULT**

54.1 The Registrar may, on application of a Director, Manager or a Shareholder, whether due to a default of Regulation 53 or otherwise, call, or direct the Manager to call, a General Meeting or a meeting of that class of Shareholders.

54.2 The Company must, unless with reasonable explanation notified to the Registrar, comply with a direction of the Registrar made under Regulation 54.1. A Company which fails to comply with this requirement is liable to a fine.

#### **55. NOTICE OF MEETING**

55.1 Any General Meeting (other than an annual General Meeting of a Company or an adjourned such meeting) shall be called by at least fourteen (14) days' notice in writing. An annual General Meeting of a Company shall be called by at least twenty one (21) days' notice in writing.

55.2 If a General Meeting is called by shorter notice than that specified in Regulation 55.1 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 an FZCO, 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 PLC, 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 PLC, all Shareholders of the PLC.

55.3 A notice of a meeting should:

- (a) specify the time, place and date of the meeting;
- (b) provide the agenda of the meeting;
- (c) state the general nature of the business of the meeting;
- (d) state the intention to propose a resolution, if any;
- (e) state the right of Shareholders to ask questions at the meeting relating to the business being dealt;
- (f) state the procedures with which Shareholders must comply in order to be able to attend and vote at the meeting (including the date by which they must comply);
- (g) permit a Shareholder to appoint a proxy who may attend and vote on behalf of the appointing Shareholder and state the process to appoint such a proxy; and
- (h) include, in relation to a PLC, a copy of the accounts and auditor's report, that are to be laid before the General Meeting.

55.4 The notice may be sent by hand or, if the memorandum and articles of association provide for it to be sent in Electronic Document, in the agreed Electronic form.

## **56. GENERAL PROVISIONS AS TO MEETINGS AND VOTING**

56.1 Unless the memorandum and articles of association provide otherwise, the following are applicable to a General Meeting or a meeting of a class of Shares:

- (a) a notice of every meeting must be given to each Shareholder entitled to receive it:
  - (a) by delivering or posting it to such Shareholder's registered address;
  - (b) in such Electronic form as agreed by the intended recipient;
  - (c) by making it available on such website as agreed by the intended recipient; or
  - (d) in such other manner or form as may be agreed by the intended recipient;
- (b) the quorum for the meeting where the Company has two or more Shareholders is at least two Shareholders personally present or represented by proxy;
- (c) at a meeting dealing with a variation of any class rights, other than an adjourned meeting, the quorum will be persons holding or represented by proxy, at least one-third in value of the total Shares of that class. At an adjourned meeting, two persons holding Shares or represented by proxy will constitute a quorum;
- (d) Shareholders may by majority of those present at a meeting elect a Shareholder to be the chairman of the meeting;
- (e) except for Shares that do not have the right to vote, on a show of hands, each Shareholder present at the meeting has one vote, and, on a poll demanded in accordance with Regulation 59, a Shareholder has one vote for each Share owned by that Shareholder;
- (f) a declaration by the chairman that the resolution has/had not been passed or passed with a particular majority is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour or against the resolution; and
- (g) a Shareholder who is a corporate entity may by a resolution or such other appropriate instrument authorise a person to represent the corporate entity at the meeting and in doing so the person will be authorised to exercise all the rights of the Shareholder.



56.2 A Company must determine the right to vote at a General Meeting of the Company by reference to the register of Shareholders as at a time (determined by the Company) that is not more than forty eight (48) hours before the time for the holding of the meeting.

56.3 In calculating the period mentioned in Regulation 56.2, no account is to be taken of any part of a day that is not a working day.

## **57. WRITTEN RESOLUTION**

57.1 Subject to any restrictions in its memorandum and articles of association, anything that may be done by a resolution of a Company passed at a Shareholders' or a class of Shareholders' meeting, may be done either by an Ordinary Resolution or by a Special Resolution in writing, as is relevant, in accordance with this Regulation.

57.2 A resolution in writing is passed, unless otherwise prescribed in the Regulations:

(a) 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; and

(b) as a Special Resolution, if it is passed by Shareholders representing not less than seventy five percent (75%) of the total voting rights of Shareholders who, at the date when the Special Resolution is deemed to be passed, would be entitled to vote.

57.3 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.

57.4 An Ordinary Resolution or Special Resolution in writing under this Regulation 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.

57.5 Any document attached to an Ordinary Resolution or Special Resolution in writing under this Regulation shall be deemed to have been laid before a meeting of the Shareholders signing the Ordinary Resolution or Special Resolution.

57.6 Regulation 64 applies to an Ordinary Resolution or Special Resolution in writing under this Regulation as if it had been passed at a meeting.

57.7 Nothing in this Regulation affects or limits any provisions in the memorandum and articles of association relating to the effectiveness of the consent of Shareholders, or any class of Shareholders, of a Company given to any document, act or matter otherwise than at a meeting of them.

57.8 A General Meeting of a Company with a sole Shareholder will be considered to be convened, and a resolution will be considered to be passed at such General Meeting, by the Shareholder issuing a decision in writing.

## **58. PARTICIPATION IN MEETINGS**

58.1 Nothing in these Regulations are to be taken to preclude the holding and conducting of a meeting in such a way that persons who are not present together at the same place may by Electronic means attend and speak and vote at it.

58.2 The use of Electronic means for the purpose of enabling Shareholders to participate in a General Meeting may be made subject only to such requirements and restrictions as are:

- (a) necessary to ensure the identification of those taking part and the security of the Electronic communication; and
- (b) proportionate to the achievement of those objectives.

58.3 Nothing in Regulation 58.2 affects any power of a Company to require reasonable evidence of the entitlement of any person who is not a Shareholder to participate in the meeting.

## 59. DEMAND FOR POLL

59.1 One or more Shareholders holding Shares representing ten percent (10%) or more of the capital of a Company may demand a poll at a General Meeting, or one or more Shareholders holding Shares representing ten percent (10%) of the Shares of a class may demand a poll at a meeting of such class of Shares.

59.2 On a poll, a Shareholder entitled to more than one (1) vote (in person or by proxy) is not required to cast the same decision for all the votes.

## 60. PROXY

60.1 A Shareholder entitled to vote at a General Meeting or at a meeting of a class of Shareholders is entitled to appoint, by notice to the Company in writing, such notice to be no earlier than forty eight (48) hours before the General Meeting or meeting of a class of Shareholders, another person (whether a Shareholder or not) as a proxy vote on behalf of the appointing Shareholder.

60.2 The instrument of proxy should be in (or substantially similar to) the following form:

60.3 The instrument in Regulation 60.2 may be sent in hard copy form or, if the Company has agreed to receive it in Electronic Document, in an agreed Electronic form.

I/WE,.....  
 BEING THE HOLDER OF.....  
 SHARES IN ..... HEREBY APPOINT  
 ..... AS MY/OUR PROXY TO ATTEND  
 AND VOTE ON MY/OUR BEHALF AT THE **[ANNUAL GENERAL MEETING / EXTRA  
 ORDINARY GENERAL MEETING / MEETING OF A CLASS]** OF COMPANY, TO BE HELD ON  
 .....  
 .....  
 SIGNATURE

60.3 The instrument in Regulation 60.2 may be sent in hard copy form or, if the Company has agreed to receive it in Electronic Document, in an agreed Electronic form.

60.4 A proxy appointed to attend and vote for a Shareholder has the same rights as the Shareholder, including without limitation, the right:

- (a) to speak at the meeting;
- (b) to vote (but only to the extent allowed by the appointment or by the memorandum and articles of association); and
- (c) to join in a demand for a poll.

60.5 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.

## **61. DUTY TO PREPARE DIRECTOR'S REPORT**

61.1 The Directors of a PLC must prepare a Directors' report for each Financial Year of the PLC.

61.2 The Directors' report for a Financial Year must state:

- (a) the names of the persons who, at any time during the Financial Year, were Directors of the PLC;
- (b) a fair view of the PLC's business;
- (c) a description of the risks applicable to the PLC;
- (d) an analysis of the development, performance and position of the PLC's business;
- (e) a statement to the effect that each Director, at the time the report is approved, so far as the Director is aware, there is no relevant audit information of which the PLC's auditors is unaware and that each Director has taken all steps that they ought to have taken as a Director in order to make themselves aware of any relevant audit information and to establish that the PLC's auditor is aware of that information; and
- (f) a review of the PLC's business.

61.3 The Directors' report must be approved by the Directors and signed on behalf of the board of Directors of the PLC or the Secretary of the PLC.

## **62. REQUIREMENTS AS TO WEBSITE PUBLICATION**

62.1 A PLC must ensure that its annual accounts and reports are made available on a website that identifies the PLC and is maintained by the PLC.

62.2 The annual accounts and reports shall remain available in accordance with Regulation 62.1 until the annual accounts and reports for the PLC's next Financial Year are published.

## **63. CORPORATE GOVERNANCE STATEMENT**

63.1 A PLC must include a corporate governance statement in its Directors' report. That statement must be included as a specific section of the Directors' report and must contain at least the information set out in this Regulation 63.

63.2 The corporate governance statement must contain a reference to the following, where applicable:

- (a) the corporate governance code to which the PLC is subject;
- (b) the corporate governance code which the PLC may have voluntarily decided to apply; and
- (c) all relevant information about the corporate governance practices applied over and above the requirements of applicable law.

63.3 A PLC which is complying with Regulations 63.2(a) or 63.2(b) must:

- (a) state in its Directors' report where the relevant corporate governance code is publicly available;
  - (b) where it departs from that corporate governance code, explain which parts of the corporate governance code it departs from and the reasons for doing so;
  - (c) where Regulation 63.2(c) applies, the PLC must make details of its corporate governance practices publicly available and state in its Directors' report where they can be found; and
  - (d) if a PLC has decided not to refer to any provisions of a corporate governance code referred to under Regulations 63.2(a) or 63.2(b), it must explain its reasons for that decision.
- 63.4 The corporate governance statement must contain a description of the main features of the PLC's internal control risk management systems in relation to the financial reporting process.
- 63.5 The corporate governance statement must contain a description of the composition and operation of the PLC's administrative, management and supervisory bodies and their committees.

## **64. MINUTES AND EXAMINATION OF MINUTE BOOKS**

- 64.1 A Company must keep minutes of meetings of Shareholders, Directors and committees of the Company, in books maintained for that purpose. The minutes must be signed by the person presiding over the meeting and be kept for at least ten (10) years from the date of the meeting by the Company. The minutes will be evidence of the meeting unless the contrary is proved.
- 64.2 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.
- 64.3 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.
- 64.4 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.

## **PART 7 – AUDITORS**

### **65. RECORDS, ACCOUNTS AND AUDITOR**

- 65.1 An FZCO must maintain its Records, prepare its accounts and have its accounts audited by an auditor in accordance with these Regulations. An FZCO's Records shall be preserved by the FZCO for at least six (6) years from the date upon which they were created.
- 65.2 A PLC must maintain its Records, prepare its accounts and have its accounts audited by an auditor in accordance with these Regulations and the applicable Markets Laws, such

accounts to be presented at the next annual General Meeting of the Shareholders. A PLC's Records shall be preserved by the PLC for at least six (6) years from the date upon which they were created.

65.3 A Company which is:

- (a) a PLC 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) an FZCO 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 an FZCO shall be by a resolution of its Directors unless the Shareholders, at a General Meeting, have appointed an auditor by an Ordinary Resolution.

65.4 The Directors may, in respect of a PLC, 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.

65.5 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 PLC, until the conclusion of the next General Meeting at which the accounts for the previous year are laid; or
- (b) in respect of an FZCO, until the end of the next period for appointing auditors.

65.6 Subject to Regulation 65.5, a Company may, by Ordinary Resolution, fix the auditor's remuneration.

65.7 A Company shall not appoint an auditor under this Regulation 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 Regulation 65.8.

65.8 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 these Regulations.

65.9 A Company may, notwithstanding anything in Regulation 65.3 or any agreement between it and the auditor, remove an auditor at any time by Ordinary Resolution.

65.10 The Court may, on application made by the Registrar, order the removal of the auditor of a Company.

65.11 Nothing in this Regulation 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.

65.12 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 these Regulations.

65.13 A PLC shall file a notice of appointment of auditor, the resolution of the General Meeting or board of Directors appointing the auditor, and the auditor's letter of acceptance of the appointment with the Registrar, within (30) days of the appointment.

65.14 A PLC shall file a notice of cessation of auditor and the related resolution of the board of Directors with the Registrar or the Ordinary Resolution, within thirty (30) days of the resignation or removal of an auditor.

## 66. FINANCIAL YEARS

66.1 Subject to Regulation 66.2, 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.

66.2 Where a body corporate has become a Company by virtue of a transfer of incorporation pursuant to Regulation 98, the first Financial Year of that Company under these Regulations 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.

66.3 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.

## 67. ACCOUNTS

67.1 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 Regulation.

67.2 The accounts shall:

- (a) be prepared in accordance with accounting principles or standards prescribed in these 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 these Regulations.

67.3 A Company's accounts shall be approved by the Directors and signed on their behalf by at least one (1) of them.

67.4 If a PLC, 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) 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) sent, together with a copy of the auditor's report and a copy of the Directors' report prepared in accordance with Regulation 61, to every Shareholder, excluding those Shareholders for whom the Company does not have a current postal address.

67.5 If an FZCO, within thirty (30) days after the end of the Financial Year, the accounts for that year shall be:

- (a) prepared and approved by the Directors; and
- (b) examined and reported upon by an auditor.

67.6 A Company shall file with the Registrar:

- (a) if a PLC, within thirty (30) days after circulation to Shareholders in accordance with Regulation 67.4(d), a copy of the accounts, the auditor's report and a copy of the Directors' report prepared in accordance with Regulation 61; and
- (b) if an FZCO, within thirty (30) days after the accounts have examined and reported upon by an auditor, a copy of the accounts and the auditor's report.

67.7 A Company which fails to comply with each of the requirements in this Regulation 67 is liable to a fine.

## **68. PROVISION OF COPY OF ACCOUNTS TO A SHAREHOLDER**

68.1 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 copy of the Company's latest audited accounts and auditor's report.

68.2 A Company shall comply with such a request within seven (7) days of receipt of the request.

68.3 A Company which fails to comply with each of the requirements in this Regulation 68 is liable to a fine.

## **69. AUDITORS REPORT ON COMPANY'S ANNUAL ACCOUNTS**

69.1 A Company's auditor shall make a report to the Shareholders on the accounts examined by the auditor.

69.2 The auditor's report shall state:

- (a) whether, in the auditor's opinion, the accounts have been properly prepared in accordance with this Regulation;
- (b) in particular, whether the accounts give a true and fair view of the profit or loss of the Company or 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 these Regulations.

69.3 An auditor which fails to comply with each of the requirements of this Regulation 69 is liable to a fine.

## **70. DUTIES OF AUDITOR**

70.1 A Company's auditor, in preparing the auditor's report, must carry out such investigations as will enable the auditor to form an opinion as to:

- (a) whether adequate accounting records have been kept by the Company and returns adequate for their audit have been received from branches not visited by the auditor;
- (b) whether the Company's individual accounts are in agreement with the accounting records and returns; and
- (c) in the case of a PLC, whether the auditable part of the Company's Directors' remuneration report is in agreement with the accounting records and returns.

- 70.2 If the auditor is of the opinion that:
- (a) adequate accounting records have not been kept, or that returns adequate for their audit have not been received from branches not visited by the auditor; or
  - (b) the Company's individual accounts are not in agreement with the accounting records and returns,
- the auditor shall state that fact in the auditor's report.
- 70.3 If the auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit, the auditor shall state that fact in the auditor's report.
- 70.4 Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements given under this Regulation 70 and, if they cannot agree on those statements, the report must include the opinions of each person appointed and give reasons for the disagreement.
- 70.5 An auditor which fails to comply with the requirements of this Regulation 70, is liable to a fine.
- 70.6 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, 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.
- 70.7 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.
- 70.8 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.

## **71. RESIGNATION OF AN AUDITOR**

- 71.1 An auditor of a Company may resign from office by depositing a notice in writing to that effect together with a statement under Regulation 71.2 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 shall send to the Registrar a copy of the notice of resignation of the auditor within fourteen (14) days.
- 71.2 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 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.
- 71.3 In the case of a statement that falls within Regulation 71.2(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. A Company which fails to comply with this requirement is liable to a fine.



- 71.4 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.
- 71.5 An auditor which fails to comply with the requirements in Regulations 71.1 or 71.2 is liable to a fine.

## **72. CO-OPERATION WITH AUDITORS**

- 72.1 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.
- 72.2 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:
    - (a) obstruct the auditor in the performance of its duties or the exercise of its powers under Resolution 70; or
    - (b) result in the rendering of the accounts of the Company or any other aspect of the auditor's report materially misleading.
- 72.3 A person who fails to comply with each of the requirements in Regulations 72.1 or 72.2 is liable to a fine.

## **73. BRANCHES**

Each Branch must file a copy of the accounts and an auditor's report of the Branch or of its Branch Parent Company with the Registrar no less frequently than:

- 73.1 within fourteen (14) days of the approval or receipt of those accounts and auditor's report by the Branch or the Branch Parent Company; or
- 73.2 at least once in every twelve (12) month period.

## **PART 8 – PROTECTION OF MINORITIES IN TAKEOVERS**

### **74. TAKEOVER OFFERS**

- 74.1 In this Part 8, a "takeover offer" means an offer to acquire all the Shares, or all the Shares of any class or classes, in a PLC (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.

- 74.2 In Regulation 74.1, “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.
- 74.3 The terms offered in relation to any Shares shall, for the purposes of this Regulation, 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 Regulation 74.4.
- 74.4 A variation is permitted where:
- (a) the law of a country or territory outside the Free Zone 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.
- 74.5 The reference in Regulation 74.1 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 Part 8 as the making of a fresh offer and references in this Part 8 to the date of the offer shall accordingly be construed as references to the date on which the original offer was made.
- 74.6 In this Part 8, the “offeror” means, subject to Regulation 80, the person making a takeover offer, and is applicable to PLCs.

## **75. RIGHT OF OFFEROR TO BUY OUT MINORITY SHAREHOLDERS**

- 75.1 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 90% 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.
- 75.2 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 90% 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.
- 75.3 No notice shall be given under Regulations 75.1 or 75.2 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.

- 75.4 When the offeror gives the first notice in relation to an offer, the offeror shall send a copy of it to the PLC 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.
- 75.5 The declaration shall be signed by a Director of the PLC. A Director who makes such a declaration without having reasonable grounds for believing it to be true is liable to a fine.
- 75.6 In a proceeding against a person for an alleged failure to send a copy of a notice as required by Regulation 75.4, it is a defence for such a person to prove that the person took reasonable steps for securing compliance with that Regulation.
- 75.7 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 Regulation 75.7(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 Regulation 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.

## **76. EFFECT OF NOTICE UNDER REGULATION 75**

- 76.1 The following provisions shall, subject to Regulation 79, have effect where a notice is given in respect of any Shares under Regulation 75.
- 76.2 The offeror shall be entitled and bound to acquire those Shares on the terms of the offer.
- 76.3 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 Regulation 76.2 shall be determined accordingly.
- 76.4 Regulation 76.2 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.
- 76.5 At the end of six (6) weeks from the date of the notice, the offeror shall forthwith:

- (a) send a copy of the notice to the PLC; and
  - (b) make payment to the PLC on behalf of the holders for the Shares to which the notice relates.
- 76.6 The copy of the notice sent to the PLC under Regulation 76.5(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 PLC shall register the offeror as the holder of those Shares.
- 76.7 Where the payment referred to in Regulation 76.5(b) is to be made in Securities to be issued by the offeror, the reference in that Regulation to the making of payment shall be construed as a reference to the issuance of such Securities to the PLC on behalf of the holders of the Shares to which the notice relates.
- 76.8 Any sum or other payment received by a PLC under Regulation 76.5(b) shall not be the property of the PLC but shall be held by the PLC on behalf of the person entitled to the Shares in respect of which the sum or other payment was received.
- 76.9 Any sum received, including any dividend or other sum accruing from any other payment, by a PLC under Regulation 76.5(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.

## **77. RIGHT OF MINORITY SHAREHOLDER TO BE BOUGHT OUT BY OFFEROR**

- 77.1 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 PLC which the offeror has acquired or contracted to acquire, amount to not less than nine-tenths (9 /10) in value of all the Shares in the PLC, 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.
- 77.2 If a takeover offer relates to Shares of any class other than that referred to in Regulation 77.1 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 (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.
- 77.3 Within one (1) month of the time specified in Regulations 77.1 or 77.2, 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 Regulation, 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.

- 77.4 A notice under Regulation 77.3 may specify a period for the exercise of the rights conferred by this Regulation, 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.
- 77.5 Regulation 77.3 does not apply if the offeror has given the Shareholder notice in respect of the Shares in question under Regulation 75.
- 77.6 An offeror who fails to comply with the requirements in Regulations 77.3 or 77.4 is liable to a fine.
- 77.7 In a proceeding against an offeror other than a PLC for an alleged failure to comply with the requirements of this Regulation 77, it is a defence for such an offeror to prove that the offeror took all reasonable steps for securing compliance with this Regulation.

## **78. EFFECT OF REQUIREMENT UNDER REGULATION 77**

- 78.1 The following provisions shall, subject to Regulation 79, have effect where a Shareholder exercises the Shareholder's rights in respect of any Shares under this Regulation.
- 78.2 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.
- 78.3 Where the terms of an offer are such as to give the holder of any Shares a choice of payment for the holder's Shares, the holder of the Shares may indicate the holder's choice when requiring the offeror to acquire them, in accordance with the terms specified in Regulation 75.3.
- 78.4 Regulation 78.3 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.

## **79. APPLICATIONS TO THE COURT**

- 79.1 Where a notice is given under Regulation 75 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.
- 79.2 If an application to the Court under Regulation 79.1 is pending at the end of the period mentioned in Regulation 76.5, then, unless otherwise ordered by the Court, that Regulation shall not have effect until the application has been disposed of.
- 79.3 Where the holder of any Shares exercises the holder's rights under Regulation 77, 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.

- 79.4 On an application made under Regulations 79.1 or 79.3, 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.
- 79.5 No order for costs or expenses shall be made against a Shareholder making an application under Regulations 79.1 or 79.3 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.
- 79.6 Where a takeover offer has not been accepted to the extent necessary for entitling the offeror to give notices under Regulations 75.1 or 75.2 the Court may, on the application of the offeror, make an order authorising the offeror to give notices under that Regulation 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 Regulation 79.6(a), amount to not less than the minimum specified in Regulations 75.1 or 75.2; and
  - (c) that the terms offered are fair and reasonable, but the Court shall not make an order under this Regulation 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.

## 80. JOINT OFFERS

- 80.1 A takeover offer may be made by two (2) or more persons jointly, and in that event, this Part 8 has effect with the following modifications.
- 80.2 The conditions for the exercise of the rights conferred by Regulations 75 and 77 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 Regulations 76 and 78 shall be respectively joint rights and joint and several obligations of the joint offerors.
- 80.3 It shall be sufficient compliance with any provision of Regulations 83 and 85 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 Regulation 75.4 shall be made by all of them and signed by a Director of that PLC.
- 80.4 In Regulations 74, 76.7 and 81, references to the offeror shall be construed as references to the joint offerors or any of them.
- 80.5 In Regulation 76.6, references to the offeror shall be construed as references to the joint offerors or such of them as they may determine.

- 80.6 In Regulations 76.6 and 86.4(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.
- 80.7 In Regulation 79, references to the offeror shall be construed as references to the joint offerors, except that any application under Regulations 79.3 or 79.6 may be made by any of them. The reference in Regulation 79.6(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.

## 81. ASSOCIATES

- 81.1 The requirements in Regulation 74.1 that a takeover offer shall extend to all the Shares, or all the Shares of any class or classes, in a PLC 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 Regulation 74.2, 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 Part 8 to the Shares to which a takeover offer relates.
- 81.2 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 Regulations 75.7(a) or 75.7(b) is satisfied in respect of those Shares, such Shares shall be treated for the purpose of that Regulation as Shares to which the offer relates.
- 81.3 In Regulations 77.1(b) and 77.2(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.
- 81.4 In this Regulation, “associate”, in relation to an offeror, means one (1) or more of the following:
- (a) a nominee of the offer; or
  - (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 company in which the offeror is substantially interested.
- 81.5 For the purposes of Regulation 81.4(b), a PLC is a fellow Subsidiary of another company if both are Subsidiaries of the same company but neither is a Subsidiary of the other.
- 81.6 For the purposes of Regulation 81.4(c), an offeror has a substantial interest in a company if:
- (a) that company 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 (1 /3) or more of the voting power at General Meetings of that company; or
  - (c) the offeror owns or controls directly or indirectly more than twenty per cent (20%) of the share capital of that company.
- 81.7 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 9 – MERGERS

### 82. APPLICATION AND INTERPRETATION

- 82.1 This Part 9 applies to all the persons who are parties to a merger where at least one Merging Company is:
- (a) a PLC; or
  - (b) an FZCO, provided that each such FZCO has express authority to enter into the merger in accordance with this Part 9:
    - (a) under its memorandum and articles of association; or
    - (b) by Special Resolution.
- 82.2 If a Foreign Company is a party to a merger referred to in Regulation 82.1:
- (a) the merger shall not be concluded unless the requirements in Regulation 91 are satisfied; and
  - (b) the Foreign Company shall comply with the other provisions in this Part so far as reasonably practicable and required to give effect to the merger, while also taking into consideration any applicable requirements in its home jurisdiction.
- 82.3 In this Part 9, a reference to a:
- (a) **“Merging Company”** means a Company or Foreign Company which is a party to a merger to which this Part applies;
  - (b) **“Merged Company”** means the body resulting from a merger, which can be either:
    - (a) a **“New Company”** incorporated under these Regulations or the companies legislation in another jurisdiction; or
    - (b) a **“Survivor Company”** incorporated under these Regulations or the companies legislation in another jurisdiction;
  - (c) **“Merger Agreement”** means an agreement referred to in Regulation 83; and
  - (d) **“Group Merger”** means a merger of:
    - (a) a Holding Company and one (1) or more wholly owned Subsidiaries of that Holding Company; or
    - (b) two (2) or more wholly owned Subsidiaries of a Holding Company.
- 82.4 Nothing in Part 8 is to be construed as preventing the acquisition or takeover of one (1) Merging Company by another by way of a merger under this Part 9.
- 82.5 This Part 9 does not apply to a Company if such Company is being wound up pursuant to the provisions of the applicable insolvency law.
- 82.6 For the purposes of this Part 9, the Registrar may prescribe:
- (a) pre-registration steps applicable to mergers under this Part; and
  - (b) any other procedure or matter that is required to assist or facilitate a merger to which this Part applies.



## 83. MERGER AGREEMENT

83.1 For the purposes of a merger, each Merging Company shall enter into a Merger Agreement with each other which shall state the terms and means of effecting the merger including:

- (a) the details of the proposed Merged Company, including:
  - (a) whether it is to be a Survivor Company or a New Company;
  - (b) whether it is to be a Company or a Foreign Company; and
- (c) the names and addresses of the persons who are proposed to:
  - (A) be its Directors; or
  - (B) manage it, if it is a Foreign Company 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 Company;
- (c) the details of any payment, other than those specified in Regulation 83.2, 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 Regulation 83.2.

83.2 The information referred to in Regulation 83.1(d) is:

- (a) if the Securities of the Merging Company are to be converted into Securities of the Merged Company, the manner in which that conversion is to be made; or
- (b) otherwise, what the holders of the Securities are to receive instead, and the manner in which and the time at which they are to receive it.

83.3 If the Merged Company is to be a New Company, the Merger Agreement shall also set out:

- (a) the proposed memorandum and 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 these Regulations (other than by merger).

83.4 If the Merged Company is to be a Survivor Company, the Merger Agreement shall also state if:

- (a) any amendments to the memorandum and 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.

83.5 If shares of a Merging Company are held by or on behalf of another Merging Company and the Merged Company is to be a New Company or a Survivor 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.

83.6 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.

83.7 If a Merger Agreement is terminated pursuant to the terms of the agreement referred to in Regulation 83.6, nothing in this Part requires or authorises any further steps to be taken to complete the merger.

83.8 The requirement for a Merger Agreement in this Regulation 83 shall not apply in respect of a Group Merger pursuant to Regulation 86.

#### **84. RESOLUTIONS AND CERTIFICATES**

84.1 Before notice is given of a meeting of a Merging Company to approve a Merger Agreement under Regulation 85, 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 Regulation 84.2 or a statement referred to in Regulation 84.4.

84.2 If the Directors voting for the resolution under Regulation 84.1 are satisfied on reasonable grounds that they can properly make a solvency statement in respect of the Merging Company, the resolution shall include a statement that they are so satisfied.

84.3 For the purposes of Regulation 84.2, a solvency statement is a statement that, having made full inquiry into the affairs of the Merging 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.

84.4 If Regulation 84.2 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 Regulation 88.

84.5 After the Directors' resolution under Regulation 84.1 is passed, but before notice is given as mentioned in that Regulation, each Director who voted in favour of it shall sign a certificate setting out the grounds for the solvency statement under Regulation 84.2 or the statement under Regulation 84.4, as is relevant.

84.6 Before notice is given under Regulation 84.1, each person falling within Regulation 84.7 shall sign a certificate stating:

- (a) that, in the person's opinion, the Merged Company 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:
  - (a) the prospects of the Merged Company;
  - (b) the proposals in any Merger Agreement with respect to the management of the Merged Company's business, or any proposals in the Special Resolutions proposed to be passed under Regulation 85.1 with respect to that matter; and
  - (c) the amount and character of the financial resources that will, in the view of the person signing, be available to the Merged Company.

84.7 The persons referred to in Regulation 84.6 are:

- (a) the persons proposed in any Merger Agreement, or in a Special Resolution in the case of a Group Merger:

- (a) to be Directors of the Merged Company; or
- (b) to manage the Merged Company, 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 Regulation 84.7(a), each person who signs a certificate under Regulation 84.5.

## **85. APPROVAL OF THE MERGER AGREEMENT**

85.1 Each Merging Company shall submit the Merger Agreement 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.

85.2 Notice of each meeting:

- (a) shall be accompanied by:
  - (a) a copy or summary of any Merger Agreement;
  - (b) copies of the proposed articles of association or other constitutional documents for the Merged Company, or a summary of the principal provisions of those documents;
  - (c) if a summary is supplied under Regulations 85.2(a)(a) or 85.2(a)(b), information as to how a copy of the document summarised may be inspected by the Shareholders of the Company;
  - (d) a copy of the certificates signed under Regulations 84.5 and 84.6 in respect of that Company;
  - (e) a statement of the material interests in the merger of the Directors of each Merging Company, and of the persons managing any Merging Company that does not have Directors; and
  - (f) 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 Regulation 87.

85.3 A merger is approved under this Regulation when all the Special Resolutions referred to in Regulation 85.1 have been passed in respect of all the Merging Companies.

85.4 A merger, other than a Group Merger, may not be completed unless it is approved under this Regulation 85 and a period of twenty eight (28) days has elapsed to allow a Shareholder to exercise its rights under Regulation 87.1.

## **86. SIMPLIFIED APPROVAL OF A GROUP MERGER**

86.1 A Group Merger may be approved by a Special Resolution of each Merging Company under this Regulation if such a merger is either a:

- (a) Holding Company merger; or
- (b) an inter-Subsidiary merger.

86.2 For the purposes of this Regulation:

- (a) a “Holding Company Merger” is a merger in which:
  - (a) the Merging Companies are:
    - (A) a Holding Company; and
    - (B) one (1) or more wholly owned Subsidiaries of that Holding Company; and
  - (b) the Merged Company is the Holding Company, continuing as a Survivor Company; and
- (b) an “**inter-Subsidiary merger**” is a merger in which:
  - (a) the Merging Companies are wholly owned Subsidiaries of the same Holding Company; and
  - (b) the Merged Company is one of the Merging Companies continuing as a Survivor Company.

86.3 In the case of a Holding Company merger:

- (a) each Special Resolution of a Merging Company which is a Subsidiary shall provide that its Shares are to be cancelled without any repayment of capital; and
- (b) the Special Resolution of the Holding Company shall:
  - (a) provide that the capital accounts of each Subsidiary that is merging are to be added to the capital accounts of the Holding Company;
  - (b) provide that no securities are to be issued and no assets distributed by the Holding Company in connection with the merger;
  - (c) specify any changes to the Holding Company’s articles of association that are to take effect on the merger; and
  - (d) state the names and addresses of the persons who are proposed to be the Directors after the merger.

86.4 In the case of an inter-Subsidiary merger:

- (a) each Special Resolution of a Merging Company, other than the Survivor Company, shall provide that:
  - (a) its Shares are to be cancelled without any repayment of capital; and
  - (b) its capital accounts are to be added to the capital accounts of the Survivor Company;
- (b) the Special Resolution of the Survivor Company shall:
  - (a) provide that the capital accounts of each other Merging Company are to be added to the capital accounts of the Survivor Company;
  - (b) specify any changes to the articles of association of the Survivor Company that are to take effect on the merger; and
  - (c) state the names and addresses of the persons who are proposed to be the Directors of the Survivor Company after the merger.

86.5 A Group Merger is approved under this Regulation when all of the Merging Companies have passed the Special Resolutions required under this Regulation.

86.6 A Group Merger may not be completed unless it is approved under this Regulation.

86.7 Where a Group Merger is approved under this Regulation, the requirements in Regulations 83 and 84 do not apply to such a merger.

## **87. OBJECTION BY SHAREHOLDERS**

87.1 A Shareholder of a Merging Company may apply to the Court for an order under Regulation 85.2 on the ground that the merger would unfairly prejudice the interests of the Shareholder.

87.2 An application may not be made:

- (a) more than twenty eight (28) days after the merger is approved under Regulation 85.3, or
- (b) by a Shareholder who voted in favour of the merger.

## **88. NOTICE TO CREDITORS**

88.1 No later than twenty eight (28) days after a merger is approved under Regulation 85.3, each Merging 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 twenty thousand dirhams (AED 20,000).

88.2 The notice shall state:

- (a) that the Company intends to merge, in accordance with this Part, with one (1) or more Merging Companies specified in the notice; and
- (b) that an accurate summary of the material terms of the merger agreement and the Company's Special Resolution is available to Creditors from the Company, free of charge, on request.

88.3 If Regulation 89 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 Regulation;
- (b) state that any Creditor of any of the Merging Companies may request the Company making the application to send a copy of the application to the Creditor; and
- (c) set out information as to:
  - (a) a means by which a Creditor may contact the Company making the application, or a person representing it in that application; and
  - (b) the effect of Regulation 88.4 including the date of the application if known at the time of the notice.

88.4 If Regulation 89 does not apply to the merger, the notice shall state (in addition to the matters in Regulation 88.3) 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 Regulation 90.2(a); or
- (b) require the Company to notify the Creditor if any other Creditor of the Company applies to the Court under Regulation 90.2(b).

88.5 The Company shall, within the time set out in Regulation 88.6, publish the contents of the notice in a Prescribed Publication or in any other manner approved by the Registrar.

88.6 The notice under Regulation 88.5 shall be published:

- (a) no later than twenty eight (28) days after the merger is approved under Regulation 85; or
- (b) as soon as practicable after the Company sends the last of the notices under Regulation 88.1,

whichever occurs earlier.

## **89. COMPANY TO APPLY TO COURT IF SOLVENCY STATEMENT NOT MADE**

89.1 This Regulation applies to a merger if a certificate signed by a Director of any of the Merging Companies does not contain the statement referred to in Regulation 84.3.

89.2 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 Companies.

89.3 A Merging Company to which a certificate mentioned in Regulation 89.1 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 Regulation 85:

- (a) apply to the Court for permission for the merger; and
- (b) send a copy of that application:
  - (a) to any Creditor known to the Directors, following reasonable enquiries to have a claim against any of the Merging Companies exceeding the amount specified in Regulation 88.1;
  - (b) to any other Creditor of any of the Merging Companies who request a copy from that Company; and
  - (c) the Registrar.

89.4 The Court shall not hear the application for at least twenty eight (28) days after the application is made to the Court.

## **90. OBJECTION BY CREDITOR IF A SOLVENCY STATEMENT IS MADE**

90.1 This Regulation applies to a merger where a certificate signed by a Director of any of the Merging Companies under Regulation 84.5 contained a solvency statement.

90.2 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 Regulation 88.5, give notice of the Creditor's objection to the Merging 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.

90.3 If a Creditor makes an application under Regulation 90.2(b), the Merging 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 Regulation 88.1;
- (b) who has required notification under Regulation 88.3(b);

- (c) who has given notice of objection under Regulation 90.2(a); or
  - (d) to whom the Court orders that a copy should be sent.
- 90.4 If, on an application under Regulation 90.2(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.
- 90.5 Regulation 90.6 applies if a Court is considering making an order under Regulation 90.4(b) to modify a Merger Agreement or Special Resolution that does not contain a provision in accordance with Regulation 83.6 allowing each of the Merging Companies to terminate the merger following the modification.
- 90.6 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 or withdraw from the merger following the modification.

## **91. CONSENT OF REGISTRAR REQUIRED FOR MERGERS INVOLVING FOREIGN COMPANIES**

- 91.1 If any one (1) or more of the Merging Companies that are parties to a merger referred to in Regulations 82.1(a) or 82.1(b) is a Foreign Company:
- (a) all the Merging Companies 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.
- 91.2 The application for consent shall not be made until after the date of the publication of a notice under Regulation 88.5.
- 91.3 The application shall be accompanied by:
- (a) a copy of the Merger Agreement and the Special Resolutions passed under Regulation 85.1;
  - (b) a copy in respect of each Merging Company, of:
    - (a) the Director's Resolution passed under Regulation 84.1, together with, if that information is not contained in the resolution, a list identifying the Directors who voted in favour of that resolution; and
    - (b) the certificates signed under Regulations 84.5 and 84.6;
  - (c) a copy, in respect of each Merging Company, of the notice to Creditors under Regulation 88.5, with the date of its publication under Regulation 88.5; and
  - (d) information, as at the time of the application under this Regulation, as to:

- (a) any application made by a Shareholder of a Merging Company to the Court under Regulation 87; or
  - (b) if no such application has been made to the Court, the date on which the time for doing so has elapsed or will elapse.
- 91.4 If the solvency statement under Regulation 84.2 has been made:
- (a) the application under this Regulation 91 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 Regulation 89; and
  - (b) the applicants shall:
    - (a) keep the Registrar informed of the progress of the application under that Regulation; and
    - (b) provide, when available, a copy of the Court order permitting the merger.
- 91.5 If the solvency statement under Regulation 84.2 has not been made, the application shall, in addition, be accompanied by:
- (a) information, as at the time of the application under this Regulation, as to:
    - (a) any notice of objection given by a Creditor under Regulation 90.2; or
    - (b) 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 Company.
- 91.6 If the Merged Company is to be a New 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 memorandum and articles of association.
- 91.7 If the Merged Company is to be a Survivor Company, the application shall be accompanied by:
- (a) the consent of any proposed new Directors to act as such; and
  - (b) if there are any amendments proposed to the memorandum and articles of association, those amendments, and if there are no such proposed amendments, a statement to that effect.
- 91.8 With regard to each Merging Company which is a Foreign Company, the application shall, in addition, be accompanied by evidence satisfactory to the Registrar, in respect of each such Foreign Company, that:
- (a) the laws of the jurisdiction in which the Foreign Company is incorporated do not prohibit either or both of:
    - (a) the proposed merger; or
    - (b) if the Merged Company is to be a New Company incorporated in that jurisdiction, the incorporation of that company 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 this Regulation 91 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 company incorporated under the law of the jurisdiction in which it is presently incorporated.
- 91.9 If the New Company 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 New Company is to be incorporated provide that upon the merger:
- (a) the property and rights to which the Merging Companies were entitled immediately before the merger will become the property and rights of the New Company;
  - (b) the New Company will become subject to any criminal and civil liabilities, and any contracts, debts and other obligations, to which the Merging Companies were subject immediately before the merger; and
  - (c) any actions and other legal proceedings that, immediately before the merger, were pending by or against any of the Merging Companies may be continued by or against the New Company.
- 91.10 Regulations 91.11 and 91.12 apply unless, at the time of the application under this Regulation:
- (a) there has been no objection by a Shareholder or by a Creditor of any of the Merging Companies to the merger; and
  - (b) the time for making any objection has elapsed.
- 91.11 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 such objection.
- 91.12 Until the applicants have complied with Regulation 91.10, 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.
- 91.13 In Regulations 91.10, 91.11 and 91.12, “objection” means:
- (a) the making by a Shareholder of an application to the Court under Regulation 86 in respect of any Merging Company; and
  - (b) the giving of notice of objection under Regulation 90.2 by a Creditor of any Merging Company.

## **92. EFFECT OF COMPLETION OF MERGER**

- 92.1 On the completion date of a merger:
- (a) the Merging Companies are merged and continue as one (1) Merged Company 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.

- 92.2 When a merger is completed in which the Merged Company is a New Company:
- (a) the New Company becomes entitled to all the property and rights to which each Merging Company 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 Company 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 Company may be continued by or against the New Company.
- 92.3 Entries made on the Company Register are conclusive evidence of the following matters to which they refer:
- (a) that, on the completion date specified in the entry, the Merging Companies merged and are continued as the Merged Company; and
  - (b) that the requirements of these Regulations in respect of the merger of the Merging Companies, including the matters precedent and incidental to the merger, have been fully complied with.
- 92.4 The operation of this Regulation 92 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.

### **93. CONTRAVENTIONS RELATING TO MERGER**

- 93.1 A person who, in or in connection with an application under this Part 9, 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.
- 93.2 A person who signs a certificate under Regulations 84.5 and 84.6 or as prescribed pursuant to Regulation 82.6 without having reasonable grounds for the opinion expressed in the certificate or for the statement made in the certificate is liable to a fine.

## **PART 10 – COMPROMISES AND ARRANGEMENTS**

### **94. POWER OF COMPANY TO COMPROMISE WITH CREDITORS AND SHAREHOLDERS**

- 94.1 This Regulation 94 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.

- 94.2 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.
- 94.3 The Court may only sanction a compromise or arrangement if a majority in number representing:
- (a) seventy five percent (75%) or more in value of the Creditors or class of Creditors; or
  - (b) seventy five percent (75%) or more 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.
- 94.4 Where the Court has sanctioned a compromise or arrangement under Regulation 94.3, 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.
- 94.5 The Company, or the person on whose application the Court issued the order under Regulation 94.3, shall deliver a duly certified copy of that order by 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.
- 94.6 The Court order referred to in Regulation 94.3 has no effect, until a duly certified copy of that order has been delivered to the Registrar.
- 94.7 The Registrar shall, as soon as practicable after receipt of a copy of the court order referred to in Regulation 94.5, include that order in the Company's memorandum and articles of association.
- 94.8 If the person referred to in Regulation 94.5 fails to comply with the requirement in that Regulation, that person is liable to a fine.

## **95. INFORMATION RELATING TO COMPROMISE TO BE CIRCULATED**

- 95.1 This Regulation 95 applies where a meeting of Creditors or a class of Creditors, or of Shareholders or a class of Shareholders, is called under Regulation 94.
- 95.2 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 the Director's 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.

95.3 If the notice calling the meeting is given by advertisement, the advertisement shall include either the statement referred to in Regulation 95.2, 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.

95.4 Where a notice given by advertisement includes a notification that copies of the statement referred to in Regulation 95.2 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.

95.5 If a Company fails to comply with a requirement of this Regulation 95, the Company and every Officer of it who is in default is liable to a fine.

## **96. PROVISIONS FOR FACILITATING COMPANY RECONSTRUCTION OR AMALGAMATION**

Where an application is made to the Court under Regulation 94 for the sanctioning of a compromise or arrangement proposed between a Company and any persons mentioned in that Regulation, 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 11 – DORMANCY**

### **97. VOLUNTARY SUSPENSION OF LICENCE**

97.1 Subject to compliance with any rules issued by the Registrar from time to time, a Company may request, following approval by a Special Resolution, the Registrar to suspend its Licence for a period of up to twelve (12) months or such other period approved by the Registrar.

97.2 With effect from the suspension of its Licence following a request made under Regulation 97.1, that Company must not trade or carry out any business activities until such time as the Registrar has reactivated the Licence of that Company.

## **PART 12 – TRANSFER TO AND FROM THE FREE ZONE**

### **98. CONTINUATION OF A FOREIGN COMPANY IN THE FREE ZONE AS A COMPANY**

98.1 A Foreign Company may, subject to the laws of the jurisdiction in which it is incorporated, apply in the prescribed form to the Registrar for the continuation of the Foreign Company in the Free Zone as a Company. The application should include the following information relating to the Foreign Company and/or the proposed Company, as the case may be:

- (a) that the application relates to the continuation of the Foreign Company as a Company;
- (b) the following details of each of the Shareholders of the Foreign Company:
  - (a) where the Shareholder is a natural person:
    - (A) the full name, nationality and address of the Shareholder; and
    - (B) if the Shareholder were to hold Shares in trust or as nominee for another person, the full name, nationality and address of the beneficial owner of the Shares; or

- (b) where the Shareholder is a body corporate:
  - (A) the full name, place of incorporation and the registered office of the Shareholder; and
  - (B) details of the ultimate beneficial owners of that Shareholder;
- (c) the proposed name of the proposed Company;
- (d) the existing activities of the Foreign Company and the proposed activities of the proposed Company;
- (e) the type and size of premises required for the proposed activities and the proposed address of the proposed Company's registered office;
- (f) the amount of the share capital and shareholdings of the Shareholders in the proposed Company;
- (g) the nominal value of each Share of the proposed Company;
- (h) in relation to the proposed Company, the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of each of the proposed Directors, the Manager and the Secretary;
- (i) if applicable, the following information relating to each proposed Secretary:
  - (a) where the Secretary is a natural person, the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of the individual; or
  - (b) where the Secretary is a body corporate, the full name, place of incorporation, the registered office and Officers (including the particulars in Regulation 50.4 for each such Officer); and
- (j) any other document or information required by the Registrar.

98.2 An application made under Regulation 98.1 must be accompanied with:

- (a) a Special Resolution of the Foreign Company resolving to transfer the Foreign Company to the Free Zone and for it to continue as a Company;
- (b) a letter of no objection from the regulatory body or registrar in the jurisdiction from which the Foreign Company is transferring from;
- (c) a certificate of good standing (or equivalent) issued by the regulatory body or registrar in the jurisdiction from which the Foreign Company is transferring from;
- (d) the memorandum and articles of association, or other equivalent constitutional document, of the Foreign Company;
- (e) a draft memorandum and articles of association which shall comply with the requirements set out in Regulation 21, for the approval of the Registrar;
- (f) where a Shareholder is a body corporate, a copy of the Shareholder's current certificate of incorporation or registration in its place of origin, or a document of similar effect, certified by the relevant authority in the jurisdiction in which it is incorporated or otherwise to the satisfaction of the Registrar;
- (g) the audited financial statements of the Foreign Company for the last three (3) years (or for the period since the incorporation of the Foreign Company, if incorporated less than three (3) years' ago);

- (h) the application fee; and
  - (i) such other documents specified by the Registrar.
- 98.3 On receipt of the application under Regulation 98.1 and accompanying information under Regulation 98.2, DIEZA may offer premises to be leased on terms and conditions acceptable to DIEZA. The premises offered must be reserved by the Shareholders pending the registration of the Foreign Company as a Company.
- 98.4 Once a proposed Foreign Company's application has been approved by the Registrar, within sixty (60) days of such approval, the Company (previously the Foreign Company) must take substantive steps to establish its operations in the Free Zone, subject to any applicable legal exemptions as to physical presence in the Free Zone. Following the sixty (60) day period, if the Company (previously the Foreign Company) has still not taken substantive steps to establish its operations in the Free Zone, the application shall be cancelled.
- 98.5 On approval of the application and confirmation of the premises, the Registrar may issue in relation to the Company (previously the Foreign Company):
- (a) a Licence;
  - (b) a certificate of continuation; and
  - (c) a registered memorandum and articles of association.

## **99. CERTIFICATE OF CONTINUATION**

- 99.1 A Foreign Company will be considered a Company from the date of issuance of a certificate of continuation by the Registrar.
- 99.2 The date of incorporation of the Foreign Company will be the date of incorporation in the jurisdiction in which it was first incorporated.
- 99.3 The certificate of continuation will be the certificate of incorporation of the Company.
- 99.4 All the property, rights, liabilities, debts and obligations of the Foreign Company will continue with the Company from the date of the certificate of continuation.
- 99.5 The Company (previously the Foreign Company) will remain a party in any legal proceedings commenced in any jurisdiction to which it was a party before the issuance of the certificate of continuation.

## **100. TRANSFER OF COMPANY TO ANOTHER JURISDICTION**

- 100.1 A Company may apply in the prescribed form to the Registrar for the continuation of the Company in a jurisdiction outside the Free Zone as a Foreign Company. The application should include the following information relating to the Company:
- (a) that the application relates to the continuation of the Company as a Foreign Company;
  - (b) that all outstanding liabilities and debts to DIEZA have been discharged; and
  - (c) any other document or information required by the Registrar.
- 100.2 An application made under Regulation 100.1 must be accompanied with:
- (a) a Special Resolution of the Company resolving to transfer the Company to a jurisdiction outside the Free Zone and for it to continue as a Foreign Company;

- (b) an indemnity letter addressed to the Registrar in the prescribed form (in case of any costs, expenses, liabilities caused by the Foreign Company (previously Company) after transfer to a jurisdiction outside the Free Zone);
- (c) auditor's confirmation that the Company is solvent;
- (d) the application fee; and
- (e) such other documents specified by the Registrar.

100.3 Once a proposed Company's application has been approved by the Registrar, within sixty (60) days of such approval, the Foreign Company (previously the Company) must take substantive steps to cease its operations in the Free Zone. Following the aforementioned sixty (60) day period, if the Foreign Company (previously the Company) has still not taken substantive steps to cease its operations in the Free Zone, the application shall be cancelled.

100.4 On approval of the application, the Registrar may issue in relation to the Foreign Company (previously the Company) a certificate of cancellation.

## 101. CERTIFICATE OF CANCELLATION

101.1 A Company will be considered a Foreign Company from the date of issuance of a certificate of cancellation by the Registrar.

101.2 A certificate of cancellation will not be issued if:

- (a) the Company is dormant, is under liquidation or is in the process of being wound up;
- (b) a receiver, an administrative receiver, or the equivalent has been appointed for the Company; or
- (c) a certificate of continuation (or equivalent) from the new jurisdiction has not been issued for the Foreign Company (previously the Company).

101.3 All the property, rights, liabilities, debts and obligations of the Company will continue with the Foreign Company from the date of the certificate of cancellation.

101.4 The Foreign Company (previously the Company) will remain a party in any legal proceedings commenced in any jurisdiction to which it was a party before the issuance of the certificate of cancellation.

## PART 13 – CONVERSION OF COMPANIES AND BRANCHES

### 102. CONVERSION OF AN FZCO TO A PLC

102.1 An FZCO may apply to the Registrar for its corporate form to be converted to, and on conversion to continue as, a PLC if:

- (a) it has a Share capital that meets the minimum share capital requirement for a PLC in Regulation 23;
- (b) a Special Resolution that it be so converted has been passed; and
- (c) the requirements in Regulations 102.3(c) to 102.3(e) and, if applicable, the requirements of Regulation 102.4 are satisfied.

102.2 An FZCO may apply to the Registrar for the conversion to and continuation as a PLC through an application form containing the following:

- (a) the following details of each of the Shareholders of the FZCO:
  - (a) where the Shareholder is a natural person:
    - (A) the full name, nationality and address of the Shareholder; and
    - (B) if the Shareholder were to hold Shares in trust or a nominee for another person, the full name, nationality and address of the beneficial owner of the Shares; or
  - (b) where the Shareholder is a body corporate:
    - (A) the full name, place of incorporation and the registered office of the Shareholder; and
    - (B) details of the ultimate beneficial owners of that Shareholder;
- (b) the amount of the share capital and shareholdings of the Shareholders in the proposed PLC;
- (c) the nominal value of each Share of the proposed PLC;
- (d) a statement of the PLC's proposed name upon re-registration; and
- (e) any other information required by the Registrar.

102.3 An application made under Regulation 102.2 must be accompanied with:

- (a) a copy of the Special Resolution referred to in Regulation 102.1;
- (b) a draft memorandum and articles of association for a PLC in compliance with Regulation 21;
- (c) a copy of the valid Licence of the FZCO;
- (d) a balance sheet prepared as at a date not more than seven (7) months before the date the application is delivered to the Registrar;
- (e) an unqualified report by the auditors of the FZCO 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
- (f) a written statement by the auditors of the FZCO that in their opinion, at the balance sheet date, the amount of the FZCO net assets were not less than the aggregate of the share capital of an FZCO and its reserves.

102.4 On completion of the process of conversion from FZCO to PLC, the Registrar may issue:

- (a) a revised Licence;
- (b) a revised certificate of incorporation; and
- (c) a registered memorandum and articles of association.

102.5 The FZCO will be converted to a PLC and the proposed changes in the PLC's name and/or memorandum and articles of association, as set out in its application will take effect on the issuance of a revised certificate of incorporation.

102.6 Once the FZCO is converted to a PLC, the date of incorporation of the PLC will be that of the FZCO and all rights and obligations of the FZCO will continue with the PLC. The PLC must comply with all provisions of these Regulations in relation to a PLC.



### 103. CONVERSION OF A PLC TO AN FZCO

103.1 A PLC may apply to the Registrar for its corporate form to be converted to, and on conversion to continue as, an FZCO if a Special Resolution that it should be so converted is passed.

103.2 The PLC may apply to the Registrar for conversion through an application form containing the following:

- (a) the following details of each of the Shareholders of the PLC:
  - (a) where the Shareholder is a natural person:
    - (A) the full name, nationality and address of the Shareholder; and
    - (B) if the Shareholder were to hold Shares in trust or as nominee for another person, the full name, nationality and address of the beneficial owner of the Shares; or
  - (b) where the Shareholder is a body corporate:
    - (A) the full name, place of incorporation and the registered office of the Shareholder; and
    - (B) details of the ultimate beneficial owners of that Shareholder;
- (b) the amount of the share capital and shareholdings of the Shareholders in the proposed Company;
- (c) the nominal value of each Share of the proposed Company;
- (d) a statement of the Company's proposed name upon re-registration; and
- (e) any other information required by the Registrar.

103.3 An application made under Regulation 103.2 must be accompanied with:

- (a) a copy of the Special Resolution referred to in Regulation 103.1 passed thirty (30) days or more prior to the date of the application;
- (b) draft memorandum and articles of association for an FZCO;
- (c) evidence of compliance with obligations and procedures, of the relevant listing authority and stock exchange pursuant to the Markets Laws, to de-list the Shares; and
- (d) a copy of the valid Licence of the PLC.

103.4 On completion of the process of conversion the Registrar may issue:

- (a) a revised Licence;
- (b) a revised certificate of incorporation; and
- (c) a registered memorandum and articles of association.

103.5 The PLC will be converted to an FZCO and the proposed changes in the Company's name and memorandum and articles of association, as set out in its application, will take effect on the issuance of a revised certificate of incorporation.

103.6 Once the PLC is converted to an FZCO, the date of incorporation of the FZCO will be the date the PLC was first incorporated and all rights and obligations of the PLC will continue with the FZCO. The FZCO must comply with the provisions of these Regulations in relation to an FZCO.

103.7 In the case of a PLC, 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 an FZCO, may apply to the Court within thirty (30) 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) set aside the Special Resolution; or
- (c) impose such conditions as it deems necessary before the Company can be re-registered as an FZCO.

103.8 Where an application is made to the Court under Regulation 103.7, the Registrar shall not re-register the PLC as an FZCO, except as directed in the court order.

103.9 If the Registrar is satisfied that the Company making the application meets the requirements under this Regulation to be re-registered as an FZCO (including the satisfaction of any conditions imposed by the Court under Regulation 103.7(c)), the Registrar shall re-register the Company accordingly. The Registrar shall issue a certificate of incorporation on re-registration to meet the circumstances of the case and stating the date on which it is issued.

103.10 On issue of the certificate of incorporation on re-registration, the Company becomes an FZCO and the proposed change in the Company's name and memorandum and articles of association take effect.

#### **104. CONVERSION OF A BRANCH TO A COMPANY**

104.1 A Branch may apply to the Registrar for it to be incorporated as an FZCO or PLC if a Special Resolution that it be so incorporated is passed by the Branch Parent Company of the Branch.

104.2 The Branch may apply to the Registrar for incorporation through an application form containing the following:

- (a) the following details of each of the Shareholders of the Company:
  - (a) where the Shareholder is a natural person:
    - (A) the full name, nationality and address of the Shareholder; and
    - (B) if the Shareholder were to hold Shares in trust or as nominee for another person, the full name, nationality and address of the beneficial owner of the Shares; or
  - (b) where the Shareholder is a body corporate:
    - (A) the full name, place of incorporation and the registered office of the Shareholder; and
    - (B) details of the ultimate beneficial owners of that Shareholder;
- (b) the amount of the share capital and shareholdings of the Shareholders in the proposed Company;
- (c) the nominal value of each Share of the proposed Company;
- (d) a statement of the Company's proposed name upon incorporation;

- (e) in relation to the proposed Company, the full name (including any previous names), nationality, address, business occupation (if any) and date of birth of each of the proposed Directors, the Manager and the Secretary; and
- (f) any other information required by the Registrar.

104.3 An application made under Regulation 104.2 must be accompanied with:

- (a) a copy of the Special Resolution referred to in Regulation 104.1;
- (b) a draft memorandum and articles of association for the Company;
- (c) a copy of the valid Licence of the Branch;
- (d) a balance sheet prepared for the Branch as at a date not more than seven (7) months before the date the application is delivered to the Registrar;
- (e) an unqualified report by the auditors of the Branch (or Branch Parent Company) 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
- (f) in the case of incorporation as a PLC, a written statement by the auditors that in their opinion, at the balance sheet date, the amount of the net assets was not less than the aggregate of the proposed share capital and its reserves.

104.4 On completion of the process of incorporation the Registrar may issue:

- (a) a revised Licence;
- (b) a certificate of incorporation; and
- (c) a registered memorandum and articles of association.

104.5 The Branch will be incorporated as a Company and the proposed Company's name and memorandum and articles of association, as set out in its application, will take effect on the issuance of a certificate of incorporation.

104.6 Once the Branch is incorporated as a Company, the date of incorporation of the Company will be set out in the certificate of incorporation and all rights and obligations of the Branch will continue with the Company. The Company must comply with all provisions of these Regulations in relation to a Company.

104.7 A Company may not be converted into a Branch.

## **PART 14 – WINDING UP**

### **105. MODES OF WINDING UP**

105.1 A Company may be wound up:

- (a) by the Registrar;
- (b) voluntarily; or
- (c) by the Court.

105.2 A Company will be under dissolution in the event of a voluntary winding up or winding up by the Registrar. The Registrar will include "under liquidation" after the name of the Company in the Companies Register. A Company must include "under liquidation" after its name in its correspondences.

## 106. WINDING UP BY THE REGISTRAR

A Company may be wound by the Registrar in the Registrar's discretion, including in the following events:

- (a) a Company's failure to commence business activity under the Licence within a year from its incorporation, or suspension of the business activity under its Licence for more than one (1) year;
- (b) a Company acts in contravention of the DIEZA Regulations or other applicable laws;
- (c) a Company's failure to renew the Licence;
- (d) termination of the Licence of the Company by the Registrar;
- (e) the failure to appoint or replace any Director, Manager or Secretary such that the Company has no board or no Secretary;
- (f) where all Shareholders:
  - (a) being a natural person, have deceased and/or remain uncontactable for a period of at least one (1) year and/or have otherwise disappeared; and/or
  - (b) being a body corporate, has been liquidated, wound up or otherwise been dissolved;  
or
- (g) under an order of a court for winding up the Company.

## 107. VOLUNTARY WINDING UP

A Company may be wound up voluntarily in the following events:

- (a) when the period, if any, fixed for the duration of the Company by its memorandum and articles of association expires;
- (b) when an event, as may be provided in the memorandum and articles of association, occurs where a Company is to be dissolved; or
- (c) when the company resolves by a Special Resolution, or by a resolution passed by such other majority percentage of Shareholders with voting rights as prescribed in the memorandum and articles of association, that the Company be wound up voluntarily. A copy of the Special Resolution for winding up voluntarily must, on the date that it is issued, be submitted to the Registrar.

## 108. APPOINTMENT AND DUTIES OF LIQUIDATOR

108.1 One or more auditors must be appointed as liquidators by an Ordinary Resolution, as soon as practicable after the dissolution of a Company has commenced. The appointment of a liquidator must be immediately notified to the Registrar.

108.2 A copy of the Ordinary Resolution for appointment of a liquidator must on the date that it is issued be submitted to the Registrar.

108.3 A liquidator will have the authority to conduct the affairs of a Company under liquidation. A liquidator's duties include:

- (a) to prepare a list of the Company's assets and liabilities and a balance sheet on which the liquidator will sign along with the Manager or Directors;
- (b) to maintain a register for the liquidation process;

- (c) to preserve the Company's assets and entitlements;
- (d) to collect the funds owed to the Company by others, and to deposit the sums received in the bank account of the Company immediately upon receipt;
- (e) to operate, maintain and close the bank accounts of a Company;
- (f) to represent the Company before a court;
- (g) to pay the Company's debts;
- (h) to sell the Company's movable property or real estate;
- (i) to provide the Shareholders with a provisional account on the liquidation process every six (6) months; and
- (j) to give the information or data requested by the Shareholders concerning the condition of the liquidation process.

108.4 The powers and duties granted to a liquidator must not, unless the liquidator requires, be performed by the Officers of the Company, and the role of the Officers must be limited to assisting the liquidator in performance of the liquidator's powers and duties.

108.5 Where a Company is in dissolution due to an order of the court, the court may define the method of liquidation and appoint the liquidator.

108.6 A liquidator cannot undertake new business for the Company, unless necessary for the completion of a previous business.

108.7 A liquidator may be removed by an Ordinary Resolution, provided the resolution for removal prescribes an appointment of another liquidator. The removal and replacement of a liquidator is subject to the Registrar's approval.

## 109. DISTRIBUTION OF ASSETS

109.1 A liquidator must notify all Creditors of the Company of the commencement of liquidation and invite the Creditors to present their claims.

109.2 A liquidator must publish the commencement of liquidation of the Company in the Prescribed Publications, to invite objections to the liquidation within an objection period of not less than forty (45) days.

109.3 The assets of the Company must be distributed by the liquidator in the following order of priority:

- (a) first towards amounts owed to DIEZA;
- (b) the remaining towards the cost of liquidation, including the liquidator's fee;
- (c) the remaining to the Creditors; and
- (d) the remaining to the Shareholders on a pro rata basis.

109.4 Where a Creditor fails to present its claim, the liquidator must deposit the sum owed to that Creditor in the Court.

## 110. COMPLETION OF LIQUIDATION

110.1 On completion of liquidation in accordance with these Regulations, the liquidator will issue a final liquidation report to the Registrar.

110.2 The Registrar may, provided that the liquidation has been conducted to the satisfaction of the Registrar, in relation to the Company under dissolution:

- (a) cancel the Licence;
- (b) terminate the contracts DIEZA has with the Company; and
- (c) remove the Company from the Companies Register, as well as any other registers maintained by the Registrar.

## 111. LIQUIDATION OF A PLC

The liquidation of a PLC must be carried out in accordance with the Markets Laws and the applicable Federal Laws relating to insolvency of companies, as amended.

## 112. DE-REGISTRATION OF A BRANCH

112.1 A Branch may be de-registered:

- (a) by the Registrar;
- (b) voluntarily; or
- (c) by the Court.

112.2 A Branch will be under dissolution in the event of a voluntary de-registration or de-registration by the Registrar. The Registrar will include “under de-registration” after the name of the Branch in the Branches Register. A Branch Parent Company must include “under de-registration “ after the name of its Branch in its correspondences.

112.3 A Branch may be de-registered by the Registrar in the Registrar’s discretion, including in the following events:

- (a) a Branch Parent Company’s failure to commence business activity under the Licence through the Branch within a year from its registration, or suspension of the business activity under its Licence for more than one (1) year;
- (b) a Branch Parent Company acts in contravention of the DIEZA Regulations or other applicable laws whether through the Branch or otherwise;
- (c) a Branch Parent Company’s failure to renew the Licence for the Branch;
- (d) termination of the Licence for the Branch by the Registrar;
- (e) liquidation, winding up or dissolution of the Branch Parent Company; and
- (f) under an order of the Court for de-registration the Branch.

112.4 A Branch may be de-registered voluntarily when the Branch Parent Company resolves by a Special Resolution that the Branch be de-registered voluntarily. A copy of the Special Resolution for de-registered voluntarily must, on the date that it is issued, be submitted to the Registrar.

112.5 The Registrar may, provided that the de-registration has been conducted to the satisfaction of the Registrar, in relation to the Branch under de-registration:

- (a) cancel the Licence;
- (b) terminate the contracts DIEZA has with the Branch Parent Company; and
- (c) remove the Branch from the Branches Register, as well as any other registers maintained by the Registrar.

## **PART 15 – INSPECTION, POWERS AND REMEDIES**

### **113. APPOINTMENT OF INSPECTORS**

113.1 DIEZA may, on being satisfied that there is good reason to do so, appoint inspector(s) to investigate the affairs of a Company or Branch Parent Company to the extent that the affairs relate to the Branch and to report on them as DIEZA may direct.

113.2 An inspector appointed pursuant to Regulation 113.1 may:

- (a) perform on-site inspections;
- (b) interview Employees and Officers of the Company or Branch Parent Company;
- (c) require that the Company or Branch provide promptly such documentation as requested by the inspector;
- (d) seek information from third parties as may be required;
- (e) take such other steps as reasonably required to investigate the affairs of the Company or Branch Parent Company.

113.3 The inspector shall report conclusions and findings to DIEZA.

113.4 The inspector may make recommendations regarding the Company or Branch to DIEZA.

113.5 The inspector may at any time in the course of its investigation inform DIEZA of matters coming to its knowledge as a result of the investigation which it believes indicates that a contravention has been committed.

### **114. EVIDENCE TO INSPECTORS**

114.1 An inspector appointed under Regulation 113.1 may require that a person:

- (a) produces and makes available to it all Records in that person's custody or power relating to that matter;
- (b) at reasonable times and on reasonable notice, attends before the inspector; and
- (c) gives the inspector all assistance in connection with the investigation.

114.2 An Officer must produce and make available to an inspector all records in the Officer's possession or under the Officer's control (whether alone or jointly with another person) relating to any bank account(s) into which the inspector has reasonable grounds for believing there has been money paid which has been in any way connected with an act or omission which constitutes misconduct or which indicates that a contravention has been committed.

### **115. EXPENSES OF INVESTIGATION**

The expenses of an investigation by an inspector will be paid in the first instance by DIEZA, but the Registrar may order any person or corporate entity to make repayment to DIEZA to the extent specified by the Registrar.

### **116. DIRECTIONS ISSUED BY THE REGISTRAR**

116.1 A Company shall comply with any direction issued by the Registrar under these Regulations.

116.2 A Branch Parent Company shall comply with any direction issued by the Registrar under these Regulations to the extent that those directions relate to its Branch.

## 117. ORDERS IN EVENT OF UNFAIR PREJUDICE

- 117.1 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.
- 117.2 If an order under this Regulation requires the Company not to make any, or any specified, alterations in its memorandum and articles of association, the Company shall not, without leave of the Court, make any such alteration.
- 117.3 An alteration to the memorandum and articles of association made by virtue of an order under this Regulation is of the same effect as if duly made by Special Resolution of the Company, and the provisions of these Regulations apply to the memorandum and articles of association as so altered accordingly.
- 117.4 The copy of the order of the Court under this Regulation altering, or giving leave to alter, the memorandum and 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.
- 117.5 Nothing in this Regulation affects the rights, powers or remedies that any person or the Court may have apart from this Regulation.



## **Dubai Integrated Economic Zones Authority**

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