



Scope - Authorised Person, Recognised Body or Licensed Person:

CLASS MODIFICATION AND WAIVER - Authorised Persons undertaking the Regulated Activity of Operating a Crypto Asset Business

Address:

N/A

Firm Number:

N/A

Notice Number:

WM 40/2019

THE ADGM FSRA HEREBY GIVES NOTICE THAT:

Where any Authorised Person is Operating a Crypto Asset Business and is Operating a Crypto Asset Exchange with only a direct-access model for its users and where it has no members, it must comply with the modified or waived Rules as specified in this notice and in accordance with COBS Rule 17.7.2 and its applicability to the MIR module of the Rulebook.

The Rules specified herein do not apply to the above mentioned Authorised Persons in the form appearing in the Rulebook, but instead apply as a class modification and waiver, available to the group of Authorised Persons specified above. **Where a class modification and waiver is available to a Person it will need to notify the FSRA of its intention to use the class modification and waiver.**

The Rules specified in the left hand column are modified and waived to the extent shown in the right hand column of the table below. In this table, underlining indicates new text and striking through indicates deleted text, otherwise the Rule remains unaltered.

RULES MODIFIED	
Rulebook Module	Modified Text
MIR 2.7.2	<p>In determining whether a Recognised Body <u>Crypto Asset Exchange Operator</u> has satisfactory arrangements for recording the transactions effected on, or cleared (or to be cleared) by means of, its facilities, the Regulator may have regard to:</p> <p>(a) whether the Recognised Body <u>Crypto Asset Exchange Operator</u> has arrangements for creating, maintaining and safeguarding an audit trail of transactions for at least 7 years; and</p>



	<p>(b) the type of information recorded and the extent to which the record includes details for each transaction of:</p> <p>(i) the name of the Financial Instrument (and, if relevant, the underlying asset) <u>Crypto Asset</u> and the price, quantity and date of the transaction;</p> <p>(ii) the identities and, where appropriate, the roles of the counterparties to the transaction; <u>and</u></p> <p>(iii) if the Recognised Body's rules make provision for transactions to be effected, cleared or to be cleared in more than one type of facility, or under more than one part of its rules, the type of facility in which, or the part of its rules under which, the transaction was effected, cleared or to be cleared; and</p> <p>(iviii) the date and manner of settlement of the transaction.</p>
MIR 2.8.2	<p>The Recognised Body <u>Crypto Asset Exchange Operator</u> must make transparent and non-discriminatory rules, based on objective criteria, governing access to, or membership of, its facilities. In particular, those rules must specify the obligations for users or Members of its facilities arising from:</p> <p>(a) the constitution and administration of the Recognised Body <u>Crypto Asset Exchange Operator</u>;</p> <p>(b) rules relating to transactions on a the Recognised Body's <u>Crypto Asset Exchange Operator's</u> market;</p> <p>(c) its professional standards for staff of any Authorised Person, or Remote Member, having access to or membership of a financial market operated by the Recognised Body <u>Crypto Asset Exchange Operator</u>; <u>and</u></p> <p>(d) conditions established for access to or membership of a financial market operated by the Recognised Body by Persons other than Authorised Persons, including Remote Members; and</p> <p>(ed) the rules and procedures for Clearing and settlement of transactions.</p>



<p>MIR 2.8.3</p>	<p>The Recognised Body <u>Crypto Asset Exchange Operator</u> shall only give access to or admit to membership a Person who:</p> <ul style="list-style-type: none">(a) is fit and proper and of sufficient good repute;(b) has a sufficient level of ability, competence and experience, including appropriate standards of conduct for its staff; <u>and</u>(c) where applicable, has adequate organisational arrangements, including financial and technological resources; and(d) where that Person is a Remote Member, they have been granted a Recognition Order by the Regulator under section 138A of FSMR.
<p>MIR 2.8.5</p>	<p>In assessing whether access to a Recognised Body's <u>Crypto Asset Exchange Operator's</u> facilities is subject to criteria designed to protect the orderly functioning of the market, or of those facilities, and the interests of investors, the Regulator may have regard to whether:</p> <ul style="list-style-type: none">(a) the <u>Crypto Asset Exchange Operator</u> Recognised Body limits access as a Member user to such Persons:<ul style="list-style-type: none">(i) over whom it can with reasonable certainty enforce its rules contractually; <u>and</u>(ii) who have sufficient technical competence to use its facilities; <u>and</u>(iii) whom it is appropriate to admit to membership having regard to the size and sophistication of users of its facilities and the nature of the business effected by means of, or cleared through, its facilities; and(iv) (if appropriate) who have adequate financial resources in relation to their exposure to the Recognised Body;(b) indirect access to the Recognised Body's facilities is subject to suitable criteria, remains the responsibility of a Member of the Recognised Body and is subject to its rules;(c) where access is granted to Remote Members, there are adequate safeguards against Market Abuse and Financial Crime; and



	<p>(db) the <u>Crypto Asset Exchange Operator Recognised Body</u>'s rules:</p> <ul style="list-style-type: none">(i) set out the design and operation of the <u>Crypto Asset Exchange Operator Recognised Body</u>'s relevant systems;(ii) set out the risk for Members <u>users</u> and other participants when accessing and participating on the <u>Crypto Asset Exchange Operator's Recognised Body</u>'s facilities;(iii) contain provisions for the resolution of Members' <u>users'</u> and other participants' disputes and an appeal process for the decisions of the <u>Crypto Asset Exchange Operator Recognised Body</u>;(iv) contain disciplinary proceedings, including any sanctions that may be imposed by the <u>Crypto Asset Exchange Operator Recognised Body</u> against its Members <u>users</u> and other participants; and(v) any other matters necessary for the proper functioning of the <u>Crypto Asset Exchange Operator Recognised Body</u> and the facilities operated by it.
<p>MIR 3.7.5</p>	<p>Proper information</p> <p>In determining whether appropriate arrangements have been made to make relevant information available to Persons engaged in dealing in Financial Instruments <u>Crypto Assets</u> admitted to trading on the <u>Crypto Asset Exchange Recognised Investment Exchange</u>, the Regulator may have regard to:</p> <ul style="list-style-type: none">(a) the extent to which Members and Clients for whom they act <u>users</u> are able to obtain information about those <u>Crypto Assets</u> Financial Instruments, either through accepted channels for dissemination of information or through other regularly and widely accessible communication media, to make a reasonably informed judgment about the value and the risks associated with those <u>Crypto Assets</u> Financial Instruments in a timely fashion;(b) what restrictions, if any, there are on the dissemination of relevant information to the <u>Crypto Asset Exchange's Recognised</u>



	<p>Investment Exchange's Members and Clients for whom they act users; and</p> <p>(c) whether relevant information is or can be kept to restricted groups of Persons in such a way as to facilitate or encourage dealing in contravention of the Rules of Market Conduct.</p>		
MIR 3.8.1	<p>The <u>Crypto Asset Exchange Operator Recognised Investment Exchange</u>, when engaging a Clearing Service, must ensure that satisfactory arrangements are made for securing the timely discharge (whether by performance, compromise or otherwise), Clearing and settlement of the rights and liabilities of the parties to transactions effected on the <u>Crypto Asset Exchange Operator Recognised Investment Exchange</u> (being rights and liabilities in relation to those transactions).</p>		
MIR 5.4.1	Notification requirements		
	Event	Timing	Information required
18	<p>Any proposal to change the fees or charges levied on a <u>Crypto Asset Exchange Operators Recognised Body's Members users</u> (or any group or class of them) is made.</p>	<p>As close to the time when the proposal is communicated to those Members <u>users</u> as practicable.</p>	<p>A summary of any such proposal made.</p>
19	<p>Any change is made to fees or charges levied on a <u>Crypto Asset Exchange Operators Recognised Body's Members users</u> (or any group or class of them) is made.</p>	<p>No later than the date when the changes are published or notified to those Members <u>users</u>.</p>	<p>A summary of any such proposal made.</p>
45	<p>A <u>Crypto Asset Exchange Operator Recognised Body</u> has taken any disciplinary action against any <u>Member user</u> or any Employee of a <u>Member user</u>, in respect of a breach of a rule relating to the carrying on by the</p>	<p>As soon as practicable.</p>	<p>(a) Notice of that event; (b) the name of the Person concerned; (c) details of the disciplinary action taken by the <u>Crypto Asset Exchange Operator Recognised Body</u>; and (d) the <u>Crypto Asset</u></p>



	<u>Crypto Asset Exchange Operator Recognised Body</u> of any of its Regulatory Functions.		<u>Exchange Operator Recognised Body's</u> reasons for taking that disciplinary action.
48	A <u>Crypto Asset Exchange Operator Recognised Body</u> decides to: (a) restrict the open position on any of the contracts of a <u>Member user</u> ; or (b) issue instructions to a <u>Member user</u> to close out its positions on any contracts.	As soon as practicable.	(a) Notice of that event; (b) the <u>Member's user's</u> name; (c) the nature and size of any position to be restricted or closed out; and (d) the reasons for the <u>Crypto Asset Exchange Operator's Recognised Body's</u> decision.
49	A <u>Crypto Asset Exchange Operator Recognised Body</u> decides to put a <u>Member user</u> into default.	As close to when such a decision is taken by a <u>Crypto Asset Exchange Operator Recognised Body</u> as practicable.	(a) Notice of that event; (b) the name of the <u>Member user</u> and (where relevant) the <u>class of membership</u> ; (c) the reasons for that decision; and (d) the names of any other exchange, Clearing house or trading platform on which, to the best of <u>Crypto Asset Exchange Operator that Recognised Body's</u> knowledge, that <u>Member a user</u> clears business or transacts, for, or in respect of, its <u>Clients</u> .
COBS 8.3.1(a)	An MTF Operator or OTF Operator <u>Crypto Asset Exchange Operator</u> must disclose to its <u>Members users</u> and the public as appropriate, on a continuous basis during normal trading, the following information relating to trading of Investments on its MTF or OTF <u>Crypto Asset Exchange</u> :		



	(i) the current bid and offer prices and volume; (ii) the depth of trading interest shown at the prices and volumes advertised through its systems for the Investments; and (iii) any other information relating to Investments which would promote transparency relating to trading.
COBS 8.3.1(c) (v)	whether there is adequate disclosure of details relating to dark orders available to members <u>users</u> and other participants on the Facility to enable them to understand the manner in which their orders will be handled and executed on the Facility.

RULES WAIVED	
Rulebook Module	Rule
MIR	2.6.2
	2.8.4
	2.8.7
	2.8.8
	2.8.10
	2.8.11
	3.7.6
	3.8.3
	3.8.4
	3.10.2
	5.4.1(42)

EFFECTIVE PERIOD

This notice comes into effect on the date of issue of this notice and remains in force until further notice.

CONDITIONS

None.

PUBLICATION

For inclusion in the public log of granted waivers and modifications?

Yes

No



THIS NOTICE IS ISSUED UNDER PART 2 CHAPTER 2 OF THE FINANCIAL SERVICES AND MARKETS REGULATIONS 2015 BY:

NAME:

RICHARD TENG

Position or title:

CHIEF EXECUTIVE OFFICER
FINANCIAL SERVICES REGULATORY AUTHORITY

Date: 13 May 2019