



Astana  
Financial  
Services  
Authority

# Consultation Paper

AFSA-P-CE-2024-0006

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**Enabling trading of tokenised Investments and Qualified Investments and proposed enhancements to the AIFC Multilateral and Organised Trading Facilities Rules.**

Unrestricted

# 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 enabling trading of tokenised Investments and Qualified Investments and proposed enhancements to the AIFC Multilateral and Organised Trading Facilities Rules (“AIFC MOTF Rules”).

## *Who should read this CP?*

2. The proposals in this paper will be of interest to current and potential AIFC participants dealing in tokenised Investments or Qualified Investments, Authorised Firms involved in operation of a Multilateral Trading Facility (“MTF”) or an Organised Trading Facility (“OTF”) in or from the AIFC, as well as other interested parties.

## *Terminology*

3. Defined terms have the initial letter of the word capitalised, or of each word in a phrase. Definitions are set out in the AIFC Glossary ([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 email specified below. When sending your comments by email, please use “Consultation Paper AFSA-P-CE-2024-0006” 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.
5. The deadline for providing comments on the proposed framework is 31 July 2024. Once we receive your comments, we shall consider if any refinements are required to this proposal.
6. Following the public consultation, we may proceed with making relevant changes to the AIFC Acts as appropriate to reflect the points raised in the consultation. You should not act on the proposals until relevant amendments are enacted.
7. The AFSA prefers to receive comments by email at [consultation@afsa.kz](mailto:consultation@afsa.kz).

## *Structure of this CP*

8. This paper is structured as follows:

- Part I. Enabling trading of tokenised Investments on Investment Exchanges;
- Part II. Proposed Enhancements to the AIFC MOTF Rules;

- A. General amendments;
- B. Enabling trading of tokenised Qualified Investment on MTF/OTF platforms;

Part III. Public consultation questions;

Annex 1 – Draft Amendments to AIFC Financial Services Framework Regulations;

Annex 2 – Draft Amendments to AIFC Glossary;

Annex 3 – Draft Amendments to AIFC Authorised Market Institutions Rules;

Annex 4 – Draft Amendments AIFC Conduct of Business Rules;

Annex 5 – Draft Amendments to the AIFC Fees Rules; and

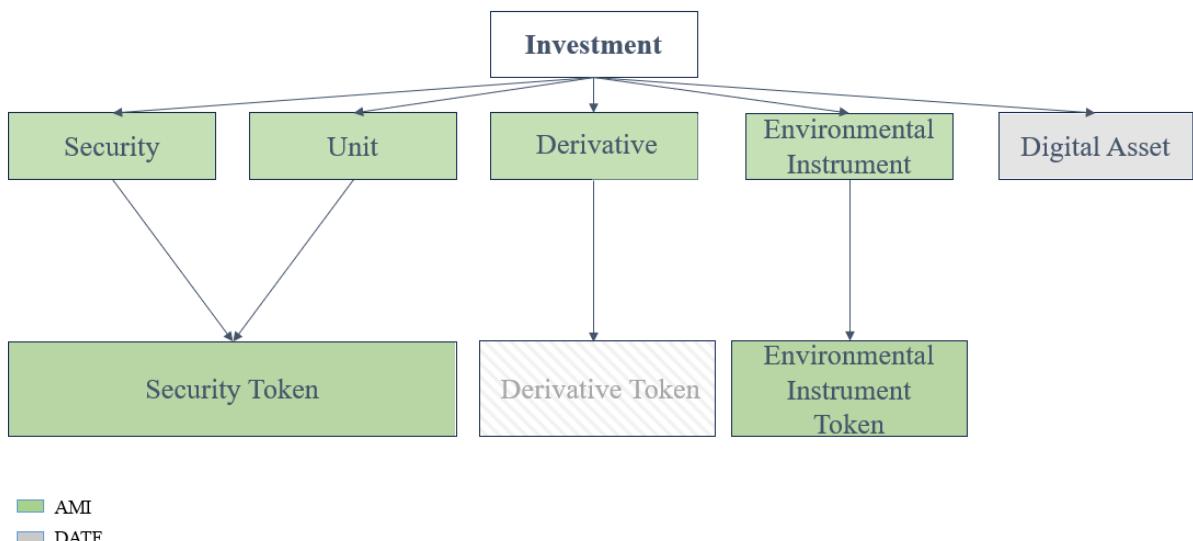
Annex 6 – Draft Amendments to the AIFC Multilateral and Organised Trading facilities Rules.

# PART I: ENABLING TRADING OF TOKENISED INVESTMENTS ON INVESTMENT EXCHANGES

## BACKGROUND

1. In January 2024, the AFSA introduced the AIFC Security Token Offering Framework (STO Framework), governing the issuance and trading of Security Tokens within the AIFC. When developing the STO Framework the AFSA took the same regulatory approach to Security Tokens as to the underlying traditional financial instrument (Security or Unit), allowing Investment Exchanges to offer such tokenised instruments.
2. Currently the AFSA is finalising the AIFC Tokenised Commodities Framework, which addresses the regulation of Commodity Derivative Tokens and Environmental Instrument Tokens. Similar to Security Tokens, these Tokens proposed to only be available for offering on an Investment Exchange. The proposals were detailed in the relevant [Consultation Paper](#), which was publicly available from March 19 to May 8, 2024.
3. The chart below illustrates the classification of Investments, and how tokenised financial instruments fit into the AIFC's current regime:

*Chart 1. Investment taxonomy in the AIFC*



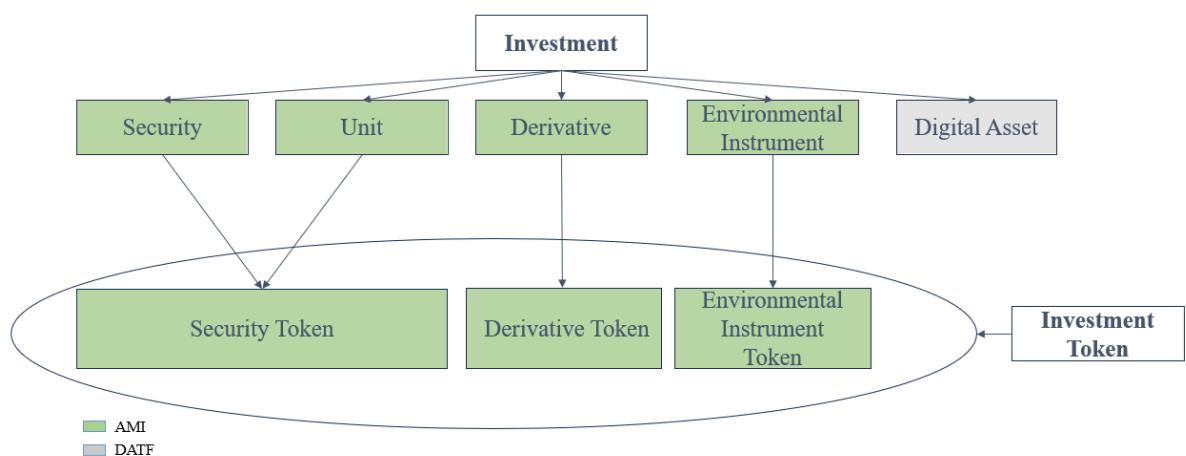
4. The chart clearly shows that our current regime for tokenised Investments does not encompass tokenised Derivatives. The rationale behind this decision stems from the AFSA's previous approach towards a gradual introduction of such frameworks regulating tokenised instruments. Given that currently the AIFC Derivatives Framework, aimed at clarifying the regulatory approach to Derivatives, is under development, it is suggested to complete the regulatory framework for tokenised financial instruments by covering tokenised Derivatives. Detailed proposals on Derivatives regulation are outlined in the relevant [Consultation Paper](#), which was publicly available from April 17 to May 17, 2024. It is important to acknowledge that depending on the approach adopted by the AFSA regarding conventional derivatives, there might be additional amendments proposed to ensure thorough and proportionate regulation.
5. Furthermore, we are also considering the enhancements related to classifying all tokenised instruments under a single term.

## LEGISLATIVE PROPOSALS

### ***Proposed approach to classification of Investment Tokens***

6. It became apparent that there is a necessity to enhance the AIFC regulatory framework's comprehensiveness to encompass the trading of various tokenised financial instruments.
7. According to our gradual approach to tokenised Investments, it is proposed to encompass the existing Security Token, upcoming Derivative Token and Environmental Instrument Token under a single term, the Investment Token (see Chart 2).

*Chart 2. Proposed Investment Token taxonomy in the AIFC*



8. The Investment Tokens regulation is proposed to be covered within the existing framework for Investments, subject to certain additional requirements. However, it is crucial to note, that Digital Assets are excluded from the list of Investment Tokens, since they are regulated under the AIFC Rules on Digital Asset Activities.
9. In light of the above consideration, it is proposed to (1) extend the current definition of Investment in the AIFC Glossary by defining an Investment Token as a digital representation of an Investment (other than a Digital Asset and a right or interest in the Digital Asset) that is issued, transferred and stored using DLT or other similar technology approved by the AFSA, and (2) introduce the definition of Derivative Token described as a digital representation of a Derivative, that is issued, transferred and stored using DLT or other similar technology approved by the AFSA.

### ***Operating a facility for trading and/or clearing Investment Tokens***

10. Since the AFSA's regulatory approach to Investment Tokens is proposed to be similar to Investments, it is considered that the regulatory regime for Investment Exchanges, as well as for Clearing Houses, should generally continue to apply to platforms that trade and/or clear Investment Tokens.
11. Therefore, we propose to change the term, definition of, and references to "Operating a facility for Security Token" to "Operating a facility for Investment Token" to cover the activities of operating facilities on which Investment Tokens are traded/cleared".

### ***Access to facilities for trading and clearing Investment Tokens***

12. Currently, in accordance with the STO Framework all Persons have a direct access to the facility on which Security Tokens are to be traded and cleared. This allows direct access to buyers and sellers of Security Tokens on the platform, regardless of whether such buyers and sellers are retail or professional (individual or institutional).
13. Derivatives are typically deemed higher-risk investments and the AFSA generally does not allow derivatives for retail trading. Nonetheless, the observed market interest indicates a demand for these instruments, primarily among institutional and sophisticated individual investors who can effectively manage the associated risks.
14. Consequently, building on the approach used for Security Tokens and in response to market demand, it is proposed to allow a direct access of all Persons to the facility on which Derivative Tokens are to be traded and cleared.
15. A more restrictive approach is planned for Commodity Derivative Tokens and Environmental Instrument Tokens. The proposed [AIFC Tokenised Commodities Framework](#) suggests limiting the Direct Access Members category, permitted by an Exchange or Clearing House for trading or clearing Commodity Derivative Tokens or Environmental Instrument Tokens, to those meeting the criteria of Professional Clients under the AIFC COB Rules.

### ***Additional requirements for trading and clearing Investment Tokens***

16. As we proposed to introduce Investment Tokens, encompassing Security Tokens, Derivative Tokens and Environmental Instrument Tokens, all relevant provisions of the STO Framework need to be amended, namely:
  - 1) Requirement to prepare Business Rules;
  - 2) Technology and governance requirements;
  - 3) Requirements applicable in case of direct access;
  - 4) Safe custody of Investment Tokens;
  - 5) Technology audit reports;
  - 6) Provision of a key features document.

### ***Additional Fees***

17. We propose to extend the application and supervision fees currently paid by an Exchange or Clearing House that enable Security Tokens for trading/clearing by Direct Access Members (amounting to 5,000 USD) to the operators facilitating the trading of Investment Tokens.
18. To implement the proposals above the following Acts are subject to amendments:
  - 1) AIFC Financial Services Framework Regulations;
  - 2) AIFC Authorised Market Institution Rules;
  - 3) AIFC Market Rules;
  - 4) AIFC Conduct of Business Rules;
  - 5) AIFC Glossary; and
  - 6) AIFC Fees Rules.

#### **Question 1:**

Do you agree with our approach to classification of Investment Tokens, encompassing Security Token, Derivative Token and Environmental Instrument Token? If not, why not?

**Question 2:**

Do you agree with our proposal to allow a direct access of all Persons to the facility on which Derivative Tokens are to be traded and cleared? If not, why not?

**Question 3:**

Do you agree with our proposal to amend the relevant provisions of the STO Framework to cover the regulation of Investment Tokens? If not, why not?

**Question 4:**

Do you agree with the proposal to extend additional application and annual supervision fees for an Authorised Exchange or Clearing House allowing direct access to trading or clearing of Security Tokens to those dealing in Investment Tokens? If not, why not?

**Question 5:**

Are there any other issues that need to be addressed regarding the regulation of Investment Tokens? If so, what are they, and why and how should they be addressed?

## PART II. PROPOSED ENHANCEMENTS TO THE AIFC MOTF RULES

19. This part covers the enhancement of the AIFC MOTF Rules in a breakdown to the contemplated amendments (a) aimed at clarifying the Clients of MTF/OTF Operators and scope of Qualified Investments and (b) enabling trading of tokenised Qualified Investments on MTF/OTF platforms.

### A. GENERAL AMENDMENTS

#### BACKGROUND

20. MTF and OTF play a crucial role in financial markets by providing venues for the trading of various financial instruments. These platforms enhance market liquidity, promote price discovery, and offer efficient execution of trades.

##### *Current AFSA regime for MTFs/OTFs*

21. According to the AIFC General Rules such activities as Operating a MTF and Operating an OTF are defined as Regulated Activities.
22. While MTF Operators have non-discretionary rules for the execution of transactions, OTF Operators should carry out order execution on a discretionary basis subject to the pre-transparency requirements and best execution obligations.

##### *Membership criteria and access*

23. MTF/OTF Operator must ensure that access to its facilities is subject to criteria designed to protect the orderly functioning of the market and the interests of investors.
24. An Authorised Firm, a Body Corporate (other than the Authorised Firm) or other Person (including natural person) can be a Member of MTF/OTF Operator.

##### *Qualified Investments*

25. MTF/OTF Operator may allow a product to be traded on its facility only if the product is a financial or commodity product that is a Qualified Investment.
26. Further development of alternative financing instruments, including MTF/OTF, is one of the AIFC priorities in accordance with the Concept of the financial sector development of the Republic of Kazakhstan until 2030.
27. Considering the abovementioned and based on the review of the current regime, the AFSA has evaluated the existing framework in light of regulatory insights and market needs.

## LEGISLATIVE PROPOSALS

#### *Application of the AIFC COB Rules*

28. Upon conducting our analysis, it has come to our attention that the AIFC regime governing MTF/OTF Operators already demonstrates sufficient flexibility regarding membership criteria and access to the facilities.
29. To enhance the regulatory regime regarding safeguards, it is our opinion that MTF/OTF Operators engaging with Body Corporates or Persons directly, without any intermediaries, must treat them as Clients. Consequently, it is proposed to extent the application of the relevant provisions of the AIFC COB Rules to MTF/OTF accepting Body Corporates or other Persons as Members.

### **Scope of Qualified Investments**

30. Having analysed the scope of financial instruments available for trading on MTF/OTF platforms in peer jurisdictions, it is our observation that the Qualified Investment list provided in the AIFC MOTF Rules is quite limited.
31. However, according to MOTF 5.3 the AFSA may, by publishing a notice to that effect, designate as a Qualified Investment any kind of instrument, agreement or transaction. It is also mentioned that if the proposed designation is regarding a particular type of an existing Security or Derivative, it can be exempt from public consultation.
32. It is therefore proposed to broaden the range of financial instrument that can be designated as a Qualified Investment, by amending MOTF 5.3(6)(a) to cover not only Security or Derivative, but also any type of an existing Investment, except for a Digital Asset.
33. In our view this could potentially offer MTF/OTF Operators the capacity to facilitate secondary trading across a broad spectrum of financial instruments.

#### **Question 6:**

Do you agree with our proposal to extend the application of the relevant provisions of the AIFC COB Rules to MTF/OTF accepting Body Corporates or other Persons as Members? If not, why not?

#### **Question 7:**

Do you agree with our proposal to broaden the range of financial instrument that can be designated as a Qualified Investment to include any type of an existing Investment, except for a Digital Asset? If not, why not?

## **B. ENABLING TRADING OF TOKENISED QUALIFIED INVESTMENTS ON MTF/OTF PLATFORMS**

### **BACKGROUND**

34. In accordance with the AFSA's gradual approach to frameworks for tokenised financial instruments, our aim is to further enhance the regulatory regime by broadening the list of platforms allowed to offer such instruments.
35. Previously, an Investment Exchange has been chosen as a primary platform for offering of Security Tokens, as it provides a controlled environment that can help maintain a certain level of investor protection and compliance.
36. Later the AFSA has received several public comments suggesting considering the option of tokenisation of existing Securities and trading of Security Tokens on its platform.
37. Therefore, the AFSA is exploring the possibility of revising the existing regulatory approach regarding tokenised financial instruments by allowing MTF/OTF to offer secondary trading of tokenised investments.
38. It is believed that this initiative, driven by the market inquiry and our aim to develop the market of tokenised financial instruments, could potentially offer several benefits:

- MTF/OTF can substantially increase liquidity and offer increased market access to a wider range of investors.
- Allowing trading on multiple types of platforms fosters competition and innovation in the market. In particular, MTF/OTF may offer different trading mechanisms, fee structures, or services compared to traditional investment exchanges, providing issuers and investors with more choices and potentially driving efficiency improvements and cost reductions.
- Diversifying the trading of tokenised financial instruments across different types of trading platforms reduces the risk of dependency on a single exchange. It enhances market resilience and reduces the impact of potential disruptions or failures on a single platform.

## **LEGISLATIVE PROPOSALS**

### ***Enabling trading of tokenised financial instruments on MTF/OTF platforms***

39. Considering the experience of our peer jurisdictions and potential benefits, we propose to permit the secondary offering of tokenised financial instruments on MTF/OTF alongside Investment Exchange.

### ***Qualified Investment Tokens***

40. It is proposed to treat Qualified Investment Tokens as Qualified Investments and to extend the current definition of Qualified Investments in the AIFC GLO by introducing the following:

*Qualified Investment Token is a digital representation of a Qualified Investment that is issued, transferred and stored using DLT or other similar technology approved by the AFSA.*

While the existing definition of Token is a digital representation of value, rights or obligations, which may be issued, transferred and stored electronically, using DLT or other similar technology.

### ***Operating facilities for trading of Qualified Investment Tokens***

41. Since the AFSA's regulatory approach to Qualified Investment Tokens is proposed to be similar to regulation of the conventional type of Qualified Investments, it is considered that the regulatory regime for MTF/OTF, should generally continue to apply to platforms that trade and/or clear those type of Tokens.
42. Consequently, it is proposed to introduce in the GLO the definition of Operating a facility for Qualified Investment Tokens, meaning operating MTF/OTF on which Qualified Investment Tokens are traded. This will make MTF/OTF Operators to comply with the additional requirements proposed below.

### ***Membership criteria and access***

43. Given that the AIFC MOTF Rules already allow MTF/OTF to accept all Persons as Members for the purposes of dealing in Qualified Investments, it is suggested to allow the same range of Persons to be members of MTF/OTF offering Qualified Investment Tokens. Therefore, the proposed application of the relevant COB provisions (sections

29 and 30 above) will be extended to MTF/OTF dealing in Qualified Investment Tokens.

***Additional requirements***

44. It is believed that there are some additional risks and concerns associated with the use of DLT or similar technologies that need to be addressed, as in the case of Investment Tokens framework.
45. Consequently, it is proposed to introduce additional requirements applicable to MTF/OTF Operators dealing in Qualified Investment Tokens:
  - 1) Technology and governance requirements;
  - 2) Safe custody of Security Tokens;
  - 3) Technology audit reports; and
  - 4) Provision of key features document.
46. To implement the proposals above the following Acts are subject to amendments:
  - 1) AIFC Multilateral and Organised Trading facilities Rules;
  - 2) AIFC Conduct of Business Rules; and
  - 3) AIFC Glossary.

**Question 8:**

Do you agree with our proposal to treat the Qualified Investment Tokens as Qualified Investments and to extend the current definition of Qualified Investments in the Glossary? If not, why not?

**Question 9:**

Do you agree with our proposal to apply the existing regulatory regime for MTF/OTF to those dealing in the Qualified Investment Tokens. If not, why not?

**Question 10:**

Do you agree with our proposal to allow MTF/OTF dealing in the Qualified Investment Tokens to accept all Persons as a Members? If not, why not?

**Question 11:**

Do you agree with our proposal to introduce the additional requirements applicable to MTF/OTF dealing in Qualified Investment Tokens? If not, why not?

**Question 12:**

Are there any other issues that need to be addressed regarding the regulation of Qualified Investment Tokens? If so, what are they, and why and how should they be addressed?

## PART III. PUBLIC CONSULTATION QUESTIONS

### **Question 1:**

Do you agree with our approach to classification of Investment Tokens, encompassing Security Token, Derivative Token and Environmental Instrument Token? If not, why not?

### **Question 2:**

Do you agree with our proposal to allow a direct access of all Persons to the facility on which Derivative Tokens are to be traded and cleared? If not, why not?

### **Question 3:**

Do you agree with our proposal to amend the relevant provisions of the STO Framework to cover the regulation of Investment Tokens? If not, why not?

### **Question 4:**

Do you agree with the proposal to extend additional application and annual supervision fees for an Authorised Exchange or Clearing House allowing direct access to trading or clearing of Security Tokens to those dealing in Investment Tokens? If not, why not?

### **Question 5:**

Are there any other issues that need to be addressed regarding the regulation of Investment Tokens? If so, what are they, and why and how should they be addressed?

### **Question 6:**

Do you agree with our proposal to extend the application of the relevant provisions of the AIFC COB Rules to MTF/OTF accepting Body corporates or other Persons as Members? If not, why not?

### **Question 7:**

Do you agree with our proposal to broaden the range of financial instrument that can be designated as a Qualified Investment to include any type of an existing Investment, except for a Digital Asset? If not, why not?

### **Question 8:**

Do you agree with our proposal to treat the Qualified Investment Tokens as Qualified Investments and to extend the current definition of Qualified Investments in the Glossary? If not, why not?

### **Question 9:**

Do you agree with our proposal to apply the existing regulatory regime for MTF/OTF to those dealing in the Qualified Investment Tokens. If not, why not?

### **Question 10:**

Do you agree with our proposal to allow MTF/OTF dealing in the Qualified Investment Tokens to accept all Persons as a Members? If not, why not?

**Question 11:**

Do you agree with our proposal to introduce the additional requirements applicable to MTF/OTF dealing in Qualified Investment Tokens? If not, why not?

**Question 12:**

Are there any other issues that need to be addressed regarding the regulation of Qualified Investment Tokens? If so, what are they, and why and how should they be addressed?

**Proposed amendments to the AIFC Financial Services Framework Regulations**

**In these Regulations, the underlining indicates a new text and the strikethrough indicates a removed text**

(...)

**55. Persons eligible for Membership**

- (1) Subject to such further admission criteria as the AFSA may prescribe by Rules, an Authorised Market Institution may only admit as a Member:
- (a) an Authorised Firm;
  - (b) a Recognised Non-AIFC Member; ~~or~~
  - (c) a Person that is a Body Corporate which intends to undertake Commodity Derivative or Environmental Instrument transactions on the relevant Authorised Market Institution by carrying on such activities for its own account or for another Body Corporate which is in the same Group as the Person, provided that any such member of the Group for which the Person intends to act is a wholly-owned Subsidiary of a Holding Company within the Group or is the Holding Company itself; or
  - (d) a Person not referred to in (a), (b), or (c) with access to the facility, on which Security Investment Tokens are traded or cleared or both traded and cleared, in respect of only trading or clearing of Security Investment Tokens.

(...)

**Proposed amendments to the AIFC Glossary**

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

## 2. INTERPRETATION

<b><u>Investment Token</u></b>	A digital representation of an Investment (other than a Digital Asset and a right or interest in the Digital Asset) that is issued, transferred and stored using DLT or other similar technology approved by the AFSA.
<b><u>Derivative Token</u></b>	A digital representation of a Derivative that is issued, transferred and stored using DLT or other similar technology approved by the AFSA.
<b><u>Qualified Investment Token</u></b>	A digital representation of a Qualified Investment that is issued, transferred and stored using DLT or other similar technology approved by the AFSA.
<b><u>Operating a facility for Security Investment Tokens</u></b>	<p>In relation to an Authorised Market Institution, means carrying on one or more of the following activities:</p> <ul style="list-style-type: none"> <li>(a) Operating an Investment Exchange on which <u>Security Investment Tokens</u> are traded; or</li> <li>(b) Operating a Clearing House on which transactions in <u>Security Investment Tokens</u> are cleared.</li> </ul>
<b><u>Operating a facility for Qualified Investment Tokens</u></b>	<p>In relation to an Authorised Firm, means <u>Operating a Multilateral Trading Facility</u> or <u>Operating an Organised Trading Facility</u> on which Qualified Investment Tokens are traded.</p>
<b>Digital wallet Service Provider</b>	An Authorised Firm Providing Custody of <u>Security Investment Tokens</u> , <u>Qualified Investment Tokens</u> or Digital Assets by holding and controlling the public and private cryptographic keys relating to the <u>Security Investment Tokens</u> , <u>Qualified Investment Tokens</u> or Digital Assets.
<b>DLT (Distributed Ledger Technology)</b>	A class of technologies that support the recording of encrypted data where the data:

	<p>(a) is held on a distributed ledger;</p> <p>(b) is electronically accessible, from multiple locations, by a network of participants; and</p> <p>(c) can be updated by those participants, based on agreed consensus, protocol or procedures.</p> <p>For the purposes of MAR, AMI, <u>MOTF</u> and COB, DLT also includes any other similar technology approved by the AFSA, which is used for the issuance, transfer and storage of an <u>Security Investment Token</u> or <u>Qualified Investment Token</u>.</p>
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**Proposed amendments to the AIFC Authorised Market Institutions Rules**

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

(...)

**Guidance: Purpose and application of AMI**

(...)

The application of the rules in AMI is as follows:

- Chapter 1 contains introductory provisions applicable to all Authorised Market Institutions.
- Chapter 2 contains rules and guidance applicable to all Authorised Market Institutions.
- Chapter 2-1 contains rules and guidance applicable to Authorised Market Institutions Operating a facility for Security Investment Tokens.
- Chapter 3 contains additional rules and guidance applicable to Authorised Investment Exchanges.
- Chapter 4 contains additional rules and guidance applicable to Authorised Clearing Houses (including Authorised Central Counterparties).
- Chapter 5 contains rules in relation to the supervision of Authorised Market Institutions.
- [intentionally omitted]
- Chapter 7 contains additional rules and guidance applicable to Authorised Crowdfunding Platforms.

For the avoidance of doubt, an Investment Token should be treated in the same way as the Investment it represents.

(...)

**(1) INTRODUCTION**

**1.1. Introduction**

**1.1.1. Definitions**

(...)

- (9) Operating a facility for Security Investment Tokens in relation to an Authorised Market Institution means Operating an Investment Exchange on which Security Investment Tokens are traded or Operating a Clearing House on which ~~Security Investment~~ Tokens are cleared.

(...)

## **2.5.1. Requirement to prepare Business Rules**

(...)

- (3) An Authorised Market Institution must incorporate into its Business Rules the substance of additional provisions to be found in the COB Rules, for the purpose of regulating the conduct of business of a Person referred to in AMI 2.6.1(1)(d) as a Member of the Institution for the purposes of dealing in Security Investment Tokens.

(...)

## **2.6. Membership**

### **2.6.1. Persons eligible for Membership**

- (1) An Authorised Market Institution, except an Authorised Digital Asset Trading Facility, may only admit as a Member a Person who satisfies admission criteria set out in its Membership Rules and who is categorised as either:

- (a) an Authorised Firm whose Licence permits it to carry on the Regulated Activities of Dealing in Investments;
- (b) a Recognised Non-AIFC Member;
- (c) a Person intending to deal in Commodity Derivatives or Environmental Instruments who meets the criteria in GEN 1.1.14; or
- (d) a Person not referred to in (a), (b), and (c) with access to the facility, on which Security Investment Tokens are traded or cleared or both traded and cleared, in respect of their trading or clearing of Security Investment Tokens only.

**(2) [intentionally omitted]**

- (a) [intentionally omitted]**
- (b) [intentionally omitted]**
- (c) [intentionally omitted]**

- (3) An Authorised Market Institution must ensure that a Member who is a Person referred to in (1)(c), or a Person referred to in 1(d) whose access is only for trading or clearing of Commodity Derivative Tokens or Environmental Instrument Tokens, is a Professional Client and treat the Person as such.

For the purposes of this rule, Professional Client has the same meaning as defined in COB Chapter 2.

(...)

## **2-1. RULES APPLICABLE TO AUTHORISED MARKET INSTITUTIONS OPERATING A FACILITY FOR SECURITY INVESTMENT TOKENS**

### **Guidance**

Operating a facility for Security Investment Tokens is defined in GLO as Operating an Exchange or Operating a Clearing House on which Security Investment Tokens are traded, cleared, or both traded and cleared.

### **2-1.1. Technology and governance requirements**

2-1.1.1. Without limiting the generality of the technology resources requirements in AMI 2.4, an Authorised Market Institution must:

- (a) establish and maintain policies and procedures to ensure that any DLT application used in connection with the facility operates on the basis of 'permissioned' access, such that it allows the operator to have and maintain adequate control over the Persons who are permitted to access and update records held on that DLT application;
- (b) establish and maintain adequate measures to ensure that the DLT application it uses, and the associated rules and protocols, contain:
  - (i) clear criteria governing Persons who are permitted to access and update records for the purposes of trading or clearing Security Investment Tokens on the facility, including criteria about the integrity, credentials and competencies appropriate to the roles played by such persons;
  - (ii) measures to address risks, including to network security and network compatibility, that may arise through systems used by Persons permitted to update the records on the DLT application;
  - (iii) processes to ensure that the Authorised Market Institutions undertakes sufficient due diligence and adequate monitoring of ongoing compliance, relating to the matters referred to in (i) and (ii); and
  - (iv) measures to ensure there are appropriate restrictions on the transferability of Security Investment Tokens in order to address AML and CFT risks;

(...)

#### **Guidance**

1. To be fit for purpose, the technology design of the DLT application used by an Authorised Market Institution Operating a facility for Security Investment Tokens should be able to address how the rights and obligations relating to the Security Investment Tokens traded on that facility are properly managed and capable of being exercised or performed. For example, where a Security Investment Token confers rights and obligations substantially similar to those conferred by a Share in a company, the DLT application would generally need to enable the management and exercise of the shareholder's rights. These may, for example, include the right to receive notice of, and vote in, shareholder meetings, receive any declared dividends and participate in the assets of the company in a winding up.

(...)

### **2-1.2. Operating a facility for Security Investment Tokens that permits direct access**

2-1.2.1. An Authorised Market Institution must ensure that:

(...)

(3) appropriate investor redress mechanisms are available, and disclosed, to each Member permitted to trade or clear Security Investment Tokens on its facility; and

(...)

#### 2-1.2.2.

(...)

(2) An Authorised Market Institution must have adequate controls and procedures to ensure that trading in Security Investment Tokens by Direct Access Members does not pose any risks to the orderly and efficient functioning of the facility's trading system, including controls and procedures to:

(...)

2-1.2.3. When an Authorised Market Institution Executes a Transaction in Security Investment Tokens for a Direct Access Member, the Authorised Market Institution must comply with the requirements relating to confirmation notes that would apply to an Authorised Firm under COB 9.1.2, 9.1.3 and 9.1.5.

### 2-1.3. Safe custody of Security Investment Tokens

2-1.3.1. Without limiting the generality of AMI 2.9, where an Authorised Market Institution's obligations include making provision for the safeguarding and administration of Security Investment Tokens belonging to Members and other participants on its facility, it must ensure that:

(1) where its safe custody arrangements involve acting as a Digital wallet Service Provider, it complies with the Client Asset provisions in COB 8.2 and 8.3 and the following requirements for firms Providing Custody of Security Investment Tokens:

(a) A Digital wallet Service Provider must ensure that:

- (i) any DLT applications it uses in Providing Custody of Security Investment Tokens are resilient, reliable and compatible with any relevant facility on which those Security Investment Tokens are traded or cleared;
- (ii) it has the ability to clearly identify and segregate Security Investment Tokens belonging to different Clients; and
- (iii) it has in place appropriate procedures to enable it to confirm Client instructions and transactions, maintain appropriate records and data relating to those instructions and transactions and to conduct a reconciliation of those transactions at appropriate intervals.

(b) A Digital wallet Service Provider, in developing and using DLT applications and other technology to Provide Custody of Security Investment Tokens, must ensure that:

- (i) the architecture of any Digital wallets used adequately addresses compatibility issues and associated risks;
- (ii) the technology used and its associated procedures have adequate security measures (including cyber security) to enable the safe storage and transmission of data relating to the Security Investment Tokens;
- (iii) the security and integrity of cryptographic keys are maintained through the use of that technology, taking into account the password protection and methods of encryption used;
- (iv) there are adequate measures to address any risks specific to the methods of usage and storage of cryptographic keys (or their equivalent) available under the DLT application used; and
- (v) the technology is compatible with the procedures and protocols built into the Operating Rules or equivalent on any facility on which the Security Investment Tokens are traded or cleared or both traded and cleared.

(2) where it appoints a third party Digital wallet Service Provider to Provide Custody for Security Investment Tokens traded or cleared on its facility, that Person is either:

- (a) an Authorised Firm permitted to be a Digital wallet Service Provider; or
- (b) a firm that is regulated by a Financial Services Regulator to an equivalent level as that provided for under the AFSA regime for Digital wallet Service Providers.

**Proposed amendments to the AIFC Conduct of Business Rules**

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

(...)

**1. APPLICATION**

(...)

**1.2.2. Exclusions in relation to certain categories of Centre Participant**

For the avoidance of doubt, the requirements in COB do not apply to:

(...)

(b) unless otherwise provided under Rules made by the AFSA, an Authorised Market Institution (other than an Authorised Crowdfunding Platform), except for COB 3 (Communications with Clients and Financial Promotions, unless otherwise provided under Rules made by the AFSA;

(e) unless otherwise provided under Rules made by the AFSA, a MTF Operator and an OTF Operator, except for COB 15 (Complaints Handling and Dispute Resolution).

(...)

**4. KEY INFORMATION AND CLIENT AGREEMENT**

(...)

**4.6. Provision of key features document relating to Security Investment Tokens and Qualified Investment Tokens**

- (1) An Authorised Firm must not provide a Financial Service to which this section applies to a Person unless it has provided that Person with a key features document containing the information in (2).
- (2) The key features document must contain the following information in respect of each Security Investment Token or Qualified Investment Token relevant to the Financial Services that the Authorised Firm will provide to the Person:
  - (a) the risks associated with and essential characteristics of the Issuer, other Person responsible for discharging the obligations associated with the rights conferred (if different to the Issuer) and guarantor if any, of the Security Investment Token or Qualified Investment Token, including their assets, liabilities and financial position;
  - (b) the risks associated with and essential characteristics of the Security Investment Token or Qualified Investment Token, including the rights and obligations conferred and the type or types of Investment which it represents;

- (c) whether the Security Investment Token or Qualified Investment Token is or will be admitted to trading and, if so, the details relating to such admission, including details of the facility and whether the facility is within the AIFC;
- (d) whether the Client can directly access the trading facility, or whether access is only through an intermediary, and the process for accessing the facility;
- (e) risks associated with the use of DLT, particularly those relating to Digital wallets and the susceptibility of private cryptographic keys to misappropriation;
- (f) whether the Client, the Authorised Firm or a third party is responsible for providing a Digital wallet service in respect of the Security Investment Token or Qualified Investment Token, and any related risks (for example, at whose risk the Client's Security Investment Tokens or Qualified Investment Tokens are held in the Digital wallet, whether it is accessible online or stored offline, what happens if keys to the Digital wallet are lost and what procedures can be followed in such an event);
- (g) how the Client may exercise any rights conferred by the Security Investment Tokens or Qualified Investment Tokens such as voting or participation in shareholder actions; and
- (h) any other information relevant to the particular Security Investment Token or Qualified Investment Token that would reasonably assist the Client to understand the product and technology better and to make informed decisions in respect of it.

(...)

**Proposed amendments to the AIFC Fees Rules**

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

(...)

**SCHEDULE 2: APPLICATION FEES PAYABLE TO THE AFSA FOR MARKET ACTIVITIES**

**1.1 Application fees for applying for Licence to carry on Market Activities**

Application fees are determined by the Market Activities the Authorised Person conducts or intends to conduct, as set out below:

<b>Application fee by activities</b>	<b>Fee (USD)</b>
Operator of a Clearing House	125 000; and  an additional application fee in the amount of 5 000 USD if <u>Operator</u> intends to clear Security Investment Tokens and have Direct Access Members
Operator of an Investment Exchange	125 000; and  an additional application fee in the amount of 5 000 USD if <u>Operator</u> intends to trade Security Investment Tokens and have Direct Access Members

(...)

**SCHEDULE 6: ANNUAL SUPERVISION FEES PAYABLE TO THE AFSA**

(...)

**6.2 Annual supervision fees for Market Activities**

Annual supervision fees for Market Activities are determined by the activities the Authorised Market Institution conducts as set out below:

<b>Market Activities</b>	<b>Fee (USD)***</b>
Operator of an Investment Exchange	Calculated according to formula 1 below; and  an additional annual supervision fee in the amount of 5 000 USD if <u>Operator</u> trades Security

	<u>Investment</u> Tokens and has Direct Access Members
Operator of a Clearing House	Calculated according to formula 2 below; and an additional annual supervision fee <del>in the amount</del> of 5 000 USD if <u>Operator</u> clears <u>Security Investment</u> Tokens and has Direct Access Members

**Proposed amendments to the AIFC Multilateral and Organised Trading Facilities Rules**

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

(...)

### 3. MEMBERSHIP CRITERIA AND ACCESS

#### 3.1. Admission criteria

- (1) A Trading Facility Operator must ensure that access to its facilities is subject to criteria designed to protect the orderly functioning of the market and the interests of investors.
- (2) A Trading Facility Operator may, subject to MOTF 3.2(2) and (3), accept as a ~~m~~Member:
  - (a) an Authorised Firm;
  - (b) a Body Corporate other than the Authorised Firm; and or
  - (c) a Person not referred to in (i-a) and (ii b), only if:
    - (i) the facility is one on which Qualified Investments are traded; and
    - (ii) the Person's access is only for trading Qualified Investments.

(...)

### 5. QUALIFIED INVESTMENTS

(...)

#### 5.1. Permitted products

A Trading Facility Operator may allow a product to be traded on its MTF or OTF only if the product is a financial or commodity product that is a Qualified Investment.

Qualified Investment Token should be treated in the same way as the Qualified Investment it represents.

(...)

#### 5.3. Designation of financial products as Qualified Investments

(...)

- (6) The AFSA must publish any proposed designation under MOTF 5.3(1) for public consultation for at least thirty calendar days after the date of publication, except if:
  - (a) it designates a financial product to be a particular type of an existing ~~Security or Derivative Investment, excluding a Digital Asset~~;

(...)

## **6. RULES AND CONSULTATION**

(...)

### **6.6. Additional requirement to prepare Business Rules**

A Trading Facility Operator must incorporate into its Business Rules the substance of additional provisions to be found in the COB Rules, for the purpose of regulating the conduct of business of a Person referred to in MOTF 3.1.(2)(b) or (c) as a Member of the Trading Facility Operator.

(...)

## **12-1. RULES APPLICABLE TO AUTHORISED FIRMS OPERATING A FACILITY FOR QUALIFIED INVESTMENT TOKENS**

### **Guidance**

Operating a facility for Qualified Investment Tokens is defined in GLO as Operating a Multilateral Trading Facility or Operating an Organised Trading Facility on which Qualified Investment Tokens are traded.

#### **12-1.1 Technology and governance requirements**

##### **12-1.1.1. A Trading Facility Operator must:**

(a) establish and maintain policies and procedures to ensure that any DLT application used in connection with the facility operates on the basis of 'permissioned' access, such that it allows the operator to have and maintain adequate control over the Persons who are permitted to access and update records held on that DLT application;

(b) establish and maintain adequate measures to ensure that the DLT application it uses, and the associated rules and protocols, contain:

(i) clear criteria governing Persons who are permitted to access and update records for the purposes of trading or clearing Qualified Investment Tokens on the facility, including criteria about the integrity, credentials and competencies appropriate to the roles played by such persons;

(ii) measures to address risks, including to network security and network compatibility, that may arise through systems used by Persons permitted to update the records on the DLT application;

(iii) processes to ensure that the Trading Facility Operator undertakes sufficient due diligence and adequate monitoring of ongoing compliance, relating to the matters referred to in (i) and (ii); and

(iv) measures to ensure there are appropriate restrictions on the transferability of Qualified Investment Tokens in order to address AML and CFT risks;

(c) ensure any DLT application used for its facility is fit for purpose; and

(d) have regard to industry best practices in developing its technology design and technology governance relating to DLT that is used by the facility.

### **Guidance**

1. To be fit for purpose, the technology design of the DLT application used by a Trading Facility Operator should be able to address how the rights and obligations relating to the Qualified Investment Tokens traded on that facility are properly managed and capable of being exercised or performed. For example, where Qualified Investment Tokens confers rights and obligations substantially similar to those conferred by a Share in a company, the DLT application would generally need to enable the management and exercise of the shareholder's rights. These may, for example, include the right to receive notice of, and vote in, shareholder meetings, receive any declared dividends and participate in the assets of the company in a winding up.

2. To ensure the technology governance of any DLT application used on its facility is fit for purpose, a Trading Facility Operator should, as a minimum, have regard to the following:

a. careful maintenance and development of the relevant systems and architecture in terms of its code version control, implementation of updates, issue resolution, and regular internal and third party testing;

b. security measures and procedures for the safe storage and transmission of data in accordance with agreed protocols;

c. procedures to address changes in the protocol which result in modifications of or the splitting of the underlying distributed ledger into two or more separate ledgers (often referred to as a 'forks'), whether or not the new protocol is backwards compatible with the previous version;

d. procedures to deal with system outages, whether planned or not, and errors;

e. decision-making protocols and accountability for decisions;

f. procedures for establishing and managing interfaces with Digital wallet Service Providers; and

g. whether the protocols, smart contracts and other inbuilt features of the DLT application meet at least a minimum acceptable level of reliability and safety requirements, including to deal with a cyber or hacking attack, and how any resulting disruptions would be resolved.

3. Some parts of trading Qualified Investment Tokens, for example, order matching, may take place 'offchain' (i.e. not using DLT). In those circumstances, the operator should still maintain adequate control over Persons who are undertaking those activities, as they are agents or delegates of the operator.

## **12-1.2. Safe custody of Qualified Investment Tokens**

### **12-1.2.1. A Trading Facility Operator must ensure that:**

(1) where its safe custody arrangements involve acting as a Digital wallet Service Provider, it complies with the following requirements for firms Providing Custody of Qualified Investment Tokens:

(a) A Digital wallet Service Provider must ensure that:

(i) any DLT applications it uses in Providing Custody of Qualified Investment Tokens are resilient, reliable and compatible with any relevant facility on which those Qualified Investment Tokens are traded or cleared;

(ii) it has the ability to clearly identify and segregate Qualified Investment Tokens belonging to different Clients; and

- (iii) it has in place appropriate procedures to enable it to confirm Client instructions and transactions, maintain appropriate records and data relating to those instructions and transactions and to conduct a reconciliation of those transactions at appropriate intervals.
- (b) A Digital wallet Service Provider, in developing and using DLT applications and other technology to Provide Custody of Qualified Investment Tokens, must ensure that:
  - (i) the architecture of any Digital wallets used adequately addresses compatibility issues and associated risks;
  - (ii) the technology used and its associated procedures have adequate security measures (including cyber security) to enable the safe storage and transmission of data relating to the Qualified Investment Tokens;
  - (iii) the security and integrity of cryptographic keys are maintained through the use of that technology, taking into account the password protection and methods of encryption used;
  - (iv) there are adequate measures to address any risks specific to the methods of usage and storage of cryptographic keys (or their equivalent) available under the DLT application used; and
  - (v) the technology is compatible with the procedures and protocols built into the Operating Rules or equivalent on any facility on which the Qualified Investment Tokens are traded or cleared or both traded and cleared.

(2) where it appoints a third party Digital wallet Service Provider to Provide Custody for Qualified Investment Tokens traded or cleared on its facility, that Person is either:

(a) an Authorised Firm permitted to be a Digital wallet Service Provider; or

(b) a firm that is regulated by a Financial Services Regulator to an equivalent level as that provided for under the AFSA regime for Digital wallet Service Providers.

### **12-1.3. Provision of key features document**

An Authorised Firm must not provide a Financial Service to which this section applies to a Person unless it has provided that Person with a key features document containing the information in COB 4.6.

### **12-1.4. Technology audit reports**

#### **12-1.4.1. A Trading Facility Operator must:**

(a) appoint a suitably qualified and independent third party professional to:

(i) carry out an annual audit of the Trading Facility Operator's compliance with the technology resources and governance requirements that apply to it; and

(ii) produce a written report which sets out the methodology and results of that annual audit, confirms whether the requirements referred to in (i) have been met and lists any recommendations or areas of concern;

(b) submit to the AFSA a copy of the report referred to in (a)(ii) within 4 months of the Trading Facility Operator's financial year end; and

(c) be able to satisfy the AFSA that the independent third party professional who undertakes the annual audit has the relevant expertise to do so, including by reference to the due diligence undertaken by the Trading Facility Operator to satisfy itself of that fact.

### **Guidance**

Where a Trading Facility Operator appoints a third party professional for the purposes of (a)(i) and (ii), the Trading Facility Operator is expected to ensure that the professional is suitably qualified.

Credentials which indicate a qualified and independent third party professional is suitable to conduct audits of technology governance may include:

(1) designation as a Certified Information Systems Auditor (CISA) or Certified Information Security Manager (CISM) by the Information Systems Audit and Control Association (ISACA); or

(2) designation as a Certified Information Systems Security Professional (CISSP) by the International Information System Security Certification Consortium (ISC); or

(3) accreditation by a recognised and reputable body to certify compliance with relevant ISO/IEC 27000 series standards; or

(4) accreditation by the relevant body to certify compliance with the Kazakhstani standards in the area of information (cyber) security.

(...)