



Consultation Paper

AFSA-P-CE-2021-0004

Proposed Multilateral and Organised Trading Facilities Framework in the AIFC

Unrestricted

November 18, 2021

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 the proposed Multilateral and Organised Trading Facilities Framework in the AIFC.

Who should read this CP?

2. The proposals in this paper will be of interest to firms interested in operating Multilateral and Organised Trading Facilities (MTF and OTF, respectively), professionals consulting on such business, Authorised Market Institutions (AMIs), market participants, as well as investors and 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 Glossary Rules ([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 address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2021-0004” 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 **18 December 2021**. Once we receive your comments, we shall consider if any refinements are required to this proposal.
6. Comments to be addressed by post:
Policy and Strategy Division
Astana Financial Services Authority (AFSA)
55/17 Mangilik EI, building C3.2, Kazakhstan

or emailed to: consultation@afsa.kz

Structure of this CP

- Part I – Background;
- Part II – Questions in this consultation paper;

Annex 1 – Draft AIFC Multilateral and Organised Trading Facilities Rules (MOTF);
Annex 2 – Draft Amendments to AIFC Glossary (GLO);
Annex 3 – Draft Amendments to AIFC General Rules (GEN);
Annex 4 – Draft Amendments to AIFC Conduct of Business (COB);
Annex 5 – Draft Amendments to AIFC Fees Rules (FEES); and
Annex 6 – Draft Amendments to the AIFC Prudential Rules for Investment Firms (PRU(INV)).

Background

Introduction

1. In the beginning of 2021, the AFSA has been approached by several potential AIFC participants interested in commodities market and platforms operating with commodity related instruments. Noting that a general MTF/OTF framework operating on the basis of different underlying financial instruments would be of interest to several potential participants, it was proposed to develop a general MTF/OTF framework.
2. The framework is in line with the precedents currently in place in United States, Europe, and Abu Dhabi Global Markets (ADGM) and intends to be a major financial market infrastructure enhancement.
3. The proposed framework is designed as a standalone rulebook which:
 - (a) Provides a consolidated framework with all the requirements applicable to the operators of a MTF and OTF;
 - (b) Based on the EU MTF/OTF models which are MIFID II compliant;
 - (c) Similar to both QFC and ADGM models. ADGM is already tested by market participants.
4. The proposed AIFC Multilateral and Organised Trading Facilities Rules (MOTF) consist of 20 chapters and provide for:
 - (a) authorisation requirements – GEN requirements apply in addition to specific requirements in MOTF;
 - (b) membership criteria and access;
 - (c) direct electronic access conditions;
 - (d) a list of qualified investments;
 - (e) requirements for MTF/OTF operators' business rules and consultation;
 - (f) requirements for fair and orderly trading;
 - (g) arrangements for public disclosure;
 - (h) pre- and post-trade transparency requirements;
 - (i) arrangements for liquidity providers;
 - (j) specific rules applicable to MTF/OTF operators;
 - (k) trade processing and finalisation of transactions;
 - (l) transaction recording;
 - (m) safekeeping of client assets;
 - (n) operational systems and controls;
 - (o) default management;
 - (p) financial crime and market abuse;
 - (q) resolution planning;
 - (r) settlement and clearing services.
5. Amendments to GLO include new definitions as a result of introducing MOTF, such as a Qualified Investment and MTF/OTF Operator, and revisions to existing definitions for AMIs by aligning them for the operations of MTF/OTF Operators.
6. Amendment to GEN relocates the activities of Operating a MTF/OTF from the list of Market Activities to the list of Regulated Activities. This is in line with the regulatory design

decision for the purposes of removing regulated activities in the AMI Rulebook that are not market products to which substantial parts of the AMI Rulebook disapply.

7. Amendment to COB suggests disapplying this rulebook for the MTF/OTF Operators since the requirements from conduct of business perspective are consolidated in a standalone rulebook, MOTF.

Part II - Questions in this consultation paper

1. Do you have any concerns related to the authorisation requirements to MTF/OTF Operators? If so, what are they, and how should they be addressed?
2. Do you have any concerns related to the proposed list of Qualified Investments? If so, what are they, and how should they be addressed?
3. Do you have any concerns related to membership criteria to access MTF/OTF? In particular, do you agree that proposed membership and default arrangements as applied to members who are natural persons (potentially not sophisticated clients) of MTF/OTF Operators are adequate? Do you think of any additional measures?
4. Do you have any concerns related to ongoing conduct requirements in chapters 7-18? If so, what are they, and how should they be addressed?
5. Do you agree with the proposed amendments to AIFC Rules? If not, what are your concerns, and how should they be addressed? Do you agree with our proposal to treat an agricultural receipt as a Security? If not, why not?



**AIFC MULTILATERAL AND ORGANISED
TRADING FACILITIES RULES
(MOTF)**

AIFC RULES NO. FR00XX OF 2021

Approval Date: XX December 2021

Commencement Date: 01 January 2022



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1. GENERAL

1.1. Application of these Rules

These Rules, which may be cited as the AIFC Multilateral and Organised Trading Facilities Rules (“MOTF”), apply to a Person with respect to:

- (a) the operation, in or from the AIFC, of a Multilateral Trading Facility; or
- (b) the operation, in or from the AIFC, of an Organised Trading Facility.

Guidance

A MTF Operator or an OTF Operator is an Authorised Firm to which the following provisions of AIFC GEN are applicable either directly or in respect of their officers and Employees who are Approved Individuals or Designated Individuals:

- (a) GEN 2: Controlled and Designated Functions;
- (b) GEN 3: Control of Authorised Persons;
- (c) GEN 4: Core Principles;
- (d) GEN 5: Systems and Controls;
- (e) GEN 6: Supervision

MOTF supplement, and should be read in conjunction with, the Rules in GEN.

AIFC PRU(INV) Rules do not apply to a MTF Operator or an OTF Operator. As an Authorised Person, a MTF Operator or an OTF Operator also needs to comply with the wider Rulebooks relevant to all Authorised Persons, including AIFC AML.

1.2. Definitions

- (a) A Trading Facility is a facility on which investments, rights or interest in Investments are traded. A Trading Facility may be a Multilateral Trading Facility (“MTF”) or an Organised Trading Facility (“OTF”).
- (b) A Multilateral Trading Facility is operated by a MTF Operator while an Organised Trading Facility is operated by an OTF Operator.
- (c) A MTF Operator is a Centre Participant which has been licensed by the AFSA to carry on the Regulated Activity of Operating a Multilateral Trading Facility.
- (d) An OTF Operator is a Centre Participant which has been licensed by the AFSA to carry on the Regulated Activity of Operating an Organised Trading Facility.

Guidance

Operating a Multilateral Trading Facility and Operating an Organised Trading Facility are defined as Regulated Activities in Schedule 1 of AIFC GEN.



For MTF Operators, one of the important requirements concerns the obligation that the Investments, rights, or interests in Investments be brought together in the system by means of non-discretionary rules set by the Operator. That requirement means that they are brought together under the Operator's rules or by means of the Operator's protocols or internal operating procedures, including procedures embodied in computer software. The term 'non-discretionary rules' means rules that leave the Operator with no discretion as to how Investments, rights, or interests in Investments may interact. The definition requires that Investments, rights, or interests in Investments be brought together in such a way as to result in a contract which occurs where execution takes place under the Operator's rules or by means of the Operator's protocols or internal operating procedures.

While MTF Operators have non-discretionary rules for the execution of transactions, the OTF Operators should carry out order execution on a discretionary basis subject to the pre-transparency requirements and best execution obligations. Consequently, conduct of business rules, best execution and client order handling obligations should apply to the transactions concluded on an OTF Operator.

1.3. Exclusions for order routing

For the purpose of these Rules, a Person does not operate a Trading Facility if it operates a facility which is merely an order routing system where buying and selling interests in, or orders for, financial instruments are merely transmitted but do not interact or consummate a trade.

2. AUTHORISATION

A Person wishing to operate a MTF or OTF must be an Authorised Firm licensed to operate a MTF or OTF, respectively, by the AFSA.

2.1. Requirements for Trading Facility Operator authorisation

The AFSA must not grant authorisation or variation to operate a MTF or OTF unless the applicant satisfies all of the following requirements:

- (a) general authorisation requirements applicable to the applicant under the Framework Regulations and other applicable rules, and
- (b) the applicant must hold the following minimum capital at all times:
 - (i) an amount equal to 6 months' operational expenses; plus
 - (ii) unless the AFSA directs otherwise, an additional amount of up to a further 6 months' operational expenses.

Guidance

According to PRU(INV) 1.3(8), if a PRU Investment Firm holds both an Authorisation to carry on PRU Investment Business and Non-PRU(INV) Investment Business, which includes Trading Facility Operators, it will be also subject to PRU(INV) Rules in relation to the whole of its business, including its Non-PRU(INV) Investment Business. However, the AFSA may direct that the PRU Investment Firm will be deemed to satisfy:

- (a) some or all of PRU(INV) Rules where it satisfies the rules that apply to it by reason of the Authorisation to carry on Non-PRU(INV) Investment Business; or



(b) some or all of the rules that apply to it by reason of the Authorisation to carry on Non-PRU(INV) Investment Business where it satisfies these PRU(INV) Rules.

3. MEMBERSHIP CRITERIA AND ACCESS

3.1. Admission criteria

A Trading Facility 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.

3.2. Membership Rules

(a) A Trading Facility Operator must make transparent and non-discriminatory rules, based on objective criteria, governing access to, or membership of, its facilities. In particular, those rules must specify the obligations for users or Members of its facilities arising from:

- (i) the constitution and administration of the Operator;
- (ii) rules relating to transactions on an Operator's market;
- (iii) in case of an Authorised Firm, its professional standards for staff having access to or membership of a financial market operated by the Operator;
- (iv) in case of firms other than Authorised Firms, conditions established for access to or membership by Persons of a financial market operated by the Operator;
- (v) in case of natural persons, conditions for access to or membership of a financial market operated by the Operator; and
- (vi) the rules and procedures for clearing and settlement of transactions.

(b) A Trading Facility Operator must only give access to or admit to membership a Person who:

- (i) is fit and proper and of good repute;
- (ii) where applicable, has a sufficient level of ability, competence and experience, including appropriate standards of conduct for its staff; and
- (iii) where applicable, has adequate organisational arrangements, including financial and technological resources.

(c) In assessing whether access to a Trading Facility Operator's facilities is subject to criteria designed to protect the orderly functioning of the market, or of those facilities, and the interests of investors, the AFSA may have regard to whether:

- (i) the Operator limits access as a Member to such Persons:
 - (A) over whom it can with reasonable certainty enforce its rules contractually;
 - (B) who have sufficient technical competence to use its facilities; and
 - (C) (if appropriate) who have adequate financial resources in relation to their exposure to the Operator;



- (ii) indirect access to the Operator's facilities is subject to suitable criteria, remains the responsibility of a Member of the Operator and is subject to the Operator's rules; and
- (iii) the Operator's rules:
 - (A) set out the design and operation of the Operator's relevant systems;
 - (B) set out the risk for Members and other participants when accessing and participating on the Operator's facilities;
 - (C) contain provisions for the resolution of Members' and other participants' disputes and an appeal process for the decisions of the Operator;
 - (D) contain disciplinary proceedings, including any sanctions that may be imposed by the Operator against its Members and other participants; and
 - (E) any other matters necessary for the proper functioning of the Operator and the facilities operated by it.

3.3. Lists of users or Members

A Trading Facility Operator must make arrangements regularly to provide the AFSA with a list of users or Members of its facilities.

4. DIRECT ELECTRONIC ACCESS

4.1. Direct electronic access – general conditions

A Trading Facility Operator may only permit a Member to provide its clients Direct Electronic Access to the Operator's facilities where:

- (a) the clients meet the suitability criteria established by the Member in order to meet the requirements in MOTF 4.2;
- (b) the Member retains responsibility for the orders and trades executed by its clients who are using Direct Electronic Access; and
- (c) the Member has adequate mechanisms to prevent its clients placing or executing orders using Direct Electronic Access in a manner that would result in the Member exceeding its position or margin limits.

4.2. Direct electronic access – criteria, standards and arrangements

- (a) A Trading Facility Operator which permits its Members to provide its clients Direct Electronic Access to the Operator's trading facilities must:
 - (i) set appropriate standards regarding risk controls and thresholds on trading through Direct Electronic Access;
 - (ii) be able to identify orders and trades made through Direct Electronic Access; and



- (iii) if necessary, be able to stop orders or trades made by a client using Direct Electronic Access provided by the Member without affecting the other orders or trades made or executed by that Member.
- (b) A Person who is permitted to have Direct Electronic Access to a Trading Facility Operator's facilities through a Member is not, by virtue of such permission, a Member of the Operator, however, such client is subject to the jurisdiction of the MTF or OTF.
- (c) The AFSA may have regard to the following arrangements made:
 - (i) to permit Direct Electronic Access to the Trading Facility Operator's facilities; and
 - (ii) to prevent and resolve problems likely to arise from the use of electronic systems to provide indirect access to its facilities by Persons other than its Members:
 - (A) the rules and guidance governing Members' procedures, controls and security arrangements for inputting instructions into the system;
 - (B) the rules and guidance governing the facilities Members provide to its clients to input instructions into the system and the restrictions placed on the use of those systems;
 - (C) the rules and practices to detect, identify, and halt or remove instructions breaching any relevant restrictions;
 - (D) the quality and completeness of the audit trail of any transaction processed through an electronic connection system; and
 - (E) procedures to determine whether to suspend trading by those systems or access to them by or through individual Members.

5. QUALIFIED INVESTMENTS

5.1. Permitted products

A Trading Facility Operator may not allow products be traded on its MTF or OTF other than financial products that are Qualified Investments.

5.2. Qualified Investments

- (a) Qualified Investment means a financial and commodity instrument, agreement or transaction under which, at a specified time or within a specified period of time:
 - (i) payment or delivery obligations are to be performed, or title to commodities or assets is to be transferred; or
 - (ii) obligations to make payments or deliveries, or to transfer title to commodities or assets, are to be entered into or incurred.
- (b) In particular, an instrument, agreement or transaction of one of the following kinds is a Qualified Investment:
 - (i) a commodity swap;



- (ii) a commodity derivative;
 - (iii) an emissions derivative, including an emissions allowance or emissions reduction transaction;
 - (iv) a spot, future, forward or other securities or commodities transaction;
 - (v) a commodities contract, including an agreement to buy, sell, borrow or lend commodities, such as a commodities repurchase or reverse repurchase agreement, a commodities lending agreement or a commodities buy/sell back agreement;
 - (vi) a collateral arrangement;
 - (vii) any other instrument, agreement or transaction similar to an instrument, agreement or transaction of a kind referred to in (i) to (vi) with respect to one or more reference items relating to commodities, energy products, electricity, equities, weather, sukuk, bonds or other debt instruments, precious metals.
- (c) However, the following Financial Products are not Qualified Investments:
- (i) a Contract of Insurance entered into by a licensed or authorised insurance company as part of its insurance business; and
 - (ii) a Digital Asset.

5.3. Designation of financial products as Qualified Investments

- (a) The AFSA may by publishing a notice to that effect, designate as a Qualified Investment any kind of instrument, agreement or transaction in addition to those specifically mentioned in MOTF 5.2.
- (b) The AFSA may, by publishing a notice to the effect, revoke the designation of any kind of instrument, agreement or transaction. However, the revocation of a designation does not apply:
 - (i) to an instrument, agreement or transaction entered into before the revocation; or
 - (ii) to a transaction (whether entered into before or after the revocation) entered into under an instrument or agreement entered into before the revocation or to which an instrument or agreement entered into before the revocation applies.
- (c) The AFSA may exercise the power under MOTF 5.3(a) either upon written application made by a Person or on its own initiative.
- (d) Without limiting the generality of the matters that the AFSA may consider when exercising its power under MOTF 5.3(a), it must consider the following factors:
 - (i) the economic effect of the financial instrument or class of financial instruments;
 - (ii) the class of potential investors to whom the financial instrument is intended to be marketed;



- (iii) the treatment of similar financial instruments for regulatory purposes in other jurisdictions; and
 - (iv) the possible impact of such a declaration on any person issuing or marketing such a financial instrument.
- (e) A Person who makes an application for a designation under MOTF 5.3(a) must address, as far as practicable, the factors specified in MOTF 5.3(d).
- (f) The AFSA must publish any proposed designation under MOTF 5.3(a) for public consultation for at least thirty calendar days from the date of publication, except where:
- (i) it declares a financial product to be a particular type of an existing Security or Derivative;
 - (ii) it determines that any delay likely to result from public consultation is prejudicial to the interests of the AIFC; or
 - (iii) it determines that there is a commercial exigency that warrants such a declaration being made without any, or shorter than thirty-day, public consultation.

6. RULES AND CONSULTATION

6.1. Requirement to prepare, review and amend Business Rules

A Trading Facility Operator must ensure that appropriate procedures are adopted for it to make rules, for keeping its rules under review and for amending them (“Business Rules”). The procedures must include procedures for consulting users of the Operator’s facilities in appropriate cases.

6.2. Amendment of rules

- (a) Any amendment to a Trading Facility Operator’s Business Rules must, prior to the amendment being effective, be
- (i) made available for public consultation; and
 - (ii) approved by the AFSA.

6.3. Waiver of consultation requirement

The AFSA may dispense with the requirement in MOTF 6.2(a)(i) in cases of emergency, force majeure, typographical errors, minor administrative matters, or to comply with applicable laws. A Trading Facility Operator must have procedures for notifying users of these amendments.

6.4. Public Consultation

- (a) A Trading Facility Operator must, before making any amendment to its Business Rules, undertake public consultation on the proposed amendment in accordance with the requirements in this Chapter.
- (b) For these purposes, a Trading Facility Operator must publish a consultation paper setting out
- (a) the text of both the proposed amendment and the Business Rules that are to be amended,



- (b) the reasons for proposing the amendment, and (c) a reasonable consultation period, which must not be less than thirty calendar days from the date of publication, within which Members and other stakeholders may provide comments. The Trading Facility Operator must lodge with the AFSA the consultation paper no later than the time at which it is released for public comment.
- (c) The AFSA may, where it considers on reasonable grounds that it is appropriate to do so, require the Trading Facility Operator to extend its proposed period of public consultation specified in the consultation paper.
- (d) A Trading Facility Operator must:
- (i) facilitate, as appropriate, informal discussions on the proposed amendment with Members and other stakeholders including any appropriate representative bodies of such Persons;
 - (ii) consider the impact the proposed amendment has on the interests of its Members and other stakeholders; and
 - (iii) have proper regard to any public comments received.
- (e) Following public consultation, a Trading Facility Operator must publish the final Business Rules and consider whether it would be appropriate to discuss the comments received and any amendments made prior to publication.

6.5. Review of Rules

- (a) In determining whether a Trading Facility Operator's procedures for consulting Members and other users of its facilities are appropriate, the AFSA may have regard to the range of Persons to be consulted by the Trading Facility Operator under those procedures. Consultation with a smaller range of Persons may be appropriate where limited, technical changes to an Operator's Business Rules are proposed. An Operator's procedures may include provision to restrict consultation where it is essential to make a change to the Business Rules without delay in order to ensure continued compliance with the Operator authorisation requirements or other legal obligations.
- (b) In determining whether a Trading Facility Operator's procedures for consulting Members and other users of its facilities are appropriate, the AFSA may have regard to the extent to which the procedures include:
- (i) informal discussions at an early stage with users of its facilities or appropriate representative bodies;
 - (ii) publication to users of its facilities of a formal consultation paper which includes clearly expressed reasons for the proposed changes and an appropriately detailed assessment of the likely costs and benefits;
 - (iii) adequate time for users of its facilities to respond to the consultation paper and for the Trading Facility Operator to take their responses properly into account;
 - (iv) adequate arrangements for making responses to consultation available for inspection by users of its facilities, unless the respondent requests otherwise; and
 - (v) adequate arrangements for ensuring that the Trading Facility Operator has proper regard to the representations received.



7. FAIR AND ORDERLY TRADING

- (a) A Trading Facility Operator must ensure that it has transparent rules and procedures to provide for fair and orderly trading, and to establish objective criteria for the efficient execution of orders.
- (b) A Trading Facility Operator must have the arrangement to effectively facilitate the efficient and timely finalisation of the transactions executed by means of its MTF or OTF.
- (c) In determining whether a Trading Facility Operator is ensuring that business conducted by means of its facilities is conducted in an orderly manner (and so as to afford proper protection to investors), the AFSA may have regard to the extent to which the Trading Facility Operator's rules and procedures:
 - (i) are consistent with these Rules;
 - (ii) prohibit abusive trading practices or the deliberate reporting or publication of false information about trades;
 - (iii) prohibit or prevent:
 - (A) trades in which a party is improperly indemnified against losses;
 - (B) trades intended to create a false appearance of trading activity (wash trades);
 - (C) cross trades executed for improper purposes;
 - (D) front running of customer orders;
 - (E) improperly prearranged or pre-negotiated trades;
 - (F) trades intended to assist or conceal any potentially identifiable trading abuse (accommodation trades and money passing);
 - (G) disruptive trades, which disrupt market equilibrium or the proper functioning of the market, including, but not limited to spoofing (bidding or offering with the intent to cancel bid or offer before execution), banging the close (intentional or reckless disregard for orderly executions during the closing period) or violating bids and offers as to order book trading;
 - (H) market manipulation or price manipulation;
 - (I) and trades which one party does not intend to close out or settle.
 - (iv) include appropriate measures to prevent the use of its facilities for abusive or improper purposes;
 - (v) provide appropriate safeguards for investors against fraud or misconduct, recklessness, negligence or incompetence by users of its facilities;
 - (vi) provide appropriate information to enable users of its facilities to monitor their use of the facilities;



- (vii) include appropriate arrangements to enable users of its facilities to raise queries about any use of those facilities which they are reported to have made;
- (viii) include appropriate arrangements to enable users of its facilities to comply with any relevant regulatory or legal requirements; and
- (ix) include appropriate arrangements to reduce the risk that those facilities will be used in ways that are incompatible with relevant regulatory or legal requirements.

In this paragraph, “appropriate” should be taken to mean appropriate having regard to the nature and scale of the Trading Facility Operator’s facilities, the types of Persons who will use the facilities and the use which they will make of those facilities.

- (d) In determining whether a Trading Facility Operator is ensuring that business conducted by means of its facilities is conducted in an orderly manner (and so as to afford proper protection to investors), the AFSA may have regard to whether the Operator’s arrangements and practices:
 - (i) enable Members and their clients for whom they act to obtain the best price available at the time for their size and type of trade;
 - (ii) include procedures which enable the Operator to influence trading conditions or suspend trading promptly when necessary to maintain an orderly market; and
 - (iii) if they include arrangements to support or encourage liquidity:
 - (A) are transparent;
 - (B) are not likely to encourage any Person to enter into transactions other than for proper trading purposes (which may include hedging, investment, speculation, price determination, arbitrage and filling orders from any client for whom he acts);
 - (C) are consistent with a reliable, undistorted price-formation process;
 - (D) and alleviate dealing or other identified costs associated with trading on the Operator’s markets and do not subsidise a market position of a user of its facilities.
- (e) A Trading Facility Operator must be able to suspend or remove a Qualified Investment or participant which no longer complies with its rules or otherwise violates these Rules.
- (f) The rules of a Trading Facility Operator must provide that the Operator must not exercise its power to suspend or remove from trading on a market operated by it any Qualified Investment which no longer complies with its rules, where such step would be likely to cause significant damage to the interests of investors or the orderly functioning of the AIFC.

8. PUBLIC DISCLOSURE

8.1. General

- (a) Any arrangement to make information public must satisfy the following conditions:
 - (i) it must include all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;



- (ii) it must facilitate the consolidation of the data with similar data from other sources; and
 - (iii) it must make the information available to the public on a non-discriminatory commercial basis at a reasonable cost.
- (b) For the purposes of MOTF 8.1((a)a(i), a verification process should be established which does not need to be external from the organisation of the publishing entity, but which should be an independent cross-check of the accuracy of the information generated by the trading process. This process should have the capability to at least identify price and volume anomalies, be systematic and conducted in real-time. The chosen process should be reasonable and proportionate in relation to the business.
- (c) In respect of arrangements pertaining to public disclosure in MOTF 8.1(a):
- (i) For the purposes of MOTF 8.1(a)a(ii), information is made public, if it:
 - (A) is accessible by automated electronic means in a machine-readable way;
 - (B) utilises technology that facilitates consolidation of the data and permits commercially viable usage; and
 - (C) is accompanied by instructions outlining how users can access the information.
 - (ii) For the purposes of MOTF 8.1(a)(i)(A)(a)(i)(A), an arrangement fulfils the 'machine-readable' criteria where the data:
 - (A) is in a physical form that is designed to be read by a computer;
 - (B) is in a location on a computer storage device where that location is known in advance by the party wishing to access the data; and
 - (C) is in a format that is known in advance by the party wishing to access the data.
 - (iii) Publication on a non-machine-readable website would not meet the requirements of MOTF 8.1(a)(i)(A)(a).
- (d) Information that is made public should conform to a consistent and structured format based on industry standards. The Trading Facility Operator can choose the structure that they use.

8.2. Proper information

In determining whether appropriate arrangements have been made to make relevant information available to Persons engaged in dealing in Qualified Investments admitted to trading on the Trading Facility Operator, the AFSA may have regard to:

- (a) the extent to which Members and their clients for whom they act are able to obtain information about those Qualified Investments, either through accepted channels for dissemination of information or through other regularly and widely accessible communication media, to make a reasonably informed judgment about the value and the risks associated with those Qualified Investments in a timely fashion;
- (b) what restrictions, if any, there are on the dissemination of relevant information to the Operator's Members and their clients for whom they act; and



- (c) whether relevant information is or can be kept to restricted groups of Persons in such a way as to facilitate or encourage dealing in contravention of these Rules.

8.3. Own means of dissemination

Trading Facility Operators do not need to maintain their own arrangements for disseminating news or information about Qualified Investments (or underlying assets) to their Members where they have made adequate arrangements for other Persons to do so on their behalf or there are other effective and reliable arrangements for this purpose.

9. TRANSPARENCY REQUIREMENTS

9.1. Pre-Trade Disclosure

- (a) A Trading Facility Operator must disclose to its users as appropriate, on a continuous basis during normal trading, the following information relating to trading of Qualified Investments on its MTF or OTF:
 - (i) the current bid and offer prices and volume;
 - (ii) the depth of trading interest shown at the prices and volumes advertised through its systems for the Qualified Investments; and
 - (iii) any other information relating to Qualified Investments which would promote transparency relating to trading.
- (b) The AFSA may waive or modify the disclosure requirement in MOTF 9.1 in relation to certain transactions where the order size is predetermined, exceeds a pre-set and published threshold level and the details of the exemption are made available to a Trading Facility Operator's Members and the public.
- (c) In assessing whether an exemption from pre-trade disclosure should be allowed, the AFSA will take into account factors such as:
 - (i) the level of order threshold compared with normal market size for the Qualified Investment;
 - (ii) the impact such an exemption would have on price discovery, fragmentation, fairness and overall market quality;
 - (iii) whether there is sufficient transparency relating to trades executed without pre-trade disclosure (as a result of orders executed on execution platforms without pre-trade transparency), whether or not they are entered in transparent markets;
 - (iv) whether the Trading Facility Operator supports transparent orders by giving priority to transparent orders over dark orders, for example, by executing such orders at the same price as transparent orders; and
 - (v) whether there is adequate disclosure of details relating to dark orders available to members and other participants on the MTF or OTF to enable them to understand the manner in which their orders will be handled and executed on the MTF or OTF.
- (d) When making disclosure, a Trading Facility Operator must adopt a technical mechanism showing differentiations between transactions that have been transacted in the central order



book and transactions that have been reported to the MTF or OTF as off-order book transactions. Any transactions that have been cancelled pursuant to its rules must also be identifiable.

- (e) A Trading Facility Operator must use appropriate mechanisms to enable pre-trade information to be made available to users in an easy to access and uninterrupted manner at least during business hours.

9.2. Post-Trade Disclosure

A Trading Facility Operator must disclose the price, volume and time of the transactions executed in respect of Qualified Investments to users as close to real-time as is technically possible on reasonable commercial terms and on a non-discretionary basis. A Trading Facility Operator must use adequate mechanisms to enable post-trade information to be made available to users in an easy to access and uninterrupted manner at least during business hours.

10. LIQUIDITY PROVIDER

- (a) A Trading Facility Operator must not introduce a liquidity incentive scheme unless
 - (i) participation of such a scheme is limited to Members or any other Persons where:
 - (A) the Operator has undertaken due diligence to ensure that the Person is of sufficient good repute and has adequate competencies and, if applicable, organisational arrangements; and
 - (B) the Person has agreed in writing to comply with the Operator's operating rules so far as those rules are applicable to that Person's activities; and
 - (ii) the Operator has obtained the prior approval of the AFSA.
- (b) For the purposes of this paragraph, a "liquidity incentive scheme" means an arrangement designed to provide liquidity to the market in relation to Qualified Investments traded on the MTF or OTF.
- (c) Where a Trading Facility Operator proposes to introduce or amend a liquidity incentive scheme, it must lodge with the AFSA, at least ten business days before the date by which it expects to obtain the AFSA approval, a statement setting out:
 - (i) the details of the relevant scheme, including benefits to the MTF or OTF and Members arising from that scheme; and
 - (ii) the date on which the scheme is intended to become operative.
- (d) The AFSA must within ten business days of receiving the notification referred to in MOTF 10(c), approve a proposed liquidity incentive scheme unless it has reasonable grounds to believe that the introduction of the scheme would be detrimental to the MTF or OTF or to markets in general. Where the AFSA does not approve the proposed liquidity incentive scheme, it must notify the Trading Facility Operator of its objections to the introduction of the proposed liquidity incentive scheme, and its reasons for that decision.
- (e) A Trading Facility Operator must sufficiently prior to launch, to enable any interested parties to participate in it, announce the introduction of the liquidity incentive scheme, specify the date on which the scheme becomes operative and the contracts to which it relates.



11. RULES APPLICABLE TO MTF OPERATORS

- (a) MTF Operators may not execute Member orders against proprietary capital, or engage in matched principal trading.
- (b) Each MTF Operator must establish rules prohibiting the execution of Member orders against proprietary capital, or to engage in matched principal trading.

12. RULES APPLICABLE TO OTF OPERATORS

- (a) An OTF Operator may engage in matched principal trading in Qualified Investments only where the Member has consented to the process.
- (b) An OTF Operator must not use matched principal trading to execute Member orders in an OTF in Qualified Investments pertaining to a class of derivatives that has been declared subject to the clearing obligation by the AFSA.
- (c) OTF Operators may engage in dealing on own account other than matched principal trading only with regard to sovereign debt instruments for which there is not a liquid market.
- (d) OTF Operators may engage another Authorised Firm to carry out market making on that OTF on an independent basis, provided that such other Authorised Firm does not have close links with the OTF Operator.
- (e) Execution of orders on an OTF must be carried out on a discretionary basis.
- (f) An OTF Operator must exercise discretion only in the following circumstances:
 - (i) when deciding to place or retract an order on the OTF they operate; or
 - (ii) when deciding not to match a specific Member order with other orders available in the systems at a given time, provided it is in compliance with specific instructions received from a Member and with its “best execution” obligations.
- (g) For the purpose of MOTF 12(f), the “best execution” obligation means when an OTF Operator agrees, or decides in the exercise of its discretion, to execute any transaction with or for a client in a Qualified Investment, it must provide best execution, namely to take reasonable care to determine the best execution available for that Qualified Investment under the prevailing market conditions and deals at a price and other conditions which are no less advantageous to that client.
- (h) With a system that crosses Member orders, the OTF Operator may decide if, when and how much of two or more orders it wants to match within the system. With regard to a system that arranges transactions in non-equities, the OTF Operator may facilitate negotiation between Members so as to bring together two or more potentially compatible trading interests in a transaction.
- (i) OTF Operators must, on request, provide the AFSA with a detailed explanation why the system does not correspond to and cannot operate as a MTF, a detailed description as to how discretion will be exercised, in particular when an order to the OTF may be retracted and when and how two or more Member orders will be matched within the OTF. In addition, the OTF Operator must provide the AFSA with information explaining its use of matched principal trading.



- (j) A Trading Facility Operator must comply immediately with any instruction from the AFSA regarding the suspension or removal of a Qualified Investment or Member.

13. TRADE PROCESSING AND FINALISATION OF TRANSACTIONS

- (a) A Trading Facility Operator must establish days and hours it will be open for business under normal market conditions.
- (b) A Trading Facility Operator must establish rules for a participant to submit instructions to a MTF or OTF.

14. TRANSACTION RECORDING

- (a) The Trading Facility Operator must ensure that satisfactory arrangements are made for recording transactions effected on by means of its facilities.
- (b) In determining whether a Trading Facility Operator has satisfactory arrangements for recording the transactions effected on, by means of, its facilities, the AFSA may have regard to:
 - (i) whether the Operator has arrangements for creating, maintaining and safeguarding an audit trail of transactions for at least 6 years; and
 - (ii) the type of information recorded and the extent to which the record includes details for each transaction of:
 - (A) the name of the Qualified Investment (and, if relevant, the underlying asset) and the price, quantity and date of the transaction;
 - (B) the identities and, where appropriate, the roles of the counterparties to the transaction;
 - (C) if the Operator's rules make provision for transactions to be effected, cleared or to be cleared in more than one type of facility, or under more than one part of its rules, the type of facility in which, or the part of its rules under which, the transaction was effected, cleared or to be cleared; and
 - (D) the date and manner of settlement of the transaction.

15. SAFEKEEPING OF CLIENT ASSETS

- (a) A Trading Facility Operator must not hold any financial instruments or other assets belonging to users of its MTF or OTF with respect to its operation of the MTF or OTF.
- (b) Notwithstanding MOTF 15(a), a Trading Facility Operator may hold financial institutions or other assets belonging to its customers with respect to the Regulated Activities other than the operation of the MTF or OTF for which it is granted an authorisation.

16. OPERATIONAL SYSTEMS AND CONTROLS

- (a) A Trading Facility Operator must establish a robust operational risk management framework with appropriate systems and controls to identify, monitor and manage operational risks that key Members, other Recognised Non-AIFC Market Institutions, service providers (including outsourcees) and utility providers might pose to itself.



- (b) A Trading Facility Operator must have a business continuity plan, which is subjected to periodic review and scenario testing, that addresses events posing a significant risk of disrupting operations, including events that could cause a widespread or major disruption. The plan should:
- (i) outline objectives, policies, procedures and responsibilities to deal with internal and external business disruptions and measures to ensure timely resumption of service levels;
 - (ii) include policies and procedures for event and crisis management;
 - (iii) incorporate the use of a secondary site;
 - (iv) contain appropriate emergency rules for force majeure events;
 - (v) be designed to ensure that critical information technology systems can resume operations within two hours following disruptive events;
 - (vi) outline business continuity procedures in respect of its Members and other users of its facilities following disruptive or force majeure events.
- (c) A Trading Facility Operator should have an incident management procedure in place to record, report, analyse and resolve all operational incidents.
- (d) A Trading Facility Operator should have clearly defined operational reliability objectives and policies to achieve these objectives, as well as a scalable operational capacity adequate to handle increasing stress volumes, service-level objectives and historical data.
- (e) A Trading Facility Operator should have a comprehensive physical and information security policy, standards, practices and controls to identify, assess and manage security threats and vulnerabilities and to protect data from loss and leakage, unauthorised access and other processing risks.
- (f) Upon request from the AFSA, a Trading Facility Operator must provide the documents listed in MOTF 16 (b) – (e) in a timely manner.

17. DEFAULT MANAGEMENT

17.1. Default Rules

A Trading Facility Operator must have legally enforceable Default Rules which, in the event of a Member of the Operator being or appearing to be unable to meet its obligations in respect of one or more contracts, enable it to suspend or terminate such Member's membership and cooperate by sharing information with its clearing house.

17.2. Public notice of suspended or terminated Membership

A Trading Facility Operator must issue a public notice on its website in respect of any Member whose membership is so suspended or terminated.

17.3. Cooperation with office-holder



A Trading Facility Operator must be able and willing to cooperate, by the sharing of information and otherwise, with the AFSA, any relevant office-holder and any other authority or body having responsibility for any matter arising out of, or connected with, the default of a Member of the Operator or the default of a clearing house or another Operator.

18. FINANCIAL CRIME AND MARKET ABUSE

(a) A Trading Facility Operator must:

- (i) operate an effective market surveillance program and appropriate measures to identify, monitor, deter and prevent conduct which may amount to market misconduct, Financial Crime and money laundering on and through the Operator's facilities; and
- (ii) immediately report to the AFSA any suspected market misconduct, Financial Crime or money laundering, along with full details of that information in writing.

(b) A Trading Facility Operator must have appropriate procedures and protections for enabling Employees to disclose any information to the AFSA or to other appropriate bodies involved in the prevention of market misconduct, money laundering or other Financial Crime or any other breaches of relevant legislation.

(c) In determining whether a Trading Facility Operator's measures are appropriate to reduce the extent to which its facilities can be used for a purpose connected with Market Abuse or Financial Crime, to facilitate their detection and to monitor their incidence, the AFSA may have regard to:

- (i) whether the rules of the Operator enable it to disclose any information to the AFSA or other appropriate bodies involved in the detection, prevention or pursuit of Market Abuse or Financial Crime inside or outside AIFC; and
- (ii) whether the arrangements, resources, systems, and procedures of the Operator enable it to:
 - (A) monitor the use made of its facilities so as to obtain information regarding possible patterns of normal, abnormal or improper use of those facilities;
 - (B) detect possible instances of Market Abuse or Financial Crime, for example, by detecting suspicious patterns in the use of its facilities;
 - (C) communicate information about Market Abuse or Financial Crime promptly and accurately to appropriate organisations; and
 - (D) cooperate with all relevant bodies in the prevention, investigation and pursuit of Market Abuse or Financial Crime.

19. RESOLUTION PLANNING

If a Trading Facility Operator anticipates that it or the MTF or OTF may be the subject of an insolvency order, it must act in a manner that will reduce the impact on other market participants and may seek advice from external advisers.

20. SETTLEMENT AND CLEARING SERVICES



20.1. Settlement and clearing facilitation services

- (a) A Trading Facility Operator, when engaging a clearing service, must ensure that satisfactory arrangements are made for securing the timely discharge (whether by performance, compromise or otherwise), clearing and settlement of the rights and liabilities of the parties to transactions effected on the MTF or OTF (being rights and liabilities in relation to those transactions).
- (b) The engagement of a Recognised Non-AIFC Clearing House will be deemed sufficient to satisfy MOTF 20.1(a)(a).
- (c) If a Trading Facility Operator engages a party that is not a Recognised Non-AIFC Clearing House, the Operator must confirm to the AFSA, in writing, the satisfactory arrangements made under MOTF 20.1(a)(a).

Guidance

In determining whether there are satisfactory arrangements for securing the timely discharge of the rights and liabilities of the parties to transactions as required by MOTF 20.1(a)(a), the AFSA may have regard to the clearing house's:

- (a) rules and practices relating to clearing and settlement including its arrangements with another Person for the provision of clearing and settlement services;
 - (b) arrangements for matching trades and ensuring that the parties are in agreement about trade details;
 - (c) where relevant, arrangements for making deliveries and payments, in all relevant jurisdictions;
 - (d) procedures to detect and deal with the failure of a Member to settle in accordance with its rules;
 - (e) arrangements for taking action to settle a trade if a Member does not settle in accordance with its rules;
 - (f) arrangements for monitoring its Members' settlement performance; and
 - (g) (where appropriate) default rules and default procedures.
- (d) The rules of the Trading Facility Operator must permit a Member to use whatever settlement facility they choose for a transaction. This paragraph only applies where:
- (i) such links and arrangements exist between the chosen settlement facility and any other settlement facility as are necessary to ensure the efficient and economic settlement of the transaction; and
 - (ii) the Operator is satisfied that the smooth and orderly functioning of the AIFC financial markets will be maintained.





Proposed amendments to the AIFC Glossary

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

1. APPLICATION

The AIFC Glossary sets out interpretative provisions of words and expressions used in the following AIFC Financial Services Regulations and Rules:

(...)

(q) AIFC Insurance and Reinsurance Prudential Rules (PINS)

(r) AIFC Takaful and Retakaful Prudential Rules (TRR)

(s) AIFC Multilateral and Organised Trading Facilities Rules (MOTF)

2. INTERPRETATION

Business Rules	<p>(In AMI) rRules established and maintained by an Authorised Market Institution in accordance with AMI 2.5.1.</p> <p><u>(In MOTF) rules established and maintained by a MTF Operator or OTF Operator in accordance with MOTF 6.1.</u></p>
Default Rules	<p>(In AMI) rules prepared by an Authorised Market Institution in accordance with AMI 3.5 or AMI 4.6.</p> <p><u>(In MOTF) rules prepared by a MTF Operator or OTF Operator in accordance with MOTF 17.1.</u></p>
Direct Electronic Access	<p>(In AMI) aAny arrangement, such as the use of the Member's trading code, through which a Member or the clients of that Member are able to transmit electronically orders relating to Securities or Units in a Listed Fund directly to the facility provided by the Authorised Market Institution and includes arrangements which involve the use by a Person of the infrastructure of the Member or participant or client or any connecting system provided by the Member or participant or client, to transmit the orders and arrangements where such an infrastructure is not used by a Person.</p> <p><u>(In MOTF) any arrangement, such as the use of the Member's trading code, through which a Member or the clients of that Member are able to transmit electronically orders relating to Qualified Investments directly to the facility provided by the MTF Operator or OTF Operator and includes arrangements which involve the use by a Person of the infrastructure of the Member or participant or client, to transmit the orders and arrangements where such an infrastructure is not used by a Person.</u></p>
Member	<p>A Person who is entitled, under an arrangement or agreement between him and an Authorised Market Institution or <u>MTF Operator or OTF Operator</u>, to use that institution's facilities.</p>



Membership Rules	<p>(In AMI) the membership rules of an Authorised Market Institution prepared in accordance with AMI 2.6.3.</p> <p><u>(In MOTF) the membership rules of a MTF Operator or OTF Operator prepared in accordance with MOTF 3.2.</u></p>
<u>MTF Operator</u>	<p><u>A Centre Participant which has been licensed by the AFSA to carry on the Regulated Activity of Operating a Multilateral Trading Facility.</u></p>
Operating a Multilateral Trading Facility	<p>The Market Regulated Activity defined in paragraph 6 <u>28</u> of Schedule 4 <u>1</u> of AIFC General Rules.</p>
Operating an Organised Trading Facility	<p>The Market Regulated Activity defined in paragraph 7 <u>29</u> of Schedule 4 <u>1</u> of AIFC General Rules.</p>
<u>OTF Operator</u>	<p><u>A Centre Participant which has been licensed by the AFSA to carry on the Regulated Activity of Operating a Organised Trading Facility.</u></p>
<u>Qualified Investment</u>	<p><u>In accordance with MOTF 5.2, Qualified Investment means a financial instrument, agreement or transaction under which, at a specified time or within a specified period of time:</u></p> <ul style="list-style-type: none"> (a) <u>payment or delivery obligations are to be performed, or title to commodities or assets is to be transferred; or</u> (b) <u>obligations to make payments or deliveries, or to transfer title to commodities or assets, are to be entered into or incurred.</u>



Proposed amendments to the AIFC General Rules

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

SCHEDULE 1: REGULATED ACTIVITIES

(...)

28. Operating a Multilateral Trading Facility

Operating a Multilateral Trading Facility or 'MTF', where MTF means a system which brings together multiple third parties buying and selling Investments, rights and/or interests in Investments, in accordance with its non-discretionary rules, in a way that results in a contract in respect of such Investments.

29. Operating an Organised Trading Facility

Operating an Organised Trading Facility or 'OTF', where OTF means a system which brings together multiple third parties buying and selling Investments, rights and/or interests in Investments, in accordance with its discretionary rules, in a way that results in a contract in respect of such Investments.

SCHEDULE 4: MARKET ACTIVITIES

(...)

~~6. Operating a Multilateral Trading Facility~~

~~Operating a Multilateral Trading Facility or 'MTF', where MTF means a system which brings together multiple third parties buying and selling Investments, rights and/or interests in Investments, in accordance with its non-discretionary rules, in a way that results in a contract in respect of such Investments.~~

~~7. Operating an Organised Trading Facility~~

~~Operating an Organised Trading Facility or 'OTF', where OTF means a system which brings together multiple third parties buying and selling Investments, rights and/or interests in Investments, in accordance with its discretionary rules, in a way that results in a contract in respect of such Investments.~~

8.6. Operating a Private Financing Platform

(...)



Proposed amendments to the AIFC Conduct of Business Rules

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

(...)

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:

(a) a Representative Office;

(b) an Authorised Market Institution (other than an Authorised Crowdfunding Platform), a MTF Operator and OTF Operator, except for COB 3 (Communications with Clients and Financial Promotions); or

(c) an Authorised Crowdfunding Platform, except for COB 3 (Communications with Clients and Financial Promotion), COB 4 (Key Information and Client Agreement), COB 7 (Conflicts of Interest), COB 8 (Client Assets) and COB Schedule 2 (Key Information and Content of Client Agreement)

(...)

**Proposed amendments to the AIFC Fees Rules**

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

(...)

SCHEDULE 1: APPLICATION FEES PAYABLE TO THE AFSA FOR REGULATED ACTIVITIES

1.1 Application fees for applying for Licence to carry on Regulated Activities Application fees are determined by the activities the Authorised Firm conducts or intends to conduct, as set out below:

Application fee by activities	Fee (USD)
(...)	(...)
Operation of a Payment System	5000
<u>Operating a Multilateral Trading Facility</u>	<u>5 000</u>
<u>Operating an Organised Trading Facility</u>	<u>5 000</u>

(...)

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 ~~Firm~~-Person conducts or intends to conduct, as set out below:

Application fee by Regulated Activities	Fee (USD)
(...)	(...)
Operator of a Crowdfunding Platform	5 000
<u>Operating a Multilateral Trading Facility</u>	<u>5 000</u>
<u>Operating an Organised Trading Facility</u>	<u>5 000</u>
Operating a Private Financing Platform	5 000

(...)



Proposed amendments to the AIFC Prudential Rules for Investment Firms

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

1.3 Application of PRU(INV) Rules

(...)

(6) These PRU(INV) Rules do not apply to entities that have an Authorisation to conduct any of the following activities unless they are PRU Investment Firms, and the following activities are not PRU Investment Business:

(a) Insurance Intermediation;

(b) Representative Offices;

(c) Market Activities; ~~or~~

(d) Ancillary Services;

(e) Operating a Multilateral Trading Facility; or

(f) Operating an Organised Trading Facility.

(...)