



AMENDMENTS No.1
AIFC COLLECTIVE INVESTMENT SCHEME
RULES

Approval Date: 24 June 2019

Commencement Date: 24 June 2019



In this document, a blue font and underlining indicates new text and strikethrough indicates deleted text, unless otherwise indicated.

Guidance: Purpose of this rulebook

The purpose of this rulebook, the “Collective Investment Scheme Rules”, is to complement the regulatory framework established by the Financial Services Framework Regulations (“the Framework Regulations”) as follows

- To provide that certain arrangements do not amount to Collective Investment Schemes for the purposes of the Framework Regulations.
- To require the registration of certain Collective Investment Schemes with the AFSA before those Collective Investment Schemes can be established or promoted.
- To make provisions regarding:
 - the constitution, management and operation; and
 - the investment and borrowing powers; and
 - the procedure for registration; and
 - the operating duties and responsibilities of Fund Managers; and
 - the registration of offering materials and particulars and reporting requirements; and
 - suspension of dealings in and termination of Collective Investment Schemes.

Guidance: Listed Funds

Funds Managers of Listed Funds should note that, inter alia, the AIFC Market Rules contains additional rules that apply to Listed Funds. In addition, the Business Rules apply to Listed Funds; such rules include requirements in relation to the constitution, offering materials, governance, disclosure and other applicable provisions of Listed Funds. The AIFC Collective Investment Scheme Rules do not apply to Overseas Listed Funds (whether or not they are Listed Funds).



2. CLASSIFICATION OF FUNDS AND APPLICATION OF THE RULES

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2.2 Exempt Funds and Non-Exempt Funds

- (a) An Exempt Fund is a Collective Investment Scheme the ~~Securities~~ Units of which are ~~offered~~ Offered in the AIFC only by way of a private placement:
 - (i) to Persons who are Professional Clients; and
 - (ii) in minimum subscription amounts of US\$ 250,000.
- (b) A Non-Exempt Fund is any Collective Investment Scheme that is not an Exempt Fund.

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2.4. Specialist Funds

- (a) A Fund (whether a Non-Exempt Fund or an Exempt Fund) may be a Specialist Fund.
- (b) The following types of Funds are Specialist Funds:
 - (i) an Islamic Investment Fund, which is a Fund whose entire operations are conducted, or held out as being conducted, in a Shari'ah-compliant manner; ~~and~~
 - (ii) a Private Equity Fund, which is an Exempt Fund that:
 - (A) is closed-ended (unless otherwise approved by the AFSA); and
 - (B) primarily invests in unlisted businesses, by means of shares, convertible debt or other equity-related investments;
 - (iii) a Venture Capital Fund, which is an Exempt Fund and a Domestic Fund that:
 - (A) primarily invests in the equity share capital of unlisted businesses which are at an early stage of development;
 - (B) is closed-ended; and
 - (C) limits total subscriptions to an amount not to exceed US\$100 million (or currency equivalent) or a higher amount approved by the AFSA.
 - (iv) a Real Estate Investment Trust (or REIT), which is a Fund which:
 - (A) invests at least 80% of its assets in investments in income-generating Real Property, with the remainder invested in cash or other securities;
 - (B) derives at least 50% of its net income from the rental of Real Property; and
 - (C) distributes to the Unitholders each year at least 80% of its audited annual net income; and



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- (v) any other Fund which complies with any specific rules or guidelines that may be published by the AFSA from time to time regarding the requirements for specific types of Specialist Funds.



Guidance

IFR contains the additional requirements that apply to a Domestic Fund by virtue of it being an Islamic Investment Fund.

- (c) A Fund which does not comply with any requirements applicable to specific types of Specialist Funds may not describe itself as a Specialist Fund.

2.5. Secondary transactions and excluded ~~offers~~ Offers

A Person does not market a Collective Investment Scheme in the AIFC for the purposes of these Rules by ~~offering~~ Offering to sell or transfer a Unit that is owned by that Person if the ~~offer~~ Offer to sell or transfer is capable of acceptance only by the Person to whom that ~~offer~~ Offer is made.

2.6. Application of these Rules

The table below sets out which chapters of the Rules apply to which types of Funds and Fund Managers and Centre Participants.

Chapter	Exempt Fund	Non-Exempt Fund	Fund Manager	Centre Participants
Chapter 4 – Registration requirements for all Funds	✓ Not 4.3	✓	✓	✗
Chapter 5 – Marketing requirements	✓	✓	✓	✓
Chapter 6 – Rules regarding the constitution and investment powers of Funds	✓ Not 6.3 or 6.10 (except that 6.10 shall apply to Exempt Funds that are REITs)	✓	✓	✗
Chapter 7 – Rules regarding the management and operation of Funds	✓ Not 7.4	✓	✓	✗
Chapter 8 – Additional service providers	✗ (except that Chapter 8 shall apply to Exempt)	✓	✓	✗



	Funds that are REITs)			
Chapter 9 – Rules regarding dealings in open-ended funds and liquidity	✓	✓	✓	✗
Chapter 10 – Audit, Financial and Valuation Requirements	✓ Not 10.4 or 10.5 (except that 10.4 shall apply to Exempt Funds that are REITs)	✓	✓	✗

3. ARRANGEMENTS NOT AMOUNTING TO A COLLECTIVE INVESTMENT SCHEME

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3.13. Debentures and Warrants of a single issuer

- (a) An arrangement is not a Collective Investment Scheme if the rights or interests of the participants in the arrangement are represented by a Debenture or Warrant:
 - (i) where the issuer of the Debenture or Warrant is a single issuer, and if that issuer is:
 - (1) a Body Corporate, it is neither an open-ended investment company nor a closed-ended investment company the intent or purpose of which is investment management; or
 - (2) not a Body Corporate, the rights and interests of the Debenture or Warrant holder are guaranteed by the government of any country or territory; and
 - (ii) which, if it is a convertible Security, the underlying Securities to which the Debenture or Warrant holder is entitled are Shares or Debentures issued, or to be issued, by the same issuer as the issuer of the Debenture or Warrant or single other issuer.
- (b) An arrangement that is not a Collective Investment Scheme by virtue of Rule 3.13(a) does not become a Collective Investment Scheme merely because one of the participants in the arrangement is a person:
 - (i) whose ordinary business involves him engaging in an activity that is a Regulated Activity or that would fall within an applicable exclusion from a Regulated Activity; and
 - (ii) whose rights or interests in the arrangement are, or include, rights or interests in a swap arrangement under which he facilitates the making of payments to



participants whether in a particular amount or currency or at a particular time or rate of interest or all or any combination of those things in settlement of the rights and interests of the other participants in the arrangement.

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3.19 Employee reward schemes

An arrangement is not a Collective Investment Scheme if the arrangement is for the purposes of enabling or facilitating the operation of an employee compensation or reward scheme where the arrangement:

- (a) makes ~~Securities~~ securities available only to:
 - (i) an Employee or former Employee of the Issuer or of another member of the same Group as the ~~Issuer~~ issuer of such securities; or
 - (ii) a Close Relative of any such Employee; and
- (b) is operated by the ~~Issuer~~ issuer of the securities or by a member of the same Group as the ~~Issuer~~ issuer or by a trustee who, in pursuance of the arrangements, holds the ~~Securities~~ securities issued by the ~~Issuer~~ issuer for the benefit of any eligible Persons referred to in Rule 3.19(a)(i) or (ii).

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5. MARKETING REQUIREMENTS

5.1. Application

This chapter applies to all Funds that are ~~offered~~ Offered to investors in the AIFC.

5.2. General requirements

- (a) The Units or other securities of a Non-Exempt Fund may not be ~~offered~~ Offered prior to the effective date of registration of that Non-Exempt Fund under these Rules.
- (b) Copies of any Offering Materials relating to a Non-Exempt Fund must be filed with the AFSA prior to their use (including any amendments to those Offering Materials) and must comply with the content requirements for Offering Materials specified by these Rules.
- (c) In addition to these Rules, any person ~~offering~~ Offering Units or other securities of a Fund must comply with the Rules regarding Financial Promotions.
- (d) A Fund Manager or other Centre Participant which ~~offers~~ Offers Units or other securities of an Exempt Fund is responsible for ensuring that the requirements of this chapter are complied with in respect of that Fund before commencing the ~~offering~~ Offering of that Fund and must maintain appropriate written records verifying that compliance which must be made available to the AFSA on request.



5.3. Content requirements for Offering Materials

- (a) All Offering Materials relating to a Fund must be clear, fair and not misleading.
- (b) Prior to investing in a Fund, a potential investor must be supplied with Offering Materials and other documentation that contain all the information which a person and his professional advisers would reasonably require and expect to be able to make an informed decision to become a Unitholder of the Fund, including the following:
 - (i) a description of the investment objective, policy and strategy of the Fund, information on where any master fund is established and where the underlying funds are established if the Fund is a fund of funds, a description of the types of assets in which the Fund may invest, the techniques it may employ and all associated risks, any applicable investment restrictions, the circumstances in which the Fund may use leverage, the types and sources of leverage permitted and the associated risks, any restrictions on the use of leverage and any collateral and asset reuse arrangements, and the maximum level of leverage which the Fund may utilise; and
 - (ii) a description of the procedures by which the Fund may change its investment strategy or investment policy, or both; and
 - (iii) a description of the main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, on the applicable law and on the existence or not of any legal instruments providing for the recognition and enforcement of judgments in the territory where the Fund is established; and
 - (iv) the identity of the Fund Manager, custodian or depositary, auditor and any other service providers for the Fund and a description of their duties and Unitholder's rights in respect of those persons; and
 - (v) a description of any functions that have been delegated by the Fund Manager and any other of the Fund's service providers, the identification of each such delegate and any conflicts of interest that may arise from such delegations; and
 - (vi) a description of the Fund's valuation procedure and of the pricing methodology for valuing assets; and
 - (vii) a description of the Fund's liquidity risk management, including the redemption rights both in normal and in exceptional circumstances, and the existing redemption arrangements with Unitholders; and
 - (viii) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by Unitholders; and
 - (ix) a description of how the Fund ensures a fair treatment of Unitholders and, whenever a Unitholder obtains preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment, the type of Unitholders who obtain such preferential treatment and, where relevant, their legal or economic links with the Fund or the Fund Manager; and
 - (x) the latest annual report for the Fund, if applicable; and
 - (xi) the procedure and conditions for the issue and sale of units or shares of the Fund; and



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- (xii) the latest net asset value of the Fund and its units or shares or the latest market price per unit or share of the Fund; and
 - (xiii) where available, information regarding the historical performance of the Fund; and
 - (xiv) if relevant, the identity of any prime broker for the Fund and a description of any material arrangements with that prime broker and the way the conflicts of interest in relation thereto are managed, information about the possibility of transfer and reuse of the Fund's assets by the prime broker, and information about any transfer of liability to the prime broker that may exist; and
 - (xv) the total amount of leverage employed by the Fund; and
 - (xvi) the life of the Fund, the ability to terminate the Fund and the process by which the Fund may be terminated; and
 - (xvii) a description of the arrangements in place for the safekeeping of cash held by or on behalf of the Fund pending investment or distribution to Unitholders.
- (c) All Offering Materials relating to a Foreign Fund must include information on the jurisdiction and regulatory regime applicable to the Foreign Fund and its fund manager.
- (d) If a Fund is a Listed Fund, the Fund Manager must provide in the Fund's Offering Materials a description of the arrangements for listing of the Units and the listing venues on which Units of the Listed Fund may be traded.
- (e) If a Foreign Fund is required to provide a summary or key information document to investors in any jurisdiction, that document must also be provided to potential investors in the AIFC.
- (f) If at any time, there is a material change affecting any matter contained in the Offering Materials for a Fund or a significant new matter arises, the Fund must either before or promptly following the effective date of such material change or new matter, issue updated Offering Materials which clearly explain the material change or significant new matter.
- (g) All Offering Materials relating to a Fund, including the information ~~specified in paragraphs (b), (c), (d) and (e)~~ required under these Rules (as applicable) must be made available in the English language.
- (h) All Offering Materials relating to a Fund must include the following statement displayed prominently on its front page:
- "The Astana Financial Services Authority has no responsibility for reviewing or verifying any offering materials, particulars or other documents in connection with this Fund. Accordingly, the Astana Financial Services Authority has not reviewed, nor taken any steps to verify, this document, the information it contains, or any other documents relating to the Fund and has no responsibility for it. The securities to which this document relates may be illiquid or subject to restrictions on their resale. Prospective purchasers should conduct their own due diligence. If you do not understand the contents of this document you should consult an authorised financial adviser."
- (i) All Offering Materials relating to an Exempt Fund must prominently disclose the following statement to prospective Unitholders:



"This Fund is an Exempt Fund for the purposes of the Collective Investment Scheme Rules. It is intended only for sophisticated investors and is not subject to many of the requirements of the Collective Investment Scheme Rules."

- (i) All Offering Materials relating to an Exempt Fund managed by a fund manager which is not located in the AIFC must prominently disclose the following statement to prospective Unitholders:

"The fund manager of this Fund is not subject to regulation by the Astana Financial Services Authority."

6. RULES REGARDING THE CONSTITUTION AND INVESTMENT POWERS OF FUNDS

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6.10. Specific rules regarding investment in Real Property by Non-Exempt Funds and Real Estate Investment Trusts

- (a) A Non-Exempt Fund or Real Estate Investment Trust may invest in Real Property if expressly permitted to do so by, and in accordance with any limits contained in, the Fund's investment policy.
- (b) Before a Non-Exempt Fund or Real Estate Investment Trust invests in any piece of Real Property or prior to disposing of a piece of Real Property, the relevant Fund Manager must appoint an independent professional Valuer with relevant expertise to ensure that the relevant Real Property is expertly valued.
- (c) The Fund Manager must ensure that the Valuer procures the proper valuation of all Real Property held by the Non-Exempt Fund or Real Estate Investment Trust, on the basis of a full valuation with physical inspection including, where the Real Property is or includes a building, an internal inspection at least once a year.
- (d) If any event occurs which may on reasonable grounds have a material effect on the valuation of the relevant property the Fund Manager must consult with the Valuer with a view to arranging a fresh valuation before any Units in the Non-Exempt Fund or Real Estate Investment Trust are issued or redeemed after the date of the event.
- (e) The Fund Manager must require that any valuation by the Valuer is on the basis of a 'open market value' of the relevant Real Property consistent with an authoritative text such as the current edition of the Royal Institute of Chartered Surveyors' Appraisal and Valuation Standards ("Red Book") or similar practitioners text used by surveyors.

6.11. Rules relating to Real Estate Investment Trusts

- (a) A Fund Manager, or any other Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term "Real Estate Investment Trust" or "REIT" or refer to a Fund or otherwise hold out a Fund as being a Real Estate Investment Trust or a REIT, unless it is a Fund which complies with Rule 2.4(b)(iv).
- (b) If at any time during its operation of the Real Estate Investment Trust, the requirements in Rule 2.4(b)(iv) are not met, the Fund Manager must immediately notify the AFSA of the failure to meet the requirements in these Rules, and of what measures have been or



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will be taken to remedy the breach. If the breach is not remedied within six months, the Fund will cease to meet the criteria of being a Real Estate Investment Trust. The Fund Manager shall notify Unitholders promptly:

- (i) of it becoming aware that the Fund is reasonably likely to cease to qualify as a Real Estate Investment Trust (such notice to include the expected date of such cessation); and
 - (ii) on the date of such cessation.
- (c) The Fund Manager of a Real Estate Investment Trust is responsible for appointing a Property Manager for the Real Estate Investment Trust and such Property Manager shall either be a:
- (i) a third party that is permitted under law or regulation (where applicable) to provide Real Estate Management and Servicing Activities; or
 - (ii) a subsidiary of the Fund Manager, which has been established for the purpose of carrying on Real Estate Management and Servicing Activities.
- (d) The Fund Manager of a Real Estate Investment Trust must ensure that it distributes to the Unitholders each year an amount equal to not less than 80% of its audited annual net income.
- (e) The Fund Manager of a Real Estate Investment Trust must determine if any:
- (i) revaluation surplus credited to income, or
 - (ii) gains on disposal of Real Property,
- shall form part of the annual net income for distribution to Unitholders.
- (f) A Real Estate Investment Trust may only use leverage or borrow:
- (i) in aggregate, up to a maximum of 60% of its net asset value (as determined at the time of drawdown of funds); and
 - (ii) for investment purposes or to meet its short-term working capital.
- (g) A Real Estate Investment Trust is permitted to own, and its Fund Manager is permitted to establish, special purpose vehicles for the purpose of holding Real Property, provided that a Real Estate Investment Trust must own directly or indirectly not less than 60% of the shares, and be entitled to exercise directly or indirectly at least 60% of the voting rights, of any such special purpose vehicle.
- (h) Where a Real Estate Investment Trust holds any Real Property via one or more special purpose vehicles, the Fund Manager must ensure that each special purpose vehicle distributes to the Fund all of its net income to the maximum extent permitted by the laws and regulations of the jurisdiction where the special purpose vehicle is established.
- (i) A Fund Manager of a Real Estate Investment Trust that is an Exempt Fund shall be permitted to accept non-cash consideration for the purchase of Units in the Real Estate Investment Trust, subject to complying with Rule 6.11(l). Non-cash consideration for the purchase of Units is not permitted in Real Estate Investment Trusts that are Non-Exempt Funds.



- (j) Real Estate Investment Trusts are not permitted to invest in property under development.
- (l) A Fund Manager of a Real Estate Investment Trust must include in the Fund's Offering Materials:
 - (i) a detailed description of how the Fund intends to acquire and hold its investments in Real Properties (including the maximum number of special purpose vehicles through which Real Properties may be held);
 - (ii) the maximum percentage of the Real Estate Investment Trust's assets (by reference to the Real Estate Investment Trust's net asset value) that may be deployed for the purposes of property refurbishment, retrofitting and renovation, or a statement that no such activities are permitted; and
 - (iii) (where applicable under Rule 6.11(i)), a statement that the Fund Manager may accept non-cash consideration for the purchase of units in the Real Estate Investment Trust and a description of the lock-up period (if any) applicable to Units acquired for non-cash consideration.

6.12. Rules relating to Private Equity Funds

A Fund Manager, or any other Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term "Private Equity Fund" or refer to a Fund or otherwise hold out a Fund as being a Private Equity Fund unless it is a Fund which complies with Rule 2.4(b)(ii).

6.13. Rules relating to Venture Capital Funds

A Fund Manager, or any other Person making an Offer of a Unit of a Fund or otherwise marketing a Fund, must not include the term "Venture Capital Fund" or refer to a Fund or otherwise hold out a Fund as being a Venture Capital unless it is a Fund which complies with Rule 2.4(b)(iii).

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7. RULES REGARDING THE MANAGEMENT AND OPERATION OF FUNDS

7.2. General management duties

- (a) A Fund Manager must:
 - (i) manage the Fund including the Fund's property in accordance with the Fund's Constitution and its most recent ~~offer documents~~ Offering Materials;

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8. ADDITIONAL SERVICE PROVIDERS

8.1. Application

This chapter applies to all Fund Managers located in the AIFC in respect of all Non-Exempt Funds [and Real Estate Investment Trusts](#) managed by those Fund Managers.

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10. AUDIT, FINANCIAL AND VALUATION REQUIREMENTS

10.4. Auditor of a Non-Exempt Fund [and a Real Estate Investment Trust](#)

- (a) Every Non-Exempt Fund [and Real Estate Investment Trust](#) must appoint an external auditor to conduct an audit of the Fund's annual financial statements in accordance with the requirements of the relevant standards published by the International Auditing and Assurance Standards Board (IAASB) and to produce an auditor's report on those audited financial statements.
- (b) A Fund Manager must prior to the appointment of the auditor, take reasonable steps to ensure that the auditor has the required skills, resources and experience to audit the type of Non-Exempt Fund [and/or Real Estate Investment Trust](#) for which the auditor has been appointed.
- (c) A Fund Manager must notify the AFSA of the appointment, resignation or termination of an auditor of a Non-Exempt Fund [or a Real Estate Investment Trust](#).
- (d) A Non-Exempt Fund [and a Real Estate Investment Trust](#) must appoint an auditor to fill any vacancy in the office of auditor and ensure that the replacement auditor can take up office at the time the vacancy arises or as soon as reasonably practicable.
- (e) A Non-Exempt Fund [and a Real Estate Investment Trust](#) must take reasonable steps to ensure that the auditor and the relevant audit staff of the auditor are independent of, and not subject to, any conflict of interest with respect to the Fund Manager or any other service provider to the Fund.
- (f) A Fund Manager must notify the AFSA if it or any Non-Exempt Fund [or Real Estate Investment Trust](#) that it manages becomes aware, or has reason to believe, that the auditor or the relevant audit staff of the auditor of the relevant Non-Exempt Fund [or Real Estate Investment Trust](#) are no longer independent of the Fund Manager or any other service provider to the Non-Exempt Fund [or Real Estate Investment Trust](#), or have a conflict of interest which may affect their judgement in respect of the Non-Exempt Fund [or Real Estate Investment Trust](#).
- (g) A Fund Manager must take reasonable steps to ensure that it and its employees:
 - (i) provide any information to the Non-Exempt Fund's [or Real Estate Investment Trust's](#) auditor that the auditor reasonably requires, or is entitled to receive as auditor;



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- (ii) give the auditor right of access at all reasonable times to relevant records and information within its possession regarding the Fund and allow the auditor to make copies of those records and information;
 - (iii) do not interfere with the auditor's ability to discharge its duties in respect of the Non-Exempt Fund [or Real Estate Investment Trust](#);
 - (iv) report to the auditor any matter which may significantly affect the financial position of the Non-Exempt Fund [or Real Estate Investment Trust](#); and
 - (v) provide such other assistance as the auditor may reasonably request it to provide.
- (h) A Fund Manager must, in writing, require any Person to whom the Fund Manager has delegated or outsourced any functions to co-operate with the Non-Exempt Fund's [or Real Estate Investment Trust's](#) auditor in accordance with the provisions specified in (g).