



ABU DHABI GLOBAL MARKET
سوق أبوظبي العالمي

**FINANCIAL SERVICES AND MARKETS
(AMENDMENT NO 3) REGULATIONS 2018**

FINANCIAL SERVICES AND MARKETS (AMENDMENT NO 3) REGULATIONS 2018

Regulations to amend the Financial Services and Markets Regulations 2015.

Date of Enactment: **4 July 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 16 Public Record and Disclosure of Information

The public record

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198. Restrictions on disclosure of Confidential Information by the Regulator

- (1) Confidential Information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the prior consent of—
- (a) the person from whom the primary recipient obtained the information; and
 - (b) if different, the person to whom it relates.
- (2) Each of the following is a primary recipient for the purposes of this Part—
- (a) the Regulator;
 - (b) a person Appointed to collect or update information under section 204 or to make a report under section 203;
 - (c) any person who is or has been employed by a person mentioned in paragraphs (a) and (b);
 - (d) a person who is or has been engaged to provide services to a person mentioned in those paragraphs;
 - (e) any auditor or expert instructed by a person mentioned in those paragraphs.
- (3) It is immaterial for the purposes of subsection (1) whether or not the information was received
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- (a) by virtue of a requirement to provide it imposed by or under these Regulations or any Rules made under these Regulations; or
 - (b) for any other purposes as well as the purposes for which the information was provided.

199. Exceptions from section 198

- (1) ~~Subject to subsection (2), Section 198 does not prevent a~~ the Regulator may disclose of Confidential Information for the purpose of facilitating the carrying out of a Public Function where such disclosure is ~~which is made for the purpose of facilitating the carrying out of a Public Function and is—~~
- (a) permitted or required under any enactment applicable to the Regulator, including, for the avoidance of doubt, any applicable international obligations;
 - (b) made to—
 - (i) ~~the ADGM Registrar of Companies; any regulatory authority or body in the Abu Dhabi Global Market (including the Registrar and the Regulator);~~
 - (ii) a Non-Abu Dhabi Global Market Regulator;
 - (iii) a governmental or regulatory authority exercising powers and performing functions relating to anti-money laundering, counter-terrorist financing or sanctions compliance, whether in the Abu Dhabi Global Market or otherwise;
 - (iv) a self-regulatory body or organisation exercising and performing powers and functions in relation to financial services, whether in the Abu Dhabi Global Market or otherwise;
 - (v) ~~a civil or criminal law enforcement agency, whether in the Abu Dhabi Global Market U.A.E or otherwise, for the purpose of any criminal investigation or criminal proceedings; or~~
 - (vi) a civil law enforcement agency or body, whether in the Abu Dhabi Global Market, U.A.E or otherwise any other governmental or other regulatory body or authority, whether in the Abu Dhabi Global Market or otherwise;for the purpose of assisting the performance by any such person of its functions and powers; or
 - (c) made in good faith for the purposes of the exercise of the functions and powers of the Regulator or in order to further the Regulator's objectives.
- (2) ~~Paragraphs (1)(b)(i), (ii), (iii), (iv), (vi) and 1(c) do not permit the Regulator to disclose Confidential Information unless the conditions in paragraphs (a) and (b) are met—~~
- (a) where the Confidential Information (in whole or in part) originates in another governmental or regulatory authority, whether in the Abu Dhabi Global Market or otherwise, the authority that has disclosed the Confidential Information to the Regulator has given its prior written consent to the disclosure; and
 - (b) where the Confidential Information is CRD Information –
 - (i) EEA Competent Authority that has disclosed the Confidential Information to the Regulator has given its prior written consent to the disclosure; and
 - (ii) if such consent was given for a particular purpose, the disclosure by the Regulator is solely for that purpose.

- (23) Any disclosure by the Regulator pursuant to subsection (1) may include, insofar as the Regulator considers appropriate, provisions—
- (a) making any permission to disclose Confidential Information subject to conditions (which may relate to the obtaining of consents, subjecting information received to restrictions on disclosure of Confidential Information at least equivalent to those set out in section 198 or any other matter); and
 - (b) restricting the uses to which Confidential Information disclosed may be put.
- (4) Where any disclosure by the Regulator pursuant to subsection (1) is made subject to conditions, the person to whom the Confidential Information has been disclosed may not use the Confidential Information in breach of any such condition.

200. Rule-making powers of the Regulator ~~Removal of other restrictions on~~ concerning disclosure of information

- (1) The Regulator may make Rules permitting the disclosure of any information, or of information—
- (a) by Specified persons for the purpose of assisting or enabling them to discharge Specified functions under these Regulations or any Rules made under these Regulations;
 - (b) by Specified persons, or persons of a Specified description, to the Regulator for the purpose of assisting or enabling the Regulator to discharge Specified functions.
- (2) Rules under this section may not make any provision in relation to the disclosure of Confidential Information by primary recipients or by any person obtaining Confidential Information directly or indirectly from a primary recipient.
- (3) If a person discloses any information as permitted by Rules made under this section the disclosure is not to be taken as a contravention of any duty to which he is subject.

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Part 22 General

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258. Definitions

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

<u>Capital Requirements Directive</u>	<u>means, for the purposes of subsection 199(2), the legislative package consisting of Directive 2013/36/EU of the European Union (commonly referred to as Capital Requirements Directive) and Regulation (EU) No 575/2013 (commonly referred to as Capital Requirements Regulation), as amended from time to time.</u>
<u>CRD Information</u>	<u>means, for the purposes of subsection 199(2), the Confidential Information received or obtained by the</u>

	<u>Regulator from the EEA Competent Authority by virtue of the Capital Requirements Directive.</u>
<u>EEA Competent Authority</u>	<u>means, for the purposes of subsection 199(2), a public authority or body officially recognised by national law of a jurisdiction within the EEA and empowered by that national law to supervise institutions as part of the supervisory system.</u>
<u>European Economic Area or EEA</u>	<u>means, for the purposes of subsection 199(2), the area as it stands from time to time in which the Agreement on the EEA, established on 1 January 1994, provides for the free movement of persons, goods, services and capital within the European single market.</u>

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2. Short title, extent and commencement

- (1) These Regulations may be cited as the Financial Services and Markets (Amendment No 3) 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.