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DIFC COURTS'
CODE OF BEST LEGAL PROFESSIONAL PRACTICE

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DIFC COURTS CODE OF BEST LEGAL PROFESSIONAL PRACTICE

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FOREWORD

The DIFC Courts Code of Best Legal Professional Practice (the "Code") has been published by the DIFC Courts. It is intended that it should set the standard for professional conduct of all lawyers who operate within the DIFC, whether they are licensed to conduct business in the DIFC or authorised to appear as an advocate before the DIFC Courts. This means that the Code is applicable, not only to those who undertake contentious work in the DIFC Courts (whether such lawyers and firms are based in the DIFC or outside), but also applies to lawyers and firms undertaking non-contentious work, who are licensed to conduct business in the DIFC (and who are registered with and authorised by DFSA as Ancillary Service Providers).

The Code is not directly applicable in the sense that it has any legal or regulatory status. However, the failure by a DIFC lawyer or a DIFC firm to behave in accordance with the Code is likely to have consequences for that lawyer or firm in the event that such conduct becomes relevant to any case or hearing that comes before the DIFC Courts. The DIFC Courts will view the Code as a benchmark for behaviour and professional standards, against which actual conduct will be measured. In due course, those provisions which affect litigation lawyers will be incorporated into the existing Code of Professional Conduct for Legal Practitioners (Practice Direction No. 2 of 2009) and will become mandatory, while the provisions governing transactional lawyers will continue to be non-binding.

While the provisions of the Code are primarily drafted to cover transactions between DIFC lawyers, it is also intended that they should be read as applying to situations where DIFC lawyers interact with lawyers outside the DIFC, whether in Dubai or elsewhere. The term "Lawyer" when used in the Code to refer to another lawyer other than the lawyer whose conduct is being governed by the applicable Rule should therefore be read accordingly where the context permits.

Some parts of the Code are accompanied by an explanatory commentary. Although the commentary does not form part of the relevant provision of the Code, it explains how that provision is likely to be interpreted.

The Code itself is based on established professional conduct rules drawn from different jurisdictions. It has been the subject of review by those who practice in the UAE. It has also been the subject of public consultation. The result is the Code, adherence to which will result in a proper standard of conduct which is the hallmark of the legal profession and vital to the administration of justice within the DIFC.

Michael Hwang

Chief Justice, DIFC Courts



PART 1: INTRODUCTION

The DIFC Courts Code of Best Legal Professional Practice applies to lawyers and firms who are licensed to practise in the DIFC and to lawyers and Law Firms who are engaged by licensed DIFC entities to provide legal services to those entities within the DIFC. Essentially, it will apply to all individuals effectively practising law in the DIFC.

1. Authorisation to Practise Law

1.1 No person may act as a Lawyer¹ unless he is duly qualified² as such.

PART 2: RELATIONSHIP WITH THE CLIENT

2. Information regarding complaints

At the time of engagement a Lawyer must inform a client in writing of the name and status of the person(s) responsible for the conduct of the matter and the name of the person to whom complaints should be addressed (if different).

3. Changes in the composition of a Law Firm

- (a) Where a new Law Firm takes over from a Law Firm which has ceased to practise or an existing firm is dissolved and the partners divide into two or more Law Firms, the clients affected have a choice of which firm to instruct. The new Law Firm must not take over any client's matters, including papers or money previously held, without the client having first made his selection of Law Firm. Notification of any such change must be promptly made by letter, and an agreement reached with the client as to which of the Lawyers concerned is to continue to represent the client.**
- (b) The letter circulated to any client should explain the status of the matter and state the amount of the credit balance of that particular client's account.**
- (c) Where the partners disagree about the arrangements for notifying clients of a material change in the composition of the Law Firm, one or more partners may separately inform all the clients of the Law Firm. This document should be a short factual statement informing the clients of the change and may give the new practising addresses of each partner.**

In all cases notification letters should include a clear statement that the client is free to instruct any Lawyer or Law Firm of his choice.

¹ "Lawyer" and "Law Firms" in this context refers to a person or law firm who or which is providing legal services within the DIFC, as well as one who or which is providing legal services outside the DIFC but to DIFC resident clients in respect of matters within the DIFC.

² "duly qualified" means licensed to practice law or otherwise permitted to appear as an advocate in the DIFC Court.



4. Capability, Experience and Time

- 4.1 A Lawyer shall use all reasonably available legal means (consistent with the agreement pursuant to which he is retained) to serve his client's interest, subject to his other obligations under this Code.**
- 4.2 A Lawyer shall not undertake work in such a manner as to unnecessarily or improperly escalate his costs that are payable to him.**
- 4.3 A Lawyer shall at all times use his best endeavours to complete any work on behalf of a client as soon as is reasonably possible.**
- 4.4 If it becomes apparent to the Lawyer that he cannot do the work within a reasonable time, he should so inform the client.**
- 4.5 A Lawyer shall not accept instructions if, having regard to his other professional commitments, he will not be able to discharge or carry out such instructions diligently and expeditiously.**
- 4.6 A Lawyer shall not accept instructions in a field of practice in which he possesses insufficient knowledge, skill or experience to provide competent representation to the client unless -**
- (a) the Lawyer is able, without undue delay and cost to the client, or unless the client is agreeable to bear any further costs necessarily incurred, to obtain such knowledge and skill either through study and research or through the association with him of another lawyer (whether within or outside the same jurisdiction) of established competence in that field; or**
 - (b) where access to the relevant body of knowledge or to a lawyer of competence in the field is not readily available, the Lawyer informs the client of those facts and of the likely delay and cost in acquiring the requisite knowledge and skill and the client voluntarily consents to the Lawyer acting in the matter.**

Commentary

- (i) An isolated complaint that a Lawyer has provided professional services which are not of the quality that could reasonably have been expected of him would not normally amount to evidence of professional misconduct.ⁱ**

5. Independence and Integrity

- 5.1 A Lawyer shall not do anything which might compromise or impair:**
- (a) his independence or integrity;**
 - (b) a client's freedom to instruct a Lawyer of his choice;**



- (c) **the Lawyer's duty to act in the best interests of his client;**
- (d) **the good reputation of the Lawyer or his profession;**
- (e) **the Lawyer's proper standard of work; or**
- (f) **the Lawyer's duty to the court.**

The circumstances of each case will dictate which duties may take priority over others.

Commentary

(i) It is fundamental to the relationship which exists between a Lawyer and his client that a Lawyer is able to give impartial advice to his client free from any conflict of interest or other external or adverse pressures which would destroy or weaken his professional independence or the relationship of trust and confidence that must exist between lawyer and client.

(ii) A potential client who has been improperly influenced in his choice of Lawyer cannot be said to have had a free choice. Improper influence can come from the Lawyer or from a third party.

(iii) Where a Lawyer has reason to suspect that a client may have been improperly influenced in his selection of the Lawyer, the Lawyer must ensure that the client's freedom of choice has not been restricted.

(iv) A Lawyer must not allow his client to override his professional judgment, for example by insisting on the Lawyer acting in a way which is contrary to law or to any Rule in this Code.

5.2 A Lawyer shall not appear before a Court in a matter where –

- (a) **the matter is one in which he has reason to believe that he is likely to be a witness unless:**
 - (i) **his evidence is likely to be purely formal or uncontroversial; or**
 - (ii) **he is not appearing as an advocate in the case**
- (b) **by reason of his relationship with the client it would be difficult for the Lawyer to maintain his professional independence; or**
- (c) **by reason of his relationship with the Court or a member thereof the impartial administration of justice might appear to be prejudiced to a reasonable and fully informed member of the public.**



6. Explanations to the Client³

- 6.1 A Lawyer should provide his client with an engagement letter at the outset in which all rights and obligations between Lawyer and Client are set out.**
- 6.2 A Lawyer shall keep the client reasonably informed of the progress of the client's matter.**
- 6.3 At the time of engagement, the Lawyer must inform the client in writing of:**
- (i) the basis upon which fees for professional services will be charged and the manner in which it is expected that those fees and disbursements, if any, shall be paid by the client;**
 - (ii) any reasonably foreseeable payments the client may have to make either to the Lawyer or to a third party and the stages at which payments are likely to be required;**
 - (iii) a good faith estimate of the fees and other payments, which shall not vary substantially from the final amount, unless the client has been informed of the changed circumstances in writing; and**
 - (iv) the fact that the fees may be subject to a limit which may be incurred without further reference, and where the limit imposed on the fees is insufficient, the Lawyer will obtain the client's instructions as to whether to continue with the matter.**
- 6.4 Lawyers' fees should be based on the following factors:**
- (a) the time and effort required and spent;**
 - (b) the difficulty, novelty and importance of the matter;**
 - (c) whether special skill or service has been required and provided;**
 - (d) the amount involved or the value of the subject-matter;**
 - (e) the results obtained;**
 - (f) fees authorised by statute or regulation if any;**
 - (g) special circumstances, such as the loss of other retainers, postponement of payment, uncertainty of reward, or urgency.ⁱⁱ**

³ See also Rule 9 (Fees)



- 6.5 On accepting an engagement, the Lawyer should give his client the best information he can about the likely costs of the matter.**
- 6.6 In taking instructions and during the course of the retainer, the Lawyer should have proper regard to the client's mental capacity or other vulnerability, such as incapacity or duress**
- 6.7 A Lawyer shall explain, in a clear manner, proposals of settlement and other offers made or positions taken by other parties which affect the client.**
- 6.8 A Lawyer shall ensure that any offers or proposals of settlement are explained to the client in the language that he understands.**

7. Client Interest

- 7.1 A Lawyer shall not act in association with any non-lawyer whose business is to prosecute claims arising out of death or personal injury and who receives contingency fees in respect of such claim.**

Commentary

- (i) This Rule shall not prevent a Lawyer from acting in association with a person entitled to practice as a Lawyer in the UAE.

- 7.2 A Lawyer is generally free to decide whether to accept instructions from any particular client.**

Commentary

- (i) Any refusal to act must not be based upon the race, colour, ethnic or national origins, sex or creed of the prospective client.

- 7.3 A Lawyer who has acted for a client or whose Law Firm has acted for a client in a matter shall not thereafter act against the client (or against persons who were involved in or associated with the client in that matter) in the same or any related matter. (see also Rule 12.13 below).**

- 7.4 A Lawyer shall ensure that an agent giving instructions on behalf of a client has the required authority to do so and, in the absence of evidence of such authority, the Lawyer shall, within a reasonable time thereof, confirm the instructions with the client.**

- 7.5 A Lawyer should not knowingly assist his client in any activities that are illegal either for the Lawyer or his client.**



Commentary

- (i) For this purpose “knowingly” includes willfully ‘turning a blind eye’ to matters which are obviously illegal or require further enquiry about their legality by the lawyer.

7.6 A Lawyer must not act where his client's instructions will involve the Lawyer in a breach of the law or breach of professional conduct nor shall he advise his client in a matter when the Lawyer knows or has reasonable grounds to believe that the client is requesting the advice to advance an illegal purpose.

Commentary

- (i) A Lawyer who has accepted instructions to act is under a duty to observe the law and this Code and a client must accept the limitations imposed thereby.

7.7 A Lawyer must refuse to take action which he believes is solely intended to gratify a client’s malice or vindictiveness.

7.8 Unless acting as co-counsel, a Lawyer (contentious or transactional) must not act in a matter where another Lawyer is already acting for the client in respect of the same matter (other than giving a second opinion without a change of legal representation for the client).

Commentary

- (i) This Rule does not stop a Lawyer from giving a second opinion without the first Lawyer's knowledge. However, the Lawyer giving the second opinion must carefully consider whether he has sufficient information to give such an opinion. Further, the second Lawyer shall not improperly seek to influence the client to determine the first Lawyer's retainer.

7.9 A Lawyer who finds, on receiving instructions, that acceptance of the instructions would amount to his replacing another Lawyer who has previously been instructed in the same matter, shall inform the other Lawyer that instructions have been given to him and advise the client to pay the outstanding costs, if any, of the other Lawyer before accepting the brief.

7.10 When, in connection with a matter for which a Lawyer is responsible, the Lawyer discovers an error or omission on his part that is or may be damaging to the client and that cannot be rectified readily, the Lawyer shall:

- (a) promptly inform the client of the error or omission, being careful not to prejudice any rights of indemnity that either of them may have under an insurance policy or indemnity plan, or otherwise;
- (b) recommend that the client obtain legal advice elsewhere concerning any rights the client may have arising from the error or omission; and



- (c) **advise the client that, in the circumstances, the Lawyer may no longer be able to act for the client.**

7.11 Where, through conflict of interest, a Lawyer has recommended to a client that the client seek alternative legal representation, the Lawyer may charge, subject to any other fee arrangements that have been agreed in advance, only for those items which clearly need not be duplicated by the alternative Lawyer.

8. Termination of Relationship

8.1 A Lawyer must not terminate his relationship with his client except for good reason and after reasonable notice.

8.2 Reasons for which a Lawyer can terminate the relationship are as follows:-

- (a) **at any time and for any reason if the withdrawal will cause no significant harm to the client's interest and the client is fully informed of the consequences of withdrawal;**
- (b) **if the Lawyer reasonably believes that continued engagement in the case or matter would be likely to have a serious adverse effect upon his health;**
- (c) **if a client breaches an agreement with the Lawyer regarding fees or expenses to be paid by the client or regarding the client's conduct;**
- (d) **if a client makes material misrepresentations about the facts of the case or matter to the Lawyer;**
- (e) **if a Lawyer has an interest in any case or matter in which the Lawyer is concerned for the client which is adverse to that of the client;**
- (f) **where such action is necessary to avoid a contravention by the Lawyer of UAE or DIFC Law or this Code; or**
- (g) **where any other good reason exists.**

Commentary

Examples of good reasons include:

- (i) where a Lawyer is unable to obtain clear instructions from a client;
- (ii) where there is serious breakdown in the confidence between them; or
- (iii) where the retainer may be limited by the client's or Lawyer's bankruptcy or cases of impaired physical or mental health. Where the client's judgment is impaired by mental health problems, the Lawyer should consult with the client's relatives.



8.3 A Lawyer shall cease to act for a client if -

- (a) **the client refuses to authorise him to make some disclosure to the Court which his duty to the Court requires him to make;**
- (b) **the Lawyer having become aware during the course of a case of the existence of a document which should have been but has not been disclosed on discovery, the client fails forthwith to disclose it; or**
- (c) **having come into possession of a document belonging to another party by some means other than the normal and proper channels and having read it, he would thereby be embarrassed in the discharge of his duties by the knowledge of the contents of the document.**

8.4 On termination of the relationship a Lawyer should, subject to his lien for unpaid fees, deliver to the client all papers and property to which the client is entitled. In the event that a new Lawyer undertakes to protect the original Lawyer's lien for costs, the original Lawyer will not be entitled to exercise his lien but must hand over all papers and other property belonging to his former client to that new Lawyer.

Commentary

- (i) Where a lien arises over a client's documents delivered to a Lawyer in his professional capacity for costs due and work performed, such documents can be retained until those costs are paid. The lien does not entitle the Lawyer to sell or dispose of the client's property.

9. Fees

9.1 A Lawyer shall not render a bill (whether the bill is subject to assessment or otherwise) which amounts to such gross overcharging that it is likely to affect the integrity of the profession.

Commentary

- (i) A Lawyer should explain to the client the work which is likely to be involved in carrying out his instructions and the time which may be taken, both of which will have direct relevance to the likely amount of fees.
- (ii) Wherever possible, a Lawyer should, when requested by a client, give an estimate of the likely costs of acting in a particular matter. If, because of the nature of the work, a Lawyer cannot give an estimate of his fees and disbursements, he should inform the client accordingly and should give the best general forecast he can, taking care to inform the client about the costs as the matter proceeds, at least once in every six months.



- (iii) When giving estimates, a Lawyer should take care not to bind himself to an agreed fee unless this is his intention. To give an unrealistically low estimate solely to attract work and then to charge a higher fee is improper because it misleads the client as to the true or likely costs.
- (iv) A Lawyer should inform the client immediately it appears that his estimate will be exceeded. He should not wait until submitting his fee statement.
- (v) If it is a Lawyer's normal practice to increase fee rates on an annual basis he must point this out to the client at the start of the retainer, even if he cannot say at that stage what the new rates will be.

9.2 A Lawyer or law firm shall not tout for business or do anything which is likely to lead to the reasonable inference that it is done for the purpose of touting.

9.3 A Lawyer may not receive a contingency fee in respect of any litigious or contentious action.

Commentary

- (i) Any arrangement whereby a Lawyer is to be rewarded in the event of success by a share in the proceeds or the subject matter of the action, amounts to a contingency fee arrangement. An arrangement whereby a Lawyer receives an uplift in fees (but not a share in the proceeds) is a conditional fee arrangement and is not prohibited.
- (ii) There should be no arrangement for the Lawyer either to receive or to pay a contingency fee. This Rule only relates to agreements which involve the institution of proceedings. It would not be unlawful for a Lawyer to enter into an agreement on a commission basis to recover debts due to a client, provided that the agreement is limited strictly to debts which are recovered without the institution of legal proceedings.
- (iii) Unless otherwise agreed at the outset with a professional agent or other person whom he instructs on behalf of his client, a Lawyer is personally responsible for paying the proper costs of any such professional agent or other person, including a Lawyer practicing outside the UAE.
- (iv) For the avoidance of doubt, this Rule covers the costs of experts as well as professional and ordinary witnesses and enquiry agents, but not the amount of witness allowances due to witnesses who appear under subpoena.
- (v) If the Lawyer and the agent have agreed to a fee in advance, this will be the sum which will be payable.



9.4 A Lawyer shall, at the outset of a contentious matter and at appropriate stages thereafter, explain to the client the following:

- (a) that, in any event, the client shall be personally responsible for payment of his own Lawyer’s legal fees and expenses in full regardless of any order for costs made against the opponent;
- (b) that, in the event the client loses, he may have to pay his opponent's legal fees and expenses as well as his own; and
- (c) that, even if the client wins, his opponent may not be ordered to pay the full amount of the client's own legal fees and expenses and may not be capable of paying what has been ordered.

10. Conflicts of Interest

Conflicts of interest can arise between a Lawyer and a current client (“own interest conflict”); and between two or more current clients (“client conflict”)

10.1 Where a client intends to make a significant gift to -

- (a) a Lawyer acting for him;
- (b) any member of the law firm of the Lawyer;
- (c) any member, director or employee of the law corporation of the Lawyer;
- (d) any partner or employee of the limited liability law partnership of the Lawyer; or
- (e) any member of the family of the Lawyer;

the Lawyer shall not accept the gift unless he has first advised his client to take legal advice in respect of the gift.

10.2 The fact that his client has seen a lawyer may not necessarily rebut the presumption of undue influence, and the Lawyer must not assume that such a consultation will validate the gift in all circumstances.

10.3 A Lawyer must not act where there is a conflict of interest or potential conflict of interest between his client and himself. There is a presumption that there is a conflict of interest where a Lawyer in his personal capacity sells to, or purchases from, or lends to or borrows from his own client.



10.4 A Lawyer must at all times disclose whenever he has or might obtain any personal interest or benefit in a transaction in which he is acting for the client. In such circumstances, a Lawyer must insist that his client receives independent advice.

Commentary

- (i) Independent advice means, not only legal advice, but (where appropriate) competent advice from a member of another profession, such as an accountant or valuer.
- (ii) The interests of the Lawyer referred to in this Rule may be direct (for example, where a Lawyer seeks to sell or buy property from his client), or indirect (for example, where a Lawyer recommends the client to invest in a concern in which the Lawyer is interested).

10.5 Lawyers may not act if there is an own interest conflict or a significant risk of an own interest conflict;

10.6 Lawyers may not act if there is a client conflict, or a significant risk of a client conflict, unless the circumstances set out in sub-paragraphs (a) or (b) below apply;

(a) Where there is a client conflict and the clients have a substantially common interest in relation to a matter or a particular aspect of it, a Lawyer may only act if:

- i. he has explained the relevant issues and risks to the clients, who accordingly have a reasonable belief that they understand those issues and risks;
- ii. all the clients have given informed consent in writing to him acting;
- iii. he is satisfied that it is reasonable for them to act for all the clients and that it is in the best interests of each of the clients; and
- iv. he is satisfied that the benefits to the clients of them doing so outweigh the risks.

(b) Where there is a client conflict, and the clients are competing for the same objective, a Lawyer should only act if:

- i. he has explained the relevant issues and risks to the clients, who accordingly have a reasonable belief that they understand those issues and risks;



- ii. the clients have confirmed in writing that they want the Lawyer to act, in the knowledge that the Lawyer acts, or may act, for one or more other clients who are competing for the same objective;
- iii. there is no other client conflict in relation to that matter; unless the clients specifically agree, no individual acts for, or is responsible for the supervision of work done for, more than one of the clients in that matter; and
- iv. they are satisfied that it is reasonable for them to act for all the clients and that the benefits to the clients of them doing so outweigh the risks.

10.7 This Rule 10 applies to Law Firms as well as Lawyers, and the term “Lawyer” wherever appearing in this Rule shall be construed accordingly.

11. JOINT RETAINERS

11.1 Where a Lawyer accepts employment from more than one client in a matter or transaction, the Lawyer shall advise the clients that:

- (a) the Lawyer has been asked to act for both or all of them;
- (b) no information received in connection with the matter from one can be treated as confidential so far as any of the others are concerned;
- (c) if a conflict develops that cannot be resolved, the Lawyer cannot continue to act for both or all of them and may have to withdraw completely.

11.2 Where instructions are given by someone other than the client, or by only one client on behalf of others in a joint matter, a Lawyer must not proceed without checking that proper authorization has been given by the client to the putative agent to give instructions to the Lawyer for that client.

12. CONFIDENTIALITY

12.1 A Lawyer shall not in any way, directly or indirectly -

- (d) disclose any confidential information which the Lawyer receives as a result of the retainer; or
- (e) disclose the contents of the papers recording such instructions,

unless with the consent of the client or where required by law or order of court.

Commentary

- (i) Any knowledge acquired by a Lawyer whilst acting for the former client is confidential and cannot be disclosed without that client's



consent. However, a Lawyer is under a duty to his present client to inform him of all matters which are material to his case. Consequently, a Lawyer in possession of knowledge concerning his former client which is, or might be relevant, is put in an impossible position and he cannot act against that client.

- 12.2 If a Lawyer would feel embarrassed in acting against his former client, he should not act.**
- 12.3 A Lawyer who has acted jointly for both husband and wife in matters of common interest must not act for one of them in proceedings where he is in possession of confidential information concerning the other, which could not have been obtained if he had not acted for both.**
- 12.4 Where a Lawyer has acted jointly for members of a family and is then asked to act against one or more of his former clients, Rule 12.3 above will apply.**
- 12.5 Where a Lawyer has acted for both lender and borrower in the making of a loan, he should not then act for the lender against the borrower to enforce repayment if he has obtained confidential information, e.g. of the borrower's financial position, when acting for him in connection with the original loan.**
- 12.6 Where a Lawyer has acted for a partnership or in the formation of that partnership, he may only accept instructions to act against an individual partner or former partner provided he has not obtained confidential information about that individual whilst acting for the partnership or in its formation.**
- 12.7 A Lawyer who has acted for a company in a particular matter and also has separately acted for directors and/or shareholders in their personal capacity in the same matter may not act for either the company or the other parties if litigation ensues between them in respect of that matter.**
- 12.8 A Lawyer is under a duty to keep his client's business and affairs confidential and to ensure that his staff do the same. It is the responsibility of a Lawyer to ensure compliance, unless the Lawyer is under a legal duty to disclose such information.**
- 12.9 If a Lawyer, acts for two or more clients jointly, information communicated to the Lawyer in his capacity as Lawyer acting for only one of the clients in a separate matter must not be disclosed to the other clients without the consent of the one client.**
- 12.10 Where two or more firms merge, the information which each firm has obtained when acting for its particular client will pass to the new merged firm as a result of an express or implied change of retainer. Consequently, care should be taken that such information is kept confidential and any conflict or interest is avoided, as a result of the new firm acting for clients who were previously represented by independent Lawyers or firms.**



12.11 A Lawyer is not always under a duty to pass on to his client and use all information which is material to the client's business.

Commentary

- (i) If a Lawyer is offered information from another Lawyer or any other source, which he is asked to treat as confidential and not disclose to his client, he should consider carefully before accepting such confidential information. Generally, since the Lawyer is the agent of his client, all information coming into his possession relating to his client's affairs must be disclosed to his client. It is, therefore, undesirable that a Lawyer on the one side should seek to pass on to the Lawyer on the other side information which is not to be disclosed to the other side's client. Equally, the recipient should decline to accept such confidential information. The foregoing warning shall not apply if directions to the contrary are ordered by the Court in discovery.
- (ii) There might, however, be certain circumstances where the disclosure to the client of information received by the Lawyer could be harmful to the client because it will affect his mental or physical condition. It will be for the Lawyer to decide whether to disclose such information to his client, such as a medical report disclosing a terminal illness.

12.12 A Lawyer should not seek to obtain information from private correspondence or documents belonging to the other side. This includes not reading letters addressed to someone other than himself or his firm.

Commentary

- (i) If, however, the contents of such documents otherwise come to his knowledge, he is entitled and may have a duty to use the information for the benefit of his client. He should, however, disclose his intention to the other side.

12.13 Subject to Rules 12.14 and 12.15 below, a Lawyer shall decline to represent, or withdraw from representing, a client (referred to in this Rule as the other client) in a matter if:

- (a) **The Lawyer has acquired confidential information concerning a former client as a consequence of having acted for that client - he must not accept instructions to act against him if a reasonable, and fully informed member of the public would think it likely that the Lawyer would use such confidential information in the course of acting against the former client. (see also Rule 7.3 above); and**
- (b) **the other client has an interest adverse to the interest of the former client; and**
- (c) **that information is material in representing the other client in that matter.**



12.14 This Rule shall not prevent a Lawyer or his Law Firm from acting or continuing to act for the other client, subject to any conditions agreed between the former client and the Lawyer or his Law Firm, as the case may be, if the former client:

- (a) **has been fully informed and advised that he should seek independent legal advice; and**
- (b) **consents in writing to the Lawyer or his Law Firm, as the case may be, acting or continuing to act for the other client.**

12.15 Where it is not reasonably possible to satisfy the requirements of Rules 12.13 and 12.14, this shall not prevent a Lawyer or his law firm, as the case may be, from acting or continuing to act for the other client if there are adequate safeguards in place to protect the former client’s confidential information.

12.16 In this Rule:

“his Law Firm”, in relation to a Lawyer, means a law practice in which the Lawyer is a member or any partner, director or employee of that law practice;

“member”, in relation to a law practice, includes any partner, director or employee of the law practice.

13. Duty to Provide Effective Service

13.1 A Lawyer must carry out his work with due care and skill, and keep his client properly informed.

Commentary

- (i) There is nothing to prevent a Lawyer at the outset from limiting the scope of the retainer, but the limits of the retainer should be precisely defined and communicated in writing to the client.

A Lawyer is obliged to deal promptly with correspondence. When a Lawyer receives letters from persons who are not his clients and to whom he owes no professional duty, or letters which do not relate to the business of a client or former client, failure to provide a substantive reply would not normally amount to professional misconduct. However, as a matter of courtesy, the Lawyer should acknowledge such letters, adding that he will not entertain any further correspondence.

PART 3: THE LAWYER AND THE COURT⁴

⁴ Even though this part of the Code may not always be applicable on a daily basis, all Lawyers in both a contentious and non-contentious capacity have obligations towards the Court. Note that the right to practise in the DIFC Court is conditional upon observance of the **DIFC Court Code of Conduct** (http://www.difccourts.ae/about_the_courts/attending/code_of_conduct.html), which applies in addition to



14. THE LAWYER'S OBLIGATION TO THE COURT

- 14.1 A Lawyer would be guilty of unbecoming conduct if he were to call a witness whose evidence the Lawyer knows to be untrue.**
- 14.2 Except when making a formal application to the Court, a Lawyer must not discuss a case with a judge save in the presence of the Lawyer for the other party.**
- 14.3 A Lawyer must never knowingly or recklessly deceive or mislead the Court.**
- 14.4 A Lawyer or Law Firm shall not engage in conduct involving dishonesty, fraud, deceit, or deliberate misrepresentation.**
- 14.5 A Lawyer should at all times act in good faith and be civil and courteous in his dealings with the Court**

Commentary

- (i) The Court must be advised of relevant cases and statutory provisions by the Lawyers on both sides whether the effect is favourable or unfavourable towards the contention being advanced; if one of them omits a relevant case or provision or makes an incorrect reference to a case or provision, it is the duty of the other to draw attention to it even if it assists his opponent's case.
- (ii) A Lawyer shall never knowingly make any incorrect statement of fact or law to the Court and shall correct any material error or omission at the earliest opportunity.
- (iii) A Lawyer who knows of facts which would assist his adversary is not under any duty to inform his adversary or the Court of this to the detriment of his own client.
- (iv) Lawyers should not knowingly assist their clients in disobeying orders or directions of the Court.
- (v) A Lawyer who appears for the plaintiff, the defendant or any other party in civil proceedings is under no duty of disclosure to the other parties or the Court, save that he is bound to reveal all relevant cases and statutory provisions. Moreover, save in exceptional circumstances, the client's privilege precludes him from making a disclosure of privileged material without the client's consent. However, the Lawyer should not act in such a way that his failure to disclose would deceive the Court.

this Code. It is intended eventually to replace the existing Court Code by a new Code incorporating the provisions of this Code which are applicable to litigation lawyers into the revised Court Code.



- 14.6 If a written communication is to be made to the judge at any time, the Lawyer should at the same time deliver a copy of it to the opposing Lawyer or to the opposing party if he is not legally represented.**

Where, after a hearing, judgment is reserved and a relevant point of law' is subsequently discovered, a Lawyer who intends to bring it to the judge's attention should inform the Lawyer on the other side. The other Lawyer should not oppose the introduction of a new case which affects the authority of any case previously cited by either party, but will be entitled to object to the introduction of any point of law that has not previously been pleaded or argued. This rule does not apply to applications properly made without notice.

- 14.7 It is an implied term of a Lawyer's retainer that he is free to present his client's case at the trial or hearing in such a way as he considers appropriate. If the client's express instructions do not permit a Lawyer to present the case in what the Lawyer considers to be the most appropriate manner he may withdraw from the case after seeking the approval of the Court, but without disclosing matters which are protected by the client's privilege of confidentiality.**

- 14.8 In general, there is no duty upon a Lawyer to enquire in every case where he is instructed as to whether the client is telling the truth. However, where the client's instructions are such (whether because of their inherent implausibility or of other information coming to the Lawyer's knowledge) as should put a Lawyer on enquiry, the Lawyer must, where practicable, check the truth of what the client tells him to the extent that such statements will be relied on before the Court or in pleadings or affidavits.**

- 14.9 If, either before or during the course of proceedings, the client makes statements to his Lawyer which are inconsistent, this is not of itself a ground for the Lawyer to refuse to act further on behalf of the client. Only where it is clear that the client is attempting to put forward false evidence to the Court should the Lawyer cease to act. In other circumstances, it would be for the Court, and not the Lawyer, to assess the veracity of the client's statement.**

- 14.10 A Lawyer must not make or offer to make payments to a witness which are contingent upon the nature of the evidence given or upon the outcome of a case.**

Commentary

- (i) Payment of reasonable expenses and reasonable compensation for loss of time attending Court may be paid to witnesses, In the case of an expert witness, there is an implied obligation to pay a reasonable fee.
- (ii) A Lawyer, on his client's instructions, may insert advertisements for witnesses to come forward as to a particular occurrence.

15. NO COMMUNICATION WITH WITNESSES UNDER CROSS-EXAMINATION



- 15.1 A Lawyer shall not interview or discuss with a witness, whom the Lawyer has called, his evidence or the evidence of the other witnesses while such witness is under cross-examination.**
- 15.2 Rule 15.1 shall not prevent the Lawyer from communicating with his client (while the latter is giving evidence) for any purpose necessary to the proper management of the matter being handled by him or his law firm or a law corporation of which he is a director or an employee or a limited liability law partnership of which he is a partner or an employee.**
- 15.3 Subject to Rule 5.2(a) a Lawyer shall not accept instructions in a case in which the Lawyer has reason to believe that he is likely to be a witness on a material question of fact.**
- 15.4 Subject to Rule 5.2(a), a Lawyer shall discharge himself from representing a client if it becomes apparent to the Lawyer that he is likely to be a witness on a material question of fact .**
- 15.5 In discharging himself, the Lawyer shall take all reasonable steps to ensure that his client's interest is not in any way jeopardised.**
- 15.6 A Lawyer may interview and take statements from any witness or prospective witness at any stage in the proceedings, whether or not that witness has been interviewed or called as a witness by another party to the proceedings except that, if the Lawyer is aware that the witness has been called or issued a subpoena to appear in Court by the other party to the proceedings, he shall inform the Lawyer of the other party of his intention to interview or take statements from the witness. If such awareness only occurs during the witness interview the Lawyer shall immediately after such interview inform the Lawyer for the other party of such interview.**
- 15.7 Where a client, prior to or in the course of any proceedings, admits to his Lawyer that he has committed perjury or misled the Court, the Lawyer must decline to act further, unless the client agrees to disclose fully his conduct to the Court.**
- 15.8 A Lawyer must comply with any order of the Court requiring him or his law firm to do or refrain from doing something; equally, a Lawyer is bound to honour his undertakings given to the Court.**

Commentary

- (i) A Lawyer must not aid or abet his client where the client refuses to obey a lawful court order.
- 15.9 A Lawyer who gives a statement to the press must ensure that he does not become in contempt of Court by publishing any statement which is calculated to interfere with a fair trial of a case which has not been concluded.**



15.10 A Lawyer when conducting proceedings in Court -

- (a) shall be personally responsible for the conduct and presentation of his case and shall exercise personal judgment upon the substance and purpose of statements made and questions asked;
- (b) shall not express his personal opinion of his client's rights or liabilities or allow his personal feelings to affect his professional assessment of the facts or the law or to affect his duty to the Court;
- (c) shall bring any procedural irregularity to the attention of the Court during the hearing and not reserve such matter to be raised on appeal or in setting aside proceedings; or
- (d) shall not suggest that a witness or other person is guilty of any crime, fraud or misconduct or attribute to another person the conduct of which his client is accused unless such allegations go to a matter in issue (including the credibility of the witness) which is material to his client's case and which appear to him to be supported by reasonable grounds.ⁱⁱⁱ

15.11 A Lawyer shall not contrive facts which will assist his client's case or draft any originating process, pleading, affidavit, witness statement or notice or grounds of appeal containing –

- (a) any statement of fact or contention (as the case may be) which is not supported by his client's instructions or by other reasonably credible material;
- (b) any allegation of fraud unless he has clear instructions to make such allegation and has before him reasonably credible material which as it stands establishes a prima facie case of fraud; or
- (c) in the case of an affidavit or witness statement, any statement of fact other than the evidence which in substance according to his instructions the Lawyer reasonably believes the witness would give if the evidence contained in the affidavit or witness statement were being given orally.

15.12 A Lawyer when conducting proceedings in Court shall not be assertion in a speech make an allegation against a witness whom he had an opportunity to cross-examine unless in cross-examination he has given the witness an opportunity to answer the allegation.

PART 4: RELATIONS WITH OTHER LAWYERS

16. Relations with other Lawyers

16.1 A Lawyer must act towards other Lawyers honestly, co-operatively and with civility, consistent with his overriding duty to his client. A Lawyer shall not



voluntarily disclose to the Court any discussions between himself and the Lawyer acting for another party without the consent of the other Lawyer.

Commentary

- (i) Any fraudulent or deceitful conduct by one Lawyer towards another will render the offending Lawyer liable to disciplinary action, in addition to the possibility of civil or criminal proceedings.
- (ii) This Rule also requires a Lawyer to honour his word given in a professional capacity whether or not in writing.
- (iii) A Lawyer must at all times maintain his personal integrity and courtesy towards other members of the profession or their staff, no matter how bitter the feelings between clients.
- (iv) A Lawyer must not write offensive letters to other members of the profession, whatever the degree of bad feeling existing between the respective clients.
- (v) As a matter of courtesy between Lawyers, if a Lawyer proposes to record by electronic means a conversation with another Lawyer, then he should inform the other Lawyer of his intention.

16.2 A Lawyer who has been instructed in a matter should not interview or otherwise communicate with anyone on the matter who has retained another Lawyer to act in that matter except with that other Lawyer's consent. This rule does not apply where a notice is required by legislation or by contract to be served personally on the other Lawyer's client.

Commentary

- (i) A Lawyer should not write directly to the client of another Lawyer where he has reason to believe that the other Lawyer 's retainer has not been determined.
- (ii) Despite the above Rule, a Lawyer may write directly to the client of another Lawyer if that Lawyer fails to reply to letters. However, this step should only be taken after warning the other Lawyer of the intention to write directly to his client. It is also courteous to copy such correspondence to the other Lawyer.

17. ALLEGATIONS AGAINST ANOTHER LAWYER

17.1 A Lawyer whose client has given instructions to include in an affidavit to be sworn whether by the client or his witness, an allegation of misconduct made against another Lawyer, shall give the other Lawyer an opportunity to answer the intended allegations before filing such affidavit.

17.2 In such a case, the answer of the other Lawyer shall be included in the affidavit before the same is deposed to, filed and served.

18. PROFESSIONAL UNDERTAKINGS



18.1 An undertaking is defined as any unequivocal declaration of intention addressed to someone who reasonably relies on it and made by a Lawyer in the course of his practice, either personally or by a member of his staff; or a Lawyer in his capacity as such but not in the course of his practice whereby the Lawyer becomes personally bound.

Commentary

- (i) A professional undertaking may be given orally or in writing.
- (ii) Although an oral undertaking has the same effect as a written one, there may be evidentiary problems as to its existence unless there is a contemporaneous note or written confirmation of its terms. If the recipient confirms the terms of the oral undertaking and the giver does not promptly repudiate those terms, this is likely to be accepted as sufficient evidence of the existence and terms of the undertaking.
- (iii) A Lawyer has no obligation either to give or receive an undertaking, nor can a Lawyer be required to stand guarantor for his client by way of an undertaking.
- (iv) A promise to give an undertaking at some future date will be treated as an undertaking, provided the promise sufficiently identifies the terms of the undertaking and provided any conditions precedent have been satisfied.

18.2 A Lawyer who fails to honour the terms of a professional undertaking is *prima facie* guilty of professional misconduct.

18.3 An undertaking will normally be required to be honoured only as between the giver and the recipient.

Commentary

- (i) Normally compliance with an undertaking will be required only at the instance of a recipient.
- (ii) Where a Lawyer has received an undertaking for the benefit of his client and the client instructs another Lawyer in his place and, unless for good reason the former Lawyer objects, the benefit of the undertaking will remain vested in the client and can be enforced at the client's request by the new Lawyer.
- (iii) A Lawyer cannot assign the burden of an undertaking (and thus claim to be released from its terms) without the express approval of the recipient.



- (iv) Where a Lawyer acquires a practice from another and consequently takes over the conduct of a matter in which there is an undertaking outstanding, the acquiring Lawyer is not liable on the undertaking unless he accepts liability by expressly or impliedly adopting the undertaking. If he does adopt the undertaking, the giver of the original undertaking nevertheless remains liable under it until he expressly obtains a release from the recipient. An undertaking is still binding even if it is to do something outside the Lawyer's control.
- (v) Before giving any undertaking a Lawyer must carefully consider whether he will be able to satisfy it. It is no defence to a complaint of professional misconduct that the undertaking was to do something outside the Lawyer's control.
- (vi) If an undertaking involves the payment of money, a Lawyer must decide whether he is able to give such an undertaking, since he can be required to discharge this out of his own resources. He must consider the possibility of his client being made bankrupt. A client's bankruptcy will not discharge such an undertaking.

18.4 A Lawyer cannot avoid liability on an undertaking by pleading that to honour it would be a breach of his duty owed to his client.

Commentary

- (i) Since a Lawyer will be personally bound to honour his undertakings, it is essential that before giving an undertaking he has his client's express or implied and irrevocable authority to do so.
- (ii) Where a Lawyer gives an undertaking without such authority and as a result the client suffers loss, the client's remedies may include, where appropriate, a claim of negligence against the Lawyer.

18.5 If a Lawyer gives an undertaking in the name of his Law Firm; that Law Firm will be bound by the terms of that undertaking

19. LETTER OF DEMAND

19.1 A Lawyer shall not, in his letter of demand, demand anything other than what he reasonably believes to be recoverable by due process of law

PART 5: FINANCIAL REGULATIONS - LAWYERS' ACCOUNTS⁵.

20. CATEGORIES OF MONEY

⁵ The Rules in Part 5 shall apply to Law Firms as well as individual Lawyers and the term "Lawyer" wherever appearing in this part shall be construed to include Law Firms (where the context so permits).



20.1 These Rules apply to the following categories of money –

- (a) Client money – money held or received for or on behalf of one or more clients which is being held on behalf of the client(s) or to the client(s)' order, and all money which is not office money; or**
- (b) Office money – money which belongs to a Lawyer or his Law Firm**

21. CLIENT MONEY

21.1 Client money includes money held or received –

- (a) As agent, bailee, stakeholder, donee of power of attorney, on or behalf of a client, or liquidator;**
- (b) For advance payment of unpaid professional disbursements; and/or as payment on account of costs generally;**
- (c) As stakeholders' funds; and**
- (d) As a financial benefit paid in respect of a client, unless the client has given prior authority to retain it.**

A cheque that represents money partly due to a client and partly due to a Lawyer for his fees and/or expenses, shall be considered client money.

22. OFFICE MONEY

22.1 Office money includes –

- (a) Money held or received in connection with the running of a law firm;**
- (b) Interest on general client accounts;**
- (c) Payments made in respect of fees due to the firm against a written notification of costs incurred or invoice, which has been sent to the client;**
- (d) Disbursements already paid by the Law Firm;**
- (e) Disbursements incurred but not yet paid by the Law Firm, but excluding unpaid professional disbursements,;**
- (f) Money paid for or towards an agreed fee; and**
- (g) Money held in a client account and earmarked for costs.**

23. SPLITTING OF MONIES



23.1 Where a Lawyer holds or receives money which includes client money but is not exclusively client money –

- (a) **He may where practicable split such money and, if he does so, he shall deal with each part thereof as if he had received a separate sum of money in respect of that part; or**
- (b) **If he does not split the money, he shall, if any part thereof consists of client money, and may, in any other case, pay the money into a client account.**

24. CLIENT ACCOUNTS

24.1 If a Lawyer holds or receives client money he must keep one or more client accounts. There is no objection to a Lawyer keeping as many client accounts as he thinks fit. Every Lawyer who receives advance payments of client money must pay such money into a client account without delay, which in normal circumstances means either the day of receipt or on the next working day.

24.2 A client account means an account at a bank or similar institution, subject to supervision by a public authority, which is used only for the purpose of holding client money, and the title or designation of which indicates that the funds in the account belong to the client or clients of a Lawyer.

24.3 There are two types of client accounts:

- (a) **A separate designated client account, which is an account for money relating to one single client; and**
- (b) **A general client account, which is any other client account, where client money from different clients may be intermingled.**

25. OPERATION OF CLIENT ACCOUNT

25.1 Only client money may be paid or held in a client account, except –

- (a) **An amount of the Law Firm's own money required to open or maintain the account;**
- (b) **An advance from the Law Firm to fund a payment on behalf of the client in excess of funds held for that client; the sum becomes client money upon payment into the account;**
- (c) **The replacement of any money which was withdrawn in breach of Rule 26;**
- (d) **Money received by the Lawyer which under Rule 23.1 he is entitled to split but which he does not split.**



- 25.2** Lawyers who receive money in excess of 50,000 AED, which they expect to hold for a period of three months or more are encouraged to discuss with the client whether the client may wish to place that sum in a separate interest bearing client account pursuant to Rule 24.3(a).
- 25.3** Client money must be returned to the client promptly, as soon as there is no longer any proper reason to retain those funds.
- 25.4** The client must be informed in writing of the amount of any client money retained at the end of the matter and the reason for that retention.
- 25.5** Lawyers and Law Firms must not provide banking facilities through a client account. Payments into, and transfers or withdrawals from, a client account must be in respect of instructions relating to an underlying transaction.

26. WITHDRAWAL FROM CLIENT ACCOUNT

- 26.1** The only money which may be drawn from a client account shall be:
- (a) Money properly required for a payment to or on behalf of the client;
 - (b) Money properly required in full or partial reimbursement of money expended by the Lawyer on behalf of the client;
 - (c) Money drawn on the client's authority;
 - (d) Money properly required for or towards payment of the Lawyer's costs where a bill of costs or other written indication of the amount of the costs incurred has been delivered to the client and the client has been notified that money held for him will be applied towards or in satisfaction of such costs; and
 - (e) Money to be transferred into another client account.
- 26.2** The withdrawal of costs must be for a specific sum which relates to the bill which has been delivered to the client. The ledger entries recording the transfer in respect of costs or disbursements should be made simultaneously with the movement of money between bank accounts or as soon as possible thereafter.
- 26.3** If a Lawyer wishes to make payments on behalf of the client in excess of funds held for that client in the client account, the excess payment must be made out of his office or personal resources. There is no objection to the Lawyer transferring his own funds into the client account to enable full payment to be made from that account. However, when the specific amount is lodged in the client account and credited to the appropriate client ledger, it becomes the property of the client concerned and ceases to be the Lawyer's own money.



27. METHODS OF AND AUTHORITY FOR WITHDRAWALS FROM CLIENT ACCOUNT

- 27.1 A withdrawal from a client account may only be made after a specific authority in respect of that withdrawal has been signed by an appropriate person or persons in accordance with the firm's procedures for signing on a client account.**
- 27.2 Law firms must put in place appropriate systems and procedures governing withdrawals from client accounts, including who should be permitted by the Law Firm to sign on client accounts. A non-manager owner or non-employee owner of a licensed body is not an appropriate person to be a signatory on client accounts and must not be permitted by a Law Firm to act this way.**

Commentary

- (i) A Law Firm should select suitable people to authorise withdrawals from the client account. Firms will wish to consider whether any employee should be able to sign on client account and whether signing rights should be given to all managers of the practice or limited to those managers directly involved in providing legal services. Best practice is for all cheque signatories to be partners or at least qualified lawyers employed by the Law Firm.
- (ii) Someone who has no day to day involvement in the business of the practice is unlikely to be regarded as a suitable signatory because of lack of proximity to client matters. An appropriate understanding of the accounting requirements is essential.

28. CLIENT MONEY WITHHELD FROM CLIENT ACCOUNT

- 28.1 There are a number of circumstances where a Lawyer shall not be under an obligation to pay into a client account client money held or received by him. Such circumstances are:**
- (a) **where money is received in cash and is without delay paid in cash in the ordinary course of business to the client or to another party on the client's express written instructions;**
- (b) **where money is received in the form of a cheque which is endorsed over in the ordinary course of business to the client or to another party on the client's express written instructions;**
- (c) **where money is paid into a separate bank account in the name of the client or some other person designated by the client in writing or acknowledged by the Lawyer in writing to the client;**
- (d) **where the client for his own convenience requests the Lawyer in writing to withhold money from such account;**



- (e) **where money is for or towards payment of a debt due to the Lawyer from the client or in reimbursement of money expended by the Lawyer on behalf of the client; or**
- (f) **where money is expressly paid to the Lawyer –**
 - (i) **on account of costs incurred, in respect of which a bill of costs or other written intimation of the amount of the costs has been delivered for payment; or**
 - (ii) **as an agreed fee (or on account of an agreed fee) for professional services undertaken or to be undertaken.**

29. RECONCILIATION STATEMENTS

- 29.1 A Lawyer must maintain a system that ensures accurate reconciliations of the client bank accounts in which client money is held.**
- 29.2 It is considered good accounting practice for a reconciliation statement to be drawn up at monthly intervals.**
- 29.3 The reconciliation statement must include:**
- (a) **A full list of individual Client credit ledger balances;**
 - (b) **A full list of individual Client debit ledger balances;**
 - (c) **A full list of unpresented cheques and outstanding lodgements;**
 - (d) **A full list of client bank account and third party account balances, as recorded in the firm's accounting records; and**
 - (e) **Formal statements from banks and third parties showing account balances as at the date of reconciliation.**

30. RECORD KEEPING

- 30.1 A Lawyer must maintain proper books and accounts based on the double-entry booking principle. They must be legible, up to date and contain narratives with the entries which identify and provide adequate information about each transaction to which these Rules apply.**
- 30.2 A Lawyer must retain adequate records of all cheques and payment orders received.**
- 30.3 A Lawyer must ensure that his books of accounts, books, ledgers, journals and supporting records are preserved for at least six years and shall expeditiously render statements of accounts if requested by the client.**



30.4 A Lawyer must ensure that at all times cash books, ledgers and journals and such other books and accounts as may be necessary are maintained –

(a) to show all dealings with –

- (i) client's money received, held or paid; and**
- (ii) any other money dealt with by him through a client account;**

(b) to show separately in respect of each client all money of the categories specified in sub-paragraph (a) which is received, held or paid by him on account of that client; and

(c) to distinguish all money of the categories mentioned in sub-paragraph (b) received, held or paid by him, from any other money received, held or paid by him.

30.5 All dealings referred to in Rule 30 shall be recorded as may be appropriate –

- (a) in a client's cash book; or**
- (b) a client's column of a cash book; or**
- (c) in a record of sums transferred from the ledger account of one client to that of another,**

and in addition –

- (d) in a client's ledger; and**
- (e) in a journal.**

31. RECEIPT

31.1 A Lawyer shall notify his client promptly of the receipt by him of moneys or securities on behalf of that client.

32. GENERAL PRINCIPLES

Every Lawyer who handles client money must produce annually a report by a duly qualified accountant to the effect that the Lawyer has complied with this Code. The accountant's examination does not consist of a complete audit of these accounts. It is a general examination, and a comprehensive investigation is only carried out once it appears from such an examination that there has been a breach of this Code.

32.1 This Code shall be applicable to any transaction even where –



- (a) **all parties thereto, other than the Lawyer or the associated party, have received independent advice⁶ and that advice has been given prior to the transaction being entered into, and the Lawyer has made full disclosure of any interest of the Lawyer and of any associated party; or**
- (b) **the Lawyer does not act for the client in relation to the transaction but the client is represented by an independent Lawyer.**

32.2 Nothing in this Code shall deprive a Lawyer of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise, against money standing to the credit of a client account.

⁶ "independent advice" means advice by a Lawyer not being a party to the transaction nor representing any associated party and where the Lawyer certified in writing that he has given such advice;

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