



AFSA

Astana
Financial
Services
Authority

Consultation Paper

AFSA-F-CE-2023-0001

**Rules and mechanisms of cooperation of
Unbacked Digital Asset Exchanges and/or
the Centre Participants authorized to
carry out digital assets-related activities
with second-tier bank of the Republic of
Kazakhstan**

Unrestricted

05 October 2023

Introduction

Why are we issuing this Consultation Paper (CP)?

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to seek suggestions from the market on adopting “Rules and mechanisms of cooperation of Unbacked Digital Asset Exchanges and/or the Centre Participants authorized to carry out digital assets-related activities with second-tier bank of the Republic of Kazakhstan” (hereinafter referred to as “Rules of cooperation”).

Who should read this CP?

2. The proposals in this paper will be of interest to current and potential AIFC participants dealing with digital assets, second-tier banks of Kazakhstan as well as the market and other stakeholders.

Terminology

3. Defined terms have the initial letter of the word capitalised, or of each word in a phrase. Definitions are set out in this Rules of cooperation or the Glossary Rules ([GLO](#)). Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

What are the next steps?

4. We invite comments from interested stakeholders on the proposed framework. 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-F-CE-2023-0001” 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.
5. Once we receive your comments, we shall consider if any refinements are required to this proposal.
6. AFSA prefers to receive comments by email at consultation@afsa.kz or posted to:
Policy and Strategy Division
Astana Financial Services Authority (AFSA)
55/17 Mangilik El, building C3.2, Astana, Kazakhstan

Structure of this CP

- Part I – Background;
- Part II – Issues;
- Part III – Best Practice;
- Part IV – Proposals;
- Part V – Public Consultation Questions;
- Part VI – Outcomes.

Annex 1 - Draft Rules and mechanisms of cooperation of Unbacked Digital Asset Exchanges and/or the Centre Participants authorized to carry out digital assets-related activities with second-tier bank of the Republic of Kazakhstan;

Note: any reference to the AIFC Rules on Digital Asset Activities within these Draft Rules on cooperation should be read in accordance with draft AIFC Rules on Digital Asset Activities provided within Consultation Paper on Proposed AIFC Digital Assets Trading Facility Framework and Consultation Paper on AIFC Digital Asset Service Providers Framework.

Background

On 27 June 2022, AFSA along with state peer regulators of Republic of Kazakhstan has officially launched the Pilot project for the cooperation of the cryptoexchanges with second-tier banks of Kazakhstan (“Pilot Project”). Prior to the launch of the Pilot Project AFSA along with state regulators of Republic of Kazakhstan negotiated and approved on 23 May 2022 the Rules of the Pilot Project that contained the mechanism of cooperation of cryptoexchanges and second-tier banks (“banks”).

To reflect the feedback received from the Pilot Project in national legislation of Kazakhstan and AIFC, and to provide the legal basis for cooperation of entities after the completion of the Pilot Project, the National Parliament (The Majilis) of Republic of Kazakhstan adopted amendments to the Constitutional Law of Republic of Kazakhstan “On Astana International Financial Center” № 176-VII on 30 December 2022 that came into force on 01 April 2023 (hereinafter referred to as “Constitutional Law on AIFC”) and required among other requirements to adopt this Rules of cooperation.

According to Article 4 (5) of Constitutional Law on AIFC the Rules of cooperation were drafted following obtaining agreement of National Bank or Republic of Kazakhstan and Agency for Regulation and Development of Financial Markets of Republic of Kazakhstan.

Issues

Absence of the clear rules and regulations for cooperation of Digital Asset Service Providers with second-tier banks of Kazakhstan hindered the steady developed of the crypto industry in Kazakhstan.

The launch of the Pilot Project in June 2022 was a milestone in the development of crypto sphere in AIFC and Kazakhstan, that allowed access of cryptoexchanges to commercial banks of Kazakhstan under certain conditions and limitations to test the cooperation and identify areas for further policy decisions.

The positive feedback received from the Pilot Project was reflected in the Rules of cooperation.

Best Practice

Rules of cooperation were developed taking into consideration Pilot Project Rules, feedback received from the Pilot Project, AIFC Rules and Regulations and Acting Law of Kazakhstan and recommendations of relevant standard-setting bodies, such as FATF, IOSCO.

Proposals

Rules of cooperation implement the following key requirements:

- a) Rules describing procedures for opening of the accounts in commercial banks of Kazakhstan by cryptoexchanges and other digital asset service providers authorized in AIFC;
- b) Client classification, capital and admission of digital asset to trading, client asset segregation requirements and reference to other AIFC rules and regulations;
- c) Documents (or reference to Acting law of Kazakhstan) that must be requested by commercial banks of Kazakhstan at the opening of account from cryptoexchanges and DASPs;
- d) Anti-money laundering and terrorist financing requirements that are applied during establishment of business relations with cryptoexchanges and DASPs;
- e) Reporting requirements by second-tier banks of Kazakhstan to NBRK;
- f) Prohibitions or limitations on certain digital asset-related products on Retail clients – residents of Kazakhstan.

Public consultation questions

In the course of public consultation, existing and potential market participants will be invited to comment on the following questions:

- (1) AFSA invites comments on the draft Rules of cooperation.
- (2) Are there any new provisions or amendments that are not clear? What are they and what is your interpretation of them? How would you recommend addressing the lack of clarity?
- (3) How much time will your business need to make itself compliant with the proposed amendments?
- (4) Do you agree with the proposed restrictions and prohibitions (legal entities – residents of Kazakhstan, specific digital asset products and services)?

Outcomes

It is expected that the implementation of the Rules of cooperation by the AFSA will help:

- 1) address and mitigate risks that arise when digital asset service providers have access to fiat gateways through second-tier banks of Kazakhstan;
- 2) provide clear and safe framework on how commercial banks of Kazakhstan can onboard digital asset service providers;
- 3) create favorable regime for digital asset service providers business in the AIFC and commercial banks in Kazakhstan, encouraging innovation in digital assets, allowing access of retail clients-residents of Kazakhstan to invest in crypto products through AIFC licensed

digital asset service providers and contributing to the development of crypto-asset ecosystem in Kazakhstan.

This will collectively help to create a clear, convenient and detailed AIFC Rules on cooperation with high standards for consumer protection, integrity without hindering development of digital asset service providers business in AIFC.

Rules and mechanisms of cooperation of Unbacked Digital Asset Exchanges and/or the Centre Participants authorized to carry out digital assets-related activities with second-tier bank of the Republic of Kazakhstan (AIFC Rules)

1. GENERAL PROVISIONS

- (1) These Rules "Rules and mechanisms of cooperation of Unbacked Digital Asset Exchanges and/or the Centre Participants authorised to carry out digital assets-related activities with second-tier bank of the Republic of Kazakhstan" (hereinafter - the "Rules") are developed in accordance with paragraph 5 of Article 4-1 of the Constitutional Law of the Republic of Kazakhstan dated December 7, 2015 No. 438-V "On the Astana International Financial Centre" (hereinafter - the "Constitutional Law").
- (2) The basic definitions used in these Rules are specified in Schedule 1. Other definitions not specified in Schedule 1 are used in accordance with the act of the AIFC and the Acting Law of the Republic of Kazakhstan.
- (3) The provisions of these Rules apply to:
 - a. Second-tier banks of the Republic of Kazakhstan;
 - b. Digital Asset Service Providers.
- (4) The purpose of these Rules is to set out:
 - a. Rules and mechanisms of cooperation of Digital Asset Service Providers with second-tier banks of the Republic of Kazakhstan;
 - b. Requirements regarding the list, timing and procedure for reporting by second-tier banks of the Republic of Kazakhstan when providing services to Digital Asset Service Providers.
 - c. Requirements regarding systems and controls of Digital Asset Service Providers;
 - d. The restrictions on investments by certain client categories, promotion of certain products and services by Digital Asset Service Providers as well as by other Persons.
- (5) For relations unregulated by the provisions of these Rules, the acts of the AIFC and the Acting Law of the Republic of Kazakhstan in accordance with Article 4 of the Constitutional Law shall apply.

2. RULES AND MECHANISMS OF COOPERATION OF UNBACKED DIGITAL ASSET EXCHANGES AND/OR THE CENTRE PARTICIPANTS AUTHORIZED TO CARRY OUT DIGITAL ASSETS-RELATED ACTIVITIES WITH SECOND-TIER BANK OF THE REPUBLIC OF KAZAKHSTAN

2.1. Requirements for second-tier banks

- (1) The second-tier bank of the Republic of Kazakhstan opens bank accounts in accordance with the legislation of the Republic of Kazakhstan to the Digital Asset Trading Facility Operator, Digital Asset Service Provider that have the relevant licence to carry out activities related to digital assets.
- (2) A second-tier bank of the Republic of Kazakhstan shall ensure control over deposits and withdrawals for the purposes of customer transactions with digital assets, customer due diligence and compliance with anti-money laundering and countering the financing of terrorism (AML/CFT) requirements, including identification and suspension of suspicious transactions.
- (3) Second-tier banks of the Republic of Kazakhstan shall ensure effective AML/CFT monitoring, in particular when customers of a Digital Asset Trading Facility Operator and a Digital Asset Service Provider fund their bank accounts with fiat.

2.2. Bank account requirements for Digital Asset Trading Facility Operator and Digital Asset Service Provider

- (1) Following is used to open bank accounts to service the clients transactions of a Digital Asset Trading Facility Operator and a Digital Asset Service:
 - i. documents required by the Rules of formation of risk management and internal control system of second-tier banks, branches of non-resident banks of the Republic of Kazakhstan, approved by Decree of the Board of the National Bank of the Republic of Kazakhstan No. 188 dated 12 November 2019; and/or
 - ii. documents required by the Rules of opening, maintenance and closing of clients' bank accounts approved by Decree of the Board of the National Bank of the Republic of Kazakhstan dated 31 August 2016 No. 207 and internal regulations of the second-tier banks of the Republic of Kazakhstan.

(2) An opening of a bank account to a client shall be carried out taking into account the requirements of the Law of the Republic of Kazakhstan dated August 28 2009 No. 191-IV “Law on counteracting legalisation (laundering) of proceeds obtained through criminal means and financing of terrorism” on clients due diligence (their representatives) and beneficial owners, as well as the requirements of the Rules of formation of risk management and internal control system for second-tier banks, branches of non-resident banks of the Republic of Kazakhstan, approved by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated 12 November 2019 No. 188, that provides that the second-tier banks of the Republic of Kazakhstan shall ensure internal control system that corresponds to the current market situation, the strategy, the volume of assets, and the level of complexity of the bank's operation.

(3) A Digital Asset Trading Facility Operator and/or a Digital Asset Service Provider shall open bank accounts in the second-tier banks of the Republic of Kazakhstan to hold the clients' money in tenge and/or foreign currency (clients' money and money of a Digital Asset Trading Facility Operator/Digital Asset Service Provider shall be held in separate accounts).

(4) A Digital Asset Trading Facility Operator and the Digital Asset Service Provider shall have policies and procedures to minimise foreign exchange, credit, and other risks associated with the use of foreign currency bank accounts.

(5) Second-tier banks of the Republic of Kazakhstan, in order to service bank account depositing transactions of the clients of a Digital Asset Trading Facility Operator's and Digital Asset Service Provider's customers, shall develop effective mechanisms for verifying the source of customers' funds in accordance with the requirements of the rules and regulations in paragraph (1).

(6) Clients of a Digital Asset Trading Facility Operator and a Digital Asset Services Provider (if applicable), are prohibited to carry out following transactions:

- i. Third-party deposits and withdrawals (deposits and withdrawals can only be made from the clients' own bank account and virtual account with confirmation from the servicing bank that the bank account and virtual account belong to this person); and
- ii. withdrawal of fiat from the virtual account to the bank account of third persons.

(7) A Digital Asset Trading Facility Operator and a Digital Asset Service Provider shall ensure compliance of the clients with the requirements of paragraph (6) in cooperation with the second-tier bank of the Republic of Kazakhstan, where the Digital Asset Trading Facility Operator and the Digital Asset Service Provider have opened a bank account.

(8) A Digital Asset Trading Facility Operator and Digital Asset Service Provider shall transfer funds from its client bank account(s) opened with a second-tier bank of the Republic of Kazakhstan to its client's bank account (when withdrawing by him/her money from the Digital Asset Trading Facility Operator and Digital Asset Service Provider) only after the second-tier bank of the Republic of Kazakhstan confirms that this bank account belongs to the client.

(9) The exchange of information between a Digital Asset Trading Facility Operator and a Digital Asset Service Provider and a second-tier bank of the Republic of Kazakhstan shall be conducted on the basis of an agreement(s).

(10) If necessary, a Digital Asset Trading Facility Operator and a Digital Asset Service Provider may request information about the source of funds of a client.

(11) The Digital Asset Trading Facility Operator and the Digital Asset Service Provider shall keep records the funds of the clients of the Digital Asset Trading Facility Operator and the Digital Asset Service Provider through individual virtual accounts. Such accounts shall be used to record funds for transactions on the Digital Asset Trading Facility and the Digital Asset Service Provider. If technically possible, the Digital Asset Trading Facility Operator and Digital Asset Service Provider may operate without keeping records of clients' funds through virtual accounts.

2.3. Requirements and procedures for submitting reporting by second-tier banks

(1) Second-tier banks of the Republic of Kazakhstan shall submit a report to the National Bank of the Republic of Kazakhstan (hereinafter - "NBRK") in compliance with the requirements established by these Rules on a monthly basis until the 15th day following the reporting month.

(2) The form of reporting and the content of information in the reports shall be established by regulatory legal acts of relevant authorised state body of the Republic of Kazakhstan.

(3) Reports received by the NBRK in paragraph (1) shall be sent upon request to the AIFC, the authorised body on regulation, control and supervision of the financial market and financial organisations of the Republic of Kazakhstan, and the Financial Monitoring Agency of the Republic of Kazakhstan (the "FIU").

3. REQUIREMENTS TO DIGITAL ASSET SERVICE PROVIDERS

3.1. Requirements to classify clients for Digital Asset Service Providers

3.1.1. Obligation to classify Clients

A Digital Asset Service Provider must classify that Person as one of the following categories of Client:

- (a) a Retail Client;
- (b) a Professional Client; or
- (c) a Market Counterparty

3.1.2. Obligation to notify classification to Clients

A Digital Asset Service Provider must notify a new Client of its classification as a Retail Client, Professional Client, or Market Counterparty in accordance with 3.1.1 in respect of the Financial Product or Financial Service being provided to that Client.

3.1.3. Person may be classified as more than one category of Client

A Digital Asset Service Provider may classify a Person as belonging to different categories of Client in respect of:

- (a) a specific Financial Product, Financial Service, or Transaction; or
- (b) different types of Financial Product or Transaction, which are to be provided to, or carried out on behalf of, that Person.

3.1.4 Retail Clients

3.1.4.1. Classification as a Retail Client

A Digital Asset Service Provider must classify as a Retail Client any Client that is not a Professional Client or a Market Counterparty.

3.1.4.2. A Digital Asset Service Provider may choose to treat any Person as a Retail Client

A Digital Asset Service Provider may choose to provide Financial Products or Financial Services to any Person as a Retail Client simply by classifying that Person as a Retail Client. If the Digital Asset Service Provider classifies the Person as a Retail Client in this way, it will not be required to assess whether that Person would otherwise be classified as a Professional Client or a Market Counterparty.

3.1.5. Professional Clients

3.1.5.1. Classification as a Professional Client

A Digital Asset Service Provider may classify a Person as a Professional Client if that Person:

- (a) meets the requirements to be a Deemed Professional Client; or
- (b) meets the requirements to be an Assessed Professional Client, in accordance with 3.1.7. or 3.1.7.5, provided that Person has not been classified as a Retail Client in accordance with COB 2.6.

3.1.6. Deemed Professional Clients

3.1.6.1. Requirements to be a Deemed Professional Client

For the purposes of 3.1.5.1, each of the following entities is a Deemed Professional Client unless it is a Market Counterparty or is given a different classification under 3.1:

- (a) a national or regional government;
- (b) a public body that manages public debt;

- (c) a central bank;
- (d) an international or supranational institution (such as the World Bank, the International Monetary Fund, or the European Investment Bank) or other similar international organisation;
- (e) an Authorised Firm, or any other authorised or regulated financial institution, including a bank, securities firm or insurance company;
- (f) an Authorised Market Institution, or any other authorised or regulated exchange, trading facility, central securities depository, or clearing house;
- (g) a Collective Investment Scheme or its management company, or any other authorised or regulated collective investment undertaking or the management company of such an undertaking;
- (h) a pension fund or the management company of a pension fund;
- (i) a commodity dealer or a commodity derivatives dealer;
- (j) a Large Undertaking as specified in 3.1.6.2;
- (k) a Body Corporate whose shares are listed or admitted to trading on any exchange of an IOSCO member country;
- (l) a trustee of a trust which has, or had during the previous 12 months, assets of at least USD 10 million; or
- (m) any other institutional investor whose main activity is to invest in financial instruments, including an entity dedicated to the securitisation of assets or other financial transactions.

3.1.6.2. Large Undertakings

A Person is a Large Undertaking for the purposes of 3.1.6.1(j) if it met, as at the date of its most recent financial statements, at least two of the following requirements:

- (a) it has total assets of at least USD 20 million on its balance sheet;
- (b) it has a net annual turnover of at least USD 40 million; or
- (c) it has own funds of at least USD 2 million.

3.1.7. Assessed Professional Clients

3.1.7.1. Assessed Professional Clients: Individual Clients

For the purposes of 3.1.5.1, a Digital Asset Service Provider may treat an individual Client as an Assessed Professional Client if:

- (a) the Client has net assets of at least USD 100,000; and
- (b) either:
 - (i) the Digital Asset Service Provider assesses the Client, on reasonable grounds, to have sufficient experience and understanding of relevant Financial Products, Financial Services, Transactions and any associated risks; or
 - (ii) the Client works or has worked in the previous two years in an Authorised Firm or any other authorised or regulated financial institution, including a bank, securities firm or insurance company, in a position that requires knowledge of the type of Financial Products, Financial Services or Transactions envisaged; and
- (c) the following procedure is followed:

(i) the Client must confirm in writing to a Digital Asset Service Provider that it wishes to be treated as a Professional Client either:

(1) generally;

(2) in respect of a specific Financial Product, Financial Service, or Transaction; or

(3) in respect of a type of Financial Product, Financial Service, or Transaction;

(ii) a Digital Asset Service Provider must give the Client a clear warning in writing setting out the protections that the Client may lose as a result of giving up its classification as a Retail Client; and

(iii) the Client must confirm in writing, in a separate document from the client agreement or other contract, that it is aware of the consequences of losing such protections.

Guidance: Meaning of an "individual"

For the purposes of 3.1.7.1, an "individual" means a Person who is a natural person and not an Undertaking.

3.1.7.2. Calculation of an individual's net assets

For the purposes of 3.1.5.1(a), the calculation of an individual Client's net assets:

(a) must exclude the value of the primary residence of the Client; and

(b) may include any assets held directly or indirectly by the Client.

3.1.7.3. Assessment of experience and understanding

For the purposes of the assessment required under 3.1.7.1(b)(i) and 3.1.7.6(a), a Digital Asset Service Provider must, where applicable, consider the following matters:

(a) the Person's knowledge and understanding of:

(i) the relevant Financial Products, Financial Services, and Transactions; and

(ii) any associated risks, either generally or in relation to a specific Financial Product, Financial Service, or Transaction;

(b) the length of time during which the Person has participated in financial market activity;

(c) the frequency with which the Person has carried out Transactions;

(d) the extent to which the Person has previously relied on professional financial advice;

(e) the size and nature of Transactions that have been undertaken by, or on behalf of, the Person in financial markets;

(f) the Person's relevant qualifications or training;

(g) the composition and size of the Person's portfolio of Investments;

(h) in the case of insurance Transactions, relevant experience in relation to similar Transactions to be able to understand the risks associated with such Transactions; and

(i) any other matters which the Digital Asset Service Provider considers relevant.

3.1.7.4. Legal structures or vehicles containing an individual's investment portfolio

A Digital Asset Service Provider may classify as an Assessed Professional Client a legal structure or vehicle, including an Undertaking, trust or foundation, that is set up solely for the purpose of managing the investment portfolio of an individual where that individual has been assessed as meeting the requirements in 3.1.7.1.

3.1.7.5. Individual joint account holders

A Digital Asset Service Provider may classify as a Professional Client an individual (the "joint account holder") who has a joint account with an individual assessed as meeting the requirements in 3.1.7.1. (the "primary account holder") if:

(a) the joint account holder is a Family Member of the primary account holder;

(b) the account is used for the purposes of managing Investments for the primary account holder and the joint account holder;

(c) the following procedure is followed:

- (i) the joint account holder must confirm in writing to the Digital Asset Service Provider that investment decisions relating to the joint account are generally made for, or on behalf of, him by the primary account holder;
- (ii) the joint account holder must confirm in writing to the Digital Asset Service Provider that he wishes to be treated as a Professional Client either:
 - (1) generally;
 - (2) in respect of a specific Financial Product, Financial Service or Transaction; or
 - (3) in respect of a type of Financial Product or Transaction;
- (ii) the Digital Asset Service Provider must give the joint account holder a clear warning in writing setting out the protections that the joint account holder may lose as a result of giving up his classification as a Retail Client; and
- (iii) the joint account holder must confirm in writing, in a separate document from the client agreement or other contract, that he is aware of the consequences of losing such protections.

3.1.7.6. Assessed Professional Clients: Undertakings

For the purposes of 3.1.5.1, a Digital Asset Service Provider may treat an Undertaking as an Assessed Professional Client if:

- (a) the Digital Asset Service Provider assesses the Undertaking (which may involve assessing an individual or individuals authorised to make investment decisions on behalf of the Undertaking), on reasonable grounds, to have sufficient experience and understanding of the relevant Financial Products, Financial Services or Transactions and any associated risks; and
- (b) the Undertaking has own funds of at least USD 1 million.

3.1.7.7. Other types of Undertaking

A Digital Asset Service Provider may also classify an Undertaking as an Assessed Professional Client if the Undertaking has:

- (a) a Controller;
- (b) a Holding Company;
- (c) a Subsidiary (whether direct or indirect); or
- (d) a joint venture partner,

that meets the requirements in 3.1.7.6 to be classified as an Assessed Professional Client.

3.1.7.8. Client no longer meeting the requirements to be a Professional Client

If a Digital Asset Service Provider becomes aware that a Client no longer meets the requirements to be classified as a Professional Client, the Digital Asset Service Provider must, as soon as possible, inform the Client that this is the case and, where appropriate, discuss with the Client the steps that the Digital Asset Service Provider and the Client may take to address the situation, which may include the Digital Asset Service Provider notifying the Client of its reclassification.

Guidance: Client Classification

Classification of clients of Digital Asset Service Providers is carried out in accordance with Chapter 2 of the AIFC Conduct of Business Rules.

3.2. Clients of Digital Asset Service Providers

3.2.1. Legal entities - residents of the Republic of Kazakhstan, with the exception of persons engaged in digital mining, digital mining pools and AIFC Participants, are prohibited from performing operations (transactions) on the platforms of the AIFC Digital Asset Trading Facility Operators.

3.3. Admission of Digital Assets to trading

3.3.1. Application for admission of Digital Assets to trading

(1) Applications for the admission of a Digital Asset to trading can be made to a Digital Asset Trading Facility Operator by:

- (a) an issuer of a Digital Asset;
- (b) a third-party on behalf of and with the consent of an issuer of a Digital Asset; or
- (c) a Member of the Digital Asset Trading Facility Operator.

(2) A Digital Asset can be admitted to trading on the Digital Asset Trading Facility Operator's own initiative.

(3) A Digital Asset Trading Facility Operator must, before admitting any Digital Asset to trading:

- (a) be satisfied that the applicable requirements, including those in its Admission to Trading Rules, have been or will be fully complied with in respect of such Digital Asset; and
- (b) obtain approval of the AFSA in respect of Fiat and Commodity stablecoins, except for stablecoins issued by the Digital Asset Service Providers holding the relevant Licence.
- (4) For the purposes of (1), a Digital Asset Trading Facility Operator must notify an applicant in writing of its decision in relation to the application for admission of the Digital Asset to trading.
- (5) For the purposes of 3(b), an application to the AFSA by a Digital Asset Trading Facility Operator must include:
 - (a) a copy of the admission application; and
 - (b) any other information requested by the AFSA.

3.3.2. Admission criteria

- (1) For the purposes of 3.3.1(3)(b), a Digital Asset can be admitted to trading on the Operator's facility if the Digital Asset Trading Facility Operator is satisfied that:
 - (a) having considered the matters in (2), the Digital Asset is suitable for use in the AIFC;
 - (b) the Digital Asset is not prohibited for use in the AIFC; and
 - (c) for a Fiat or Commodity stablecoin, all of the requirements in (4) or (5) as applicable are met in respect of that Fiat or Commodity stablecoin (and conditions (a) and (b) above are met).
- (2) The matters referred to in (1)(a), which the Digital Asset Trading Facility Operator must consider, are:
 - (a) the regulatory status of the relevant Digital Asset in other jurisdictions, including whether it has been assessed or approved for use in another jurisdiction, and the extent to which the laws and regulations of that jurisdiction are equivalent to the requirements of the AFSA;
 - (b) whether there is adequate transparency relating to the Digital Asset and underlying blockchain, including sufficient detail about its purpose, protocols, consensus mechanism, governance arrangements, founders, key persons, miners and significant holders;
 - (c) the size (the market capitalisation), liquidity and volatility of the market for the Digital Asset globally;
 - (d) whether there is a total limit (cap) for the issuance of Digital Asset;
 - (e) the controls/processes to manage volatility of a particular Digital Asset (tokenomics);
 - (f) the adequacy and suitability of the technology used in connection with the Digital Asset; and
 - (g) whether risks associated with the Digital Asset are adequately mitigated, including risks relating to governance, legal and regulatory issues, cybersecurity, money laundering, Market Abuse and other Financial Crime;
 - (h) whether a Digital Asset is traceable;
 - (i) whether there are any issues relating to the security or usability of a DLT used for the purposes of a Digital Asset; and
 - (j) whether a DLT and smart contract (if any) have been stress tested or subject to independent audit.
- (3) In assessing the matters in (2), the AFSA may consider the cumulative effect of factors which, if taken individually, may be regarded as insufficient to give reasonable cause to doubt that the criteria in (1)(a) is satisfied.
- (4) In the case of a Fiat stablecoin or Commodity stablecoin backed by a reserve, the additional criteria referred to in (1)(c) are that:
 - (a) information is published at least quarterly on the value and composition of the reserves backing the Fiat stablecoin or Commodity stablecoin;
 - (b) the published information referred to in (4)(a) is verified by a suitably qualified third-party professional who is independent of the issuer of the Digital Asset and any persons responsible for the Digital Asset;
 - (c) the published information referred to in (4)(a) demonstrates that the reserves in respect of Fiat stablecoins:
 - (i) are at least equal in value to the notional value of outstanding Digital Assets in circulation (that value being calculated by multiplying the number of Digital Assets in circulation by the purported pegged Fiat Currency value);
 - (ii) are denominated in the reference currency; and
 - (iii) are held in segregated accounts with properly regulated banks or custodians in jurisdictions with regulation that is equivalent to the AFSA's regime and AML regulation that is equivalent to the standards set out in the FATF Recommendations;
 - (d) the Digital Asset is able to maintain a stable price relative to the Fiat Currency or Commodity stablecoin it references; and
 - (e) a Person is clearly responsible and liable to investors of the Digital Asset.

(5) If a Digital Asset Trading Facility Operator decides to admit a Digital Asset to trading, the Digital Asset Trading Facility Operator is required to notify the AFSA 10 days prior to the date of the admission of the Digital Asset to trading.

Guidance: Admission of Digital Assets to trading

The procedure and requirements for admitting digital assets to trading are provided in paragraphs 2.8. and 2.9 of AIFC Rules on Digital Asset Activities (DAA).

3.4. Investment limits for clients of Digital Asset Service Providers

3.4.1. A Digital Asset Service Provider is obliged to provide effective systems and controls (monitoring) to ensure that a Retail Client - individual resident of the Republic of Kazakhstan, using its service does not invest, in respect of all Digital Assets over a period of one month, an amount which exceeds USD 1,000 (one thousand).

3.4.2. The Digital Asset Service Provider shall have policies and procedures to oversee compliance with the requirement of paragraph 3.4.1. of these Rules.

Guidance: Client Investment Limits

a. Only purchase transactions of digital assets in the AIFC jurisdiction are taken into account when calculating the limit;

3.5. Requirements for IT systems and cyber security of Digital Asset Service Providers

Guidance:

a. The requirements for IT systems and cyber security of a Digital Asset Trading Facility Operator are provided in 2.3.1. and 2.4. of AIFC Rules on Digital Asset Activities (DAA).

b. Requirements for IT systems and cyber security of Digital Asset Service Providers are provided in 3.3.1. and 3.4. of AIFC Rules on Digital Asset Activities (DAA).

3.6. Minimum capital requirements for Digital Asset Service Providers

3.6.1. Minimum capital requirements for a Digital Asset Trading Facility Operator

3.6.1.1. The AFSA may not grant authorisation or variation to operate a Digital Asset Trading Facility unless the applicant satisfies all of the following requirements:

(1) general authorisation requirements applicable to the applicant under the Framework Regulations and other applicable rules; and

(2) the applicant must ensure that it maintains at all times capital resources in the amount specified in Table 1 by reference to the activity that the Authorised Firm is licensed to conduct or, if it is authorised to conduct more than one such activity, the amount that is the higher or highest of the relevant amounts in Table 1.

Table 1

Regulated Activity	Capital requirement (USD)
Operating a Digital Asset Trading Facility	The higher of (i) 200,000 or (ii) an amount equal to sufficient working capital in fiat currency to continue business for a period of 12 months, based on realistic forecasts for the business in different market conditions (both negative and positive scenarios)
Providing Custody (in relation to Digital Assets)	250,000

(3) In determining whether the Digital Asset Trading Facility Operator meets the capital requirement(s) and, in particular, has sufficient working capital to continue business on a go-forwards basis, the Digital Asset Trading Facility Operator must have regard to the following matters:

(a) the business carried out, or to be carried out by the Digital Asset Trading Facility Operator;

(b) the risks to the continuity of the services provided by, or to be provided by, the Digital Asset Trading Facility Operator, including any outsourced services (including services outsourced to a Group entity where applicable);

(c) the liabilities to which the Digital Asset Trading Facility Operator is exposed or could be exposed to, including as a result of any failure by any third-party; and

(d) the means by which the Digital Asset Trading Facility Operator manages and, if the Digital Asset Trading Facility Operator is a member of a Group, by which other members of the Group manage, the occurrence of risk in connection with the Digital Asset Trading Facility Operator's business.

Guidance: Minimum capital requirements for a Digital Asset Trading Facility Operator

- a. Intangible assets, including goodwill, cannot be used as part of determining whether the capital requirement value is met or whether the Digital Asset Trading Facility Operator has sufficient working capital, and must be disregarded when determining whether the requirements are met for the purposes of Table 1.
- b. Minimum capital requirements for a Digital Asset Trading Facility Operator are provided in 2.2. AIFC Rules on Digital Asset Activities (DAA).

3.6.2. Minimum capital requirements for Digital Asset Service Providers

3.6.2.2. The AFSA may not grant authorisation or variation of a Licence to a Person to carry on the Regulated Activities in relation to Digital Assets unless the applicant satisfies all of the following requirements:

(a) general authorisation requirements applicable to the applicant under the Framework Regulations and other applicable rules; and

(b) the applicant must ensure that it maintains at all times capital resources in the amount specified in Table 2 by reference to the activity that the Digital Asset Service Provider is authorised to conduct or, if it is authorised to conduct more than one such activity, the amount that is the higher or highest of the relevant amounts in Table 2.

Table 2

Regulated Activity	Capital requirement (USD)
Dealing in Investments as Principal, unless such activities are limited to matching client orders and the AFSA determines that it is appropriate in all the circumstances to apply a lower capital requirement	250,000
Dealing in Investments as Principal, where such activities are limited to matching client orders and the AFSA determines that it is appropriate in all the circumstances to apply a lower capital requirement than above	50,000
Dealing in Investments as Agent	50,000
Managing Investments	100,000
Managing a Collective Investment Scheme, which is an externally managed Exempt Fund and has an appointed Eligible Custodian (if an Eligible Custodian is required)	50,000
Managing a Collective Investment Scheme, which is a Non-Exempt Fund	150,000
Managing a Collective Investment Scheme, which is a Self-managed Fund and has an appointed Eligible Custodian, unless the appointment of an Eligible Custodian is not required due to the nature of the Fund and the type of assets which it holds	200,000
Managing a Collective Investment Scheme, which does not have an appointed Eligible Custodian, except where an Eligible Custodian is not required due to the nature of the Fund and type of assets which it holds	250,000
Providing Custody	250,000
Arranging Custody	10,000
Advising on Investments	10,000

Arranging Deals in Investments	10,000
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(2) In determining whether a Digital Asset Service Provider meets the capital requirement(s) and, in particular, has sufficient working capital to continue business on a go-forwards basis, the Digital Asset Service Provider must have regard to the following matters:

- (a) the business carried out, or to be carried out by the Digital Asset Service Provider;
- (b) the risks to the continuity of the services provided by, or to be provided by, the Digital Asset Service Provider, including any outsourced services (including services outsourced to a Group entity where applicable);
- (c) the liabilities to which the Digital Asset Service Provider is exposed or could be exposed to, including as a result of any failure by any third party; and
- (d) the means by which the Digital Asset Service Provider manages and, if the Digital Asset Service Provider is a member of a Group, by which other members of the Group manage, the occurrence of risk in connection with the Digital Asset Service Provider's business.

Guidance: Minimum capital requirements for Digital Asset Service Providers

- a. Intangible assets, including goodwill, cannot be used as part of determining whether the capital requirement value is met or whether the Digital Asset Service Provider has sufficient working capital, and must be disregarded when determining whether the requirements are met for the purposes of Table 2.
- b. Minimum capital requirements for Digital Asset Service Providers are provided in 3.2. AIFC Rules on Digital Asset Activities (DAA).

3.7. Requirements for risk management of Digital Asset Service Providers

Guidance:

- a. The main requirements for risk management of Digital Asset Service Providers are provided in paragraphs 5.1.1., 5.2. and 5.8. of AIFC General Rules, 4.1.1. of AIFC AML/CFT Rules and Chapter 4 of the AIFC Conduct of Business Rules.
- b. Separate requirements for Digital Asset Service Providers are provided for in subparagraph 2 of paragraph 3.3.1, paragraph 3.3.2, paragraph 3.4.2 of the AIFC Rules on Digital Asset Activities (DAA).
- c. Separate requirements for Digital Asset Trading Facility Operators are provided for in subparagraph 3) of paragraph 2.3.1., sub paragraph 5) of paragraph 2.3.2, paragraphs 2.4.1. and 2.13.15.
- d. Other requirements for risk management are established by the Current Law of the AIFC.

3.8. Requirements for Client Money

3.8.1. Client Money held for Segregated Clients in a Client Money Account

A Digital Asset Service Provider may hold Client Money belonging to a Segregated Client:

- (a) in a Client Money Account solely for that Client; or
- (b) in a Client Money Account containing the pooled Client Money of more than one Segregated Client.

3.8.2. Client Money Account to contain Client Money only

A Digital Asset Service Provider must:

- (a) not deposit its own Money into a Client Money Account, other than where:
 - (i) a minimum sum is required to open the Client Money Account, or to keep it open;
 - (ii) the Money is received by way of mixed remittance (provided the Digital Asset Service Provider transfers out that part of the payment which is not Client Money within one day of the day on which the a Digital Asset Service Provider would normally expect the remittance to be cleared);
 - (iii) interest credited to the account exceeds the amount payable to Segregated Clients (provided that the Money is removed within twenty-five days); or
 - (iv) it is to meet a shortfall in Client Money;
- (b) maintain systems and controls for identifying Money which must not be in a Client Money Account and for transferring it without delay;
- (c) not use Client Money belonging to one Client to satisfy an obligation of another Client; and
- (d) ensure that no off-setting or debit balances occur on Client Money Accounts.

3.8.3. Registration and recording of Client Investments

A Digital Asset Service Provider which Provides Custody or holds Client Investments must register or record all Client Investments in the name of:

- (a) the Client;
- (b) a Nominee Company that is controlled by the Digital Asset Service Provider; or
- (c) the Digital Asset Service Provider where, due to the nature of the law or market practice, it is not feasible to do otherwise.

Save as provided in (c) above, a Digital Asset Service Provider which Provides Custody or holds or controls Client Investments must record, register and hold Client Investments separately from its own Investments.

3.8.4. Use of a Client Money Account

A Digital Asset Service Provider must not hold Money other than Client Money in a Client Money Account, other than:

- (a) a minimum sum required to open the Client Money Account, or to keep it open;
- (b) Money withdrawn as commission from the Client Money Account (where the Insurance Intermediary or Insurance Manager has received a premium from a Client or on behalf of the Client in accordance with its terms of business with that Client and the relevant insurer, and the commission is withdrawn before onward payment of that premium to the insurer);
- (c) Money received by way of mixed remittance (that is, part Client Money and part other Money) (provided the Insurance Intermediary or Insurance Manager pays the full amount into the Client Money Account, and transfers out that part of the payment which is not Client Money not later than 25 days after the day on which the remittance is cleared);
- (c) interest credited to the account which exceeds the amount payable to Clients as interest.

Guidance: Requirements for Client Money

- a. Requirements for client money are provided for in Chapter 8 of the AIFC Conduct of Business Rules.

3.9. Requirements for AML/CFT/ FPWMD systems of Digital Asset Service Providers and other provisions in the field of AML/CFT/ FPWMD

Guidance:

- a. In relation to Digital Asset Service Providers licensed in the AIFC, the current law of the AIFC and the Republic of Kazakhstan in the field of combating money laundering, terrorist financing and financing the proliferation of weapons of mass destruction is applied.
- b. The assessment of the risks of legalisation (laundering) of income and financing of terrorism and the proliferation of weapons of mass destruction (hereinafter referred to as ML/TF/ FPWMD) is carried out in order to determine vulnerabilities, threats and opportunities for legalisation (laundering) of income and financing of terrorism through the inter-jurisdictional crypto-fiat system, identifying shortcomings in the implementation of measures to combat the legalisation (laundering) of income and the financing of terrorism in the inter-jurisdictional crypto-fiat system, and such an assessment is carried out as part of the national assessment of ML/TF/ FPWMD risks, taking into account the features established by Article 11-1 of the Law of the Republic of Kazakhstan dated August 28 2009 No. 191-IV "Law on counteracting legalisation (laundering) of proceeds obtained through criminal means and financing of terrorism".

4. Restrictions and prohibitions on the use (investment, purchase), advertising of individual products, services to Digital Asset Service Providers, as well as other persons.

4.1.1. Retail clients - residents of the Republic of Kazakhstan are prohibited from using margin trading services (with leverage).

4.1.2. The transfer by Digital Asset Service Providers to Retail Clients - residents of the Republic of Kazakhstan of digital assets through the conversion of bonuses from business entities registered in the Republic of Kazakhstan within the framework of loyalty programs is allowed within the investment limits in accordance with paragraph 3.4. of these Rules.

4.1.3. AIFC Authorized Persons are prohibited from advertising the Initial Token Offering.

These Rules use the following basic definitions:

1. Unbacked Digital Asset Exchange (or “Digital Asset Trading Facility Operator”) – a participant of the Astana International Financial Centre (hereinafter – “AIFC”), which has a license to carry out Regulated activity on Operating a Digital Asset Trading Facility under the AIFC acts.
2. Digital Asset Service Provider – an AIFC participants which have been licensed by the AFSA to carry out regulated activities for the provision of services with digital assets (including Operating a Digital Asset Trading Facility) under the AIFC acts.
3. Virtual account - a client's account at a digital asset exchange that reflects their cash balance.
4. Initial coin offering is a form of attracting investments in the form of selling investors a fixed number of new units of digital assets for liquid digital assets.
5. Privacy token - a Digital Asset where the Digital Asset or the DLT or another similar technology used for the Digital Asset, has any feature or features that are used, or intended to be used, to hide, anonymise, obscure or prevent the tracing of any of the following information:
 - a. a Digital Asset transaction; or
 - b. the identity of the holder of a Digital Asset; or
 - c. the cryptographic key associated with a Person; or
 - d. the identity of parties to a Digital Asset transaction; or
 - e. the value of a Digital Asset transaction; or
 - f. the beneficial owner of a Digital Asset.