



**ASTANA FINANCIAL SERVICES AUTHORITY**

## **CONSULTATION PAPER**

**AFSA-P-CE-2019-0013**

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**Proposed Guidance on miscellaneous matters relative  
to the FinTech Lab**

**October 3, 2019**

## Introduction

1. The Astana Financial Services Authority (“AFSA”) has issued this Consultation Paper AFSA-P-CE-2019-0013 to invite public feedback and comments on the proposed Guidance on miscellaneous matters relative to the FinTech Lab (“AIFC”).
2. The proposed Guidance on miscellaneous matters relative to the FinTech Lab is set out in Annex 1 to this Paper.
3. This Consultation Paper may be of interest to the FinTech services providers.
4. All comments to the proposed Guidance on miscellaneous matters relative to the FinTech Lab should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper No. AFSA-P-CE-2019-0013” in the subject line. You may, if relevant, identify the organisation you represent when providing your comments.
5. 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.
6. **The deadline for providing comments on the proposals is November 3, 2019.** Once we receive your comments, we shall consider if any refinements are required to the proposed AIFC Guidance on miscellaneous matters relative to the FinTech Lab.
7. **Comments to be addressed to:**  
Consultation Paper No. AFSA-P-CE-2019-0013  
Innovation Policy Division  
Astana Financial Services Authority (AFSA)  
55/17, Mangylyk El avenue, block C-3.2, Astana, Kazakhstan  
or emailed to: [Fintech.Consultation@afsa.kz](mailto:Fintech.Consultation@afsa.kz), Tel: +7 (7172) 647276

## Background

1. The FinTech Lab is a regulatory environment within the AIFC that allows a Person to Test and/or Develop the FinTech Activities without being immediately subject to the full set of regulatory requirements. This provides flexibility to Participants and allows them to deliver effective competition without serious risks affecting consumers.
2. Generally, not all of the existing legislative requirements set out in the Framework Regulations and Rules made thereunder will initially apply to the FinTech Lab Participants. On receipt of the application, the AFSA will work with the applicant to identify provisions set in the Framework Regulations and Rules made thereunder (either entire Regulations / Rules or specific provision of the Regulations / Rules) that are relevant to the proposed FinTech Activities, and/or issue individual guidance to a FinTech Lab Participant according to the specific characteristics and risks associated with the proposed FinTech Activities.
3. The AFSA may, on the application of a Person or on its own initiative, and by written notice, waive or modify the conditions, restrictions and/or requirements of the Framework Regulations and Rules made thereunder, and define the appropriate boundary conditions at authorisation and modify these through different stages of Testing and/or Developing the FinTech Activities.
4. However, there is intended to be a balance between the regulatory requirements / restrictions imposed under the boundary conditions and the feasibility of the FinTech Lab Participant in executing them, in order to ensure market integrity and client security, from one side, and avoiding disincentivising the innovators from another side.
5. Since the launch of the AIFC Regulatory Sandbox and the FinTech Lab back in January 2018 and March 2019 respectively, the AFSA FinTech Office has determined licensing conditions and control boundaries on a case-by-case basis. As the process matures, there are certain conditions and matters that require documented and consistent policy decisions.
6. Thus, the Guidance presents standardized approaches on some major issues arising in the course of authorization of applicants and their operation in the FinTech Lab.

7. The Guidance provides robust methods and standards relating to assessing the FinTech Lab applications and determining testing/developing boundaries, as well as grounds for fair treatment of all applicants

## **ANNEX 1**

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### **Guidance on miscellaneous matters relative to the FinTech Lab**

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**October 2019**

## Abbreviation

**AFSA:** Astana Financial Services Authority

**AIFC:** Astana International Financial Centre

**AML:** AIFC Anti-money laundering, counter – terrorist financing and sanctions rules

**GEN:** AIFC General rules

**FINTECH:** AIFC Financial Technology Rules

## I. Introduction

1. Goals and objectives of the Guidance on miscellaneous matters relative to the FinTech Lab (“Guidance”).

### **1.1. This Guidance presents standardized approaches on some major issues arising in the course of authorization of applicants and their operation in the FinTech Lab.**

- 1.2. The Guidance provides robust methods and standards relating to assessing the FinTech Lab applications and determining testing/developing boundaries, as well as grounds for fair treatment of all applicants.

## II. Guidance

### **2. Conditions for commencing business with clients**

- 2.1. The FinTech Lab Participant must meet the following minimum requirements before commencing business with clients:

- a) demonstrate evidence of availability of adequate policies, procedures, arrangements, systems and controls required by AML;
- b) make mandatory appointments as required by GEN 2.1, and in particular appoint the Chief Information Technology Officer, an individual responsible for ongoing Information Technology (IT) operations, maintenance and security oversight to ensure that its IT systems are reliable and adequately protected from external attack or incident;
- c) have a Client Agreement, outlining appropriate risk disclosure measures as per the requirements of the licence, related to Testing/Developing FinTech Activities in the FinTech Lab, which shall be subject to review of the AFSA;
- d) comply with GEN 5.2 (“Outsourcing”), where applicable;
- e) provide a signed acknowledgement on availability of the adequate measures to ensure:
  - (i) the IT systems are resilient and not prone to failure;
  - (ii) business continuity in the event that an IT system fails;
  - (iii) protection of the IT systems from damage, tampering, misuse or unauthorised access;
  - (iv) the integrity of data forming part of, or being processed through, IT systems;
  - (v) real time monitoring and reporting on system performance, availability and integrity;
  - (vi) policies and procedures are adequately established and maintained; and
  - (vii) sufficient resources to continually operate, maintain and supervise its facilities.
- f) provide evidence of availability of adequate funds, to the extent of amount equal to 12 (twelve) months of operational expenses, as per its application;

- g) ensure holding funds of its clients in a segregated Client Money Account at a third-party account provider that is a Bank or a Regulated Financial Institution which is authorized to accept or take Deposits in any jurisdiction;
- h) Private E-currency-related activity providers must ensure storage on a Hot Digital wallet at most equivalent to 10 Bitcoin (further BTC) or 10% of all funds/assets, whichever is greater.

### 3. Testing limits

3.1. The AFSA FinTech Office circumscribes the FinTech Lab Participants’ activities in the following way:

- a) sets standardized limits on, size of funds, types of clients permitted for the purpose of Testing FinTech Activities, which are determined based on the maturity of the FinTech firm, riskiness and type of activities;
- b) does not impose any limits on the number of clients, size of funds, types of clients for Developing FinTech Activities given that they are performed by the firms authorised in foreign jurisdiction/-s.

3.2. The maximum size of funds (per client/ investor) up to which the Client Money Accounts are permitted to be deposited and/or refilled is reflected in the Table 1 below:

**Table 1:**

Currency	Retail clients/investors who are Natural Persons	Retail clients/investors which are Body Corporates	Professional clients / Accredited investors
Fiat Currency	1,000 (thousand) USD or equivalent	20,000 (twenty thousand) USD or equivalent	Within aggregated limits
Operating Private E-currency trading facility or Providing Custody for safeguarding and administering Private E-currencies belonging to another Person	0.5 (point five) BTC or equivalent Private E-currency	5 (five) BTC or equivalent Private E-currency	Within aggregated limits



Other Private E-currency related business	0.25 (point twenty-five) BTC or equivalent in other Private E-currency	2.5 (two point five) BTC or equivalent in other Private E-currency	Within aggregated limits
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3.3. The maximum size of aggregated funds of clients that a FinTech Lab Participant is permitted to hold at any given instance for the purpose of Testing the FinTech Activities is: for Retail clients/investors:

- a) 200,000 (two hundred thousand) USD or equivalent Fiat Currency; or
- b) 50 (fifty) BTC or equivalent Private E-currency.

for Professional clients / Accredited investors:

- a) 5,000,000 (five million) USD or equivalent Fiat Currency; or
- b) 1,250 (one thousand and two hundred fifty) BTC or equivalent Private E-currency.

3.4. For the purposes of 3.2 and 3.3, the maximum sizes of aggregated funds of Retail clients that a FinTech Lab Participant is permitted to hold can be increased by the value of assurances and guarantees provided by a FinTech Lab Participant and validated from time to time by the AFSA.

3.5. The AFSA Committee on Authorisation of the FinTech Lab applicants can make upward or downward adjustments to any of these boundaries individually for each FinTech Lab applicant, when there are satisfactory justifications for any such adjustments.

3.6. At any time during providing service(s) to Clients in the course of carrying on of the FinTech Lab Activities under its Licence, the FinTech Lab Participant may ask for reconsideration of any of the set limits following the process stated in the FINTECH, when providing satisfactory justification, in the cases, which may include the following:

- a) successful performance of the FinTech Activities during a period of 6 (six) months without any incidents and with timely execution of the Testing/Developing plan; or
- b) fulfillment of all requirements to systems and controls and legal and regulatory requirements; or
- c) provision of additional financial security that will cover all the material losses of clients of the FinTech Lab Participant in the case of default.

#### 4. Outsourcing core functions

4.1. AFSA allows any types of outsourcing of its functions to a service provider (including a service provider within its Group), while keeping the FinTech Lab Participant responsible for compliance with the Framework Regulations and Rules made thereunder. If AFSA faces difficulties with obtaining requested information from the FinTech Lab Participant, AFSA reserves the right to request restriction / change of this outsourcing.

#### 5. Minimum number of employees

5.1. AFSA requires FinTech Lab Participants to hire at least 2 (two) individuals who can combine functions of Mandatory appointments while preserving compliance with of the

conflict of interests (one person for Senior Executive Officer and Finance Officer positions, and a second person for Compliance Officer and Money Laundering Reporting Officer positions).

## 6. Performance Assurances and Guarantees

6.1. Liabilities of the FinTech Lab Participants to clients up to 200,000 USD or equivalent can be allowed without financial guarantees.

6.2. The FinTech Lab Participants may provide performance assurances and guarantees to cover losses in the event of their default in accordance with paragraph 3.4. of the present Guidance. Performance assurances and guarantees can be accepted in the form of the bank guarantees, insurance certificates, deposits in an escrow account or other satisfactory form.

6.3. AFSA should be appointed as a trustee of such performance assurances and guarantees.

## 7. Corporate bank account / custody account

7.1. FinTech Lab Participants can be allowed to use corporate bank accounts instead of custody accounts.