

## GUIDELINES FOR THE TEMPLATES OF

### COMPLIANCE MANUAL AND COMPLIANCE MONITORING PROGRAMME

An applicant firm applying for a Licence to carry on Regulated and Market Activities is required to submit drafts of the Compliance Manual ('**CM**') and Compliance Monitoring Programme ('**CMP**'), as part of the documentation evidencing the internal control systems that will govern the affairs of the applicant firm once it receives its Licence. These documents must demonstrate that, holistically, the firm's policies and procedures demonstrate a robust internal control and governance structure.

It is the firm's responsibility to take reasonable care to establish and effectively implement the **CM** and **CMP** that are appropriate to its business. Importantly, the nature and extent of these documents will depend on a variety of factors, such as the nature, scale and complexity of the business, the volume and size of the transactions, and different types of risks associated with each area of business operations. Consequently, there is no "one-size-fits-all" approach in the way firms should establish and maintain these documents. Therefore, these Guidelines are for information purpose only to assist applicant firms with drafting the documents by indicating AFSA's minimum expectations. However, these Guidelines do not constitute an exhaustive list of requirements that might be applicable to the firm's business operations noting the nature, scale and complexity of the business and should not be regarded as any type of advice.

The AFSA will review the proposed compliance framework and the arrangements described in the **CM** and **CMP** for ensuring compliance with the relevant AIFC Financial Services Framework Regulations, AIFC General Rules, AIFC Conduct of Business Rules and AIFC Prudential Rules requirements. While preparing these documents, consideration should be also given to other AIFC Regulations and Rules applicable to the proposed business of the applicant firm.

#### **CM**

The AFSA prefers that the compliance procedures are incorporated in one manual. The **CM** should be clearly structured and address the points mentioned below:

1. clear purpose, scope and application of the proposed **CM** at the beginning of the document;
2. main guiding principles for compliance framework of the firm;
3. understanding of the compliance risk and its risk tolerance;
4. the structural oversight and reporting arrangements that will ensure the applicant continually meet its compliance obligations under applicable legislation in the AIFC. Describe the role of compliance within the firm; the resourcing of the

- function(s) and its internal and external reporting line and how employees will be made aware of their regulatory obligations;
5. how compliance reports are prepared, authorised, disseminated and followed up;
  6. policies and procedures, systems and controls, and customer documentation covering such areas as client classification, marketing material, suitability, disclosure of fees and commissions, inducements, and segregation of Client Monies/Investments;
  7. how compliance breaches are detected, recorded, categorised and rectified;
  8. how the AFSA and other Financial Services Regulators, if applicable, will be kept appraised of all relevant breaches;
  9. how the Compliance Officer and Senior Management will remain up-to-date on any changes to applicable legislation in the AIFC and how will they be communicated to relevant staff;
  10. how a positive mind-set towards compliance issues will be embedded among all employees, not just compliance staff;
  11. what are the arrangements for handling, resolving and recording complaints, with particular reference to the requirements of AIFC Conduct of Business Rules, Chapter 15 – Complaints Handling and Dispute Resolution, and systems and controls to review the adequacy of Complaints handling policies and procedures;
  12. how the Compliance Officer will interface with risk management and internal audit to achieve a holistic view of controls around operational risk and governance;
  13. how the applicant will ensure compliance by any Person under a material outsourcing or delegation arrangement with relevant requirements and procedures;
  14. how the applicant will determine and maintain records of Client verification;
  15. how the applicant will ensure compliance with financial reporting and regulatory Capital Requirements;
  16. whether a conflicts management policy has been, or will be, adopted. Describe how senior management and the Board will identify and manage conflicts of interest between: shareholders; Board members and the firm; segregation of functions to manage operational conflicts and conflicts between different Clients, and between the firm and Clients, or otherwise that may arise in the course of the business;
  17. the firm's procedures for monitoring and managing Employee conflicts, including management of the employee code of conduct, a copy of which should be provided. How will the applicant deal with Employee Personal Transactions? Please refer to AIFC Conduct of Business Rules, Rule 7.5;
  18. how the applicant will ensure training and competence are embedded into the culture of the firm. The applicant's systems and controls must be adequate to ensure that, on an ongoing basis, its Employees remain competent and capable

- to perform the functions which are assigned to them. This includes any additional factors that may be relevant if their functions involve interfacing with Retail Clients.
19. who will be responsible for reviewing the compliance plan, how often the plan will be reviewed and what process will be followed;
  20. reporting on the implementation of the proposed **CM** and its review with due process as the final sections of the document.

If the firm is planning to carry on a Regulated or Market Activity with or for a Retail Client, it should also be able to demonstrate that systems and controls (including policies and procedures) adequately provide for compliance with the requirements specifically dealing with Retail Clients, in particular:

- Marketing materials intended for Retail Clients;
- Content requirements for client agreements for Retail Clients;
- Suitability assessment for recommending a financial product for a Retail Client;
- Disclosure of fees, commissions, and any inducements, to a Retail Client; and
- Segregation of Client Money and/or Client Investment, where relevant.

### **CMP**

The **CMP** should document how compliance will be monitored within the business units. This compliance monitoring should be reviewed from two aspects. Firstly, the compliance with the firm's own internal policies and procedures, and secondly the compliance with relevant rules and regulations that apply to the firm.

It is important that senior management and the Board of a firm look to instill an appropriate culture for compliance and risk management throughout the firm. The **CMP** should clearly outline what needs to be monitored and the frequency. For example, the Compliance might review a set percentage of all client files before onboarding and after onboarding etc.

The Compliance Officer, with the support of the Board and other staff, is expected to promote the effectiveness and integrity of the compliance process of the firm. This will include, amongst other things, the appropriate and detailed monitoring of the adherence to the **CM** and its minimum standards and applicable legal and regulatory requirements. The Compliance Officer is responsible for establishing an appropriate **CMP** addressing compliance risks within every business operation. The document needs to cover the approval, review, reporting and follow-up processes as well.

The outcome of the monitoring activities shall inform the relevant parties about whether the risks are acceptable and highlight important compliance developments or events.

**Depending on the type of the proposed business, the applicant firm may find useful information in the following publications for the establishment of its own compliance framework:**

1. “Compliance and the compliance function in banks” April 2005 by Basel Committee on Banking Supervision: <https://www.bis.org/publ/bcbs113.pdf>
2. “Guidelines on certain aspects of the MiFID compliance function requirements” September 2012 by European Securities and Markets Authority: [https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-388\\_en.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-388_en.pdf);
3. “Insurance Core Principles” November 2017 by International Association of Insurance Supervisors: <https://www.iaisweb.org/file/69922/insurance-core-principles-updated-november-2017>
4. “Compliance Function at Market Intermediaries” March 2006 by International Organization of Securities Commissions: <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD214.pdf>
5. “Guidelines on internal governance under Directive 2013/36/EU” September 2017 by European Banking Authority: [https://eba.europa.eu/sites/default/documents/files/documents/10180/1972987/eba664994889/Final%20Guidelines%20on%20Internal%20Governance%20\(EB-A-GL-2017-11\).pdf](https://eba.europa.eu/sites/default/documents/files/documents/10180/1972987/eba664994889/Final%20Guidelines%20on%20Internal%20Governance%20(EB-A-GL-2017-11).pdf)