



Supervisory Policy Statement
on the AFSA's approach to Branch
supervision

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Nur-Sultan, Kazakhstan



SUPERVISORY POLICY STATEMENT ON AFSA'S APPROACH TO BRANCH SUPERVISION

I. Introduction

- 1.1. This Supervisory Policy Statement (SPS) expands on the approach of the Astana Financial Services Authority (AFSA) to the supervision of firms proposing to operate in the AIFC through a branch office, whether it is a bank, an insurer, or an investment firm.
- 1.2. This SPS sets out the AFSA's expectations for receiving information concerning the risks in a firm's wider group and the level of co-operation available from other supervisory authorities concerned with the firm or its wider group. This is necessary for the AFSA to be satisfied that the international firm or non-AIFC incorporated entity firm is meeting threshold conditions, particularly the threshold condition concerning the effective supervision of the firm. This SPS also sets out expectations of such international firms in meeting the threshold condition on the prudent conduct of business, including their systems and controls and risk management. While this SPS draws out and elaborates on matters discussed in other SPS that are particularly relevant for international or non-AIFC incorporated firms, it is to be read with, and does not replace, such international firms' obligations under applicable AIFC legislation, the AFSA's rules, and the expectations set out in its policy publications.
- 1.3. The AFSA may also follow the approach of this SPS in making decisions on recognition of overseas brokers (RNAMs), exchanges (RNAMIs), Equivalent Recognised Exchanges (for issuer prospectus purposes), Foreign Fund Managers (for managing Domestic Funds domiciled in the AIFC), and any other entity for which AIFC rules require some form of recognition.

II. General Expectations for Effective Branch Supervision

- 2.1. The AFSA has general expectations that underpin its ability to effectively supervise firms operating through branch offices in the AIFC, which are part of international groups or headquartered overseas. Subject to these, the AFSA's expectations then vary according to the nature, size and scale of a firm's activities. This, coupled with the degree of information available, the effectiveness of co-operation with the home state supervisor, and the controls that are in place, influences the degree of separation or integration that is acceptable to the AFSA as an operational outcome.
- 2.2. For firms that are part of international groups carrying on (or proposing to carry on) business in the AIFC, the AFSA first assesses the general factors that must be in place for effective supervision to be possible, and then assesses the factors specific to each international firm and any group of which it is a member.
- 2.3. The general factors the AFSA considers are:
 - (a) whether the whole firm meets the AFSA's threshold conditions;
 - (b) whether the home jurisdiction's prudential supervision regime is sufficiently equivalent to the AIFC regime; and
 - (c) whether there is sufficient supervisory co-operation with the home state supervisor.

AFSA's general considerations for branch authorisation and supervision are summarised in Figure 1.



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Threshold Conditions

- 2.4. For a branch, the threshold conditions - which are the minimum conditions for authorisation - apply to the international firm as a whole and not just the AIFC branch, since a branch office is not a separate legal entity in its own right but an extension of a firm incorporated outside of the AIFC. In broad terms, the AFSA requires firms to have an appropriate amount and quality of liquidity, to have appropriate resources to monitor, measure, and manage the risks to which it is or may be exposed, to be fit and proper, to conduct their business prudently and to be capable of being effectively supervised by the AFSA.
- 2.5. In determining whether threshold conditions are met, the AFSA has scope, at its own discretion, to rely on a firm's home state supervisor where it can satisfy itself that there are reasonable grounds for such reliance. The AFSA will also take into account the opinion of the home state supervisor on a firm's compliance with the AFSA's threshold conditions when forming its opinion.

Equivalence

- 2.6. The AFSA assesses the degree to which an entity's home jurisdiction's prudential supervision regime is equivalent, or broadly or sufficiently equivalent, taking into account the following *non-exhaustive* characteristics of the home state supervisor in terms of its:
- prudential framework and its compliance with international standards;
 - powers;
 - approach to the supervision of individual firms and their consolidated group, where relevant;
 - information sharing; and
 - confidentiality.
- 2.7. The AFSA will make an overall assessment of whether the home state supervisor is sufficiently equivalent, and whether its regime is acceptably consistent with the AFSA's regulatory framework in delivering appropriate outcomes that meet the AFSA's objectives. The AFSA assesses these factors in their totality and will also consider the extent and quality of co-operation with the home state supervisor. The AFSA will also take into account the supervision of individual firms (including branches) and their consolidated group, as well as consider the nature and scale of a firm's activities in the AIFC.
- 2.8. Equivalence assessments are reviewed periodically. The frequency of review is determined by the number, size, and systemic importance of the firms from a particular jurisdiction or home state. Assessments of home state supervisors will focus on the degree to which the home state supervisor's regime is compliant with, in the case of banks, the Basel principles in terms of supervisory approach, tools, and practices. Similarly, international standards set by bodies such as IOSCO and the IAIS will inform the AFSA's decision-making in relation to securities firms and insurers respectively. In performing such assessments, the AFSA will base its analysis on these international standards, including but not limited to, for example, the Basel capital and group supervision standards, the Basel Committee's Regulatory Consistency Assessment Programme reviews, the International Monetary Fund's Financial Sector Assessment Programme reviews or updates and, where appropriate, supplement such information by other means and resources as necessary. The AFSA will also take account of its own experiences in its interactions with home state supervisors.



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- 2.9. Where a home state supervisor is considered by the AFSA to be sufficiently equivalent but notes that there may be some weaknesses in the way a firm operates, the AFSA may consider imposing conditions or limitations to the nature and scale of any activities performed in the AIFC. It will also not be uncommon for the AFSA to take the view that another jurisdiction does not deliver an equivalent outcome and, accordingly, that a branch office from that jurisdiction may not establish itself in the AIFC. However, in such cases, the typical outcome of this is that a subsidiary will be formed within the AIFC instead through which regulated business will be conducted.

Supervisory Cooperation

- 2.10. In considering whether there is sufficient supervisory co-operation with the lead home state supervisor and any other relevant supervisors, supervisory co-operation is usually underpinned by the AFSA entering a Memorandum of Understanding ("MoU") with the relevant home state supervisory authority (or authorities). These establish a formal basis for co-operation, including the exchange of information and investigative assistance, the facilitation of timely and effective supervision, and for the identification of risks or emerging risks to the financial system, including any emergency situations.
- 2.11. In developing this co-operation framework, the AFSA has taken account of, in relation to banks for example, publications by the Bank for International Settlements such as "High-level principles for the cross-border implementation of the New Accord", "Principles for effective supervisory colleges" and "Principle 13: Home-host relationships" within the "Core Principles for Effective Banking Supervision".
- 2.12. The AFSA considers not just whether such arrangements have been agreed, but how well in practice their aims are achieved. The high-level outcomes the AFSA expects to see include, for example, transparency over the financial and operational resilience of a firm and its group (if any), the group's capacity to support the international firm; appropriate equivalence of home state supervisory practices, and transparency over when and how the home state regulator might intervene to remedy cases of non-compliance with prudential standards along with any triggers for pre-emptive action that might be taken. To achieve this, the AFSA expects there to be regular structured engagement with the home state supervisor, either through regulatory college or regulatory bilateral meetings (or both), as appropriate, which should facilitate a technical discussion of the material risks and risk management practices at the firm.
- 2.13. The degree of co-operation with the home state supervisor that the AFSA expects is also likely to be commensurate with the size of the firm, the degree of cross-border integration of its business, and the systemic importance of any branch offices' business within or from the AIFC.



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Figure 1: AFSA considerations for branch authorisation and supervision

