



FINANCIAL SERVICES AND MARKETS (AMENDMENT No X) REGULATIONS 2023

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Regulations to amend the Financial Services and Markets Regulations 2015.

Date of Enactment: [•] 2023

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations—

1. Amendments to the Financial Services and Markets Regulations 2015

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Part 22 General

258. Definitions

(1) In these Regulations, unless the context otherwise requires—

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Borrower	means a person who receives Credit under a Credit <u>Facility Agreement</u> or a person to whom the rights and duties of a borrower under a Credit <u>Facility Agreement</u> have passed by assignment or operation of law.
Credit Facility Agreement	means any facility which includes any arrangement or agreement which extends monetary Credit whether funded or unfunded to a Person including but not limited to any loan or syndicated loan, mortgage, overdraft, financial lease, letter of credit, financial guarantee, trade finance, transaction finance, project finance or asset finance.
Lender	means- (a) the person providing Credit under a Credit <u>Facility Agreement</u> ; or (b) ...
Private Credit Fund	<u>has the meaning given to that term in the Rules made by the Regulator.</u>

...

Chapter 3 Advising on Investments or Credit

The activity

28. Advising on Investments or Credit

- (1) Advising a person is a specified kind of activity if the advice is—
- (a) advice on the merits of his doing any of the following (whether as principal or agent)—
- (i) Buying or Selling a Specified Investment (other than a Credit Facility Agreement) or a Virtual Asset, or subscribing for or underwriting a particular investment which is a Specified Investment (other than a Credit Facility Agreement) or a Profit Sharing Investment Account;
 - (ii) exercising any right conferred by such an investment to Buy, Sell, subscribe for or underwrite such an investment; or
 - (iii) entering into a Credit Facility Agreement; and
- (b) given to the person in his capacity as
- (i) an investor or potential investor;
 - (ii) agent for an investor or a potential investor;
 - (iii) Borrower or potential Borrower; or
 - (iv) agent for a Borrower or potential Borrower.

...

Chapter 7 Credit

The activity

48. Providing Credit

- (1) Entering into a Credit Facility Agreement with a person in his capacity as a Borrower or potential Borrower is a specified kind of activity.
- (2) It is a specified kind of activity for the Lender or another person to exercise, or to have the right to exercise, the Lender's rights and duties under a Credit Facility Agreement.

Exclusions

49. Incidental or connected lending and general exclusions

- (1) An Authorised Person does not enter into a Credit Facility Agreement as Lender where entering into the agreement is incidental to or in connection with transactions in Specified Investments (other than Credit Facilities Agreements) or the carrying on of the Regulated Activities of Effecting Contracts of Insurance or Carrying Out Contracts of Insurance as Principal.

- (2) An Authorised Person does not Provide Credit when carrying on the Regulated Activity of Managing a Collective Investment Fund in relation to a Private Credit Fund.
- (3) A Collective Investment Fund that is a Private Credit Fund does not carry on the Regulated Activity of Providing Credit.
- (2)(4) Paragraph 48 is also subject to the exclusions in paragraphs 76 and 77.

The activity

50. Arranging Credit

Making arrangements for another person, whether as principal or agent, to borrow money by way of a Credit ~~Facility Agreement~~ is a specified kind of activity.

51. Exclusions

- (1) A person does not Arrange Credit by—
- (a) providing means by which one party to a transaction is able to communicate with other such parties;
 - (b) making arrangements under which another person accepts or is to accept an instrument creating or acknowledging indebtedness in respect of any loan, Credit, guarantee or other similar financial accommodation which he or his principal has made or provided;
 - (c) making arrangements having as their sole purpose the provision of finance to enable a person to Buy, Sell, subscribe for or underwrite investments; ~~or~~
 - (d) making arrangements for the issue or redemption of Securities issued by that person; or
 - (e) Managing a Collective Investment Fund that is a Private Credit Fund.
- (2) A person does not Arrange Credit if the activity—
- (a) is carried on in the course of carrying on the activities specified in Rules 4 or 5 of the Commercial Licensing Regulations 2015 (Controlled Activities) Rules 2015, which does not otherwise consist of the carrying on of Regulated Activities;
 - (b) may reasonably be regarded as a necessary part of any other services provided in the course of carrying on the activities specified in those rules; and
 - (c) is not remunerated separately from the other services.

Chapter 18

Exclusions Applying to Several Specified Kinds of Activity

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76. Activities carried on in connection with the sale of goods or supply of services

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(9) There is excluded from paragraph 48 the entering into of a Credit Facility Agreement by a supplier with a Customer for the purposes of or in connection with the sale of goods or supply of services, or a related sale or supply.

77. Groups and Joint Enterprises

...

(7) There is excluded from paragraph 48 the entering into of a Credit Facility Agreement by a person if—

- (a) he is a member of a Group and enters into the agreement with another member of the same Group; or
- (b) he is, or proposes to become, a participator in a Joint Enterprise and the Credit Facility Agreement is entered into with another person who is, or proposes to become, a participator in that enterprise for the purposes of or in connection with that enterprise.

Part 3 Specified Investments

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97. Credit Facility Agreement

Rights under a Credit Facility Agreement.

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