



ASTANA INTERNATIONAL EXCHANGE

MARKET CONSULTATION PAPER NO. 1 /2019

AIX LISTED FUNDS RULES

1. This consultation paper is issued by the Astana International Exchange in order to invite AIFC participants and other entities duly authorised by the National Bank of Kazakhstan to render financial services or by another authorised financial regulator to comment on the draft of the AIX Listed Funds Rules.

2. Listed Funds Rules are developed to allow listing of structured products at AIX.

3. All comments should be in writing and sent by the authorised persons to info@aix.kz.

4. In sending your comments by email, please use "AIX Consultation Paper No 1/2019" in the subject line, and put your name, job title, contacts and organization you represent. The AIX reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise at the time of making comments.

5. The deadline for providing comments on the draft of Listed Funds Rules is 21 February 2019.

6. Once we receive your comments, we shall consider if any revisions are required to the published draft of Listed Funds Rules.

DRAFT FOR MARKET CONSULTATION

AIX Listed Funds Rules

LFR AIX Listed Funds Rules

LFR 1 Scope and Application

- LFR 1.1 (R) These **Rules** are made pursuant to **sections 3.2, 3.3 and 3.6 of the AIFC AMI Rules**.
- LFR 1.2 (R) These **Rules** apply in respect of **Units**, to **Listed Funds** and their **Managers**, and to **Applicants** and **Applications** for **Admission to Trading of Units**.
- LFR 1.3 (R) The following other chapters of the **AIX Rulebook** also apply in respect of **Units** and (as applicable) to **Listed Funds** and their **Managers**, as if the term “**Securities**” included **Units** and with all other necessary modifications:
- (a) **AIX General Business Rules**;
 - (b) **AIX Code of Conduct and Governance Rules**;
 - (c) **AIX Membership Rule MR 3.1**, which requires **Members** to keep certain records of **Transactions**;
 - (d) **AIX Market Disclosure Rules** (notwithstanding **Rules MDR 1.2** and **MDR 3.1**), except **Rules MDR 2.3.2(f)**, **MDR 3.2(1)(a)(ii)** and **MDR 4**, and further on the basis that:
 - (i) **Rule MDR 3.2(1)(b)**, which relates to the definition of “**Connected Person**”, is deleted and replaced with the following:

owns, whether legally or beneficially, or controls, whether directly or indirectly, more than 5% of the Units of the Fund;
 - (ii) the references to “**Investments in or relating to the Reporting Entity**” in **Rule MDR 3.3.2(b)** and to “**voting Securities of either the Reporting Entity or a controller of the Reporting Entity**” are read as references to **Units** in the **Listed Fund**;
 - (iii) the **Appendix MDA** is deleted and replaced with the following:

The Manager of a Listed Fund must make market disclosure of:

 - (a) *the net tangible assets per Unit of the Fund as determined in accordance with IFRS, no less frequently than once per week (or as otherwise determined by AIX), unless AIX determines that this is not necessary for the particular type of Fund; and*
 - (b) *audited annual financial statements in respect of the Fund, within four months after each balance date of the Fund.*
 - (iv) the guidance note issued by **AIX** from time to time in accordance with this **Rule** further outlines the application of the **AIX Market Disclosure Rules** to **Listed Funds** and their **Managers**;

- (e) *AIX Trading Rules*, as if the reference to “an *Equity* trade” in *Rule TRD 16.5* included a trade of *Units*;
 - (f) *AIX Clearing and Settlement Rules*;
 - (g) *AIX Default Rules*; and
 - (h) *AIX Monitoring and Enforcement Rules*, including *AIX Market Supervision Rules* and *AIX Disciplinary Rules*.
- LFR 1.4 (R) Except as specified in these *AIX Listed Funds Rules*, the following other chapters of the *AIX Rulebook* do not apply in respect of *Units*, *Listed Funds* or their *Managers*, or to *Applicants* or *Applications* for *Admission to Trading* of *Units*:
- (a) *AIX Prospectus Rules*;
 - (b) *AIX Markets Listing Rules*;
 - (c) *AIX Audit Committee Rules*;
 - (d) *AIX Admission and Disclosure Standards*; and
 - (e) *AIX Green Bonds Rules*.
- LFR 1.5 (R) *AIX* may, by *Notice*, create different categories of *Listed Funds* and may (without limiting *AIX*'s discretion):
- (a) exempt specified categories of *Listed Funds* from compliance with some or all of these *Rules*;
 - (b) modify the application of these *Rules* to specified categories of *Listed Funds*; and
 - (c) impose additional requirements (including naming requirements) for specified categories of *Listed Funds*.
- LFR 1.6 (R) *AIX* may waive or modify one or more requirements of this chapter for *Listed Funds* where appropriate, provided such waiver or modification would not unduly prejudice holders of *Units* in the *Listed Fund*.

LFR 2 Requirements for Admission of Units

- LFR 2.1 (R) The *Manager* of a *Fund* may apply to *AIX* for *Admission* of a *Class* of *Units* of that *Fund* in accordance with *Rule LFR 2.4* below. At the same time as it submits its *Application*, the *Manager* must:
- (a) provide to *AIX* an enforceable undertaking in writing that it will (i) submit unconditionally to the jurisdiction of *AIX* and comply with relevant *AIX Rules* and *AIFC Law* and (ii) submit unconditionally to the jurisdiction of the *AIFC Court* with regard to any dispute or proceeding arising out of the admission of the *Units* to the *Official List*;
 - (b) provide to the *AFSA* an enforceable undertaking in writing to submit unconditionally to the jurisdiction of the *AFSA* in relation to any matters which arise out of or which relate to its use of the facilities of *AIX* including but not limited to the requirements in the *AIFC MAR Rules*;

- (c) appoint an agent for the service of process in the *AIFC*, and require such agent to evidence in writing its acceptance of its appointment as agent for service of process; and
- (d) demonstrate to *AIX*'s satisfaction that:
 - (i) it is duly incorporated or otherwise validly established according to the relevant laws of its place of incorporation or establishment and is operating in conformity with its *Constitution* and those laws, and the *Fund* is duly established under either the *Law* or some other governing law that, in *AIX*'s opinion, provides sufficient protections to holders of *Units* (in each case such that the *Constitution* is legally binding and enforceable by holders of *Units*);
 - (ii) it has the financial capability to carry on the role of *Manager* of the *Fund* as it is proposed to be carried on;
 - (iii) the *Fund* is registered as a [Non-Exempt] Fund under the *AIFC Collective Investment Scheme Rules* and the *Manager* is either authorized as a Fund Manager by the *AFSA* or, if the *Manager* is not located in the *AIFC*, by a *Financial Services Regulator* that is acceptable to the *AFSA*;
 - (iv) the *Fund* and *Manager*, and the business of the *Manager*, are suitable for the *Units* to be *Admitted to Trading*;
 - (v) the *Directors* and senior management individuals of the *Manager* collectively have appropriate experience and expertise in the business of managing *Funds* or similar investment structures;
 - (vi) the *Manager* has adequate systems and controls to eliminate or manage material conflicts of interest in its business and to ensure good corporate governance;
 - (vii) the requirements for the *Fund's Constitution* specified in *Rule LFR 2.2* below are satisfied;
 - (viii) the *Units* are duly authorized according to the *Constitution* and the *Law*, have any necessary statutory or other consents, and are freely transferable (provided that the *Constitution* may restrict transfers of *Units* which would result in a *Person* holding fewer *Units* than the minimum holding size approved by *AIX* from time to time); and
 - (ix) the *Offering Materials* for the *Fund* have been registered with *AFSA* and comply with the *Law*.

LFR 2.2 (R) The *Constitution* of a *Listed Fund* must:

- (a) be subject to the *AIX Rules* and require the *Manager* to comply with them;
- (b) prohibit the *Manager* and its *Associates* from exercising voting rights attached to *Units* held by them on matters in respect of which they have a material financial interest (other than an interest arising only as a holder of *Units*); and
- (c) specify in sufficiently clear and precise terms:
 - (i) the manner in which meetings of *Unit* holders may be convened (provided that it need not require meetings to be held in the *AIFC*);

- (ii) the process and other requirements applicable to issue and redemption of **Units** (if permitted), and any restrictions on such issue or redemption;
- (iii) the retirement, removal and replacement of the **Manager** and (if relevant) trustee or **Custodian** of the **Fund**; and
- (iv) the circumstances and manner in which the **Fund** may be wound up;
- (d) require the **Manager** to give advance written notice to **Unit** holders and any trustee or **Custodian** of the **Fund** before amending such statement of investment objectives and policy;
- (e) provide that the **Constitution** may only be amended with prior approval from the trustee (or **Person** having an equivalent role) of the **Fund** and (if the change is materially disadvantageous to them) **Unit** holders;
- (f) require all notices of meetings of **Unit** holders to state:
 - (i) the nature of the business to be transacted at the meeting in sufficient detail to enable a **Unit** holder to form a reasoned judgement in relation to it; and
 - (ii) the text of any proposed resolution of **Unit** holders.

For the avoidance of doubt, **AIX** is not required to approve notices of meetings of **Unit** holders.

LFR 2.3 (R) **Units** will not be **Admitted** to the **Official List** unless:

- (a) **AIX** determines that the **Constitution** and **Offering Materials** are satisfactory to **AIX** and issues to the **Applicant** a notice stating its approval of the **Constitution** and **Offering Materials**. After the **Offering Materials** have been approved by **AIX**, they must be made available to the public as soon as is reasonably practicable, and in any case at a reasonable time in advance of (and at the latest at the beginning of) trading on the **AIX Market**;
- (b) **AIX** is satisfied that:
 - (i) the expected aggregate market value of the **Units** at the time of **Admission to Trading** is not less than \$1,000,000, or such other amount as **AIX** may approve or require;
 - (ii) on **Admission to Trading**, a sufficient number of **Units** will have been distributed to the public (which requirement will be deemed satisfied if 25% or more of the **Units** will be directly or indirectly legally or beneficially held by 500 or more **Unit** holders), provided that **AIX** may exempt a **Fund** from this requirement for successive periods of up to 24 months;
- (c) the **Application** relates to all **Units** of the same **Class** that are issued or proposed to be issued, except any **Units** that are already **Admitted to Trading**; and
- (d) the **Units** are eligible for electronic settlement in accordance with the **AIX Clearing and Settlement Rules**, and the arrangements for settlement and clearing of trading in such **Units** are acceptable to the **AIX** or, as appropriate, to a **Settlement Agent Member** of **AIX** in accordance with the **AIX Clearing and Settlement Rules**.

- LFR 2.4 (R) A failure by the *Manager* of a *Listed Fund* to comply with an applicable *AFSA* or *AIFC Rule* shall be a contravention of *AIX Rules* and *AIX* may take all such actions in relation to the contravention as are provided for under *AIX Rules*.
- LFR 2.5 (R) The following *Rules* apply to an *Application* for *Admission of Units*, with the following modifications:
- (a) *Rule MLR 17.1 (Listing Application)*, as if references to *Securities* were references to the *Units*;
 - (b) *Rule MLR 17.2 (Documents to be provided 48 hours in advance)* (other than *17.2.1(3)* and *17.2.1(4)*), as if references to *Securities* were references to the *Units* and references to an approved *Prospectus* or *Supplementary Prospectus* were references to the *Constitution* and *Offering Materials*;
 - (c) *Rule MLR 17.3 (Documents to be provided on the day)*, as if the reference to “a completed shareholder statement” was a reference to “a completed *Unit* holder statement”;
 - (d) *Rule MLR 17.4 (Documents to be kept)* (other than *17.4.1(8)*), as if references to *Securities* or *Shares* were references to the *Units* and references to an approved *Prospectus* were references to the approved *Offering Materials*;
 - (e) *Rule MLR 18 (Determination of Applications)*, as if references to *Securities* were references to the *Units* and the reference to “such *Person*” was a reference to the *Manager*; and
 - (f) *Rule MLR 21.1 (Provision of Information to the AIX)*, as if the reference to “the *AIX Markets Listing Rules*” were a reference to these *AIX Listed Funds Rules*.
- LFR 2.6 (R) To be *Admitted to Trading* on *AIX*, *Units* must first be admitted to the *Official List*.

LFR 3 Ongoing requirements for *Units*

- LFR 3.1 (R) The *Manager* of a *Listed Fund* must:
- (a) ensure that any amendments to the *Constitution* are filed with *AIX* within two *Business Days* after they become effective or (if earlier) are approved in accordance with the *Constitution*;
 - (b) ensure that the *Offering Materials* at all times comply with the *Law*;
 - (c) act with integrity towards holders and potential holders of the *Units*;
 - (d) comply with the continuous and periodic disclosure requirements applicable in respect of a *Fund*, as set out in the *AIX Market Disclosure Rules* (as modified by these *AIX Listed Funds Rules*);
 - (e) deal with the *AIX* in an open and co-operative manner;
 - (f) endeavour to ensure that a sufficient number of *Units* are in circulation with the public at all times, on the basis referred to in *Rule LFR 2.3(b)(ii)*, and notify *AIX* as soon as possible after it first becomes aware of any non-compliance with this requirement;
 - (g) inform *AFSA* in writing, as soon as possible, if it has:
 - (i) requested *AIX* to *Admit* new *Units* of the same *Class* to trading;

- (ii) requested the re-admittance of any *Units* to trading following a trading suspension;
- (iii) requested *AIX* to delist or suspend trading of any *Class* of *Units*; or
- (iv) been informed by *AIX* that any *Class* of *Units* will be delisted or suspended from trading;
- (h) ensure that the requirements set out in *Rules LFR 2.1(d)* and *2.2* continue to be met while the *Units* are *Admitted* to the *Official List*; and
- (g) send to *Unit* holders the audited annual financial statements referred to in Part B of the Appendix to the *AIX Market Disclosure Rules* (as modified by these *AIX Listed Funds Rules*), within the time frame provided in that Appendix.

LFR 4 Suspending, Delisting and Restoring a Listing of *Units*

- LFR 4.1 (R) ***Rule MLR 19 (Suspending, Delisting and Restoring a Listing)*** (other than *Rules 19.2(7)* and *19.2(8)*, *Rule 19.7.1(4)* and *Rule 19.7.2*) applies in respect of *Units*, as if:
- (a) references to *Securities*, “its *Securities*”, or similar expressions, were references to the *Units*;
 - (b) references to the *Listed Entity* were references to:
 - (i) in the case of *Rules MLR 19.2(4)*, *(5)* and *(6)*, the *Listed Fund*;
 - (ii) in the case of *Rule MLR 19.7.1(2)*, either the *Manager* or the *Listed Fund*; or
 - (iii) otherwise, the *Manager*;
 - (c) the reference to “its financial position” in *Rule MLR 19.2(3)* was a reference to the financial position of the *Listed Fund*;
 - (d) the reference to the *AIX Markets Listing Rules* in *Rule MLR 19.3* was a reference to these *AIX Listed Funds Rules*;
 - (e) the reference to a shareholder resolution in *Rule 19.5.3(2)* were a reference to a resolution of *Unit* holders; and
 - (f) the reference to “its listing” in *Rule 19.5.3(3)* were a reference to the listing of the *Units*.

LFR 5 Timetable and process for *Fund Actions*

- LFR 5.1 (R) **Timetables for *Fund Actions***
- LFR 5.1.1 (R) The *Manager* of a *Listed Fund* must submit to *AIX* any announcement of the timetable for a proposed *Fund Action* for consultation as soon as possible prior to the disclosure of the *Fund Action*.
- LFR 5.1.2 (R) The *Manager* of a *Listed Fund* must notify *AIX* immediately of any proposed amendments to a timetable submitted to *AIX*, including amendment to the published details of an announcement following agreement on the amendments to the timetable with *AIX*.

LFR 5.1.3 (R) *AIX* may by *Notice* specify the timetables for *Fund Actions* and the procedural requirements (including matters required to be disclosed or announced) applicable to different categories of *Fund Action*.

LFR 5.2 (R) Rules for all *Fund Actions*

LFR 5.2.1 (R) If more than one *Fund Action* is proposed, the *Record Date* for the second *Fund Action* must fall (and may not be declared until) a sufficient number of *Business Days* after the first *Fund Action* has been completed and, if applicable, the *Unit* register has been updated. *AIX* may by *Notice* specify the numbers of *Business Days* required for the purposes of this *Rule*.

LFR 5.2.2 (R) If a proposed *Fund Action* involves a reorganisation of the *Classes* of *Units* in the *Listed Fund*, the *Manager* must provide sufficient prior notice to *AIX* to ensure that an orderly market is maintained in the *Units*, and must provide such information in connection with the *Fund Action* as *AIX* may require.

LFR 6 Definitions

LFR 6.1 (R) For the purposes of these *AIX Listed Funds Rules* and any other *AIX Rules* that (in accordance with these *AIX Listed Funds Rules* or otherwise) apply in respect of *Units*, *Funds* or their *Managers*:

- (a) the definitions of “*Applicant*”, “*Class*” and “*Official List*” in *Rule GLO 1.1* are read as if references to “*Securities*” included *Units*;
- (a) “*Constitution*” and “*Offering Materials*” have the meanings given to those terms in the *AIFC Glossary*;
- (b) “*Fund Action*” means a corporate action affecting *Units*, including a dividend, distribution, bonus issue or creation of any other similar right or entitlement attaching to *Units*;
- (d) the definition of “*Issuer*” in *Rule GLO 1.1* includes, in respect of a *Fund* the *Units* of which are traded on *AIX* or are the subject of an *Application*, the *Manager* of that *Fund*;
- (e) the definitions of “*Listed Entity*” and “*Reporting Entity*” in *Rule GLO 1.1* include, in respect of *Units*, the *Manager* of the relevant *Listed Fund*;
- (c) “*Manager*” means, in respect of a *Fund*, the manager of that *Fund* in accordance with the AIFC Collective Investment Scheme Rules; and
- (d) the definition of “*Record Date*” in *Rule GLO 1.1* is read as if the reference to “*Shares*” was a reference to *Units* and the reference to “a dividend or other entitlement” was a reference to the benefit of a *Fund Action*.

AMENDMENTS PROPOSED TO OTHER PARTS OF AIX BUSINESS RULES

DCR (R) Disciplinary Rules

TO BE ADDED BY DCR 8

DCR 8 (R) Associates of AIX

In respect of a *Member* or *Issuer* (or former *Member* or *Issuer*) that is an *Associate* of *AIX*:

- (a) the role of *AIX* under these *AIX Disciplinary Rules* will be performed by *AFSA*;
- (b) references to *AIX* in these *AIX Disciplinary Rules* (except *Rule DCR 7(b)* and this *Rule DCR 8*) will be read as references to *AFSA*; and
- (c) all members of the *Disciplinary Committee* and any *Appeals Committee* shall be independent of *AIX* and the relevant *Associate*.

GLO	<u>Glossary and Interpretation</u>
<i>Amendments are presented in track changes mode below</i>	
GLO 1.1	Definitions
...	
<i>Appeals Committee</i>	A committee appointed by <i>AIX</i> (or, if Rule DCR 8 applies, AFSA) to hear and determine appeals.
...	
<i>Disciplinary Committee</i>	A committee appointed by <i>AIX</i> (or, if Rule DCR 8 applies, AFSA) to hear complaints and decide disciplinary action against <i>Issuers</i> or <i>Members</i> as applicable.
...	...
<i>Fund</i>	A Collective Investment Fund Scheme under the AIFC Collective Investment Scheme Rules (wherever established).
...	
<i>Listed Fund</i>	A <i>Fund</i> the Units of which is are admitted to the <i>Official List of Securities</i> .
...	...