
Government Notice No. 128 of 2021

THE FINANCIAL SERVICES ACT

**FSC Rules made by the Financial Services Commission
under section 93 of the Financial Services Act**

1. Citation

These Rules may be cited as the Financial Services (Robotic and Artificial Intelligence Enabled Advisory Services) Rules 2021.

2. Interpretation

In these Rules,

“Act” means the Financial Services Act;

“advisory services” includes discretionary and non-discretionary investment and portfolio management services provided by the licensee to its clients;

“artificial intelligence” means algorithms designed by individuals that, given a goal, act in the physical or digital world by perceiving their environment, interpreting the collected structured or unstructured data, reasoning on the knowledge derived from this data and deciding the best action to take, according to pre-defined parameters, to achieve the given goal;

“cloud computing” means a model for enabling convenient, on-demand network access to a shared pool of configurable computing resources (including networks, servers, storage, applications and services) that can be rapidly provisioned and released with minimal effort or service provider interaction;

“Commission” means the Financial Services Commission;

“licensee” means an entity which is a holder of a Robotic and Artificial Intelligence Enabled Advisory Services licence issued by the Commission;

“Robotic and Artificial Intelligence Enabled Advisory Services” means the provision of digital and personalised advisory services through a computer program and/or artificial intelligence enabled algorithms with limited human intervention.

3. Application of Rules

- (1) These Rules shall apply to a person holding a Robotic and Artificial Intelligence Enabled Advisory Services licence issued under the Act.
- (2) These Rules shall be read in conjunction with the relevant Acts and Guidelines which the Commission may issue from time to time.

4. Application for a licence

- (1) No person shall carry out Robotic and Artificial Intelligence Enabled Advisory Services without a Robotic and Artificial Intelligence Enabled Advisory Services licence issued by the Commission.
- (2) Any person applying for a Robotic and Artificial Intelligence Enabled Advisory Services licence may apply for another licence, authorisation, registration or approval, as the case may be, under the relevant Acts.
- (3) An application for a Robotic and Artificial Intelligence Enabled Advisory Services licence shall be made in accordance with Part IV of the Act.

5. General obligations

- (1) A licensee shall at all times—

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- (a) have its principal bank account in Mauritius;
 - (b) establish an office and relevant infrastructure for the carrying out of its Robotic and Artificial Intelligence Enabled Advisory Services in Mauritius;
 - (c) implement adequate internal controls, risk management (including cyber risk management), as well as, governance policies and procedures;
 - (d) put in place a business continuity and disaster recovery plan;
 - (e) preserve the integrity and privacy of its clients' information in conformity with the applicable Data Protection Laws of Mauritius;
 - (f) be managed by a board of directors consisting of a minimum of three directors, one of whom shall be an independent director and a resident of Mauritius;
 - (g) employ an adequate number of officers with adequate competence, experience and proficiency, and commensurate with the size, nature and complexity of its services; and
 - (h) have in place such code of conduct and ethics which shall be binding on its officers in relation to the provision of its services.
- (2) Subject to sub-paragraph (1)(e), whenever clients' information are stored and processed through cloud computing facilities for analytics, the licensee shall ensure that these information are maintained with adequate security and access controls, and are accessible to the licensee at all times and to the Commission, upon request.

- (3) A licensee may, subject to the approval of the Commission, be authorised to collect limited information on the financial situation of clients provided that the licensee demonstrate that:
 - (a) Its advisory services are fully automated and do not involve any human intervention in the advisory process;
 - (b) The limited client information shall not compromise the adequacy and quality of its advisory services; and
 - (c) There shall be appropriate control mechanisms including pop-up boxes and back-end data analysis to identify and follow-up on inconsistent responses of clients, amongst others.
- (4) Notwithstanding sub-paragraph (3)(a), a licensee shall not be disqualified from being deemed to provide fully automated advisory services by the Commission, whenever there are elements of human intervention to assist its non-advisory services, for instance, in respect of Information Technology or any technical support.

6. Minimum capital requirements

A licensee shall, at all times, maintain a minimum unimpaired stated capital of MUR 600,000 or its equivalent in a foreign currency.

7. Professional indemnity insurance

A licensee shall subscribe to a professional indemnity insurance policy which shall indemnify the company, its employees and any person acting on its behalf, against liability for the sum of at least MUR 2 million or such higher amount as the Commission

may determine, for any act, error or omission in respect of the conduct of the advisory services.

8. Segregated account

- (1) A licensee shall, at all times, ensure that the funds of clients are maintained separately from its own funds.
- (2) For the purposes of paragraph (1), the funds shall be maintained in an account with a duly licensed bank.

9. Due Diligence

- (1) A licensee shall conduct appropriate due diligence on its clients in accordance with the prevailing laws including the:
 - (a) Financial Intelligence and Anti-Money Laundering Act;
 - (b) Financial Intelligence and Anti-Money Laundering Regulations 2018 or any similar Regulations made under the Financial Intelligence and Anti-Money Laundering Act; and
 - (c) Financial Prohibitions against Listed Parties under the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act.
- (2) A licensee shall ensure that any investment advice given through the platform is suitable for the client.
- (3) In making this determination of suitability, the licensee shall:
 - (a) undertake an appropriate assessment of the client's needs, objectives, financial situation and also, to the extent relevant, the risk tolerance, knowledge, experience and understanding of the risks involved; and

- (b) take into account any other relevant requirements and circumstances of the client of which the licensee is, or ought reasonably to be, aware.

10. Safeguards for robustness of computer program and artificial intelligence enabled algorithms

- (1) The board of directors of the licensee shall be responsible to ensure that the licensee has at all times:
 - (a) adequate policies, processes and controls to ensure that the algorithms continue to perform as intended;
 - (b) a robust framework for the design, monitoring and testing of the algorithms through periodic and random reviews; and
 - (c) competent officers for developing and reviewing the methodologies of the algorithms, even if such functions are outsourced.
- (2) No licensee shall outsource the key processes and management of their client-facing tools.

11. Disclosures to or from clients

- (1) In order to enable clients to make an informed decision, a licensee shall provide clear, fair and non-misleading information to clients about the nature and scope of the services it offers, including the types of products and how the licensee determines whether these products are suitable to meet the investment objective of the client and the risks involved.
- (2) The licensee shall disclose in writing to its clients, any actual or potential conflict of interest arising from any connection to or association with any product provider,

including any material information or facts that may compromise its objectivity or independence.

- (3) Without prejudice to any requirements laid down in any Guidelines issued by the Commission, a licensee shall enter into a service-level agreement with its clients before providing any services to the clients.
- (4) The following statements shall be displayed in a prominent place and in a visible manner in the service-level agreement, on the website and the platform of the licensee:

The following Notice is hereby given to Clients:

The Financial Services Commission does not vouch for the correctness of any information or statements published by the licensee on its robotic and/or artificial intelligence interface or platform; and

Clients engaging the services of (Name of licensee) are not protected by any statutory compensation arrangements in Mauritius in the event of the company's failure.”

- (5) The service-level agreement referred to in paragraph (3) shall contain the following information:
 - (a) any exclusivity agreements which may have been entered by the licensee with a particular financial services provider in relation to the provision of its services; and
 - (b) specific conditions or triggers which can result in the discontinuation of its services and possible use or replacement of human judgment.
- (6) Prior to providing any services, a licensee shall obtain a written confirmation from its clients that they understand

the scope and nature of the advisory services together with the associated risks and limitations.

12. Records Keeping

The licensee shall, in addition to the requirements of section 29 of the Act, keep and maintain:

- (a) a copy of the advice provided to the client through the Robotic and Artificial Intelligence Enabled Advisory Services and the output of the investment;
- (b) information received from the client that was relied on, or otherwise used, by the licensee to generate the advice; and
- (c) details of all algorithms and software used by the licensee.

13. Reporting Obligations

- (1) The licensee shall submit in respect of every financial year its audited financial statement in accordance with section 30 of the Act.
- (2) The licensee shall, in addition to the reporting obligations referred to in paragraph (1), submit to the Commission independent evaluation reports with respect to its algorithms and software systems:
 - (a) at least once every two years from the date of its licence; and
 - (b) following any material changes, thereto.
- (3) The licensee shall, in relation to paragraph (2), seek the prior approval of the Commission before the appointment of the independent persons or experts which shall be assigned these responsibilities.

14. Transitional Provisions

- (1) Any person who, immediately before the commencement of these Rules was carrying out Robotic and Artificial Intelligence Enabled Advisory Services in Mauritius shall, within 3 months of the commencement of these Rules, apply for a Robotic and Artificial Intelligence Enabled Advisory Services licence.
- (2) Any person who fails to apply for a licence within the time prescribed in paragraph (1) above, shall commit an offence under section 14 of the Act.

12. Commencement

These Rules shall come into operation on 12 June 2021.

Made by the Financial Services Commission on 12 June 2021.
