PART 58 Digital Economy Court

PART 58

General 58.1 - 58.2

58.1

This Part applies to claims in the Digital Economy Court ("DEC Claims").

58.2

The Rules of the DIFC Courts and their Practice Directions, Registrar's Directions and Practical Guidance Notes apply to DEC Claims unless this Part or a Practice Direction provides otherwise.

Digital Economy Court 58.3 - 58.4

58.3

The Digital Economy Court is a specialist Division of the DIFC Courts.

58.4

A Judge will be appointed to be the Judge in charge of the Digital Economy Court.

Digital Economy Claims 58.5 - 58.8

58.5

In this Part:

- (1) a "DEC Claim" means a claim which:
  - (a) satisfies the requirements of Rule 58.7; or
  - (b) the parties have agreed to be a DEC Claim; and
  - (c) has been issued in or transferred into the Digital Economy Court; or
  - (d) has arisen from an appeal from the Financial Markets Tribunal of the DFSA in respect of its supervision of entities in relation to the matters set out at 58.7.
- (2) a "Consumer DEC Claim" means a DEC Claim:
  - (a) whose value or subject matter does not exceed AED 500,000; or
  - (b) whose value exceeds AED 500,000, but the parties have consented to the claim being determined under the Consumer DEC Claim procedure in Part III of this Rule; and
- (3) a "digital asset" includes a cryptoasset, digital token, smart contract or other digital or coded representation of value, rights, obligations, an asset, or a transaction;
- (4) a "token" is a digital representation of value, rights, or obligations which is secured using

cryptography and issued, transferred, or stored using distributed ledger technology or similar technology;
- (5) reference to “writing” includes any electronic communication which creates a record of transmission.

58.6

The Chief Justice may by Practice Direction vary the financial limits in Rule 58.5(2).

58.7

A claim may be brought as a “DEC Claim” if it involves issues relating to the digital economy. The following is a non-exhaustive list of claims that are suitable for the Digital Economy Court, claims relating to, connected with, or arising out of:

- (1) fintech;
- (2) digital assets, including the digital environment, platform or system in which a digital asset exists or may exist;
- (3) distributed ledger technology and blockchains including applications based on blockchain technology;
- (4) substantial or complex databases;
- (5) artificial intelligence and any devices or components of devices whether integrated or not that are dependent on or controlled by artificial intelligence;
- (6) data stored digitally including on cloud or other remote platforms, including distributed ledger technology;
- (7) e-commerce, online intermediaries, digital payment platforms or marketplaces which include virtual asset service providers in relation to: exchange between virtual currencies; exchange between virtual and fiat currencies; the safe-keeping or administration of virtual assets; or, enabling participation in financial services connected to the offer or sale of virtual assets;
- (8) interactions and transactions within virtual reality and the Web3 economy, including digital peer-to-peer transactions;
- (9) the application of automatic dispute resolution processes;
- (10) decentralised autonomous organisations (DAOs), decentralised finance vehicles (DeFi) and decentralised applications (DApps);
- (11) the validity of digital signatures and digital identification and verification systems;
- (12) the design, supply and /or installation of computers, computer software and related network and information technology systems and services;
- (13) cyber-physical systems such as unmanned aerial vehicles, 3D printing technologies, and robotics;
- (14) intellectual property claims arising out of or in relation to any of the above claims;
- (15) insurance claims arising out of or in relation to any of the above claims;
- (16) claims under the DIFC Data Protection Law (Law 5 of 2020); and
- (17) any combination of the above claims.

58.8

Claims may be suitable for more than one division of the DIFC Courts. A claimant may choose in which division to commence a claim subject to the Court’s power to transfer the claim to the division it considers most appropriate.

Power to conduct proceedings digitally 58.9

58.9

The Court shall, as far as possible, conduct DEC Claims making appropriate use of information technology and with a view to maximising the efficiency and minimising the costs and environmental impact of court proceedings.

Duty of Parties 58.10

58.10

It shall be the duty of parties to assist the Court to conduct proceedings in accordance with Rule 58.9 and the Court will take compliance with the duty into account when making its decisions on costs.

Powers in relation to digital assets 58.11

58.11

The Court may at any time make an order authorising and directing the Registrar, a Judicial Officer or any other person in accordance with Rule 20.7 to operate, modify, sign or cancel any digital asset using any digital signature, cryptographic key, password or other digital access or control mechanism available to it.

Smart forms 58.12 - 58.13

58.12

The Court may operate an electronic dynamic system for DEC Claims by which the parties provide information through smart forms, or artificial intelligence driven forms, such as decision-tree software that procure necessary information for the conduct and disposal of the claim.

58.13

A Practice Direction or Practical Guidance Note may make further provision for the operation of such an electronic dynamic system.

Issuing a DEC Claim 58.14 - 58.17

58.14

A DEC Claim must be commenced using the procedure in Part 7.

58.15

The claim form and statements of case must be marked “Digital Economy Court”.

58.16

The claim form must include a statement explaining why the claim is suitable to be heard in the Digital Economy Court.

58.17

The claim form may include or be accompanied by particulars of claim failing which the claim form must set out briefly the grounds on which the claim is made. Rules 7.31, 7.32 (insofar as apples to particulars of claim) and 7.33 shall not apply to DEC Claims.

Service of the claim form 58.18 - 58.21

58.18

The claim form must be served in accordance with Part 9.

58.19

Where the Court orders service of the claim form by an alternative method under Rules 9.31 to 9.33, the Court may authorise service by any physical or electronic method and impose any conditions to ensure that such service is likely to bring the claim form to the attention of the recipient, including:

- (1) by email;
- (2) by a digital messaging service;
- (3) by appropriate social media; or
- (4) by any other electronic means which creates a persistent record of transmission.

58.20

Each party must supply the Court and all other parties in writing with at least one email address (a “nominated email address”) to which documents relating to the DEC Claim may be sent.

58.21

A claimant must supply a nominated email address in the claim form.

Service of other documents 58.22 - 58.30

58.22

A defendant must supply a nominated email address to the Court and all other parties in writing as soon as reasonably practicable and in any event in the acknowledgment of service.

58.23

Any party joined to a DEC Claim must supply a nominated email address to the Court and all other parties in writing as soon as reasonably practicable after receipt of the claim form and order joining the party.

58.24

A party's nominated email address may belong to a legal representative.

58.25

A party may supply more than one nominated email address.

58.26

A party wishing to change a nominated email address must give the Court and all other parties notice in writing of the new nominated email address and where necessary in compliance with Part 37.

58.27

Nomination of an email address must be accompanied by notification of any limitations to the email system such as restrictions on the size of attachments.

58.28

Unless the Court orders otherwise, all documents in the claim other than the claim form must be served by email sent to a party's nominated email address or all of the nominated email addresses if more than one and to the Court.

58.29

All documents sent to a party's nominated email address will be considered served on that party at the date and time on which the email was sent.

58.30

Rules 58.20 to 58.29 are subject to any order the Court may make for the management of the service of documents in proceedings.

Transfer of proceedings 58.31 - 58.32

58.31

The Court may at any time order proceedings to be transferred to or from the Digital Economy Court.

58.32

Where the Court orders proceedings to be transferred, it will give notice of that transfer to all

parties.

Acknowledgment of Service and disputing the Court’s jurisdiction 58.33 - 58.38

58.33

Part 11 shall apply to DEC Claims subject to the following Rules. Part 12 shall not apply to DEC Claims.

58.34

Every defendant must file an acknowledgement of service within 14 days after service of the claim form.

58.35

The defendant must in the acknowledgement of service:

- (1) state whether the defendant wishes to dispute the Court’s jurisdiction to try the claim or argue that the Court should not exercise its jurisdiction, and if so, provide brief details of the grounds; and
- (2) provide brief details of any defence or counterclaim.

58.36

A defendant who files an acknowledgment of service does not, by doing so, lose any right that he may have to dispute the Court’s jurisdiction.

58.37

If a defendant states in his acknowledgment of service that he wishes to dispute the Court’s jurisdiction or argue that the Court should not exercise its jurisdiction and provides brief details of the grounds, he shall be treated as having made an application for an order declaring that the Court has no such jurisdiction or should not exercise any jurisdiction which it may have. The Court will give directions for the determination of the application at the First Case Management Conference.

58.38

If a defendant does not state in his acknowledgment of service that he wishes to dispute the Court’s jurisdiction or argue that the Court should not exercise its jurisdiction or does not provide details of the grounds, he shall be treated as having accepted that the Court has jurisdiction to try the claim.

Filing a Defence 58.39

58.39

A defendant may, but is not required to, file a defence prior to the First Case Management Conference.

Case Management 58.40 - 58.48

58.40

Part 26 (Case Management) does not apply to DEC Claims save as set out below.

58.41

Within 7 days of the earlier of these events:

- (1) service of acknowledgment of service; or
- (2) the date of an order transferring the claim to the Digital Economy Court;

the Court will fix a date for the First Case Management Conference.

58.42

The parties must prepare, agree (if possible) and file a preliminary list of issues not less than 7 days before the date fixed for the First Case Management Conference.

58.43

The list of issues should briefly identify the main issues of fact and law in a structured manner.

58.44

The list of issues is intended to be a neutral document for use as a case management tool and neither party should attempt to draft the list in terms which advances one party's case over that of another.

58.45

The following rules will apply to the First Case Management Conference: Rules 26.23 to 23.26 (inclusive) 26.34 to 26.36 (inclusive), 26.39, 26.40, 26.42, 26.49, 26.50, 26.51, 26.52 (save that the date for the reconvened Case Management Conference in the main claim will be fixed at the Case Management Conference) 26.53 and 26.54.

58.46

First Case Management Conferences will normally be heard by the Judge in charge of the Digital Economy Court.

58.47

In addition to the matters listed in Rule 26.35, at any Case Management Conference in a DEC Claim the Court will also consider the matters set out in Practical Guidance Note No. X of 2022 or any amendment thereto.

58.48

Following the First Case Management Conference the following rules shall apply: Rules 26.55 and 26.61-26.91 (inclusive).

Hearings 58.49

58.49

Unless the Court orders otherwise, all hearings will take place remotely with electronic hearing bundles or other digital presentation of material. Rule 23.83 shall not apply in the Digital Economy Court.

General 58.50 - 58.52

58.50

Rules 58.40 to 58.74 set out a special procedure for dealing with Consumer DEC Claims. While the procedure is intended primarily for consumer disputes arising from e-commerce transactions, digital payment platforms or marketplaces it may be used for non-consumer claims falling within its financial limits.

58.51

Subject to the provisions of this section of this Part, the Parties may agree that a claim shall be treated a Consumer DEC Claim before or after the claim has arisen.

58.52

Where a claimant issues multiple claims against the same defendant, the Court may treat those claims as a single claim under Rule 4.2(7) for the purposes of deciding whether the amount in dispute exceeds the financial limit in Rule 58.5(2)(a).

Service 58.53

58.53

All documents in a Consumer DEC Claim, including a claim form, may be served by any means reasonably likely to bring it to the attention of the party being served.

Commencement of proceedings 58.54 -58.63

58.54

A Consumer DEC Claim is commenced by issuing a Consumer DEC Claim Form.

58.55

The Consumer DEC Claim Form must:

- (1) state the claim against the defendant;

- (2) state the monetary value of the claim;
- (3) state the basis for the DIFC Court's jurisdiction; and
- (4) contain or attach all the evidence, legal submissions and other materials on which the claimant relies in support of the claim.

58.56

The Claimant must supply in the Consumer DEC Claim Form an email address for the defendant or, if an email address is unavailable, an address or other contact details to which documents can be sent physically or electronically.

58.57

On the filing of a Consumer DEC Claim:

- (1) the Court will determine whether the claim should be dealt with as a DEC Claim under Rule 58.5(1) or as a Consumer DEC Claim. If the Court does not consider that the claim should be dealt with as a DEC Claim under Rule 58.5(1) or as a Consumer DEC Claim, it may allocate the claim to the Court of First Instance or Small Claims Tribunal;
- (2) if the Court considers that the claim should be dealt with as a DEC Claim under Rule 58.5(1) it will inform the claimant who must follow the procedure set out in Section II of this Part;
- (3) if the Court considers that the claim may be dealt with as a Consumer DEC Claim,
    - (a) the Court will serve the Consumer DEC Claim Form and its supporting material on the defendant, unless the Court directs otherwise; and
    - (b) the case will be case managed and determined by the Judges of the Small Claims Tribunal pursuant to Rule 53.2(4).

58.58

The Court may at any time thereafter order that a Consumer DEC Claim be transferred to the Digital Economy Court if it considers the claim is unsuitable for the Consumer DEC Claim procedure. The Court may make such an order notwithstanding that the parties have consented to the claim being determined under the Consumer DEC Claim procedure.

58.59

The Court may at any time give any directions required to determine the Consumer DEC Claim.

58.60

Unless the Court orders otherwise, Consumer DEC Claims shall be conducted in private and judgments will be anonymised before publication.

58.61

Unless the Court orders otherwise, the paper determination procedure in Rules 58.64 to 58.69 shall apply where:

- (1) the value of the Consumer DEC Claim is AED100,000 or less; and
- (2) the value of any counterclaim is AED100,000 or less.

58.62

The Court will only make an order that claims falling in Rule 58.61 be determined at a hearing if there are exceptional circumstances justifying a hearing.

58.63

The parties may consent to a Consumer DEC Claim that does not fall in Rule 58.61 being determined under the paper determination procedure in Rules 58.64 to 58.69. If the parties do not settle the proceedings at the consultation, the Court will invite the parties to consider the paper determination procedure before it gives directions for a hearing.

Paper determination procedure 58.64 - 58.70

58.64

The Court will determine the Consumer DEC Claim and any counterclaim without a hearing and on the basis of the documents filed by the parties.

58.65

If the Court concludes a hearing is required, it will give directions for the hearing.

58.66

If the Consumer DEC Claim and any counterclaim are not settled at the consultation the claimant and defendant shall:

- (1) within 14 days or such other time as the Court orders, file and serve written submissions; and
- (2) within 14 days or such other time as the Court orders, file and serve response submissions.

58.67

Written submissions and response submissions must be accompanied by any documents and legal authorities on which the parties wish to rely.

58.68

Written submissions must be no longer than 20 pages and response submissions no more than 15 pages, without the Court’s prior permission.

58.69

The Court will generally determine the Consumer DEC Claim on the papers within 28 days from the filing of response submissions.

58.70

Save as set out in this Section, Consumer DEC Claims will be determined in accordance with Small Claims Tribunal Procedure set out in Part 53.

Appeals in Consumer DEC Claims 58.71 - 58.73

58.71

An appeal from a final judgment in a Consumer DEC Claim lies to the Digital Economy Court. An appeal must be made in accordance with Rules 53.84 to 53.118.

58.72

The Digital Economy Court will allow an appeal from a judgment in a Consumer DEC Claim only where the decision was:

- (1) wrong in law; or
- (2) unjust because of a serious procedural or other irregularity.

58.73

No appeal lies from a decision of the Digital Economy Court hearing an appeal in a Consumer DEC Claim without the permission of the Digital Economy Court which will only be given if the appeal raises a point of law of general public importance in which case Rule 44.178 shall not apply.