



CONSULTATION PAPER NO. 1

February 2018

**PROPOSED AIFC RULES ON KEEPING RECORDS OF FOREIGN
LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES**

**CONSULTATION PAPER NO. 1
PROPOSALS RELATING TO AN AIFC RULES ON KEEPING RECORDS OF FOREIGN LABOUR
ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES**

Why are we using this paper?

1. The draft of the *AIFC Rules on Keeping Records of Foreign Labour Attracted by AIFC Participants and AIFC Bodies 2018* (the “Proposed Rules”) was produced under paragraph 3 of article 4, paragraph 3 of article 8 and subparagraph 5) of paragraph 4 of article 11 of the Constitutional Statute dated 7 December 2015 entitled *On Astana International Financial Centre* (the “Constitutional Statute”), and under section 12(3) *AIFC Regulations On AIFC Acts 2017*.
2. According to paragraph 3 of article 8 of the Constitutional Statute, the AIFC Authority must keep records of foreign labour attracted by the AIFC Participants and AIFC Bodies. AIFC Authority must provide information on employed foreign nationals and stateless persons to the authorised state body on migration matters.
3. To provide efficient records’ keeping of the foreign labour attracted by AIFC Participants and AIFC Bodies and its timely circulation to the Ministry of Labour of Kazakhstan, it is proposed to adopt the aforementioned Rules.
4. This Consultation Paper No. 1 (“Consultation Paper”) seeks public comments on the proposed Rules.

Who should read this paper?

5. This Consultation Paper may be of interest to the current and prospective AIFC Participants, as well as all of the AIFC Bodies and their organisations, and generally, to all interested in providing their feedback to the Proposed Rules.

How to provide comments

6. AIFC encourages interested parties to provide their views and comments on the issues outlined in the Consultation Paper, using the table of comments provided in Annex B.
7. All comments should be provided to the following person:

Mr Farkhat Kassimov
AIFC Authority
55/1 Mangilik El
Astana 010000, Republic of Kazakhstan

or emailed to f.kassimov@aifc.kz

8. You may as well identify your organisation in the provided comments.
9. By submitting your comments to the AIFC you expressly consent to the processing by the AIFC Authority of the personal data pertaining to you, including, but not limited to the collection, recording, organisation, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of thereof, as per the *AIFC Data Protection Regulations 2017*.

What happens next?

10. The deadline for providing comments on the proposals in this Consultation Paper is 19 March 2018.
11. Once we receive your comments, we will consider if any further refinements are required to the Proposed Rules annexed to this Consultation Paper at Annex A. Once the task is complete, the draft of the Proposed Rules will be further processed in accordance with the requirements, stipulated in the AIFC Regulations on AIFC Acts 2017.
12. The Proposed Rules are in draft form only and are, therefore, subject to change following consultation as mentioned above. Consequently, you should not act on it until the Proposed Rules are formally enacted.

Defined terms

13. Defined terms are identified throughout this paper by the capitalisation of the initial letter of a word or each word in a phrase and are defined in the Proposed Rules. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

Provisions of the Proposed Rules: GENERAL ISSUES

14. The Proposed Rules were decided to commence on the day they are adopted by the Board of Directors of the AIFCA.
15. The Proposed Rules are to be adopted under paragraph 3 of article 4, paragraph 3 of article 8 and subparagraph 5) paragraph 4 of article 11 of the Constitutional Statute of the Republic of Kazakhstan dated 7 December 2015 entitled *On the Astana International Financial Centre* and under section 12(3) of the AIFC Regulations *On AIFC Acts 2017* [issues in this rule are commonly referred to as the Legislative Authority].
16. The Proposed Rules are to apply within the jurisdiction of the AIFC.
17. The purpose of the Proposed Rules is to define the order of keeping records of Foreign Labour

attracted by AIFC Participants and AIFC Bodies for its further referral to the Republic of Kazakhstan authorised state body on migration matters.

- Q1. Do you have any concerns about the commencement of the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q2. Do you have any concerns about the Legislative Authority of the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q3. Do you have any concerns about the application of the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q4. Do you have any concerns about the purpose of the Proposed Rules? If so, what are they, and how should they be addressed?**

Provisions of the Proposed Rules: CONDITIONS AND PROCEDURES OF RECORDS' KEEPING

18. The Proposed Rules stipulate that AIFC Authority conducts keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies by an AIFC Authority structural unit or organisation (the “Responsible Person”).
19. The Proposed Rules stipulate that the initiation of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Body is marked with the Foreign Employee’s admission to the AIFC Authority in person or through the Employer or a proxy (via power of attorney) in a period of no later than 14 days of the Foreign Employee’s stay in Kazakhstan as a Work Visa or a Work Registration holder.
20. The Proposed Rules stipulate that for the purpose of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies, the Foreign Employee, or on his behalf, the Employer or a proxy submits to the AIFC Authority the following documents (the “Submitted Documents”):
- (1) Foreign Employee’s Application form;
 - (2) copy of the Foreign Employee’s national passport.

Also, the provision of Schedule 2 to the Proposed Rules (Foreign Employee’s Application form) is perceived to be the model Keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies form.

21. The Proposed Rules stipulate that the completion of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Body is marked with the correct and full filling out of the Foreign Employee’s Application form and submission of the copy of the

Foreign Employee's national passport (otherwise, the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies is deemed to be incomplete).

- Q5. Do you have any concerns about the Responsible Person, prescribed in the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q6. Do you have any concerns about the initiation of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Body, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q7. Do you have any concerns about the Submitted Documents, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q8. Do you have any concerns about the completion of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Body, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?**

Provisions of the Proposed Rules: CONCLUDING PROVISIONS

22. The Proposed Rules stipulate that in case of any changes to the information in the submitted Documents prescribed by subrule 2.3.1, the Foreign Employee, or on his behalf, the Employer or a proxy (via power of attorney) within 14 days since these changes occur, circulates to the AIFC Authority a notification in Writing.
23. The Proposed Rules stipulate that the AIFC Authority keeps and updates in due time Electronic Records of a Foreign Employee's profile based on the submitted Application form and any notifications of the change to the information in the submitted Documents.

- Q9. Do you have any concerns about the information change provision, prescribed in the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q10. Do you have any concerns about the Electronic Records provision, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?**

Interpretation set out by the Proposed Rules

24. Schedule 1 to the Proposed Rules offers the following definitions and interpretations:
- (1) **AIFC** means Astana International Financial Centre.
 - (2) **AIFCA** means AIFC Authority.
 - (3) **AIFC Body** has the meaning given by article 9 of the Constitutional Statute and the

document entitled *The Structure of the Bodies of the Astana International Financial Centre* adopted by the Management Council on 26 May 2016.

- (4) **AIFC Participants** has the meaning given by article 1(5) of the Constitutional Statute.
- (5) **Document** includes any summons, notice, statement, return, account, order, and other legal process, and any register.
- (6) **Foreign Labour** means the entirety of the Foreign Employees of AIFC Bodies, their organisations or AIFC Participants.
- (7) **Foreign Employee** means foreign national or stateless person who works or will work in the service of another person under an express or implied contract of hire under which the other person has the right to control the details of work performance. The other person is the Employee's Employer.
- (8) **Electronic Records** means Documents, information and other records, in whatever form and electronically stored.
- (9) **Employer** has the meaning given in AIFC Employment Regulations 2017.
- (10) **Work Visa or Work Registration** means the document, issued by the authorised state bodies of the Republic of Kazakhstan which entitles the holder to enter the territory of the Republic of Kazakhstan, for the purpose of performing paid work as an Employee for a limited amount of time.
- (11) **Writing** includes:
 - (a) in relation to a certificate, instrument, notice or other thing – the thing in any form that preserves a record of the information contained in it and is capable of being reproduced in tangible form, including by electronic means; and
 - (b) in relation to a communication – any method of communication that preserves a record of the information contained in it and is capable of being reproduced in tangible form, including by electronic means.

Q11. Do you have any concerns about the definitions of the terms, prescribed in Schedule 1 to the Proposed Rules? If so, what are they, and how should they be addressed?

Model of the Application form

25. Schedule 2 to the Proposed Rules offers the Application form model, which contains the following fields within prescribed sections:

- (1) Personal Information:
 - (a) First Name;
 - (b) Family Name;
 - (c) Date of Birth (dd-mm-yyyy);
 - (d) Gender;

- (e) Citizenship;
 - (f) Country of Domicile;
 - (g) Home Address in Astana;
 - (h) Place of Birth
 - (i) PASSPORT INFORMATION: No;
 - (j) PASSPORT INFORMATION: Date of Issue;
 - (k) PASSPORT INFORMATION: Date of Expiry;
- (2) Professional Information:
- (l) Name of Organisation (AIFC Body or Participant);
 - (m) Position / Job Title in the AIFC Body or Participant;
 - (n) EDUCATION: Academic Degree Obtained (if any);
 - (o) EDUCATION: Area / Academic Major;
 - (p) Citizenship;
 - (q) Country of Domicile;
 - (r) Home Address in Astana;
- (3) Accompanying Dependents information (with the instruction to use a supplementary sheet if needed):
- (s) First name;
 - (t) Family name;
 - (u) Date of Birth (dd-mm-yyyy);
 - (v) Relation to Foreign Employee:
 - (w) Citizenship;
- (4) The Employee disclaimer, reading: “I certify that all the information provided above was completed before I signed this form and is full, correct and true. I hereby consent to the processing by the AIFCA of the personal data pertaining to me, including, but not limited to the collection, recording, organisation, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of thereof, as per the AIFC Data Protection Regulations as well as the National Statute of the Republic of Kazakhstan dated 21 May 2013 entitled On Personal Data and its Protection.” and including the fields:
- (x) Date;
 - (y) Name;
 - (z) Signature;
- (5) The Employer Disclaimer, reading “We hereby confirm that the abovementioned Foreign Employee is indeed our employee, holding a valid contract of employment with our organisation:” with further provision of the Name of the organisation ... “All

the information provided above was closely inspected in apropos means by our HR service and is indeed full, correct and true. Our organisation confirms that the abovementioned Foreign Employee indeed possesses high qualifications and that the HR service of our organisation keeps documents confirming high qualifications of this Foreign Employee, as per the requirement of the Constitutional Statute of the Republic of Kazakhstan dated 7 December 2015 entitled On Astana International Financial Centre, and the acts of the AIFC.” and including the fields:

- (aa) Date;
- (bb) Name of the HR manager;
- (cc) Signature;
- (dd) Stamp here.

- Q12. Do you have any concerns about the Personal Information section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q13. Do you have any concerns about the Professional Information section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q14. Do you have any concerns about the Accompanying Dependents information section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q15. Do you have any concerns about the Employee disclaimer section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?**
- Q16. Do you have any concerns about the Employer disclaimer section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?**

Legislative Proposal

26. This legislative proposal contains the following:
- (1) Proposed Rules (in Annex A);
 - (2) a table of comments to provide your views and comments on the Consultation Paper (at Annex B).

Annex _ to the Minutes of the meeting of the Board of Directors of the Astana International Financial Centre Authority



**AIFC RULES ON KEEPING RECORDS OF FOREIGN LABOUR
ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES**

AIFC RULES NO. _ OF 2018

**March __, 2018
Astana, Kazakhstan**



AIFC RULES ON KEEPING RECORDS OF FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES

CONTENTS

PART 1: GENERAL

- 1.1. **Name**
- 1.2. **Commencement**
- 1.3. **Legislative authority**
- 1.4. **Applications of these Rules**
- 1.5. **Purpose of these Rules**
- 1.6. **Interpretation**

PART 2: CONDITIONS AND PROCEDURES OF KEEPING RECORDS OF FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES

- 2.1. **Responsible Person**
- 2.2. **Initiation of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies**
- 2.3. **Submitted Documents**
- 2.4. **Completion of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies**

PART 3: CONCLUDING PROVISIONS

- 3.1. **Change to information in submitted Documents**
- 3.2. **Electronic Records**

SCHEDULE 1: Interpretation

SCHEDULE 2: Foreign Employee's Application Form



AIFC RULES ON KEEPING RECORDS OF FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES

PART 1: GENERAL

1.1. Name

These Rules are the *AIFC Rules on Keeping Records of Foreign Labour Attracted by AIFC Participants and AIFC Bodies 2018*.

1.2. Commencement

These Rules commence on the day they are adopted by the Board of Directors of the AIFCA.

1.3. Legislative authority

These Rules are adopted by the Board of Directors of the AIFCA under paragraph 3 of article 4, paragraph 3 of article 8 and subparagraph 5) paragraph 4 of article 11 of the Constitutional Statute and under section 12(3) of the AIFC Regulations *On AIFC Acts 2017*.

1.4. Applications of these Rules

These Rules apply within the jurisdiction of the AIFC.

1.5. Purpose of these Rules

These Rules define the order of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies for its further referral to the Republic of Kazakhstan authorised state body on migration matters.

1.6. Interpretation

1.6.1 Schedule 1 contains definitions used in these Rules.

1.6.2 Terms used in these Rules (other than terms defined in Schedule 1) have the same meanings as they have, from time to time, in the AIFC Regulations, unless the contrary intention appears.



AIFC RULES ON KEEPING RECORDS OF FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES

PART 2: CONDITIONS AND PROCEDURES OF KEEPING RECORDS OF FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES

2.1. Responsible Person

AIFCA conducts keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies by an AIFCA structural unit or organisation.

2.2. Initiation of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies

A Foreign Employee must admit to the AIFCA in person or through the Employer or a proxy (via power of attorney) not later than 14 days of the Foreign Employee's stay in Kazakhstan as a Work Visa or a Work Registration holder.

2.3. Submitted Documents

2.3.1. For the purpose of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies, the Foreign Employee, or on his behalf, the Employer or a proxy submits the following documents to the AIFCA:

- (a) Foreign Employee's Application form;
- (b) copy of the Foreign Employee's national passport.

2.3.2. For the purpose of this rule, the provisions of Schedule 2 (Foreign Employee's Application form) is the model Keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies form.

2.4. Completion of the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies

The keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies is completed only upon correct and full filling out of the Foreign Employee's Application form and submission of the copy of the Foreign Employee's national passport. Otherwise, the procedure of keeping records of Foreign Labour attracted by AIFC Participants and AIFC Bodies is incomplete, unless the requirements set out in this rule are wholly fulfilled.



**AIFC RULES ON KEEPING RECORDS OF
FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES**

PART 3: CONCLUDING PROVISIONS

3.1. Change to information in submitted Documents

In case of any changes to the information in the submitted Documents prescribed by subrule 2.3.1, the Foreign Employee, or on his behalf, the Employer or a proxy (via power of attorney) within 14 days since these changes occur, circulates to the AIFCA a notification in Writing.

3.2. Electronic Records

The AIFCA keeps and updates in due time Electronic Records of a Foreign Employee's profile based on the submitted Application form and any notifications of the change to the information in the submitted Documents.

SCHEDULE 1: INTERPRETATION

In these Rules:

AIFC means Astana International Financial Centre.

AIFCA means AIFC Authority.

AIFC Body has the meaning given by article 9 of the Constitutional Statute and the document entitled *The Structure of the Bodies of the Astana International Financial Centre* adopted by the Management Council on 26 May 2016.

AIFC Participants has the meaning given by article 1(5) of the Constitutional Statute.

Document includes any summons, notice, statement, return, account, order, and other legal process, and any register.

Foreign Labour means the entirety of the Foreign Employees of AIFC Bodies, their organisations or AIFC Participants.

Foreign Employee means foreign national or stateless person who works or will work in the service of another person under an express or implied contract of hire under which the other person has the right to control the details of work performance. The other person is the Employee's Employer.

Electronic Records means Documents, information and other records, in whatever form and electronically stored.

Employer has the meaning given in AIFC Employment Regulations 2017.

Work Visa or **Work Registration** means the document, issued by the authorised state bodies of the Republic of Kazakhstan which entitles the holder to enter the territory of the Republic of Kazakhstan, for the purpose of performing paid work as an Employee for a limited amount of time.

Writing includes:

- (c) in relation to a certificate, instrument, notice or other thing – the thing in any form that preserves a record of the information contained in it and is capable of being reproduced in tangible form, including by electronic means; and
- (d) in relation to a communication – any method of communication that preserves a record of the information contained in it and is capable of being reproduced in tangible form, including by electronic means.

PERSONAL INFORMATION

First Name: _____	Family Name: _____	Date of Birth (dd-mm-yyyy): _____	Gender: _____
Citizenship: _____	Country of Domicile: _____	Home Address in Astana: _____	
Place of Birth: _____	PASSPORT INFORMATION: No: _____		Date of Expiry: _____
		Date of Issue: _____	

PROFESSIONAL INFORMATION

Name of Organisation (AIFC Body or Participant):

Position / Job Title in the AIFC Body or Participant:

EDUCATION:
Academic Degree Obtained (if any): _____ Area / Academic Major: _____

ACCOMPANYING DEPENDENTS INFORMATION *(use supplementary sheet if needed)*

First Name:	Family Name:	Date of Birth (dd-mm-yyyy):	Relation to Foreign Employee:	Citizenship:
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

EMPLOYEE

I certify that all the information provided above was completed before I signed this form and is full, correct and true.

I hereby consent to the processing by the AIFCA of the personal data pertaining to me, including, but not limited to the collection, recording, organisation, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of thereof, as per the AIFC Data Protection Regulations as well as the National Statute of the Republic of Kazakhstan dated 21 May 2013 entitled On Personal Data and its Protection.

(Date) (Name) (Signature)

EMPLOYER

We hereby confirm that the abovementioned Foreign Employee is indeed our employee, holding a valid contract of employment with our organisation:

(Name of the organisation)

All the information provided above was closely inspected in apropos means by our HR service and is indeed full, correct and true.

Our organisation confirms that the abovementioned Foreign Employee indeed possesses high qualifications and that the HR service of our organisation keeps documents confirming high qualifications of this Foreign Employee, as per the requirement of the Constitutional Statute of the Republic of Kazakhstan dated 7 December 2015 entitled On Astana International Financial Centre, and the acts of the AIFC.

(Date) (Name of the HR manager) (Signature)

Stamp
here

Annex B



Format for providing public comments to AIFC Authority on Consultation Paper No. 1 of 2018

PROPOSED AIFC RULES ON KEEPING RECORDS OF FOREIGN LABOUR ATTRACTED BY AIFC PARTICIPANTS AND AIFC BODIES

Note 1: AIFC Authority reserves the right to publish, including on its website, any comments you provide. However, if you wish to remain anonymous, you must expressly request at the time of making comments that this should be the case.

Note 2: The column ‘comments on proposed policy’ relates to the policy explained in the Consultation Paper (“CP”). The column, ‘comments on proposed legislation’ refers to the draft legislation reflecting the proposed policy.

Note 3: It is possible that you may not have any comments, either on the proposed policy or legislation or may have comments on one and not the other. You may leave a blank column if you either agree to the proposed position, or you have no concerns relating it.

Note 4: If there are any ambiguities relating to the proposed policy or legislation, you may raise those in your comments.

Name of individual/entity providing comments	
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No.	Comments on proposed policy	Comments on proposed legislation
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Q1. Do you have any concerns about the commencement of the Proposed Rules? If so, what are they, and how should they be addressed?		
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Q2. Do you have any concerns about the Legislative Authority of the Proposed Rules? If so, what are they, and how should they be addressed?		
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Q3. Do you have any concerns about the application of the Proposed Rules? If so, what are they, and how should they be addressed?		
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Q4. Do you have any concerns about the purpose of the Proposed Rules? If so, what are they, and how should they be addressed?		
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No.	Comments on proposed policy	Comments on proposed legislation
Q5.	Do you have any concerns about the Responsible Person, prescribed in the Proposed Rules? If so, what are they, and how should they be addressed?	
Q6.	Do you have any concerns about the initiation of the procedure of keeping records of Foreign Labour attracted be AIFC Participants and AIFC Body, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?	
Q7.	Do you have any concerns about the Submitted Documents, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?	
Q8.	Do you have any concerns about the completion of the procedure of keeping records of Foreign Labour attracted be AIFC Participants and AIFC Body, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?	
Q9.	Do you have any concerns about the information change provision, prescribed in the Proposed Rules? If so, what are they, and how should they be addressed?	
Q10.	Do you have any concerns about the Electronic Records provision, prescribed by the Proposed Rules? If so, what are they, and how should they be addressed?	
Q11.	Do you have any concerns about the definitions of the terms, prescribed in Schedule 1 to the Proposed Rules? If so, what are they, and how should they be addressed?	
Q12.	Do you have any concerns about the Personal Information section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?	

No.	Comments on proposed policy	Comments on proposed legislation
Q13. Do you have any concerns about the Professional Information section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?		
Q14. Do you have any concerns about the Accompanying Dependents information section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?		
Q15. Do you have any concerns about the Employee disclaimer section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?		
Q16. Do you have any concerns about the Employer disclaimer section of Schedule 2 to the Proposed Rules? If so, what are they, and how should they be addressed?		