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GLOBAL RETIREMENT SOLUTIONS,
INNOVATIVE THINKING

# DIFC Employee Workplace Savings Plan (DEWS plan) latest consultation released on 28 October 2019

## Key issues facing DIFC based companies who sponsor a current alternative arrangement or those that want to explore an alternative arrangement

As most employers in the Dubai International Financial Centre (DIFC) will be acutely aware, the DIFC is introducing a new mandatory defined contribution savings plan, the DIFC Employee Workplace Savings Plan (DEWS plan) to replace the current end of service gratuity (EoSG) regime.

Boal & Co are an independent Trustee with a primary focus on the trusteeship and governance of international pension plans. We have a number of existing clients in the DIFC, the wider UAE and throughout the GCC region.

We welcome the DIFC change in approach to a more long term retirement focused savings approach. It affords more flexibility and scope for employees to save for their retirement and aligns better to what is a much less transient workforce.

Further consultation on the matter has been encouraged by the DIFC which we equally welcome as there are still a large number of detail points to clarify in terms of approved alternative arrangements. The consultation can be located on the DIFC website https://www.difc.ae/business/laws-regulations/consultation-papers/.

The consultation is open to employers, employees and advisors and the deadline for comments is **18 NOVEMBER 2019** with a currently stated commencement date of **1 January 2020**.

There are a number of outstanding questions around the DEWS regime that have been captured well by a number of the global consulting firms but this insight focuses on our view of the important outstanding details related to how the DIFC intends to allow for alternative money purchase type arrangements to be put in place or continue under the new regime. We would urge all stakeholders to take advantage of the consultation opportunity and help shape this important change to DIFC legislation.

***Employer requirement to appoint a Supervisory Board that must have employer and employee member participation and an appointed, independent and qualified chairman.***

As proposed, the guidelines for approved alternative arrangements are aligned to the Master Trust arrangement being put in place for DEWS. In the context of DEWS this may make sense as under a Master Trust you have many employers under a single plan structure and in theory a large number of participating employers with different and possibly conflicting views as to how the plan is managed.

In this structure you can see why a qualified and independent voice would be helpful and arguably necessary to ensure the efficient and effective operation of the plan.

However, for alternative arrangements the most common structure would be a bespoke plan with an appointed independent Trustee that looks after the interests of employees. Depending on the size and scale of an alternative arrangement it would be easy to replicate the elements of the Supervisory board.

For most sizeable plans that exist today they would have evidence some form of governance committee and structure performing the role of the Supervisory board in the DEWS proposal.

However for alternative arrangements the role of the Trustee should negate the need for an independent chairman as the Trustee has a primary fiduciary responsibility to protect the best interests of the plan members. The size and scope of any single alternative arrangement should be the determining factor as to whether an alternative arrangement needs to largely replicate the DEWS structure. The Trustee in all cases will undertake the role of independent advisor in terms of governance and oversight on behalf of the members.

For the DEWS arrangement we would like the DIFC to clarify if the independent chairman will be one role across all employers within the master trust arrangement or is an independent chairman required for each plan?

We have assumed that there will be one independent Chairman of the Supervisory board that looks across all participating employers within the DEWS master trust structure. If that is not the case, is an independent chairman required for each participating employer in DEWS.

Will this be the same for smaller companies within DEWS?

How is the independent Chairman funded and by whom?

What is the role of the Chairman and what powers, if any do they have?

***The Operator/Trustee must meet with the Supervisory board at least 4 times a year to review reporting.***

The outstanding question for DEWS is - do these meetings have to be face to face and will the DIFCA hold records? If no, how will compliance be monitored and assessed?

For approved alternative arrangements, this is broadly standard governance practice albeit the frequency is generally determined by the size and complexity of the plan.

In any event guidance is required from the DIFCA to help inform, how the meetings should be undertaken, content recorded and how compliance or not will be monitored.

***Appointment of an investment adviser to set out investment options and maintain ongoing. Shariah compliant investments should be made available. The Investment Adviser should report into the quarterly Supervisory board meetings.***

We would suggest that an investment adviser is not required at all times throughout the lifecycle of a plan.

For alternative arrangements that exist today it is common practice for the investment advice to happen at inception and then be reviewed every 3 to 5 years. The Trustee provides independent investment oversight. Regular investment education and information is provided via administration platform providers and / or the investment fund provider or a combination of the two. The type and regularity of investment information is per instruction from the Trustee, sponsoring employer or their advisor or combination of the three via a governance committee. We would assert that this structure is global best practice and therefore should be sufficient for alternative arrangements in the DIFC as evidenced by existing or proposed scheme guidelines.

***Annual report and accounts should be produced and presented to Supervisory Body. The Operator/Trustee should make them available to members within 2 months of them being presented.***

For alternative arrangements this is standard practice and delivered by the Trustee to the sponsoring employer but could easily be extended to all members and is something that happens today, albeit on request. Given that members mostly have online access to their account and can monitor contributions as and when they choose, the broader scheme accounts are generally of little interest to members in our experience. If this is finalised as a requirement, clarity will be needed on the content required, the timeline for production and whether an independent audit will be required.

***Certificates of compliance have to be applied for annually.***

Unless there has been a substantial change in the scheme structure or sponsoring employer, we would suggest that certificates of compliance could be more reasonably reviewed. Every 3 years would be an appropriate period. If necessary a more simplified interim online self-certification process in years two and three of the cycle confirming no significant changes should be sufficient. Defined Contribution / Money Purchase type arrangements take significant effort to define and implement and by definition are long term in their nature so do not change significantly year on year.

***Would you rather not have a mandatory defined contribution end-of-service benefit savings plan (in the form of a Qualifying Scheme) being introduced in the DIFC. If so, please provide specific reasons.***

We welcome and support the principal of a DC style EOSB approach provided there is fair scope for alternative arrangements to be approved. At present there are elements of requirement for alternative arrangements that we feel would extra cost without necessarily adding extra benefit or security to employers or plan members.

***Do you think enough time is provided for the implementation of the Qualifying Scheme regime (i.e. 01 January 2020)? If not, please provide your reasons for this view and what you would suggest as an alternative.***

We do not believe there is sufficient time as there are still too many points of clarity required. We would suggest that in any event an alternative plan or DEWS be implemented with an effective date of 1 Jan 2020 and a reasonable period of grace allowed after all details are finalised to practically implement.

***Do you think enough time is provided for Employers to use a Qualifying Scheme other than the DEWS Plan? If not, please provide your reasons for this view and what you would suggest as an alternative.***

We do not believe there is sufficient time as there are still too many points of clarity required. We would suggest that in any event an alternative plan or DEWS be implemented with an effective date of 1 Jan 2010 and a reasonable period of grace allowed after all details are finalised to implement.

***What are your views of the Board of Directors of the DIFCA having the ability to decide what is a Recognised Jurisdiction and a Recognised Regulator after consultation with the DFSA?***

Without any guidelines as to how the DIFCA will determine a suitable regulator or Jurisdiction it is very hard to be anything other than nervous about this. We would prefer an upfront list or at least some defining criteria such as; "Countries that have undergone a FATF/FATF Style Regional Body (FSRB) Fourth Round (or a MONEYVAL Fifth Round) Mutual Evaluation inspection, where the published report identifies that a country has been rated as Largely Compliant (LC) or Compliant (C), in 25 or more of the 40 FATF recommendations that make up the Technical Compliance component of the Mutual Evaluation Report (MER)" taken from the Isle of Man FSA AML code.

POINTS OF REFERENCE

DIFC Consultation
https://www.difc.ae/business/laws-regulations/consultation-papers/

DIFC Frequently Asked Questions
https://www.difc.ae/business/operating/employee-workplace-savings/

For Recognised Jurisdiction criteria
https://www.iomfsa.im/media/1520/appendixa.pdf

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