



ABU DHABI GLOBAL MARKET
سوق أبوظبي العالمي

FINANCIAL SERVICES AND MARKETS
(AMENDMENT NO 2) REGULATIONS 2018

FINANCIAL SERVICES AND MARKETS (AMENDMENT NO 2) REGULATIONS 2018

Regulations to amend the Financial Services and Markets Regulations 2015.

Date of Enactment: **25 June 2018**

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations—

1. Amendments to the Financial Services and Markets Regulations 2015

Part 2 Rules and Guidance

Chapter 1 Rule-making Powers

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5. Islamic Finance Rules

The Regulator may make Rules applying to Authorised Persons—

- (a) prescribing the requirements that must be met by a person applying for a Financial Services Permission to carry on Islamic Financial Business;
- (b) providing for such requirements to be varied in cases where an Application is made by an Applicant which is, at the time at which it submits its Application, regulated in a jurisdiction other than the Abu Dhabi Global Market;
- (c) prescribing certain persons or categories of person to be exempted from the requirements referred to in paragraph (a); and
- (d) prescribing exemptions from any requirements imposed by or under these Regulations under paragraph (a) that are to be—
 - (i) limited to certain Islamic Financial Business activities or Specified circumstances; or
 - (ii) subject to certain conditions and restrictions as the Regulator may determine.

5A. Operating a Crypto Asset Business

(1) The Regulator may by Rules prescribe –

- (a) Accepted Crypto Assets that meet the requirements for engaging in the Regulated Activity of Operating a Crypto Asset Business in or from the Abu Dhabi Global Market;
- (b) the requirements and factors that, in the opinion of the Regulator, are to be taken into account in determining whether or not a Crypto Asset meets the requirements to be considered an Accepted Crypto Asset;

- (c) the requirements applicable to the Regulated Activity of Operating a Crypto Asset Business in or from the Abu Dhabi Global Market; and
 - (d) such additional requirements as the Regulator considers appropriate that Authorised Persons Operating a Crypto Asset Business must comply with, including any requirements imposed under the Rules made under these Regulations.
- (2) Without limiting the generality of its powers the Regulator may, by written notice—
- (a) exclude the application of any requirement imposed by the Rules for engaging in the Regulated Activity of Operating a Crypto Asset Business in or from the Abu Dhabi Global Market; or
 - (b) impose on an Authorised Person engaged in the Regulated Activity of Operating a Crypto Asset Business in or from the Abu Dhabi Global Market any additional obligations that the Regulator considers appropriate; or
 - (c) require an Authorised Person engaged in the Regulated Activity of Operating a Crypto Asset Business in or from the Abu Dhabi Global Market to take such action as is specified by the Regulator; or
 - (d) require an Authorised Person Operating a Crypto Asset Exchange to obtain a Recognition Order to become a Recognised Investment Exchange under section 121 of these Regulations, and the Rules made under these Regulations,
- where the Regulator is satisfied that it is in the interests of the Abu Dhabi Global Market to do so and on such terms and conditions as the Regulator considers appropriate.

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Part 8 Market Abuse

Market abuse

92. Market abuse

- (1) For the purposes of these Regulations, Market Abuse is Behaviour (whether by one person alone or by two or more persons jointly or in concert) which—
- (a) occurs in relation to—
 - (i) Financial Instruments admitted to trading on a—
 - (A) Prescribed Market; or
 - (B) a similar market or trading venue situated inside or outside the Abu Dhabi Global Market and accessible electronically, or otherwise, from within the Abu Dhabi Global Market;
 - (ii) Financial Instruments in respect of which a request for admission to trading on such a market has been made; or
 - (iii) in the case of subsection (2) or (3) Behaviour, instruments which are Related Instruments in relation to such Financial Instruments; ~~and or~~

- (iv) an Accepted Crypto Asset admitted to trading on a Crypto Asset Exchange;
and
 - (b) falls within any one or more of the types of Behaviour set out in subsections (2) to (6).
- (2) The first type of Behaviour is where an Insider deals, or attempts to deal, in a Financial Instrument, ~~or Related Instrument~~ or an Accepted Crypto Asset on the basis of Inside Information relating to the Financial Instruments, ~~or Related Instruments~~ or Accepted Crypto Assets in question.
- (3) The second is where an Insider discloses Inside Information to another person otherwise than in the proper course of the exercise of his employment, profession or duties.
- (4) The third is where the Behaviour consists of effecting transactions or orders to trade (otherwise than for legitimate reasons and in conformity with Accepted Market Practices on the relevant market) which—
- (a) give, or are likely to give, a false or misleading impression as to the supply of, or demand for, or as to the price of, one or more Financial Instruments or Accepted Crypto Assets; or
 - (b) secure the price of one or more such instruments at an abnormal or artificial level.
- (5) The fourth is where the Behaviour consists of effecting transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance.
- (6) The fifth is where the Behaviour consists of the dissemination of information by any means which gives, or is likely to give, a false or misleading impression as to a Financial Instrument or an Accepted Crypto Asset by a person who knew or could reasonably be expected to have known that the information was false or misleading.

93. Supplementary provision about certain Behaviour

- (1) Behaviour is to be taken into account for the purposes of this Part only if it occurs—
- (a) in the Abu Dhabi Global Market; or
 - (b) in relation to—
 - (i) Financial Instruments which are admitted to trading on a Prescribed Market situated in, or operating in, the Abu Dhabi Global Market; ~~or~~
 - (ii) Financial Instruments for which a request for admission to trading on such a Prescribed Market has been made; or
 - (iii) Accepted Crypto Assets admitted to trading on a Crypto Asset Exchange.

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95. Inside Information

- (1) This section defines "Inside Information" for the purposes of these Regulations.
- (2) In relation to Financial Instruments, Accepted Crypto Assets or Related Instruments, which are not Commodity Derivatives, Inside Information is information of a Precise nature which—

- (a) is not generally available;
 - (b) relates, directly or indirectly, to one or more Reporting Entities or Issuers of the Financial Instruments or to one or more of the Financial Instruments or Accepted Crypto Assets; and¹
 - (c) would, if generally available, be likely to have a significant effect on the price of the Financial Instruments, Accepted Crypto Assets or ~~on the price of~~ Related Instruments.
- (3) In relation to Financial Instruments or Related Instruments which are Commodity Derivatives, Inside Information is information of a Precise nature which—
- (a) is not generally available;
 - (b) relates, directly or indirectly, to one or more such derivatives; and
 - (c) users of markets on which the derivatives are traded would expect to receive in accordance with any Accepted Market Practices on those markets.
- (4) In relation to a person charged with the execution of orders concerning any Financial Instruments, Accepted Crypto Assets or Related Instruments, Inside Information includes information conveyed by a client and related to the client's pending orders which—
- (a) is of a Precise nature;
 - (b) is not generally available;
 - (c) relates, directly or indirectly, to one or more Issuers of Financial Instruments or to one or more Financial Instruments; and
 - (d) would, if generally available, be likely to have a significant effect on the price of those Financial Instruments, Accepted Crypto Assets or ~~the price of~~ Related Instruments.
- (5) Information is Precise if it—
- (a) indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur; and
 - (b) is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of Financial Instruments or Related Instruments.
- (6) Information would be likely to have a significant effect on price if and only if it is information of a kind which a reasonable investor would be likely to use as part of the basis of his investment decisions.
- (7) For the purposes of subsection (3)(c), users of markets on which investments in Commodity Derivatives are traded are to be treated as expecting to receive information relating directly or indirectly to one or more such derivatives in accordance with any Accepted Market Practices, which is—

¹ Amended 21 February 2018.

- (a) routinely made available to the users of those markets; or
 - (b) required to be disclosed in accordance with any statutory provision, market rules, or contracts or customs on the relevant underlying commodity market or Commodity Derivatives market.
- (8) Information which can be obtained by research or analysis conducted by, or on behalf of, users of a market is to be regarded, for the purposes of this Part, as being generally available to them.

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Part 9 Misleading Statements and Impressions

102. Misleading Statements

- (1) Subsection (2) applies to a person ("P") who—
- (a) makes a statement which P knows to be false or misleading in a material respect;
 - (b) makes a statement which is false or misleading in a material respect, being reckless as to whether it is; or
 - (c) dishonestly conceals any material facts whether in connection with a statement made by P or otherwise.
- (2) P commits a contravention of these Regulations if P makes the statement or conceals the facts with the intention of inducing, or is reckless as to whether making it or concealing them may induce, another person (whether or not the person to whom the statement is made)—
- (a) to enter into or offer to enter into, or to refrain from entering or offering to enter into, ~~a Relevant Agreement~~; or
 - (b) to acquire, dispose of, subscribe for or underwrite, or refrain from acquiring, disposing of, subscribing for or underwriting; or
 - ~~(b)~~ to exercise, or refrain from exercising, any rights conferred by —
- a Financial Instrument, a Specified Investment or an Accepted Crypto Asset, as applicable.

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103. Misleading Impressions

- (1) A person ("P") who does any act or engages in any course of conduct which creates a false or misleading impression as to the market in or the price or value of any Financial Instruments or Accepted Crypto Assets commits a contravention of these Regulations if—
- (a) P intends to create the impression; and
 - (b) the case falls within either subsection (2) or (3) or both.

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Chapter 4 Transaction Reporting

149. Obligation to report transactions

- (1) A Recognised Investment Exchange or MTF shall report details of transactions in Financial Instruments traded on its platform which are executed, or reported, through its systems.
- (2) A Crypto Asset Exchange shall report details of transactions in Accepted Crypto Assets traded on its platform which are executed, or reported, through its systems.
- ~~(23)~~ The Regulator may make Rules specifying—
- (a) the information to be included in reports made under subsection (1) and (2); and
 - (b) the manner in which such reports are to be made.

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Part 22 General

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258. Definitions

- (1) In these Regulations, unless the context otherwise requires—

<u>Accepted Crypto Asset</u>	<u>means a Crypto Asset that, in the opinion of the Regulator, meets the requirements for engaging in the Regulated Activity of Operating a Crypto Asset Business in or from the Abu Dhabi Global Market.</u>
<u>Crypto Asset</u>	<u>means a digital representation of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status in any jurisdiction. A Crypto Asset is -</u> <ul style="list-style-type: none"><u>(a) neither issued nor guaranteed by any jurisdiction, and fulfils the above functions only by agreement within the community of users of the Crypto Asset; and</u><u>(b) distinguished from Fiat Currency and E-money.</u>
<u>Crypto Asset Custodian</u>	<u>means operating as a Crypto Asset Custodian operating within Abu Dhabi Global Market as part of the Regulated Activity of Operating a Crypto Asset Business.</u>
<u>Crypto Asset Exchange</u>	<u>means a Crypto Asset Exchange operating within Abu Dhabi Global Market as part of the Regulated Activity of Operating a Crypto Asset Business.</u>

Direction	means, for the purposes of— (a) sections 9 and 10, a direction under section 9; (b) Reporting Entities and their obligations under Part 6, a direction under section 84; (c) suspending an investigation into Market Abuse, a direction under section 99; (d) the name of a Fund or Sub-Fund, a direction under section 117; (e) the Regulator's powers under Part 12, a direction under sections 130, 132, 133 and 137; (f) the Regulator's powers under Part 13, a direction under sections 153, 162 and 164; and (g) the Regulator's powers under Part 17, a direction under sections 206 and 217; and (h) <u>Authorised Person Operating a Crypto Asset Business</u> , a direction under sub-section 5A(2).
<u>E-money</u>	<u>means a digital representation of Fiat Currency used to electronically transfer value denominated in Fiat Currency.</u>
<u>Fiat Currency</u>	<u>means, for the purpose of paragraph 73B of Schedule 1, government issued currency that is designated as legal tender in its country of issuance through government decree, regulation or law.</u>
Investigator	means a person Appointed under section 205 to commence <u>conduct</u> an investigation.
<u>Operating a Crypto Asset Business</u>	<u>means the Regulated Activity specified in paragraph 73B of Schedule 1.</u>
<u>Relevant Agreement</u>	means, for the purposes of sections 102(2), an agreement— (a) the entering into or performance of which by either party constitutes an activity of a kind specified in the Rules made by the Regulator; and (b) which relates to a Designated Investment.

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Schedule 1

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Chapter 17B Operating a Crypto Asset Business

The activity

73B. Operating a Crypto Asset Business

- (1) Operating a Crypto Asset Business is a specified kind of activity.
- (2) Operating a Crypto Asset Business involves undertaking one or more Crypto Asset activities in or from the Abu Dhabi Global Market.
- (3) For the purposes of sub-paragraph (2), Crypto Asset activities include –
 - (a) Buying, Selling or exercising any right in Accepted Crypto Assets (whether as principal or agent);
 - (b) managing Accepted Crypto Assets belonging to another person;
 - (c) making arrangements with a view to another person (whether as principal or agent) Buying, Selling or providing custody of Accepted Crypto Assets;
 - (d) marketing of Accepted Crypto Assets;
 - (e) advising on the merits of Buying or Selling of Accepted Crypto Assets or any rights conferred by such Buying or Selling; or
 - (f) operating -
 - (i) a Crypto Asset Exchange; or
 - (ii) as a Crypto Asset Custodian.
- (4) In sub-paragraph 3(f)(i), operating a Crypto Asset Exchange means the trading, conversion or exchange of -
 - (a) Fiat Currency or other value into Accepted Crypto Assets;
 - (b) Accepted Crypto Assets into Fiat Currency or other value; or
 - (c) one Accepted Crypto Asset into another Accepted Crypto Asset.
- (5) In sub-paragraph 3(f)(ii), operating as a Crypto Asset Custodian involves -
 - (a) safeguarding, storing, holding or maintaining custody of Accepted Crypto Assets belonging to another person; or
 - (b) controlling or administering Accepted Crypto Assets for the purpose of sub-paragraph 5(a).

Exclusions

73C. The following activities do not constitute Operating a Crypto Asset Business–

- (1) the creation or administration of Crypto Assets that are not Accepted Crypto Assets;
- (2) the development, dissemination or use of software for the purpose of creating or mining a Crypto Asset;
- (3) the transmission of Crypto Assets;
- (4) a loyalty points scheme denominated in Crypto Assets; or
- (5) any other activity or arrangement that is deemed by the Regulator to not constitute Operating a Crypto Asset Business, where necessary and appropriate in order for the Regulator to pursue its objectives.

73D. Order Routing

A person does not operate a Crypto Asset Exchange if it operates a facility which is merely an order routing system where Buying and Selling interests in, or orders for, Accepted Crypto Assets are merely transmitted but do not interact.

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2. Short title, extent and commencement

- (1) These Regulations may be cited as the Financial Services and Markets (Amendment No 2) Regulations 2018.
- (2) These Regulations shall apply in the Abu Dhabi Global Market.
- (3) These Regulations come into force on the date of their publication.