

# DFSA Consultation Paper No.5/2022

## Regulatory Requirements for Lower Risk Firms

### Introduction

The Dubai Financial Services Authority (“DFSA”) issued a consultation paper on 7<sup>th</sup> November 2022. The document outlines several proposals that seek to relieve regulatory burden arising from capital requirements on firms that pose lower prudential risk. Furthermore, certain reporting requirements will be removed under the new proposed rules and a new approach to base and liquid capital requirements will be introduced.

### Who should read this paper?

Existing firms, potential applicants, and advisers to both.

### When will these rules take effect?

FSRA is in the process of reviewing the industry’s feedback on the consultation. No transitory period was indicated in the document.

## Summary of the Consultation Paper

Proposed Amendment	Highlights of the new rules	Impact and actions to be taken
1. Definition of Lower Risk Firms.	<p>a) Introduce a framework to identify lower risk firms from a prudential point of view using a combination of:</p> <ol style="list-style-type: none"> <li>1. Not normally engaging in financial transactions that give rise to financial liabilities towards their customers; and</li> <li>2. Whether they hold client assets and insurance monies.</li> </ol>	<p>a) Regulated Activities that are considered low risk include: advising, arranging, insurance intermediation and insurance management.</p> <p>b) Authorised Firms entitled by their license to hold or control client assets or insurance monies are not included in the lower risk segment. (i.e. ATS operators, crowdfunding platform operators and money transmission firms)</p>
2. Removing Expenditure Based Capital Requirement (EBCM).	<p>a) Removing the requirement for a regulatory gone-concern capital for lower risk firms.</p> <p>b) The reasons are as follows:</p> <ol style="list-style-type: none"> <li>1) Absence of financial liabilities towards customers</li> <li>2) Existing safeguards to protect employees in case of wind down</li> </ol>	<p>a) Remove EBCM for lower risk firms from 1<sup>st</sup> January 2024</p> <p>b) Lower risk firms are no longer required to submit Electronic Prudential Reporting System EPRS B180 reports.</p>
3. Liquid Assets Requirement.	<p>a) Relaxation of the requirement to hold available assets in liquid form.</p>	<p>a) EBCM driven liquidity rules to be removed.</p> <p>b) Lower risk firms are still required to hold liquid assets in excess of their base capital.</p>
4. New Capital Requirements for ATS (Alternative Trading System) and Crowdfunding Platform Operators.	<p>a) The DFSA has sought to increase the minimum capital requirement for ATS and Crowdfunding platform due to their temporary holding of client money as part of their business model.</p>	<p>a) ATS and Crowdfunding Platform Operators will see their base capital requirement increase from \$10K to \$140K.</p>
5. Raising the Base Capital Requirement	<p>a) All Cat 4 Authorised Persons apart from the previously mentioned ATS and Crowd Funding (“Cp”) CP operators will</p>	<p>a) The base capital requirement will increase from \$10K to \$30K.</p>

for Cat 4 licensees.	witness an increase their base capital requirement.				
6. Adjusting the Credit Rating Floor When Placing Liquid Assets with a Bank.	a) Relaxing the requirement to keep liquid assets in excess of their EBCM, in highly rated bank (short term credit rating pf A1/P1 and above).	a) Authorised Firms can now keep their liquid assets in banks with a lower credit rating (short term credit rating of A2/P2 or an equivalent long-term rating of BBB/Baa2 and above).			
7. Removing Internal Risk-Assessment Process Reporting for Certain Firms.	a) Categories 3B, 3C, 3D, and 4 are no longer required to submit the IRAP to DFSA.				
8. Extending The Temporary Cover Period for Authorised Individuals.	a) Once a licensed function goes vacant, firms will have a longer time frame to find a permanent replacement (from 12 weeks or 3 months to 26 weeks or six months).				
9. Clarifying combinations of licensed functions in a single firm.	<b>Table 1. Combining various licensed functions in a single firm</b>				
		<i>D/P</i>	<i>SM</i>	<i>SEO</i>	<i>FO</i>
	Director/Partner (D/P)		✗	✓	✓
	Senior Manager (SM)	✗		✓	✓
	Senior Executive Officer (SEO)	✓	✓		✗
	Finance Officer (FO)	✓	✓	✗	
	Compliance Officer (CO)	✓	✓	✗	✗
Money Laundering Reporting Officer (MLRO)	✓	✓	✗	✗	