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**AIFC RECOGNITION RULES**

**(REC)**

**AIFC RULES NO. FR0004 OF 2017**

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Astana International Financial Centre, Astana

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## 1. RECOGNISED NON-AIFC MARKET INSTITUTIONS

### 1.1. Recognition

#### 1.1.1. Application procedure

A Person which operates an investment exchange or clearing house from a place of business in a jurisdiction other than the AIFC may apply to the AFSA for an order declaring it to be a Recognised Non-AIFC Investment Exchange or Recognised Non-AIFC Clearing House as appropriate by:

- (a) providing the information and documents required in these Rules and such further information and documents as the AFSA may require;
- (b) paying the Fee prescribed in the Fees Rules to the AFSA.

#### 1.1.2. Required contents

Applications for recognition as a Recognised Non-AIFC Investment Exchange or a Recognised Non-AIFC Clearing House must contain:

- (a) the address of the applicant's head office in its country of registration;
- (b) an address located in the AIFC for the service on the applicant of notices or other documents required or authorised to be served on it; and
- (c) a description of the activities that the applicant envisages carrying on in the AIFC.

#### 1.1.3. Recognition Requirements

An applicant for an order declaring it to be a Recognised Non-AIFC Investment Exchange or Recognised Non-AIFC Clearing House must satisfy the AFSA that the requirement of section 89(3) of the Framework Regulations (“the Recognition Requirements”) are met.

#### 1.1.4. Equivalent protection

For the purposes of section 89(3)(a) of the Framework Regulations, an applicant must provide to the AFSA a legal analysis

- (a) comparing the regulatory requirements in the applicant's home jurisdiction with Part 4 of the Framework Regulations and Chapters 2 and 3 or 4 (as appropriate) of the AMI Rules; and



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- (b) if relevant, identifying any respects in which the regulatory requirements in the applicant's home jurisdiction do not provide a level of protection to investors equivalent to that required in the AMI rules.

### **1.1.5. Additional information required for Clearing Houses**

An applicant for recognition as a Recognised Non-AIFC Clearing House must demonstrate that it has QCCP status as defined in P6 of the Bank for International Settlements' paper BCBS 282 entitled "Capital requirements for bank exposures to central counterparties".

### **1.1.6. Default procedures**

For the purposes of section 89(3)(b) of the Framework Regulations, an applicant must satisfy the AFSA that:

- (a) it has procedures for dealing with a Person who is unable, or likely to become unable, to meet its obligations in respect of one or more Market Contracts connected with the applicant;
- (b) that such procedures are at least equivalent to the procedures required under AMI; and
- (c) that such procedures would remain effective and legally enforceable in the context of its proposed activities in the AIFC.

### **1.1.7. Co-operation and information**

For the purposes of section 89(3)(c) of the Framework Regulations, an applicant must satisfy the AFSA that:

- (a) it is permitted under the laws of its home jurisdiction to share information on its activities with the AFSA; and
- (b) that it has appropriate procedures to enable the sharing of such information and other reasonable forms of co-operation with the AFSA.

### **1.1.8. Co-operation with the applicant's home regulator**

For the purposes of section 89(3)(d) of the Framework Regulations, the AFSA will have regard to:



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- (a) any bilateral or multilateral memorandum of understanding that it may have with the regulator of the applicant in its home jurisdiction; and
- (b) any other mechanisms that exist for co-operation and the sharing of information between the AFSA and the relevant regulator.

### 1.2. Supervision

#### 1.2.1. Annual reports

- (a) A Recognised Non-AIFC Market Institution shall provide the AFSA with an annual report which must include:
  - (i.) a copy of its annual report and accounts, including any consolidated annual report and accounts of any Group of which the Recognised Non-AIFC Market Institution is a member;
  - (ii.) confirmation that the Recognised Non-AIFC Market Institution has satisfied the Recognition Requirements throughout the previous 12 months and is continuing to satisfy the Recognition Requirements; and
  - (iii.) a statement about whether the Recognised Non-AIFC Market Institution has not satisfied the Recognition Requirements in any respect, an explanation of why the Recognised Non-AIFC Market Institution failed to satisfy the Recognition Requirements and what actions it is taking, or has already taken, to satisfy them.
- (b) The period covered by such a report:
  - (i) starts on the day after the period covered by its last report; or
  - (ii) if there is no such report, on the day of the making of the recognition order recognising the Recognised Non-AIFC Market Institution as such; and
  - (iii) ends on the date specified in the report, or, if no date is specified, on the date of the report.
- (c) If a Recognised Non-AIFC Market Institution changes the period covered by its report, it must ensure that the first day of the period covered by a report is the day immediately following the last day of the period covered by the previous report.



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- (d) Copies of the report should be sent to the AFSA within two months after the end of the period to which it relates.

### 1.2.2. Notifications to be made to the AFSA

A Recognised Non-AIFC Market Institution must notify the AFSA of the events identified in the first column of the table in Schedule 2 within the period and in the manner specified in the second and third columns of that table.

### 1.2.3. Language of notice

Any notice to be given or information to be supplied under these notification rules must be supplied in English, and any document to be provided must be accompanied, if not in English, by an accurate English translation.

### 1.2.4. Waiver of notification rules

A Recognised Non-AIFC Market Institution may apply to the AFSA for a waiver of any of the notification rules in accordance with section 9 of the Framework Regulations.

### 1.2.5. Supervisory powers of the AFSA

The AFSA may:

- (a) give directions to a Recognised Non-AIFC Market Institution if it has failed, or is likely to fail, to satisfy the Recognition Requirements or if it has failed to comply with any other obligation imposed by or under the Framework Regulations or these Rules; or
- (b) revoke a recognition order if a Recognised Non-AIFC Market Institution is failing, or has failed, to comply with the Recognition Requirements or any other obligation; or
- (c) require a Recognised Non-AIFC Market Institution or a Person connected with the Recognised Non-AIFC Market Institution, to provide or produce specified information or information of a specified description, at a specified place and before the end of a reasonable period, in such form and with such verifications or authentications as it may reasonably require; or
- (d) require any of the following Persons, to provide the AFSA with a report on any matter, or appoint a Skilled Person to provide the AFSA with information or produce documents with respect to any matter:



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- (i) the Recognised Non-AIFC Market Institution; or
- (ii) any other member of the Recognised Non-AIFC Market Institution's group; or
- (iii) a partnership of which the Recognised Non-AIFC Market Institution is a member; or
- (iv) a Person who has at any time been a Person falling within (i), (ii) or (iii).



## 2. RECOGNISED NON-AIFC MEMBER

### 2.1. Recognition

#### 2.1.1. Application procedure

A Person located in a jurisdiction other than the AIFC may apply to the AFSA for an order declaring it to be a Recognised Non-AIFC Member by:

- (a) completing the form prescribed in Schedule 1 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.

#### 2.1.2. The making of a recognition order

- (1) Before making a recognition order, the AFSA will need to be satisfied that the applicant meets the requirements for recognition in section 91 of the Framework Regulations (“the Non-AIFC Member Recognition Requirements”).
- (2) If the AFSA considers that the Non-AIFC Member Recognition Requirements are satisfied, it may make a recognition order, which will state the date on which it takes effect.

### 2.2. Supervision

#### 2.2.1. Annual reports

- (a) A Recognised Non-AIFC Member shall provide the AFSA with an annual report which must include:
  - (i) a copy of its annual report and accounts, including any consolidated annual report and accounts of any Group of which the Recognised Non-AIFC Member is a member;
  - (ii) confirmation that the Recognised Non-AIFC Member has satisfied the Non-AIFC Member Recognition Requirements throughout the previous 12 months and is continuing to satisfy the said requirements; and





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- (iii) if the Recognised Non-AIFC Member has not satisfied the Non-AIFC Member Recognition Requirements in any respect, an explanation of why the Recognised Non-AIFC Member failed to satisfy such requirements and what actions it is taking, or has already taken, to satisfy them.
- (b) The period covered by such a report:
  - (i) starts on the day after the period covered by its last report; or
  - (ii) if there is no such report, the making of the recognition order recognising the Recognised Non-AIFC Member as such; and
  - (iii) ends on the date specified in the report, or, if no date is specified, on the date of the report.
- (c) If a Recognised Non-AIFC Member changes the period covered by its report, it should ensure that the first day of the period covered by a report is the day immediately following the last day of the period covered by the previous report.
- (d) Copies of the report should be sent to the AFSA within two months after the end of the period to which it relates.

### **2.2.2. Notifications to be made to the AFSA**

A Recognised Non-AIFC Member must notify the AFSA of the events identified in the first column of the table in Schedule 3 within the period and in the manner specified in the second and third columns of that table.

### **2.2.3. Language of notice**

Any notice to be given or information to be supplied under these notification rules must be supplied in English, and any document to be provided must be accompanied, if not in English, by an accurate English translation.

### **2.2.4. Waivers**

A Recognised Non-AIFC Member may apply to the AFSA for a waiver of any of the notification rules in accordance with section 9 of the Framework Regulations.

### **2.2.5. Supervisory powers of the AFSA**

The AFSA may:



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- (a) give directions to a Recognised Non-AIFC Member if it has failed, or is likely to fail, to satisfy the Non-AIFC Member Recognition Requirements or if it has failed to comply with any other obligation imposed by the AFSA; or
- (b) revoke a recognition order if a Recognised Non-AIFC Member is failing, or has failed, to comply with the Non-AIFC Member Recognition Requirements or any other obligation; or
- (c) require a Recognised Non-AIFC Member or a Person connected with the Recognised Non-AIFC Member, to provide or produce specified information or information of a specified description, at a specified place and before the end of a reasonable period, in such form and with such verifications or authentications as it may reasonably require; or

### Guidance

The AFSA will rely upon a Recognised Non-AIFC Member's lead financial services regulator to supervise a Recognised Non-AIFC Member. The focus of AFSA's interest will be on those activities of the Recognised Non-AIFC Member that may have an impact on the AIFC. A Recognised Non-AIFC Member must deal with the AFSA in an open and co-operative manner.



## Schedule 1: Forms

For the purpose of the Framework Regulations and the REC Rules the prescribed Forms are listed in the following table.

Purpose	Relevant section or Rule	Form
Application for an order declaring a Person to be a Recognised Non-AIFC Member	REC 2.11	



## Schedule 2: Notifications required of a Recognised Non-AIFC Market Institution

	Event	Timing	Information requirement
1	An event occurs which is likely to affect the AFSA's assessment of whether it is satisfied as to the Recognition Requirements.	As soon as reasonably practicable.	Particulars of the relevant event.
2	A Recognised Non-AIFC Market Institution changes its:  (a) memorandum and articles of association or any similar or analogous documents; or  (b) chairman or president, or chief executive (or equivalent).	In its next annual report (or first annual report, if not notified to the AFSA during the application process).	Particulars of the change and effective date.
3	Disciplinary action (or any similar or analogous action) is taken against the Recognised Non-AIFC Market Institution by any supervisory authority in its country of registration, whether or not that action has been made public in that territory.	As soon as reasonably practicable.	Particulars of the disciplinary action taken.
4	Publication of annual report and accounts.	Within fourteen days of publication or approval of the auditor, whichever is the sooner.	A copy of the annual report and accounts.
5	A Recognised Non-AIFC Market Institution proposes to change its address in the AIFC for the service of notices or other documents	Fourteen days before the change is effective.	The new address.



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	required or authorised to be served on it or the address of its head office.		
6	A Recognised Non-AIFC Market Institution has notice that any license, permission or authorisation which it requires to conduct any regulated activity in its home territory has been or is about to be revoked or modified in any way which would materially restrict the Recognised Non-AIFC Market Institution in performing any regulated activity in its home territory or in the AIFC.	As soon as practicable.	<p>(a) particulars of the license, permission or authorisation which has been or is to be revoked or modified, including particulars of the Recognised Non-AIFC Market Institution's regulated activities to which it relates;</p> <p>(b) an explanation of how the revocation or modification restricts or will restrict the Recognised Non-AIFC Market Institution in carrying on any regulated activity in its home territory or in the AIFC;</p> <p>(c) the date on which the revocation or modification took, or will take, effect and, if it is a temporary measure, any date on which, or any conditions that must be met before which, it will cease to have effect; and</p> <p>(d) any reasons given for the revocation or modification.</p>
7	A Recognised Non-AIFC Market Institution admits for the first time a Member whose head or registered office is in the AIFC.	As soon as practicable.	(a) notice of that event; (b) the address of the new Member.
8	A Recognised Non-AIFC Market Institution decides to put a Member	As close to when such a decision is taken by the Recognised Non-AIFC	<p>(a) notice of that event;</p> <p>(b) the name of the Member and (where</p>



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	into default.	Market Institution as practicable.	relevant) the class of Membership; (c) the reasons for that decision; and  (d) the names of any other exchange, clearing house or auction platform on which, to the best of that Recognised Non-AIFC Market Institution's knowledge, that Member clears business or transacts for, or in respect of, its clients.
9	A Recognised Non-AIFC Market Institution issues a consultation on proposed changes to its rules or procedures.	As soon as practicable.	A copy of the consultation paper and accompanying documentation.
10	Changes to Recognised Non-AIFC Market Institution's rules or procedures become effective.	Seven days before they come into effect.	A copy of the amended rules or procedures.
11	A Recognised Non-AIFC Market Institution issues guidance on or a circular relating to its rules or procedures.	Seven days before they come into effect.	A copy of the guidance or circular.
12	The Recognised Non-AIFC Market Institution becomes aware of anything which reasonably tends to show a breach, or likely breach, by itself or a third party of a provision of legislation administered by the AIFC.	As soon as possible.	Particulars of the relevant event.



### Schedule 3: Notifications required of a Recognised Non-AIFC Member

	Event	Timing	Information requirement
1	A change in name of the Recognised Non-AIFC Member.	Reasonable advance notice.	Particulars of the change and effective date.
2	A change in any business name or trading name the Recognised Non-AIFC Member uses in the AIFC (if different to its name).	Reasonable advance notice.	Particulars of the change and effective date.
3	A change in the address of the Recognised Non-AIFC Member's registered office or home office in its home jurisdiction.	Reasonable advance notice.	Particulars of the change and effective date.
4	The granting, modification, variation, withdrawal or refusal of any application for, or revocation of, licensing, recognition or authorization of the Recognised Non-AIFC Member in the jurisdiction in which the Recognised Non-AIFC Member has its head office or principal business.	Immediately.	<p>(a) Particulars of the granting, modification, variation, withdrawal or refusal of the application for, or revocation of, licensing, recognition or authorization including particulars of the Recognised Non-AIFC Member's regulated activities to which it relates;</p> <p>(b) An explanation of how the revocation or modification restricts or will restrict the Recognised Non-AIFC Member in carrying on any regulated activity in its home</p>



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			<p>territory or in the AIFC;</p> <p>(c) the date on which the event took, or will take, effect and, if it is a temporary measure, any date on which, or any conditions that must be met before which, it will cease to have effect; and</p> <p>(d) any reasons given for the granting, modification, variation, withdrawal or refusal of the application for, or revocation of, licensing, recognition or authorization.</p>
5	<p>The Recognised Non-AIFC Member provides any information to any financial services regulator to which the Recognised Non-AIFC Member is subject and which is relevant to its status as a Recognised Non-AIFC Member, save where the activities of the financial services regulator are part of a routine or regular inspection or audit of the affairs of the Recognised Non-AIFC Member.</p>	<p>As soon as practicable.</p>	<p>A copy of the information provided.</p>
6	<p>Anything which causes or may cause the Recognised Non-AIFC Member to fail to satisfy the Recognition Requirements.</p>	<p>As soon as possible.</p>	<p>Particulars of the event.</p>
7	<p>The Recognised Non-AIFC Member becomes aware</p>	<p>As soon as possible.</p>	<p>Particulars of the event.</p>





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	that a financial services regulator has started an investigation into the affairs of the Recognised Non-AIFC Member or has appointed inspectors to investigate or manage the affairs of the Recognised Non-AIFC Member.		
8	The imposition of disciplinary measures or disciplinary sanctions on the Recognised Non-AIFC Member by any financial services regulator.	As soon as possible.	Particulars of the event
9	A Recognised Non-AIFC Member receives: an order from a client, or arranges or executes a transaction with or for a client; and has reasonable grounds to suspect that the order or transaction may constitute Market Abuse or Financial Crime.	Immediately.	(a) Sufficient details of the order or transaction; and (b) the reasons for the Recognised Non-AIFC Member suspecting that the order or transaction may constitute Market Abuse.
10	The Recognised Non-AIFC Member becomes aware of anything which reasonably tends to show a breach, or likely breach, by itself or third party of a provision of legislation administered by the AIFC.	As soon as possible.	Particulars of the relevant event.