



Astana Financial Services Authority

Consultation Paper

No. 23 of 2019

**Proposed revisions to AIFC investment
funds framework**

2 May 2019

Introduction

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to invite public comments on the proposed amendments intended to be made to the framework for investment funds in the Astana International Financial Centre (AIFC). The proposed rules are in full compliance with the AIFC legal and regulatory framework. The proposed amendments are set out in the Annexures to this Paper.
2. The proposals in this Consultation Paper will be of interest to Fund Managers, individuals, financial organizations and investors 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 No 23” 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 **1 June 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 list of key elements of the amended rules;
 - (c) Annex 1: The amendments to the AIFC Financial Services Framework Regulations.
 - (d) Annex 2: The amendments to the AIFC Glossary.
 - (e) Annex 3: The amendments to the AIFC Market Rules.
 - (f) Annex 4: The amendments to the AIFC Collective Investment Scheme Rules.
 - (g) Annex 5: The amendments to the AIFC Authorised Market Institution Rules.
 - (h) Annex 6: The amendments to the AIFC General Rules.
 - (i) Annex 7: The amendments to the AIFC Conduct of Business Rules.
 - (j) Annex 8: The amendments to the AIFC Islamic Finance Rules.

Background

The AFSA intends to enhance the legislative framework governing investment funds in the AIFC.

This legislation comprises regulations and rules covering, inter alia, the creation, registration, management, operation, modification, transfer and termination processes of different types, forms and uses of investment fund vehicles in the AIFC.

The AFSA's objectives are to ensure that this framework for investment funds:

- (a) best meets the needs of the AIFC and the regions it serves;
- (b) does not pose risks to the regulatory objectives of the AFSA; and
- (c) is developed in line with the investment funds legislation of relevant leading jurisdictions.

The continued development of the investment funds available in the AIFC, and the introduction of new types of investment fund vehicles to the AIFC, is a key policy focus of the AFSA. The AFSA has considered the views of AIFC participants and other key stakeholders in determining what changes to make to the investment funds framework at this stage in the AIFC's evolution. Consequently, it is now consulting on the following changes to the investment funds framework:

- (a) the introduction of a Listed Funds regime;
- (b) the introduction of Venture Capital and Private Equity Funds regimes; and
- (c) the introduction of a Real Estate Investment Trust regime.

In addition to the foregoing, the AFSA expects to consult on the development of existing investment funds regimes shortly.

KEY ELEMENTS OF THE PROPOSED RULES

1. LISTED FUNDS

- 1.1 The AFSA proposes to develop a Listed Funds regime which will permit Funds to be admitted to the Official List and their Units to be admitted to trading on an Authorised Investment Exchange. The Listed Funds regime will initially apply to Domestic Funds or Foreign Funds managed by Domestic Fund Managers. This regime is expected to be expanded to include Domestic Funds managed by Foreign Fund Managers shortly. The Listed Funds regime will also apply to Overseas Listed Funds to which the AIFC Collective Investment Scheme Rules (CIS) do not apply, provided that the Foreign Fund Managers of such Funds are formally "recognised" by the AFSA.
- 1.2 The AFSA is now consulting on proposed amendments to the CIS, the AIFC Market Rules (MAR), the AIFC Financial Services Framework Regulations (FSFR) and the AIFC Glossary (GLO) to include substantive rules in relation to Listed Funds. In addition, the AFSA is consulting on proposed consequential amendments to the AIFC Authorised Market Institution Rules (AMI), the AIFC General Rules (GEN), the AIFC Conduct of Business Rules (COBS) and the AIFC Islamic Finance Rules (IFR) which will be required to support the proposed Listed Funds regime. Such amendments include:
- (a) adding a new standalone rule in MAR in relation to Listed Funds;
 - (b) incorporating the existing Market Abuse and Market Disclosure rules in MAR into the new Listed Funds regime;
 - (c) expanding the content requirements for Offering Materials set out in the CIS so that they apply to Listed Funds; and
 - (d) expanding certain provisions to include Listed Funds and Units of a Listed Fund.

Question 1: Do you have any concerns regarding the introduction of a Listed Funds regime in the AIFC?

Question 2: Do you have any comments on the proposed legislation?

2. VENTURE CAPITAL AND PRIVATE EQUITY FUNDS

- 2.1 In order to best meet the needs of the AIFC, the AFSA proposes that separate categories for Venture Capital Funds and Private Equity Funds should be established as Specialist Funds in the CIS.
- 2.2 For clear rules to be established in relation to Venture Capital Funds and Private Equity Funds, amendments will need to be made to the CIS and GLO to:

- (a) introduce definitions of a Venture Capital Fund and a Private Equity Fund;
- (b) limit the types of Funds that may hold themselves out as being a Venture Capital Fund or a Private Equity Fund; and
- (c) expand the content requirements for Offering Materials set out in the CIS to include a description of the safekeeping arrangements (which will be applicable to all Funds).

Question 3: Do you have any concerns regarding the introduction of Venture Capital and Private Equity Funds regimes in the AIFC?

Question 4: Do you have any comments on the proposed legislation?

3. **REAL ESTATE INVESTMENT TRUSTS**

- 3.1 In order to best meet the needs of the AIFC, the AFSA proposes that a separate category for Real Estate Investment Trusts should be established as a Specialist Fund in the CIS.
- 3.2 The AFSA is now consulting on amendments to the CIS and GLO introducing provisions:
 - (a) establishing the qualifying criteria that a Fund must meet in order to define itself as a Real Estate Investment Trust;
 - (b) clarifying which chapters of the CIS will apply to Real Estate Investment Trusts;
 - (c) requiring the Fund Manager of a Real Estate Investment Trust to appoint a Property Manager to provide Real Estate Management and Servicing Activities;
 - (d) requiring the Fund Manager of a Real Estate Investment Trust to differentiate between revaluation surplus and capital gains on disposal of Real Property and to determine whether either shall be considered to be income for the purpose of distribution to Unitholders;
 - (e) allowing Fund Managers of Real Estate Investment Trusts to establish and own special purpose vehicles for the purpose of holding Real Property, provided that the Real Estate Investment Trust legally and beneficially owns not less than 60% of the shares, and is entitled to exercise directly or indirectly at least 60% of the voting rights, of the special purpose vehicle;
 - (f) ensuring that a Real Estate Investment Trust that earns profits from Real Property held in special purpose vehicles will distribute all such profits to the Real Estate Investment Trust;
 - (g) allowing a Real Estate Investment Trust to borrow only for investment purposes or to meet its short term working capital, provided aggregate

borrowings are limited to a maximum of 60% of the Real Estate Investment Trust's net asset value;

- (h) expanding the content requirements for Offering Materials set out in the CIS to include a description of how a Real Estate Investment Trust intends to acquire and hold its investments in Real Properties;
- (i) allowing non-cash consideration for the purchase of Units in Real Estate Investment Trusts that are Exempt Funds; and
- (j) limiting the percentage of a Real Estate Investment Trust's assets that can be deployed for the purposes of property refurbishment, retrofitting and renovation.

Question 5: Do you have any concerns regarding the introduction of a Real Estate Investment Trust regime in the AIFC?

Question 6: Do you have any comments on the proposed legislation?

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



FINANCIAL SERVICES FRAMEWORK REGULATIONS

AIFC REGULATIONS No. 18 OF 2017

CONSOLIDATED VERSION

(* 2019)**

Astana, Kazakhstan

Part 6. CAPITAL MARKETS

Chapter 1. Authorised Market Institutions

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54. Enforcement of Business Rules

- (1) If a Person who is under an obligation to comply with or enforce any of an Authorised Market Institution's Business Rules fails to meet that obligation, an application to the AIFC Court may be made by:
 - (a) the AFSA; or
 - (b) the Authorised Market Institution; or
 - (c) the operator of a clearing and settlement facility with which the Authorised Market Institution has clearing and settlement arrangements; or
 - (d) a Person aggrieved by the failure.
- (2) After giving an opportunity to be heard to the applicant and the Person against whom the order is sought, the AIFC Court may make orders giving directions to:
 - (a) the Person against whom the order is sought; or
 - (b) if that Person is a Body Corporate, the directors of the Body Corporate; [or](#)
 - (c) [if that Person is a Listed Fund, the Fund Manager of the Listed Fund,](#)about compliance with, or enforcement of, the Business Rules.
- (3) For the purposes of this section, if a Body Corporate [or a Fund Manager](#) fails to comply with or enforce provisions of the Business Rules of an Authorised Market Institution, a Person who holds Securities of that Body Corporate [or Units of that Listed Fund, as applicable,](#) that are able to be traded on a market operated by the Authorised Market Institution is taken to be a Person aggrieved by the failure.
- (4) There may be other circumstances in which a Person may be aggrieved by a failure for the purposes of this section.

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58. AFSA power to give directions to an Authorised Market Institution

Without limiting the application of section 95 (Exercise of supervisory powers by the AFSA), the AFSA may direct an Authorised Market Institution to:

- (a) close the market or facilities operated by an Authorised Market Institution in a particular manner or for a specified period; or
- (b) suspend transactions on the market or through the facilities operated by the Authorised Market Institution; or
- (c) suspend transactions in Securities, [Units of a Listed Fund](#) or Private E-currencies conducted on the market or through the facilities operated by the Authorised Market Institution; or

- (d) prohibit trading in Securities, [Units of a Listed Fund](#) or Private E-currencies conducted on the market or through the facilities operated by the Authorised Market Institution; or
- (e) defer for a specified period the completion date of transactions conducted on the market or through the facilities operated by the Authorised Market Institution; or
- (f) prohibit a specified Person from undertaking any transactions on the facilities operated by the Authorised Market Institution; or
- (g) do any act or thing, or not do any act or thing, in order to ensure an orderly market, or reduce risk to the AFSA's objectives.

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Chapter 2. Offer of Securities

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61. Definition of an Offer of Securities

An Offer of Securities means a communication to any Person in any form or by any means, presenting information on the terms of the Offer and the Securities offered, so as to enable an investor to decide whether or not to buy or subscribe to those Securities but excluding:

- (a) any communication in connection with the trading of Securities admitted to trading on an Authorised Investment Exchange; or
- (b) any communication made for the purposes of complying with the on-going reporting requirements of the AFSA or an Authorised Market Institution; or
- (c) any other communication prescribed in the Rules by the AFSA.

Guidance: Offers of Units of a Listed Fund

For the avoidance of doubt, this Chapter 2 does not apply to the Offer of Units of a Listed Fund. While a Unit of a Listed Fund is, in general terms, a type of security, it is not a Security for the purposes of the Framework Regulations (as defined in the Glossary (GLO)) or any other AIFC Financial Services Regulations or Rules to which GLO applies. Rules in relation to the Offer of Units of a Listed Fund are set out, inter alia, in the AIFC Collective Investment Scheme Rules. Fund Managers should also refer to the applicable Business Rules.

Chapter 3. Admission to trading

62. Prohibition – Admission to trading

A Person may not have Securities [or Units of a Listed Fund](#) admitted to trading on an Authorised Investment Exchange unless:

- (a) such [Securities Investments](#) have been admitted to the Official List maintained by the Authorised Investment Exchange; and
- (b) [in relation to Securities](#), a Prospectus in relation to the relevant Securities containing the information prescribed for this purpose by the AFSA has been approved by the Authorised Investment Exchange; [and](#)
- (c) [in relation to Units in Listed Funds other than Overseas Listed Funds](#):

- (i) [the Fund is a Non-Exempt Fund under the AIFC Collective Investment Scheme Rules; and](#)
- (ii) [there are Offering Materials in relation to the relevant Units and the Authorised Investment Exchange has satisfied itself that such Offering Materials satisfies the requirements in AIFC Collective Investment Scheme Rules.](#)

[Guidance: Units of a Listed Fund](#)

[For the avoidance of doubt, a Prospectus is not required in relation to Units of a Listed Fund. The requirements in relation to Offering Materials, which apply to Units of a Listed Fund \(other than Overseas Listed Funds\), are set out in the CIS. The requirements in relation to Offering Materials for Overseas Listed Funds will be regulated according to the Business Rules.](#)

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Chapter 4. Listing

64. Maintaining an Official List ~~of Securities~~

- (1) Subject to (3), an Official List ~~of Securities~~ for an Authorised Investment Exchange may be maintained by either the relevant Authorised Investment Exchange or the AFSA.
- (2) An Authorised Investment Exchange must, when maintaining an Official List ~~of Securities~~, comply with the relevant requirements in these Regulations and the Rules made thereunder.
- (3) The AFSA may, at any time, transfer the responsibility for maintaining an Official List ~~of Securities~~ hitherto maintained by an Authorised Investment Exchange to the AFSA where it considers it necessary or desirable to do so.
- (4) An Authorised Investment Exchange must not permit trading of Securities [or Units of a Listed Fund](#) on its facilities unless ~~those Securities~~ [such Investments](#) are admitted to, and not suspended from, an Official List ~~of Securities~~ maintained by the Authorised Investment Exchange or the AFSA except where otherwise prescribed in the Rules.

65. Listing Rules Requirements

- (1) An Authorised Investment Exchange must, when maintaining an Official List ~~of Securities~~, establish and maintain Listing Rules as part of its Business Rules.
- (2) The Listing Rules of an Authorised Investment Exchange must contain such provisions as are prescribed in the Rules.
- (3) Where the AFSA maintains an Official List ~~of Securities~~, it will, by Rules, prescribe the relevant Listing Rules.

66. Admission of Securities [or Units in a Listed Fund](#) to an Official List ~~of Securities~~

- (1) An Authorised Investment Exchange or the AFSA may grant admission of Securities [or Units of a Listed Fund](#) to an Official List ~~of Securities~~ maintained by it only where it is satisfied that such admission is in accordance with the relevant Listing Rules.
- (2) Where a Person applies to have Securities [or Units of a Listed Fund](#) admitted to an Official List ~~of Securities~~ maintained by an Authorised Investment Exchange or the AFSA, the Authorised Investment Exchange or the AFSA, as is relevant, must notify the applicant in

writing of its decision in relation to the application for admission of ~~Securities~~ such Investments to the Official List ~~of Securities~~.

- (3) Where a Person has any Securities or Units in Listed Funds included on an Official List ~~of Securities~~, such ~~Securities~~ Investments must be admitted to trading on an Authorised Investment Exchange as soon as possible.
- (4) Where any Securities or Units in Listed Funds included in an Official List ~~of Securities~~ are not admitted to trading in accordance with the requirement in section 66(3), such ~~Securities~~ Investments must be removed from the Official List ~~of Securities~~.
- (5) The AFSA may, by Rules, prescribe any circumstances in which Securities or Units of a Listed Fund admitted to an Official List ~~of Securities~~ need not comply with the requirement in section 66(3).

67. AFSA objection to admission of Securities or Units of a Listed Fund to an Official List ~~of Securities~~

- (1) Where an Authorised Investment Exchange maintains an Official List ~~of Securities~~, the AFSA may:
 - (a) object to the admission of Securities or Units of a Listed Fund to such an Official List ~~of Securities~~; or
 - (b) impose conditions or restrictions in respect of the admission of Securities or Units of a Listed Fund to such an Official List ~~of Securities~~, or vary or withdraw such conditions or restrictions,in the circumstances specified in section 67(3).
- (2) Where the AFSA maintains an Official List ~~of Securities~~, the AFSA may:
 - (a) refuse an application for admission of Securities or Units of a Listed Fund to such an Official List ~~of Securities~~; or
 - (b) impose conditions or restrictions, in respect of the admission of Securities or Units of a Listed Fund to such an Official List ~~of Securities~~, or vary or withdraw such conditions or restrictions,in the circumstances specified in section 67(3).
- (3) The AFSA may exercise its powers under section 67(1) or 67(2) where:
 - (a) the AFSA reasonably considers that:
 - (i) granting the Securities or Units of a Listed Fund admission to an Official List ~~of Securities~~ would be detrimental to the interests of Persons dealing in the relevant Securities or Units of a Listed Fund using the facilities of an Authorised Investment Exchange or otherwise; or
 - (ii) any requirements in the Listing Rules as are applicable have not been or will not be complied with; or
 - (iii) any requirement imposed by the AFSA has not been or will not be complied with; or

- (iv) the Issuer of the Securities [or Units of a Listed Fund](#) has failed or will fail to comply with any obligations applying to it including those relating to having its Securities [or Units of a Listed Fund](#) admitted to an Official List ~~of Securities~~ or listed or traded in another jurisdiction; or
- (b) the AFSA otherwise considers it necessary or desirable to do so.
- (4) Where the AFSA objects to the admission of Securities [or Units of a Listed Fund](#) to an Official List ~~of Securities~~ pursuant to section 67(3)(a), such ~~Securities~~ [Investments](#) must not be admitted by an Authorised Investment Exchange to its Official List ~~of Securities~~.
- (5) Where the AFSA imposes conditions or restrictions on the admission of Securities [or Units of a Listed Fund](#) to an Official List ~~of Securities~~ pursuant to section 67(3)(b), such ~~Securities~~ [Investments](#) must not be admitted by an Authorised Investment Exchange to its Official List ~~of Securities~~ unless there is compliance with those conditions and restrictions.

68. **Suspending and delisting Securities [or Units of a Listed Fund](#) from an Official List ~~of Securities~~**

- (1) The AFSA or an Authorised Investment Exchange may, in accordance with its Listing Rules, suspend or delist Securities [or Units of a Listed Fund](#) from its Official List ~~of Securities~~ with immediate effect or from such date and time as may be specified where it is satisfied that there are circumstances that warrant such action or it is in the interests of the AIFC.
- (2) The AFSA may direct an Authorised Investment Exchange to suspend or delist Securities [or Units of a Listed Fund](#) from an Official List ~~of Securities~~ with immediate effect or from such date and time as may be specified if it is satisfied there are circumstances that warrant such action or it is in the interests of the AIFC.
- (3) The AFSA may withdraw a direction made under section 68(2) at any time.
- (4) Securities [or Units of a Listed Fund](#) that are suspended from an Official List ~~of Securities~~ remain admitted to an Official List ~~of Securities~~ for the purposes of this Part.
- (5) The AFSA may, by Rules, prescribe any additional requirements or procedures relating to the delisting or suspension of Securities [or Units of a Listed Fund](#) from, or restoration of Securities [or Units of a Listed Fund](#) to, an Official List ~~of Securities~~.

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Chapter 7. **Obligations of Reporting Entities**

81. **Definition of Reporting Entity**

A Person is a Reporting Entity if the Person:

- (a) has Securities [or Units](#) admitted to an Official List ~~of Securities~~;
- (b) [is the Fund Manager of a Listed Fund](#); or
- (c) is declared by the AFSA to be a Reporting Entity.

82. **Governance**

- (1) A Reporting Entity must have a corporate governance framework which is adequate to promote prudent and sound management of the Reporting Entity in the long-term interest of the Reporting Entity and its shareholders.

- (2) For the purposes of the requirement in section 82(1), the AFSA may, by Rules, prescribe:
 - (a) corporate governance principles and standards that apply to a Reporting Entity, including any requirements applicable to its board of directors and individual members, controllers, employees or any other Person as appropriate;
 - (b) requirements relating to fair treatment of shareholders; and
 - (c) provisions to address conflicts of interests.
- (3) [The requirements in section 82 do not apply to Listed Funds or Fund Managers of Listed Funds](#). The AFSA may, by Rules, prescribe any circumstances in which such requirements do not apply to certain [other](#) Reporting Entities.

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85. Sponsors and compliance advisers

- (1) The AFSA may, where it considers it appropriate to do so, require that a Reporting Entity or a Person that intends to have Securities [or Units of a Listed Fund](#) admitted to an Official List ~~of Securities~~ or admitted to trading on an Authorised Investment Exchange appoints an Authorised Firm or Accredited Firm to act as a sponsor or compliance adviser.

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Chapter 9. Takeovers

88. Takeover Rules

- (1) The AFSA may prescribe by Rules (“the Takeover Rules”):
 - (a) the procedures for and obligations of Persons in respect of a Takeover of ~~a Reporting Entity~~ [an Issuer whose Securities are admitted to an Official List](#) with a view to ensuring:
 - (i) that where a Takeover takes place, it does so in an efficient, competitive, fair and informed market;
 - (ii) that shareholders are treated fairly and shareholders of the same class are treated the same; and
 - (iii) that a Takeover is conducted in an orderly framework;
 - (b) principles to be observed by a Person involved in a Takeover (“the Takeover Principles”), relating to, but not limited to:
 - (i) treatment of shareholders and of classes of shareholders in a Takeover;
 - (ii) adequacy of time and of information provided to shareholders to enable proper consideration of a Takeover bid;
 - (iii) avoidance of the creation of false markets; and
 - (iv) avoidance of oppression of minorities.

- (2) A Person who is involved in a Takeover of ~~a Reporting Entity~~ [an Issuer whose Securities are admitted to an Official List](#) must comply with and observe the spirit and the wording of the Takeover Principles.
- (3) [The requirements of section 88 do not apply to Listed Funds.](#)

Chapter 10. Recognition

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91. [Recognised Non-AIFC Member and Recognised Non-AIFC Fund Manager](#)

- (1) A Person located in a jurisdiction other than the AIFC may apply to the AFSA for an order declaring it to be a Recognised Non-AIFC Member.
- (2) An application under subsection (1) must be made in such manner as the AFSA may by Rules require.
- (3) The AFSA may make an order referred to in subsection (1) if, the applicant satisfies the AFSA that the following requirements are met:
 - (a) the applicant is licensed or otherwise authorised to trade on or use the facilities of an exchange or clearing house in a jurisdiction acceptable to the AFSA;
 - (b) the applicant is regulated in respect of trading in such jurisdiction by a regulator to a standard satisfactory to the AFSA;
 - (c) the law and practice under which the applicant is licensed or otherwise authorised is broadly equivalent to the AFSA's regulatory regime as it applies to a Member;
 - (d) when using the facilities of an Authorised Investment Exchange or Authorised Clearing House, the applicant does not exceed the scope of the activities it is authorised to carry on by those responsible for the supervision of the applicant in the country or territory in which the applicant's head office is situated;
 - (e) the applicant has agreed to cooperate with the AFSA and subject itself to such parts of the legal and regulatory framework administered by the AFSA as the AFSA may require.
- (4) The AFSA will only make an order referred to in subsection (1) if adequate arrangements exist, or will exist, for co-operation between the AFSA and those responsible for the supervision of the applicant in the country or territory in which the applicant or the applicant's head office is situated.
- (5) The AFSA may prescribe by Rules ongoing criteria which a Person must satisfy in order to continue to be a Recognised Non-AIFC Member.
- (6) If it is necessary or desirable in pursuit of its Regulatory Objectives, the AFSA may revoke or vary an order declaring a Person to be a Recognised Non-AIFC Member in the circumstances and manner prescribed in the Rules made for the purposes of this section.
- (7) [A Person located in a jurisdiction other than the AIFC may apply to the AFSA for an order declaring it to be a Recognised Non-AIFC Fund Manager.](#)

- (8) An application under subsection (7) must be made in such manner as the AFSA may by Rules require.
 - (9) The AFSA may make an order referred to in subsection (7) if, the applicant satisfies the AFSA that the following requirements are met:
 - (a) the applicant is licensed or otherwise authorised as a fund manager in a jurisdiction acceptable to the AFSA;
 - (b) the applicant is regulated in respect of fund management activities in such jurisdiction by a regulator to a standard satisfactory to the AFSA;
 - (c) the law and practice under which the applicant is licensed or otherwise authorised is broadly equivalent to the AFSA’s regulatory regime as it applies to a Domestic Fund Manager;
 - (d) the applicant has agreed to cooperate with the AFSA and subject itself to such parts of the legal and regulatory framework administered by the AFSA as the AFSA may require.
 - (10) The AFSA will only make an order referred to in subsection (7) if adequate arrangements exist, or will exist, for co-operation between the AFSA and those responsible for the supervision of the applicant in the country or territory in which the applicant or the applicant's head office is situated.
 - (11) The AFSA may prescribe by Rules ongoing criteria which a Person must satisfy in order to continue to be a Recognised Non-AIFC Fund Manager.
 - (12) If it is necessary or desirable in pursuit of its Regulatory Objectives, the AFSA may revoke or vary an order declaring a Person to be a Recognised Non-AIFC Fund Manager in the circumstances and manner prescribed in the Rules made for the purposes of this section.
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Schedule 3: Market Activities

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2. Operating a Clearing House

- (1) Operating a Clearing House means operating a facility where confirmation, clearance and/or settlement of transactions in Investments are carried out in accordance with the non-discretionary rules of the facility, under which the Person operating the facility:
 - (a) becomes a Central Counterparty (“CCP”); or
 - (b) provides a book-entry Securities Settlement System (“SSS”),regardless of whether or not such a Person also operates a Central Securities Depository.
- (2) In (1):
 - (a) “confirmation” means verifying the terms of a transaction and checking that Investments, cash or both, including margin, are available to secure the exposure arising from the transaction;

- (b) “clearance” means transmitting and reconciling orders prior to settlement and establishing settlement positions, including the calculation of net positions arising from a transactions in Investments; and
 - (c) “settlement” means the completion of a transaction with the aim of securing the timely discharge (whether by performance, compromise or otherwise) of the rights and liabilities in relation to the transaction.
- (3) In (1)(a), a Person operates as a CCP where it:
 - (a) ensures the performance of open contracts relating to Investments made on a facility for trading Securities [or Units of a Listed Fund](#); and
 - (b) does so by interposing itself between counterparties to such contracts by becoming either the buyer to every seller, or the seller to every buyer.
- (4) In (1)(b), a Person operates an SSS where it operates a system which enables Investments held in accounts to be transferred and settled by book entry according to a set of predetermined multilateral rules.
- (5) Acting as a Central Securities Depository in (1) means holding Investments in uncertificated (dematerialised) form to enable book entry transfer of such Investments for the purposes of clearing or settlement of transactions on its own facility and on any other similar facility.

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC GLOSSARY

AIFC ACT NO. FR0017 OF 2018

Consolidated Version
(*** 2019)

Approval Date: (*** 2019)
Commencement Date: (*** 2019)

Central Securities Depository	A Person who holds Securities or Units of a Listed Fund in uncertificated (dematerialised) form so as to act as a repository of ownership entitlements to such Securities Investments to enable book entry transfer of such Securities Investments for the purposes of settlement of transactions.
Customer	<p>Unless otherwise indicated, a customer is:</p> <p>(a) A person where, in relation to a business relationship between the person and a Relevant Person, there is a firm intention or commitment by each party to enter into a contractual relationship or where there is a firm commitment by each party to enter into a transaction, in connection with a product or service provided by the Relevant Person;</p> <p>(b) A client of an Authorised Firm;</p> <p>(c) A member, prospective member, or an applicant for admission of securities Investments to trading on an Authorised Market Institution; or</p> <p>(d) A person with whom a Relevant Person is otherwise establishing or has established a business relationship.</p>
Direct Electronic Access	Any arrangement, such as the use of the Member's trading code, through which a Member or the clients of that Member are able to transmit electronically orders relating to Securities or Units of a Listed Fund directly to the facility provided by the Authorised Market Institution and includes arrangements which involve the use by a Person of the infrastructure of the Member or participant or client or any connecting system provided by the Member or participant or client, to transmit the orders and arrangements where such an infrastructure is not used by a Person.
Fund	A Collective Investment Scheme is an arrangement which amounts to a Fund formed under section 92 of FSFR and CIS Rules.
Inside Information	<p>Information of a precise nature which:</p> <p>(a) has not been made public; and</p> <p>(b) relates directly or indirectly, to one or more Issuers or Listed Funds or to one or more Securities or Units in a Listed Fund; and</p> <p>(c) would, if it were made public, be likely to have a significant effect on the prices of those Securities or Units in a Listed Fund or on the price of related derivative Securities or Units in a Listed Fund.</p>
Insider Dealing	<p>(a) The use, by a Person who possesses Inside information, of that information by acquiring or disposing of, for its own account or for the account of a third party, directly or indirectly, Securities or Units in a Listed Fund to which that information relates; or</p> <p>(b) the use of Inside Information by cancelling or amending an order concerning a Security or Units in a Listed Fund to which the information relates where the order was placed before the Person concerned possessed the Inside Information; or</p> <p>(c) the use of recommendations or inducements to engage in Insider Dealing, where the Person using the recommendation or inducement knows or ought to know that it is based on Inside Information.</p>

<u>Listed Fund</u>	<u>A Fund whose Units have been admitted to the Official List.</u>
Market Abuse	<p>As defined in MAR 5.1 <u>and, in relation to Listed Funds, as applied pursuant to MAR 7:</u></p> <p>(a) unlawful disclosure of Inside Information; and</p> <p>(b) engaging or attempting to engage in Insider Dealing; and</p> <p>(c) recommending that another Person engage in Insider Dealing; and</p> <p>(d) inducing another Person to engage in Insider Dealing; and</p> <p>(e) engaging or attempting to engage in Market Manipulation;</p> <p>but not:</p> <p>(a) disclosure of Inside Information made in the course of a Market Sounding; and</p> <p>(b) the behaviour described in MAR 5.3.4 to 5.3.6 <u>(and in relation to Listed Funds, as applied pursuant to MAR 7);</u> and</p> <p>(c) accepted market practices established under MAR 5.4.4 <u>(and in relation to Listed Funds, as applied pursuant to MAR 7).</u></p>
Market Manipulation	The activities set in MAR 5.4.2 and the conduct set out in MAR 5.4.3 <u>and, in relation to Listed Funds, as applied pursuant to MAR 7.</u>
Market Sounding	The conduct set out in MAR 5.5.1 <u>and, in relation to Listed Funds, as applied pursuant to MAR 7.</u>
Offer	<p>(1) In relation to Securities other than Units, an Offer of Securities.</p> <p>(2) In relation to Units, an offer of Units. <u>Offer of Units (and "Offered" and "Offering" and similar terms shall be construed accordingly).</u></p>
<u>Offer of Units</u>	<p><u>A communication to any Person in any form or by any means, presenting information on the terms of the offer and the Unit offered, so as to enable an investor to decide whether or not to buy or subscribe to those Units but excluding:</u></p> <p><u>(a) (in relation to Listed Funds only) any communication in connection with the trading of Units admitted to trading on an Authorised Investment Exchange; or</u></p> <p><u>(b) (in relation to Listed Funds only) any communication made for the purposes of complying with the on-going reporting requirements of the AFSA or an Authorised Market Institution; or</u></p> <p><u>(c) any other communication prescribed in the Rules by the AFSA.</u></p>
Official List	The Official List of Securities <u>and Units of Listed Funds</u> maintained by the AFSA or the relevant Authorised Investment Exchange pursuant to section 64 of the Framework Regulations.
<u>Overseas Listed Fund</u>	<p><u>A Fund:</u></p> <p><u>(a) that is not established or domiciled in the AIFC;</u></p> <p><u>(b) that is not registered or required to be registered under CIS;</u></p>

	(c) that is managed by a Recognised Non-AIFC Fund Manager; and (d) whose Units have been admitted to the Official List.
Private Equity Fund	A type of Specialist Fund defined in CIS 2.4(b)(ii).
Property Manager	A Person appointed to provide Real Estate Management and Servicing Activities in respect of Real Properties.
Real Estate Investment Trust or REIT	A type of Specialist Fund defined in CIS 2.4(b)(iv).
Real Estate Management and Servicing Activities	Activities relating to managing and supervising real estate on behalf of the owner, including (but not limited to) carrying out or contracting for the provision of maintenance, cleaning and administration and appointing of leasing agents, but excluding selling or renting such real estate.
Real Property	Any form of direct or indirect interest in real estate.
Recognised Non-AIFC Fund Manager	A Person declared by the AFSA to be a Recognised Non-AIFC Fund Manager under section 91 of the Framework Regulations.
Reporting Entity	A Person who: (a) has Securities or Units admitted to an Official List of Securities; or; (b) is the Fund Manager of a Listed Fund; or (c) is declared by the AFSA to be a Reporting Entity.
Share	A share or stock in the share capital of any Body Corporate or any unincorporated body (excluding a Unit)
Venture Capital Fund	A type of Specialist Fund defined in CIS 2.4(b)(iii).

Annex 3
to the Consultation Paper No. 23

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC COLLECTIVE INVESTMENT SCHEME RULES

(CIS)

AIFC RULES NO. _ OF 2017

Approval Date: [***] 2019
Commencement Date: [***] 2019

Guidance: Purpose of this rulebook

The purpose of this rulebook, the “Collective Investment [Scheme Rules](#)”, is to complement the regulatory framework established by the Financial Services Framework Regulations (“the Framework Regulations”) as follows

- To provide that certain arrangements do not amount to Collective Investment Schemes for the purposes of the Framework Regulations.
- To require the registration of certain Collective Investment Schemes with the AFSA before those Collective Investment Schemes can be established or promoted.
- To make provisions regarding:
 - the constitution, management and operation; and
 - the investment and borrowing powers; and
 - the procedure for registration; and
 - the operating duties and responsibilities of Fund Managers; and
 - the registration of offering materials and particulars and reporting requirements; and
 - suspension of dealings in and termination of Collective Investment Schemes.

Guidance: Listed Funds

Funds Managers of Listed Funds should note that, inter alia, the AIFC Market Rules contains additional rules that apply to Listed Funds. In addition, the Business Rules apply to Listed Funds; such rules include requirements in relation to the constitution, offering materials, governance, disclosure and other applicable provisions of Listed Funds. The AIFC Collective Investment Scheme Rules do not apply to Overseas Listed Funds.

2. CLASSIFICATION OF FUNDS AND APPLICATION OF THE RULES

...

2.2 Exempt Funds and Non-Exempt Funds

- (a) An Exempt Fund is a Collective Investment Scheme the ~~Securities~~ Units of which are ~~offered~~ Offered in the AIFC only by way of a private placement:
 - (i) to Persons who are Professional Clients; and
 - (ii) in minimum subscription amounts of US\$ 250,000.
- (b) A Non-Exempt Fund is any Collective Investment Scheme that is not an Exempt Fund.

...

2.4. Specialist Funds

- (a) A Fund (whether a Non-Exempt Fund or an Exempt Fund) may be a Specialist Fund.
- (b) The following types of Funds are Specialist Funds:
 - (i) an Islamic Investment Fund, which is a Fund whose entire operations are conducted, or held out as being conducted, in a Shari'ah-compliant manner; ~~and~~
 - (ii) a Private Equity Fund, which is an Exempt Fund that:
 - (A) is closed-ended (unless otherwise approved by the AFSA); and
 - (B) primarily invests in unlisted businesses, by means of shares, convertible debt or other equity-related investments;
 - (iii) a Venture Capital Fund, which is an Exempt Fund and a Domestic Fund that:
 - (A) primarily invests in the equity share capital of unlisted businesses which are at an early stage of development;
 - (B) is closed-ended; and
 - (C) limits total subscriptions to an amount not to exceed US\$100 million (or currency equivalent) or a higher amount approved by the AFSA.

- (iv) a Real Estate Investment Trust (or REIT), which is a Fund which:
 - (A) invests at least 80% of its assets in investments in income-generating Real Property, with the remainder invested in cash or other securities;
 - (B) derives at least 50% of its net income from the rental of Real Property; and
 - (C) distributes to the Unitholders each year at least 80% of its audited annual net income; and
- (v) any other Fund which complies with any specific rules or guidelines that may be published by the AFSA from time to time regarding the requirements for specific types of Specialist Funds.

Guidance

IFR contains the additional requirements that apply to a Domestic Fund by virtue of it being an Islamic Investment Fund.

- (c) A Fund which does not comply with any requirements applicable to specific types of Specialist Funds may not describe itself as a Specialist Fund.

2.5. Secondary transactions and excluded ~~offers~~ Offers

A Person does not market a Collective Investment Scheme in the AIFC for the purposes of these Rules by ~~offering~~ Offering to sell or transfer a Unit that is owned by that Person if the ~~offer~~ Offer to sell or transfer is capable of acceptance only by the Person to whom that ~~offer~~ Offer is made.

2.6. Application of these Rules

The table below sets out which chapters of the Rules apply to which types of Funds and Fund Managers and Centre Participants.

Chapter	Exempt Fund	Non-Exempt Fund	Fund Manager	Centre Participants
Chapter 4 – Registration requirements for all Funds	✓ Not 4.3	✓	✓	✗

Chapter 5 – Marketing requirements	✓	✓	✓	✓
Chapter 6 – Rules regarding the constitution and investment powers of Funds	✓ Not 6.3 or 6.10 (except that 6.10 shall apply to Exempt Funds that are REITs)	✓	✓	✗
Chapter 7 – Rules regarding the management and operation of Funds	✓ Not 7.4	✓	✓	✗
Chapter 8 – Additional service providers	✗ (except that Chapter 8 shall apply to Exempt Funds that are REITs)	✓	✓	✗
Chapter 9 – Rules regarding dealings in open-ended funds and liquidity	✓	✓	✓	✗
Chapter 10 – Audit, Financial and Valuation Requirements	✓ Not 10.4 or 10.5 (except that 10.4 shall apply to Exempt Funds that are REITs)	✓	✓	✗

3. ARRANGEMENTS NOT AMOUNTING TO A COLLECTIVE INVESTMENT SCHEME

...

3.13. Debentures and Warrants of a single issuer

- (a) An arrangement is not a Collective Investment Scheme if the rights or interests of the participants in the arrangement are represented by a Debenture or Warrant:
 - (i) where the issuer of the Debenture or Warrant is a single issuer, and if that issuer is:
 - (1) a Body Corporate, it is neither an open-ended investment company nor a closed-ended [investment](#) company the intent or purpose of which is investment management; or
 - (2) not a Body Corporate, the rights and interests of the Debenture or Warrant holder are guaranteed by the government of any country or territory; and
 - (ii) which, if it is a convertible Security, the underlying Securities to which the Debenture or Warrant holder is entitled are Shares or Debentures issued, or to be issued, by the same issuer as the issuer of the Debenture or Warrant or single other issuer.
- (b) An arrangement that is not a Collective Investment Scheme by virtue of Rule 3.13(a) does not become a Collective Investment Scheme merely because one of the participants in the arrangement is a person:
 - (i) whose ordinary business involves him engaging in an activity that is a Regulated Activity or that would fall within an applicable exclusion from a Regulated Activity; and
 - (ii) whose rights or interests in the arrangement are, or include, rights or interests in a swap arrangement under which he facilitates the making of payments to participants whether in a particular amount or currency or at a particular time or rate of interest or all or any combination of those things in settlement of the rights and interests of the other participants in the arrangement.

...

3.19 Employee reward schemes

An arrangement is not a Collective Investment Scheme if the arrangement is for the purposes of enabling or facilitating the operation of an employee compensation or reward scheme where the arrangement:

- (a) makes ~~Securities~~ securities available only to:
 - (i) an Employee or former Employee of the Issuer or of another member of the same Group as the ~~Issuer~~ issuer of such securities; or
 - (ii) a Close Relative of any such Employee; and
- (b) is operated by the ~~Issuer~~ issuer of the securities or by a member of the same Group as the ~~Issuer~~ issuer or by a trustee who, in pursuance of the arrangements, holds the ~~Securities~~ securities issued by the ~~Issuer~~ issuer for the benefit of any eligible Persons referred to in Rule 3.19(a)(i) or (ii).

...

5. MARKETING REQUIREMENTS

5.1. Application

This chapter applies to all Funds that are ~~offered~~ Offered to investors in the AIFC.

5.2. General requirements

- (a) The Units or other securities of a Non-Exempt Fund may not be ~~offered~~ Offered prior to the effective date of registration of that Non-Exempt Fund under these Rules.
- (b) Copies of any Offering Materials relating to a Non-Exempt Fund must be filed with the AFSA prior to their use (including any amendments to those Offering Materials) and must comply with the content requirements for Offering Materials specified by these Rules.
- (c) In addition to these Rules, any person ~~offering~~ Offering Units or other securities of a Fund must comply with the Rules regarding Financial Promotions.
- (d) A Fund Manager or other Centre Participant which ~~offers~~ Offers Units or other securities of an Exempt Fund is responsible for ensuring that the requirements of this chapter are complied with in respect of that Fund before commencing the ~~offering~~ Offering of that Fund and must maintain appropriate written records verifying that compliance which must be made available to the AFSA on request.

5.3. Content requirements for Offering Materials

- (a) All Offering Materials relating to a Fund must be clear, fair and not misleading.
- (b) Prior to investing in a Fund, a potential investor must be supplied with Offering Materials and other documentation that contain all the information which a person and his professional advisers would reasonably require and expect to be able to make an informed decision to become a Unitholder of the Fund, including the following:
 - (i) a description of the investment objective, policy and strategy of the Fund, information on where any master fund is established and where the underlying funds are established if the Fund is a fund of funds, a description of the types of assets in which the Fund may invest, the techniques it may employ and all associated risks, any applicable investment restrictions, the circumstances in which the Fund may use leverage, the types and sources of leverage permitted and the associated risks, any restrictions on the use of leverage and any collateral and asset reuse arrangements, and the maximum level of leverage which the Fund may utilise; and
 - (ii) a description of the procedures by which the Fund may change its investment strategy or investment policy, or both; and
 - (iii) a description of the main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, on the applicable law and on the existence or not of any legal instruments providing for the recognition and enforcement of judgments in the territory where the Fund is established; and
 - (iv) the identity of the Fund Manager, custodian or depositary, auditor and any other service providers for the Fund and a description of their duties and Unitholder's rights in respect of those persons; and
 - (v) a description of any functions that have been delegated by the Fund Manager and any other of the Fund's service providers, the identification of each such delegate and any conflicts of interest that may arise from such delegations; and
 - (vi) a description of the Fund's valuation procedure and of the pricing methodology for valuing assets; and
 - (vii) a description of the Fund's liquidity risk management, including the redemption rights both in normal and in exceptional circumstances, and the existing redemption arrangements with Unitholders; and

- (viii) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by Unitholders; and
 - (ix) a description of how the Fund ensures a fair treatment of Unitholders and, whenever a Unitholder obtains preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment, the type of Unitholders who obtain such preferential treatment and, where relevant, their legal or economic links with the Fund or the Fund Manager; and
 - (x) the latest annual report for the Fund, if applicable; and
 - (xi) the procedure and conditions for the issue and sale of units or shares of the Fund; and
 - (xii) the latest net asset value of the Fund and its units or shares or the latest market price per unit or share of the Fund; and
 - (xiii) where available, information regarding the historical performance of the Fund; and
 - (xiv) if relevant, the identity of any prime broker for the Fund and a description of any material arrangements with that prime broker and the way the conflicts of interest in relation thereto are managed, information about the possibility of transfer and reuse of the Fund's assets by the prime broker, and information about any transfer of liability to the prime broker that may exist; and
 - (xv) the total amount of leverage employed by the Fund; and
 - (xvi) the life of the Fund, the ability to terminate the Fund and the process by which the Fund may be terminated; and
 - (xvii) a description of the arrangements in place for the safekeeping of cash held by or on behalf of the Fund pending investment or distribution to Unitholders.
- (c) All Offering Materials relating to a Foreign Fund must include information on the jurisdiction and regulatory regime applicable to the Foreign Fund and its fund manager.
- (d) If a Fund is a Listed Fund, the Fund Manager must provide in the Fund's Offering Materials a description of the arrangements for listing of the Units and the listing venues on which Units of the Listed Fund may be traded.

- (e) If a Foreign Fund is required to provide a summary or key information document to investors in any jurisdiction, that document must also be provided to potential investors in the AIFC.
- (f) If at any time, there is a material change affecting any matter contained in the Offering Materials for a Fund or a significant new matter arises, the Fund must either before or promptly following the effective date of such material change or new matter, issue updated Offering Materials which clearly explain the material change or significant new matter.
- (g) All Offering Materials relating to a Fund, including the information ~~specified in paragraphs (b), (c), (d) and (e)~~ required under these Rules (as applicable) must be made available in the English language.
- (h) All Offering Materials relating to a Fund must include the following statement displayed prominently on its front page:

"The Astana Financial Services Authority has no responsibility for reviewing or verifying any offering materials, particulars or other documents in connection with this Fund. Accordingly, the Astana Financial Services Authority has not reviewed, nor taken any steps to verify, this document, the information it contains, or any other documents relating to the Fund and has no responsibility for it. The securities to which this document relates may be illiquid or subject to restrictions on their resale. Prospective purchasers should conduct their own due diligence. If you do not understand the contents of this document you should consult an authorised financial adviser."

- (i) All Offering Materials relating to an Exempt Fund must prominently disclose the following statement to prospective Unitholders:

"This Fund is an Exempt Fund for the purposes of the Collective Investment Scheme Rules. It is intended only for sophisticated investors and is not subject to many of the requirements of the Collective Investment Scheme Rules."

- (j) All Offering Materials relating to an Exempt Fund managed by a fund manager which is not located in the AIFC must prominently disclose the following statement to prospective Unitholders:

"The fund manager of this Fund is not subject to regulation by the Astana Financial Services Authority."

6. RULES REGARDING THE CONSTITUTION AND INVESTMENT POWERS OF FUNDS

...

6.10. Specific rules regarding investment in Real Property by Non-Exempt Funds and Real Estate Investment Trusts

- (a) A Non-Exempt Fund or Real Estate Investment Trust may invest in Real Property if expressly permitted to do so by, and in accordance with any limits contained in, the Fund's investment policy.
- (b) Before a Non-Exempt Fund or Real Estate Investment Trust invests in any piece of Real Property or prior to disposing of a piece of Real Property, the relevant Fund Manager must appoint an independent professional Valuer with relevant expertise to ensure that the relevant Real Property is expertly valued.
- (c) The Fund Manager must ensure that the Valuer procures the proper valuation of all Real Property held by the Non-Exempt Fund or Real Estate Investment Trust, on the basis of a full valuation with physical inspection including, where the Real Property is or includes a building, an internal inspection at least once a year.
- (d) If any event occurs which may on reasonable grounds have a material effect on the valuation of the relevant property the Fund Manager must consult with the Valuer with a view to arranging a fresh valuation before any Units in the Non-Exempt Fund or Real Estate Investment Trust are issued or redeemed after the date of the event.
- (e) The Fund Manager must require that any valuation by the Valuer is on the basis of a 'open market value' of the relevant Real Property consistent with an authoritative text such as the current edition of the Royal Institute of Chartered Surveyors' Appraisal and Valuation Standards ("Red Book") or similar practitioners text used by surveyors.

6.11. Rules relating to Real Estate Investment Trusts

- (a) A Fund Manager, or any other Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term "Real Estate Investment Trust" or "REIT" or refer to a Fund or otherwise hold out a Fund as being a Real Estate Investment Trust or a REIT, unless it is a Fund which complies with Rule 2.4(b)(iv).
- (b) If at any time during its operation of the Real Estate Investment Trust, the requirements in Rule 2.4(b)(iv) are not met, the Fund Manager must

immediately notify the AFSA of the failure to meet the requirements in these Rules, and of what measures have been or will be taken to remedy the breach. If the breach is not remedied within six months, the Fund will cease to meet the criteria of being a Real Estate Investment Trust. The Fund Manager shall notify Unitholders promptly:

- (i) of it becoming aware that the Fund is reasonably likely to cease to qualify as a Real Estate Investment Trust (such notice to include the expected date of such cessation); and
- (ii) on the date of such cessation.

(c) The Fund Manager of a Real Estate Investment Trust is responsible for appointing a Property Manager for the Real Estate Investment Trust and such Property Manager shall either be a:

- (i) a third party that is permitted under law or regulation (where applicable) to provide Real Estate Management and Servicing Activities; or
- (ii) a subsidiary of the Fund Manager, which has been established for the purpose of carrying on Real Estate Management and Servicing Activities.

(d) The Fund Manager of a Real Estate Investment Trust must ensure that it distributes to the Unitholders each year an amount equal to not less than 80% of its audited annual net income.

(e) The Fund Manager of a Real Estate Investment Trust must determine if any:

- (i) revaluation surplus credited to income, or
- (ii) gains on disposal of Real Property,

shall form part of the annual net income for distribution to Unitholders.

(f) A Real Estate Investment Trust may only use leverage or borrow:

- (i) in aggregate, up to a maximum of 60% of its net asset value (as determined at the time of drawdown of funds); and

(ii) for investment purposes or to meet its short-term working capital.

(g) A Real Estate Investment Trust is permitted to own, and its Fund Manager is permitted to establish, special purpose vehicles for the purpose of holding Real Property, provided that a Real Estate Investment Trust must own directly or indirectly not less than 60% of the shares, and be entitled to exercise directly or indirectly at least 60% of the voting rights, of any such special purpose vehicle.

- (h) Where a Real Estate Investment Trust holds any Real Property via one or more special purpose vehicles, the Fund Manager must ensure that each special purpose vehicle distributes to the Fund all of its net income to the maximum extent permitted by the laws and regulations of the jurisdiction where the special purpose vehicle is established.
- (i) A Fund Manager of a Real Estate Investment Trust that is an Exempt Fund shall be permitted to accept non-cash consideration for the purchase of Units in the Real Estate Investment Trust, subject to complying with Rule 6.11(l). Non-cash consideration for the purchase of Units is not permitted in Real Estate Investment Trusts that are Non-Exempt Funds.
- (j) Real Estate Investment Trusts are not permitted to invest in property under development.
- (l) A Fund Manager of a Real Estate Investment Trust must include in the Fund's Offering Materials:

 - (i) a detailed description of how the Fund intends to acquire and hold its investments in Real Properties (including the maximum number of special purpose vehicles through which Real Properties may be held);
 - (ii) the maximum percentage of the Real Estate Investment Trust's assets (by reference to the Real Estate Investment Trust's net asset value) that may be deployed for the purposes of property refurbishment, retrofitting and renovation, or a statement that no such activities are permitted; and
 - (iii) (where applicable under Rule 6.11(i)), a statement that the Fund Manager may accept non-cash consideration for the purchase of units in the Real Estate Investment Trust and a description of the lock-up period (if any) applicable to Units acquired for non-cash consideration.

6.12. Rules relating to Private Equity Funds

A Fund Manager, or any other Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term "Private Equity Fund" or refer to a Fund or otherwise hold out a Fund as being a Private Equity Fund unless it is a Fund which complies with Rule 2.4(b)(ii).

6.13. Rules relating to Venture Capital Funds

A Fund Manager, or any other Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term "Venture Capital Fund" or refer to a Fund

or otherwise hold out a Fund as being a Venture Capital unless it is a Fund which complies with Rule 2.4(b)(iii).

...

7. RULES REGARDING THE MANAGEMENT AND OPERATION OF FUNDS

7.2. General management duties

(a) A Fund Manager must:

- (i) manage the Fund including the Fund's property in accordance with the Fund's Constitution and its most recent ~~offer documents~~ Offering Materials;

...

8. ADDITIONAL SERVICE PROVIDERS

8.1. Application

This chapter applies to all Fund Managers located in the AIFC in respect of all Non-Exempt Funds and Real Estate Investment Trusts managed by those Fund Managers.

...

10. AUDIT, FINANCIAL AND VALUATION REQUIREMENTS

10.4. Auditor of a Non-Exempt Fund and a Real Estate Investment Trust

- (a) Every Non-Exempt Fund and Real Estate Investment Trust must appoint an external auditor to conduct an audit of the Fund's annual financial statements in accordance with the requirements of the relevant standards published by the International Auditing and Assurance Standards Board (IAASB) and to produce an auditor's report on those audited financial statements.
- (b) A Fund Manager must prior to the appointment of the auditor, take reasonable steps to ensure that the auditor has the required skills, resources and experience to audit the type of Non-Exempt Fund and/or Real Estate Investment Trust for which the auditor has been appointed.
- (c) A Fund Manager must notify the AFSA of the appointment, resignation or termination of an auditor of a Non-Exempt Fund or a Real Estate Investment Trust.

- (d) A Non-Exempt Fund [and a Real Estate Investment Trust](#) must appoint an auditor to fill any vacancy in the office of auditor and ensure that the replacement auditor can take up office at the time the vacancy arises or as soon as reasonably practicable.
- (e) A Non-Exempt Fund [and a Real Estate Investment Trust](#) must take reasonable steps to ensure that the auditor and the relevant audit staff of the auditor are independent of, and not subject to, any conflict of interest with respect to the Fund Manager or any other service provider to the Fund.
- (f) A Fund Manager must notify the AFSA if it or any Non-Exempt Fund [or Real Estate Investment Trust](#) that it manages becomes aware, or has reason to believe, that the auditor or the relevant audit staff of the auditor of the relevant Non-Exempt Fund [or Real Estate Investment Trust](#) are no longer independent of the Fund Manager or any other service provider to the Non-Exempt Fund [or Real Estate Investment Trust](#), or have a conflict of interest which may affect their judgement in respect of the Non-Exempt Fund [or Real Estate Investment Trust](#).
- (g) A Fund Manager must take reasonable steps to ensure that it and its employees:
 - (i) provide any information to the Non-Exempt Fund's [or Real Estate Investment Trust's](#) auditor that the auditor reasonably requires, or is entitled to receive as auditor;
 - (ii) give the auditor right of access at all reasonable times to relevant records and information within its possession regarding the Fund and allow the auditor to make copies of those records and information;
 - (iii) do not interfere with the auditor's ability to discharge its duties in respect of the Non-Exempt Fund [or Real Estate Investment Trust](#);
 - (iv) report to the auditor any matter which may significantly affect the financial position of the Non-Exempt Fund [or Real Estate Investment Trust](#); and
 - (v) provide such other assistance as the auditor may reasonably request it to provide.
- (h) A Fund Manager must, in writing, require any Person to whom the Fund Manager has delegated or outsourced any functions to co-operate with the Non-Exempt Fund's [or Real Estate Investment Trust's](#) auditor in accordance with the provisions specified in (g).

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC MARKET RULES

(MAR)

AIFC RULES NO. FR0003 OF 2017

Consolidated Version

Approval Date: [[**]] 2019]
Commencement Date: [[**]] 2019]

Guidance: Purpose and application of MAR

The purpose of the rules and guidance set out in MAR is to provide the necessary detail in relation to:

- a. the manner in which Securities may be offered for sale;
- b. the conditions for admission of Securities to trading;
- c. Exempt Offerors and Exempt Securities;
- d. the content of a Prospectus;
- e. the approval and publication of a Prospectus;
- f. Prospectus Liability;
- g. Corporate Governance Principles;
- h. Obligations of Reporting Entities including:
 - i. the obligation to prepare financial statements; and
 - ii. the obligation to appoint a sponsor or compliance adviser if required by the AFSA;
- i. Market Abuse; ~~and~~
- j. Market Disclosure; and
- k. the conditions for admission of Units to trading and the application of the Market Abuse and Market Disclosure Rules to Listed Funds, Units of Listed Funds, and Fund Managers of Listed Funds.

The application of the Rules in MAR is stated in respect of each Rule or apparent from the context.

However, by way of summary:

- MAR 1 (Offer of Securities) is applicable to all persons who may seek to have Securities admitted to trading or to offer Securities by way of placement and to all persons who may be liable for the contents of a Prospectus (as identified in MAR 1.9.1).
- MAR 2 (Governance of Reporting Entities) applies to Reporting Entities other than a Reporting Entity that is a Listed Fund or a Fund Manager of a Listed Fund (in its capacity as such).
- MAR 3 (Financial Reports) applies to Reporting Entities other than a Reporting Entity that is a Listed Fund or a Fund Manager of a Listed Fund (in its capacity as such).
- MAR 4 (Sponsors and Compliance Advisers) applies to Reporting Entities (other than a Reporting Entity that is a Listed Fund or a Fund Manager of a Listed Fund (in their capacity as such)) and any person who intends to have Securities admitted to an Official List of Securities or admitted to trading on an Authorised Investment Exchange, as well as to sponsors and compliance advisers appointed by them.
- MAR 5 (Market Abuse) applies to all persons without limitation.
- MAR 6 (Market Disclosure) applies to Reporting Entities.
- MAR 7 (Listed Funds) is applicable to all persons who may seek to have Units admitted to trading and applies to Listed Funds, Units of Listed Funds, and Fund Managers of Listed Funds.

2 GOVERNANCE OF REPORTING ENTITIES

2.1. Application

Guidance: Definition of Reporting Entity

Section 81 of the Framework Regulations provides:

A Person is a Reporting Entity if the Person

- (a) has Securities or Units admitted to an Official List ~~of Securities~~; ~~or~~
- (b) is the Fund Manager of a Listed Fund; or
- (~~b~~c) is declared by the AFSA to be a Reporting Entity.

This section 2 of the MAR will not apply to a Reporting Entity that is a Listed Fund or the Fund Manager of Listed Fund (in its capacity as such), and the CIS and the Business Rules prescribe the governance requirements for Listed Funds.

Under AMI 3.2.3 and 3.6.6 a Person who seeks to have Securities admitted to trading on an Authorised Investment Exchange and the Issuer of Securities admitted to an Official List maintained by an Authorised Investment Exchange must give enforceable undertakings to the AFSA to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution, including but not limited to requirements in MAR relating to Reporting Entities.

...

3 FINANCIAL REPORTS

Guidance: Financial reporting requirements for Listed Funds

This section 3 of the MAR will not apply to a Reporting Entity that is a Listed Fund or the Fund Manager of Listed Fund (in its capacity as such), and the CIS and the Business Rules prescribe the financial reporting requirements for Listed Funds.

...

4 SPONSORS AND COMPLIANCE ADVISERS

4.1 Sponsors

4.1.1 Appointment of sponsors

Where the AFSA chooses to exercise the power under section 85 of the Framework Regulations to require a Reporting Entity or a Person that intends to have Securities admitted to an Official List ~~of Securities~~ or admitted to trading on an Authorised Investment Exchange to appoint an Authorised Firm or Ancillary Services Provider to act as a sponsor, the AFSA will notify the relevant Person in writing.

...

7 LISTED FUNDS

7.1.1 Application

This part applies to:

- (a) a Listed Fund; and
- (b) a Fund Manager of a Listed Fund.

7.1.2 Conditions for admission of Units to trading

An Authorised Investment Exchange may not admit Units to trading unless:

- (a) the Units have been admitted to the Official List maintained by the Authorised Investment Exchange in accordance with section 66 of the Framework Regulations; and
- (b) in relation to Units of Listed Funds other than Overseas Listed Funds:
 - (i) the Fund is a Non-Exempt Fund registered under the AIFC Collective Investment Scheme Rules;
 - (ii) there are Offering Materials in relation to the relevant Units and the Authorised Investment Exchange has satisfied itself that such Offering Materials satisfies the requirements in AIFC Collective Investment Scheme Rules.

Guidance: Listing Exempt Funds

Exempt Funds may be admitted to the Official List, but not to trading, as they can only be offered on a private placement basis to certain investors.

7.1.3 Application of MAR to Listed Funds

The following parts of MAR shall generally apply to Listed Funds, with all necessary modifications (such that references to "Security" or "Securities" shall be read as references to "Unit in a Listed Fund" or "Units in a Listed Fund", respectively; references to the "Issuer" shall be read as references to the "Listed Fund"; and references to "Reporting Entity" shall be a reference to "the Listed Fund and its Fund Manager" (except the second reference to "Reporting Entity" in Rule 6.1.1 shall be a reference to the "Listed Fund" only):

- (a) MAR 5 (Market Abuse);
- (b) MAR 6 (Market Disclosure).

The following parts of MAR shall not apply to Listed Funds, or a Reporting Entity that is the Fund Manager of Listed Fund (in its capacity as such):

- (c) MAR 1 (Offer of Securities);
- (d) MAR 2 (Governance of Reporting Entities);
- (e) MAR 3 (Financial Reports); and
- (f) MAR 4 (Sponsors and Compliance Advisors).

7.1.4 Disclosure of Financial Reports and Valuation

The Fund Manager of a Listed Fund (other than an Overseas Listed Fund) must disclose to the market any interim and annual reports and any valuations that the Listed Fund is required to prepare and disclose to Unitholders under CIS 10 promptly on their being available.

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC AUTHORISED MARKET INSTITUTION RULES

(AMI)

AIFC RULES NO. FR0002 OF 2017

Consolidated Version

([***](#) 2019)

Guidance: Purpose and application of AMI

The rules and guidance in AMI complement Chapter 2 of Part 3 of the Framework Regulations (Licensing of Authorised Market Institutions) and Part 6 of the Framework Regulations (Capital Markets). AMI also contains rules in relation to the supervision of Authorised Market Institutions which complement the provisions in Part 8 of the Framework Regulations (Supervision of Authorised Persons) and Chapter 7 of the GEN rulebook (Supervision). The purpose of the rules and guidance in AMI is to set out:

- the licensing requirements, or standards, which an applicant must satisfy to be granted a Licence to carry on either of the Market Activities of Operating an Investment Exchange, Operating Private E-currency Trading Facility and Operating a Clearing House;
- the various regulatory functions that an Authorised Market Institution must perform in relation to admitting Securities [or Units of a Listed Fund](#) to trading, operating an Official List and enforcing its Business Rules; and
- the supervisory regime to which such an Authorised Market Institution will be subject on an ongoing basis, including requirements in respect of its relationship with the AFSA.

The application of the rules in AMI is as follows:

- Chapter 1 contains introductory provisions applicable to all Authorised Market Institutions.
- Chapter 2 contains rules and guidance applicable to all Authorised Market Institutions.
- Chapter 3 contains additional rules and guidance applicable to Authorised Investment Exchanges.
- Chapter 4 contains additional rules and guidance applicable to Authorised Clearing Houses (including Authorised Central Counterparties).
- Chapter 5 contains rules in relation to the supervision of Authorised Market Institutions.
- Chapter 6 contains additional rules and guidance applicable to Authorised Private E-currency Trading Facility.

2. RULES APPLICABLE TO ALL AUTHORISED MARKET INSTITUTIONS

...

2.3.1. Conflicts of interest – core obligation

An Authorised Market Institution must take reasonable steps, including the maintenance of adequate systems and controls, governance and internal policies and procedures, to ensure that the performance of its regulatory functions is not adversely affected by its commercial interests.

Guidance: regulatory functions of Authorised Market Institution

The regulatory functions of an Authorised Market Institution include, as appropriate:

- its obligations under AMI to monitor and enforce compliance with its membership rules, Business Rules, Direct Electronic Access Rules;
- its obligation to prevent, detect and report market abuse or financial crime; and
- its obligations in respect of admission of Securities [or Units of a Listed Fund](#) to an Official List, to Trading or to Clearing.

...

2.5.1. Requirement to prepare Business Rules

Save where the AFSA otherwise directs, an Authorised Market Institution must establish and maintain Business Rules governing relations between itself and the participants in the market, including but not limited to:

- (a) Membership Rules, prepared in accordance with AMI 2.6, governing the admission of Members and any other Persons to whom access to its facilities is provided;
- (b) Direct Electronic Access Rules, prepared in accordance with AMI 2.7, setting out the rules and conditions pursuant to which its Members may provide their clients with Direct Electronic Access to the Authorised Market Institution's trading systems;
- (c) Default Rules, prepared in accordance with either AMI 3.5 or AMI 4.6, governing action that may be taken in respect of unsettled Market Contracts in the event of a Member being, or appearing to be, unable to meet its obligations;
- (d) Admission to Trading Rules, prepared in accordance with AMI 3.2 or AMI 6.3, or Admission to Clearing Rules, prepared in accordance with AMI 4.1, governing the admission of Securities, [Units of a Listed Fund](#) or Private E-currencies to trading, or clearing and settlement, as appropriate to its facilities;
- (e) Listing Rules, prepared in accordance with AMI 3.6, setting out the rules and conditions applicable to a Person who wishes to have Securities [or Units of a Listed Fund](#) included in an Official List ~~of Securities~~; and
- (f) any other matters necessary for the proper functioning of the Authorised Market Institution and the facilities operated by it.

The requirements in (c) and (e) do not apply to the Authorised Private E-currency Trading Facility.

...

2.7.1 Direct Electronic Access

Direct Electronic Access means any arrangement, such as the use of the Member's trading code, through which a Member or the clients of that Member are able to transmit electronically orders relating to Securities, [Units of a Listed Fund](#) or Private E-currency directly to the facility provided by the Authorised Market Institution and includes arrangements which involve the use by a Person of the infrastructure of the Authorised Private E-currency Trading Facility or the Member or participant or client or any connecting system provided by the Authorised Private E-currency Trading Facility or Member or participant or client, to transmit the orders and arrangements where such an infrastructure is not used by a Person.

3. RULES APPLICABLE TO AUTHORISED INVESTMENT EXCHANGES

3.1 Systems and Controls

...

3.1.3. Publicly available data on quality of executions

An Authorised Investment Exchange must make available to the public, without any charges, data relating to the quality of execution of transactions on the Authorised Investment Exchange on at least an annual basis. Reports must include details about price, costs, speed and likelihood of execution for individual Securities [or Units of a Listed Fund](#).

...

3.1.6. Tick size regimes

The Authorised Investment Exchange must adopt a tick size regime in respect of each type of Security [or Unit of a Listed Fund](#) traded on each trading venue operated by it. The tick size regime must:

- (a) be calibrated to reflect the liquidity profile of ~~the Securities~~ [such Investments](#) in different markets and the average bid-ask spread taking into account the desirability of enabling reasonably stable prices without unduly constraining further narrowing of spreads; and
- (b) be able to adapt the tick size for each ~~Security~~ [such Investment](#) appropriately.

Short selling and position management

- (a) An Authorised Investment Exchange must have in place effective systems, controls and procedures to monitor and manage:

- (i) Short selling in shares, debentures and any other similar **Securities Investments**; and
 - (ii) Risks arising from position concentrations.
- (b) For the purposes of (a), an Authorised Investment Exchange must have adequate powers over its Members to mitigate the probability and impact of risk to the orderly functioning of its facilities arising from unsettled positions in Securities or Units of Listed Fund.
- (3) Short selling for the purposes of this Rule constitutes the sale of a share, debenture or other similar **Securities Investment** by a Person who does not own the share, debenture or other similar **Securities Investment** at the point of entering into the contract to sell.

...

3.2. Admission of Securities to trading

3.2.1 Admission to Trading Rules

An Authorised Investment Exchange must make clear and transparent rules concerning the admission of Securities or Units of a Listed Fund to trading on its facilities.

3.2.2. Content of Admission to Trading Rules

The rules of the Authorised Investment Exchange must ensure that:

- (a) Securities or Units of a Listed Fund admitted to trading on an Authorised Investment Exchange's facilities are capable of being traded in a fair, orderly and efficient manner;
- (b) Securities or Units of a Listed Fund admitted to trading on an Authorised Investment Exchange's facilities are freely negotiable; and
- (c) contracts for derivatives admitted to trading on an Authorised Investment Exchange's facilities are designed so as to allow for their orderly pricing as well as for the existence of effective settlement conditions.

Guidance: Fair, orderly and efficient trading

When assessing whether a Security or Unit of a Listed Fund is capable of being traded in a fair, orderly and efficient manner, the Authorised Investment Exchange shall take into account, depending on the nature of the Security or Unit of a Listed Fund being admitted, whether the following criteria are satisfied:

- (a) the terms of the Security or Unit of a Listed Fund are clear and unambiguous and allow for a correlation between the price of the Security or Unit of a Listed Fund and the price or other value measure of the underlying;
- (b) the price or other value measure of the underlying is reliable and publicly available; and
- (c) there is sufficient information publicly available of a kind needed to value the Security or Unit of a Listed Fund.

Guidance: Effective settlement conditions

When assessing whether a contract for a derivative contains effective settlement conditions, the Authorised Investment Exchange shall take into account, depending on the nature of the derivative being admitted, whether the following criteria are satisfied:

- (a) the arrangements for determining the settlement price of the derivative ensure that this price properly reflects the price or other value measure of the [relevant underlying Investment](#); and
- (b) where the settlement of the derivative requires or provides for the possibility of the delivery of an underlying [Security Investment](#) or asset rather than cash settlement, there are adequate settlement and delivery procedures for that underlying Investment as well as adequate arrangements to obtain relevant information about that underlying [Investment](#).

3.2.3. Undertaking to comply with AFSA rules

An Authorised Investment Exchange may not admit Securities [or Units of a Listed Fund](#) to trading unless the ~~person~~ [Person](#) who seeks to have [Securities such Investments](#) admitted to trading:

- (a) gives an enforceable undertaking to the AFSA to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution, including but not limited to requirements in MAR relating to Reporting Entities;
- (b) agrees in writing to submit unconditionally to the jurisdiction of the AIFC Courts in relation to any disputes, or other proceedings in the AIFC, which arise out of or relate to its use of the facilities of the Authorised Market Institution;
- (c) agrees in writing to subject itself to the AIFC laws in relation to its use of the facilities of the Authorised Market Institution; and
- (d) appoints and maintains at all times, an agent for service of process in the AIFC and requires such agent to accept its appointment for service of process.

3.2.4. Review of compliance

The Authorised Investment Exchange must maintain arrangements regularly to review whether the Securities [or Units of a Listed Fund](#) admitted to trading on its facilities comply with the Admission to Trading Rules.

3.2.5. Verification of compliance by issuers with Market Rules

The Authorised Investment Exchange must maintain effective arrangements to verify that issuers of Securities [or Units of a Listed Fund](#) admitted to trading on a regulated market operated by it comply with the Market Rules.

3.2.6. Arrangements for access to information

The Authorised Investment Exchange must maintain arrangements to assist users of a market operated by it to obtain access to information made public under the Market Rules.

3.3. Suspending or removing Securities or Units of a Listed Fund from trading

3.3.1. Power to suspend

The rules of an Authorised Investment Exchange must provide that the Authorised Investment Exchange has the power to suspend or remove from trading on its facilities any Securities or Units of a Listed Fund which no longer ~~complies~~ comply with its rules.

3.3.2. Limitation on power to suspend or remove Securities or Units of a Listed Fund from trading

An Authorised Investment Exchange may not suspend or remove from trading on its facilities any Security or Unit of a Listed Fund which no longer complies with its rules, where such step would be likely to cause significant damage to the interests of investors or the orderly functioning of the financial markets.

3.3.3. Suspension or removal from trading of associated derivatives

Where the Authorised Investment Exchange suspends or removes any Security or Unit of a Listed Fund from trading on its facilities, it must also suspend or remove from trading on its facilities any derivative that relates to or is referenced to that ~~Security~~ Investment where that is required to support the objectives of the suspension or removal of trading of that ~~Security~~ Investment.

3.3.4. Publication of decision to suspend or remove Securities or Units of a Listed Fund from trading

Where the Authorised Investment Exchange suspends or removes any Security or Unit of a Listed Fund from trading on its facilities, including any derivative in accordance with AMI 3.3.3, it must notify the AFSA and make that decision public.

3.3.5. Publication of decision to lift suspension or re-admit Securities or Units of a Listed Fund to trading

Where the Authorised Investment Exchange lifts a suspension or re-admits any Security or Unit of a Listed Fund to trading on its facilities, including any derivative suspended or removed from trading in accordance with AMI 3.3.3, following a decision made under AMI 3.3.1, it must notify the AFSA and make that decision public.

3.4. Transparency obligations

3.4.1. Pre-trade transparency obligation

An Authorised Investment Exchange must make available to the public on a continuous basis during normal trading hours the current bid and offer prices of Securities or Units of a Listed Fund traded on its systems and the depth of trading interests at those prices.

Guidance

The disclosure required by 3.4.1 will depend upon the type of trading system employed, including continuous auction order-book, quote-driven, periodic auction and hybrid trading systems. An Authorised Investment Exchange should discuss its proposals for compliance with this requirement with the AFSA. The AFSA may waive or modify the requirement in respect of

certain types of trade or types of [Security Investment](#) pursuant to Section 8 of the Framework Regulations.

3.4.2. Post-trade transparency obligation

An Authorised Investment Exchange must make available to the public in as close to real-time as technically possible the price, volume and time of the transactions executed in respect of Securities [or Units of a Listed Fund](#) traded on its facilities.

Guidance

The AFSA may waive or modify the requirement in AMI 3.4.2 in respect of certain types of trade or types of [Security Investment](#) pursuant to Section 8 of the Framework Regulations.

In particular, subject to AMI 1.1.2 (outsourcing) and to obtaining the approval of the AFSA, an Authorised Investment Exchange may delegate its provision of post-trade information to a regulatory news service or similar third-party entity.

...

3.6. Listing Rules

3.6.1. General requirements relating to Listing Rules

- (1) An Authorised Investment Exchange wishing to admit Securities [or Units of a Listed Fund](#) to its own Official List ~~of Securities~~ must:
 - (a) have Listing Rules which comply with the requirements of AMI 3.6.2; and
 - (b) ensure that its Listing Rules are approved by the AFSA.
- (2) Any amendment to an Authorised Investment Exchange's Listing Rules must, prior to the amendment becoming effective, have been:
 - (a) made available for a reasonable period of time to the market for consultation; and
 - (b) approved by the AFSA.
- (3) In urgent cases, the AFSA may, on written application by the Authorised Investment Exchange, dispense with the requirement in (2)(a).

3.6.2. Contents of Listing Rules

The Listing Rules of an Authorised Investment Exchange must include requirements relating to:

- (a) procedures for admission of Securities [or Units of a Listed Fund](#) to its Official List ~~of Securities~~, including:
 - (i) requirements to be met before [Securities such Investments](#) may be granted admission to an Official List ~~of Securities~~; and
 - (ii) agreements in connection with admitting [Securities such Investments](#) to an Official List ~~of Securities~~;
- (b) procedures for suspension and delisting of Securities [or Units of a Listed Fund](#) from an Official List ~~of Securities~~;

- (c) the imposition on any Person of obligations to observe specific standards of conduct or to perform, or refrain from performing, specified acts, reasonably imposed in connection with the admission of Securities or Units of a Listed Fund to an Official List ~~of Securities~~ or continued admission of ~~Securities~~ such Investments to an Official List ~~of Securities~~;
- (d) penalties or sanctions which may be imposed by the Authorised Investment Exchange for a breach of the Listing Rules;
- (e) procedures or conditions which may be imposed, or circumstances which are required to exist, in relation to matters which are provided for in the Listing Rules;
- (f) actual or potential conflicts of interest that have arisen or might arise when a Person seeks to have Securities or Units of a Listed Fund admitted to an Official List ~~of Securities~~; and
- (g) such other matters as are necessary or desirable for the proper operation of the listing rule process and the market.

...

3.6.4. Compliance with Listing Rules

- (1) An Authorised Investment Exchange which is permitted to maintain an Official List ~~of Securities~~ must ensure the function is properly and independently operated.
- (2) An Authorised Investment Exchange must have procedures in place to ensure that:
 - (a) its Listing Rules are monitored and enforced; and
 - (b) complaints regarding Persons subject to the Listing Rules are investigated.
- (3) An Authorised Investment Exchange must ensure that:
 - (a) where appropriate, disciplinary action can be carried out and financial and other types of penalties can be imposed on Persons subject to the Listing Rules; and
 - (b) adequate appeal procedures are in place.

3.6.5. Application for admission of Securities or Units of a Listed Fund to an Official List ~~of Securities~~

- (1) Applications for the admission of Securities or Units of a Listed Fund to an Official List ~~of Securities~~ must be made by the issuer of ~~the Securities~~ such Investments, or by a third party on behalf of and with the consent of the issuer of ~~the Securities~~ such Investments.

- (2) An Authorised Investment Exchange must, before granting admission of any Securities [or Units of a Listed Fund](#) to an Official List ~~of Securities~~ maintained by it:
 - (a) be satisfied that the applicable requirements, including those in its Listing Rules, have been or will be fully complied with in respect of those ~~Securities~~ [Investments](#); and
 - (b) comply with the requirements relating to notification to the AFSA in (4) and (5).
- (3) An Authorised Investment Exchange must notify an applicant in writing of its decision in relation to the application for admission of Securities [or Units of a Listed Fund](#) to its Official List ~~of Securities~~.
- (4) Subject to (5), at least 5 business days prior to an admission of Securities [or Units of a Listed Fund](#) to its Official List ~~of Securities~~, an Authorised Investment Exchange must provide the AFSA with notice of the decision and include the following information in the notification:
 - (a) a copy of the listing application;
 - (b) a copy of the assessment of the listing application carried out by the Exchange; and
 - (c) any information requested by the AFSA.
- (5) An Authorised Investment Exchange must immediately notify the AFSA of any decision to suspend, restore from suspension or de-list any Securities [or Units of a Listed Fund](#) from its Official List ~~of Securities~~ and the reasons for the decision.

3.6.6. Undertaking to comply with AFSA rules

An Authorised Investment Exchange may not admit Securities [or Units of a Listed Fund](#) to an Official List ~~of Securities~~ unless the issuer of ~~Securities~~ [such Investments](#):

- (a) gives an enforceable undertaking to the AFSA to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution, including but not limited to requirements in MAR relating to Reporting Entities;
- (b) agrees in writing to submit unconditionally to the jurisdiction of the AIFC Courts in relation to any disputes, or other proceedings in the AIFC, which arise out of or relate to its use of the facilities of the Authorised Market Institution;
- (c) agrees in writing to subject itself to the AIFC laws in relation to its use of the facilities of the Authorised Market Institution; and
- (d) appoints and maintains at all times, an agent for service of process in the AIFC and requires such agent to accept its appointment for service of process.

4. RULES APPLICABLE TO AUTHORISED CLEARING HOUSES

4.1. Admission of Securities or Units of a Listed Fund to Clearing

4.1.1. Admission to clearing rules

An Authorised Clearing House must have clear and objective criteria included in its rules according to which **Securities** Investments can be cleared or settled on its facilities.

...

4.3.1. Credit Risk

- (1) An Authorised Clearing House must establish a robust framework to manage its credit exposures to its participants and the credit risks arising from its payment, clearing and settlement processes.
- (2) An Authorised Clearing House operating a payment system or Securities Settlement System must cover its current and, where they exist, potential future exposures to each participant fully with a high degree of confidence using collateral and other equivalent financial resources.
- (3) An Authorised Clearing House operating as a Central Counterparty must:
 - (a) cover its current and potential future exposures to each participant fully with a high degree of confidence using margin and other prefunded financial resources;
 - (b) perform stress tests, on a regular basis as appropriate to the nature, scale and complexity of its operations, using models containing standards and predetermined parameters and assumptions; and
 - (c) at least monthly (and more frequently if the Securities or Units of a Listed Fund cleared or markets served display high volatility, become less liquid, or when the size or concentration of positions held by its participants increase significantly), carry out a comprehensive and thorough analysis of stress testing models, scenarios, and underlying parameters and assumptions used to ensure that they are appropriate for determining the required level of default protection in light of current and evolving market conditions; and
 - (d) at least annually, conduct an independent review and validation of its financial risk management models.

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4.5.1. Central securities depositories

An Authorised Clearing House acting as a Central Securities Depository must:

- (1) have appropriate rules, procedures, and controls, including robust accounting practices, to safeguard the rights of **Securities**-issuers and holders of Securities or

Units of a Listed Fund, prevent the unauthorised creation or deletion of Securities or Units of a Listed Fund, and conduct periodic and at least daily reconciliation of issues of Securities ~~issues~~ or Units of a Listed Fund it maintains;

- (2) prohibit overdrafts and debit balances in accounts of Securities ~~accounts~~ or Units of a Listed Fund;
- (3) maintain Securities or Units of a Listed Fund in an immobilised or dematerialised form for their transfer by book entry;
- (4) protect assets against custody risk through appropriate rules and procedures consistent with its legal framework;
- (5) ensure segregation between the Central Securities Depository's own assets and the securities of its participants and segregation among the securities of participants; and
- (6) identify, measure, monitor, and manage its risks from other activities that it may perform.

...

5. SUPERVISION

...

5.2.7. Notification of admission to or removal from trading

Where an Authorised Investment Exchange proposes to suspend or remove from trading or admit to trading, by means of its facilities, a class of Security or Units of a Listed Fund which it has not previously traded, but is licensed to do so, it must give the AFSA notice of that event, at the same time as the proposal is communicated to Persons granted access to its facilities or shareholders, with the following information:

- (a) a description of the ~~Security~~ Investment to which the proposal relates; and
- (b) the name of any clearing or settlement facility in respect of that ~~Security~~ Investment.

5.2.8. Notification of removal from or admission to clearing

Where an Authorised Clearing House proposes to cease clearing or settling, or to commence clearing or settling, by means of its facilities, a class of Security or Units of a Listed Fund which it has not previously cleared or settled, but is licensed to do so, it must give the AFSA notice of that event, at the same time as the proposal is communicated to Persons granted access to its facilities or shareholders, with the following information:

- (a) a description of the ~~Security~~ Investment to which the proposal relates; and
- (b) the name of any trading facility in respect of that ~~Security~~ Investment.

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC GENERAL RULES

(GEN)

AIFC RULES NO. FR0001 OF 2017

Consolidated Version

Approval Date: *** 2019

Commencement Date: *** 2019

1.2.6. Effective supervision

In assessing whether an applicant is capable of being effectively supervised by the AFSA for the purposes of section 37(1)(c) of the Framework Regulations, the AFSA will consider:

- (a) the nature, including the complexity, of the Market Activities that the applicant will carry on;
- (b) if the applicant seeks a licence to carry on the Market Activity of Operating an Exchange or a Private E-currency Trading Facility, the size, nature and complexity of any markets in respect of which the applicant will offer its facilities as an exchange in carrying on that Market Activity;
- (c) if the applicant seeks a licence to carry on the Market Activity of Operating a Clearing House, the complexity of the **Securities Investments** and transactions, and the size of the likely transaction values and volumes in respect of which the applicant will offer clearing and settlement services in carrying on that Market Activity;
- (c) the way in which the applicant's business is organised;
- (d) (if the applicant is a member of a Group) whether membership of the Group is likely to prevent the AFSA's effective supervision of the applicant; and
- (e) whether the applicant is subject to consolidated supervision.

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC CONDUCT OF BUSINESS RULES

(COB)

AIFC RULES NO. FR0005 OF 2017

Consolidated Version
([***](#) 2019)

10.8 Offers of securities

10.8.1. General requirement

When an Authorised Firm carries out a mandate to manage an Offer of Securities [or an Offer of Units](#), it must implement adequate internal arrangements to manage any conflicts of interest that may arise as a result of the Authorised Firm's duty to two distinct sets of Clients namely the corporate finance Client and the investment Client.

10.8.2. Disclosure

For the purposes of COB 10.8.1, when an Authorised Firm accepts a mandate to manage an Offer, it must take reasonable steps to disclose to its corporate finance Client:

- (a) the process the Authorised Firm proposes to adopt in order to determine what recommendations it will make about allocations for the Offer;
- (b) details of how the target investor group, to whom it is planned to Offer the Securities [or Units in a Listed Fund](#), will be identified;
- (c) the process through which recommendations are prepared and by whom; and
- (d) (if relevant) that it may recommend placing Securities [or Units in a Listed Fund](#) with a Client of the Authorised Firm for whom the Authorised Firm provides other services, with the Authorised Firm's own proprietary book, or with an Associate, and that this represents a potential conflict of interest.

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Schedule 2: KEY INFORMATION AND CONTENT OF CLIENT AGREEMENT

The key information which an Authorised Firm is required to provide to a Client and include in the Client Agreement with that Client pursuant to COB 4 must include:

- (a) the core information set out below; and
- (b) where relevant, the additional information required for Investment Business and for Investment Management.

...

3.	ADDITIONAL INFORMATION FOR INVESTMENT MANAGEMENT ACTIVITIES
	The additional information required where an Authorised Firm acts as an Investment Manager is:
	(a) the initial value of the managed portfolio
	(b) the initial composition of the managed portfolio
	(c) the period of account for which periodic statements of the portfolio
	<p>(d) in the case of discretionary investment management activities:</p> <ul style="list-style-type: none"> (i) the extent of the discretion to be exercised by the Authorised Firm, including any restrictions on the value of any one Investment or the proportion of the portfolio which any one Investment or any particular kind of Investment may constitute; or that there are no such restrictions; (ii) whether the Authorised Firm may commit the Client to supplement the funds in the portfolio, and if it may include borrowing on his behalf: <ul style="list-style-type: none"> (A) the circumstances in which the Authorised Firm may do so; (B) whether there are any limits on the extent to which the Authorised Firm may do so and, if so, what those limits are; (C) any circumstances in which such limits may be exceeded; and (D) any margin lending arrangements and terms of those arrangements; (iii) that the Authorised Firm may enter into Transactions for the Client, either generally or subject to specified limitation; and (iv) where the Authorised Firm may commit the Client to any obligation to underwrite or sub-underwrite any issue or offer for sale of Securities or Units in a Listed Fund: <ul style="list-style-type: none"> (A) whether there are any restrictions on the categories of Securities or Units in a Listed Fund which may be underwritten and, if so, what these restrictions are; and (B) whether there are any financial limits on the extent of the underwriting and, if so, what these limits are.

In this document, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments



AIFC ISLAMIC FINANCE RULES

(IFR)

AIFC RULES NO. _ OF 2017

Astana International Financial Centre, Astana

7.8. Additional disclosures in **Prospectus** the Offering Materials of a Non-Exempt Islamic Fund

Guidance

In addition to complying with the requirements set out in the AIFC CIS Rules relevant to **Fund Prospectus** the Offering Materials, the Fund Manager of a Non-Exempt Islamic Fund must comply with the additional requirements set out in this section.

- (1) A Fund Manager of a Non-Exempt Islamic Fund must state in the Fund's **Prospectus** Offering Materials:
 - (a) that all the operations in relation to the Fund will be conducted in accordance with Shari'ah;
 - (b) if the Fund has a SSB appointed to it, the names of the members of the SSB and their qualifications and experience and, whether or not the Fund Manager's SSB is appointed to the Fund;
 - (c) if the Fund does not have a SSB appointed to it pursuant to Rule 7.5(3), what widely acceptable screening methodologies are used by the Fund to ensure Shari'ah compliance with respect to Investments made for the Fund, and the board that has approved them;
 - (d) if applicable, the manner and frequency of Shari'ah reviews;
 - (e) how earnings prohibited by Shari'ah will be disposed of; and
 - (f) whether Zakat is the responsibility of the Fund or the responsibility of the Unitholders.

...

8. **OFFERS OF ISLAMIC SECURITIES AND UNITS IN AN ISLAMIC INVESTMENT FUND THAT IS A LISTED FUND**

8.1. Application

- (1) A Person making Offers of Islamic Securities or Offers of Units in an Islamic Investment Fund that is a Listed Fund in or from the AIFC must comply with the requirements in the AIFC MAR Rules, except to the extent specified in this section of IFR Rules.
- (2) This section of IFR Rules applies to any Person who Offers Islamic Securities or Offers of Units in an Islamic Investment Fund that is a Listed Fund in or from the AIFC.
- ~~(3) Islamic Securities, for the purposes of the IFR Rules, do not include Units of an Islamic Investment Fund.~~

Guidance

- i) The issue of Securities is not a Regulated Activity. However, the Offer of Securities is an activity to which the AIFC FSFR and MAR Rules apply. Under the AIFC Regulations and Rules, a Person making an Offer of Securities in or from the AIFC would be subject to a range of disclosure requirements, unless exempt by specific provisions.
- ii) Offers of ~~Islamic Securities which are~~ Units of an [Islamic Investment Fund](#) are not subject to the requirements in this section because the AIFC CIS Rules provide for such activities to be regulated. [However, Offers of Units of an Islamic Investment Fund that is also a Listed Fund are subject to the AIFC CIS Rules, the requirements of this section and the AIFC MAR Rules.](#)
- iii) ~~The definition of the term Islamic Securities is in the AIFC Master Glossary.~~
- ...

8.3. [Continuing disclosures relating to Islamic Securities or Units in an Islamic Investment Fund that is a Listed Fund](#)

- (1) The Issuer or the Reporting Entity responsible for an issue of Islamic Securities [and/or the Fund Manager \(in the case of an Islamic Investment Fund that is a Listed Fund\)](#) must, without delay, disclose to the markets and to the AFSA details of any changes to the membership of its SSB, the identity, qualifications and experience of any new members of that SSB and the identity of any SSB member who resigned or was dismissed.
- (2) A listed entity with Islamic Securities [or Units in an Islamic Investment Fund that is a Listed Fund](#) admitted to the Official List ~~of Securities~~ must make the required market disclosures in accordance with the requirements under the [applicable](#) AIFC MAR Rules and comply with the other continuing obligations specified below.
- (3) The Issuer or the Reporting Entity responsible for an issue of Islamic equity Securities [and/or the Fund Manager \(in the case of an Islamic Investment Fund that is a Listed Fund\)](#) must appoint an independent SSB to evaluate the Shari'ah compliance of those securities and notify the AFSA of that fact, at least on an annual basis.
- (4) A Reporting Entity [and/or the Fund Manager \(in the case of an Islamic Investment Fund that is a Listed Fund\)](#) must disclose to the market immediately, any material change in the status of Shari'ah compliance of any of the securities for which it is responsible as a Reporting Entity.
- (5) In cases, where there is a material change to the structure of the Islamic Securities [or Units in an Islamic Investment Fund that is a Listed Fund](#) issued by the Reporting Entity [or Listed Fund](#), or in the use of its proceeds, the Reporting Entity [or Fund Manager](#) must take adequate steps to obtain and disclose to the market, a new Shari'ah opinion considering the changed circumstances.