

### **Conduct of Business Rulebook (COBS)**

\*In this attachment underlining indicates new text and striking through indicates deleted text.



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## 17.2 Accepted Virtual Assets

17.2.1 An Authorised Person conducting ~~any Regulated Activity~~ Activities in relation to Virtual Assets ~~must only use~~ shall not conduct such Regulated Activities with a Virtual Asset which is not an Accepted Virtual Assets.

17.2.2 For the purposes of determining whether, ~~in its opinion,~~ a Virtual Asset meets the requirements of being an Accepted Virtual Asset, ~~the Regulator will consider an~~ Authorised Person conducting a Regulated Activity must adequately assess the following criteria –

- a) Maturity / market capitalisation: the sufficiency, depth and breadth of demand, the proportion of the Virtual Asset that is in circulation and the controls/processes to manage volatility of such Virtual Asset;
- b) Security: whether the Virtual Asset is able to withstand, adapt, respond to, and improve on its specific risks and vulnerabilities, including relevant factors and risks relating to its use, including testing, maturity, and ability to allow the appropriate safeguarding of secure private keys;
- c) Traceability / monitoring: whether Authorised Persons are able to demonstrate the origin and destination of the specific Virtual Asset, if the Virtual Asset enables the identification of counterparties to each transaction, and if on-chain transactions in the Virtual Asset can be adequately monitored;
- d) Exchange connectivity: whether there are exchanges that support the Virtual Asset; the jurisdictions of these exchanges and whether such exchanges are suitably regulated;
- e) Type of distributed ledger technology (“DLT”): whether there are issues relating to the security and/or usability of the DLT used for the purposes of the Virtual Asset; whether the Virtual Asset leverages an existing DLT for network and other synergies, and, if not, whether a new DLT has been demonstrably stress tested;
- f) Innovation / efficiency: whether the Virtual Asset demonstrates utility by, for instance, helping to solve a fundamental problem, addressing an unmet market need or creating value for network participants; and
- g) Practical application / functionality: whether the Virtual Asset possesses quantifiable functionality.

17.2.3 Upon completion of the assessment conducted in accordance with Rule 17.2.2, an Authorised Person must submit written notification in such form as the Regulator may prescribe, together with such information as may be required to demonstrate

compliance with the assessment criteria set out in Rule 17.2.2, or as may be further prescribed by the Regulator.

17.2.4 In the absence of written notification from the Regulator, either requesting additional information or objecting to the classification of such Virtual Asset as an Accepted Virtual Asset within twenty days, an Authorised Person may consider a Virtual Asset for which it has submitted the notification required under Rule 17.2.3 as an Accepted Virtual Asset.

17.2.5 An Authorised Person conducting a Regulated Activity in relation to an Accepted Virtual Asset must continuously monitor such Accepted Virtual Asset to ensure its continuing satisfaction of the criteria specified in Rule 17.2.2.

### **Guidance**

1. When conducting an assessment of a Virtual Asset in accordance with Rule 17.2.2, an Authorised Person should consult the Regulator’s published guidance concerning the relevant weight and applicability of the criteria specified in Rule 17.2.2 to be taken into account in determining whether the requirements may reasonably be considered satisfied.

2. Where the Regulator is of the view that:

(a) a maturity/market capitalisation threshold in respect of an Authorised Person has not adequately assessed a Virtual Asset; and in accordance with this chapter;

(b) other factors that, in the opinion of the Regulator, are to be taken into account in determining whether or not a Virtual Asset meets the requirements to be considered appropriate for the purpose of an Authorised Person conducting a Regulated Activity in relation to Virtual Assets.

(b) a Virtual Asset no longer satisfies the assessment criteria set out in this chapter;  
or

(c) an Authorised Person does not possess the necessary technology governance or controls to conduct a Regulated Activity in conjunction with a specific Virtual Asset.

the Regulator may issue a Direction to an Authorised Person in accordance with section 5A(2)(c) of FSMR requiring the Authorised Person to take such action as the Regulator may specify.

17.2.3 For the purposes of Rule 17.2.1, the maturity/market capitalisation requirements are set out in the accompanying Guidance published by the Regulator concerning Virtual Assets that accompanies this chapter.

## **17.3 Capital Requirements**

17.3.1 The capital requirements set out in MIR Rule 3.2 (Capital Requirements) must apply to an Authorised Person conducting at the Regulated Activity of Operating a Multilateral Trading Facility in relation to Virtual Assets.

17.3.2 For the purposes of ~~this paragraph 17.3~~ Rule 17.3.1, all references in MIR Rule 3.2 to “Recognised Investment Exchange” shall be read as references to “Authorised Person”.

#### Guidance

Authorised Persons conducting a Regulated Activity other than Operating a Multilateral Trading Facility in relation to Virtual Assets are required to satisfy the requirements relevant to such Regulated Activity as set out in PRU.

### **17.4 International Tax Reporting Obligations**

17.4.1 An Authorised Person conducting a Regulated Activity in relation to Virtual Assets, where applicable, ~~should consider any~~ must comply with all reporting obligations in relation to; ~~among other things –~~

- (a) FATCA, as set out in the Guidance Notes on the requirements of the Intergovernmental Agreement between the United Arab Emirates and the United States, issued by the UAE Ministry of Finance in 2015 and as amended from time to time; and
- (b) Common Reporting Standards, set out in the *ADGM Common Reporting Standard Regulations 2017*.

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