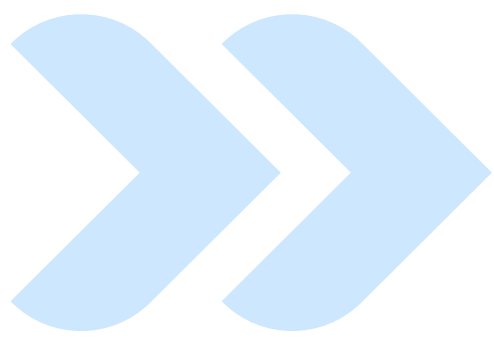


Conduct of Business Rulebook (COBS)

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



...

2.4 Professional Clients

2.4.1 There are two routes through which a Person may be classified as a Professional Client:

- (a) "deemed" Professional Clients; and
- (b) "assessed" Professional Clients.

Guidance

1. A Professional ~~client~~ Client, whether a "deemed" Professional Client or an "assessed" Professional Client is a Client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs.

...

2.4.2 "Deemed" Professional Clients

- (a) A Person is a "deemed" Professional Client if that Person is:
 - (i) a Person which, as at the date of its most recent financial statements, met at least two of the following requirements:
 - ...
 - (xii) a Subsidiary or a Parent of any of the Persons described in Rules 2.4.2(a)(i)(~~xii~~)(xi).

...

2.4.4 "Assessed" Professional Clients

Individuals

- (a) For the purposes of this Rule 2.4.4, "family members" shall be determined in accordance with Article 3 of the Companies Regulations.
- (b) An individual may be treated as an "assessed" Professional Client (instead of a Retail Client); if:
 - (i) the individual has net assets (~~including any assets held directly or indirectly by that person~~) of at least US\$1,000,000 (including any assets held directly or indirectly by that person), the calculation of which must exclude:

...

- (e) An individual acting as a primary account holder who has been classified as a Professional Client may operate a joint account with more than one family member. Provided that each such family member meets the requirements set out in Rule 2.4.4(d) they may all be classified as Professional Clients.

Undertakings

- (f) An Authorised Person may classify an Undertaking as an "assessed" Professional Client if the Undertaking, or (as assessed by the Authorised Person) its controller (provided that if such controller is a natural person, it meets the Professional Client criteria in Rule 2.4.4(b)), Holding Company, Subsidiary or joint venture partner:
- (i) has own funds or called up capital of at least US\$1,000,000;
 - (ii) appears, on reasonable grounds, to have sufficient experience and understanding of relevant financial markets, products or transactions and any associated risks, following the analysis set out in Rule 2.6.2; and
 - (iii) has not opted to be classified as a Retail Client.

Guidance

1. A legal structure or vehicle established for investment purposes for an individual who are themselves a Professional Client may not opt to be treated as a Retail Client, as that right belongs to the Professional Client for whose purposes the legal structure or vehicle is set up.
2. A joint account holder for whom investment decisions are being made by a primary account holder who is a Professional Client does not per se have a right to opt to be classified as a Retail Client with regard to the operation of the joint account, but may withdraw confirmation given to have decisions on behalf of him made by the Professional Client who is the primary account holder of the joint account. In such event, the Authorised Person must ensure that the withdrawing individual is no longer classified as a Professional Client, and that the operating of the joint account will not reflect treatment as a Professional Client until such time as the assets of the withdrawing joint account holder are withdrawn from the joint account.

Undertakings

~~An Authorised Person may classify an Undertaking as an "assessed" Professional Client if the Undertaking, or (as assessed by the Authorised Person) its Controller (provided that if such controller is a natural person, it meets the Professional Client criteria in Rule 2.4.4(b)), Holding Company, Subsidiary or joint venture partner:~~

- ~~(i) has own funds or called up capital of at least US\$1,000,000~~

- (ii) ~~appears, on reasonable grounds, to have sufficient experience and understanding of relevant financial markets, products or transactions and any associated risks, following the analysis set out in Rule 2.6.2; and~~
- (iii) ~~has not opted to be classified as a Retail Client.~~

Guidance

3. ~~1.~~ In the calculation of net assets in Rule ~~2.4.4(b)(i)~~ ~~2.6.4(i)~~, the reference to "assets held directly or indirectly" is designed to include assets held by direct legal ownership, by beneficial ownership (e.g. as a beneficiary in a trust), or by both legal and beneficial ownership. Such assets may be held, for instance, through a special purpose or personal investment vehicle, a foundation, or similar. Similarly, any real property held subject to an Islamic mortgage, where the lender has the legal title to the property, may be counted as indirectly held property of a Client, less the amount owing on the mortgage, where it is not a primary residence. As the test is to determine the net assets (not gross assets) of an individual, any mortgages or other charges held over the property to secure any indebtedness of the individual should be deducted from the value of the assets. If an individual who is an expatriate has a primary residence in his home country, such a residence should not generally be counted for the purposes of meeting the net asset test. However, if the current residence in the host country is owned by the individual, then that may be treated as their primary residence and the value of the residence in the home country of the individual may be counted for the purposes of meeting the net asset test, provided there is sufficient evidence of ownership and an objective valuation of the relevant premises. An Authorised Person should be able to demonstrate that it has objective evidence of the ownership and valuation of any assets taken into account for the purposes of meeting the net asset test.
4. ~~2.~~ Joint ventures may be in the form of contractual arrangements under which parties contribute their assets and expertise to develop or to undertake specified business activities. Where an Undertaking is set up by participants in such a joint venture for the purposes of their joint venture, the Undertaking itself can be treated as a Professional Client provided a joint venture partner meets the Professional Client criteria. To be able to rely on a joint venture partner's Professional Client status, such a partner should generally be a key decision maker with respect to the business activities of the joint venture, and not just a silent partner.
5. ~~3.~~ An Undertaking which meets the criteria to be a "deemed" Professional Client in accordance with the criteria in Rule 2.4.2 does not need to meet the criteria in this Rule to qualify as a Professional Client.
6. ~~4.~~ An Undertaking which does not otherwise qualify as a Professional Client may be deemed to be a Professional Client only for the purposes of the Regulated Activities of Providing Credit, Advising on Investments or Credit, Arranging Credit or Arranging Deals in Investments for the purpose of Corporate Structuring and Finance, in accordance with Rule 4.3.3.

2.5 Market Counterparties

...

Guidance

In the case of a Market Counterparty which is a fund, trust or is otherwise managed or held by a Person which qualifies as a “deemed” Professional Client, notification under Rule 2.5(b)(i) must be given to the Person which manages or holds the assets of the Market Counterparty.

...

2.6.1 Option for a Professional Client to be classified as a Retail Client

- (a) A Professional Client has the right to elect to be classified as a Retail Client. An Authorised Person must, when first establishing a relationship with such a Person as a Professional Client, inform that Person of:
 - (i) that ~~Person's~~Person's right to be classified as a Retail Client;

...

2.6.2 Assessment of knowledge and experience

- (a) For the purpose of the analysis required to classify a Person as an “assessed” Professional Client, an Authorised Person must include, where applicable, consideration of the following matters:
 - (i) the ~~Person's~~Person's knowledge and understanding of the relevant financial markets, types of financial products or arrangements and the risks involved either generally or in relation to a proposed Transaction;
 - (ii) the length of time the Person has participated in relevant financial markets, the frequency of dealings and the extent to which the Person has relied on professional financial advice;
 - (iii) the size and nature of transactions that have been undertaken by, or on behalf of, the Person in relevant financial markets;
 - (iv) the ~~Person's~~Person's relevant qualifications relating to financial markets;
 - (v) the composition and size of the ~~Person's~~Person's existing financial investment portfolio;
 - (vi) in the case of credit or insurance transactions, relevant experience in relation to similar transactions to be able to understand the risks associated with such transactions; and

- (vii) any other matters which the Authorised Person considers relevant.

...

2.6.4 Group clients

An Authorised Person that is a member of a Group and carries out one or more Regulated Activities where the Regulated Activities carried out by the Authorised Person form part of a bundle of Regulated Activities carried out for the benefit of that Client by Group members of the Authorised Person must ensure that:

- (i) the client classification it adopts for any Regulated Activity carried on which involves the provision of a service to a Client is both consistent with the requirements in these Rules and appropriate for the overall bundle of Regulated Activities which involve the provision of services to a Client;
- (ii) the Client has a clear understanding of the arrangement under which Regulated Activities are carried out for the ~~Client's~~ Client's benefit by the Authorised Person in conjunction with the other members of the Group; and
- (iii) any risks arising from such arrangements are identified and appropriately and effectively addressed.

Guidance

1. Different entities in a Group may have different arrangements under which they provide to their Clients one or more Regulated Activities. Such arrangements may involve, instead of each member within a Group carrying on a discrete stand-alone Regulated Activity, different members of the Group carrying on different aspects of the bundle of Regulated Activities carried on for the ~~Client's~~ Client's benefit. An example is where a number of members within a Group provide discrete aspects of expertise that facilitate merger and acquisition activity of a Client. In such a situation, different members of the Group could prepare and provide:
 - (i) Advice relating to a proposed restructure;
 - (ii) Advice relating to financing of the restructure; and
 - (iii) Arranging Credit for financing the restructure.
2. In order to provide flexibility for Authorised Persons which are members of a Group to provide such services to their Clients in a manner that suits the ~~Client's~~ Client's needs and the nature of the service, this Rule 2.6.4 sets out the overarching objectives that must be achieved, rather than any detailed requirements.

...

2.7.1 In addition to any applicable rules under GEN relating to record keeping, and the remainder of these Rules, an Authorised Person must keep records of:

- (a) the procedures which it has followed under these Rules, including any documents which evidence the ~~Client's~~ Client's classification; and
- (b) any notice sent to the Client pursuant to these Rules and evidence of despatch.

...

Marketing Material

- 3.2.4 (a) An Authorised Person must ensure that any Marketing Material communicated to a Person contains the following information:
- (i) the name of the Authorised Person communicating the Marketing Material or, on whose behalf the Marketing Material is being communicated;
 - (ii) the Authorised ~~Person's~~ Person's regulatory status; and
 - (iii) if the Marketing Material is intended only for Professional Clients ~~or Market Counterparties~~, a clear statement to that effect and that no other Person should act upon it.

Guidance

~~Marketing Material includes any invitation or inducement to Engage in Investment Activity.~~

- (b) An Authorised Person which communicates Marketing Material must:
- (i) ensure that the Marketing Material complies with the applicable Rules and any legislation administered by the Regulator;
 - (ii) not distribute such Marketing Material if it becomes aware that the Person offering to carry on the Regulated Activity or offering the Specified Investment to which the Material relates is in breach of the regulatory requirements that apply to that Person in relation to that Specified Investment or Regulated Activity; and
 - (iii) ensure that Marketing Material which is intended for Retail Clients is identified as Marketing Material and is identified as not being intended as investment advice.

Guidance

Marketing Material includes any invitation or inducement to Engage in Investment Activity.

3.2.5 An Authorised Person must:

- (a) ensure that any Marketing Material intended for Professional Clients ~~or Market Counterparties~~ is not sent or directed to any Persons who are not Professional Clients ~~or Market Counterparties~~; and
- (b) take reasonable steps to ensure that no Person communicates or otherwise uses the Marketing Material on behalf of the Authorised Person in a manner that amounts to a breach of the requirements in this section.

...

3.8.12 An asset is an Eligible Climate Transition Portfolio Asset if it is:

- (a) ~~aligned~~ aligned with an Acceptable Climate Transition Taxonomy, provided that only one Acceptable Climate Transition Taxonomy is used by an ADGM Climate Transition Portfolio;

...

4.2 Accepting Deposits

4.2.1 (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.~~ UAE markets.

- (2) No Authorised Person, when carrying out 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.~~ UAE Dirham on behalf of a Client.

...

4.3.3 (a) An Undertaking is deemed to be a Professional Client for the purposes of the Regulated Activities of Providing Credit, Advising on Investments or Credit, Arranging Credit or Arranging Deals in Investments if such services are being provided to:

- (i) ~~the~~ the Undertaking;
- (ii) the Controller of the Undertaking, which is also an Undertaking;
- (iii) any member of a Group to which the Undertaking belongs; or

(iv) a joint venture involving the Persons described in 4.3.3(a)(i)-(iii),

(iv) for the purpose of Corporate Structuring and Financing.

...

6.4 Investment Research and Offers of Securities

6.4.1 Application

This section applies to an Authorised Person preparing or publishing Investment Research.

6.4.2 Procedures and Controls for Investment Research

(a)

(ba) An Authorised Person that prepares and publishes Investment Research must have adequate procedures and controls to ensure:

- (i) the effective supervision and management of Investment Analysts;
- (ii) that the actual or potential conflicts of interest are proactively managed in accordance with Rule 3.5;
- (iii) that the Investment Research issued to Clients is impartial; and
- (iv) that the Investment Research contains the disclosures described under Rules ~~6.4.2~~ 6.4.3 and ~~6.4.4~~ 6.4.5.

(cb) An Authorised Person's procedures, controls and internal arrangements, which may include Information Barriers, should limit the extent of Investment Analysts' participation in Corporate Finance Business and sales and trading activities, and ensure remuneration structures do not affect their independence.

Guidance

Investment Research is seen as a significant potential source of conflicts of interest within an Authorised Person and therefore an Authorised Person preparing or publishing investment research ~~is expected to~~ must have adequate procedures, systems and controls to manage effectively and conflicts that arise.

~~6.4.3~~ 6.4.2 Disclosures in Investment Research

- (a) When an Authorised Person publishes Investment Research, it must take reasonable steps to ensure that the Investment Research:
 - (i) clearly identifies the types of Clients for whom it is principally intended;

...

- (vii) if intended for use only by a Professional Client or a Market Counterparty, contains a clear warning that it should not be relied upon by or distributed to Retail Clients.

...

Guidance

The requirements in this Rule ~~6.4.2~~ 6.4.3 apply to an Authorised Person in addition to other requirements under FSMR and any rules made thereunder. For example, an Authorised Person is required to take reasonable steps to identify actual or potential conflicts of interest and then prevent or manage them under GEN 3.3.21-3.3.24. An Authorised Person must also have adequate procedures and controls when it prepares or publishes Investment Research, in accordance with GEN 3.3 and COBS 3.5.

~~6.4.4~~ 6.4.3 Restrictions on Publication

If an Authorised Person acts as a manager or co-manager of an initial public offering or a secondary offering, it must take reasonable steps to ensure that:

...

~~6.4.5~~ 6.4.4 Restriction on Own Account Transactions

- (a) An Authorised Person or its Associate must not knowingly execute a Transaction for its own account in an Investment or related Investments, which is the subject of Investment Research, prepared either by the Authorised Person or its Associate, until the Clients for whom the Investment Research was principally intended have had a reasonable opportunity to act upon it.
- (b) The restriction in Rule ~~6.4.4(a)~~ 6.4.5(a) does not apply if:
 - (i) the Authorised Person or its Associate is a Market Maker in the relevant Investment;
 - (ii) the Authorised Person or its Associate undertakes an Execution-Only Transaction for a Client; or
 - (iii) it is not expected to materially affect the price of the Investment.

Guidance

The exceptions in Rule ~~6.4.4(b)~~ 6.4.5(b) allow an Authorised Person to continue to provide key services to the market and to its Clients even if the Authorised Person would be considered to have knowledge of the timing and content of the Investment Research which is intended for publication to Clients, for example when it is impractical for an

Authorised Person to put in place an information barrier because the Authorised Person has few Employees or cannot otherwise separate its functions.

6.4.6 ~~6.4.5~~ Offers of Securities

When an Authorised Person carries out a mandate to manage an Offer of Securities, it must implement adequate internal arrangements, in accordance with Rule 3.5, to manage any conflicts of interest that may arise as a result of the Authorised Person's duty to two distinct sets of Clients namely the corporate finance Client and the investment Client. An Authorised Person's primary duty in relation to the pricing of any Offer of or for Securities in the context of Corporate Finance Business is to its corporate finance Client.

6.4.7 ~~6.4.6~~ Disclosure

- (a) When an Authorised Person accepts a mandate to manage an Offer, it must take reasonable steps to disclose to its corporate finance Client:

...

7.2.3 [Deleted]:-

...

7.11.6 Insurance Money Segregation

An Insurance Intermediary or Insurance Manager when dealing with Insurance Monies must:

- (a) maintain one or more separate Insurance Bank Accounts with an Eligible Bank in the ~~U.A.E.~~ UAE;

...

11.1.1 Receipt of Client Order or Discretionary Decision to Transact

An Authorised Person must, pursuant to Rule 6.8.2(a), make a record of the following in respect of each Client order:

- (a) the identity and account number of the Client;
- (b) the date and time ~~where~~ when the instructions were received or the decision was taken by the Authorised Person to deal;

...

14. CLIENT MONEY AND RELEVANT MONEY ~~PROVISIONS~~ RULES

...

14.9.1 Before, or as soon as reasonably practicable after, an Authorised Person receives Client Money, it must disclose to that Client in writing:

- (a) the basis and any terms governing the way in which the Client Money will be held, including whether it is to be pooled or held in a separate Client Account;

...

- (f) if applicable, that market practices, insolvency and the legal regime applicable in the jurisdiction identified in ~~(d)~~ may differ from the regime applicable in the Abu Dhabi Global Market;

...

15.1.1 Subject to Rule 15.1.2, this chapter applies to Authorised ~~Person~~Persons holding or controlling Client Investments, including Authorised Persons which are engaged in the Regulated Activity of Providing Custody.

...

15.4.1 An Authorised Person which holds Client Investments must register or record all Safe Custody Assets in an account that is a ~~client~~Client Account.

15.4.2 For the purposes of the Safe Custody Rules, a Client Account in relation to Client Investments is an account ~~established with an Authorised Person which is authorised under its Financial Services Permission to Provide Custody or a Third-Party Agent outside ADGM to hold Client Investments which:~~

- (a) ~~an account is~~ established with an Authorised Person which is authorised under its Financial Services Permission to Provide Custody or a Third-Party Agent outside ADGM ~~to hold Client Investments;~~
- (b) is maintained in the name of:
 - (i) if an Authorised Person is a Domestic Firm, the Authorised Person or a Nominee Company;
 - (ii) if an Authorised Person is a Branch, a Nominee Company controlled by the Authorised Person; or
 - (iii) in the name of the Client, unless the Client is an Authorised Person, in which case Safe Custody Assets held in the Client Account must be registered in the name of the Client of that Authorised Person; and
- (c) includes the words “Client Account” in its title.

...

17.4.1 An Authorised Person conducting a Regulated Activity in relation to Virtual Assets, where applicable, should consider any 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~~ ADGM Foreign Account Tax Compliance Regulations 2022; and
- (b) Common Reporting Standards, set out in the *ADGM Common Reporting Standard Regulations 2017*.

17.5 Technology Governance and Controls

An Authorised Person conducting a Regulated Activity in relation to Virtual Assets must, as a minimum, have in place systems and controls with respect to the following:

Virtual Asset Wallets

- (a) Procedures describing the creation, management and controls of Virtual Asset wallets, including:

...

Origin and destination of Virtual Asset funds

- (c) Systems and controls to mitigate the risk of misuse of Virtual Assets, setting out how—:

...

17.7.5 For the purposes of Rule 17.7.4, all references in MIR to—:

...

17.8.3...For the purposes of an Authorised Person that is Providing Custody in relation to Virtual Assets, the following requirements in COBS, Chapter 15 shall be read as follows —:

...

19.7 Safeguarding requirements

19.7.1 (1) ~~Subject to (2), a~~ A Payment Service Provider is prohibited from accepting physical cash in the form of banknotes and coins from any Payment Service User, whether directly or indirectly via another Person.

- (2) The prohibition in (1) does not apply to a Payment Service Provider receiving physical cash from any Payment Service User indirectly via a Financial Institution

that is regulated and supervised for anti-money laundering compliance by the Regulator or a Non-ADGM Financial Services Regulator or other competent authority under rules and regulations equivalent to those applying in ADGM.

(3) A Payment Service Provider is prohibited from ~~and~~ distributing physical cash in the form of banknotes and coins to any Payment Service User other than via a Financial Institution that is regulated and supervised for anti-money laundering compliance by the Regulator or a Non-ADGM Financial Services Regulator or other competent authority under rules and regulations equivalent to those applying in the ADGM.

(4) A Payment Service Provider ~~and~~ must safeguard Relevant Money placed in one or more Payment Accounts, as necessary.

...

Incident reporting

19.23.2 (1) If a Payment Service Provider becomes aware of a major operational or security incident, the Payment Service Provider must, without undue delay, notify the Regulator.

...

Guidance

1. Upon receipt of the notification referred to in 19.23.2(1), the Regulator may notify any other relevant authorities in the ~~U.A.E.UAE~~.
2. If the Regulator receives notification of an incident from any relevant regulator in the ~~U.A.E.UAE~~ or internationally, it may direct the Payment Service Provider to take appropriate measures to protect the immediate safety of their Payment Service Users and the financial system.

...

20.5.2 The records maintained by a Third Party Provider must include:

- (a) what Specified Information has been requested by the Customer;

...

Guidance

1. As entities registered in ~~the~~ ADGM, Third Party Providers are subject to the Data Protection Regulations ~~2021~~. The Data Protection Regulations ~~2021~~ set out obligations for Third Party Providers to follow with regard to Customers' personal data, regardless of where the Customer is domiciled.

2. Where a Third Party Provider deals with Customers based outside the ADGM, the Regulator expects that the Third Party Provider will be in compliance with the relevant data protection regulations that apply to those Customers' personal data.

...

Incident reporting

- 20.14.2 (1) A Third Party Provider must notify the Regulator without undue delay if it becomes aware of a major operational or security incident.

...

Guidance

1. Upon receipt of the notification referred to in 20.14.2(1), the Regulator may notify any other relevant authorities in the U.A.E.UAE.
2. If the Regulator receives notification of an incident from any relevant regulator in the U.A.E.UAE or internationally, it may direct the Third Party Provider to take appropriate measures to protect the immediate safety of their Customers and the financial system.

Safety and Integrity of Interfacing Systems

- 20.14.3 (1) A Third Party Provider must take such steps as directed by the Regulator to demonstrate the safety and integrity of their Interfacing Systems.

...

Guidance

...

3. In considering whether a person meets the criteria of the qualified independent third party referred to in Rule 20.14.3(5), the Regulator will have regard to, inter alia, the experience and expertise of the person in conducting such assessments whether in the U.A.E.UAE or internationally.

...

21.3.5 Benchmark Administrator rules and practice standards

The Benchmark Administrator must:

- (a) in relation to the Specified Benchmark it administers, develop rules and practice standards which set out the responsibilities, including those applicable under the Rules for:

- (i) Specified Benchmark Information Providers;
- (ii) other Persons providing information in relation to a Specified Benchmark from outside the ADGM; and
- (iii) the Benchmark Administrator;

...

22.2.3 For the purposes of this chapter, an Environmental Instrument ~~deemed by the Regulator a carbon offset for the purposes of Section 258~~ under paragraph 99B(b) of Part 3 of Schedule 1 of FSMR, may be deemed by the Regulator to be an Accepted Spot Commodity.

...

22.4.1 An Authorised Person, and its participants, must only use delivery and/or storage facilities for Accepted Spot Commodities from:

- (a) within the ADGM, or
- (b) other appropriate jurisdictions that can meet the requirements of Rule 22.4.2.

...

22.6.1 An Authorised Person conducting a Regulated Activity in relation to Accepted Spot Commodities, where applicable, should consider any 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~~ ADGM Foreign Account Tax Compliance Regulations 2022; and
- (b) Common Reporting Standards, set out in the ADGM Common Reporting Standard Regulations 2017.

...