



CONSULTATION PAPER NO. 5

October 2018

**PROPOSED
AIFC REGULATIONS ON AIFC ACTS
AMENDMENT REGULATIONS 2018**

**CONSULTATION PAPER NO. 5
PROPOSALS RELATING TO AIFC REGULATIONS ON AIFC ACTS
AMENDMENT REGULATIONS 2018**

Why are we using this paper?

1. The draft of the *AIFC Regulations on AIFC Acts Amendment Regulations 2018* (the “Proposed Regulations”) was developed under paragraph 2 of article 4 of the Constitutional Statute of the Republic of Kazakhstan *On the Astana International Financial Centre 2015* and under subparagraph 3-2) of paragraph 9 of *The Structure of the Bodies of the Astana International Financial Centre*, adopted by resolution of the Management Council on 26 May 2016, as amended by resolution of the Management Council, *The Amendments and supplementations to the Structure of the Bodies of the Astana International Financial Centre*, adopted on 9 October 2017.
2. The Consultation Paper presents the Proposed Regulations to be adopted by the Governor of the AIFC with the rationale behind to align the provisions of the *AIFC Regulations on AIFC Acts 2017* with international practice on drafting and policy development.
3. This Consultation Paper No. 5 (“Consultation Paper”) seeks public comments on the Proposed Regulations.

Who should read this paper?

4. This Consultation Paper may be of interest to the current and prospective AIFC Participants, as well as all the AIFC Bodies and their organisations, and generally, to all interested in providing their feedback to the Proposed Regulations.

How to provide comments

5. AIFC encourages interested parties to provide their views and comments on the issues outlined in the Consultation Paper, using the table of comments provided in Annex B.
6. All comments should be provided to the following person:

Mr Beibut Dosmurzinov
AIFC Authority
55/1 Mangilik El
Astana 010000, Republic of Kazakhstan
or emailed to b.dosmurzinov@aifc.kz

7. You may as well identify your organisation in the provided comments.
8. By submitting your comments to the AIFCA you expressly consent to the processing by the AIFCA of the personal data pertaining to you, including, but not limited to the collection, recording, organisation, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of thereof, as per the *AIFC Data Protection Regulations 2017*.

What happens next?

9. The deadline for providing comments on the proposals in this Consultation Paper is 30 November 2018.

10. Once we receive your comments, we will consider if any further refinements are required to the Proposed Regulations annexed to this Consultation Paper at Annex A. Once the task is complete, the draft of the Proposed Regulations will be further processed in accordance with the requirements, stipulated in the *AIFC Regulations on AIFC Acts 2017*.
11. The Proposed Regulations are in draft form only and are, therefore, subject to change following consultation as mentioned above. Consequently, you should not act on it until the Proposed Regulations are formally enacted.

Defined terms

12. Defined terms are identified throughout this paper by the capitalisation of the initial letter of a word or each word in a phrase and are defined in the Proposed Regulations. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

Part 1 of the Proposed Regulations: GENERAL

13. The Proposed Regulations commence on 1 January 2019.
14. The Proposed Regulations are to be adopted under paragraph 2 of article 4 of the Constitutional Statute of the Republic of Kazakhstan *On the Astana International Financial Centre 2015* and under subparagraph 3-2) of paragraph 9 of *The Structure of the Bodies of the Astana International Financial Centre*, adopted by resolution of the Management Council on 26 May 2016, as amended by resolution of the Management Council, *The Amendments and supplementations to the Structure of the Bodies of the Astana International Financial Centre*, adopted on 9 October 2017.

Q1. Do you have any concerns about the commencement of the Proposed Regulations? If so, what are they, and how should they be addressed?

Q2. Do you have any concerns about the Legislative Authority of the Proposed Regulations? If so, what are they, and how should they be addressed?

Part 2 of the Proposed Regulations: AMENDMENTS OF AIFC REGULATIONS ON AIFC ACTS 2017

15. The Proposed Regulations supplement *AIFC Regulations on AIFC Acts 2017* with new section 9-1 (Proposals for AIFC Acts). The new section persuades implement of international practice on the development of policy papers setting out proposals for new legislation in the AIFC.
16. The new procedure on proposal of AIFC Acts is designed to explain the purpose, objectives, rationales, outcomes and expenditures of a proposed AIFC Act. The introduction of requirement on policy paper development would beneficially affect the level of transparency and predictability of regulatory and financial impact of a proposed AIFC Act.
17. Proposed supplementation of AIFC Regulations on AIFC Acts 2017 with new section 9-1 (Proposals for AIFC Acts) would establish a single reference point on procedures of development of new AIFC legislations.
18. Proposed Regulations consider the establishment of a mandatory requirement for public consultation by omitting the word “endeavour” in section 10 (1) (Public consultations) of

AIFC Regulations on AIFC Acts 2017. The rationale behind imposing a mandatory requirement on public consultation is to sustain transparency and accountability.

19. In addition, Proposed Regulations supplement *AIFC Regulation on Acts 2017* with new subsection 13(2-1) with the regulatory requirement on notification of the AIFCA on the AIFC Acts adopted by Management Council and the Governor. This supplementation would sustain the existing requirement on registration and achieve better compliance with section 13(2) of *AIFC Regulations on AIFC Acts 2017*.

Q3. Do you have any concerns about the process of the proposal of AIFC Acts, prescribed by the Proposed Regulations? If so, what are they, and how should they be addressed?

Q4. Do you have any concerns about the introduction of a mandatory requirement of public consultations, prescribed by the Proposed Regulations? If so, what are they, and how should they be addressed?

Q5. Do you have any concerns about the requirement on notification of AIFCA on AIFC Acts proposed to be adopted by AIFC Management Council and the Governor of the AIFC, stipulated by the Proposed Regulations? If so, what are they, and how should they be addressed?

Part 3 of the Proposed Regulations: CONSEQUENTIAL AMENDMENT OF THE AIFC COMPANIES REGULATIONS 2017

20. The Proposed Regulations amends *AIFC Companies Regulations 2017* by omitting section 182 (Publication of proposed Rules). The rationale behind this amendment is mainly to establish a single reference point on the proposal of new AIFC Acts in *AIFC Regulations on AIFC Acts 2017*.

Q6. Do you have any concerns about the amendment of *AIFC Companies Regulations 2017*, prescribed in the Proposed Regulations? If so, what are they, and how should they be addressed?

Legislative Proposal

21. This legislative proposal contains the following:
- (a) Proposed Regulations (in Annex A);
 - (b) a table of comments to provide your views and comments on the Consultation Paper (at Annex B).



**AIFC REGULATIONS ON AIFC ACTS
AMENDMENT REGULATIONS 2018**

AIFC REGULATIONS No. XX of 2018

**, 2018
Astana, Kazakhstan**

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PART 3: CONSEQUENTIAL AMENDMENT OF THE AIFC COMPANIES REGULATIONS 2017

PART 1: GENERAL

1. Name

These Regulations are the *AIFC Regulations on AIFC Acts Amendment Regulations 2018*.

2. Commencement

These Regulations commence on 1 January, 2019.

3. Legislative authority

These Regulations are adopted by the Governor under paragraph 2 of article 4 of the Constitutional Statute and subparagraph 3-2) of paragraph 9 of the Management Council Resolution on AIFC Bodies.

4. Interpretation

Terms used in these Regulations have the same meanings as they have, from time to time, in the AIFC Regulations on AIFC Acts, or the relevant provisions of those Regulations, unless contrary intention appears.

PART 2: AMENDMENTS OF AIFC REGULATIONS ON AIFC ACTS 2017

5. This Part amends the *AIFC Regulations on AIFC Acts 2017*.

6. After section 9, insert:

“9-1. **Proposals for AIFC Acts**

(1) Before an AIFC Body adopts an AIFC Act, the AIFC Body must ensure that:

(a) each of the following documents has been prepared, and approved by it:

(i) a policy paper explaining, in non-technical language, the intended purpose and operation of the proposed AIFC Act and impact of the proposed AIFC Act on the approved annual and mid-term budgets of the AIFC, including estimates of its impact on the income and expenditure of the AIFC and of each AIFC Body that may be affected by the proposed AIFC Act (an *affected AIFC Body*);

(ii) a draft of the proposed AIFC Act; and

(b) a copy of each of the documents has been provided to each other AIFC Body; and

(c) each other affected AIFC Body has been consulted about the proposed AIFC Act; and

(d) if the proposed AIFC Act may require an increase in the expenditure of the AIFC or of any AIFC Body, the increased expenditure has been approved by the AIFCA.

(2) Failure to comply with subsection (1) in relation to an AIFC Act does not affect the validity or enforceability of the AIFC Act.

7. Omit section 10(1), substitute (Public consultations):

(1) Before an AIFC Body adopts an AIFC Act, the AIFC Body must ensure that the proposed AIFC Act, and a policy paper explaining, in non-technical language, the intended purpose and operation of the proposed AIFC Act, are made available for public consultation for a period of at least 30 days.

8. After section 10(2), insert:

(3) However, the Governor may, in writing, exempt an AIFC Body from the requirement under subsection (1) to make a proposed AIFC Act available for public consultation, or may approve a shorter period of public consultation for a proposed AIFC Act, if satisfied that the exemption or approval is justified in the interests of the AIFC.

(4) Failure to comply with this section in relation to an AIFC Act does not affect the validity or enforceability of the AIFC Act.

9. After section 13 (1) (Registration of AIFC Acts), insert:

(2-1) If an AIFC Body (other than the AIFCA) submits a proposed AIFC Act to the Management Council or the Governor for adoption, the AIFC Body must immediately inform the AIFCA.

(2-2) Failure to comply with subsection (2-1) in relation to an AIFC Act does not affect the validity or enforceability of the AIFC Act.

PART 3: CONSEQUENTIAL AMENDMENT OF THE AIFC COMPANIES REGULATIONS 2017

- 10.** This Part amends the *AIFC Companies Regulations 2017*.
- 11.** Omit section 182 (Publication of proposed Rules).

Annex B

Format for providing public comments to AIFC Authority on Consultation Paper No. 4 of 2018
PROPOSED AIFC REGULATIONS ON AIFC ACTS AMENDMENT REGULATIONS 2018



Note 1: AIFC Authority reserves the right to publish, including on its website, any comments you provide. However, if you wish to remain anonymous, you must expressly request at the time of making comments that this should be the case.

Note 2: The column ‘comments on proposed policy’ relates to the policy explained in the Consultation Paper (“CP”). The column, ‘comments on proposed legislation’ refers to the draft legislation reflecting the proposed policy.

Note 3: It is possible that you may not have any comments, either on the proposed policy or legislation or may have comments on one and not the other. You may leave a blank column if you either agree to the proposed position, or you have no concerns relating it.

Note 4: If there are any ambiguities relating to the proposed policy or legislation, you may raise those in your comments.

Name of the individual/entity providing comments	
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No.	Comments on the proposed policy	Comments on proposed legislation
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No.	Comments on the proposed policy	Comments on proposed legislation
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