



# GUIDANCE NOTE ON PENALTIES AND ENFORCEMENT ACTION

Adopted by AIX Board of Directors as of 28 October 2020

Effective Date: 30 November 2020

Nur-Sultan, Kazakhstan

## GUIDANCE NOTE ON PENALTIES AND ENFORCEMENT ACTION

**Disclaimer:** This guidance note is issued for information purposes and is not intended to be an exhaustive list of all potential breaches and non-compliances. AIX may issue further guidance notes on application of its rules, as published on the AIX website and updated from time to time. Capitalized terms used in this note shall have the meanings assigned to them in AIX CSD Business Rules and/or AIX CSD Business Rules.

Rule Reference	Title	Description	Penalties and disciplinary sanctions AIX may in its discretion take such enforcement action as it deems appropriate, including:
<b>1. TRADING MEMBERS</b>			
MR 1.5.1	Fees payable by Members	Member failed to pay its initial and/or annual membership fees	Overdue interest equal to the official refinancing rate of the National Bank of Kazakhstan <sup>1</sup> , but not exceeding 20% p.a. (BRG5); and/or  Termination of Membership without hearing or notice at midnight on the last Business Day of the six-month period (MR1.5.2)
MR 1.6	Entitlement to conduct business	Member failed to commence its business on AIX within six (6) months of being notified of admission	Revocation of Membership without notice or hearing (MR1.6.2)
MR2.1-2.2, MR5	Members' Continuing obligations	Member failed to comply with continuing obligations	Private or public warning letter with direction; and/or  Referral to Disciplinary Committee to suspend or terminate Membership
MR2.4	Notifications	Member failed to notify AIX in writing of a respective change under MR2.4	Private or public warning letter with direction; and/or  Fine up to USD2,000 per breach; and/or  Referral to Disciplinary Committee to suspend or terminate Membership
MR4.1	Failure to provide information to AIX	Failure to provide information to AIX at request of AIX (for verification and/or compliance statements)	Private or public warning letter with direction; and/or  Fine up to USD2,000 for late submission; and/or  Referral to Disciplinary Committee to suspend or terminate Membership

<sup>1</sup> The official refinancing rate of the National Bank of Kazakhstan [https://online.zakon.kz/document/?doc\\_id=1016416#pos=2;-90](https://online.zakon.kz/document/?doc_id=1016416#pos=2;-90); the following calculation will be used for penalty calculation: <https://online.zakon.kz/Accountant/Calculators/FineCalculator/>

Rule Reference	Title	Description	Penalties and disciplinary sanctions AIX may in its discretion take such enforcement action as it deems appropriate, including:
MR6	Representative of a Member	Member failed to inform AIX about its representatives (authorized traders) or provided incomplete or misleading information	Private or public warning letter with direction; and/or  Fine up to USD2,000 per breach; and/or  Referral to Disciplinary Committee to suspend or terminate Membership
TRD8	Prescribed Information to be Included in Orders	Member failed to include required information in the Order (including NIN)	Direction notice from MOD with direction to submit specified information to AIX CSD (with a copy to R&C and Member's Compliance Officer); and/or  AIX may Reject, Modify or Cancel an Order at any time (TRD13); and/or  Fine up to USD500 per breach; and/or  Referral to Disciplinary Committee to suspend or restrict the trading activities of a Member (TRD13); or to de-register a Market Maker in respect of one or more Securities for which it is registered as such
TRD20	Short Selling	A Member entered an Order to sell an Admitted Financial Instrument where the selling Member's position is "naked"	Direction notice from R&C with direction to submit specified information to AIX  Fine up to USD5,000 per breach, but not exceeding USD25,000 in aggregate; and/or  Referral to Disciplinary Committee to define fines in excess of USD25,000 and up to USD100,000 and/or suspend or restrict the trading activities of a Member (TRD13)
MR3; TRD21	Maintenance of Record; Trade Confirmation Note to Client	Member failed to (i) maintain adequate accounting and other records to document all of its Transactions and the settlement thereof, and also records in connection with the custody of Admitted Securities for a minimum period of six (6) years; (ii) send	Fine up to USD5,000 per breach, but not exceeding USD25,000 in aggregate; and/or  Referral to Disciplinary Committee to define fines in excess of USD25,000 and up to USD100,000 and/or

<b>Rule Reference</b>	<b>Title</b>	<b>Description</b>	<b>Penalties and disciplinary sanctions</b> AIX may in its discretion take such enforcement action as it deems appropriate, including:
		a trade confirmation note to a Client and/or to keep a copy of such note within prescribed period under TRD21	suspend or restrict the trading activities of a Member (TRD13)
MSP3.2 AMI2.8.2 MAR5	Insider Trading and Market Manipulation	If market abuse appears to have occurred, AIX will refer the matter to AFSA for further investigation and/or disciplinary action.	Referral to AFSA for enforcement
<b>2. AIX CSD Participants</b>			
AIX CSD Rules 2.5, 2.7	Participants' Continuing obligations	Participant failed to comply with continuing obligations	Private or public warning letter with direction; and/or Referral to Disciplinary Committee to suspend or terminate Participation
AIX CSD Rules 2.6	Notifications and Provision of Information	Participant failed to notify AIX CSD in writing of a respective change under AIX CSD Rules 2.6 or failed to provide information	Private or public warning letter with direction; and/or Fine up to USD2,000 per breach or for late submission; and/or Referral to Disciplinary Committee to suspend or terminate Participation
AIX CSD Rules 2.5.3 & 7.6.6	Fees payable by AIX CSD Participants	Participant failed to pay fees and charges	Penalty fee and charges as specified in the AIX CSD Fee Schedule and published by Market Notice
AIX CSD Rules 7.6.6	Failure to settle	Participant failed to deliver either money or Admitted Product on the intended Settlement Day resulting in the Settlement Fail	Penalty fee and charges as specified in the AIX CSD Fee Schedule and <u>Market Notice (Fees for Unsettled Transactions)</u> ; and/or Referral to Disciplinary Committee to suspend or restrict the trading activities of a Member (TRD13)

Rule Reference	Title	Description	Penalties and disciplinary sanctions AIX may in its discretion take such enforcement action as it deems appropriate, including:
<b>3. ISSUERS</b>			
ADS 7.4	Fees payable by Issuers	Issuer failed to pay its annual Admission to Trading fee to AIX	Overdue interest equal to the official refinancing rate of the National Bank of Kazakhstan <sup>2</sup> , but not exceeding 20% p.a. (BRG5); and/or  Referral to Disciplinary Committee to suspend listing or delist Securities from the Official List (MLR19.1; MLR 19.7.2; ADS7.4.1) <sup>3</sup>
MLR20	Continuing obligations for listing	Issuer failed to meet its continuing obligations for listing, including but not limited to: <ul style="list-style-type: none"> <li>✓ information and facilities enabling shareholders to exercise voting rights (MLR20.1; MLR21.3)</li> <li>✓ free float requirement (MLR19.7.2; MLR20.2),</li> <li>✓ violation of rules for share buyback (MLR20.4)</li> <li>✓ failure to maintain independence from Controlling Shareholder (MLR20.5)</li> <li>✓ failure to manage material conflict of interest (MLR20.5)</li> <li>✓ failure to form and maintain effective Audit Committee (MLR20.5)</li> <li>✓ failure to maintain process agent (ADS1.3; AMI3.2.3)</li> <li>✓ failure to fulfill undertakings as per Listing Agreement</li> </ul>	Private or public warning letter with direction; and/or  Re: Free-float / liquidity obligation - request to appoint Market Maker to ensure that conditions for sufficient supply and demand exist in its Securities (ADS5.1); and/or  Referral to Disciplinary Committee to suspend listing or delist Securities from the Official List (MLR19.1; MLR 19.7.2) <sup>4</sup>
MLR21 ADS7.1	Failure to provide information to AIX	Failure to provide information to AIX at request of AIX (for verification and/or	Private or public warning letter with direction; and/or

<sup>2</sup> The official refinancing rate of the National Bank of Kazakhstan [https://online.zakon.kz/document/?doc\\_id=1016416#pos=2;-90](https://online.zakon.kz/document/?doc_id=1016416#pos=2;-90); the following calculation will be used for penalty calculation: <https://online.zakon.kz/Accountant/Calculators/FineCalculator/>

<sup>3</sup> AMI3.3.2 - AIX may not suspend or remove from trading any Security which no longer complies with its rules, where such step would be likely to cause significant damage to the interests of investors or the orderly functioning of the financial markets.

Rule Reference	Title	Description	Penalties and disciplinary sanctions AIX may in its discretion take such enforcement action as it deems appropriate, including:
		protection of investors and/or compliance statements)	Modification or revocation of AIX' previous decision/approval (ADS7.1.2); and/or  Fine up to USD2,000 for late submission; and/or  Referral to Disciplinary Committee to suspend listing or delist Securities from the Official List (MLR19.1; MLR 19.7.2) <sup>4</sup>
ADS6	Corporate Action	Failure to provide information on Corporate Action to AIX: - upcoming maturity, redemption or conversion (ADS6.2) - Timetables for proposed corporate actions (ADS6.3) - proposed reorganization of securities (ADS6.5) - proposed Takeover (ADS7.5) - payment of dividends/ coupons (ADS Schedule) - bonus issues (ADS Schedule) - pro-rata issue (ADS Schedule)	Private or public warning letter with direction; and/or  Modification or revocation of AIX' previous decision/approval (ADS7.1.2); and/or  Fine up to USD2,000 for late submission, but not exceeding USD25,000 in aggregate; and/or  Referral to Disciplinary Committee to define fines in excess of USD25,000 and up to USD100,000 and/or suspend listing or delist Securities from the Official List (MLR19.1) <sup>4</sup>
MDA MAR	Continuing market disclosure obligations	Issuer failed to make market disclosure or to publish financial information pursuant to MDA and MAR	Direction notice with direction to disclose specified information to the market (MDR5.1); and/or  Fine up to USD2,000 for late submission, but not exceeding USD25,000 in aggregate; and/or  Referral to Disciplinary Committee to define fines in excess of USD25,000 and up to USD100,000 and/or suspend listing or delist Securities from the Official List (MLR19.1) <sup>4</sup>
MDR3.5	Disclosure of Interests by Connected Persons	Issuer failed to disclose report of Connected Persons (Director of Issuer, Director of controller, shareholder >5% in	Direction notice with direction to disclose specified information to the market (MDR5.1); and/or  Fine up to USD2,000 for late submission; and/or

Rule Reference	Title	Description	<b>Penalties and disciplinary sanctions</b> AIX may in its discretion take such enforcement action as it deems appropriate, including:
		Issuer or controller) re dealing in Issuer's Securities >5% ± 1%	Referral to Disciplinary Committee to define fines in excess of USD25,000 and up to USD100,000 and/or suspend listing or delist Securities from the Official List (MLR19.1) <sup>4</sup>
MDR4	Disclosure of Directors' material interests	Issuer failed to disclose report of Director (who is shareholder or creditor of the Issuer) re material interest	Direction notice with direction to disclose specified information to the market (MDR5.1); and/or  Fine up to USD2,000 for late submission, but not exceeding USD25,000 in aggregate; and/or  Referral to Disciplinary Committee to define fines in excess of USD25,000 and up to USD100,000 and/or suspend listing or delist Securities from the Official List (MLR19.1) <sup>4</sup>
MAR2.5.3	Related Party Transactions	Issuer failed to disclose Related Party Transactions	Direction notice with direction to disclose specified information to the market (MDR5.1); and/or  Fine up to USD2,000 for late submission; and/or  Referral to AFSA for enforcement
MSP3.2 AMI2.8.2 MAR5	Insider Trading and Market Manipulation	If market abuse appears to have occurred, AIX will refer the matter to AFSA for further investigation and/or disciplinary action.	Referral to AFSA for enforcement
MDR2.3.5 MAR6.2.1	Insider list	Issuer failed to establish and maintain an insider list and insider trading policies	Referral to AFSA for enforcement
MAR6.3	Managers' transactions (PDMR)	Issuer failed to disclose to market transactions of Directors and Officers (PDMR) in Securities of the Issuer	Referral to AFSA for enforcement