

Astana Financial Services Authority

Consultation Paper

AFSA-P-CE-2019-0010

Inclusion of Company service providers as Ancillary Service Providers

25 September 2019

Introduction

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to invite public comments on the proposed amendments to the AIFC General Rules and AIFC Glossary related to inclusion of Company service providers as Ancillary Service Providers.
2. The proposals in this Consultation Paper will be of interest to current and potential AIFC Participants who are interested in doing business in the AIFC.
3. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2019-0010” in the subject line. You may, if relevant, identify the organisation you represent when providing your comments. The AFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise. Comments supported by reasoning and evidence will be given more weight by the AFSA.
4. The deadline for providing comments on the proposals is **25 October 2019**. Once we receive your comments, we shall consider if any refinements are required to the proposals.
5. Comments to be addressed by:

post: Policy and Strategy Division
Astana Financial Services Authority (AFSA)
55/17 Mangilik El avenue, block C3.2, Nur-Sultan, Kazakhstan
or emailed to: consultation@afsa.kz
Tel: +7 7172 613626
6. The remainder of this Consultation Paper contains the following:
 - (a) background to the proposals;
 - (b) the key element of the proposed amendments;
 - (c) Annex 1: Draft of proposed amendments.

Background

The Astana Financial Services Authority ("AFSA") proposes to make amendments to the AIFC General Rules and AIFC Glossary with respect to inclusion of Company service providers (CSP) as Ancillary Service Providers (ASP).

It is proposed to amend the following AIFC Acts:

- 1) AIFC General Rules
- 2) AIFC Glossary

KEY ELEMENT OF THE PROPOSED AMENDMENTS

The proposal is to include the CSP activity as Providing Consulting Services under the Ancillary Services. In such a way, CSPs will be subject to licensing and, hence, to FSFR, GEN, COB provisions. As a DNFBPs, CSPs are already subject to AML regime in the AIFC.

The proposal is relevant in fostering and maintaining confidence in the AIFC's regulatory regime by including key participants of the Centre under the supervision of the AFSA as ASPs.

Question

Do you have any concerns related to the proposed amendments to AIFC General Rules and AIFC Glossary? If so, what are they, and how should they be addressed?

Proposed amendments to AIFC Regulations

Chapter Number/Section Number	Current version	Proposed version
AIFC General Rules		
SCHEDULE 2: ANCILLARY SERVICES	<p>4. Providing Consulting Services</p> <p>Performing Consultancy Services means providing expert knowledge or advice on a particular topic.</p>	<p>4. Providing Consulting Services</p> <p>Performing Consultancy Services means providing expert knowledge or advice on a particular topic. <u>Consultancy Services may include the activity of Company service providers.</u></p>
AIFC Glossary		
2. INTERPRETATION	<p>Company service provider</p> <p>A company service provider is a person, not captured by (a) to (e) of the definition of DNFBP that, by way of business, provides any of the following services to a customer:</p> <p>(a) acting as an agent of legal persons to form a company; (b) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;</p> <p>(c) providing a registered office, business address, or accommodation, correspondence or administrative address for a company, a partnership, or any other legal person or arrangement; or</p> <p>(d) acting as, or arranging for another person to act as, a nominee shareholder for another person.</p>	<p>Company service provider</p> <p>A <u>C</u>ompany service provider is a <u>P</u>erson, not captured by (a) to (e) of the definition of DNFBP that, by way of business, provides any of the following services to a customer:</p> <p>(a) acting as an agent of legal persons to form a company;</p> <p>(b) acting as, or arranging for another <u>P</u>erson to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;</p> <p>(c) providing a registered office, business address, or accommodation, correspondence or administrative address for a company, a partnership, or any other legal person or arrangement; or</p> <p>(d) acting as, or arranging for another <u>P</u>erson to act as, a nominee shareholder for another <u>P</u>erson.</p>
2. INTERPRETATION	<p>DNFBP</p> <p>Designated Non-Financial Business and Profession.</p> <p>The following class of persons whose business or profession is carried on in or from the AIFC constitute DNFBPs:</p> <p>(a) A real estate developer or agency which carries out transactions with a customer</p>	<p>DNFBP</p> <p>Designated Non-Financial Business and Profession.</p> <p>The following class of persons whose business or profession is carried on in or from the AIFC constitute DNFBPs:</p> <p>(a) A real estate developer or agency which carries out transactions with a customer</p>

	<p>involving the buying or selling of real property;</p> <p>(b) A dealer in precious metals or precious stones;</p> <p>(c) A dealer in any saleable item of a price equal to or greater than USD 15,000;</p> <p>(d) A law firm, notary firm, or other independent legal business;</p> <p>(e) An accounting firm, audit firm, or insolvency firm; or</p> <p>(f) A company service provider; or</p> <p>(g) A Single Family Office.</p> <p>A person who is an Authorised Person or a Registered Auditor is not a DNFBP.</p>	<p>involving the buying or selling of real property;</p> <p>(b) A dealer in precious metals or precious stones;</p> <p>(c) A dealer in any saleable item of a price equal to or greater than USD 15,000;</p> <p>(d) A law firm, notary firm, or other independent legal business;</p> <p>(e) An accounting firm, audit firm, or insolvency firm; or</p> <p>(f) A <u>C</u>ompany service provider; or</p> <p>(g) A <u>S</u>ingle Family Office.</p> <p>A person who is an Authorised Person or a Registered Auditor is not a DNFBP.</p>
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