

# EFFECTA'S ESSENTIAL INSIGHTS: A REGULATORY UPDATE

## July 2022

Welcome to the second edition of EFFECTA's Essential Insights, a quarterly newsletter aimed at providing its readers with succinct overviews of some of the key regulatory issues currently faced by Firms. However, in this edition, EFFECTA is pleased to announce the newsletter not only covers UK Regulatory hot topics, but also those faced in the UAE.

In May 2022, EFFECTA was thrilled to announce the launch of its Dubai office. With an increasing number of Firms looking to operate across both these jurisdictions, EFFECTA is now able to provide advice on cross border regulatory issues in the UK and Middle East.

The Dubai office is headed by Jade Ashpole, who has over 10 years compliance experience working in both UK and UAE Financial Institutions. Jade has advised on a number of complex cross border projects, holding in depth knowledge on both local and international regulations. For more information about EFFECTA's Dubai office, please [click here](#).

As always, our newsletter reflects our consultants, diverse in background and knowledge base. We all have a love for Regulation, but hold very different areas of expertise, enabling us to cover a wide client base and bring more than one perspective to the table.

More information about our individual consultants can be found on our [website](#), but whatever your question, we will have someone who will be able to help. If you would like to discuss any of the topics covered in this newsletter and what implications they may have to your business, please do reach out to us on [info@effectacompliance.com](mailto:info@effectacompliance.com).

To review Effecta UK's UK Newsletter, [please click here](#).

To review Effecta Middle East's Newsletter, [please click here](#).

In this newsletter EFFECTA UK covers the following topics:

## 1. Post-Pandemic Working Arrangements

In February 2022 the Financial Conduct Authority ('FCA') issued guidance on its expectations with regards to firms permitting remote or hybrid working. The FCA made it clear Firms could no longer consider remote working as a temporary solution to the pandemic. Instead, Firms are expected to have decided on whether remote or hybrid working patterns are permanent and, if so, to have assessed the associated risks.

Has your firm continued to permit remote or hybrid working arrangements? If so, are you confident the Firm has conducted an adequate risk assessment on the impact of such working styles, and implemented the required controls to manage those identified risks?

## 2. Market Surveillance: Market Watch 69

In May 2022, the FCA published Market Watch 69 which had a strong emphasis on market abuse, highlighting areas it has identified as deficient within Firms and raising the expectation that the Regulator will conduct further investigation into Firms and their Market Abuse Risk Assessments.

Are you aware of the issues raised in Market Watch 69 and have you taken steps to ensure your own internal systems and controls around market abuse are adequate to the business you oversee?

## 3. Wholesale Markets Review: Changes to Equity Secondary Markets

In July 2022, the FCA published CP22/12, a consultation paper detailing its proposed changes to improving Equity Secondary Markets. The consultation paper looks to enhance the quality of execution for investors and to improve the information content of post trade transparency.

The FCA has requested responses to the consultation paper by 16 September 2022. Are you aware of the changes proposed in the consultation paper and what they mean to your Firm?

## 4. ESG integration in UK Capital Markets

The FCA has increased its focus on ESG in 2022. Whilst there is still some way to go before the majority of financial institutions are subject to tangible requirements, the FCA is making it clear Firms should start to prepare for this to be an area of increased regulatory scrutiny.

Are you aware of the requirements coming into place in 2022 and the expectations the FCA are placing on Firms with regards to ESG?

## 5. Actions from the Regulators

In March 2022, the SEC took action against a UK entity and its founder for offering services into the US without being SEC registered. The UK entity was not proactively soliciting business in the US but the SEC considered the provision of a website accessible to US clients a breach of US rules.

In May 2022, the FCA refused to approve an application for a compliance consultancy to oversee and monitor Appointed Representatives. This was considered a clear demonstration of the FCA's changing attitude to the Appointed Representatives Regime.

To understand more about either of these actions, [please click here](#).



## 1. Post-Pandemic Working Arrangements

### Background

During the COVID pandemic, Firms had to react quickly, setting up remote working arrangements on a mass scale and with understandably little time to assess the associated regulatory risks.

With the pandemic now seemingly overcome, remote working arrangements are no longer Government required but permitted at the discretion of each Firm. This has led to the FCA providing regular reminders that Firms must ensure such working arrangements do not hinder its ability to meet the threshold conditions.

### What are the FCA's concerns?

The FCA are concerned remote working arrangements have been entered into with little understanding of the risks these arrangements pose to a Firm's ability to meet its regulatory requirements.

The FCA has been clear about its concerns regarding oversight of employees and the possible associated risks of increased misconduct, acts of financial crime or general detriment to the consumer/market. In addition, the Regulator is concerned about the location of regulated activity and whether it is being conducted in locations not declared on the Register or further still, from a different jurisdiction.

### What are the FCA's expectations?

The FCA expects Firms to have conducted risk assessments on all permitted working arrangements, identifying any key risks to the firm, or markets and to have made changes to the internal control framework where required.

For example, Front Office staff working remotely will pose a greater regulatory risk than those in the office and Firms should be assessing how these risks can be reduced through the use of cameras, enhanced communication and trade checks and limited access to certain data.

The FCA has been very clear that a Firm's regulatory requirements remain the same and therefore Firms will need to have the same level of oversight, culture, record keeping and system and controls in as when all staff were in the office.

### What actions should Firm's be taking?

Remote working has been an area of recent focus for the FCA, and it is widely anticipated the Regulator will conduct some thematic reviews or deep dives into Firms and whether they have managed their transition to remote working correctly.

Consequently, Firms should:

- Assess all working arrangements and associated risks and only permit those which do not hinder its ability to adhere to regulatory requirements
- Update Risk Registers, Compliance Monitoring Plans and all other relevant policies and procedures to ensure all working arrangements are governed and controlled appropriately (this should include employment contracts)
- Notify the FCA of any significant changes such as if the Firm intends to use a private residential address as its principal place of business.

### How can Effecta Help?

Effecta works with firms to review their risk registers and to identify whether their compliance monitoring programmes are adequate considering the identified Risks.

Effecta can help draft policy and procedure documents and can offer Firms advice on the level of oversight required with remote working arrangements.



## 2. Market Abuse: Market Watch 69

### What was the main focus of Market Watch 69?

Market Abuse is always a focus for the Regulator but Market Watch 69 highlighted the FCA's expectations with regards to Firms ensuring their Market Abuse Risk Assessment and order and trade surveillance are tailored not only to their business but to each of its asset classes and activities.

### What are the FCA's concerns?

The FCA was clear in highlighting it is not seeing enough improvement in the assessment and oversight of market abuse by Firms. Key failings identified by the FCA were:

- Firms failing to tailor their assessments to asset classes, activities and execution methods, often applying the same risk scoring to all business areas regardless of their differences and varying impact to the markets.
- Firms placing too much reliance on 'off the shelf' automated solutions; failing to calibrate settings to suit the risks faced by their businesses. The FCA highlighted that whilst automated systems have advantages, the most important aspect of any surveillance is that it is fit for purpose – confirming manual, tailored, in-house solutions can be preferable options.

### Enforcement Risk

Market Watch 69 highlighted the possibility of enforcement action against Firms which:

- have failed to conduct a tailored market abuse risk assessment
- cannot provide adequate rationale for the parameters it has set for its surveillance programmes
- are not reviewing surveillance alerts in a timely manner or do not have appropriately skilled staff reviewing the alerts

### What should Firms be doing?

Firms must ensure their Market Abuse Risk Assessments are tailored to the business they conduct, with risks being assessed by product, activity and execution method.

Firms must ensure their Risk Assessments remain current, and the controls and surveillance oversight in place continue to remain appropriate to manage the identified risks. Changes to the size, product, activities of a business should instigate a review of a Firms Market Risk Assessment, with an audit being capable of being provided to the Regulator on request.

### How can Effecta help?

Effecta conducts annual and ad hoc reviews for Firms on their Market abuse Risk Assessments, offering challenge where appropriate and highlighting concerns which could be identified by the Regulator. Should you wish to have an assurance review or Health Check by Effecta, please do not hesitate to get in touch.



### 3. Wholesale Markets Review: FCA Consultation Paper on Improving Secondary Equity Markets

#### Who should be interested in the Consultation Paper?

The consultation paper applies to trading venues, investment firms and UK Branches or overseas firms undertaking investment services and activities. It will interest law firms, market data and analytics firms.

#### What are the timelines?

The consultation paper has only recently been released, with the FCA requesting responses by 16 September 2022.

Following review of the responses received, the FCA will amend the Technical Standards and submit them to the Treasury for approval.

This means none of the changes being consulted on will be effective before the end of this year.

#### What are the reasons for the changes?

Following Brexit, the Treasury has been very clear it is strived to make the UK a more competitive and less 'red tape' jurisdiction for the financial services sector. The FCA has consequently stated it will be making changes through the Wholesale Markets Review to improve competition, reduce complexity, and improve the UK's market integrity.

The changes being proposed are not unexpected and specifically address feedback the FCA has received during the Wholesale Markets Review. Market Participants have consistently highlighted how difficult it can be to interpret trading data in the equities market, and perhaps most significantly have expressed concerns that it is often hard to identify which venues hold actionable liquidity ie tradeable prices.

The FCA has stated it is focused on market integrity, and ensuring information made available to the public is as useful as it can be to understand liquidity in the market.

The complexity around the reporting of OTC transactions has long been identified as an area requiring improvement by the FCA. This is the Regulator's first steps in seeking to simplify the MiFID II regime, with an emphasis on reviewing

and streamlining Europe's previous approach to the tick size regime.

The FCA has been vocal in looking to use Brexit as an opportunity to improve competition. By allowing UK trading venues to source reference prices from overseas, market participants should have more choice and see greater competition on where they can execute their trades. This should lower the cost of trading for end investors.

#### What are the main highlights from the CP?

A focus of the consultation paper is around changes to post trade transparency. The FCA wants to improve market integrity by ensuring information made available to the public is as useful as it can be to understand liquidity in the market.

Specific changes being proposed by the FCA to improve post trade transparency are:

- i. the exclusion of non-price forming trades; the consultation paper contains large amounts of information on the revised definition of price forming trades;
- ii. changes to the content of any required reports and the removal of certain flags to reduce the duplication of trade reports;
- iii. simplifying the OTC reporting framework

The FCA is also consulting on permitting UK trading venues to apply the same tick sizes and use reference prices from overseas trading venues. The FCA hopes these changes will improve choice and competition in the market.

#### What should Firms be doing now?

Providing a response to the FCA consultation paper is the perfect opportunity for firms involved in the facilitation of or reporting of trades executed in the secondary equities market, to ensure the UK market becomes a less complex, more competitive, and desirable trading centre.

Firms should provide their responses by no later than 16 September 2022.

#### How can Effecta help you?

Effecta specialises in the operation and oversight of trading venues, including pre and post trade



reporting requirements for Investment Firms and Venue Participants.

If you have any questions regarding post trade reporting, or venue oversight requirements, do not hesitate to contact Effecta directly on [cbowyer@effectacompliance.com](mailto:cbowyer@effectacompliance.com).

## 4. ESG integration in UK Capital Markets

### What are the current regulations?

At the end of 2020, the FCA introduced a new 'comply or explain' disclosure rule for listed companies ([PS20/17](#)) which brought UK companies in line with recommendations from the Taskforce on Climate-related Financial Disclosures (TCFD). Subsequently, this year they have enhanced this rule with [PS21/23](#) which brought standard listed companies into scope.

The UK has also passed two laws which came into force on 6th April 2022; [The Companies \(Strategic Report\) Regulations 2022](#) and [The Limited Liability Partnerships Regulations 2022](#). Both laws outlined rules for climate-related financial disclosures.

### Which Firms are required to comply with the Regulations?

The FCA 'comply or explain' disclosure rules initially applied only to commercial companies with a UK premium listing. The additional rule changes brought in in January 2022 added issuers of standard listed shares and standard listed issuers of Global Depositary Receipts to the scope. The FCA have also made clear their intention to extend this to UK-authorized asset managers, life insurers and regulated pension schemes.

The Companies Regulations 2022 applies to UK companies with more than 500 employees and one of the following three:

- Transferable securities admitted to trading on a UK regulated market, banking companies or insurance companies
- Companies with securities admitted to AIM (Alternative Investment Market)
- Companies with a turnover of more than £500 million

Both the Government and the FCA hope the above will lead to disclosures on a voluntary basis.

## Diversity and Inclusion

Whilst D&I and the social pillar of ESG are typically less focused on by entities and rule makers alike, recent speeches and action by the FCA could indicate the start of some substantial changes in this area. If you would like to read more about this and what the benefits of D&I are to your firm, please check out our recent article: [Diversity and Inclusion: Why should you care?](#)

### Pressure on the FCA

The FCA is being pushed to act on sustainability disclosures with experts worried the issue is being "perpetually kicked down the road". This follows the regulator stating they would delay the release of SDR (Sustainability Disclosure Requirements) until autumn. EU-wide rules on sustainability disclosure (SFDR) came into effect in March 2021 but were not used due to Brexit, whilst last month the SEC proposed their own set of rules. With FCA delays, guidance and regulation could be released at the same time, causing issues for firms which are unprepared.

### What actions should my Firm be taking?

If your firm is in scope for any of the above disclosure regulations you will need to review Governance around sustainability impacts, the strategy for dealing with these and metrics/targets to assess or manage these risks and impacts. **If you wish to discuss your ESG requirements and your subsequent reporting obligations, then please feel free to reach out to us.**

## 5. Actions Taken by the Regulator

### SEC Final Judgement: Global Investment Strategy UK Ltd./John William Gunn:

In March 2022, the U.S. SEC obtained final judgements against Global Investment Strategy UK Ltd. (GIS) and John William Gunn, its founder and principal.

GIS was charged with clearing and settling billions of US securities transactions for US clients without registering as a broker-dealer and Gunn (founder and principal) was charged with aiding and abetting those violations.

Although GIS and Gunn did not directly market their services in the US, their website was accessible to US customers and Gunn had contact with US customers regarding opening and closing accounts. This shows that the SEC are not afraid to clamp down on overseas entities which are not registered in the US and emphasises the importance for Firms to actively monitor and assess where they are providing services and where their clients are based.

#### **FCA refuses authorisation to Regulatory Consulting firm**

In May of this year, the FCA sent out a press release confirming they had refused authorisation to Alexander Jon Compliance Consulting Limited (AJCC) to provide regulatory hosting services.

This is a service which would have allowed AJCC to oversee and monitor Appointed Representatives (ARs). The reason for this refusal was that the FCA deemed AJCC had not demonstrated the necessary skills, expertise, or adequacy of its staff to carry out the responsibility required for such oversight.

This action and statement from the FCA, alongside the recent Consultation Paper on Improving the AR regime indicates the FCA's increased focus in this area.

Are you on top of your AR monitoring and are you aware of the main changes the FCA are looking to introduce? Should you require any guidance on the upcoming changes to the AR regime, please reach out to Effecta directly.

#### **Articles published by Effecta in Q2 2022**

Effecta prides itself on the breadth and depth of its regulatory knowledge, with its Consultants regularly publishing articles on compliance issues or relevant pieces of Regulation we see our clients grappling with first hand. An example of the recent articles published by Effecta are listed below. If you would like to receive regulatory articles from Effecta going forward, please [register here](#).

- **The FCA 'Focus In' on Financial Promotions**
- **Market Watch 69 – A Focus on Market Abuse Monitoring for Small and Medium Sized Firms**
- **Diversity and Inclusion: Why should you care?**



In this newsletter EFFECTA Dubai will cover the following topics:

## 6. Post-Pandemic Working Arrangements

In April 2022 the Dubai Financial Services Authority ('DFSA') issued a letter to firms in relation to the risks associated with remote, hybrid and digital nomad working arrangements. The letter outlined expectations with regards to how firms should manage their employee working arrangements.

Did your firm amend employee working arrangements during the COVID pandemic to include remote and working from home scenarios? If so, are these changes in keeping with the Regulator's expectations?

## 7. AML – Targeted Financial Sanctions (TFS) Monitoring

In response to the recent downgrading of the UAE onto the FATF 'Grey List', the UAE Executive Office (in coordination with the DIFC and ADGM) have been active in assessing the understanding of the private sector of their Targeted Financial Sanctions obligations pursuant to Cabinet Resolution No. (74). Are your Firm's AML and CTF procedures adequate to ensure compliance with expectations?

## 8. DFSA Amendment to Legislation on Credit Funds

In line with developments to industry Fund Management practices, the DFSA have introduced updates to its legislation on Credit Funds to allow for an increase in loan related activities. Firms active in this space should review the new Credit Funds Regime and its practical implications.

## 9. Foreign Account Tax Compliance Act (FATCA) and Common Reporting System (CRS) Filings

The deadline for FATCA and CRS filings is close with the extended deadline of 15 August 2022 fast approaching. This year sees the UAE Ministry of Finance introduce a new centralised reporting portal.

## 10. Data Protection in the DIFC

Data Protection remains a DIFC hot topic and in particular compliance with the recent DIFC Law No5 of 2020 on Data Protection.

Is your business compliant with the DIFC data protection regulations?



## 6. Post-Pandemic Working Arrangements

### Background

During the COVID pandemic, country-wide lockdowns meant employee access to the DIFC was not permitted. Authorised Firms unable to work from their DIFC office space were required to pivot, and in many cases, invoke their Business Continuity Plans to allow staff to begin remote or 'working from home' arrangements.

### What are the DFSA's concerns?

Whilst the DFSA have been accommodating to the needs of Authorised Firms during the pandemic, they are keen to ensure that firms return to their pre-COVID 'business as usual' practices from within the DIFC. In doing so, firms will need to review their employee working practices, which have been prevalent for the last two years, to align them with the Regulator's recently expressed expectations.

It is anticipated the DFSA will look to review firms operational arrangements to determine whether 'business as usual' has returned.

### Which potential issues and risks should I focus on?

The DFSA has stated that Firms which continue to implement remote or 'hybrid' working arrangements need to be able to explain how these arrangements are effectively managed and to justify why such arrangements continue to be required.

It is important for all Firms providing Financial Services 'in or from' the DIFC to understand that the DFSA's interpretation of the wording 'in or from' is a literal one that cannot be circumvented by IT infrastructure that remotely replicates the DIFC work environment.

**If you need any advice on which of your employee working arrangements should be amended to align with the Regulator's expectations or would like to discuss how your business may benefit from a working practices review, please reach out to Effecta.**

### Are there any working visa implications?

The DIFC employment visas do not generally allow for the same sort of flexibility as visas issued 'onshore'. DIFC employment visas are granted

on the basis that employees are predominantly working from the DIFC. Firms should ensure that any remote working arrangements that have been implemented do not contravene employee visa requirements.

**Effecta specialises in policy and procedure reviews. Please do reach out if you would like to discuss your remote working arrangements and their ongoing appropriateness.**

## 7. AML, Targeted Financial Sanctions ("TFS") and Counter Terrorist Financing ("CTF") - Reviews

### Country-wide Initiatives

In line with the UAE's current efforts in developing its AML, Targeted Financial Sanctions (TFS) and Counter Terrorist Financing (CTF) framework, UAE Regulatory Authorities are keen to determine the current level of understanding that stakeholders in the private sector have of their TFS obligations pursuant to Cabinet Resolution No. (74).

To help make this determination, the Executive Office of Anti-Money Laundering and Counter Terrorism Financing, in conjunction with the DFSA and FSRA, has conducted several online surveys in recent weeks focussing on determining how knowledgeable stakeholders are of the prevailing requirements and also precisely how such Firms implement policies and procedures to ensure compliance.

### What actions should Firms be taking?

All Firms should be conducting a review of their existing AML, TFS and CTF arrangements to ensure that appropriate staff, policies and procedures are in place in line with Federal Law obligations and Regulator's expectations.

**Effecta specialises in the design and implementation of AML, TFS and CTF monitoring regimes for Authorised Firms in the UAE. If you would like Effecta to review the effectiveness of your current AML, TFS and CTF framework, please contact us directly on [info@effectacompliance.com](mailto:info@effectacompliance.com)**

## 8. DFSA Amendment to legislation on Credit Funds

### What is a Credit Fund?

The DFSA announced legislative changes to their Rules which intent to bring regulatory clarity for a new specialist fund in the DIFC, namely Credit Funds. Credit Funds are a type of collective investment scheme through which investors' monies are pooled in order to either originate or acquire loans, or both.

The DFSA states that a fund is a "Credit Fund" if its investment objective is to use at least 90% of its assets to "Provide Credit," including by acquiring loans, which means to purchase, take transfer of, take credit risk or part of credit risk attaching to, or take other exposures to, the loan.

In the DFSA Rulebook, "Providing Credit" is defined as the provision of a credit facility to a person (whether individual or body corporate) in its capacity as a borrower or potential borrower.

### What is the reason for the reform?

Under the previous DFSA Funds Regime, Fund Managers were allowed to carry out a range of investment activities using investors' money (i.e., Fund property), but the direct origination of loans or the purchase of loan portfolios were not permitted activities.

The introduction of loan related activities brings a new element to Fund Management, requiring different conduct and prudential requirements. The DFSA's amendments to the legislation on Credit Funds addresses this new element.

Within the new Credit Fund Regime, a DIFC fund will be regarded as a Credit Fund if its investment objective is to use at least 90% of its assets (i.e. investors' monies) to "Provide Credit", including by acquiring loans (meaning by purchasing, taking transfer of, taking credit risk or part of credit risk attaching to, or taking other exposures to, the loan).

### When will changes come into effect?

After a period of public consultation (DFSA Consultation Paper number 142), the new DFSA Rules came into effect and are enforceable from the 1st June 2022. All Firms are expected to be compliant with the new rules from 1st June 2022.

### What are the proposed changes?

The regulations are built on the existing funds regime and now introduce further tailored requirements to address the specific risks associated with a Credit Fund.

Essentially, under the DFSA's new regime, a DIFC Credit Fund is limited in terms of the credit instruments it can utilize, and the borrowers and counterparties to which such credit instruments can be extended. DIFC Credit Funds will now be subject to a number of additional rules and restrictions relating to:

- Management
- Structure
- Types of Clients
- Term of Fund
- Strategy
- Policies
- Investor Reporting
- Prospectus Content
- Fees and Base Capital Requirements
- Regulatory Reporting

**For further information on the changes to the legislation, please contact Effecta.**

### What should Firms be doing now?

Firms should be reviewing the requirements now to identify what additional resources, infrastructure or controls they need in place to ensure they are compliant with the rules implemented on 1st June 2022.

**Effecta has extensive experience in the structuring and ongoing monitoring of Funds in the DIFC. If you would like to discuss the impact of these changes to your business, please do reach out directly.**

## 9. FATCA and CRS Filings

### What are the key changes in 2022?

In May 2022 the UAE Ministry of Finance announced the go-live of the new Foreign Account Tax Compliance Act (FACTA) and Common Reporting System (CRS) reporting portal.

### **What are Reporting Financial Institutions required to do?**

All UAE Reporting Financial Institutions (RFIs) need to register on the portal to make their submissions for both FATCA and CRS purposes for the calendar year 2021 data onwards even if they had already been registered for reporting in previous FATCA and/or CRS reporting portals in the UAE.

Each UAE RFI must register at least one 'maker' and one 'checker' user, providing user details, entity details and other relevant documentation. The UAE RFI must also provide its legal entity classification for FATCA and CRS purposes.

Once approved, the 'maker' user must submit the FATCA and/or CRS risk assessment and annual report (or nil return, where applicable) no later than 15th August 2022. (Extended deadline)

The 'checker' user must approve the FATCA and/or CRS risk assessment and annual report (or nil return, where applicable) no later than 15th August 2022 (extended deadline), otherwise submissions will not be accepted by the authorities.

**If you would like to discuss this further or if you would like guidance on your Firm's reporting obligations Effecta can advise and guide you through the process.**

## **10. Data Protection in the DIFC**

### **What are the prevailing regulations?**

Data Protection Law, DIFC Law No 5 of 2020 ("DP Law 2020") prescribes the rules and obligations regarding the collection, handling, and use of Personal Data as well as rights and remedies for individuals who may be impacted by such processing.

In addition, the DIFC Data Protection Regulations 2020 set out the procedures and requirements for specific obligations in the DP Law 2020.

These rules and obligations follow international best practice standards, and are consistent with most other Data Protection regulations in the EU, UK, APAC, MENA and the Americas, as well as OECD guidelines.

### **Which Firms are required to comply with the Regulations?**

In short, i) any business registered in the DIFC, ii) any business which processes personal data within the DIFC as part of stable arrangements and iii) any business which processes data on behalf of either (i) or (ii). The DP Law 2020 applies in the jurisdiction of the DIFC, to all Firms that process Personal Data.

It applies to the processing of Personal Data by Firms incorporated in the DIFC, regardless of whether the processing takes place in the DIFC or not.

Processing "in the DIFC" occurs when the means or personnel used to conduct the Processing activity are physically located in the DIFC, and Processing "outside the DIFC" is interpreted accordingly.

So even though an entity may be outside or not even registered or licensed in the DIFC, the DP Law 2020 will apply to Processing operations performed as a result of an engagement with a DIFC entity. The non-DIFC entity ordinarily would not be required to notify the Commissioner or perform other administrative tasks like appointing a DPO, although it may do so if it wishes as best practice. The non-DIFC entity may also be subject to liabilities such as fines or third-party claims.

### **What actions should my Firm be taking?**

It is imperative that all Firms are aware of the scope of their overall data processing activities so they can make appropriate arrangements to be compliant with the Law. Whilst the Data Protection Law 2020 shares many similarities with regimes such as GDPR, the Data Protection Law 2020 represents a significant increase in the depth and breadth of previous DIFC data protection laws.

**If you wish to contact Effecta to discuss your Data Processing activities and your subsequent reporting and notification obligations, then please feel free to reach out to us.**

