



ABU DHABI GLOBAL MARKET
سوق أبوظبي العالمي

CONSULTATION PAPER NO. 3 OF 2016

31 AUGUST 2016

**CONSULTATION ON PROPOSED
LEGISLATIVE FRAMEWORK FOR
INNOVATIVE FINANCIAL TECHNOLOGY**

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INTRODUCTION

WHY ARE WE ISSUING THIS PAPER?

1. The Financial Services Regulatory Authority ("**FSRA**") of the Abu Dhabi Global Market ("**ADGM**") has issued this Consultation Paper to invite public feedback and comments on the proposed legislative framework to support participants deploying innovative technology within the financial services sector ("**FinTech**").
2. Following the policy consultation paper ("**Policy Consultation**") that FSRA issued on 10 May 2016 proposing to develop a Regulatory Laboratory framework for FinTech participants to develop and test innovative FinTech solutions ("**RegLab**"), FSRA is now consulting on the draft legislative framework to implement the RegLab within ADGM.
3. FSRA would like to thank all respondents who took the time and effort to provide feedback on the proposals set out in our Policy Consultation, which has been taken into consideration in preparing the proposed legislative framework.
4. The Board of Directors of ADGM would like to invite comments on the FSRA's proposal to issue the FinTech legislative framework for the RegLab in the ADGM, comprising:
 - a. a new Regulated Activity of Developing Financial Technology Services within the RegLab, to be set out in Chapter 17A, Schedule 1 of the Financial Services and Markets Regulations 2015 ("**FSMR**") and associated definitions in section 258 of the FSMR; and
 - b. draft FinTech Regulatory Laboratory Guidance setting out FSRA's principles and approach to the RegLab framework.
5. The proposed FinTech legislative framework is set out in Annexures A – C to this Paper.

WHO SHOULD READ THIS PAPER?

6. This Consultation Paper would be of interest to individuals, organisations and investors looking at developing innovative ways to provide financial services in ADGM / Abu Dhabi or otherwise doing business or activities in ADGM / Abu Dhabi and their professional advisors.

HOW TO PROVIDE COMMENTS

7. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use the Consultation Paper number in the subject line. You may, if relevant, identify the organisation you represent in providing your comments. FSRA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise at the time of making comments. Comments supported by reasoning and evidence will be given more weight by FSRA.

WHAT HAPPENS NEXT?

8. The deadline for providing comments on this proposal is **26 September 2016**. Once we receive your comments, we will consider whether any modifications are required to the proposed legislative framework. The Board and the FSRA will then proceed to enact the proposed legislative framework. You should not act on this proposal until the relevant regulations, rules and guidance are issued. The finalised legislative framework is expected to take effect in Q4 2016, and we will issue a notice on our website when this happens.

COMMENTS TO BE ADDRESSED TO:

Consultation Paper No. 3 of 2016
Financial Services Regulatory Authority
Abu Dhabi Global Market Square
Al Maryah Island
PO Box 111999
Abu Dhabi, UAE
Email: consultation@adgm.com

RESPONSE TO FEEDBACK ON REGLAB POLICY CONSULTATION

PREFACE

1. On 10 May 2016, FSRA issued a Policy Consultation on a proposal to develop a tailored regulatory framework --- the RegLab --- that addresses specific requirements and unique risks associated with FinTech innovation and development. The key features of the RegLab are as follows:
 - a. The RegLab operates on a “blank-sheet” approach. Instead of being subjected to the full suite of authorisation regulations and rules from the outset, FinTech Participants would only be subject to a customised set of rules, depending on their business model, technology deployed and risks of the FinTech Proposal.
 - b. Admission into the RegLab will be based on certain qualifying criteria.
 - c. Upon admission, FinTech Participants are given a two-year period to develop and test their FinTech solution in a controlled environment, after which FinTech Participants with viable business models will be able to transfer to the full authorisation and supervisory regime (upon successful demonstration of compliance with the authorisation criteria). FinTech Participants who are not ready to launch their FinTech solution at the end of the two-year period will exit the RegLab.
2. All the respondents to the Policy Consultation were supportive of the proposed RegLab framework. Several comments raised by the respondents that are of wider interest, together with FSRA’s responses, are set out in this Consultation Paper.
3. FSRA has carefully considered the comments received and, where appropriate, has taken them into account in the proposed legislative framework for FinTech.

CO-WORKING SPACES

4. One respondent suggested the setting up of a co-working space within ADGM.
5. FSRA agrees with the feedback that co-working spaces constitute an important part of the FinTech ecosystem. They offer business synergies where co-existing ventures can feed off each other for ideas and technology advancements.
6. As mentioned in the Policy Consultation, we are working with relevant partners on options to set up co-working spaces within ADGM.

INTERACTION BETWEEN FINTECH PARTICIPANTS AND NON-ADGM PERSONS

7. A few respondents sought clarification on whether the RegLab will allow FinTech Participants to interact with non-ADGM persons based outside ADGM.
8. Abu Dhabi Law No. (4) of 2013¹ does not prohibit FinTech Participants authorised under the RegLab from dealing with and serving non-ADGM users and clients, subject to the federal law restrictions under Article 4 of Federal Law No. (8) of 2004. When a FinTech solution is ready to be tested, the FinTech Participant may conduct presentations within ADGM to potential investors and clients on its prototype.
9. To facilitate such events, FSRA will work with the relevant stakeholders (including those with whom the FRSA has signed Memoranda of Understanding)² to organise scheduled workshops or seminars where

¹ In particular, Article 22(5), which permits ADGM establishments to conduct meetings to offer, promote and market its products and services in Abu Dhabi provided that such establishments refrain from making any public offers or promotions in the Emirate.

² See below:

<http://www.adgm.com/mediacentre/press-releases/abu-dhabi-global-market-signs-fintech-mou-with-flat6labs/>

<http://www.adgm.com/mediacentre/press-releases/abu-dhabi-global-market-signs-mou-with-nyu-abu-dhabi-to-advance-fintech-plan/>

FinTech Participants can hold regular showcases and progress updates on their FinTech solutions to their target group of investors and clients. FinTech Participants may also make use of the auditorium facility in the ADGM Building (subject to availability) to conduct these presentations.

10. One respondent sought clarification on the scope of activities that are required to be conducted within ADGM. Besides the interactions with investors and clients, as mentioned in paragraph 9 above, live-testing of the FinTech solution shall be carried out in or from ADGM. Prior to conducting such tests, the FinTech Participant shall submit a detailed testing plan to FSRA. FSRA may require such tests to be carried out in the presence of its FinTech supervisory team.
11. Notwithstanding the above, FSRA recognises that there may be exceptional circumstances where it would not be physically practical or feasible for the FinTech Participant to conduct certain activities within ADGM. FinTech Participants are encouraged to consult FSRA for guidance on the specific activities that they intend to conduct.

TWO-YEAR VALIDITY PERIOD

12. One respondent commented that the proposed validity period of two years for the authorisation granted under the RegLab may be too short, compared to international standards.
13. FSRA is of the view that the initial validity period of up to two years is adequate. By way of comparison, the UK Financial Conduct Authority, the Monetary Authority of Singapore and the Australian Securities and Investments Commission limit the duration for sandbox testing to no more than six months.
14. The two-year validity period for the authorisation granted under the RegLab may be extended in exceptional circumstances only, determined at the Regulator's discretion on a case-by-case basis.

AUTHORISATION CRITERIA FOR FINTECH PARTICIPANTS

15. There were enquiries on how the FSRA would assess the viability of a FinTech business model, whether participation in the RegLab would be restricted in number of participants or projects and whether the FSRA would publish guidance and examples as to the kind of ventures which may qualify for the RegLab authorisation.
16. Under the proposed RegLab framework, it is not the intention of the FSRA to determine the commercial viability of the FinTech business model or to eliminate all prospects of failure of the FinTech Participant. As failure is an inherent part of an innovation cycle, the objective of the RegLab is to create a safe environment for FinTech Participants to develop and test innovative FinTech solutions so that, in the event of a failed business, the risks and impact to clients, and the financial system as a whole, are contained.
17. In this regard, FSRA will carefully assess, as part of the authorisation process, whether the applicant for a FinTech authorisation has put in place the necessary safeguards, risk management and control systems to address the risks of their FinTech Proposal.
18. As set out in the Policy Consultation and the attached FinTech RegLab Guidance (set out in **Annex B** to this Paper), the FinTech applicant will have to clearly set out the control boundaries and test parameters within which it will operate and the resolution measures that will be implemented in the event of a failure. FSRA will also assess the fitness and propriety of the FinTech applicant, including in relation to the applicant's relevant technical and business domain knowledge and experience.
19. The detailed authorisation criteria is set out section 5 of the FinTech RegLab Guidance. While there are no restrictions on the number of FinTech Participants or projects in the RegLab at any one time, only applicants who satisfy the authorisation criteria will qualify for the RegLab authorisation.
20. FSRA will maintain a public register of all FinTech Participants authorised under the RegLab in accordance with its Public Record obligations under Part 16 of the FSMR.

ONGOING MONITORING AND UPDATING OF REGLAB ACTIVITIES

21. A few respondents commented that the RegLab could benefit from increased transparency in terms of the ongoing reporting of participants, projects and activities within the RegLab. In particular, FSRA could help facilitate the monitoring of all ventures and make themes and general findings available, including allowing regular updates and presentations by FinTech Participants in ADGM. As learnings from the RegLab experience may influence future changes to the FinTech regulatory framework (in order to cater to new business models or technologies), it would make sense for the RegLab regime to benefit from these lessons learnt.
22. FSRA agrees with this feedback. FinTech Participants authorised under the RegLab will be subject to ongoing supervision to ensure compliance with the applicable regulatory requirements. As part of its obligations under the RegLab, the FinTech Participant will be required to periodically report to the FSRA on the development of its FinTech Proposal and progress of the live-tests. As with all Authorised Persons regulated and supervised by the FSRA, the FSRA may from time to time share its thematic findings with the industry arising from its supervision of FinTech Participants in the RegLab (including information and statistics on the state of the industry, key milestones, compliance issues, and the like).
23. FSRA will draw on the lessons learnt from the implementation of RegLab, and periodically review and update its FinTech regulatory framework to ensure it remains risk-appropriate and relevant for the FinTech industry and caters to new/emerging business models or technologies.

PROPOSED LEGISLATIVE FRAMEWORK

DRAFT AMENDMENTS TO THE FINANCIAL SERVICES AND MARKETS REGULATIONS

24. To implement the RegLab framework, FSRA proposes to introduce a new Regulated Activity in Chapter 17A, Schedule 1 of the Financial Services and Markets Regulations 2015 (“**FSMR**”) that specifically caters to Developing Financial Technology Services within the RegLab. A FinTech Participant that carries on such a Regulated Activity will need to apply for a Financial Services Permission. The associated definitions for the FinTech legislative framework have also been introduced in section 258 of the FSMR.
25. The proposed amendment to FSMR is set out in **Annex A** to this Paper.

DRAFT FINTECH REGLAB GUIDANCE

26. In the Policy Consultation, FSRA explained the policy considerations for a “blank sheet” approach under the RegLab. In a fast evolving FinTech landscape, where FinTech solutions are becoming more diverse and sophisticated, a progressive regulatory framework is required to support, rather than stifle, the development and adoption of promising FinTech innovations.
27. In light of these considerations, FSRA has created the RegLab – which aims to encourage rather than front-run innovation and to facilitate time-to-market of new FinTech solutions in a cost-efficient environment.
28. Rather than imposing a rigid, ‘one-size fits all’ set of rules across a number of different FinTech business models and their unique risks, the proposed RegLab is a specifically tailored regulatory framework that provides a controlled environment for FinTech Participants to develop and test innovative FinTech solutions without immediately being subject to all the regulatory requirements that would otherwise apply to Authorised Persons.
29. The legislative requirements applicable to FinTech Participants under the RegLab framework will be tailored on a case-by-case basis according to the specific characteristics and risks associated with the FinTech Proposal.

These requirements may be adapted from existing regulations (including but not limited to the FSMR) and Rules under the FSMR. FSRA will have the power to modify any of the current Rules or Rulebooks (in part or entirely, as appropriate) and waive any Rules or Rulebooks that are not relevant to the applicant's FinTech Proposal.

30. This will allow the FSRA to retain maximum flexibility to tailor its regulatory requirements to the unique and changing risks that FinTech Participants pose at any point in time, or as FinTech Participants progress along different stages of development of their FinTech Proposal.
31. The draft RegLab Guidance is attached at **Annex B** to this Paper.

DRAFT AMENDMENTS TO OTHER FSRA RULEBOOKS

32. FSRA also proposes to introduce new definitions associated with the FinTech legislative framework, mirroring the definition introduced in section 258 of the FSMR, in the FSRA Glossary Rulebook ("**GLO**"), as set out in **Annex C** to this Paper.