



AMENDMENTS NO. 2 TO THE AIFC GENERAL

RULES (GEN)

AIFC ACT NO. FR0024 OF 2018

Astana International Financial Centre, Astana

30 July 2018

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AIFC General Rules No. FR0001 of 2017 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

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2. CONTROLLED AND DESIGNATED FUNCTIONS

2.1. Mandatory appointments

2.1.1. Appointments to be filled by Approved Individuals

An Authorised Person must make the following appointments and ensure that they are held by one or more Approved Individuals at all times:

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

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

- (1) An Authorised Person must make the following appointments and ensure that they are held by either an Approved Individual or a Designated Individual at all times:
 - (a) Money Laundering Reporting Officer; and
 - (b) such other role or function as the AFSA may direct from time to time.
- (2) A Banking Business Firm, as defined in the BBR Rules, must also make the following appointments and ensure that they are held by either an Approved Individual or a Designated Individual at all times:
 - (a) Risk Manager; and
 - (b) Internal Audit Manager.

2.2. Controlled Functions

2.2.2. Designation of roles as Controlled Functions

The functions specified in GEN 2.2.2 to 2.2.5 are Controlled Functions.

2.2.3. Senior Executive Officer

The Senior Executive Officer function is carried out by an individual who:

- (a) has, either alone or jointly with other Approved Individuals, ultimate responsibility for the day-to-day management, supervision and control of one or more (or all) parts of an Authorised Person's Regulated Activities; and
- (b) is a Director, Partner or Senior Manager of the Authorised Person.

2.2.4. Director

The Director function is carried out by an individual who is a director of an Authorised Person which is a Body Corporate.

2.2.5. Finance Officer

The Finance Officer function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Person who has responsibility for monitoring the Authorised Person's compliance with the applicable Rules in the Prudential Rulebook.

2.2.6. Compliance Officer

The Compliance Officer function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Person who has responsibility for compliance matters in relation to the Authorised Person's Regulated Activities.

2.2.7. Application for Approved Individual status

An Authorised Person may apply for its officer or Employee or future officer or Employee to be granted Approved Individual status by:

- (a) completing the form prescribed in Schedule 3 and filing the form with the AFSA accompanied by such documents as are specified in the form;
- (b) providing such further information as the AFSA may require; and
- (c) paying the Fee prescribed in the Fees Rules to the AFSA.

Guidance: criteria for approval of Approved Individual

Section 43 of the Framework Regulations provides

- (1) The AFSA may only authorise an individual to carry on a Controlled Function if it is satisfied that the individual is fit and proper to be an Approved Individual.
- (2) In making this assessment, the AFSA must have regard to:
 - (a) the individual's integrity; and

- (b) the individual's competence and capability; and
 - (c) the individual's financial soundness; and
 - (d) the individual's proposed role within the Authorised Person; and
 - (e) any other matters that the AFSA considers to be relevant to the application.
- (3) The AFSA will not regard an individual as fit and proper if the individual:
- (a) is bankrupt; or
 - (b) has been convicted of a serious criminal offence; or
 - (c) is the subject of an administrative or civil finding; or
 - (d) is incapable, through mental or physical incapacity, of managing his affairs.

2.2.8. AFSA discretion to waive requirements

An Authorised Person may apply to the AFSA to waive the requirements made pursuant to Section 43(1) of the Framework Regulations in the light of any registration, authorisation or approval the relevant officer or Employee may have in a jurisdiction outside the AIFC.

2.2.9. Modification or withdrawal of an Approved Individual's registration

An Authorised Firm or an Approved Individual may apply to the AFSA to modify or withdraw the Approved Individual's status by:

- (a) completing the form prescribed in Schedule 3 and filing the form with the AFSA accompanied by such documents as are specified in the form;
- (b) providing such further information as the AFSA may require; and
- (c) paying the fee prescribed in the Fees Rules to the AFSA.

2.2.10. Dismissal or resignation of an Approved Individual

In the event of an Approved Individual ceasing to be employed by an Authorised Firm to perform a Controlled Function, the Authorised Firm must:

- (a) request the withdrawal of the Approved Individual status within seven days of the Approved Individual ceasing to be employed;
- (b) inform the AFSA of any circumstances which lead the Authorised Firm to consider

that the individual is no longer fit and proper; and

- (c) if the Approved Individual was dismissed or requested to resign, provide the AFSA with a statement of the reason, or reasons, for the dismissal or resignation.

2.3. Designated Functions

2.3.1. Designation of roles as Designated Functions

The functions specified in GEN 2.3.2 to [2.3.6](#) are Designated Functions.

2.3.2. Senior Manager

The Senior Manager function is carried out by an individual who is responsible either alone or jointly with other individuals for the management, supervision or control of one or more parts of an Authorised Person's Regulated Activities who is:

- (a) an Employee of the Authorised Person; and
- (b) not a Director or Partner of the Authorised Person.

2.3.3. Responsible Officer

The Responsible Officer function is carried out by an individual who:

- (a) has significant responsibility for the management of one or more aspects of an Authorised Person's affairs; and
- (b) exercises a significant influence on the Authorised Person as a result of (a); but
- (c) is not an Employee of the Authorised Person.

2.3.4. Money Laundering Reporting Officer

The Money Laundering Reporting Officer function must be carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Person and who has responsibility for the implementation of an Authorised Person's anti-money laundering policies, procedures, systems and controls and day to day oversight of its compliance with the Rules in AML and any relevant anti-money laundering Rules.

2.3.5. [Risk Manager](#)

The Risk Manager function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Person and who has responsibility for all aspects of the risk management function in relation to the Authorised Person's Regulated Activities.

2.3.6. Internal Audit Manager

The Internal Audit Manager function is carried out by an individual who is a Director, Partner or Senior Manager of an Authorised Person and who has responsibility for all aspects of the internal audit function in relation to the Authorised Person's Regulated Activities.

Guidance: criteria for appointment of Designated Individual

Section 46 of Framework Regulations provides:

- (1) Before appointing an individual to carry out a Designated Function, an Authorised Person must take reasonable steps to satisfy itself that the individual is fit and proper to be a Designated Individual.
- (2) In making this assessment the Authorised Person must have regard to:
 - (a) the individual's integrity; and
 - (b) the individual's competence and capability; and
 - (c) the individual's financial soundness; and
 - (d) the individual's proposed role within the Authorised Person; and
 - (e) any other matters that the AFSA may prescribe by Rules.
- (3) An Authorised Person may not regard an individual as fit and proper if the individual:
 - (a) is bankrupt; or
 - (b) has been convicted of a serious criminal offence; or
 - (c) is the subject of an administrative or civil finding; or
 - (d) is incapable, through mental or physical incapacity, of managing his affairs.

2.3.7. Appointment of Designated Individual

In respect of each Designated Individual that it appoints, an Authorised Person must keep records of the assessment process that it has undertaken in accordance with section 46 of the Framework Regulations to satisfy itself that the relevant individual is a fit and proper Person. Such records must be kept for a minimum of six years from the date of the assessment.

6. SUPERVISION

Guidance: supervisory powers of the AFSA

The supervisory powers of the AFSA are set out in sections 96 to 101 of the Framework Regulations and include:

- Section 96: Power to gather information
- Section 97: Power to require the production of a report
- Section 98: Power to restrict, withdraw or suspend a Licence
- Section 99: Power to impose a prohibition
- Section 100: Power to impose a requirement
- Section 101: Power to enter into an enforceable arrangement

Section 95(1) of the Framework Regulations provides that the AFSA may exercise any of the above powers “at any time where it considers it necessary or desirable to do so in accordance with its Regulatory Objectives.”

Guidance: Exercise of supervisory powers by the AFSA

The AFSA is likely to exercise the supervisory powers in sections 96 to 101 of the Framework Regulations in the following circumstances:

- (a) an Authorised Person is failing, or is likely to fail, to satisfy the criteria referred to in sections 34 or 37 of the Framework Regulations as appropriate (Criteria for the grant of a Licence); or
- (b) an Authorised Person has failed, during a period of at least 12 months, to carry on a Regulated Activity or Market Activity for which it has a Licence; or
- (c) it is desirable to take such steps to exercise such power in order to protect the interests of clients or customers of an Authorised Person or the financial system; or
- (d) an Authorised Person is in breach of, or has been, in breach of one or more conditions, restrictions or requirements applicable to its Licence; or
- (e) an Authorised Person is (or has been) otherwise in breach of the AIFC Constitutional Law, the Framework Regulations or any Rules or other relevant legislation; or
- (f) an Authorised Person is in breach of a requirement under section 48 of the Framework Regulations (Requirement for AFSA approval to change in control); or
- (g) a request has been received from a Financial Services Regulator; or
- (h) there is a reasonable likelihood that an Authorised Person will contravene a requirement of any Regulations or Rules; or
- (i) an Authorised Person has contravened a relevant requirement and there is a reasonable likelihood that the contravention will continue or be repeated; or
- (j) there is loss, risk of loss, or other adverse effect on an Authorised Person’s Clients; or
- (k) an investigation is being carried out in relation to an act or omission by an Authorised Person that constitutes or may constitute a Contravention of any applicable Regulation or Rule; or
- (l) an enforcement action has commenced against an Authorised Person for a Contravention

- of any applicable Regulation or Rule; or
- (m) civil proceedings have commenced against an Authorised Person; or
- (n) an Authorised Person or any of its Employees may be or has been engaged in Market Abuse; or
- (o) an Authorised Person is subject to a merger; or
- (p) a meeting has been called to consider a resolution for an Authorised Person's Winding-Up; or
- (q) an application has been made for the commencement of any insolvency proceedings or the appointment of any receiver, administrator or provisional liquidator under the law of any country, territory or jurisdiction outside the AIFC for an Authorised Person; or
- (r) there is a notification to dissolve an Authorised Person or strike it from the register maintained by the Registrar of Companies, or a comparable register in another jurisdiction; or
- (s) there is information to suggest that an Authorised Person is involved in Financial Crime; or
- (t) the AFSA considers that the exercise of the power is necessary or desirable to ensure Clients, Authorised Persons, or the financial system, are not adversely affected.

6.1. Power to require the production of a report

6.1.2. Notification of requirement to produce a report

Where the AFSA requires an Authorised Person to provide it with a report under section 97 of the Framework Regulations (Power to require the production of a report) it will give written notification to the Authorised Person of:

- (a) the purpose of its report, and
- (b) its scope, and
- (c) the timetable for completion and
- (d) any other relevant matters.

6.1.3. Nomination or approval of Skilled Person

- (a) The Person appointed to produce a report shall be referred to as the "Skilled Person".
- (b) Where the AFSA nominates the Skilled Person, the Authorised Person must appoint the Person so nominated.
- (c) Where the AFSA invites the Authorised Person to nominate a Skilled Person, the

Authorised Person must provide the AFSA with the details of an appropriately qualified Person within such period as the AFSA may direct. The AFSA will confirm within a reasonable period where it approves the appointment of the Person so nominated. If the AFSA does not approve the Person so nominated, it may require the Authorised Person to nominate another Person or itself nominate a Person.

6.1.4. Obligations of Skilled Person

When an Authorised Person appoints a Skilled Person, it must enter into a written contract with the Skilled Person whose terms:

- (a) require and permit the Skilled Person to co-operate with the AFSA in relation to the Authorised Person and to communicate to the ASFA information on, or his opinion on, matters of which he has, or had, become aware in his capacity as a Skilled Person reporting on the Authorised Person in the following circumstances:
 - (i) the Skilled Person reasonably believes that, as regards the Authorised Person concerned:
 - (A) there is or has been, or may be or may have been, a contravention of any requirement that applies to the Authorised Person concerned; and
 - (B) that the contravention may be of material significance to the AFSA in determining whether to exercise, in relation to the Authorised Person concerned, any powers conferred on the AFSA under any provision of the Framework Regulations;
 - (ii) the Skilled Person reasonably believes that the information on, or his opinion on, those matters may be of material significance to the AFSA in determining whether the Authorised Person concerned satisfies and will continue to satisfy the fit and proper requirements; or
 - (iii) the Skilled Person reasonably believes that the Authorised Person is not, may not be, or may cease to be, a going concern;
- (b) require the Skilled Person to prepare a report within the time specified by the AFSA; and
- (c) waive any duty of confidentiality owed by the Skilled Person to the Authorised Person which might limit the provision of information or opinion by that Skilled Person to

the AFSA in accordance with (a) or (b).

6.1.5. Contract with Skilled Person

An Authorised Person must ensure that the contract required under GEN 6.1.2:

- (a) is governed by the law of the AIFC; and
- (b) expressly provides that the AFSA has a right to enforce the provisions included in the contract under GEN 6.1.2; and
- (c) expressly provides that, in proceedings brought by the AFSA for the enforcement of those provisions, the skilled Person is not to have available by way of defence, set-off or counter claim any matter that is not relevant to those provisions; and
- (d) if the contract includes an arbitration agreement, expressly provides that the AFSA is not, in exercising the right in (b) to be treated as a party to, or bound by, the arbitration agreement; and
- (e) provides that the provisions included in the contract under GEN 6.1.2 are irrevocable and may not be varied or rescinded without the AFSA's consent.

6.2. Obligation of disclosure to the AFSA

6.2.1. Core information

An Authorised Person must provide the AFSA with reasonable advance notice of a change in:

- (a) the Authorised Person's name; or
- (b) any business or trading name under which the Authorised Person carries on a Regulated Activity or Market Activity; or
- (c) the address of the Authorised Person's principal place of business in the AIFC; or
- (d) in the case of a Branch, its registered office or head office address; or
- (e) its legal structure; or
- (f) an Approved Individual's name or any material matters relating to his fitness and propriety.

6.2.2. Branches

An Authorised Person which is incorporated in the AIFC must provide the AFSA with reasonable advance notice of the establishment or closure of a branch office anywhere in the world from which it carries on financial services.

6.2.3. Regulatory impact

An Authorised Person must advise the AFSA immediately if it becomes aware, or has reasonable grounds to believe, that any of the following matters may have occurred or may be about to occur:

- (a) the Authorised Person's failure to satisfy the fit and proper requirements; or
- (b) any matter which could have a significant adverse effect on the Authorised Person's reputation; or
- (c) any matter in relation to the Authorised Person which could result in serious adverse consequences to the financial system or to other Authorised Persons; or
- (d) a significant breach of a Rule by the Authorised Person or any of its Employees; or
- (e) a breach by the Authorised Person or any of its Employees of any requirement imposed by any applicable law by the Authorised Person or any of its Employees; or
- (f) any proposed restructuring, merger, acquisition, reorganisation or business expansion which could have a significant impact on the Authorised Person's risk profile or resources; or
- (g) any material deficiency, material weakness or material failure in the Authorised Person's internal control functions; or
- (h) any significant failure in the Authorised Person's systems or controls, including a failure reported to the Authorised Person by the Authorised Person's Auditor; or
- (i) any action that would result in a material change in the capital adequacy or solvency of the Authorised Person; [or](#)
- (j) [non-compliance with Rules due to an emergency outside the Authorised Person's control and the steps being taken by the Authorised Person; or](#)

- (k) the implementation or planned implementation of a major new or revised information technology systems or new technology affecting the Authorised Person's business, risk profile or resources.

6.2.4. Major Acquisitions

- (1) A Bank as defined in BBR Rules, which makes or proposes to make a Major Acquisition as defined in (2) must:
 - (a) if it is incorporated in the AIFC, comply with the requirements in Rule 6.2.4 (4) of GEN rules; and
 - (b) if it is a Branch, comply with the requirements in Rule 6.2.4 (7) of GEN rules.
- (2) Subject to (3), a Major Acquisition is an acquisition in which the relevant Bank acquires or proposes to acquire, directly or indirectly, a shareholding in a Body Corporate where that acquisition:
 - (a) is of a value (whether by one acquisition or a series of acquisitions) of 10% or more of:
 - i. the Bank's Capital, as defined in BBR Rules; or
 - ii. the capital resources of the Bank calculated in accordance with the requirements of the Financial Services Regulator in its home jurisdiction, if it is operating as a Branch in the AIFC; or
 - (b) even if it does not exceed the 10% threshold referred to in (a), it is reasonably likely to have a significant regulatory impact on the Bank's activities.
- (3) An acquisition is not a Major Acquisition for the purposes of (2) if it is an investment made by a Bank:
 - (a) in accordance with the terms of a contract entered into by the Bank as an incidental part of its ordinary business; or
 - (b) as a routine transaction for managing the Bank's own investment portfolio and therefore can reasonably be regarded as made for a purpose other than acquiring management or control of a Body Corporate either directly or indirectly.

Guidance

- (1) Examples of the kind of investments referred to in Rule 6.2.4(2)(b) include an acquisition of a stake in a small specialised trading firm that engages in high risk trades or other activities that could pose a reputational risk to the Bank.
- (2) The onus is on a Bank proposing to make an acquisition to consider whether it qualifies as a Major Acquisition under Rule 6.2.4(2)(b). Generally, in the case of a Bank that is operating as a Branch in the AIFC, the significant regulatory

impact referred to in Rule 6.2.4 (2) (b) should be prudential risk to the Bank as a whole. If a Bank is uncertain about whether or not a proposed acquisition qualifies as a Major Acquisition under Rule 6.2.4 (2)(b), the Bank may seek guidance from the AFSA.

(3) Examples of contractual arrangements of the kind referred to in Rule 6.2.4 (3)(a) include enforcement of a security interest in the securities of the investee Body Corporate or a loan workout pursuant to a loan agreement entered into between a bank and its client.

(4) Examples of the kind of investments referred to in Rule 6.2.4(3)(b) include temporary investments, such as investments included in the Bank's trading book or which are intended to be disposed of within a short term (e.g. within 12 months).

(4) A Bank which is an Authorised Firm incorporated in the AIFC must:

(a) before making a Major Acquisition:

- (i) notify the AFSA in writing of the proposed Major Acquisition at least 45 days prior to the proposed date for effecting the Major Acquisition; and
- (ii) provide the AFSA with all the relevant information relating to that Major Acquisition to enable the AFSA to assess the regulatory impact of the proposed Major Acquisition on the Bank; and

(b) not effect the proposed Major Acquisition unless:

- (i) it has either received written advice from the AFSA that it has no objection to that Major Acquisition or has not received any written objection or request for additional information from the AFSA within 45 days after the date of the notification; and
- (ii) if the AFSA has imposed any conditions relating to the proposed Major Acquisition, it has complied with, and has the on-going ability to comply with, the relevant conditions.

(5) The AFSA may only object to a proposed Major Acquisition if it is of the view that the proposed Major Acquisition is reasonably likely to have a material adverse impact on the Bank's ability to comply with its applicable regulatory requirements or on the financial services industry in the AIFC as a whole. The AFSA may also impose any conditions it considers appropriate to address any concerns it may have in relation to the proposed Major Acquisition.

(6) Without limiting the generality of its powers, the factors that the AFSA may take into account for the purposes of (2) include:

- (a) the financial and other resources available to the Bank to carry out the proposed Major Acquisition;
- (b) the possible impact of the proposed Major Acquisition upon the Bank's resources, including its capital, both at the time of the acquisition and on an on-going basis;

- (c) the managerial capacity of the Bank to ensure that the activities of the investee Body Corporate are conducted in a prudent and reputable manner;
- (d) the place of incorporation or domicile of the investee Body Corporate and whether or not the laws applicable to that entity are consistent with the laws applicable to the Bank. In particular, whether there are any restrictions in relation to exchange of confidential regulatory information that are likely to pose challenges to the AFSA in carrying out its supervisory duties including those relating to consolidated supervision where applicable; and

any other undue risks to the Bank or the financial services industry in the AIFC as a whole arising from the proposed Major Acquisition.

Guidance

Factors which the AFSA may take into account in assessing whether there are any undue risks arising from the proposed Major Acquisition include the size and nature of the business of the investee Body Corporate, its reputation and standing, its present and proposed management structure and the quality of management, the reporting lines and other monitoring and control mechanisms available to the Bank and the past records of the Bank relating to acquisitions of a similar nature.

- (7) A Bank which operates as a branch in the AIFC:
 - (a) notify the AFSA in writing of any Major Acquisition in accordance with the notification requirement applying to the Bank under the requirements of the Financial Services Regulator in its home jurisdiction (the home regulator); and
 - (b) if there is no notification requirement applying to the Bank under (a), comply with the requirements in Rule 6.2.4 (4) as if it were a Bank incorporated in the AIFC. The AFSA must follow the same procedures, and shall have the same powers, as set out in Rule 6.2.4 (6) in relation to such a notification.
- (8) A Bank which gives to the AFSA a notification under (7)(a) must:
 - (a) notify the AFSA of the Major Acquisition at the same time as it notifies the home regulator;
 - (b) provide to the AFSA the same information as it is required to provide to the home regulator; and
 - (c) provide to the AFSA copies of any communications it receives from the home regulator relating to the notification it has provided to the home regulator as soon as practicable upon receipt.
- (9) The AFSA may, for the purposes of the requirements in this section, require from the Bank any additional information relating to the Major Acquisition as it may consider appropriate. A Bank must provide any such additional information to the AFSA promptly.
- (10) The AFSA may, where it considers appropriate, withdraw its no objection position or

modify or vary any condition it has imposed or any remedial action it has required under the Rules in this section

Guidance

The AFSA will generally not withdraw a no objection position it has conveyed to a Bank, except in very limited circumstances. An example of such a situation is where the Bank is found to have provided to the AFSA inaccurate or incomplete information and that commission or omission has a material impact on the AFSA's no objection decision.

- (11) The procedures in Section 11 of the AIFC Financial Services Framework Regulations apply to a decision of the AFSA under this Rule 6.2.4, to object to an acquisition or to impose or vary conditions.
- (12) If the AFSA decides to exercise its power under this Rule to object to an acquisition or to impose or vary conditions, the Authorised Firm may appeal to the AIFC Court for a review of the decision.

Schedule 1: REGULATED ACTIVITIES

1. Dealing in Investments as Principal

Dealing in Investments as Principal means buying, selling, subscribing for or underwriting any Investment as principal.

2. Dealing in Investments as Agent

Dealing in Investments as Agent means buying, selling, subscribing for or underwriting any Investment as agent.

3. Managing Investments

Managing Investments means managing on a discretionary basis assets belonging to another Person where the assets include any Investment.

4. Managing a Collective Investment Scheme

- (1) Managing a Collective Investment Scheme means establishing, managing or otherwise operating or winding up a Collective Investment Scheme.
- (2) To the extent that any activity under (1) constitutes Managing Assets, Providing Fund Administration, Dealing as Agent, Dealing as Principal, Arranging Deals in Investments, or Providing Custody, such a Regulated Activity is taken to be incorporated within Managing a Collective Investment Scheme.

5. Providing Custody

Providing Custody means one or more of the following activities:

- (a) safeguarding and administering Investments belonging to another Person; or
- (b) in the case of a Fund, safeguarding and administering Fund Property.

6. Arranging Custody

Arranging Custody means arranging for one or more Persons to carry on the Regulated Activity of Providing Custody.

7. Providing Trust Services

Providing Trust Services means:

- (a) the provision of services with respect to the creation of an express trust;

- (b) arranging for any Person to act as a trustee in respect of any express trust;
- (c) acting as trustee in respect of an express trust;
- (d) the provision of Trust Administration Services in respect of an express trust; or
- (e) acting as protector or enforcer in respect of an express trust.

8. Providing Fund Administration

Providing Fund Administration means providing one or more of the following services in relation to a Fund:

- (a) processing dealing instructions including subscriptions, redemptions, stock transfers and arranging settlements;
- (b) valuing of assets and performing net asset value calculations;
- (c) maintaining the share register and Unitholder registration details;
- (d) performing anti money laundering requirements;
- (e) undertaking transaction monitoring and reconciliation functions;
- (f) performing administrative activities in relation to banking, cash management, treasury and foreign exchange;
- (g) producing financial statements, other than as the Fund's registered auditor; or
- (h) communicating with participants, the Fund, the Fund Manager, and investment managers, the prime brokers, the Regulators and any other parties in relation to the administration of the Fund.

9. Acting as the Trustee of a Fund

- (1) Acting as the Trustee of a Fund means holding the assets of a Fund on trust for the Unitholders where the Fund is in the form of an Investment Trust.
- (2) To the extent that any activity under (1) constitutes Providing Fund Administration or Providing Custody, such a Financial Service is taken to be incorporated within Acting as the Trustee of a Fund.

10. Advising on Investments

- (1) Advising on Investments means giving advice to a Person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor, on the merits of his buying, selling, holding, subscribing for or underwriting a particular Investment (whether as principal or agent).
- (2) In sub-paragraph (1), "advice" includes a statement, opinion or report:
 - (a) where the intention is to influence a Person, in making a decision, to select a particular Investment or an interest in a particular Investment; or
 - (b) which could reasonably be regarded as being intended to have such an influence.

11. Arranging Deals in Investments

Arranging Deals in Investments means making arrangements with a view to another Person buying, selling, subscribing for or underwriting an Investment (whether that other Person is acting as principal or agent).

12. Managing a Restricted Profit Sharing Investment Account

Managing a Restricted Profit Sharing Investment Account means managing an account or portfolio which is a Restricted Profit Sharing Investment Account (RPSIA).

13. Islamic Banking Business

Islamic Banking Business means providing financing or making Investments by entering as principal or agent into any Islamic Financial Contract while raising funds for those activities through either or both of the following:

- (a) raising, accepting and managing funds or money placements;
- (b) managing Unrestricted Profit Sharing Investment Accounts (UPSIA);

provided that all such activities are carried out in a Shari'ah-compliant manner.

14. Providing Islamic Financing

Providing Islamic Financing means providing financing in a Shari'ah-compliant manner by entering into any Islamic Financial Contract.

15. Insurance Intermediation

- (1) Insurance Intermediation means:
 - (a) advising on a Contract of Insurance;
 - (b) acting as agent for another Person in relation to the buying or selling of a Contract of Insurance for that other Person; or
 - (c) making arrangements with a view to another Person, whether as principal or agent, buying a Contract of Insurance.
- (2) In (1)(a), 'advising' means giving advice to a Person in his capacity as a Policyholder, or in his capacity as agent for a Policyholder on the merits of his entering into a Contract of Insurance whether as principal or agent.
- (3) In (2), 'advice' includes a statement, opinion or report:
 - (a) where the intention is to influence a Person, in making a decision, to select a Contract of Insurance or insurance cover; or
 - (b) which could reasonably be regarded as being intended to have such influence.
- (4) The arrangements in (1)(c) include arrangements which do not bring about the transaction.
- (5) The arrangements in (1)(c) do not include the mere provision of information about:
 - (a) a Contract of Insurance, insurer, insurance intermediary or insurance manager to a Policyholder; or

- (b) a Policyholder to an insurer, insurance intermediary or insurance manager, if the Person providing that information does not take any further steps to assist in concluding the Contract of Insurance.

16. Operating a Representative Office

- (1) Operating a Representative Office means the marketing, from an establishment in the AIFC, of one or more financial services or investments which are offered in a jurisdiction other than the AIFC.
- (2) For the purposes of this paragraph, "marketing" means:
 - (a) providing information on one or more investments or financial services;
 - (b) engaging in promotions in relation to such information provision; or
 - (c) making introductions or referrals in connection with the offer of financial services or investments;provided that such activities do not constitute:
 - (d) advising on Investments; or
 - (e) receiving and transmitting orders in relation to an Investment.
- (3) An Authorised Person which is authorised to Operate a Representative Office may not have a Licence to carry on any other Regulated Activity.
- (4) An Authorised Person which does not have a Licence to Operate a Representative Office does not Operate a Representative Office if it undertakes any activities of the kind described in sub-paragraph (2) that constitute marketing.
- (5) Any communication which amounts to marketing in respect of a Financial Service or Investment, which is issued by or on behalf of a Government or non-commercial governmental entity, does not constitute marketing for the purposes of sub-paragraph (2).

17. Accepting Deposits

Accepting Deposits means accepting money or funds received as a Deposit if that money or funds are:

- (a) lent to other Persons; or
- (b) used to finance wholly, or partly, any other activity of the Person accepting the Deposit.

18. Providing Credit

- (1) Providing Credit means providing a Credit Facility to another Person.
- (2) A Person does not carry on the Regulated Activity of Providing Credit if the Credit Facility is to be provided by the Authorised Person in the course of carrying on one or more of the following activities:
 - (a) Dealing in Investments as Agent;
 - (b) Arranging Deals in Investments;
 - (c) Managing Investments;
 - (d) Managing a Collective Investment Scheme;
 - (e) Providing Custody.

19. Advising on a Credit Facility

- (1) Advising on a Credit Facility means giving advice to a Person in his capacity as a borrower or a potential borrower, or as an agent for a borrower or a potential borrower, on the merits of his entering into a particular Credit Facility.
- (2) In sub-paragraph (1), "advice" includes a statement, opinion or report:
 - (a) where the intention is to influence a Person, in making a decision, to enter into a particular Credit Facility; or
 - (b) which could reasonably be regarded as being intended to have such an influence.

20. Arranging a Credit Facility

- (1) Arranging a Credit Facility means making arrangements for the provision of a Credit Facility by one or more Persons.
- (2) A Person does not carry on the Regulated Activity of Arranging a Credit Facility if
 - (a) he is to be a party to the Provision of Credit Facilities in question; or

- (b) he merely provides the means by which a Person providing a Credit Facility communicates with the Person to whom the Credit Facility is or is to be provided.
- (3) A Person does not carry on the Regulated Activity of Arranging a Credit Facility if it:
 - (a) is carried on in the course of Providing Legal Services or Providing Accountancy Services, which does not otherwise consist of the carrying on of Financial Services;
 - (b) may reasonably be regarded as a necessary part of any other services provided in the course of Providing Legal Services or Providing Accountancy Services; and
 - (c) is not remunerated separately from the other services.

21. Providing Money Services

- (1) Providing Money Services means providing currency exchange or money transmission services.
- (2) In sub-paragraph (1), “money transmission” includes, without limitation:
 - (a) selling or issuing payment instruments;
 - (b) selling or issuing stored value; or
 - (c) receiving money or monetary value for transmission, including electronic transmission, to a location within or outside the AIFC.
- (3) An Authorised Person does not provide Money Services, if it does so in relation to the carrying on of another Regulated Activity where providing Money Services is in connection with and a necessary part of that other Regulated Activity.