



AMENDMENTS № 3 TO AIFC RULES ON DIGITAL ASSET ACTIVITIES

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Astana, Kazakhstan

In these amendments, underlining indicates a new text and strikethrough indicates a removed text.

This Part 4 applies to a Digital Asset Service Provider which is an Authorised Person carrying on, in or from the AIFC, the ~~Regulated Activities~~ of Providing Money Services in relation to Digital Assets, issuing Fiat stablecoins and Commodity stablecoins.

Guidance

An Authorised Firm Providing Money Services is a Centre Participant to which provisions of the following regulations and rules apply either directly or in respect of its officers and Employees who are Approved Individuals or Designated Individuals:

FSFR (in whole);

AML (in whole);

Chapter 3 (Communications with Clients and Financial Promotions) of the COB;

Chapter 4 (Key information and client agreement) of the COB;

Chapter 7 (Conflicts of interest) of the COB;

Chapter 8 (Client Assets) of the COB;

Chapter 15 (Complaints handling and dispute resolution) of the COB;

Chapter 2 (Controlled and Designated Functions) of the GEN;

Chapter 3 (Control of Authorised Persons) of the GEN;

Chapter 4 (Core Principles) of the GEN;

Chapter 5 (Systems and Controls) of the GEN;

Chapter 6 (Supervision) of the GEN; and

Rules on Currency Regulation and Provision of Information on Currency Transactions in the AIFC.

PMS, except for PMS 3.1. (Systems and controls), PMS 3.2. (Technology governance and risk management framework), 3.4. (Cyber-security policy).

4.1. Authorisation

(1) A Person wishing to carry on ~~the Regulated Activity~~ of Providing Money Services in relation to Digital Assets or issuing Fiat stablecoins in or from the AIFC must be an Authorised Firm licensed by the AFSA ~~for providing a Regulated Activity of Providing Money Services.~~

(2) A Person authorised to issue Fiat stablecoins may provide Money Services in relation to Digital Assets and Money Services under paragraph 21 Schedule 1 GEN.

Guidance: Authorisation

Under GLO Providing Money Services in relation to Digital Assets means providing of Money Service of buying and selling of Digital Asset, as well as providing Money Services provided under paragraph 21 Schedule 1 GEN, including with the use of Digital Assets.

4.1.-1. Providing Money Services in relation to Digital Assets

(1) An Authorised Firm Providing Money Services in relation to Digital Assets or issuing Fiat stablecoins may use Digital Assets in connection with providing Money Services under paragraph 21 Schedule 1 GEN if the Digital Asset:

(a) has been approved by the AFSA in accordance with PMS 2.4.1 (2); and

(b) used only for the purposes of providing Money Services;

(2) In subrule (1) Digital Asset may be directly sent to or received from the Client or sent, received and held in the Client's name.

4.2. Requirements

The AFSA may not grant authorisation or variation of a Licence to carry on the ~~Regulated~~ Activities of Providing Money Services in relation to Digital Assets or issuing Fiat stablecoins if:

(a) the applicant does not meet general authorisation requirements under the Framework Regulations and other applicable rules, and

(b) the applicant does not have capital of at least USD 200,000. In the case of a Person applying for authorisation for the ~~Regulated~~ Activities of Providing Money Services in relation to Digital Assets or issuing Fiat stablecoins in addition to conducting another Regulated Activity for which the capital requirement is higher than USD 200,000, the highest amount applies.

An Authorised Firm carrying on ~~Regulated~~ Activities, including Providing Money Services, in relation to Digital Assets cannot carry on Regulated Activities in relation to other Investments unless it obtains written approval from the AFSA.

(...)

4.6.1.-1. Risk warnings

(1) An Authorised Firm Providing Money Services in relation to Digital Assets and issuing Fiat stablecoins must display prominently on its website the following risk warnings relating to Digital Assets:

(a) except in the case of a Central Bank Digital Currency, Digital Assets are not legal tender or backed by a government;

(b) Digital Assets are subject to extreme volatility, and the value of the Fiat stablecoins can fall quickly (including, in respect of a Fiat stablecoin or Commodity stablecoin, if it loses its stability peg);

(c) that Digital Assets may not always be liquid or transferable;

(d) that Digital Assets can be stolen because of cyberattacks;

(e) that the nature of Digital Assets may lead to an increased risk of Financial Crime;

(f) there are limited or, in some cases, no mechanisms available for the recovery of lost or stolen Digital Assets;

(j) the risks of Digital Assets with regard to anonymity, irreversibility of transactions, accidental transactions, transaction recording, and settlement;

(h) that the nature of Digital Assets means that technological difficulties experienced by an Authorised Firm Providing Money Services in relation to Digital Assets or a Digital Asset Service Provider may prevent access to or use of a Client's Digital Assets;

(i) that there is no recognised compensation scheme to provide an avenue of redress for aggrieved participants.

(2) Where an Authorised Firm Providing Money Services in relation to Digital Assets presents any marketing or educational materials, or and other communications relating to a Digital Assets, approved in accordance with subrule (1), whether on a website, in the general media or as part of a distribution made to existing or potential new Clients, it must include the risk warning referred to in subrule (1) in a prominent place at or near the top of each page of the materials or communication.

(3) If the materials referred to in (1) is provided on a website or an application that can be downloaded to a mobile device, the warning must be:

(a) statically fixed and visible at the top of the screen, even when a person scrolls up or down the webpage; and

(b) included on each linked webpage on the website.

(c) provided before final confirmation of any transaction.