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The DFSA Introduces a New SME Listing Regime

On 1 April 2020, the Dubai Financial Services Authority (the “**DFSA**”) introduced a new listing regime for small and medium sized enterprises (“**SMEs**”), which allows SMEs based in any jurisdiction to raise funds through capital markets by issuing shares, listing such shares on the DFSA’s Official List of Securities and admitting them for trading on NASDAQ Dubai.

The new listing regime is aimed at boosting the SME sector in the UAE by allowing SMEs to raise equity funding at a lower cost and within a less stringent regulatory framework. The regime is not only beneficial to SMEs that want to raise growth capital but also provides an additional viable exit option for potential private equity, and venture capital, investors that look to initially help grow, and eventually exit from, a SME. The regime has been implemented through an amendment to the Markets Rules of the DFSA Rulebook and other relevant sections of the DFSA’s Rulebook Modules (the “**Rules**”).

A summary of the key features of the new listing regime is set out below.

- 1. Definition of SME:** A company seeking to admit its shares on the DFSA Official List of Securities will qualify as a SME if the aggregate market value of the shares it is applying to list is reasonably expected to be less than US\$250 million. A listed company will continue to be deemed a SME if the aggregate market value of its listed shares at admission is actually less than US\$250 million and its rolling average market capitalisation does not exceed US\$500 million over a period of 90 consecutive days. The market capitalisation of a SME will need to be calculated on a daily basis. A company which exceeds the US\$500m threshold will lose its SME status. When a listed entity ceases to be a SME, the some of the main differences in terms of the Rules applicable to it will be that the requirement for SME-tailored website disclosures falls away and the manner in which its annual fee is calculated will change.



2. **Audited Accounts**: A SME is only required to provide at least one year of published or filed audited accounts prepared in accordance with the national audit and accounting standards of the SME's jurisdiction of incorporation, provided that those standards are acceptable to the DFSA. This is in contrast to the regular non-SME listing requirement where the DFSA requires that the applicant must have at least three years of audited consolidated financial information prepared in accordance with International Financial Reporting Standards (IFRS). Where a SME applicant has a track record of longer than one year, it must include the additional audited accounts for the period it has been in operation, up to a maximum of three years.
3. **12-Month Lock-in Period**: In order to protect investors, a 12-month lock-in period is imposed on pre-listing shareholders in the relevant SME. During this period pre-listing shareholders cannot dispose of their securities or any interest therein. The purpose of this requirement is to align the interest of pre- and post-listing shareholders. Lock-in periods for initial public offering of shares is standard practice.
4. **Compliance Adviser Requirement**: Instead of requiring a sponsor, the DFSA will usually require a SME to appoint a compliance adviser as a condition for admission to the DFSA's Official List and its ongoing listing. The role of the compliance adviser is to advise the SME properly about the listing process, its ongoing obligations as a reporting entity and assess the suitability for listing. As such, the role of a compliance adviser continues beyond the listing unlike a sponsor for a regular market listing. Furthermore, unlike a sponsor for regular listings, the DFSA does not require a compliance adviser to provide the DFSA with a sponsor declaration regarding compliance by the applicant SME with all our regulatory requirements at time of listing. This should help to keep down external advisory costs for SME applicants. On the other hand, this means elevated risk for investors (which should be adequately disclosed); however, this is inherent to investing in SMEs.

The DFSA will generally not withdraw the compliance adviser requirement unless the shares of the SME have been listed for at least three years and the SME has sufficient resources in place to comply with its obligations under the Rules. The compliance adviser must have sufficient senior, competent staff and a proven track record of relevant corporate finance transaction experience to perform its role. The SME must notify the DFSA if it becomes aware, or has reason to believe, that the compliance adviser or its employees have a conflict of interest which has not been appropriately managed. Additionally, the SME must take reasonable steps to ensure its compliance adviser cooperates with the DFSA including answering promptly and openly any questions of the DFSA. The DFSA must be informed in advance of the resignation of the compliance adviser or as soon as possible prior to its termination.
5. **24 Months Prohibition on Repurchase**: The Rules impose a 24-month prohibition on repurchases of shares by listed SMEs. The purpose of this prohibition is to ensure that the capital raised through the IPO is used by the SME to support the SME's growth. Repurchases of shares during the 24-month period can only be carried out with DFSA approval and a special resolution passed by the shareholders of the SME.
6. **SME Market Disclosures**: SMEs must maintain certain key information on their website such as the SME's current articles of association, names of the directors and their biographies, the annual financial reports for the last three years (or since admission) and details of the SME's corporate governance code.
7. **Lower Fees**: The filing fee payable to the DFSA for a prospectus review and filing for SME applicants is US\$10,000, a substantial reduction from the US\$35,000 fee applicable to a non-SME applicant. The fee for admission to the DFSA Official List is US\$2,500. SMEs will also be charged an annual flat fee of US\$10,000 for the equity listing. Where a company loses its SME status, its annual fee will be calculated in accordance with the provisions applicable to non-SME listed entities.



According to the UAE Ministry of Economy, the SME sector represents more than 94% of the total number of companies operating in the country and provides jobs for more than 86% of the private sector's workforce. In Dubai alone, SMEs make up nearly 95% of all companies, employing 42% of the workforce and contributing around 40% to Dubai's GDP. Therefore, it remains appropriate and necessary for governments to encourage the growth of SMEs, for that to then boost the economy more widely. The new DFSA SME listing regime is aimed at enhancing the performance of the SME sector in the UAE by making it easier for SMEs to obtain equity financing in a prompt and cost-effective manner and is a step in the right direction for a growing economy.

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