



ABU DHABI GLOBAL MARKET  
سوق أبوظبي العالمي

## **FINANCIAL SERVICES AND MARKETS (AMENDMENT) REGULATIONS 2020**

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

## FINANCIAL SERVICES AND MARKETS (AMENDMENT) REGULATIONS 2020

Regulations to amend the Financial Services and Markets Regulations 2015.

Date of Enactment: **13 January 2020**

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

#### 26. Accepting Deposits

~~(1) No Authorised Person, when carrying on the Regulated Activity of Accepting Deposits or Managing a Profit Sharing Investment Account which is unrestricted, may accept Deposits from the U.A.E. markets.—~~

~~(a) accept Deposits from the U.A.E. markets;~~

~~(b) accept Deposits in the U.A.E. Dirham; or~~

~~(c) undertake foreign exchange transactions involving the U.A.E. Dirham.~~

~~(2) No Authorised Person, possessing a Financial Service Permission enabling the Regulated Activities of Accepting Deposits or Managing a Profit Sharing Investment Account which is unrestricted, may undertake foreign exchange transactions involving the U.A.E. Dirham on behalf of a Client.~~

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#### 38. Assets Requirements

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#### 64. Shari'a-compliant Regulated Activities

(1) Carrying on an activity specified in any of paragraphs 4, 12, 16, 28 (subject to the specific exclusions to those paragraphs made in Rules made by the Regulator), 31, 32, 33, 36, 38, 43, 46, 48, 50, 52, 54, 56, 59, 60, 61, 65, 67, 68, 70, 72, 73B or 73-E (subject to any exclusions to those paragraphs made by this Schedule) in a manner that complies with Shari'a is a specified kind of activity.

...

#### 73E. Operating a Private Financing Platform

(1) Operating a Private Financing Platform is a specified kind of activity.

(2) A person is Operating a Private Financing Platform where the person –

(a) ....

- (d) enters into an arrangement with person A for the purpose of facilitating the activity described in (a), (b), or (c), whether through an intermediary investment vehicle or otherwise;

....

## **Part 11 Collective Investment Funds**

### **Chapter 1 Interpretation**

#### **106. Collective Investment Funds**

(1) ....

(3) The arrangements must also have ~~either~~ or both of the following characteristics—

- (a) the contributions of the Unitholders and the profits or income out of which payments are to be made to them are pooled; and
- (b) the property is managed as a whole by or on behalf of the Fund Manager.

...

#### **225. Jurisdiction and Role of the Regulatory Committee**

(1) Any decision made under these Regulations by the Regulator which may affect the rights or liabilities of a person or otherwise adversely affect the interests of a person, may be referred by that person to the Regulatory Committee for a full merits review.

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#### **234. Prohibition Orders**

(1) The Regulator may make a Prohibition Order if it appears to it that an individual is not a fit and proper person to perform any function ~~Controlled Function~~ in relation to a Regulated Activity carried on by an Authorised Person.

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## **Part 21 Enforcement Procedure**

#### **246. Requirement to give warning notices**

(1) If the Regulator proposes to exercise any of the following powers, it must give a warning notice to any person in relation to whom the power is proposed to be exercised—

- (a) exercising its power under section 30(2) and section 30(4)(a) or (b) on giving ~~granting~~ a Financial Services Permission;
- (b) exercising its power under section 35(13) ~~35(13)~~ in connection with an Application for a Financial Services Permission;

- (c) exercising its power under section ~~35(3)30(4)(a) or (b)~~ in relation to the variation of a Financial Services Permission on the application of an Authorised Person;
- (d) exercising its power under section ~~35(13)~~ in connection with an application for the variation of a Financial Services Permission;
- (e) exercising its power under section 33(2)(b) to cancel a Person's Financial Services Permission otherwise than at the Person's request;
- (f) refusing an ~~application~~ Application for a Financial Services Permission made under Part 4, in accordance with section 30(2);

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**248. Requirement to give decision notice**

If the Regulator decides to exercise any of the powers specified in section 241, it must give a decision notice to every person in relation to whom a warning notice was given under section ~~246~~7.

**249. Decision notices**

- (1) A decision notice, must, to the extent applicable—
  - (a) state the action which the Regulator has decided to take;
  - (b) be in writing;
  - (c) give the reasons of the Regulator for taking the action to which the notice relates;
  - (d) state whether—
    - (i) section 255 applies;
    - (ii) if that section applies, describe its effect and state whether any Secondary Material exists to which the person concerned must be allowed access under it; and
  - (e) inform the person concerned of its right to have the matter referred to the Regulatory Committee which is given by these Regulations;
  - (f) state the amount of any ~~monetary payment~~ financial penalty to be made;

...

**251. Final notices**

- (1) ...
- (4) A final notice must, to the extent applicable—

- (a) state the amount of any ~~monetary payment~~ financial penalty to be made and the date by which it is to be paid;
  - (b) state the period for which any suspension, limitation or restriction is to have effect;
  - (c) state the terms of any statement to be published;
  - (d) when ordering restitution in the form of payment—
    - (i) state the amount that is to be paid or distributed;
    - (ii) identify the person or persons to whom that amount is to be paid or among whom that amount is to be distributed; and
    - (iii) state the arrangements in accordance with which the payment or distribution is to be made.
- (5) If all or any of a required payment has not been made at the end of a period stated in a final notice in accordance with subsection 251(4)(a), the obligation to make the payment is enforceable as a debt by the person entitled to the payment.

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**Part 22 General**

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**258. Definitions**

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

<b>Court</b>	<u>has the meaning given to the term in section 1 of the Interpretation Regulations 2015.</u>
<b>EEA Competent Authority</b>	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.
<b>Recognised Body</b>	means a Recognised Investment Exchange <del>and</del> <u>or</u> a Recognised Clearing House.
<b>Relevant Person</b>	means— <ul style="list-style-type: none"> <li>(a) for the purposes of section 209, and in relation to a person who is required to produce a Document—           <ul style="list-style-type: none"> <li>(i) has been or is or is proposed to be a Director or Controller of that person;</li> <li>(ii) has been or is an auditor of that person;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>(iii) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or</li> <li>(iv) has been or is an employee of that person; <del>and</del></li> </ul> <p>(b) for the purposes of section 237, Authorised Persons and Recognised Bodies as defined in subsection (1)(a) of that section; <u>or</u></p> <p>(c) <del>means,</del> for the purposes of Part 2, Chapter 4 and the Rules made under this Chapter:</p> <ul style="list-style-type: none"> <li>(i) an Authorised Person other than a Credit Rating Agency;</li> <li>(ii) a Recognised Body;</li> <li>(iii) a Designated Non-Financial Business or Profession;</li> <li>(iv) a Non-Profit Organisation; or</li> <li>(v) any other person, as deemed by the Regulator to be a Relevant person for the purposes of Chapter 4 by the Regulator under section 7(6) of these Regulations.</li> </ul>
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**Exclusions**

**39. Sums paid by certain persons**

(1) A sum is not a Deposit for the purposes of paragraph 38 if it is—

(a) paid by any of the following persons—

....

(e) paid by a person by way of investment in a restricted Profit Sharing Investment Account.

...

**Chapter 18**

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**82. Insolvency Practitioners**

- (1) There is excluded from the provisions listed in sub-paragraph (2) any activity carried on by a person Acting as an Insolvency Practitioner.
- (2) The provisions are—
- (a) paragraph 4 (*Dealing in Investments as Principal*);
  - (b) paragraph 12 (*Dealing in Investments as Agent*);
  - (c) paragraph 16 (*Arranging Deals in Investments*);
  - (d) paragraph 54 (*Operating a Multilateral Trading Facility or Organised Trading Facility*);
  - (e) paragraph 56 (*Managing Assets*);
  - (f) paragraph 33 (*Insurance Intermediation*);
  - (g) paragraph 36 (*Insurance Management*);
  - (h) paragraph 43 (*Providing Custody*);
  - (i) paragraph 59 (*Managing a Collective Investment Fund*);
  - (j) paragraph 61~~0~~ (*Acting as the Trustee of an Investment Trust*); and

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**Part 3**

**Specified Investments**

**84. Investments: general**

The following kinds of investment are specified for the purposes of paragraph 2 of this Schedule.

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**2. Short title, extent and commencement**

- (1) These Regulations may be cited as the Financial Services and Markets (Amendment) Regulations 2020.
- (2) These Regulations shall apply in the Abu Dhabi Global Market.
- (3) These Regulations come into force on the date of their publication.