

# Consultation Paper

AFSA-P-CE-2020-0006

---

## Proposed Enhancement of AIFC Regulatory Framework for Representative Offices

Unrestricted

October 5, 2020

## Introduction

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to invite public comments on the proposed amendments to the AIFC Regulatory framework for Representative Offices.
2. The proposals in this Consultation Paper will be of interest to current and potential AIFC participants who are interested in exercising business activities in or from the AIFC.
3. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2020-0006” 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 **4 November 2020**. Once we receive your comments, we shall consider if any refinements are required to this proposal.
5. Comments to be addressed by post:  
  
Policy and Strategy Division  
Astana Financial Services Authority (AFSA)  
55/17 Mangilik El, building C3.2, Kazakhstan  
or emailed to: [consultation@afsa.kz](mailto:consultation@afsa.kz)  
  
Tel: +8 7172 613781
6. The remainder of this Consultation Paper contains the following:
  - (a) Background to the proposal
  - (b) Annex 1: Draft of the proposed amendments to the AIFC Pre-IPO Listing Rules

## Background

1. The scope of Representative Office's includes:
  - (a) marketing activities;
  - (b) activities that increase the profile, in the AIFC, of the Representative Office's head office;
  - (c) activities that relate to correspondence with or the provision of information from the Representative Office's head office;
  - (d) activities that relate to the provision of information to the Representative Office's head office relating to business trends, business opportunities and developments in the AIFC markets;
  - (e) any other activities that the AFSA determine may be suitable for a Representative Office to conduct.
2. The proposed amendments to existing legal framework aim to provide market expansion opportunities and streamline the existing processes of Representative Office registration, namely:
  - 1) Exempt Representative Offices from the requirement to assign Senior Executive Officer (SEO), Money Laundering Reporting Officer (MLRO), Finance Officer (FO) and Compliance Officer (CO). Instead, allow these functions (except MLRO) to be conducted by Principal Representatives, persons assigned to manage Representative Offices.
  - 2) Exempt Representative Offices from the obligation to comply with the requirements of the AIFC Anti-Money Laundering, Counter-Terrorist Financing and Sanction Rules (AML) as these requirements are not proportionate to the nature of activities conducted by Representative Offices.
  - 3) Allow Principal Representatives, persons assigned to manage Representative Offices, to be non-residents of Kazakhstan.
3. The key objectives of the proposed amendments include:
  - streamline the registration process of Representative Offices
  - create market expansion opportunities for Representative Offices
  - create an opportunity for potential Authorised Firms to test the AIFC market and jurisdiction by registering first as a Representative Office.
4. Annex 1 describes the proposed amendments to the AIFC General Rules, AIFC Representative Office Rules and AIFC Anti-Money Laundering, Counter Terrorist Financing and Sanctions.

## Proposed amendments to the AIFC Rules regarding Representative Offices

*In these Rules the underlying indicates a new text and the strikethrough indicates a removed text*

### Rule: AIFC General Rules

#### CONTROLLED AND DESIGNATED FUNCTIONS

##### 2.1. Mandatory appointments

###### 2.1.1. Appointments to be filled by Approved Individuals

(1) Subject to (2) an Authorised Person, must make the following appointments and ensure that they are held by one or more Approved Individuals at all times:

- (a) Senior Executive Officer;
- (b) Finance Officer; and
- (c) Compliance Officer

(2) For an Authorised Person Operating a Representative Office the mandatory appointments in (1) may be carried on by its Principal Representative.

###### 2.1.2. Appointments to be filled by Approved Individuals or Designated Individuals

(1) An Authorised Person, except for an Authorised Person Operating a Representative Office, must make the following appointments and ensure that they are held by either an Approved Individual or a Designated Individual at all times:

- (a) Money Laundering Reporting Officer; and
- (b) such other role or function as the AFSA may direct from time to time.

(2) ...

### Rule: AIFC Representative Office Rules

#### 3.4. Principal Representative

(1) A Representative Office must at all times have a Principal Representative who

~~(a) is resident in Kazakhstan; and~~

~~(b)~~ has satisfied the AFSA as to his/her fitness and propriety. The AFSA may give a Representative Office written notice that a Principal Representative is not fit and proper if the AFSA makes such a determination.

(2) If:

(a) the Principal Representative ceases to be an employee of the Representative Office; or

(b) the Representative Office receives the notice described in REP 3.4(1)~~(b)~~, the Representative Office must designate a replacement Principal Representative as soon as possible after, and in any event within 28 days of, either the Principal Representative's departure in REP 3.4(2)(a) or the Representative Office's receipt of the notice mentioned in REP 3.4(1)~~(b)~~. The

AFSA may revoke a Representative Office's Licence if they fail to follow the procedure outlined in REP 3.4(2).

## **Rule: AIFC Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Rules**

### **2. APPLICATION**

#### 2.1. Application

(a) The AML Rules apply to:

- (i) every Relevant Person in respect of all its AFSA regulated or supervised activities except an Authorised Firm licenced to operate a Representative Office; and
- (ii) the persons specified in AML 2.2 as being responsible for a Relevant Person's compliance with these Rules.

(b) For the purposes of these Rules, a Relevant Person means:

- (i) an Authorised Firm;
- (ii) an Authorised Market Institution;
- (iii) a DNFBP; or
- (iv) a Registered Auditor.