



**AIFC AUTHORISED MARKET INSTITUTION  
RULES  
(AMI)  
AIFC RULES NO.FR0002 OF 2017**

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## Guidance: Purpose and application of AMI

The rules and guidance in AMI complement Chapter 2 of Part 3 of the Framework Regulations (Licensing of Authorised Market Institutions) and Part 6 of the Framework Regulations (Capital Markets). AMI also contains rules in relation to the supervision of Authorised Market Institutions which complement the provisions in Part 8 of the Framework Regulations (Supervision of Authorised Persons) and Chapter 7 of the GEN rulebook (Supervision). The purpose of the rules and guidance in AMI is to set out:

- the licensing requirements, or standards, which an applicant must satisfy to be granted a Licence to carry on either of the Market Activities of Operating an Investment Exchange and Operating a Clearing House;
- the various regulatory functions that an Authorised Market Institution must perform in relation to admitting Securities to trading, operating an Official List and enforcing its Business Rules; and
- the supervisory regime to which such an Authorised Market Institution will be subject on an ongoing basis, including requirements in respect of its relationship with the AFSA.

The application of the rules in AMI is as follows:

- Chapter 1 contains introductory provisions applicable to all Authorised Market Institutions.
- Chapter 2 contains rules and guidance applicable to all Authorised Market Institutions.
- Chapter 3 contains additional rules and guidance applicable to Authorised Investment Exchanges.
- Chapter 4 contains additional rules and guidance applicable to Authorised Clearing Houses (including Authorised Central Counterparties).



## 1. INTRODUCTION

### 1.1. Introduction

#### 1.1.1. Definitions

- (1) An Authorised Market Institution is a Centre Participant which has been licensed by the AFSA to carry on one or more Market Activities. An Authorised Market Institution can be an Authorised Investment Exchange and/or an Authorised Clearing House.
- (2) An Authorised Investment Exchange is a Centre Participant which has been licensed by the AFSA to carry on the Market Activity of Operating an Investment Exchange.
- (3) An Authorised Clearing House is a Centre Participant which has been licensed by the AFSA to carry on the Market Activity of Operating a Clearing House.
- (4) A central counterparty is a legal Person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer.
- (5) An Authorised Central Counterparty is a central counterparty which is declared by an order made by the AFSA under these Rules for the time being in force to be an Authorised Central Counterparty.
- (6) A Member of an Authorised Market Institution is a Person who is entitled, under an arrangement or agreement between him and the Authorised Market Institution, to use that institution's facilities.

#### 1.1.2. Outsourcing

An Authorised Market Institution may satisfy the requirements applying to it under these Rules by making arrangements for functions to be performed on its behalf by any other Person. In such circumstances:

- (a) An Authorised Market Institution must, before entering into any outsourcing arrangements with a service provider, obtain the AFSA's prior approval to do so.
- (b) For the avoidance of doubt, the requirement in sub-paragraph (a) applies to any outsourcing arrangements which were not in existence at the time the Authorised Market Institution was granted a Licence.
- (c) Outsourcing arrangements made by an Authorised Market Institution do not affect the responsibility of the Authorised Market Institution to satisfy the requirements applying to it, but there is in addition a requirement applying to the Authorised Market Institution that the Person who performs (or is to perform) the functions is a fit and proper Person who is able to perform them.
- (d) An Authorised Market Institution that outsources any functions must comply with the outsourcing requirements in GEN.



## 2. RULES APPLICABLE TO ALL AUTHORISED MARKET INSTITUTIONS

### 2.1. Requirements in GEN

#### Guidance

An Authorised Market Institution is an Authorised Person to which the following provisions of GEN are applicable either directly or in respect of its 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

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

### 2.2. Financial resources

#### 2.2.1. Minimum capital requirement

An Authorised Market Institution must hold the following minimum capital:

- (a) an amount equal to 6 months' operational expenses; plus
- (b) unless the AFSA directs otherwise, an additional amount of up to a further 6 months' operational expenses.

### 2.3. Conflicts of interest

#### 2.3.1. Conflicts of interest – core obligation

An Authorised Market Institution must take reasonable steps, including the maintenance of adequate systems and controls, governance and internal policies and procedures, to ensure that the performance of its regulatory functions is not adversely affected by its commercial interests.

#### Guidance: regulatory functions of Authorised Market Institution

The regulatory functions of an Authorised Market Institution include, as appropriate:

- its obligations under AMI to monitor and enforce compliance with its membership rules, Business Rules, Direct Electronic Access Rules;
- its obligation to prevent, detect and report market abuse or financial crime; and
- its obligations in respect of admission of Securities to an Official List, to Trading or to Clearing.



### 2.3.2. Conflicts of interest – identification and management

For the purposes of compliance with AMI 2.3.1, an Authorised Market Institution must:

- (a) identify conflicts between the interests of the Authorised Market Institution, its shareholders, owners and operators and the interests of the Persons who make use of its facilities or the interests of the trading venues operated by it; and
- (b) manage or disclose such conflicts so as to avoid adverse consequences for the sound functioning and operation of the trading venues operated by the Authorised Market Institution and for the Persons who make use of its facilities.

### 2.3.3. Conflicts of interest – personal account transactions

An Authorised Market Institution must establish and maintain adequate policies and procedures to ensure that its Employees do not undertake personal account transactions in Investments in a manner that creates or has the potential to create conflicts of interest.

### 2.3.4. Conflicts of interest – code of conduct

An Authorised Market Institution must establish a code of conduct that sets out the expected standards of behaviour for its Employees, including clear procedures for addressing conflicts of interest. Such a code must be binding on Employees.

## 2.4. Technology resources

### 2.4.1. Sufficient resources

An Authorised Market Institution must have sufficient technology resources to continually operate, maintain and supervise its facilities.

### 2.4.2. Confidentiality

The Authorised Market Institution must take reasonable steps to ensure that its information, records and data are secure and the confidentiality is maintained

### 2.4.3. Cyber-security

The Authorised Market Institution must take reasonable steps to ensure that its information technology systems are reliable and adequately protected from external attack or incident.

### 2.4.4. Resources of Members

An Authorised Market Institution must ensure that its Members and other participants on its facilities have sufficient and secure technology resources which are compatible with its own.

### 2.4.5. On-going monitoring

For the purposes of meeting the requirement in AMI 2.4.1, an Authorised Market Institution must have adequate procedures and arrangements for the evaluation, selection and on-going maintenance and monitoring of information technology systems. Such procedures and arrangements must, at a minimum, provide for:

- (a) problem management and system change;



- (b) testing information technology systems before live operations in accordance with the requirements in AMI 2.4.6 and 2.4.7;
- (c) real time monitoring and reporting on system performance, availability and integrity; and
- (d) adequate measures to ensure:
  - (i) the information technology systems are resilient and not prone to failure;
  - (ii) business continuity in the event that an information technology system fails;
  - (iii) protection of the information technology systems from damage, tampering, misuse or unauthorised access; and
  - (iv) the integrity of data forming part of, or being processed through, information technology systems.

#### **2.4.6. Testing of technology systems**

An Authorised Market Institution must, before commencing live operation of its information technology systems or any updates thereto, use development and testing methodologies in line with internationally accepted testing standards in order to test the viability and effectiveness of such systems. For this purpose, the testing must be adequate for the Authorised Market Institution to obtain reasonable assurance that, among other things:

- (a) the systems enable it to comply with all the applicable requirements, including legislation, on an on-going basis;
- (b) the systems can continue to operate effectively in stressed market conditions;
- (c) the systems have sufficient electronic capacity to accommodate reasonably foreseeable volumes of messaging and orders;
- (d) the systems are adequately scalable in emergency conditions that might threaten the orderly and proper operations of its facility; and
- (e) any risk management controls embedded within the systems, such as generating automatic error reports, work as intended.

#### **2.4.7. Testing relating to Members' technology systems**

- (1) An Authorised Market Institution must implement standardised conformance testing procedures to ensure that the systems which its Members are using to access facilities operated by it have a minimum level of functionality that is compatible with the Authorised Market Institution's information technology systems and will not pose any threat to fair and orderly conduct of its facilities.
- (2) An Authorised Market Institution must also require its Members, before commencing live operation of any electronic trading system, user interface or a trading algorithm, including any updates to such arrangements, to use adequate development and testing methodologies to test the viability and effectiveness of their systems, to include system resilience and security.
- (3) For the purposes of (2), an Authorised Market Institution must require its Members:



- (a) to adopt trading algorithm tests, including tests in a simulation environment which are commensurate with the risks that such a strategy may pose to itself and to the fair and orderly functioning of the facility operated by the Authorised Market Institution; and
- (b) not to deploy trading algorithms in a live environment except in a controlled and cautious manner.

#### **2.4.8. Regular review of systems and controls**

- (1) An Authorised Market Institution must undertake regular review and updates of its information technology systems and controls as appropriate to the nature, scale and complexity of its operations.
- (2) For the purposes of (1), an Authorised Market Institution must adopt well defined and clearly documented development and testing methodologies which are in line with internationally accepted testing standards.

### **2.5. Business Rules**

#### **2.5.1. Requirement to prepare Business Rules**

Save where the AFSA otherwise directs, an Authorised Market Institution must establish and maintain Business Rules governing relations between itself and the participants in the market, including but not limited to:

- (a) Membership Rules, prepared in accordance with AMI 2.6, governing the admission of Members and any other Persons to whom access to its facilities is provided;
- (b) Direct Electronic Access Rules, prepared in accordance with AMI 2.7, setting out the rules and conditions pursuant to which its Members may provide their clients with Direct Electronic Access to the Authorised Market Institution's trading systems;
- (c) Default Rules, prepared in accordance with either AMI 3.5 or AMI 4.6, governing action that may be taken in respect of unsettled Market Contracts in the event of a Member being, or appearing to be, unable to meet its obligations;
- (d) Admission to Trading Rules, prepared in accordance with AMI 3.2, or Admission to Clearing Rules, prepared in accordance with AMI 4.1, governing the admission of Securities to trading, or clearing and settlement, as appropriate to its facilities;
- (e) Listing Rules, prepared in accordance with AMI 3.6, setting out the rules and conditions applicable to a Person who wishes to have Securities included in an Official List of Securities; and
- (f) any other matters necessary for the proper functioning of the Authorised Market Institution and the facilities operated by it.

#### **2.5.2. Content and effect of Business Rules**

An Authorised Market Institution's Business Rules must:

- (a) be based on objective criteria;
- (b) be non-discriminatory;



- (c) be clear and fair;
- (d) set out the Members' and other participants' obligations:
  - (i) arising from the Authorised Market Institution's constitution and other administrative arrangements;
  - (ii) when undertaking transactions on its facilities; and
  - (iii) relating to professional standards that must be imposed on staff and agents of the Members and other participants when undertaking transactions on its facilities;
- (e) be made publicly available free of charge;
- (f) contain provisions for the resolution of Members' and other participants' disputes and an appeal process from the decisions of the Authorised Market Institution, whether by an internal but independent body or otherwise; and
- (g) contain disciplinary procedures, including any sanctions that may be imposed by the Authorised Market Institution against its Members and other participants.

#### **2.5.3. Review, amendment and consultation**

The Authorised Market Institution must ensure that appropriate procedures are adopted for it to keep its Business Rules under annual review and to amend them. The procedures must include procedures for consulting users of the Authorised Market Institution's facilities in appropriate cases.

#### **2.5.4. Amendment of rules**

Any amendment to an Authorised Market Institution's Business Rules must, prior to the amendment being effective, be:

- (a) made available for market consultation for no less than 30 days; and
- (b) approved by the AFSA.

#### **2.5.5. Waiver of consultation requirement**

The AFSA may waive or modify the requirement for market consultation in AMI 2.5.4(a) where it considers it necessary or desirable to do so, including but not limited to, cases of emergency, force majeure, typographical errors, minor administrative matters, or to comply with applicable laws.

#### **2.5.6. Monitoring and enforcing compliance with Business Rules**

The Authorised Market Institution must have effective arrangements for monitoring and enforcing compliance with its Business Rules including procedures for:

- (a) prompt investigation of complaints made to the Authorised Market Institution about the conduct of Persons in the course of using the Authorised Market Institution's facilities; and
- (b) where appropriate, disciplinary action resulting in financial and other types of penalties.



### 2.5.7. Financial penalties

Where arrangements made pursuant to AMI 2.5.6 include provision for requiring the payment of financial penalties, they must include arrangements for ensuring that any amount so paid is applied only in one or more of the following ways:

- (a) towards meeting expenses incurred by the Authorised Market Institution in the course of the investigation of the breach or course of conduct in respect of which the penalty is paid, or in the course of any appeal against the decision of the Authorised Market Institution in relation to that breach or course of conduct; or
- (b) for the benefit of users of the Authorised Market Institution's facilities.

### 2.5.8. Appeals

Arrangements made pursuant to AMI 2.5.6 must include provision for fair, independent and impartial resolution of appeals against decisions of the Authorised Market Institution.

## 2.6. Membership

### 2.6.1. Persons eligible for Membership

An Authorised Market Institution may only admit as a Member a Person who satisfies admission criteria set out in its Membership Rules and which is either:

- (a) an Authorised Firm whose Licence permits it to carry on the Regulated Activities of Dealing in Investments; or
- (b) a Recognised Non-AIFC Member.

### 2.6.2. Admission criteria

An Authorised Market Institution 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.

### 2.6.3. Membership Rules

The Membership Rules of an Authorised Market Institution must specify the obligations imposed on users or Members of its facilities arising from:

- (a) the constitution and administration of the Authorised Market Institution;
- (b) where appropriate rules relating to transactions on its trading venues;
- (c) admission criteria for Members;
- (d) where appropriate rules and procedures for clearing and settlement of transactions; and
- (e) where appropriate rules and procedures for the prevention of Market Abuse, money laundering and Financial Crime in accordance with AMI 2.8.

### 2.6.4. Undertaking to comply with AFSA rules

An Authorised Market Institution may not admit a Recognised Non-AIFC Member as a Member unless it:



- (a) agrees in writing to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution;
- (b) agrees in writing to submit unconditionally to the jurisdiction of the AIFC Courts in relation to any disputes, or other proceedings in the AIFC, which arise out of or relate to its use of the facilities of the Authorised Market Institution;
- (c) agrees in writing to subject itself to the AIFC laws in relation to its use of the facilities of the Authorised Market Institution; and
- (d) where the Recognised Non-AIFC Member is incorporated outside the Republic of Kazakhstan, appoints and maintains at all times, an agent for service of process in the Republic of Kazakhstan.

### **2.6.5. Lists of users or Members**

The Authorised Market Institution must make arrangements regularly to provide the AFSA with a list of its Members.

## **2.7. Direct Electronic Access**

### **2.7.1. Direct Electronic Access**

Direct Electronic Access means 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 Securities 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.

#### **Guidance:**

A Person who is permitted to have Direct Electronic Access to an Authorised Market Institution's facilities through a Member is not, by virtue of such permission, a Member of the Authorised Market Institution.

### **2.7.2. Direct electronic access – general conditions**

An Authorised Market Institution may only permit a Member to provide its clients Direct Electronic Access to the Authorised Market Institution's facilities where the clients meet the suitability criteria established by the Member in order to meet the requirements in AMI 2.7.3.

### **2.7.3. Direct electronic access – criteria, standards and arrangements**

An Authorised Market Institution which permits its Members to allow their clients to have Direct Electronic Access to its trading facilities must:

- (a) ensure that a Member is only permitted to provide direct electronic access to the venue if the Member is an Authorised Person;
- (b) set appropriate standards regarding risk controls and thresholds on trading through Direct Electronic Access;
- (c) be able to identify orders and trades made through Direct Electronic Access;



- (d) be able to distinguish and, if necessary, 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; and
- (e) have arrangements in place to suspend or terminate the provision of Direct Electronic Access in the case of non-compliance with this sub-paragraph.

#### 2.7.4. Direct electronic access rules

An Authorised Market Institution operating a trading venue which permits Direct Electronic Access through its systems must set out and publish the rules and conditions pursuant to which its Members may provide Direct Electronic Access to their clients. Those rules and conditions must at least cover the specific requirements set out below:

- (a) A Member must retain responsibility for the orders and trades executed by the clients who are using Direct Electronic Access.
- (b) A Member must have adequate mechanisms to prevent the clients placing or executing orders using Direct Electronic Access in a manner that would result in the Member exceeding its position or margin limits.
- (c) A Member must conduct annually or on request from AFSA a due diligence assessment of its prospective Direct Electronic Access clients to ensure they meet the rules of the trading venue to which it offers access.
  - (d) The due diligence assessment referred to in sub-paragraph (c) above must cover:
    - (i) the governance and ownership structure of the prospective Direct Electronic Access client;
    - (ii) the types of strategies to be undertaken by the prospective Direct Electronic Access client;
    - (iii) the operational set-up, the systems, the pre-trade and post-trade controls and the real-time monitoring of the prospective Direct Electronic Access client;
    - (iv) the responsibilities within the prospective Direct Electronic Access client for dealing with actions and errors;
    - (v) the historical trading pattern and behaviour of the prospective Direct Electronic Access client;
    - (vi) the level of expected trading and order volume of the prospective Direct Electronic Access client;
    - (vii) the ability of the prospective Direct Electronic Access client to meet its financial obligations to the Direct Electronic Access provider; and
    - (viii) the disciplinary history of the prospective Direct Electronic Access client, where available.
  - (e) A Member offering Direct Electronic Access allowing clients to use third-party trading software for accessing trading venues must ensure that the software includes pre-trade controls.



## 2.8. Financial Crime and Market Abuse

### 2.8.1. Financial Crime

Financial Crime means any kind of conduct relating to money or to financial services or markets that would amount to criminal conduct under law of Republic of Kazakhstan (whether or not such conduct takes place in the Republic of Kazakhstan), including any offence involving:

- (a) fraud or dishonesty;
- (b) misconduct in, or misuse of information relating to, a financial market;
- (c) handling the proceeds of crime; or
- (d) the financing of terrorism.

### 2.8.2. Measures to prevent, detect and report market abuse or Financial Crime

An Authorised Market Institution must:

- (a) ensure that appropriate measures (including the monitoring of transactions effected on or through the Authorised Market Institution's facilities) are adopted to reduce the extent to which the Authorised Market Institution's facilities can be used for a purpose connected with Market Abuse, Financial Crime or money laundering, and to facilitate their detection and monitor their incidence; and
- (b) immediately report to the AFSA any suspected Market Abuse, Financial Crime or money laundering, along with full details of that information in writing.

### 2.8.3. Whistleblowing

An Authorised Market Institution must have appropriate procedures and protections for requiring its Employees to disclose any information to the AFSA in a manner which does not expose them to any disadvantage as a result of so doing.

## 2.9. Safeguarding and administration of assets

### 2.9.1. Safeguarding and administration of users' assets

An Authorised Market Institution must ensure that where its facilities include making provision for the safeguarding and administration of assets belonging to users of those facilities, satisfactory arrangements are made for that purpose with an appropriate custodian or settlement facility and clear terms of agreement between the users of the facility and the Authorised Market Institution.

### 2.9.2. Custody and investment risk

- (1) An Authorised Market Institution must have effective means to address risks relating to:
  - (a) custody of its own assets, in accordance with (2), if it is an Authorised Clearing House; or
  - (b) investments, in accordance with (3), if it is an Authorised Investment Exchange.
- (2) For the purposes of (1)(a), an Authorised Clearing House must:



- (a) hold its own assets with entities which are licensed for holding deposits or providing custody, as judged appropriate by the AFSA or a Financial Services Regulator acceptable to the AFSA;
  - (b) be able to have prompt access to its assets when required; and
  - (c) regularly evaluate and understand its exposures to entities which hold its assets.
- (3) For the purposes of (1)(b), an Authorised Investment Exchange must ensure that:
- (a) it has an investment strategy which is consistent with its overall risk-management strategy and is fully disclosed to its Members and other participants using its facilities;
  - (b) its investments comprise instruments with minimal credit, market, and liquidity risks; and
  - (c) its investments are secured by, or represent claims on, high-quality obligors, allowing for quick liquidation with little, if any, adverse price effect.



### 3. RULES APPLICABLE TO AUTHORISED INVESTMENT EXCHANGES

#### 3.1. Systems and Controls

##### 3.1.1. Fair and orderly trading

An Authorised Investment Exchange 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.

##### 3.1.2. Execution of orders

An Authorised Investment Exchange must have non-discretionary rules for the execution of orders.

##### 3.1.3. Publicly available data on quality of executions

An Authorised Investment Exchange must make available to the public, without any charges, data relating to the quality of execution of transactions on the Authorised Investment Exchange on at least an annual basis. Reports must include details about price, costs, speed and likelihood of execution for individual Securities.

##### 3.1.4. Market making arrangements

An Authorised Investment Exchange must:

- (a) have written agreements with all Members pursuing a Market Making Strategy by using its facilities (Market Making Agreements); and
- (b) have schemes, appropriate to the nature and scale of a trading venue, to ensure that a sufficient number of Members enter into Market Making Agreements which require them to post firm quotes at competitive prices with the result of providing liquidity to the market on a regular and predictable basis; and
- (c) monitor and enforce compliance with the Market Making Agreements;
- (d) inform the AFSA of the content of its Market Making Agreements; and
- (e) provide the AFSA with any information it requests which it reasonably requires to satisfy itself that the Market Making Agreements comply with sub-paragraph 3.1.4.

##### 3.1.5. Trading controls

An Authorised Investment Exchange must be able to:

- (a) reject orders that exceed its pre-determined volume and price thresholds, or that are clearly erroneous;
- (b) temporarily halt or constrain trading on its facilities if necessary or desirable to maintain an orderly market; and
- (c) cancel, vary, or correct any order resulting from an erroneous order entry and/or the malfunctioning of the system of a Member or of the Authorised Investment Exchange



### 3.1.6. Tick size regimes

The Authorised Investment Exchange must adopt a tick size regime in respect of each type of Security traded on each trading venue operated by it. The tick size regime must:

- (a) be calibrated to reflect the liquidity profile of the Securities in different markets and the average bid-ask spread taking into account the desirability of enabling reasonably stable prices without unduly constraining further narrowing of spreads; and
- (b) be able to adapt the tick size for each Security appropriately.

### 3.1.7. Short selling and position management

- (a) An Authorised Investment Exchange must have in place effective systems, controls and procedures to monitor and manage:
  - (i) Short selling in shares, debentures and any other similar Securities; and
  - (ii) Risks arising from position concentrations.
- (b) For the purposes of (a), an Authorised Investment Exchange must have adequate powers over its Members to mitigate the probability and impact of risk to the orderly functioning of its facilities arising from unsettled positions in Securities.
- (3) Short selling for the purposes of this Rule constitutes the sale of a share, debenture or other similar Securities by a Person who does not own the share, debenture or other similar Security at the point of entering into the contract to sell.

### 3.1.8. Liquidity incentive schemes

An Authorised Investment Exchange must not introduce a liquidity incentive scheme or any other scheme for encouraging bids on a trading venue or to increase the volume of business transacted unless it has obtained the AFSA's prior written approval for the scheme.

### 3.1.9. Settlement and Clearing facilitation services

An Authorised Investment Exchange 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 Authorised Investment Exchange (being rights and liabilities in relation to those transactions).

## 3.2. Admission of Securities to trading

### 3.2.1. Admission to Trading Rules

An Authorised Investment Exchange must make clear and transparent rules concerning the admission of Securities to trading on its facilities.

### 3.2.2. Content of Admission to Trading Rules

The rules of the Authorised Investment Exchange must ensure that:

- (a) Securities admitted to trading on an Authorised Investment Exchange's facilities are capable of being traded in a fair, orderly and efficient manner;



- (b) Securities admitted to trading on an Authorised Investment Exchange's facilities are freely negotiable; and
- (c) contracts for derivatives admitted to trading on an Authorised Investment Exchange's facilities are designed so as to allow for their orderly pricing as well as for the existence of effective settlement conditions.

#### **Guidance: Fair, orderly and efficient trading**

When assessing whether a Security is capable of being traded in a fair, orderly and efficient manner, the Authorised Investment Exchange shall take into account, depending on the nature of the Security being admitted, whether the following criteria are satisfied:

- (a) the terms of the Security are clear and unambiguous and allow for a correlation between the price of the Security and the price or other value measure of the underlying;
- (b) the price or other value measure of the underlying is reliable and publicly available; and
- (c) there is sufficient information publicly available of a kind needed to value the Security.

#### **Guidance: Effective settlement conditions**

When assessing whether a contract for a derivative contains effective settlement conditions, the Authorised Investment Exchange shall take into account, depending on the nature of the derivative being admitted, whether the following criteria are satisfied:

- (a) the arrangements for determining the settlement price of the derivative ensure that this price properly reflects the price or other value measure of the underlying; and
- (b) where the settlement of the derivative requires or provides for the possibility of the delivery of an underlying Security or asset rather than cash settlement, there are adequate settlement and delivery procedures for that underlying as well as adequate arrangements to obtain relevant information about that underlying.

### **3.2.3. Undertaking to comply with AFSA rules**

An Authorised Investment Exchange may not admit Securities to trading unless the person who seeks to have Securities admitted to trading:

- (a) gives an enforceable undertaking to the AFSA to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution, including but not limited to requirements in MAR relating to Reporting Entities;
- (b) agrees in writing to submit unconditionally to the jurisdiction of the AIFC Courts in relation to any disputes, or other proceedings in the AIFC, which arise out of or relate to its use of the facilities of the Authorised Market Institution;
- (c) agrees in writing to subject itself to the AIFC laws in relation to its use of the facilities of the Authorised Market Institution; and
- (d) appoints and maintains at all times, an agent for service of process in the AIFC and requires such agent to accept its appointment for service of process.



### **3.2.4. Review of compliance**

The Authorised Investment Exchange must maintain arrangements regularly to review whether the Securities admitted to trading on its facilities comply with the Admission to Trading Rules.

### **3.2.5. Verification of compliance by issuers with Market Rules**

The Authorised Investment Exchange must maintain effective arrangements to verify that issuers of Securities admitted to trading on a regulated market operated by it comply with the Market Rules.

### **3.2.6. Arrangements for access to information**

The Authorised Investment Exchange must maintain arrangements to assist users of a market operated by it to obtain access to information made public under the Market Rules.

## **3.3. Suspending or removing Securities from trading**

### **3.3.1. Power to suspend**

The rules of an Authorised Investment Exchange must provide that the Authorised Investment Exchange has the power to suspend or remove from trading on its facilities any Securities which no longer complies with its rules.

### **3.3.2. Limitation on power to suspend or remove Securities from trading**

An Authorised Investment Exchange may not suspend or remove from trading on its facilities any Security 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 financial markets.

### **3.3.3. Suspension or removal from trading of associated derivatives**

Where the Authorised Investment Exchange suspends or removes any Security from trading on its facilities, it must also suspend or remove from trading on its facilities any derivative that relates to or is referenced to that Security where that is required to support the objectives of the suspension or removal of trading of that Security.

### **3.3.4. Publication of decision to suspend or remove security from trading**

Where the Authorised Investment Exchange suspends or removes any Security from trading on its facilities, including any derivative in accordance with AMI 3.3.3, it must notify the AFSA and make that decision public.

### **3.3.5. Publication of decision to lift suspension or readmit security to trading**

Where the Authorised Investment Exchange lifts a suspension or re-admits any Security to trading on its facilities, including any derivative suspended or removed from trading in accordance with AMI 3.3.3, following a decision made under AMI 3.3.1, it must notify the AFSA and make that decision public.



### 3.4. Transparency obligations

#### 3.4.1. Pre-trade transparency obligation

An Authorised Investment Exchange must make available to the public on a continuous basis during normal trading hours the current bid and offer prices of Securities traded on its systems and the depth of trading interests at those prices.

##### Guidance

The disclosure required by 3.4.1 will depend upon the type of trading system employed, including continuous auction order-book, quote-driven, periodic auction and hybrid trading systems. An Authorised Investment Exchange should discuss its proposals for compliance with this requirement with the AFSA. The AFSA may waive or modify the requirement in respect of certain types of trade or types of Security pursuant to Section 8 of the Framework Regulations.

#### 3.4.2. Post-trade transparency obligation

An Authorised Investment Exchange must make available to the public in as close to real-time as technically possible the price, volume and time of the transactions executed in respect of Securities traded on its facilities.

##### Guidance

The AFSA may waive or modify the requirement in AMI 3.4.2 in respect of certain types of trade or types of Security pursuant to Section 8 of the Framework Regulations.

In particular, subject to AMI 1.1.2 (outsourcing) and to obtaining the approval of the AFSA, an Authorised Investment Exchange may delegate its provision of post-trade information to a regulatory news service or similar third party entity.

### 3.5. Default management

#### 3.5.1. Default Rules

An Authorised Investment Exchange must have legally enforceable Default Rules which, in the event of a Member of the Authorised Investment Exchange being or appearing to be unable to meet his obligations in respect of one or more Market Contracts, enable it to suspend or terminate such Member's Membership and cooperate by sharing information with its Authorised Clearing House or Recognised Non-AIFC Clearing House, and enable action to be taken in respect of unsettled Market Contracts to which that Member is a party.

##### Guidance

The AIFC Insolvency Rules contain provisions which protect action taken by an Authorised Investment Exchange under its Default Rules from the normal operation of insolvency law which might otherwise leave this action open to challenge by a relevant office-holder.

#### 3.5.2. Public notice of suspended or terminated Membership

The Authorised Investment Exchange must issue a public notice on its website in respect of any Member whose Membership is suspended or terminated in accordance with AMI 3.5.1.



### 3.5.3. Cooperation with office-holder

The Authorised Investment Exchange must 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 Authorised Investment Exchange or the default of an Authorised Clearing House or another Authorised Investment Exchange.

## 3.6. Listing Rules

### 3.6.1. General requirements relating to Listing Rules

- (1) An Authorised Investment Exchange wishing to admit Securities to its own Official List of Securities must:
  - (a) have Listing Rules which comply with the requirements of AMI 3.6.2; and
  - (b) ensure that its Listing Rules are approved by the AFSA.
- (2) Any amendment to an Authorised Investment Exchange's Listing Rules must, prior to the amendment becoming effective, have been:
  - (a) made available for a reasonable period of time to the market for consultation; and
  - (b) approved by the AFSA.
- (3) In urgent cases, the AFSA may, on written application by the Authorised Investment Exchange, dispense with the requirement in (2)(a).

### 3.6.2. Contents of Listing Rules

The Listing Rules of an Authorised Investment Exchange must include requirements relating to:

- (a) procedures for admission of Securities to its Official List of Securities, including:
  - (i) requirements to be met before Securities may be granted admission to an Official List of Securities; and
  - (ii) agreements in connection with admitting Securities to an Official List of Securities;
- (b) procedures for suspension and delisting of Securities from an Official List of Securities;
- (c) the imposition on any Person of obligations to observe specific standards of conduct or to perform, or refrain from performing, specified acts, reasonably imposed in connection with the admission of Securities to an Official List of Securities or continued admission of Securities to an Official List of Securities;
- (d) penalties or sanctions which may be imposed by the Authorised Investment Exchange for a breach of the Listing Rules;
- (e) procedures or conditions which may be imposed, or circumstances which are required to exist, in relation to matters which are provided for in the Listing Rules;
- (f) actual or potential conflicts of interest that have arisen or might arise when a Person seeks to have Securities admitted to an Official List of Securities; and



- (g) such other matters as are necessary or desirable for the proper operation of the listing rule process and the market.

### 3.6.3. Publication of Listing Rules

- (1) An Authorised Investment Exchange must publish, and make freely available, its Listing Rules.
- (2) Where an Authorised Investment Exchange has made any amendments to its Listing Rules, it must have adequate procedures for notifying users of such amendments.

### 3.6.4. Compliance with Listing Rules

- (1) An Authorised Investment Exchange which is permitted to maintain an Official List of Securities must ensure the function is properly and independently operated.
- (2) An Authorised Investment Exchange must have procedures in place to ensure that:
  - (a) its Listing Rules are monitored and enforced; and
  - (b) complaints regarding Persons subject to the Listing Rules are investigated.
- (3) An Authorised Investment Exchange must ensure that:
  - (a) where appropriate, disciplinary action can be carried out and financial and other types of penalties can be imposed on Persons subject to the Listing Rules; and
  - (b) adequate appeal procedures are in place.

### 3.6.5. Application for admission of Securities to an Official List of Securities

- (1) Applications for the admission of Securities to an Official List of Securities must be made by the issuer of the Securities, or by a third party on behalf of and with the consent of the issuer of the Securities.
- (2) An Authorised Investment Exchange must, before granting admission of any Securities to an Official List of Securities maintained by it:
  - (a) be satisfied that the applicable requirements, including those in its Listing Rules, have been or will be fully complied with in respect of those Securities; and
  - (b) comply with the requirements relating to notification to the AFSA in (4) and (5).
- (3) An Authorised Investment Exchange must notify an applicant in writing of its decision in relation to the application for admission of Securities to its Official List of Securities.
- (4) Subject to (5), at least 5 business days prior to an admission of Securities to its Official List of Securities, an Authorised Investment Exchange must provide the AFSA with notice of the decision and include the following information in the notification:
  - (a) a copy of the listing application;
  - (b) a copy of the assessment of the listing application carried out by the Exchange; and
  - (c) any information requested by the AFSA.



- (5) An Authorised Investment Exchange must immediately notify the AFSA of any decision to suspend, restore from suspension or de-list any Securities from its Official List of Securities and the reasons for the decision.

### 3.6.6. Undertaking to comply with AFSA rules

An Authorised Investment Exchange may not admit Securities to an Official List of Securities unless the issuer of the Securities:

- (a) gives an enforceable undertaking to the AFSA to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution, including but not limited to requirements in MAR relating to Reporting Entities;
- (b) agrees in writing to submit unconditionally to the jurisdiction of the AIFC Courts in relation to any disputes, or other proceedings in the AIFC, which arise out of or relate to its use of the facilities of the Authorised Market Institution;
- (c) agrees in writing to subject itself to the AIFC laws in relation to its use of the facilities of the Authorised Market Institution; and
- (d) appoints and maintains at all times, an agent for service of process in the AIFC and requires such agent to accept its appointment for service of process.



## 4. RULES APPLICABLE TO AUTHORISED CLEARING HOUSES

### 4.1. Admission of Securities to Clearing

#### 4.1.1. Admission to clearing rules

An Authorised Clearing House must have clear and objective criteria included in its rules according to which Securities can be cleared or settled on its facilities.

### 4.2. Risk management

#### 4.2.1. Risk management framework

- (1) An Authorised Clearing House must have a comprehensive risk management framework (i.e. detailed policies, procedures and systems) capable of managing legal, credit, liquidity, operational and other risks to which it is exposed.
- (2) The risk management framework in (1) must:
  - (a) encompass a regular review of material risks to which the Clearing House is exposed and the risks posed to other market participants resulting from its operations; and
  - (b) be subject to periodic review by its board as appropriate to ensure that it is effective and operating as intended.

#### 4.2.2. Safeguards for investors

An Authorised Clearing House must ensure that:

- (a) access to its facilities is subject to criteria designed to protect the orderly functioning of those facilities and the interests of investors;
- (b) its clearing services involve satisfactory arrangements for securing the timely discharge (whether by performance, compromise or otherwise) of the rights and liabilities of the parties to transactions in respect of which it provides such services (being rights and liabilities in relation to those transactions);
- (c) satisfactory arrangements are made for recording transactions which are cleared or to be cleared by means of its facilities; and
- (d) appropriate measures are adopted to reduce the extent to which the clearing house's facilities can be used for a purpose connected with market abuse or Financial Crime, and to facilitate their detection and monitor their incidence.

#### 4.2.3. Loss allocation

An Authorised Clearing House must maintain effective arrangements (which may include rules) for ensuring that losses that:

- (a) arise otherwise than as a result of a default of a Member of the Authorised Clearing House; and
- (b) threaten the Authorised Clearing House's solvency;



are allocated with a view to ensuring that the Authorised Clearing House can continue to provide its activities.

Recovery and resolution!!

### 4.3. Credit and liquidity risk management

#### 4.3.1. Credit Risk

- (1) An Authorised Clearing House must establish a robust framework to manage its credit exposures to its participants and the credit risks arising from its payment, clearing and settlement processes.
- (2) An Authorised Clearing House operating a payment system or Securities Settlement System must cover its current and, where they exist, potential future exposures to each participant fully with a high degree of confidence using collateral and other equivalent financial resources.
- (3) An Authorised Clearing House operating as a Central Counterparty must:
  - (a) cover its current and potential future exposures to each participant fully with a high degree of confidence using margin and other prefunded financial resources;
  - (b) perform stress tests, on a regular basis as appropriate to the nature, scale and complexity of its operations, using models containing standards and predetermined parameters and assumptions; and
  - (c) at least monthly (and more frequently if the Securities cleared or markets served display high volatility, become less liquid, or when the size or concentration of positions held by its participants increase significantly), carry out a comprehensive and thorough analysis of stress testing models, scenarios, and underlying parameters and assumptions used to ensure that they are appropriate for determining the required level of default protection in light of current and evolving market conditions; and
  - (d) at least annually, conduct an independent review and validation of its financial risk management models.

#### 4.3.2. Collateral

- (1) An Authorised Clearing House which requires collateral to manage its own, its Members' or other participants' credit risks arising in the course of or for the purposes of its payment, clearing, and settlement processes must:
  - (a) only accept collateral with low credit, liquidity, and market risks; and
  - (b) set and enforce appropriately conservative haircuts and concentration limits.
- (2) An Authorised Clearing House must, for the purposes of meeting the requirement in (1), establish and implement a collateral management system that is well designed and operationally flexible. Such a system must, at a minimum:
  - (a) limit the assets it accepts as collateral to those with low credit, liquidity, and market risks;



- (b) establish prudent valuation practices and develop haircuts that are regularly tested and take into account stressed market conditions;
- (c) to reduce the need for procyclical adjustments, establish, to the extent practicable and prudent, stable and conservative haircuts that are calibrated to include periods of stressed market conditions;
- (d) avoid concentrated holdings of certain assets where that would significantly impair the ability to liquidate such assets quickly without significant adverse price effects; and
- (e) mitigate, if it accepts cross-border collateral, the risks associated with such use. Such measures must ensure that the collateral can be used in a timely manner.

#### 4.3.3. Margin

An Authorised Clearing House operating as a Central Counterparty must:

- (a) have a margin system which establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves;
- (b) use a reliable source of timely price data for its margin system;
- (c) have procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable;
- (d) adopt initial margin models and parameters that are risk-based and generate margin requirements sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default;
- (e) mark participant positions to market and collect variation margin at least daily to limit the build-up of current exposures;
- (f) ensure that it has the authority and operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants;
- (g) analyse and monitor its model performance and overall margin coverage by conducting rigorous daily back testing and at least monthly, and more frequent where appropriate, sensitivity analysis; and
- (h) regularly review and validate its margin system.

#### 4.3.4. Liquidity Risk

- (1) An Authorised Clearing House must:

- (a) have a robust framework to manage its liquidity risks from its participants, settlement banks, nostro agents, custodian banks, liquidity providers, and other entities;
- (b) have effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity;



- (c) regularly test the sufficiency of its liquid resources through rigorous stress testing; and
  - (d) establish explicit rules and procedures that enable the Authorised Clearing House to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations on time following any individual or combined default among its participants.
- (2) An Authorised Clearing House operating a payment system or Securities Settlement System must maintain sufficient liquid resources in all relevant currencies to effect same-day settlement, and where appropriate intraday or multiday settlement, of payment obligations with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate payment obligation in extreme but plausible market conditions.
- (3) An Authorised Clearing House operating as a Central Counterparty must maintain sufficient liquid resources in all relevant currencies to settle securities-related payments, make required variation margin payments, and meet other payment obligations on time with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the two largest aggregate payment obligations to the Authorised Clearing House in extreme but plausible market conditions.

#### **4.4. Settlement**

##### **4.4.1. Settlement finality**

- (1) An Authorised Clearing House must have rules and procedures which clearly define:
  - (a) the point at which settlement is final according to the relevant governing law; and
  - (b) the point after which unsettled payments, transfer instructions, or other obligations may not be cancelled by a participant.
- (2) An Authorised Clearing House must complete final settlement no later than the end of the value date.

##### **4.4.2. Money settlement**

- (1) Where practical, an Authorised Clearing House must conduct its money settlements in central bank money.
- (2) Where a Clearing House conducts its money settlements using commercial bank money, it must:
  - (a) adopt appropriate measures to minimise and strictly control the credit and liquidity risk arising from such use;
  - (b) ensure that its legal agreements with any settlement banks, at a minimum:
    - (i) specify clearly when transfers on the books of individual settlement banks are expected to occur and when they are final; and
    - (ii) ensure that funds received are transferable as soon as possible, if not intraday, at least before the end of the payments day to enable it and its



Members and other participants on its facilities to manage their credit and liquidity risks.

#### 4.4.3. Physical delivery

An Authorised Clearing House must:

- (1) have rules and procedures which clearly state its obligations with respect to the delivery of physical instruments or commodities;
- (2) identify, monitor, and manage the risks and costs associated with the storage and delivery of physical instruments or commodities.

### 4.5. Central securities depositories and exchange-of-value settlement systems

#### 4.5.1. Central securities depositories

An Authorised Clearing House acting as a Central Securities Depository must:

- (1) have appropriate rules, procedures, and controls, including robust accounting practices, to safeguard the rights of Securities issuers and holders, prevent the unauthorised creation or deletion of Securities, and conduct periodic and at least daily reconciliation of Securities issues it maintains;
- (2) prohibit overdrafts and debit balances in Securities accounts;
- (3) maintain Securities in an immobilised or dematerialised form for their transfer by book entry;
- (4) protect assets against custody risk through appropriate rules and procedures consistent with its legal framework;
- (5) ensure segregation between the Central Securities Depository's own assets and the securities of its participants and segregation among the securities of participants; and
- (6) identify, measure, monitor, and manage its risks from other activities that it may perform.

#### 4.5.2. Central security depository links

- (1) A CSD must not establish any link with another CSD (CSD link) unless:
  - (a) it has:
    - (i) prior to establishing the CSD link, identified and assessed potential risks, for itself and its Members and other participants using its facilities, arising from establishing such a link;
    - (ii) adequate systems and controls to effectively monitor and manage, on an on-going basis, risks identified under (a) above; and
    - (iii) complied with the requirement in (2); and
  - (b) it is satisfied, on reasonable grounds, that the contractual arrangement establishing the CSD link:



- (i) provides to the CSD and its Members and other participants using its facilities adequate protection relating to possible risks arising from using the other CSDs to which it is linked (linked CSDs);
  - (ii) in the case of a provisional transfer of securities between the CSD and linked CSDs, ensure intra-day finality by prohibiting the retransfer of securities before the first transfer of securities becomes final;
  - (iii) sets out the respective rights and obligations of the CSD and linked CSDs and their respective Members and other participants using their facilities; and
  - (iv) in the case of a linked CSD outside the AIFC, sets out clearly the applicable laws that govern each aspect of the CSD's and the linked CSD's operations.
- (2) The CSD must be able to demonstrate to the AFSA, prior to the establishment of any CSD link, that:
- (a) the link arrangement between the CSD and all linked CSDs, contains adequate mitigants against possible risks taken by the relevant CSDs, including credit, concentration and liquidity risks, as a result of the link arrangement;
  - (b) each linked CSD has robust daily reconciliation procedures to ensure that its records are accurate;
  - (c) if it or another linked CSD uses an intermediary to operate a link with another CSD, the CSD or the linked CSD has adequate systems and controls to measure, monitor, and manage the additional risks arising from the use of the intermediary;
  - (d) to the extent practicable and feasible, linked CSDs provide for Delivery Versus Payment (DVP) settlement of transactions between participants in linked CSDs, and where such settlement is not practicable or feasible, reasons for non-DVP settlement are notified to the AFSA before the link is approved ; and
  - (e) where interoperable securities settlement systems and CSDs use a common settlement infrastructure, there are:
    - (i) identical moments established for the entry of transfer orders into the system;
    - (ii) irrevocable transfer orders; and
    - (iii) finality of transfers of securities and cash.

#### 4.5.3. Exchange-of-value settlement systems

An Authorised Clearing House operating an exchange-of-value settlement system must eliminate principal risk by ensuring that the final settlement of one obligation occurs if and only if the final settlement of the linked obligation also occurs, regardless of whether the Authorised Clearing House settles on a gross or net basis and when finality occurs.



## 4.6. Default management

### 4.6.1. Default rules in respect of Market Contracts

- (1) An Authorised Clearing House must have Default Rules which, in the event of a Member of the Authorised Clearing House being or appearing to be unable to meet his obligations in respect of one or more Market Contracts, enable action to be taken to close out his position in relation to all unsettled Market Contracts to which he is a party.
- (2) The rules may authorise the taking of the same or similar action where a Member appears to be likely to become unable to meet his obligations in respect of one or more Market Contracts.
- (3) If an Authorised Clearing House has arrangements for transacting business with, or in relation to common Members of, another Authorised Market Institution, it must have Default Rules which enable action to be taken in respect of unsettled Market Contracts to which that Authorised Market Institution is a party in the event of the Authorised Market Institution being or appearing to be unable to meet its obligations in respect of one or more Market Contracts.

#### Guidance

The AIFC Insolvency Rules contain provisions which protect action taken by an Authorised Clearing House under its Default Rules from the normal operation of insolvency law which might otherwise leave this action open to challenge by a relevant office-holder.

### 4.6.2. Content of Default Rules

The Default Rules of an Authorised Clearing House must clearly define and specify:

- (a) circumstances which constitute a default, addressing both financial and operational default, and how the different types of default may be treated by the Authorised Clearing House;
- (b) the method for identifying a default (including any automatic or discretionary default scenarios, and how the discretion is exercised in any discretionary default scenarios);
- (c) potential changes to the normal settlement practices in a default scenario;
- (d) the management of transactions at different stages of processing;
- (e) the expected treatment of proprietary and client transactions and accounts;
- (f) the probable sequencing of actions that the Authorised Clearing House may take;
- (g) the roles, obligations and responsibilities of various parties, including the Authorised Clearing House, the defaulting Member and non-defaulting participants;
- (h) how to address the defaulting Member's obligations to clients;
- (i) how to address the allocation of any credit losses it may face as a result of any individual or combined default among its participants with respect to their obligations to the Authorised Clearing House and how stress events are dealt with; and
- (j) any other mechanisms that may be activated to contain the impact of a default, including:



- (i) a default contribution fund, whereby defaulting and non-defaulting Members or participants' pre-funded contributions to the default contribution fund are applied to cover the losses or shortfall arising on a default on the basis of a predetermined order of priority; and
  - (ii) a resolution regime of the defaulting participant, involving "porting"; or
  - (iii) transferring the open positions and margin related to client transactions to a non-defaulting participant, receiver, third party or bridge financial company; and
- (k) for all remaining rights and liabilities of the defaulter under or in respect of unsettled Market Contracts to be discharged and for there to be paid by or to the defaulter such sum of money (if any) as may be determined in accordance with the rules, by offsetting all relevant rights, assets and liabilities on the relevant account; and
  - (l) for the certification by or on behalf of the Authorised Clearing House of the sum finally payable or, as the case may be, of the fact that no sum is payable, separately for each account of the defaulter; and
  - (m) the Authorised Clearing House's segregation and portability arrangements, including the method for determining the value at which client positions will be transferred; and
  - (n) provisions ensuring that losses that arise as a result of the default of a Member of the Authorised Clearing House or threaten the Authorised Clearing House's solvency are allocated with a view to ensuring that the Authorised Clearing House can continue to provide the services and carry on the activities specified in its recognition order.

#### **4.6.3. Notification to other parties affected**

An Authorised Clearing House must have adequate arrangements for ensuring that parties to unsettled Market Contracts with a defaulter are notified as soon as reasonably practicable of the default and of any decision taken under the rules in relation to contracts to which they are a party.

#### **4.6.4. Cooperation with other authorities**

An Authorised Clearing House must cooperate, by the sharing of information and otherwise, with the AFSA and any other authority or body having responsibility for any matter arising out of or connected with the default of a Member of the Authorised Clearing House or the default of another Authorised Clearing House or an Authorised Investment Exchange.

#### **4.6.5. Margin**

- (a) The rules of an Authorised Clearing House must provide that in the event of a default, margin provided by the defaulter for his own account is not to be applied to meet a shortfall on a client account other than a client account of the defaulter.
- (b) This rule is without prejudice to the requirements of any rules relating to clients' money made by the AFSA.
- (c) For the purposes of this rule, "client account of the defaulter" means an account held by the Authorised Clearing House in the name of the defaulter in which transactions effected by the defaulter have been recorded.



#### 4.6.6. Segregation

- (1) An Authorised Clearing House acting as a Central Counterparty must have systems and procedures to enable segregation and portability of positions of the customers of its Members and other participants on its facilities, and any collateral provided to it with respect to those positions.
- (2) For the purposes of (1), an Authorised Clearing House's systems and controls must, at a minimum, provide for the following:
  - (a) the segregation and portability arrangements that effectively protect the positions and related collateral of the customers of the Members or other participants on its facilities from the default or insolvency of the relevant Member or other participants;
  - (b) if the Authorised Clearing House offers additional protection of the customer positions and related collateral against the concurrent default of both the relevant Member or other participants or other customers, the adoption of necessary measures to ensure that the additional protection offered is effective; and
  - (c) the use of account structures that enable the Authorised Clearing House to readily identify positions of the customers of the relevant Member or other participant, and to segregate their related collateral.
- (3) An Authorised Clearing House acting as a Central Counterparty must make available to its Members and other participants using its facilities, its rules, policies and procedures relating to the segregation and portability of the positions and related collateral of the customers of its Members and other participants using its facilities.



## 5. SUPERVISION

### 5.1. Introduction

#### Guidance

The provisions of this chapter are additional to:

- (a) the provisions of Chapter 6 of GEN (Supervision) to which an Authorised Market Institution is also subject as an Authorised Person; and
- (b) the powers in respect of Authorised Market Institutions conferred upon the AFSA in the Framework Regulations.

### 5.2. Information and notifications

#### 5.2.1. Information gathering on the AFSA's own initiative

- (a) The AFSA or (as the case may be) its officers may, by notice in writing, require an Authorised Market Institution or any Person who is connected to the Authorised 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.
- (b) A Person is connected with an Authorised Market Institution if he is or has at any relevant time been:
  - i. a member of the Authorised Market Institution's group;
  - ii. a Controller of the Authorised Market Institution;
  - iii. a member of the Governing Body of the Authorised Market Institution; or
  - iv. any other member of a partnership of which the Authorised Market Institution is a member.

#### 5.2.2. Ongoing notification obligations

An Authorised Market Institution must deal with AFSA in an open and co-operative manner and keep the AFSA promptly informed of significant events or activities, wherever they are carried on, relating to the Authorised Market Institution, of which the AFSA would reasonably expect to be notified, including but not limited to, any matters that might impair the Authorised Market Institution's ability to discharge its regulatory functions.

#### 5.2.3. Notification of significant breaches by the Authorised Market Institution or its Employees

An Authorised Market Institution must advise the AFSA immediately if it becomes aware, or has reasonable grounds to believe, that a significant breach by the Authorised Market Institution or any of its Employees of a Rule or any other requirement imposed by the AFSA may have occurred or may be about to occur.

#### 5.2.4. Notification of significant breaches of the Business Rules

An Authorised Market Institution must advise the AFSA immediately if it becomes aware, or has reasonable grounds to believe, that a significant breach by any Person of its Business Rules may have occurred or may be about to occur.



### 5.2.5. Notification of changes in constitution and governance

An Authorised Market Institution must give notice to the AFSA in the following circumstances, setting out written particulars of the matters concerned and any relevant dates:

- (a) Where an Authorised Market Institution is to circulate any notice or other document proposing any amendment to its memorandum or articles of association or other document relating to its constitution, to:
  - i. its shareholders or any group or class of them;
  - ii. Persons granted access to its facilities or any group or class of them; or
  - iii. any other group or class of Persons which has the power to make that amendment or whose consent or approval is required before it may be made.
- (b) Where an Authorised Market Institution makes an amendment to its memorandum or articles of association, or other document relating to its constitution.
- (c) Where any significant change is made to an agreement which relates to the constitution or to the corporate governance framework or the remuneration structure or strategy of the Authorised Market Institution.

### 5.2.6. Notification of complaints

Where an Authorised Market Institution has investigated a complaint arising in connection with the performance of, or failure to perform, any of its regulatory functions, and the conclusion is that the Authorised Market Institution should:

- (a) make a compensatory payment to any Person; or
- (b) remedy the matter which was the subject of that complaint,

the Authorised Market Institution must immediately notify the AFSA of that event and give the AFSA a copy of the report and particulars of the recommendation as soon as that report or those recommendations are available to it.

### 5.2.7. Notification of admission to or removal from trading

Where an Authorised Investment Exchange proposes to suspend or remove from trading or admit to trading, by means of its facilities, a class of Security which it has not previously traded, but is licensed to do so, it must give the AFSA notice of that event, at the same time as the proposal is communicated to Persons granted access to its facilities or shareholders, with the following information:

- (a) a description of the Security to which the proposal relates; and
- (b) the name of any clearing or settlement facility in respect of that Security.

### 5.2.8. Notification of removal from or admission to clearing

Where an Authorised Clearing House proposes to cease clearing or settling, or to commence clearing or settling, by means of its facilities, a class of Security which it has not previously cleared or settled, but is licensed to do so, it must give the AFSA notice of that event, at the same time as the proposal is communicated to Persons granted access to its facilities or shareholders, with the following information:



- (a) a description of the Security to which the proposal relates; and
- (b) the name of any trading facility in respect of that Security.

### 5.3. Financial and other information

#### 5.3.1. Annual reports and accounts

An Authorised Market Institution must give the AFSA:

- (a) a copy of its annual report and accounts; and
- (b) a copy of any consolidated annual report and accounts of any group of [1] which the Authorised Market Institution is a member;

no later than when the first of the following events occurs:

- (c) three months after the end of the financial year to which the document relates;
- (d) the time when the documents are sent to Persons granted access to the facilities or shareholders of the Authorised Market Institution; or
- (e) the time when the document is sent to a holding company of the Authorised Market Institution.

#### 5.3.2. Audit committee reports

Where an audit committee of an Authorised Market Institution has received a report in relation to any period or any matter relating to any regulatory functions of that Authorised Market Institution, the Authorised Market Institution must immediately give the AFSA a copy of that report.

#### 5.3.3. Quarterly management accounts

An Authorised Market Institution must give the AFSA a copy of its quarterly management accounts within one month of the end of the period to which they relate.

#### 5.3.4. Forward-looking estimates

An Authorised Market Institution must give the AFSA:

- (a) a statement of its anticipated income, expenditure and cash flow for each financial year; and
- (b) an estimated balance sheet showing its position as it is anticipated at the end of each financial year;

at least 15 days before the beginning of that financial year.

#### 5.3.5. Fees and charges

An Authorised Market Institution must give the AFSA a summary of:

- (a) any proposal for changes to the fees or charges levied on users of its facilities, or any group or class of them, at the same time as the proposal is communicated to the relevant users; and



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- (b) any such change, no later than the date when it is published and notified to relevant parties.