

## Waivers or Modifications form

This form must be submitted by applicants for authorisation or Authorised Persons<sup>1</sup> who are seeking a waiver or modification to an AIFC Rules in relation to the requirements they must meet in their role as an Authorised Person.<sup>2</sup>

To assist you<sup>3</sup> in completing this form we occasionally make reference to various Rules, sections, or chapters of the various modules which make up the AIFC Regulations and Rules. However, these references are provided only as a guide and are not an exhaustive list of the Rules that may be applicable to your situation. It is your responsibility to research any Rules that might be pertinent to your application.

Do not leave any response-cells empty. If it is more appropriate to answer certain questions in an attachment then indicate in the cell that that is the case. The use of acronyms is to be avoided. If you do need to use acronyms then they must be defined.

As a matter of good practice, and to avoid any confusion, words and terms that are defined in AIFC Glossary should have their first letter in upper-case.

Ensure that that you are using the latest version of this application form. AFSA will only accept out-of-date forms if they are submitted within one month of the latest version available on our website.

You are advised to retain a copy of the form and all relevant attachments for the records.

If your firm is already authorised you should first contact your supervisory officer to discuss your application for a waiver or modification.

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<sup>1</sup> Terms defined in the AIFC Glossary or the glossary sections in the Rules are identified by the capitalisation of the initial letter of a word or of each word in a phrase, unless the context otherwise requires the word to have its natural meaning.

<sup>2</sup> Refer to AIFC Financial Services Framework Regulations, Section 9.

<sup>3</sup> The terms “you” and “your” as used throughout are not implied in the personal sense, but rather refer to the applicant. The terms “we” and “our” refer to the AFSA.

## 1. Declaration by the applicant

1.1 I declare that, to the best of my knowledge and belief, having made due inquiry, the information given in this form, the supplements and documents attached, as well as any applicable supporting documents, is complete and correct. I understand that it may be a breach of Article 119(e) of the AIFC Framework Regulations to provide to the AFSA any information which is deceptive, misleading or dishonest.

1.2 I declare my understanding that the AFSA may request more detailed information (including but not limited to, personal educational, employment and financial information) should it be deemed necessary to adequately assess the fitness and propriety of the firm or any person connected to the firm. I consent to the AFSA contacting any previous employers, educational institutions, professional organisations or any other organisation, to verify any information contained in this form.

1.3 I confirm that I have the authority to make this application, to declare as specified above and sign this form for, or on behalf of, the applicant. I also confirm that I have authority to give the consent specified above.

1.4 I understand that any personal data provided to the AFSA will be used to discharge its regulatory functions under the AIFC Data Protection Regulations, and other relevant legislation and may be disclosed to third parties for those purposes.

1.5 I confirm that all documents submitted as part of this application, whether physical or electronic, become property of the AFSA.

\_\_\_\_\_  
Signature of Director/Partner of the applicant<sup>4</sup>

\_\_\_\_\_  
Date

Enter the name and position or title of the above signed Director/Partner of the applicant:

<sup>4</sup> Or the person who will be authorised by the entity once it has been incorporated or established.

## 2. Waivers or modifications

AFSA will place certain expectations on the applicant firm or the Authorised Person that is applying for a waiver or modification to AIFC Rules. To facilitate your success in being granted a waiver or modification to the AIFC Rules you will have to present your arguments very clearly.

In the first instance, we expect that the applicant will carry out appropriate research on each of the following areas:

- ✓ The intention behind the provisions in question and the regulatory outcomes that the provisions aim to achieve;
- ✓ Whether there is any precedent relief which may have been issued that supports this application, whether that be in the AIFC or any other regulatory jurisdiction; and
- ✓ The risks associated with the relief being sought and how you plan to mitigate such risks.

In this application you must:

- ✓ Present your reasons for requesting the granting of a waiver or a modification;
- ✓ Explain the impact to your firm and its clients to being granted the waiver or modification; and
- ✓ In the case of an application to modify a provision, propose wording for the modification.

**3. General information about the applicant**

3.1	Name of the applicant firm or of the Authorised Person	
3.2	AFSA Licence number (if an Authorised Person)	
3.3	The applicant firm's or Authorised Person's application contact person	
3.4	Position or title of contact person	
3.5	Contact telephone number	
3.6	Contact e-mail address	
3.7	Contact address	

#### 4. Specifics of the waiver or modification sought

4.1 If you are applying for a variation of an existing waiver or modification provide the details to the previous waiver or modification:

[Insert text here]

4.2 State the specific AIFC Rule or Rules to which this application pertains to:

[Insert text here]

4.3 Are you applying for the Rule or Rules to be waived completely?

[Insert text here]

4.4 Are you applying for a modification of the Rule? If so, provide the draft wording to the Rule of the modification being sought:

[Insert text here]

4.5 Provide details of any special requirements:

[Insert text here]

4.6 Describe the desired outcome of the proposed waiver or modification:

[Insert text here]

## 5. The applicant's research and reasons for the waiver or modification

- 5.1 Confirm that you have researched any previous waivers and modifications published by the AFSA. If you have determined that your application is based on precedent, then provide details of that relevant waiver or modification:

[Insert text here]

- 5.2 Confirm that you have researched any previous waivers and modifications published by other regulators that are similar in scope to the waiver or modification that you are seeking. If you have determined that your application is based on precedent from other jurisdictions, then provide details of that relevant waiver or modification:

[Insert text here]

- 5.3 Provide a succinct explanation of why your firm requires this waiver or modification:

[Insert text here]

- 5.4 Provide a succinct explanation of the impact the current relevant Rule has on your firm:

[Insert text here]

- 5.5 Why do you believe that compliance with the existing Rule is disproportionate given your firm's circumstances?

[Insert text here]

- 5.6 Identify all risks<sup>5</sup> that a waiver or modification to the Rule, if granted, might create:

[Insert text here]

- 5.7 Describe how you propose to mitigate the risks identified above and if there should be any conditions included with your waiver or modification request:

[Insert text here]

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<sup>5</sup> For example, any potential risks to your clients or to your compliance to AIFC Rules or to the AFSA's ability to regulate your activities.

## 6. Submitting your application to the AFSA

Once you are satisfied that this form with the necessary signatures in place and all other supporting forms and documents necessary for your completed application have been finalized, please return the completed application form to either your current assigned AFSA supervisory officer or attach it with your other documents if you are seeking authorisation.

We will undertake an initial review of it to ensure that your submission appears to be materially complete and all the necessary attachments are included. We will formally acknowledge receipt of the application once we ascertain that it is materially complete.

For your submission we will require hardcopies of one set of application forms, supplemental forms, and purpose-written, attachment documents, as well as the same on electronic format.

Firms are advised to retain a copy of this form, any supplements, and all attachments for their records.