



CONSULTATION PAPER NO. 7

March 2019

**PROPOSED AIFC REGULATIONS ON AIFC ACTS
AMENDMENT REGULATIONS 2019**

CONSULTATION PAPER No. 7
PROPOSALS RELATING TO AIFC REGULATIONS ON AIFC ACTS
AMENDMENT REGULATIONS 2019

Why are we using this paper?

1. The draft of the *AIFC Regulations on AIFC Acts Amendments Regulations 2019* (the “**Proposed Regulations**”) was developed under paragraph 2 of article 4 of the Constitutional Statute of the Republic of Kazakhstan *On the Astana International Financial Centre 2015* and under subparagraph 3-2) of paragraph 9 of *The Structure of the Bodies of the Astana International Financial Centre*, adopted by resolution of the Management Council on 26 May 2016, as amended by resolution of the Management Council, *The Amendments and supplementations to the Structure of the Bodies of the Astana International Financial Centre*, adopted on 9 October 2017.
2. The Consultation Paper presents the Proposed Regulations to be adopted by the Governor of the AIFC with the rationale behind to clarify of the meaning of inconsistency between AIFC Acts at the same level and for AIFC Acts at different levels.
3. This Consultation Paper seeks public comments on the Proposed Regulations.

Who should read this paper?

4. This Consultation Paper may be of interest to the current and prospective AIFC Participants, as well as all the AIFC Bodies and their organisations, and generally, to all interested in providing their feedback to the Proposed Regulations.

How to provide comments

5. AIFC encourages interested parties to provide their views and comments on the issues outlined in the Consultation Paper, using the table of comments provided in Annex B.
6. All comments should be provided to the following person:

Mr Asset Sydykov
AIFC Authority
55/15 Mangilik El Avenue, Block C-3.3.
Astana 010000, Republic of Kazakhstan
or emailed to a.sydykov@aifc.kz

7. You may as well identify your organisation in the provided comments.
8. By submitting your comments to the AIFC Authority you expressly consent to the processing by the AIFC Authority of the personal data pertaining to you, including, but not limited to the collection, recording, organisation, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of thereof, as per the *AIFC Data Protection Regulations 2017*.

What happens next?

9. The deadline for providing comments on the proposals in this Consultation Paper is **7 April 2019**.

10. Once we receive your comments, we will consider if any further refinements are required to the Proposed Regulations annexed to this Consultation Paper at Annex A. Once the task is complete, the draft of the Proposed Regulations will be further processed in accordance with the requirements, stipulated in the *AIFC Regulations on AIFC Acts 2017*.
11. The Proposed Regulations are in draft form only and are, therefore, subject to change following consultation as mentioned above. Consequently, you should not act on it until the Proposed Regulations are formally enacted.

Defined terms

12. Defined terms are identified throughout this paper by the capitalisation of the initial letter of a word or each word in a phrase and are defined in the Proposed Regulations. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

Part 1 of the Proposed Regulations: GENERAL

13. The Proposed Regulations commence on 1 January 2019.
14. The Proposed Regulations are to be adopted by the Governor of the AIFC under paragraph 2 of article 4 of the Constitutional Statute of the Republic of Kazakhstan *On the Astana International Financial Centre 2015* and subparagraph 3-2) of paragraph 9 of the Management Council Resolution on AIFC Bodies.

Q1. Do you have any concerns about the commencement of the Proposed Regulations? If so, what are they, and how should they be addressed?

Q2. Do you have any concerns about the Legislative Authority of the Proposed Regulations? If so, what are they, and how should they be addressed?

Part 2 of the Proposed Regulations: AMENDMENTS OF AIFC REGULATIONS ON AIFC ACTS 2017

1. It is proposed to remake existing section 8(2) of AIFC Regulations on AIFC Acts 2017 by substituting with sections 8(2), 8(3) and 8(4) to deal in a consistent way with inconsistency between AIFC Acts at the same and different levels (proposed sections 8(2) and (3)). In addition, the proposed section 8(4) deals in a single provision with what inconsistency means for AIFC Acts at the same level as well as at different levels. It would helpful to clarify the meaning of inconsistency between AIFC Acts at the same level as well as for AIFC Acts at different levels (as it is in existing section 8(2)).
2. This proposal is consistent with the rule *auctoritas* or *lex posterior*, which is commonly used in legal practice. The rationale behind the amendments would beneficially impact on the implementation of provisions of AIFC Acts.

Q3. Do you have any concerns about consistency of AIFC Acts at the same and different levels? If so, what are they, and how should they be addressed?

Legislative Proposal

3. This legislative proposal contains the following:
 - (a) Proposed Regulations (in Annex A);
 - (b) a table of comments to provide your views and comments on the Consultation Paper (at Annex B).



**AIFC REGULATIONS ON AIFC ACTS
AMENDMENT REGULATIONS 2019**

AIFC REGULATIONS No. ___ of 2019

**_____ 2019
Astana, Kazakhstan**

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PART 1: GENERAL

1. Name

These Regulations are the *AIFC Regulations on AIFC Acts Amendment Regulations 2019*.

2. Commencement

These Regulations commence on __ ____, 2019.

3. Legislative authority

These Regulations are adopted by the Governor under paragraph 2 of article 4 of the Constitutional Statute and subparagraph 3-2) of paragraph 9 of the Management Council Resolution on AIFC Bodies.

4. Interpretation

Terms used in these Regulations have the same meanings as they have, from time to time, in the AIFC Regulations on AIFC Acts, or the relevant provisions of those Regulations, unless the contrary intention appears.

DRAFT

PART 2: AMENDMENTS OF AIFC REGULATIONS ON AIFC ACTS 2017

5. This Part amends the *AIFC Regulations on AIFC Acts 2017*.
6. Omit section 8(2), substitute:
 - (2) If AIFC Acts of different levels are inconsistent, the AIFC Act of the higher level prevails over the AIFC Act of the lower level to the extent of the inconsistency.
 - (3) If AIFC Acts of the same level are inconsistent, the later adopted AIFC Act prevails over the earlier adopted AIFC Act to the extent of the inconsistency.
 - (4) For this section, an AIFC Act (the *first AIFC Act*) must not be treated as inconsistent with another AIFC Act (the *second AIFC Act*) only because it has provisions that deal with a matter dealt with by the second AIFC Act if the provisions of the first AIFC Act can be obeyed without contravening the second AIFC Act.

Annex B

Format for providing public comments to AIFC Authority on Consultation Paper No. 7 of 2019
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Note 1: AIFC Authority reserves the right to publish, including on its website, any comments you provide. However, if you wish to remain anonymous, you must expressly request at the time of making comments that this should be the case.

Note 2: The column ‘comments on proposed policy’ relates to the policy explained in the Consultation Paper (“CP”). The column, ‘comments on proposed legislation’ refers to the draft legislation reflecting the proposed policy.

Note 3: It is possible that you may not have any comments, either on the proposed policy or legislation or may have comments on one and not the other. You may leave a blank column if you either agree to the proposed position, or you have no concerns relating it.

Note 4: If there are any ambiguities relating to the proposed policy or legislation, you may raise those in your comments.

Name of individual/entity providing comments	
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No.	Comments on proposed policy	Comments on proposed legislation
	Q1. Do you have any concerns about the commencement of the Proposed Regulations? If so, what are they, and how should they be addressed?	
	Q2. Do you have any concerns about the Legislative Authority of the Proposed Regulations? If so, what are they, and how should they be addressed?	
	Q3. Do you have any concerns about consistency of AIFC Acts at the same and different levels? If so, what are they, and how should they be addressed?	