

Conduct of Business Rulebook (COBS)

*In this Appendix, underlining indicates new text and strikethrough indicates deleted text, unless otherwise indicated.

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14. CLIENT MONEY PROVISIONS

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14.2 Client Money Rules

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14.2.3 Client Money

- (a) An Authorised Person in Category 4, other than an Authorised Person engaged in the Regulated Activity of Operating a Private Financing Platform, must not hold Client Money.
- (b) An Authorised Person which holds or controls Client Money for a Client must comply with these Client Money Rules.
- (c) Where the Client is a Market Counterparty, an Authorised Person may exclude the application of the Client Money Rules but only where it has obtained the prior written consent of the Market Counterparty to do so.
- (d) An Authorised Person which holds or controls Client Money must arrange for a Client Money Auditor's Report to be submitted to the Regulator on an annual basis.

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18. OPERATING A PRIVATE FINANCING PLATFORM

18.1 Application

18.1.1 This chapter applies to an Authorised Person that carries on, or intends to carry on, the Regulated Activity of Operating a Private Financing Platform.

18.2 General

18.2.1 For the purposes of this chapter, a PFP Client, which accesses a Private Financing Platform, is a Client of the Authorised Person.

18.3 Access to a Private Financing Platform

18.3.1 Prior to enabling a PFP Client to access a financing proposal published on a Private Financing Platform, the PFP Operator must obtain a written or electronic acknowledgement from the PFP Client that it has reviewed the risk disclosure described in Rule 18.5.1(a) and fully understands and accepts the risks involved in investing in any PFP Prospect identified upon the Private Financing Platform.

18.3.2 A PFP Operator must not publish information concerning any financing proposal upon a Private Financing Platform unless:

- (a) the PFP Operator has disclosed its business terms, including fees, to the PFP Prospect which is associated with the financing proposal;

- (b) the relevant PFP Prospect associated with the financing proposal is a Body Corporate; and
- (c) the financing proposal qualifies as an Exempt Offer.

18.3.3 A PFP Operator must not permit the publication of information upon any electronic forum or message board feature of a Private Financing Platform it operates where it is aware that information may be potentially misleading or fraudulent.

18.4 Due Diligence

18.4.1 Prior to publishing a financing proposal in relation to a PFP Prospect on a Private Financing Platform, the PFP Operator shall perform due diligence upon the PFP Prospect, in order to satisfy the disclosure requirements imposed on it by Rule 18.5.1. Such due diligence shall include, but not be limited to, a review of the following information to be provided by the PFP Prospect:

- (a) details and background of management, including fitness and propriety assessments of directors and key officers;
- (b) background of the PFP Prospect, including its financial soundness, good standing and regulatory status, if relevant; and
- (c) the financing proposal, in order to ensure that, to the best of the PFP Operator's knowledge, its content is adequate, clear, fair and not misleading.

18.5 Disclosure

18.5.1 A PFP Operator must ensure that the following information, available to PFP Clients, is published on a Private Financing Platform it operates:

- (a) a statement identifying the risks involved in participating in financing proposals identified on the Private Financing Platform;
- (b) a statement confirming that the PFP Operator is not providing credit or investment advice to any PFP Client or PFP Prospect, and advising PFP Clients to seek independent advice prior to entering into any transaction;
- (c) the terms of operation of the Private Financing Platform, including the PFP Operator's remuneration model;
- (d) the details of any potential conflicts of interest between the PFP Operator, PFP Clients and any PFP Prospect;
- (e) the details of the Eligible Custodian engaged by the PFP Operator, if so appointed;
- (f) the wind-down arrangements the PFP Operator has in place to ensure the orderly administration of transactions facilitated on the Private Financing Platform it operates in the event of its failure;
- (g) the details of any financing proposal published on the Private Financing Platform;

- (h) the criteria and methodology for accepting a PFP Prospect's financing proposal for publication on a Private Financing Platform;
- (i) the methodology of, and limitations to, the due diligence undertaken by the PFP Operator concerning each PFP Prospect identified on the Private Financing Platform, in accordance with Rule 18.4.1;
- (j) the governance and operational arrangements of any Body Corporate used as an intermediary between a PFP Client and any PFP Prospect;
- (k) the details of the exit facility, if any, that the PFP Operator offers upon the Private Financing Platform, in accordance with Rule 18.8; and
- (l) any other relevant information concerning the roles or obligations of the PFP Operator that a PFP Client should be aware of.

18.5.2 A PFP Operator must ensure that the information published in accordance with Rule 18.5.1 is updated to reflect material changes and notice of such material change is provided to PFP Clients within a reasonable timeframe following such change.

18.6 Client Assets

18.6.1 A PFP Operator that holds Client Assets must:

- (a) engage the services of an Eligible Custodian; or
- (b) comply with the Client Money Rules and Safe Custody Rules.

18.6.2 Any Body Corporate established by the PFP Operator for use as an intermediary to hold Client Assets must be domiciled in ADGM.

18.7 Record keeping

18.7.1 A PFP Operator must, for a minimum of six years, maintain and keep a record of:

- (a) all disclosures made in accordance with Rules 18.5.1 and 18.5.2;
- (b) all documentation between PFP Client(s), any Body Corporate established by the PFP Operator to facilitate a transaction, and the PFP Prospect; and
- (c) the due diligence undertaken in accordance with Rule 18.4.1.

18.8 Exit facility

18.8.1 A PFP Operator may offer a facility on its Private Financing Platform enabling PFP Clients to market and sell Specified Investments relating to PFP Prospects to other PFP Clients (the 'exit facility').

18.8.2 A PFP Operator offering an exit facility on a Private Financing Platform must provide the following information to its PFP Clients:

- (a) information concerning the operation of, and restriction of access to, the exit facility feature;

- (b) a statement that any Specified Investment acquired through the exit facility remains subject to the restrictions concerning Exempt Offers from the ADGM;
- (c) the identity of any PFP Client marketing any Specified Investment through the exit facility to other PFP Clients; and
- (d) access to all historical disclosures made available to PFP Clients in respect of each financing proposal, in accordance with Rules 18.5.1 and 18.5.2.

18.8.3 A PFP Operator, that offers an exit facility on a Private Financing Platform, must not:

- (a) permit any person other than a PFP Client to offer, purchase or sell any Specified Investment through the exit facility ;
- (b) charge any fee, levy or commission in exchange for access to the exit facility or any transaction performed through it;
- (c) provide advice to, nor make arrangements on behalf of, any PFP Client entering into a transaction with another PFP Client through the exit facility;
- (d) act as, nor employ the services of a third party to act as, a market-maker in order to provide liquidity to the exit facility; or
- (e) engage in clearing services in relation to transactions between PFP Clients conducted through the exit facility.