



# **Guidance for AIFC Banks conducting settlement for Digital Asset Trading Facility Operators and Digital Asset Service Providers**

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**Astana, Kazakhstan**

## **INTRODUCTION**

1. This Guidance for AIFC Banks conducting settlement for Digital Asset Trading Facility Operators and Digital Asset Service Providers (“Guidance”) is issued under section 8-1 of the Astana International Financial Centre (“AIFC”) Financial Services Framework Regulations (“FSFR”). It should be read in conjunction with the FSFR, Rules on Digital Asset Activities, and other relevant rules.

2. This Guidance is applicable to an Authorised Firm conducting at least one of the following Regulated Activities: Accepting Deposits or Opening and Operating Bank Accounts (“AIFC Banks”).

3. Unless otherwise defined or the context otherwise requires, the terms contained in this Guidance have the same meaning as defined in the AIFC Glossary.

## **BACKGROUND**

4. On 10 September 2023, the Board of Directors of the Astana Financial Services Authority approved the AIFC Rules on Digital Asset Activities (“DAA”). The DAA set out a legal and regulatory framework for the use of Digital Assets in the AIFC jurisdiction.

5. The AFSA adopts a risk-based approach to supervising Authorised Persons’ Digital Asset activities in line with applicable international standards and based on the principle of “same risk, same regulation”. Authorised Persons, including the AIFC Banks, should undertake risk assessments to identify and understand the associated risks before engaging in any Digital Asset activities.

6. AIFC Banks should note that approaches to regulation, supervision, and enforcement in relation to Digital Assets activities and Digital Asset Service Providers vary across different jurisdictions depending on individual circumstances and may be different from that in the AIFC.

7. Before an AIFC Bank engages in any Digital Asset activities, it should ensure that such activities will not breach any applicable laws and regulations, seeking legal advice where necessary, including from advisers competent in the law of relevant jurisdictions outside the AIFC.

## **BANKING RELATIONSHIPS WITH DATF OPERATORS / DASPS AND THEIR CLIENTS**

8. AIFC Banks should always take appropriate measures to manage and mitigate the identified risks, taking into account applicable legal and regulatory requirements, locally and overseas.

9. AIFC Banks may open bank accounts for the Digital Asset Trading Facility Operators (“DATF Operators”) and Digital Asset Service Providers (“DASPs”) and provide services in relation to Digital Assets to them considering provisions of this Guidance.

10. When AIFC Banks open bank accounts and provide their subsequent services to DATF Operators and DASPs and their Clients, they should do so taking into account the anti-money laundering and countering the financing terrorism (“AML/CFT”) requirements and provisions of the AIFC Rules on Currency Regulation and Provision of Information on Currency Transactions in the AIFC.

11. If an AIFC Bank establishes and maintains business relationships with a DATF Operator / DASP (e.g., opening bank accounts), appropriate money laundering and terrorist financing risk assessments should be conducted in line with the risk-based approach to differentiate the risks of individual DATF Operators and DASPs, recognising that DATF Operators and DASPs may adopt widely differing business models and that there is no “one-size-fits-all”.

12. Depending on the nature of the relationship, AIFC Banks may need to undertake additional customer due diligence (CDD) measures similar to those for offering correspondent banking or similar services to DATF Operators and DASPs that enable the provision of products and services to the customers of the DATF Operators and DASPs.

13. Such measures include but are not limited to:

(i) collecting sufficient information to adequately understand the nature of the DATF Operator’s / DASP’s business and construct a comprehensive risk profile of the DATF Operator / DASP that helps determine the extent of ongoing monitoring of the business relationship;

(ii) determining from publicly available information whether the DATF Operator / DASP is licensed in the AIFC, and its Licence is not subject to any restrictions; and

(iii) assessing the AML/CFT controls of the DATF Operator / DASP, including any additional controls to mitigate Digital Asset specific risks (e.g., transactions involving tainted wallet addresses).

14. The extent of CDD and ongoing monitoring measures should be commensurate with the assessed money laundering and terrorist financing risks of the DATF Operator / DASP. AIFC Banks entering into business relationships with DATF Operators and DASPs should also confirm with them that their operations do not breach the Acting Law of the AIFC or any other relevant jurisdictions.

15. AIFC Banks should ensure effective AML/CFT monitoring, in particular when customers of a DATF Operator or DASP fund their bank accounts with fiat currency.

16. DATF Operators and DASPs are allowed to open bank accounts in the AIFC Banks to hold the Clients' money in fiat currency (Clients' money and money of a DATF Operator/DASP are expected to be held in separate accounts).

17. Clients of a DATF Operator and DASP are prohibited to carry out the following transactions:

(a) third-party deposits and withdrawals (deposits and withdrawals can only be made from the Clients' own bank account and virtual account with confirmation from the servicing bank that the bank account and virtual account belong to this person); and

(b) withdrawal of fiat currency from the virtual account to the bank account of third persons.

18. A DATF Operator and DASP may transfer funds from its Client bank account(s) opened with the AIFC Bank to its Client's bank account (when withdrawing by their money from the DATF Operator and DASP) only after the AIFC Bank confirms that this bank account belongs to the Client.

19. The exchange of information between a DATF Operator / DASP and AIFC Bank should be conducted on the basis of the agreement(s).

20. AIFC Banks are expected to establish and implement effective AML/CFT policies, procedures and controls to manage and mitigate money-laundering and terrorist financing risks taking into account any relevant guidance issued by the AFSA and the Financial Action Task Force.

21. The AIFC Banks should critically evaluate their exposures to different types of risks and put in place appropriate risk-mitigation measures.

22. AIFC Banks are expected to pay extra attention where they become aware of customers engaging in Digital Asset related activities (e.g., frequent fund transfers to or from DATF Operators/DASPs) in their ongoing monitoring processes. In such cases, they should seek to understand the nature of the Digital Asset related transactions and, where there are grounds for suspicion, file suspicious transaction reports to the relevant competent authorities in accordance with relevant legal and regulatory obligations.

23. The AFSA plans to continue to collaborate with other local and international regulators, keeping in view the evolving regulatory landscape and developments in Digital Asset related products, services and activities, and will provide further guidance to AIFC Banks as appropriate and in line with international standards.