



By Email

20 November 2024

To the Senior Executive Officers ("SEOs") of the AFSA Crowdfunding Firms

Subject: Outcome of the AFSA's Anti-Money Laundering (incl. CFT) Thematic Review of Crowdfunding Firms in the AIFC

Dear SEO,

The Supervision Office of the AFSA has issued general feedback to all firms on the outcome of its 2024 Anti-Money Laundering Thematic Review (the "Review") of Crowdfunding Firms licensed by the AFSA, which summarises key observations, findings and recommendations so as to assist you in identifying any potential areas for improvement in maintaining a sound AML/CFT compliance regime within your business activities in conformity with:

- *The Law of the Republic of Kazakhstan "On counteracting the legalisation (laundering) of proceeds from crime and the financing of terrorism", the Law of RK №191-IV, approved on 29 August 2009 ("the AML/CFT Law");*
- *AIFC Financial Services Framework Regulations, AIFC REGULATIONS NO. 18 OF 2017 approved on 17 December 2017 ("FSFR");*
- *AIFC Anti-Money Laundering, Counter – Terrorist Financing and Sanctions Rules, AIFC RULES NO. FR0008 OF 2017 approved on 10 December 2017 ("AIFC AML Rules");*
- *AIFC General Rules, AIFC RULES NO. FR0001 OF 2017, approved on 17 October 2017 ("GEN");*
- *Guidance (Requirements) applicable to the Rules of Internal Control for the purposes of counteracting the legalisation (laundering) of proceeds from crime and the financing of terrorism for financial monitoring entities of the Astana International Financial Centre (the Relevant Persons) ("AML Internal Controls Guidance");*
- *Guidance (Requirements) for the purposes of counteracting the legalisation (laundering) of proceeds from crime and the financing of terrorism, applicable to the Customer Due Diligence in cases when the Astana International Financial Centre Participants (the Relevant Persons) establish non-face-to-face business relations with customers ("CDD for non-face-to-face business relations");*

- *other related Regulations and Rules of the AIFC, and other regulations issued by the Financial Monitoring Agency of the Republic of Kazakhstan (the "FIU").*
- *The FATF 40 Recommendations.*

It should be noted that not all firms have shown due attention to the AML/CFT and Sanctions risks and to the quality of internal controls. While the revealed deficiencies in technical compliance with the AIFC Rules are remarkable and eliminable, the detected gaps in the effectiveness of internal controls have caused serious concern about the ability of some firms to continue operating under the licence.

Overall, it is important to positively highlight that certain crowdfunding firms have shown a clear understanding of the AML/CFT risks and have implemented appropriate controls to address money laundering threats and vulnerabilities.

While there are various specific issues related to individual crowdfunding firms, there are also broader observations that can apply to all Authorized Firms (AFs) that may benefit from the AFSA's findings. These are as follows:

- **Concerns over management's approach to AML/CFT and Sanctions risks:**

The Review indicated that, unfortunately, AML/CFT and sanctions risks are not regarded as a primary concern by the Firm's senior management. Instead, they perceive these issues as routine regulatory requirements rather than critical factors for safe business development. This perspective has resulted in a lack of attention to regular updates and a decline in the quality of documentation. The AFSA expects firms to establish tailored procedures, systems, controls, and governance oversight to ensure compliance with the AIFC Rules and Regulations.

- **Enhancing process effectiveness:**

The AFSA emphasizes the importance of firms focusing on effectiveness when designing their internal processes and procedures. This helps prevent weaknesses such as overlooking steps in a process, having procedures that exist only on paper, or misrepresenting the actual implementation of procedures in a way that contradicts what is outlined in internal controls.

- **The importance of Due Diligence:**

Some firms have failed to adapt their internal processes to suit the specific characteristics, complexity, and scale of their business, particularly regarding the inherent risks associated with crowdfunding. There has been inadequate attention to verifying the sources of investors' funds, and investment projects have not always undergone proper preliminary due diligence or ongoing monitoring to ensure that the funds are used as intended.

- **Concerns regarding Risk Assessment Methodologies:**

In some instances, the AFSA observed that the firms did not have a clear methodology, basis, or tools for conducting required risk assessments of both the firm's business and its customers. This raised concerns regarding the firm's ability to identify high-risk areas and to effectively develop mitigation measures.

- **The Importance of effective communication and assessment:**

The Review found that some firms not only fail to pay adequate attention to assessing business risks, but also do not communicate or inform senior management in a timely manner

about the status of AML/CFT risks. This lack of communication hinders firms' ability to clearly understand the extent of these risks and the necessity for implementing appropriate controls.

- **The importance of regular independent audits:**

The AFSA identified several instances where firms failed to conduct regular independent audits of their AML systems and controls. This not only violates regulatory requirements but also prevents the firms from receiving an independent assessment of the effectiveness of their controls.

- **Effective protocols for identifying suspicious activities:**

Firms must establish clear processes and procedures to identify, escalate, investigate, and report suspicious activities. This includes developing detailed client risk profiles and tailored warning signs to better detect suspicious behaviour and address potential risks.

- **The need for tailored and up-to-date programs:**

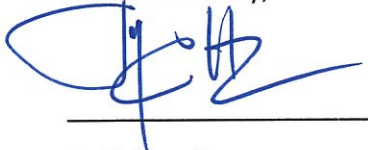
Some firms do not have a dedicated training program for new employees on AML/CFT matters. Additionally, the regular AML training provided to current staff is often outdated, inconsistent, and not tailored to the specific needs of the firm's business. This shows a lack of emphasis on raising awareness and ensuring that important staff maintain a sufficient knowledge base, which needs to be addressed.

- **The AFSA's call for open communication with Authorised Persons:**

Finally, and to emphasise Principle 11 (Relations with Regulators) wherein Authorised Persons "must deal with the AFSA in an open and co-operative manner..." some firms failed to respond to the Review's requests and will be followed up with during a separate exercise.

It is essential for firms to ensure that all staff are aware of AML/CFT risks and understand how these risks can be effectively mitigated and managed. It is highly recommended that firms carefully review the findings of this letter and implement the necessary changes accordingly.

Yours sincerely,



Valikhan Gusmanov

Chief Supervision Officer

CC: Compliance Officers and Internal Auditors of Crowdfunding Firms