



qatar

FINANCIAL CENTRE

# **Companies Regulations 2005**

**VER2-MAY08**

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## **PART 1: APPLICATION, COMMENCEMENT AND INTERPRETATION**

### **Article 1 - Citation**

These Regulations may be referred to as the Companies Regulations 2005.

### **Article 2 - Application**

These Regulations are made by the Minister pursuant to Article 9 of the QFC Law and shall apply in the QFC. To the fullest extent permitted by the QFC Law, the laws, rules and regulations of the State concerning companies and branches or offices of foreign companies and investments therein, including without limitation the Commercial Companies Law No.(5) of 2002 and the Foreign Investment Law No.(13) of 2000, shall not apply in the QFC.

### **Article 3 - Commencement**

These Regulations shall come into force on the date of their signature by the Minister.

### **Article 4 - Language**

In accordance with Article 9 of the QFC Law, these Regulations are written in the English language and the English text thereof shall be the official original text. Any translation thereof into another language shall not be authoritative and in the event of any discrepancy between the English text of these Regulations and any other version, the English text shall prevail.

### **Article 5 - Interpretation**

Words and expressions used in these Regulations and interpretative provisions applying to these Regulations are set out in Part 14.

### **Article 5A – Power of QFC Authority and QFC Regulatory Authority to make rules**

The QFC Authority and the QFC Regulatory Authority, each within the scope of their jurisdiction, authority or powers conferred upon them may make rules to the extent set out in the QFC Law, these Regulations and any other Regulations conferring powers, duties and functions on the QFC Authority and QFC Regulatory Authority as they deem necessary or appropriate to implement, carry out or enforce these Regulations.

The provisions of these Regulations shall have no effect to the extent they are excluded by, conflict or are inconsistent with, or otherwise alter the meaning or effect of, any rules made by the QFC Regulatory Authority acting within the scope of its authority under the QFC Financial Services Regulations or any other Regulations enacted with the approval of the Council of Ministers.

## **PART 2: COMPANIES REGISTRATION OFFICE**

### **Article 6 - The CRO**

- (1) The CRO was established under the QFC Law and shall be an authority with independent legal personality and full capacity to act as such and perform legal actions in accordance with these Regulations. Without limitation to the foregoing, the CRO shall have the power to own and dispose of property of any description and to enter into contracts and to sue and be sued.
- (2) The CRO will be managed by the Registrar unless its powers, duties and functions have otherwise been delegated under Article 6(4).
- (3) The CRO shall conduct its affairs in accordance with the QFC Law and these Regulations but shall otherwise have power, by decision of the Registrar, to determine its own procedures and management.
- (4) The powers, duties and functions of the CRO under these Regulations may be delegated either:
  - (A) at the discretion of the QFC Authority to any person as it in its sole discretion determines;
  - (B) by the CRO to any person as it in its sole discretion determines; or
  - (C) otherwise pursuant to any Regulations.

### **Article 7 - Role of the QFC Authority**

- (1) The CRO shall be subject to the supervision of the QFC Authority which shall have the power and function to:
  - (A) ensure that the CRO exercises its statutory powers and performs its statutory functions;
  - (B) review the performance of the CRO and the use of its resources; and
  - (C) give the CRO written directions as to the furtherance of any of its objectives or the performance of any of its functions.

### **Article 8 - Role and functions of the CRO**

The CRO shall have the following functions:

- (1) to receive and process all applications to incorporate or register all types of Companies and Branches eligible for incorporation or registration under these Regulations and any other Entities in respect of which the CRO is made responsible pursuant to any other Regulations;
- (2) to keep and maintain in such form as it shall determine an index of the names and registered numbers of the Companies and Branches which are or have been registered under these Regulations and any other Entities which may fall to be registered by the CRO pursuant to any other Regulations;

- (3) to receive and process all Documents and information required to be filed with the CRO pursuant to these Regulations or any other Regulations;
- (4) to keep and maintain in such form as it shall determine a register in respect of each of the Companies and Branches which are or have been registered under these Regulations and any other Entities which may fall to be registered by the CRO pursuant to any other Regulations, to record in such register all Documents and information which falls to be filed with or delivered to the CRO in respect of such Companies, Branches and Entities and to allow any person to inspect and take copies from such register during the office hours of the CRO;
- (5) to administer and impose any financial penalties provided for in these Regulations; and
- (6) all other functions provided for in these Regulations or any other Regulations or otherwise considered by it to be necessary, desirable or appropriate to achieve, further or assist in relation to any of the above.

#### **Article 9 - Powers of the CRO**

- (1) The CRO shall have the following powers:
  - (A) subject to the approval of the QFC Authority, to make rules and publish guidance for the purposes of performing its functions;
  - (B) subject to approval of the QFC Authority, to prescribe forms to be used for the purposes of filings required to be made with the CRO;
  - (C) subject to approval of the QFC Authority to prescribe the fees payable to it for incorporation, registration, filing and any other administrative services provided by the CRO; and
  - (D) all other powers provided for in these Regulations or any other Regulations or otherwise considered by the QFC Authority to be necessary, desirable or appropriate to achieve, further or assist the performance of its functions.
- (2) The CRO shall make available to the public during the office hours of the CRO copies of all rules and guidance made under these Regulations by the QFC Authority or the CRO, including without limitation those relating to Prescribed Forms and Prescribed Fees.

#### **Article 10 - Other zones or centres**

The CRO may, with the approval of the QFC Authority, carry out similar functions to those provided for in these Regulations in respect of other zones or centres in the State.

#### **Article 11 - Accounting and budget requirements of the CRO**

- (1) The budget of the CRO in respect of each financial year shall be set by the QFC Authority.
- (2) The CRO shall be exempt from the control of the State Audit Bureau.
- (3) The financial year of the CRO shall commence on the first day of January and end on the last day of December each year, save that the first financial year of the CRO shall commence on the date on which the QFC Law came into force and shall end on the last day of December of the following year.

- (4) The CRO shall keep accounting Records which are sufficient to show and explain the transactions of the CRO and are such as to disclose with reasonable accuracy at any time the income and expenditure and assets and Liabilities and financial position of the CRO and the Registrar shall procure that, as soon as reasonably practicable after the end of each financial year, accounts of the CRO are prepared in accordance with internationally accepted accounting principles and audited by an independent auditor, being a firm of chartered accountants with an office in the State, who shall report as to whether the accounts of the CRO show a true and fair view of the financial affairs of the CRO during the financial year in question and the assets and Liabilities of the CRO at the end of the year in question and such other matters as the auditors may consider it appropriate to report on.
- (5) The CRO shall as soon as reasonably practicable after the end of each financial year send to the QFC Authority a copy of its audited accounts for the financial year in question and a report of its activities during such financial year. The CRO shall in relation to its activities submit such further reports to the QFC Authority as the QFC Authority may require.

#### **Article 12 - Confidentiality**

The CRO, its officers, employees, agents or contractors shall comply with any Rules made by the QFC Authority in respect of confidentiality.

#### **Article 13 - The Registrar**

- (1) The Registrar shall be appointed and may be removed by the QFC Authority and, subject to Article 6(2), shall be responsible for the day-to-day administration and operations of the CRO to the extent authorised and empowered by the QFC Authority. The Registrar shall accordingly exercise such powers and have such authority as the QFC Authority shall from time to time delegate to him.
- (2) The Registrar shall make suitable arrangements for keeping appropriate Records in relation to the exercise of the powers and performance of the functions of the CRO.

## **PART 3: LIMITED LIABILITY COMPANIES**

### **SECTION 1: ESTABLISHMENT AND CORPORATE CAPACITY**

#### **Article 14 - Limited Liability Companies**

- (1) A form of legal entity known as a limited liability company may be incorporated in the QFC.
- (2) An LLC is a Company which is formed by being incorporated under these Regulations.

#### **Article 15 - Corporate capacity**

- (1) An LLC has separate legal capacity from its Members whose liability shall be limited to paying to the LLC the amount, if any, unpaid on the Shares held by them.
- (2) An LLC has the capacity, rights and privileges of a natural person and, without limitation, may enter into contracts, sue and be sued and own assets of all types.
- (3) In favour of a person who in good faith is a party to any transaction or other act to which the LLC is party, the power of the directors of an LLC to bind the LLC, or authorise others to do so, shall be deemed free of any limitation under the LLC's articles of association.
- (4) A contract may be made, varied or discharged on behalf of an LLC, by any person acting under its authority, express or implied.
- (5) A Document is executed by an LLC if signed by two directors, or one director and the secretary of an LLC, and expressed (in whatever form of words) to be executed by the LLC.

#### **Article 16 - Transactions entered into prior to corporate existence**

- (1) Where a transaction purports to be entered into by an LLC, or by a person as agent for an LLC, at a time when the LLC has not been formed, then unless otherwise agreed by the parties to the transaction, the transaction has effect as one entered into by the person purporting to act for the LLC or as agent for it, and he is personally bound by the transaction and entitled to its benefits.
- (2) An LLC may, within such period as may be specified in the terms of the transaction or if no period is specified, within a reasonable time after it is formed, by act or conduct signifying its intention to be bound thereby, adopt any such transaction and it shall from that time be bound by it and entitled to its benefit and the person who entered into such transaction shall cease to be so bound and entitled.

## SECTION 2: INCORPORATION AND REGISTRATION

### Article 17 - Incorporation of a Limited Liability Company

- (1) Any one or more persons may apply for the incorporation of an LLC for the purpose of carrying on a Business of a kind permitted by the QFC Law to be conducted in the QFC by signing and filing with the CRO an incorporation document together with the Prescribed Fee and otherwise complying with the requirements of these Regulations in respect of registration.
- (2) The incorporation document filed with the CRO shall set out or have attached thereto:
  - (A) the name of the LLC which must comply with Article 36 of these Regulations;
  - (B) the nature of the Business to be conducted by the LLC and it shall be sufficient to state that the purpose of the LLC is to engage in any lawful act or activity for which LLCs may be incorporated under the QFC Law and Regulations;
  - (C) the address of the registered office of the LLC, which shall be in the QFC;
  - (D) the date of the financial year end of the LLC;
  - (E) the full Name and Address of each of the incorporators of the LLC and the number of Shares which each of them agrees to take upon incorporation of the LLC;
  - (F) the full Name, Address, date of birth, nationality, business occupation and any directorships held within the last five years of all the persons who are to be the first directors of the LLC together with a declaration that each of them is qualified to act as a director or secretary of an LLC pursuant to these Regulations;
  - (G) the full Name, Address, date of birth and nationality of the person who is the first secretary of the LLC;
  - (H) the amount of the authorised share capital, with which it is proposed that the LLC be registered, and the division thereof into Shares of fixed amount;
  - (I) the LLC's articles of association, signed by the incorporators, setting out the rules for the internal governance of the LLC which shall comply with these Regulations; and
  - (J) such other particulars as the CRO may require from time to time.
- (3) The share capital of an LLC may be denominated in any currency approved by the CRO.
- (4) The incorporation document and all other documentation required to be submitted to the CRO shall be in English and shall be in such form as the CRO may prescribe or approve from time to time.
- (5) Article 17 (2) (E) does not require the incorporators of an LLC to agree to take any Shares if, on incorporation, the LLC will be a Collective Investment Fund.
- (6) Article 17 (2) (H) does not apply to the incorporation of an LLC if, on incorporation, the LLC will be a Collective Investment Fund.

- (7) An LLC that is a Collective Investment Fund is not required to have an authorised share capital.

**Article 18 - Registration**

- (1) No LLC shall be incorporated without the consent of the CRO.
- (2) On incorporation the CRO shall:
- (A) give a certificate that the LLC is incorporated with the name specified in the certificate and with effect from the date of the certificate;
  - (B) allocate to the LLC a number, which shall be the LLC's registered number; and
  - (C) enter the name and registered number of the LLC in the index of names and registered numbers maintained by the CRO under these Regulations.
- (3) A certificate of incorporation shall be conclusive evidence that the LLC is incorporated with the name specified in it and that the requirements of these Regulations have been complied with in respect of the incorporation and registration of the LLC and thereafter no defect in the process prior to the incorporation thereof shall affect the validity of its incorporation.
- (4) From the date of incorporation, the Members from time to time of the LLC shall be a Body Corporate having the name contained in the certificate of incorporation and capable forthwith of exercising all the functions of an incorporated LLC.
- (5) A decision of the CRO refusing to issue a certificate of incorporation may be reviewed consistent with any applicable standards and procedures issued by the QFC Authority for such purpose.



### **SECTION 3: MEMBERS AND SHARE CAPITAL**

#### **Article 19 - Members**

- (1) The incorporators of an LLC are deemed to have agreed to become Members of the LLC by signing the incorporation document and on incorporation shall be entered as such in the LLC's register of Members (other than any who have died or been dissolved).
- (2) Every other person who agrees to become a Member of the LLC and whose Name is entered in the register of Members, is a Member of the LLC.
- (3) A person may cease to be a Member of an LLC (as well as by death or dissolution) in accordance with the articles of association of the LLC.
- (4) A Member of an LLC can be of any nationality and either a natural or corporate person.
- (5) The minimum number of Members of an LLC is one.
- (6) Every LLC shall keep a register of Members, together with:
  - (A) a statement of the Shares held by each Member, distinguishing each Share by its number (if the Share has a number) and, where the LLC has more than one class of issued Shares, by its class;
  - (B) the date on which each person was registered as a Member; and
  - (C) the date on which any person ceased to be a Member.
- (7) Article 19 (1) does not apply to an LLC if, on incorporation, the LLC will be a Collective Investment Fund.

#### **Article 20 - Rectification of register of Members**

- (1) If:
  - (A) the name of a person, the number of Shares held or the class of Shares held is, without sufficient reason, not entered in or omitted from an LLC's register of Members; or
  - (B) there is a failure or unnecessary delay in entering on the register the fact of a person having ceased to be a Membera person aggrieved, or a Member of the LLC, or the LLC, may apply to the CRO for rectification of the register.
- (2) The CRO may refuse the application or may order rectification of the register.
- (3) Whether or not the CRO exercises its power under Article 20(2), the Tribunal may make one or more of the following orders:
  - (A) on application of the CRO, an order enforcing any orders made by it under this Article 20;

- (B) on application of a person aggrieved, a Member of the LLC, or the LLC, an order directing the CRO to, or not to order the rectification of the register or to do any act or thing; or
- (C) on application of a person aggrieved, an order requiring the LLC to pay damages or to do any act or thing.

#### **Article 21 - Allotment of Shares**

Subject to any limitations or provisions to the contrary in its articles of association, the unissued Shares of an LLC shall be at the disposal of the directors of an LLC who may, subject to any rights previously conferred on the holders of any existing Shares, or class of Shares, offer, allot, grant options over or otherwise dispose of such Shares to such persons, at such time and upon such terms as the directors of the LLC may determine.

#### **Article 22 - Return as to allotments**

- (1) When an LLC makes an allotment of its Shares, the LLC shall within one month thereafter deliver to the CRO for registration a return of the allotments in the Prescribed Form stating the number and nominal amount of the Shares comprised in the allotment, the Names and Addresses of the allottees, and the amount (if any) paid or due and payable on each Share, whether on account of the nominal value of the Share or by way of premium, and, in the event that any Shares are allotted for a consideration other than cash, a statement of the consideration for which they have been so allotted.
- (2) This Article does not apply to an LLC that is a Collective Investment Fund registered by the Regulatory Authority.

#### **Article 23 - Prohibition on allotment of Shares at a discount**

- (1) An LLC's Shares shall not be allotted at a discount to their nominal value.
- (2) If any Share is allotted in contravention of this Article 23 then the allottee is liable to pay the LLC an amount equal to the amount of the discount, with interest at an appropriate rate to be prescribed by the CRO.

#### **Article 24 - Transfer of Shares**

- (1) The Shares of any Member of an LLC shall be transferable in such manner as may be provided by the articles of association of the LLC.
- (2) Subject to Article 24(6), notwithstanding the provisions of its articles of association, an LLC shall not register a transfer of Shares in the LLC unless a written instrument of transfer duly executed by the transferor and, if any sums remain unpaid on any of the transferred Shares, the transferee has been delivered to the LLC.
- (3) Nothing in this Article 24 shall prejudice the power of an LLC to register as a Member any person to whom the right to any Shares of the LLC has been transmitted by operation of law.
- (4) A transfer of any Share of a deceased Member of an LLC made by his personal representative, although the personal representative is not himself a Member of the LLC, is as valid as if he had been a Member at the time of the execution of the instrument of transfer.

- (5) If an LLC refuses to register a transfer of Shares, the LLC shall, within 21 days after the date on which the transfer was delivered to the LLC, send to the transferor and transferee notice of the refusal.
- (6) Article 24(2) does not apply when a transfer of shares is undertaken in accordance with rules made by the QFC Authority.

#### **Article 25 - Issue of certificates**

- (1) Subject to Article 25(3), for each Share allotted or transferred, a Share certificate shall be issued by the LLC no later than 30 days after the date the allotment is made or the date on which a transfer of the Shares is registered in the register of Members of the LLC.
- (2) A certificate executed by the LLC specifying any Shares held by a Member, shall be evidence of the title of the Member to the Shares.
- (3) Article 25(1) and (2) does not apply when title to shares is evidenced in accordance with rules made by the QFC Authority which allow for title to be evidenced in some other manner.

#### **Article 26 - Share premium account**

- (1) If an LLC issues Shares at a premium to their nominal value, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those Shares shall be transferred to an account called the "share premium account".
- (2) The share premium account may be applied by the LLC in paying up unissued Shares to be allotted to Members as fully paid bonus Shares, or in writing off:
  - (A) the LLC's preliminary expenses; or
  - (B) the expenses of, or the commission paid or discount allowed on, any issue of Shares or debentures of the LLC

or in providing the premium payable on redemption of any redeemable Shares or any debentures of the LLC.

- (3) Subject to Article 26(2), the provisions of these Regulations relating to a reduction of a Company's share capital apply as if the share premium account were part of its paid up share capital.
- (4) This Article does not apply to an LLC that is a Collective Investment Fund registered by the Regulatory Authority.

#### **Article 27 - Rights attaching to Shares**

- (1) To the extent permitted by its articles of association, an LLC may create different classes of Shares. Subject to these Regulations, the rights attaching to Shares (or any class of Shares) shall be determined by the articles of association of the LLC.
- (2) The articles of association of the LLC shall set out:
  - (C) the right to vote at a meeting of the LLC carried by each class of Share;

- (D) the right to repayments of capital attaching to each class of Share;
  - (E) the right to participate in any undistributed profit of each class of Share;
  - (F) the rights and obligations pertaining to the transfer of each class of Share;
  - (G) the right to dividends and other distributions attaching to each class of Share; and
  - (H) any other rights and obligations attaching to each class of Share.
- (3) Subject to the provisions of the articles of association of the LLC, each Share shall rank in all respects equally with any other Share in the LLC.
- (4) It shall not be lawful for an LLC to issue bearer Shares.

**Article 28 - Alteration of share capital**

- (1) An LLC, if so authorised by its articles of association, may alter its share capital by Ordinary Resolution in any of the following ways:
- (A) increasing its authorised share capital by creating new Shares of such amount as it thinks expedient;
  - (B) consolidating and dividing any or all of its Shares (whether issued or not) into Shares of a larger amount than its existing Shares;
  - (C) sub-dividing its Shares, or any of them, into Shares of a smaller amount than its existing Shares but so that, in the sub-division of any issued Shares, the proportion between the amount paid and the amount (if any) unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived;
  - (D) cancelling Shares which at the date of passing of the Ordinary Resolution to cancel them, have not been taken or agreed to be taken by any person, and diminishing the amount of the LLC's authorised share capital by the amount of the Shares so cancelled; and
  - (E) changing the currency denomination of its share capital or any class thereof to a currency denomination approved by the CRO.
- (2) A cancellation of Shares under this Article 28 does not for the purposes of these Regulations constitute a reduction of share capital.
- (3) An LLC having altered its share capital pursuant to Article 28(1), shall within 21 days thereafter give notice in the Prescribed Form to the CRO, together with a copy of the Ordinary Resolution effecting the alteration.

**Article 29 - Class rights**

- (1) If provision for the variation of the rights attached to a class of Shares is made in the articles of association of the LLC, those rights may only be varied in accordance with those provisions.

- (2) If provision for the variation of the rights attached to a class of Shares is not made as such in the articles of association the rights may be varied if, but only if:
  - (A) the holders of three quarters in nominal value of the Shares of the class consent in writing to the variation; or
  - (B) a Special Resolution passed at a separate meeting of the holders of that class sanctions the variation.
- (3) Any alteration of a provision in the articles of association for the variation of the rights attached to a class of Shares, or the insertion of any such provision into the articles of association shall itself be treated as a variation of those rights.
- (4) If the rights attached to any class of Shares are varied in the manner referred to above, the holders of not less than 15 per cent of the nominal value of the Shares of the class (being persons who did not consent to, or vote in favour of a resolution for the variation) may apply to the Tribunal to have the variation cancelled.
- (5) The application for cancellation of the variation must be made within 21 days after the date on which the consent was given or the resolution was passed and may be made on behalf of the Members entitled to make it by one or more of them as they may appoint in writing.
- (6) On any such application the Tribunal, after hearing the applicant and any other persons who apply to the Tribunal to be heard and appear to the Tribunal to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the Members represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.
- (7) The decision of the Tribunal on any such application shall be final.
- (8) In this Article 29, "variation" includes abrogation and "varied" is to be construed accordingly.

### **Article 30 - Reduction of share capital**

- (1) An LLC, if authorised by an Ordinary Resolution and its articles of association, may reduce its share capital in any way.
- (2) In particular, and without prejudice to the generality of Article 30(1), an LLC may:
  - (A) extinguish or reduce the liability on any of its Shares in respect of capital not paid up;
  - (B) either with or without extinguishing or reducing liability on any of its Shares, cancel any paid up capital that is lost or unrepresented by available assets; or
  - (C) either with or without extinguishing or reducing liability on any of its Shares, pay off any paid up capital that is in excess of the requirements of the LLC.
- (3) No LLC shall reduce the amount of its share capital under Article 30(1) unless it complies with the following:
  - (A) at a date not more than 30 days and not less than 15 days before the date from which the reduction of the share capital is to have effect, the LLC shall publish a

notice in an Appointed Newspaper stating the amount of the LLC's share capital at such date, the amount to which, and manner in which, the share capital is to be reduced and the date from which the reduction is to have effect; and

- (B) on the date from which the reduction is to have effect a certificate shall be signed by at least two directors of the LLC or the sole director if there is only one director declaring either:
- (i) that on that date and following the reduction of capital, the realisable value of the LLC's assets will be not less than the aggregate of its Liabilities and issued share capital and share premium account and the LLC will be able to satisfy its Liabilities as they fall due; or
  - (ii) that all the creditors of the LLC on that date have consented to the reduction.
- (4) Where Shares are to be cancelled in order to reduce the capital of an LLC the Shares shall be acquired at the lowest price at which, in the opinion of the directors, the Shares are obtainable, but not exceeding an amount, if any, stated or determined by the articles of association.
- (5) Where an LLC reduces the amount of its share capital then within 30 days after the date on which the reduction has effect the LLC shall file a notice in Prescribed Form with the CRO together with a copy of the notice referred to in Article 30(3)(A) and the certificate referred to in Article 30(3)(B) above.
- (6) If, after a certificate is signed in accordance with Article 30(3)(B)(ii) above, a creditor who did not consent to the reduction has a debt or claim against the LLC which the LLC is unable to pay as a result of the reduction, every person who was a Member of the LLC at the date of the certificate is then liable to contribute for the payment of the debt or claim in question an amount not exceeding the aggregate amount which, prior to the reduction, remained unpaid on the Shares then held by him.
- (7) Notwithstanding Article 30 (1), an LLC that is a Collective Investment Fund registered by the Regulatory Authority does not require authorisation by Ordinary Resolution to reduce its share capital in anyway.

#### **Article 31 - Redemption or purchase of own Shares**

- (1) An LLC may, if authorised to do so by its articles of association, and in accordance with the provisions of such articles of association, redeem any of its Shares which pursuant to its articles of association are to be redeemed, or are liable to be redeemed, at the option of the LLC or the holder of the relevant Shares.
- (2) No redeemable Shares shall be issued by an LLC, nor shall any Shares in an LLC be converted into redeemable Shares, if, following such issue or conversion, there would be no Shares in the LLC which are not redeemable.
- (3) A redemption of redeemable Shares shall only be made from the following sources:
- (C) in the case of the nominal value of the Shares, from paid up capital, share premium and other reserves of the LLC; and

- (D) in the case of any premium, from realised or unrealised profits, share premium or other reserves of the LLC.
- (4) Upon redemption of Shares under this Article 31, such Shares shall be taken as cancelled and accordingly the amount of the LLC's issued share capital shall be diminished by the nominal value of those Shares but redemption shall not be taken as reducing the authorised share capital of the LLC.
- (5) Where pursuant to this Article 31 an LLC is about to redeem Shares, it may issue Shares up to the nominal amount of the Shares to be redeemed as if those Shares had never been issued.
- (6) This Article does not apply to an LLC that is a Collective Investment Fund registered by the Regulatory Authority.

#### **Article 32 - Power of an LLC to purchase own Shares**

- (1) Subject to the provisions of this Article 32, an LLC may purchase its own Shares (including any redeemable Shares).
- (2) Article 31(3), (4), and (5) shall apply to the purchase by an LLC of its own Shares as they apply to a redemption of redeemable Shares of an LLC.
- (3) A purchase under this Article must, unless the LLC is a Wholly-Owned Subsidiary, be sanctioned by an Ordinary Resolution.
- (4) The Shares to be purchased:
  - (E) may only be purchased in pursuance of a contract approved in advance by an Ordinary Resolution of the LLC; and
  - (F) shall not carry the right to vote on the Ordinary Resolution authorising the purchase.
- (5) An LLC may not under this Article purchase its Shares if as a result of the purchase there would no longer be a Member of the LLC holding Shares.

#### **Article 33 - Prohibition of financial assistance**

- (1) An LLC shall not (directly or indirectly) provide financial assistance to a person to acquire its Shares or shares in its Holding Company unless:
  - (A) the giving of the financial assistance does not materially prejudice the LLC's ability to discharge its Liabilities as they fall due;
  - (B) the giving of the financial assistance is approved by resolution of the Members holding not less than ninety per cent of the nominal value of the Shares giving a right to attend and vote at any meeting of Members; or
  - (C) the LLC's ordinary Business includes providing finance and financial assistance is given in the ordinary course of that Business and on ordinary commercial terms.
- (2) In this Article 33, reference to "financial assistance" is a reference to financial assistance of any kind and includes:

- (A) making a loan;
  - (B) making a gift;
  - (C) issuing a debenture;
  - (D) giving security over assets; or
  - (E) giving a guarantee or indemnity in respect of another person's liability.
- (3) The prohibition on financial assistance in this Article 33 shall not preclude:
- (A) a distribution of the LLC's assets by way of dividend lawfully made or a distribution made in the course of the LLC's winding up;
  - (B) the allotment of bonus Shares;
  - (C) a reduction of capital in accordance with these Regulations; or
  - (D) a redemption or purchase of Shares in accordance with these Regulations.

#### **Article 34 - Dividends and other distributions**

- (1) Subject to any limitations or provisions to the contrary in its articles of association, an LLC may, by a resolution of its directors, declare and pay or make dividends or other distributions in money, Shares or other property.
- (2) An LLC shall not declare, make or pay any dividend or other distribution if there are reasonable grounds for believing that:
- (E) the LLC would after the payment of the dividend or making of the distribution be unable to satisfy its Liabilities as they become due; or
  - (F) the realisable value of the LLC's assets would thereafter be less than the aggregate of its Liabilities and its issued share capital and share premium account.

#### **Article 35 - Consequences of an unlawful dividend or other distribution**

Where a dividend or other distribution, or part thereof, made by an LLC to any of its Members is made in contravention of Article 34 and, at the time of such dividend or other distribution, the Member knows or has reasonable grounds for believing that it is so made, he is liable to repay it, or that part of it, to the LLC or, in the case of a dividend or other distribution made otherwise than in cash, to pay the LLC a sum equal to the value of the dividend or other distribution or such part thereof, at that time, together with, in either case, interest at a rate prescribed, or calculated in accordance with, rules made by the CRO.



## SECTION 4: NAMES AND CHANGE OF NAMES

### Article 36 - Registration of name

- (1) The name of an LLC must:
  - (A) be written using letters of the English alphabet or such other characters acceptable to the CRO; and
  - (B) end with:
    - (i) the expression "Limited Liability Company"; or
    - (ii) the abbreviation "llc" or "LLC".
- (2) An LLC shall not be registered by a name:
  - (A) which includes, otherwise than at the end of the name, either the expression "Limited Liability Company" or either of the abbreviations "llc" or "LLC";
  - (B) which is the same as a name appearing on the index of names maintained by the CRO; or
  - (C) which in the opinion of the CRO is offensive or otherwise undesirable.
- (3) Except with the approval of the CRO, an LLC shall not be registered by a name which in the opinion of the CRO would be likely to give the impression that it is connected in any way with the State.

### Article 37 - Change of name

- (1) An LLC may, by Special Resolution, change its name at any time to another name with which an LLC may be registered under Article 36.
- (2) Where an LLC changes its name it shall deliver, within 21 days of the Special Resolution, a notice to the CRO and shall pay to the CRO the Prescribed Fee.
- (3) A notice delivered under Article 37(2):
  - (A) shall be in a form prescribed or approved by the CRO; and
  - (B) shall be signed by a director or secretary of the LLC or authenticated in a manner approved by the CRO.
- (4) Where the CRO receives a notice under Article 37(2) it shall (unless the new name is one by which an LLC may not be registered):
  - (A) enter the new name on the register in place of the former name; and
  - (B) issue a certificate of the change of name.
- (5) The change of name has effect from the date on which the certificate referred to in Article 37(4)(B) is issued.

**Article 38 - Effect of change of name**

A change of name by an LLC does not:

- (1) affect any of its rights or duties; or
- (2) render defective any legal proceedings by or against it

and any legal proceedings that might have been commenced or continued against it in its former name may be commenced or continued against it in its new name.

**Article 39 - Power to require change of name**

- (1) Where an LLC has been registered by a name which:
  - (A) is the same or, in the opinion of the CRO, too like a name appearing at the time of registration in the index maintained by the CRO; or
  - (B) is the same as or, in the opinion of the CRO, too like a name which should have appeared in the index at that time

the CRO may within 12 months of that time in writing direct the LLC to change its name within such period as it may specify.

- (2) If it appears to the CRO:
  - (A) that misleading information has been given for the purpose of the registration of an LLC by a particular name; or
  - (B) that undertakings or assurances have been given for that purpose and have not been fulfilled

it may, within five years of the date of its registration by that name, in writing direct the LLC to change its name within such period as the CRO may specify.

- (3) If in the CRO's opinion the name by which an LLC is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public, it may in writing direct the LLC to change its name within such period (being not less than one month) as the CRO may specify.
- (4) The LLC may, within three weeks from the date of any direction under Article 39(1), (2) or (3), apply to the Tribunal to set it aside and the Tribunal may set the direction aside or confirm it and, if it confirms it, shall specify the period within which it must be complied with.
- (5) Where a direction has been given under Article 39(1), (2) or (3) specifying a period within which an LLC is to change its name, the CRO may at any time before that period ends extend it by a further direction in writing.

**Article 40 - Improper use of "Limited Liability Company"**

- (1) If any person carries on a Business under a name or title which includes in the last words

- (A) the expression “Limited Liability Company”; or
- (B) any contraction or imitation of that expression

that person, unless an LLC or a Branch of a Non-QFC Company whose corporate name includes the words “limited liability company” or an abbreviation thereof, contravenes these Regulations.

**Article 41 - Similarity of names**

In determining for the purpose of this Section 4 whether one name is the same as another there are to be disregarded:

- (1) the definite article as the first word of either name;
- (2) any of the following at the end of the names:
  - (A) “limited liability company”;
  - (B) “company”;
  - (C) “limited”;
  - (D) “unlimited”;
  - (E) “limited partnership”;
  - (F) “limited liability partnership”;
  - (G) “partnership”; and
  - (H) and any abbreviation thereof;
- (3) type and case of letters, accents, spaces between letters and punctuation marks; and
- (4) “and” and “&” are to be taken as the same.

## **SECTION 5: REGISTERED OFFICE**

### **Article 42 - Situation of registered office**

- (1) An LLC shall:
  - (A) at all times have a registered office situated in the QFC; and
  - (B) carry on its principal Business activity at or from the registered office unless the QFC Authority permits such Business activity to be carried on at or from another place within the QFC.
- (2) On the incorporation of an LLC the situation of its registered office shall be that stated in the incorporation document.
- (3) A Document may be served on an LLC by leaving it at, or sending it by hand or by fax or by courier to, the registered office of the LLC.

### **Article 43 - Change of registered office**

- (1) An LLC may change its registered office by delivering notice of the change to the CRO together with payment of the Prescribed Fee.
- (2) A notice delivered under Article 43(1):
  - (A) shall be in a form prescribed or approved by the CRO; and
  - (B) shall be signed by a director or secretary of the LLC or authenticated in a manner approved by the CRO.
- (3) Where the CRO receives a notice under Article 43(1) it shall enter the new registered office on the register in place of the former registered office.
- (4) The change of registered office shall take effect upon the notice of change of registered office delivered to the CRO in accordance with Article 43(2) being registered by the CRO, but until the end of the period of 21 days beginning with the date on which it is registered a person may validly serve any Document on the LLC at its previous registered office.
- (5) Where an LLC unavoidably ceases to perform at its registered office any duty to keep at its registered office any register, index or other Document or to mention the address of its registered office in any Document in circumstances in which it was not practicable to give prior notice to the CRO of a change in the situation of the registered office, but:
  - (A) resumes performance of that duty at other premises as soon as practicable; and
  - (B) gives notice accordingly to the CRO of a change in the situation of its registered office within 21 days of doing so

it shall not be treated as having failed to comply with that duty.

## **SECTION 6: FORMALITIES OF CARRYING ON BUSINESS**

### **Article 44 - Requirement to keep internal Company registers**

- (1) Every LLC shall keep the following internal registers at its registered office address:
  - (A) Register of Members as provided for in Article 19(6);
  - (B) Register of directors and secretary, including Name, Address, nationality, date of birth and business occupation;
  - (C) Register of transfers of Shares, including Name and Address of transferor and transferee, date of transfer and number and class of Shares transferred; and
  - (D) Register of allotments of Shares, including Name of applicant, date of application and allotment and number and class of Shares.
- (2) Any Member may without charge, and any other person may upon payment of any reasonable fee required by the LLC, visit the registered office during the office hours of the LLC in order to inspect the registers referred to in Article 44(1).

### **Article 45 - Name to appear outside place of Business**

- (1) Every LLC shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its Business is carried on, in a conspicuous position and in letters easily legible.
- (2) If an LLC does not paint or affix, and keep painted or affixed, its name as required above, the LLC and every Officer of it who is in default is in contravention of these Regulations.

### **Article 46 - Disclosures required of an LLC in the use of its name**

- (1) The name of an LLC, its registered number, and the address of its registered office shall appear in legible characters in all its Business letters, written orders for goods or services, invoices and receipts, written demands for payment and other such similar Documentation.
- (2) If an Officer of an LLC or a person on its behalf:
  - (A) issues or authorises the issue of any Business letter of the LLC, or any Document mentioned in Article 46(1), in which the LLC's name is not so mentioned as required by Article 46(1); or
  - (B) signs or authorises to be signed on behalf of the LLC any bill of exchange, promissory note, endorsement, cheque or order for money or goods in which the LLC's name is not mentioned as required by Article 46(1)

he is in contravention of these Regulations and he is further personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the LLC).

## **SECTION 7: ANNUAL RETURN**

### **Article 47 - Duty to deliver annual returns**

- (1) Every LLC shall deliver to the CRO successive annual returns each of which is made up to a date not later than the date which is from time to time the "return date" of the LLC, that is:
  - (A) the anniversary of the incorporation of the LLC; or
  - (B) if the last return delivered by the LLC in accordance with this Article was made up to a different date, the anniversary of that date.
- (2) Each annual return shall:
  - (A) be in a form prescribed or approved by the CRO;
  - (B) contain the information required by Article 48;
  - (C) be signed by a director or secretary of the LLC; and
  - (D) be delivered to the CRO together with payment of the Prescribed Fee.
- (3) If an LLC fails to deliver an annual return in accordance with this Article 47 before the end of the period of 28 days after the return date, the LLC shall be in contravention of these Regulations. The contravention continues until such time as an annual return made up to that return date and complying with the requirements of Article 47(2) (except as to date of delivery) is delivered by the LLC to the CRO.
- (4) Where an LLC is in contravention of these Regulations under Article 47(3) every director of the LLC is similarly liable unless he shows that he took all reasonable steps to avoid the commission of or the continuance of the contravention of these Regulations.
- (5) This Article does not apply to an LLC that is a Collective Investment Fund registered by Regulatory Authority.

### **Article 48 - Contents of annual return**

Every annual return shall state the date to which it is made up and shall contain the following information:

- (1) In respect of each class of members, the Name and Address of each Member of the LLC holding more than 1% in nominal value of all the issued shares of that class;
- (2) the Name, Address, nationality, date of birth and Business occupation of each of the directors and the secretary of the LLC;
- (3) the registered office of the LLC;
- (4) the authorised and issued share capital of the LLC;
- (5) the principal Business activities of the LLC in the year in question;

- (6) the Name and Address of the auditor of the LLC; and
- (7) any other information as may be prescribed by the CRO.

## **SECTION 8: ARTICLES OF ASSOCIATION**

### **Article 49 - Standard articles of association**

- (1) The CRO may from time to time prescribe a set of model articles of association (which shall be in the English language) to be known as the standard LLC articles of association.
- (2) If the CRO prescribes standard articles of association, an LLC may, by reference, adopt for its articles of association the whole of the standard articles of association or may, by reference, adopt for its articles of association the standard articles of association subject to such amendments as may be set out in its articles of association or may incorporate by reference in its articles of association such parts of the model articles of association as it shall deem fit.
- (3) If the standard articles of association are altered by the CRO, the alteration will not affect the articles of association of an LLC registered before the alteration takes effect.

### **Article 50 - Alteration of articles of association**

- (1) An LLC may by Special Resolution alter the provisions of its articles of association.
- (2) Alterations so made to the articles of association shall have effect from the time of the passing of the Special Resolution or such later time as shall be specified in it.
- (3) Any alteration to the articles of association must be registered under cover of any form prescribed by the CRO for this purpose, accompanied by the payment of the Prescribed Fee, with the CRO within 21 days of the Special Resolution to alter it being passed by the Members.

### **Article 51 - Articles binding on LLC and Members**

- (1) Subject to the provisions of these Regulations, the articles of association when registered with the CRO bind an LLC and its Members to the same extent as if they had been executed by the LLC and by each Member, and contained covenants on the part of the LLC and each Member to observe all the provisions of the articles of association.
- (2) A Member of an LLC is not bound by an alteration made in the articles of association after the date on which he became a Member, if and so far as the alteration:
  - (A) requires him to take or subscribe for more Shares than the number held by him at the date on which the alteration is made; or
  - (B) in any way increases his liability as at that date to contribute to the LLC's share capital or otherwise pay money to the LLC.
- (3) An LLC shall, upon request by a Member, send such Member a copy of its articles of association including all alterations thereto, subject to the Member paying the reasonable cost thereof.



## **SECTION 9: DIRECTORS AND SECRETARY**

### **Article 52 - Appointment of directors**

- (1) An LLC shall have at least one director.
- (2) No person shall be a director who:
  - (A) if an individual, is under the age of 18 years;
  - (B) is disqualified from being a director in the QFC or in any other place;
  - (C) is an undischarged bankrupt in any country; or
  - (D) is a Body Corporate, unless—
    - (i) the Body Corporate is an Authorised Firm; and
    - (ii) the LLC is a Collective Investment Fund.
- (3) The first directors of an LLC shall be those named in the incorporation document and thereafter the directors, subject to the provisions of these Regulations and any other Regulations, shall be appointed and removed and shall hold and vacate office as provided in the articles of association of the LLC.
- (4) The particulars of each director appointed, removed or who resigns and any change in the particulars of the directors of an LLC from time to time, shall be registered with the CRO in the Prescribed Form, together with payment of any Prescribed Fee. For each director appointed these particulars shall include his Name, date of birth, Address, nationality, business occupation, any directorships held by him or which have been held by him within the last five years and shall be accompanied by or include a written declaration signed by the director that he is qualified to act as a director pursuant to these Regulations.
- (5) The articles of association of an LLC may provide for a director to appoint an alternate to attend meetings in the absence of the director who appointed him and to vote in his place.

### **Article 53 - Removal of directors**

- (1) Notwithstanding anything in its articles of association or in any agreement between the LLC and the director and without prejudice to any other power to remove a director which may exist apart from this Article 53, an LLC may by Ordinary Resolution at a general meeting remove a director before the expiration of his period of office, provided that notice of any such meeting shall be served on the director concerned not less than 21 days before the meeting and such director shall be entitled to be heard at such meeting.
- (2) The removal of a director from office by resolution of the Members of the LLC under Article 53(1) shall be without prejudice to any rights of that director to compensation or damages in respect of the termination of his appointment as director.

### **Article 54 - Powers of directors**

The directors of an LLC may collectively exercise all powers of the LLC in accordance with its articles of association, save to the extent that these Regulations or any other

Regulations or any rules made by the QFC Authority or the LLC's articles of association require any such powers to be exercised by the Members of the LLC.

**Article 55 - Duties of directors**

- (1) A director of an LLC owes a duty to the LLC to comply with the following provisions of this Article and shall, unless his failure to comply with any such duty shall be approved or ratified by an Ordinary Resolution of the LLC, be liable to compensate the LLC for any loss suffered by the LLC and to account to the LLC for any profit, gain or benefit obtained by the director in consequence of any such failure.
- (2) A director shall:
  - (A) act honestly and in good faith with a view to the best interests of the LLC;
  - (B) act in accordance with the articles of association of the LLC and decisions of the LLC taken in accordance with these Regulations and the articles of association and not delegate any of his powers or fail to exercise his independent judgement in relation to any exercise of his powers, except where authorised by these Regulations or the articles of association or any such decisions;
  - (C) exercise the care, diligence and skill that a reasonably prudent person with the knowledge, skill and experience which may reasonably be expected of a director in his position and any additional knowledge, skill and experience which he has would exercise in comparable circumstances;
  - (D) not use for his own or anyone else's benefit any property or information of the LLC or any opportunity of the LLC of which he become aware in the performance of his functions as a director; and
  - (E) not accept any benefit from a third party which is conferred because of his position as a director or by reason of his doing or not doing anything as a director, unless the benefit is incidental to the proper performance of his functions as a director or there is no real possibility of the benefit resulting in a conflict of interest on the part of the director.

**Article 56 - Directors' interests**

- (1) A director of an LLC who has a direct or indirect interest of which he is aware in a transaction entered into or proposed to be entered into by an LLC or by a Subsidiary of the LLC, shall disclose to the directors of the LLC the nature and extent of his interest.
- (2) The disclosure required under Article 56(1) shall be made as soon as practicable after the director becomes aware of the circumstances from which his duty to make the disclosure arises.
- (3) An interest solely through a holding of less than ten per cent of the shares in a Body Corporate listed on any stock exchange shall not constitute an interest requiring disclosure under this Article 56.
- (4) A notice in writing given to the LLC by a director (including a sole director) that he is to be regarded as interested in any transaction with a specified person and specifying the reason why he is to be regarded as so interested is sufficient disclosure of his interest in any such transaction entered into after the notice is given.

- (5) Where a director fails to disclose an interest of his under this Article 56 the director shall, unless the transaction is confirmed by an Ordinary Resolution at a general meeting of the LLC at which the nature of the director's interest in the transaction was properly disclosed, be liable to account to the LLC for any profit, gain or benefit obtained by the director in connection with the transaction.
- (6) A sole director of an LLC who is required by this Article 56 to disclose any interest shall record the nature and extent of his interest in writing in a register which shall be kept at the LLC's registered office and shall be made available there for inspection by any Member and the LLC's auditor without charge during the office hours of the LLC.

**Article 57 - Prohibition of financial assistance to directors**

- (1) Without the consent of any Member or Members holding in the aggregate not less than ninety per cent of the total voting rights of all the Members having the right to vote at any meeting of the Members it shall not be lawful for an LLC to make a loan or similar form of financial assistance to any person who is its director or a director of its Holding Company, or to enter into any guarantee or provide security in connection with any financial assistance made to such person as aforesaid by any other person provided that nothing in this Article 57 shall apply to either:
  - (A) subject to Article 57(2) to anything done to provide any such person as aforesaid with funds to meet expenditure incurred or to be incurred by him for the purposes of the LLC or for the purpose of enabling him properly to perform his duties as an Officer of the LLC;
  - (B) in the case of an LLC whose ordinary Business includes the lending of money or the giving of guarantees in connection with financial assistances made by other persons, to anything done by the LLC in the ordinary course of that Business; or
  - (C) any financial assistance prescribed in rules made by the QFC Authority.
- (2) The proviso stated at Article 57(1)(A) shall not authorise the making of any financial assistance, or the entering into of any guarantee, or the provision of any security, except either:
  - (A) with the prior agreement of the LLC given at a general meeting at which the purposes of the expenditure and the amount of the financial assistance or the extent of the guarantee or security, as the case may be, are disclosed; or
  - (B) on condition that, if the approval of the LLC is not given as aforesaid at or before the next following annual general meeting, the financial assistance shall be repaid or the liability under the guarantee or security shall be discharged, as the case may be, within six months from the conclusion of that meeting.
- (3) Where the approval of the LLC is not given as required by any such condition, the directors authorising the making of the financial assistance, or entering into the guarantee, or the provision of security, shall be jointly and severally liable to indemnify the LLC against any loss arising therefrom.
- (4) For the purposes of this Article 57 a financial assistance shall not be deemed to have been made in the ordinary course of Business of an LLC if it has not been made on normal commercial terms including in respect of interest rates, repayment terms and security.

- (5) Financial assistance shall be deemed to be financial assistance to a director if it is made to or in favour of:
- (A) a spouse or child of a director; or
  - (B) a Body Corporate of which a director or his spouse or child (or any of them together) owns or controls directly or indirectly more than 20 per cent of the share capital.

**Article 58 - Payment to directors for loss of office**

- (1) It is not lawful for an LLC to make to a director of the LLC any payment by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, without particulars of the proposed payment (including its amount) being disclosed to Members of the LLC and the proposal being approved by Ordinary Resolution. This Article 58 does not affect the ability of an LLC to pay compensation to a director in connection with the termination of his employment by the LLC.
- (2) Where a payment which is unlawful under this Article 58 is made to a director, he shall be liable to repay it to the LLC, unless and until the provisions of this Article are subsequently complied with.

**Article 59 - Validity of acts of director**

The acts of a director are valid notwithstanding any defect that may afterwards be found in his appointment or qualification.

**Article 60 - Appointment of secretary**

- (1) Every LLC shall have an appropriately qualified secretary.
- (2) The first secretary of an LLC shall be the person named in the incorporation document, and after that shall be any person appointed by the directors, including one of their number (except that a sole director cannot also be a secretary). A secretary may be removed by the directors of an LLC or may resign by the submission of a letter of resignation.
- (3) The particulars of each secretary appointed, removed or who resigns and any change in the particulars of the secretary of an LLC from time to time, shall be registered with the CRO in the Prescribed Form, together with payment of the Prescribed Fee. For each secretary appointed these particulars shall include his Name, date of birth, Address and nationality.

**Article 61 - Exemption, indemnification and liability of Officers**

- (1) Subject to Article 61(2), an LLC may in its articles of association or in any contract or arrangement between the LLC and any Officer, or any person employed by the LLC as auditor, exempt such Officer or person from, or indemnify him in respect of any negligence, default, breach of duty or breach of trust of which the Officer or person may be guilty in relation to the LLC or any Subsidiary thereof.
- (2) Any provision whether contained in the articles of association of the LLC or in any contract or arrangement between the LLC and any Officer, or any person employed by the LLC as auditor, exempting such Officer or person from, or indemnifying him against any liability

which by virtue of any rule of law would otherwise attach to him in respect of any fraud or dishonesty of which he may be guilty in relation to the LLC shall be void provided that, notwithstanding anything in this Article 61 an LLC may, in pursuance of any such provision as aforesaid, indemnify any such Officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal in which judgement is given in his favour or in which he is acquitted.

**Article 62 - Insurance of Officers**

An LLC may purchase and maintain insurance for the benefit of any Officer of the LLC against any liability incurred by him in his capacity as an Officer of the LLC or indemnifying such an Officer in respect of any loss arising or liability attaching to him by virtue of any rule of law in respect of any negligence, default, breach of duty or breach of trust of which the Officer may be guilty in relation to the LLC or any Subsidiary thereof and nothing in these Regulations shall make any such policy void or voidable.

## **SECTION 10: MEETINGS AND RESOLUTIONS**

### **Article 63 - General meetings**

- (1) A meeting of the Members of an LLC shall be convened at least once in every calendar year (save that provided an LLC shall hold its first annual general meeting within 18 months of its incorporation, it need not hold it in the calendar year of its incorporation or the following calendar year); this meeting shall be referred to as the annual general meeting.
- (2) The directors may, whenever they think fit, convene a general meeting of the Members of an LLC or the holders of any class of Shares thereof; all meetings other than annual general meetings shall be called special general meetings.

### **Article 64 - CRO's power to call meeting in default**

- (1) If a default is made in the holding of a general meeting in accordance with Article 63(1), the CRO may, on the application of any Officer or Member of the LLC, call or direct the calling of, a general meeting of the LLC.
- (2) The LLC shall comply with any direction of the CRO made under Article 64(1).

### **Article 65 - Requisition of general meetings**

- (1) Notwithstanding anything in its articles of association, the directors of an LLC shall, on requisition by Members holding the requisite Shares, proceed to call a special general meeting or as the case may be a meeting of any class of Members of the LLC to be held as soon as practicable, but in any case not later than three months after the date of requisition.
- (2) For the purposes of Article 65(1) the "requisite Shares" means not less than ten per cent in nominal value of the Shares which at the date of the requisition carry the right to vote at the meeting requisitioned.
- (3) The requisition shall state the objects of the meeting and must be signed by the requisitionists and be deposited at the registered office of the LLC marked for the attention of the directors. The requisition may consist of several Documents in like form signed by one or more requisitionists.
- (4) If the directors do not, within 21 days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than fifty per cent. of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.
- (5) A meeting convened under this Article 65 shall be convened in the same manner, as nearly possible, as that in which meetings are to be convened by directors.
- (6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors to convene a meeting shall be repaid to the requisitionists by the LLC, and any sum so repaid shall be retained by the LLC out of any sums due or to become due from the LLC by way of fees or other remuneration in respect of their services to such directors as were in default.

**Article 66 - Notice of meetings**

- (1) Any general meeting of an LLC or a meeting of any class of Members of an LLC may, subject to any longer period of notice as may be required by its articles of association, be called by not less than 21 days notice in writing, inclusive of the day on which the notice is given.
- (2) If a meeting is called by shorter notice than that specified in Article 66(1), it shall be deemed to be duly called if it is so agreed by a majority in number of the Members having a right to attend and vote at the meeting, together holding not less than ninety five per cent of the nominal value of the Shares of the LLC giving a right to attend and vote at that meeting.
- (3) A notice of a general meeting of the LLC shall:
  - (A) set out a time and place for the meeting;
  - (B) set out in an agenda the nature of the business of the meeting;
  - (C) if a Special Resolution is to be proposed at the meeting set out the intention to propose a Special Resolution and attach a copy of the proposed Special Resolution to the agenda; and
  - (D) include a copy of any accounts or auditors report if the same is to be laid before the meeting.
- (4) The accidental omission to give notice of a meeting to, or the non-receipt of a notice of a meeting by, any persons entitled to receive notice shall not invalidate the proceedings of the meeting.

**Article 67 - General provisions as to meetings and votes**

- (1) The following provisions apply to any meeting of the LLC or of the holders of any class of Shares in the LLC in so far as the articles of association of the LLC do not make other provision in that behalf:
  - (A) notice of every meeting shall be given to every Member entitled to receive it by delivering it to his registered address, being his address recorded in the register of Members or such other address as the Member shall notify to the LLC for delivery of notices from time to time;
  - (B) (save in the case of an LLC having a single Member) two Members personally present shall be a quorum;
  - (C) any Member elected by the Members present at a meeting may be chairman of it; and
  - (D) every Member has one vote for every Share held by him.
- (2) Notwithstanding any provision to the contrary in the articles of association of an LLC which has a single Member, at any meeting thereof one Member present in person or by proxy shall be a quorum.

**Article 68 - Proxies**

- (1) A Member of an LLC entitled to attend and vote at a meeting of it (including a meeting of holders of any class of Shares in it) is entitled to appoint another person (whether a Member or not) as his proxy to attend and vote instead of him and a proxy appointed to attend and vote instead of a Member has the same right as the Member to speak at the meeting.
- (2) In every notice calling a meeting of an LLC there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one or more proxies to attend and vote instead of him, and that a proxy need not also be a Member.
- (3) A provision contained in an LLC's articles of association is void insofar as it would have the effect of requiring the appointment of a proxy or any Document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, to be received by the LLC or any other person more than 48 hours before a meeting or an adjourned meeting in order that the appointment may be effective.

**Article 69 - Right to demand a poll**

- (1) A provision contained in an LLC's articles of association is void in so far as it would have the effect either:
  - (A) of excluding the right to demand a poll at a general meeting, or at a meeting of any class of Members, on a question other than the election of the chairman of the meeting or the adjournment of the meeting; or
  - (B) of making ineffective a demand for a poll on any such question which is made either:
    - (i) by not less than five Members having the right to vote on the question;
    - (ii) by a Member or Members representing not less than ten per cent of the total voting rights of all the Members having the right to vote on the question; or
    - (iii) by a Member or Members holding not less than ten per cent in nominal value of the Shares in the LLC conferring a right to vote at the meeting.
- (2) The instrument appointing a proxy to vote at such a meeting is deemed also to confer authority to demand or join in demanding a poll; and for the purposes of Article 69(1) a demand by a person as proxy for a Member is the same as a demand by the Member.
- (3) On a poll taken at such a meeting, a Member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

**Article 70 - Representation of Entity at meetings**

- (1) An Entity may:
  - (A) if it is a Member of an LLC authorise such person as it thinks fit to act as its representative at any meeting of the LLC or at any meeting of any class of Members of the LLC; and



- (B) if it is a creditor (including a holder of debentures), of an LLC, authorise such person as it thinks fit to act as its representative in any meeting of any creditors of the LLC held in pursuance of these Regulations or any other Regulations, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.
- (2) A person authorised as aforesaid shall be entitled to exercise the same powers on behalf of the Entity which it represents as that Entity could exercise as if it were an individual Member, creditor or holder of debentures in the LLC.

**Article 71 - Circulation of Members' resolution**

- (1) Subject as provided in this Article, it shall be the duty of an LLC, on the requisition in writing of such number of Members as is herein after specified, at the expense of the requisitionists unless the LLC resolves otherwise:
  - (A) to give the Members of the LLC entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting; and
  - (B) to circulate to Members entitled to have notice of any general meeting sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting.
- (2) The number of Members necessary for requisition under Article 71(1) shall be:
  - (A) either any number of Members representing not less than five per cent. of the total voting rights of all the Members having at the date of the requisition a right to vote at the meeting to which the requisition relates; or
  - (B) not less than ten Members.
- (3) Notice of any such intended resolution shall be given, and any such statement shall be circulated, to the Members of the LLC entitled to have notice of the meeting sent to them by serving a copy of the resolution on each such Member in any manner permitted for the service of notice of the meeting, and any notice of such resolution shall be given to any other Member of the LLC by giving notice of the general effect of the resolution in any manner permitted for giving him notice of meetings of the LLC, provided that the copy shall be served, or notice to the effect of the resolution shall be given, as the case may be, in the same manner, and so far as practicable, at the same time as notice of the meeting and, where it is not practicable for it to be served or given at that time, it shall be served or given as soon as practicable thereafter.

**Article 72 - Conditions to be met before LLC bound to give notice of resolution**

- (1) An LLC shall not be bound under Article 71 to give notice of any resolution or circulate any statement unless a copy of the requisition signed by the requisitionists, or two or more copies which between them containing the signatures of all the requisitionists, is deposited at the registered office of the LLC:
  - (A) requiring notice of a resolution, not less than 21 days before the meeting; or
  - (B) in the case of any other requisition, not less than one week before the meeting; and

there is deposited or tendered with the requisition a sum reasonably sufficient to meet the LLC's expenses in giving effect thereto.

- (2) Provided that if, after a copy of the requisition requiring notice of a resolution has been deposited at the registered office of the LLC, an annual general meeting is called for a date 21 days or less after the copy has been deposited, the copy though not deposited within the time required by this Article 72 shall be deemed to have been properly deposited for the purposes thereof.

#### **Article 73 - Resolutions in writing of Members**

- (1) Anything which may be done by any kind of resolution of a meeting of the Members of an LLC, or any class thereof, may be effected, without a meeting and without any previous notice being required, by resolution in writing signed by all the Members entitled at the date of the resolution to attend and vote at such a meeting.
- (2) Each of the signatures of such written resolution need not be on a single Document provided each is on a Document which accurately states the terms of the resolution.
- (3) The date of the resolution means the date on which the resolution is signed by or on behalf of the last Member to sign.
- (4) A written resolution signed in accordance with this Article is valid and effective as if it was passed at a general meeting of the Members or at a meeting of the relevant class of Members of the LLC.

#### **Article 74 - Directors meetings and written resolutions**

- (1) Save in the case of an LLC with a sole director, meetings of the directors shall be held as often as is necessary for the conduct of the affairs of the LLC.
- (2) Subject as provided in the articles of association of the LLC, each director shall be entitled to one vote and decisions shall be made by majority vote.
- (3) A meeting of the directors of an LLC, or any committee thereof, may be effected by a resolution in writing signed by all the directors or all the members of the committee.

#### **Article 75 - Participation in meetings**

Unless the articles of association of the LLC provide otherwise, a meeting of directors or a committee of directors or of the Members or any class thereof may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously, and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

#### **Article 76 - Minutes**

- (1) Every LLC shall cause minutes of all proceedings at general meetings, meetings of the holders of a class of Shares, meetings of its directors and committees of directors to be entered in books kept for that purpose.

- (2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, is evidence of the proceedings.
- (3) Where minutes have been made in accordance with this Article 76 then, until the contrary is proved, the meeting is deemed duly held and convened, and all proceedings which took place at the meeting to have duly taken place.
- (4) Where a decision of the Members, or any class thereof, or of the directors, is effected by a resolution in writing or decision of a sole Member or director in accordance with these Regulations, the LLC shall cause a record of the resolution or decision and of the signatures thereon to be entered in the relevant minute book in the same way as minutes of the proceedings at the relevant type of meeting.
- (5) The books containing the minutes of a general meeting or of a meeting of the holders of a class of Shares or a meeting of the directors shall be kept at the LLC's registered office, and shall during business hours be open to examination by a Member without charge.

#### **Article 77 - Filing of resolutions**

- (1) A copy of every resolution or agreement to which this Article 77 applies shall within 21 days after it is passed or made, be forwarded to the CRO, together with any Prescribed Fee, and recorded by it; and it must be either a printed copy or else a copy in some other form approved by the CRO.
- (2) This Article applies to:
  - (A) Special Resolutions of an LLC;
  - (B) a resolution to change the name of the LLC;
  - (C) a resolution altering the articles of association of the LLC, together with a copy of the articles of association as so amended;
  - (D) an Ordinary Resolution of an LLC removing a director from office;
  - (E) written resolutions of the Members of an LLC or resolutions of a sole Member to the extent that these would have been Special Resolutions if passed at a general meeting;
  - (F) a resolution approving the purchase of an LLC's own Shares;
  - (G) a resolution approving a reduction of share capital of an LLC; and
  - (H) a resolution removing an auditor of an LLC from office.

#### **Article 78 - Recording of decisions by sole Member**

- (1) If:
  - (A) an LLC has only one Member;
  - (B) the Member takes a decision which may be taken by the LLC in general meeting and has effect as if agreed by the LLC in general meeting; and

- (C) the decision is not taken by way of resolution in writing  
the Member shall provide the LLC with a record in writing of the decision.
- (2) Failure to comply with Article 78(1) shall not affect the validity of the decision.

## **SECTION 11: ACCOUNTING AND AUDIT REQUIREMENTS**

### **Article 79 - Maintenance of Accounting Records**

Every LLC shall keep proper accounting Records with respect to all sums of money received and expended by the LLC and all sales and purchases of goods and services and other transactions by the LLC and the assets and Liabilities of the LLC. Such accounting Records, shall be sufficient to show and explain all transactions by the LLC and must be such as to:

- (1) disclose with reasonable accuracy the financial position of the LLC at any time; and
- (2) enable the directors to ensure that any accounts prepared by the LLC comply with the requirements of these Regulations.

### **Article 80 - Location of Accounting Records**

- (1) The LLC's accounting Records shall be:
  - (A) kept at the LLC's registered office;
  - (B) preserved by the LLC for at least six years from the date to which they relate; and
  - (C) at all reasonable times be open to inspection by the directors and auditor of the LLC.
- (2) If an LLC fails to comply with Article 79 and Article 80(1), the LLC and every Officer is in contravention of these Regulations.

### **Article 81 - Financial year of an LLC**

- (1) The first financial year of an LLC starts from the day on which it is incorporated and lasts for the period ending on the financial year end date specified in the incorporation document falling not less than six months and not more than 18 months after incorporation of the LLC.
- (2) The second and any subsequent financial year shall start with the day immediately following the end of the LLC's previous financial year and end on the financial year end date in the next calendar year.
- (3) An LLC may by notice in the Prescribed Form given to the CRO specify a new financial year end date having effect in relation to:
  - (A) the LLC's current financial year and subsequent financial years; or
  - (B) the LLC's previous financial year and all financial years subsequent to that previous financial year

where, an LLC's "previous financial year" means that year immediately preceding its current financial year.

- (4) The notice shall state whether the current or previous financial year:
  - (A) is to be shortened, so as to come to an end on the first occasion on which the new financial year end date falls or fell after the beginning of the financial year; or
  - (B) is to be extended, so as to come to an end on the second occasion on which that date falls or fell after the beginning of the year.
- (5) A notice under Article 81(3), stating that the current or previous financial year is to be extended is ineffective, if given less than five years after the end of an earlier financial year of the LLC which was extended by virtue of this Article.
- (6) A notice under Article 81(3) may not be given in respect of a previous financial year if the period allowed for laying and delivering accounts in relation to that year has already expired.
- (7) An LLC's financial year shall not, in any case, be extended so as to exceed 18 months and a notice under Article 81(3) is ineffective if the current or previous financial year as extended in accordance with the notice would exceed that limit.

#### **Article 82 - LLC accounts**

- (1) The directors of every LLC shall cause accounts to be prepared in relation to each financial year of the LLC which shall be in the English language and shall comprise or include:
  - (A) financial statements set out in accordance with IFRS, UK GAAP, US GAAP or such other accounting principles and standards as may be prescribed in rules made by the QFC Authority; and
  - (B) such further information as may be required by these Regulations, any rules made by the QFC Authority and the LLC's articles of association.
- (2) The accounts shall be prepared in accordance with accounting principles and standards prescribed in rules made by the QFC Authority and comply with any other requirements of these Regulations or any rules made by the QFC Authority. The accounts shall show a true and fair view of the profit or loss of the LLC for the financial year in question and of the state of the LLC's affairs at the end of such financial year.
- (3) The LLC's accounts shall be approved by the directors and signed on their behalf by at least one of their number.
- (4) Within four months of the end of the financial year the accounts for that year shall be:
  - (A) prepared and approved by the directors;
  - (B) examined and reported on by the LLC's auditors in accordance with these Regulations and any rules made by the QFC Authority, such auditors' report to be written in the English language; and
  - (C) laid before a meeting of the Members together with a copy of the auditors' report.

- (5) The LLC shall file with the CRO within 21 days after the meeting of the Members before which the accounts and auditor's report were laid, a copy of the accounts and auditor's report.
- (6) In this Section 11, reference to "accounts" are to those accounts prepared in accordance with this Article.
- (7) This Article does not apply to an LLC that is a Collective Investment Fund registered by the Regulatory Authority.

**Article 83 - Provision of copy of accounts to Members**

- (1) Any Member of an LLC is entitled, on demand and without charge, to be furnished with a copy of the LLC's latest audited accounts and auditor's report.
- (2) An LLC shall comply with such a request within seven days.
- (3) If an LLC fails to comply with Article 83(2), the LLC and every Officer is in contravention of these Regulations.

**Article 84 - Publication of accounts**

Any accounts published by an LLC must be audited and a copy of the auditors' report must accompany the published accounts.

**Article 85 - Qualification of auditor**

- (1) An LLC's auditor shall be an individual auditor or firm of auditors qualified to act as auditors in the QFC and approved by the QFC Authority to act as auditors for LLCs and other Companies and other Entities incorporated or registered in the QFC and entered in a register of approved auditors which shall be maintained by the CRO.
- (2) An auditor shall be regarded as qualified and approved by the QFC Authority to act as an auditor in the QFC and shall be entitled to be entered in the register maintained by the CRO if that auditor meets the criteria for approval set out in rules made by the QFC Authority.
- (3) Entry of an auditor or firm of auditors in the register of auditors shall be without prejudice to any rules concerning auditors made by the Regulatory Authority pursuant to the Financial Services Regulations.

**Article 86 - Appointment and removal of auditor**

- (1) An LLC shall appoint one or more auditors or a firm of auditors who shall examine and report on the LLC's accounts in accordance with these Regulations.
- (2) No person shall be appointed as auditor of an LLC who is an Officer or employee of that LLC or of an Affiliated Company or who is a partner, employer or employee of any such Officer or employee.
- (3) The directors of an LLC shall appoint the auditor of that LLC for its first financial year. In subsequent financial years, an LLC shall at its annual general meeting appoint an auditor to hold office from the conclusion of that meeting to the conclusion of the next annual

general meeting. The directors or the Members of the LLC in general meeting may fill any vacancy in the office of auditor. While such a vacancy continues, any surviving or continuing auditor may continue to act.

- (4) Where for any reason no auditor is appointed, the CRO may, on the application of any Member, appoint one or more auditors to hold office until the close of the next annual general meeting.
- (5) Notwithstanding any agreement but without prejudice to the auditors' rights to compensation or damages, any auditor of an LLC may be removed by an Ordinary Resolution.
- (6) The LLC shall as soon as reasonably practicable and in any event not later than 5 days after the passing of the Ordinary Resolution referred to in Article 86(5) file a copy of the Ordinary Resolution with the CRO and if an Authorised Firm with the Regulatory Authority.

#### **Article 87 - Remuneration of auditor**

- (1) The remuneration of an auditor of an LLC appointed by the Members shall be fixed by the Members in general meeting or by the directors, if they are authorised to do so by the Members, and the remuneration of the auditor appointed by the directors shall be fixed by the directors.
- (2) Where one or more auditors are appointed by the CRO under Article 86, the CRO shall also fix the remuneration to be paid by the LLC for its or their services.
- (3) There shall be stated in a note to an LLC's audited accounts the amount of the remuneration of the LLC's auditors in their capacity as such.

#### **Article 88 - Resignation of an auditor**

- (1) An auditor of an LLC may resign from office by depositing a notice in writing to that effect at the LLC's registered office, and any such notice operates to bring his term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.
- (2) When an auditor ceases for any reason to hold office the auditor shall deposit at the LLC's registered office:
  - (A) a statement of any circumstances connected with his ceasing to hold office which he considers should be brought to the notice of the Members or creditors of the LLC; or
  - (B) if he considers that there are no such circumstances a statement that there are none.
- (3) Where a statement under this Article 88 falls within Article 88(2)(A), the LLC shall within 21 days send a copy of the statement to each director and Member of the LLC.
- (4) The LLC shall as soon as reasonably practicable and in any event not later than five days after the deposit of notice of resignation at its registered office file a copy of the notice with the CRO and if an Authorised Firm with the Regulatory Authority.



**Article 89 - Auditor's report to LLC**

- (1) An LLC's auditor shall make a report to the LLC's Members on the accounts examined by the auditor.
- (2) The auditor's report shall state:
  - (A) whether in the auditor's opinion the accounts have been properly prepared in accordance with these Regulations;
  - (B) in particular, whether the accounts have been prepared in accordance with accounting principles and standards referred to in Article 82(2); and
  - (C) any other matter or opinion required under these Regulations or rules made by the Regulatory Authority under the Financial Services Regulations.

**Article 90 - Powers and duties of auditor**

- (1) An LLC's auditor shall, in preparing a report in relation to the accounts of the LLC, carry out such investigations as will enable the auditor to form an opinion as to the following matters:
  - (A) whether proper accounting Records have been kept by the Company and proper returns adequate for the audit have been received from offices or branches of the LLC not visited by the auditor;
  - (B) whether the LLC's accounts are in agreement with such accounting Records and returns; and
  - (C) whether the LLC's accounts have been prepared in compliance with applicable accounting principles and standards.
- (2) If the auditor is of the opinion that proper accounting Records have not been kept, or that proper returns adequate for the audit have not been received from offices or branches not visited by the auditor, or if the accounts are not in agreement with the accounting Records and returns, or that the accounts do not comply with accounting principles and standards, the auditor shall state that fact in his report under Article 89.
- (3) The auditor shall have a right of access at all reasonable times to an LLC's accounting and other books and Records and is entitled to require from an LLC's Officers such information or explanation that the auditor considers necessary for the performance of his duties.
- (4) If the auditor fails to obtain all the information and explanations which, to the best of the auditor's knowledge and belief, are necessary for the purposes of the audit, the auditor shall state that fact in his report under Article 89.
- (5) Every auditor is entitled to receive notice of, and attend, any meeting of Members and to be heard on any part of the business of the meeting which concerns the auditor.

**Article 91 - Auditor's right to information**

An LLC, and any Member, Officer, employee or agent of the LLC, shall not knowingly or recklessly make to the LLC's auditor a statement (whether written or oral) which conveys

or purports to convey any information or explanation which the auditor requires, or is entitled to require, as auditor of the LLC and is false, misleading or deceptive in a material particular.

**Article 92 - Obstruction of auditor**

(1) An LLC, or any Officer of an LLC, or any person acting under the direction or authority of such an LLC or Officer, shall not engage in conduct, including without limitation the:

- (A) destruction or concealment of Documents;
- (B) coercion, manipulation, misleading, or influencing of the auditor;
- (C) failure to provide access to information or Documents specified by the auditor; or
- (D) failure to give any information or explanation which the person is able to give

where the LLC, Officer or other person knows or ought to have known that such conduct could, if successful, have the effect referred to in Article 92(2).

(2) For the purposes of Article 92(1), the effect referred to in this paragraph is:

- (A) to obstruct the auditor in the exercise of any powers under this Part 3; or
- (B) to result in the rendering of the accounts of the LLC or the auditor's report materially misleading.

## **PART 4: PROTECTED CELL COMPANIES**

### **Article 93 - Protected Cell Companies**

- (1) A form of legal entity known as a protected cell company may be incorporated in the QFC.
- (2) Subject to the provisions of this Part, a Company may be:
  - (A) incorporated as a PCC; or
  - (B) converted, if so authorised by its articles of association and approved by the CRO, into a PCC.
- (3) For the avoidance of doubt, and notwithstanding that a PCC may have created one or more Cells under this Part:
  - (A) a PCC is a single legal person; and
  - (B) the creation by a PCC of a Cell does not create, in respect of that Cell, a legal person separate from the PCC.
- (4) The provisions of Part 3 of these Regulations, save as amended or varied by this Part and unless the context requires otherwise, shall apply in relation to a PCC as if references therein to "LLC" were references to "PCC".

### **Article 94 - Creation of Cells**

A PCC may create one or more Cells for the purpose of segregating and protecting Cellular Assets in the manner provided by this Part.

### **Article 95 - Cellular and Non-Cellular Assets**

- (1) The assets of a PCC shall be either Cellular Assets or Non-Cellular Assets.
- (2) It shall be the duty of the directors of a PCC:
  - (A) to keep Cellular Assets separate and separately identifiable from Non-Cellular Assets; and
  - (B) to keep Cellular Assets attributable to each Cell separate and separately identifiable from Cellular Assets attributable to other Cells.
- (3) The Cellular Assets of a PCC comprise the assets of the PCC attributable to the Cells of the PCC.
- (4) The assets attributable to a Cell of a PCC comprise:
  - (A) assets represented by the proceeds of Cell Share Capital and reserves attributable to the Cell; and
  - (B) all other assets attributable to the Cell.
- (5) For the purposes of Article 95(4), the expression "reserves" includes retained earnings, capital reserves and share premiums.

- (6) The Non-Cellular Assets of a PCC comprise the assets of the PCC which are not Cellular Assets.
- (7) Notwithstanding the provisions of Article 95(2), the directors of a PCC may cause or permit Cellular Assets and Non-Cellular Assets to be held:
  - (A) by or through a nominee; or
  - (B) by a PCC the Shares and capital interests of which may be Cellular Assets or Non-Cellular Assets, or a combination of both.
- (8) The duty imposed by Article 95(2) is not breached by reason only that the directors of a PCC cause or permit Cellular Assets or Non-Cellular Assets, or a combination of both, to be collectively invested, or collectively managed by an investment manager, provided that the assets in question remain separately identifiable in accordance with Article 95(2).

#### **Article 96 - Position of creditors**

- (1) The rights of creditors of a PCC shall correspond with the liabilities provided for in Article 103.
- (2) No such creditor shall have any rights other than the rights referred to in this Article 96 and in Articles 97 and 103.
- (3) There shall be implied (except in so far as the same is expressly excluded in writing) in every transaction entered into by a PCC the following terms:
  - (A) that no party shall seek, whether in any proceedings or by any other means whatsoever or wheresoever, to make or attempt to use any Cellular Assets attributable to any Cell of the PCC to satisfy a liability not attributable to that Cell;
  - (B) that if any party succeeds by any means whatsoever or wheresoever in using any Cellular Assets attributable to any Cell of the PCC to satisfy a liability not attributable to that Cell, that party shall be liable to the PCC to pay a sum equal to the value of the benefit thereby obtained by him; and
  - (C) that if any party succeeds in seizing or attaching by any means or otherwise levying execution against any Cellular Assets attributable to any Cell of the PCC to satisfy a liability not attributable to that Cell, that party shall hold those assets or their proceeds on trust for the PCC and shall keep those assets or proceeds separate and identifiable as such trust property.
- (4) All sums recovered by a PCC as a result of any such trust as is described in Article 96(3)(C) shall be credited against any concurrent liability imposed under the implied term set out in Article 96(3)(B).
- (5) Any asset or sum recovered by a PCC under the implied term set out in Article 96(3)(B) or 96(3)(C) or by any other means whatsoever or wheresoever in the events referred to in those Articles shall, after the deduction or payment of any costs of recovery, be applied by the PCC so as to compensate the Cell affected.

- (6) In the event of any Cellular Assets attributable to a Cell of a PCC being taken in execution in respect of a liability not attributable to that Cell, and in so far as such assets or compensation in respect thereof cannot otherwise be restored to the Cell affected, the PCC shall:
- (A) cause or procure its auditor, acting as expert and not as arbitrator, to certify the value of the assets lost by the Cell affected; and
  - (B) transfer or pay to the Cell affected, from the Cellular or Non-Cellular Assets to which the liability was attributable, assets or sums sufficient to restore to the Cell affected the value of the assets lost.
- (7) Where under Article 96(6)(B) a PCC is obliged to make a transfer or payment from Cellular Assets attributable to a Cell of the PCC, and those assets are insufficient, the PCC shall so far as possible make up the deficiency from its Non-Cellular Assets.
- (8) This Article shall apply to Cellular and Non-Cellular Assets of a PCC wherever situated and notwithstanding any statutory provision or rule of law to the contrary.

#### **Article 97 - Recourse to Cellular Assets by creditors**

Without prejudice to the provisions of Articles 96 and 103, Cellular Assets attributable to a Cell of a PCC:

- (1) shall only be available to the creditors of the PCC who are creditors in respect of that Cell and who are thereby entitled, in conformity with the provisions of this Part, to have recourse to the Cellular Assets attributable to that Cell; and
- (2) shall be absolutely protected from the creditors of the PCC who are not creditors in respect of that Cell and who accordingly are not entitled to have recourse to the Cellular Assets attributable to that Cell.

#### **Article 98 - Cell Shares and Share capital**

- (1) A PCC may, in respect of any of its Cells, create and issue Shares the proceeds of the issue of which shall be comprised in the Cellular Assets attributable to the Cell in respect of which the Cell Shares were issued.
- (2) The proceeds of the issue of Shares other than Cell Shares created and issued by a PCC shall be comprised in the PCC's Non-Cellular Assets.
- (3) A PCC may pay a dividend in respect of its Cell Shares.
- (4) Dividends may be paid in respect of Cell Shares by reference only to the Cellular Assets and liabilities, or the profits, attributable to the Cell in respect of which the Cell Shares were issued; and accordingly, in determining whether or not such a dividend may lawfully be paid, no account need be taken of:
  - (A) the profits and losses, or the assets and liabilities, attributable to any other Cell of the PCC; or
  - (B) non-cellular profits and losses, or assets and liabilities.

### **Article 99 - Reduction of Cell Share Capital**

- (1) The provisions of Article 30 shall apply both in relation to a PCC and to one or more Cells of a PCC.
- (2) In the application of Article 30 to a PCC, references in Article 30 to "LLC" shall be interpreted as references to a PCC or to a Cell of a PCC, as the case may be.

### **Article 100 - Name and articles of association of PCC**

- (1) The name of a PCC shall end in the expression "Protected Cell Company", "PCC" or any cognate expression approved in writing by the CRO.
- (2) The articles of association of a PCC shall state that it is a PCC.
- (3) A PCC may, in order to comply with Article 100(2), alter its articles of association by Special Resolution.
- (4) Unless and until a PCC has complied with the provisions of this Article 100, it shall be deemed not to be a PCC.
- (5) Each Cell of a PCC shall have its own distinct name or designation.

### **Article 101 - Requirements for a PCC**

A Company may not be incorporated as a PCC, and an existing Company may not be converted into a PCC, unless:

- (1) the Regulatory Authority has consented in writing to the incorporation or conversion; and
- (2) the PCC is, or is to be:
  - (A) an Insurer; or
  - (B) a Collective Investment Fund.

### **Article 102 - Incorporation of Company as PCC**

A person wishing to incorporate a Company as a PCC shall make an application to the CRO for the incorporation of the PCC in accordance with Part 3 of these Regulations.

### **Article 103 - Liability of Cellular Assets**

- (1) Subject to the provisions of Article 103(2), and save to the extent that the PCC may have agreed that a liability shall be the liability solely of the PCC's Non-Cellular Assets, or of the Cellular Assets attributable to a particular Cell of the PCC, where any liability arises which is attributable to a particular Cell of a PCC:
  - (A) the Cellular Assets attributable to that Cell shall be primarily used to satisfy the liability;
  - (B) the PCC's Non-Cellular Assets shall be secondarily used to satisfy the liability, provided that the Cellular Assets attributable to the relevant Cell have been exhausted; and

- (C) any Cellular Assets not attributable to the relevant Cell shall not be used to satisfy the liability.
- (2) In the case of loss or damage which is attributable to a particular Cell of a PCC and which is caused by fraud, the loss or damage shall be the liability solely of the PCC's Non-Cellular Assets, without prejudice to any liability of any person other than the PCC.
- (3) Any liability not attributable to a particular Cell of a PCC shall be the liability solely of the PCC's Non-Cellular Assets.
- (4) Notwithstanding the above provisions of this section:
  - (A) the liabilities under Article 103(1)(A) of the Cellular Assets attributable to a particular Cell of a PCC shall abate rateably until the value of the aggregate liabilities equals the value of those assets except that the provisions of this paragraph shall be disregarded in assessing the existence and extent of any secondary liability under Article 103(1)(B); and
  - (B) the liabilities of the PCC's Non-Cellular Assets shall abate rateably until the value of the aggregate liabilities equals the value of those assets.
- (5) For the avoidance of doubt, a PCC may enter into arm's length transactions in respect of two or more of its Cells giving rise to reciprocal liabilities attributable to such Cells.
- (6) This Article 103 shall apply to the assets of the PCC wherever situated.

**Article 104 - Disputes as to liability attributable to Cells**

- (1) In the event of any dispute as to:
  - (A) whether any right is or is not in respect of a particular Cell;
  - (B) whether any creditor is or is not a creditor in respect of a particular Cell;
  - (C) whether any liability is or is not attributable to a particular Cell; or
  - (D) the amount to which any liability is limitedthe Tribunal, on the application of the PCC, and without prejudice to any other right or remedy of any person, may issue a declaration in respect of the matter in dispute.
- (2) The Tribunal, on hearing an application for a declaration under Article 104(1) may:
  - (A) direct that any person shall be heard on the application;
  - (B) make an interim declaration, or adjourn the hearing, conditionally or unconditionally;
  - (C) make the declaration subject to such terms and conditions as it thinks fit; or
  - (D) direct that the declaration shall be binding upon such persons as may be specified.

**Article 105 - PCC to inform persons they are dealing with PCC**

- (1) A PCC shall:
  - (A) inform any person with whom it transacts that it is a PCC; and
  - (B) for the purposes of that transaction, identify or specify the Cell in respect of which that person is transacting, unless that transaction is not a transaction in respect of a particular Cell.
- (2) If, in contravention of Article 105(1), a PCC:
  - (A) fails to inform a person that he is transacting with a PCC, and that person is otherwise unaware that, and has no reasonable grounds to believe that, he is transacting with a PCC; or
  - (B) fails to identify or specify the Cell in respect of which a person is transacting, and that person is otherwise unaware of, and has no reasonable basis of knowing, which Cell he is transacting with;then, in either such case:
  - (C) the directors shall (notwithstanding any provision to the contrary in the PCC's articles of association or in any contract with the PCC or otherwise) incur personal liability to that person in respect of the transaction; and
  - (D) the directors shall have a right of indemnity against the Non-Cellular Assets of the PCC, unless they were fraudulent, reckless or negligent, or acted in bad faith.
- (3) Notwithstanding the provisions of Article 105(2)(1), the Tribunal may relieve a director of all or part of his personal liability thereunder if he satisfies the Tribunal that he ought to be so relieved because:
  - (A) he was not aware of the circumstances giving rise to his liability and, in being not aware, he was neither fraudulent, reckless or negligent, nor acted in bad faith; or
  - (B) he expressly objected, and exercised such rights as he had as a director, whether by way of voting power or otherwise, so as to try to prevent the circumstances giving rise to his liability.
- (4) Where, pursuant to the provisions of Article 105(3), the Tribunal relieves a director of all or part of his personal liability under Article 105(2)(C), the Tribunal may order that the liability in question shall instead be met first by any other director or directors whose personal liability is not relieved and thereafter, if necessary, from such of the Cellular or Non-Cellular Assets of the PCC as may be specified in the order.
- (5) Any provision in the articles of association of a PCC, and any other contractual provision under which the PCC may be liable, which purports to indemnify directors in respect of conduct which would otherwise disentitle them to an indemnity against Non-Cellular Assets by virtue of Article 105(2)(D), shall be void.



**Article 106 - Attribution of Non-Cellular Assets and Liabilities**

- (1) Liabilities of a PCC not otherwise attributable to any of its Cells shall be discharged from the PCC's Non-Cellular Assets.
- (2) Income, receipts and other property or rights of or acquired by a PCC not otherwise attributable to any Cell shall be applied to and comprised in the PCC's Non-Cellular Assets.

**Article 107 - Provisions in relation to winding up of PCC**

- (1) Notwithstanding any statutory provision or rule of law to the contrary, in the winding up of a PCC (whether compulsory or voluntary or subject to the supervision of the Tribunal and whether solvent or insolvent):
  - (A) the assets forming part of the estate shall only be the Non-Cellular Assets;
  - (B) the winding up shall not terminate any agency, or in any way whatsoever affect the authority or power, of any Officer, administrator, servant or agent of the PCC or any other person appointed over the PCC or any of the Cellular Assets; and
  - (C) if and to the extent that any liquidator of the PCC has any dealing with, or has possession custody or control of, any of the Cellular Assets, he shall be subject to the duty set out in Article 95(2) as if he were a director.

**Article 108 - Transfer of Cellular Assets from PCC**

- (1) Subject to the provisions of Article 108(3), the Cellular Assets attributable to any Cell of a PCC, but not the Non-Cellular Assets of a PCC, may be transferred to another person, wherever resident or incorporated, and whether or not a PCC.
- (2) A transfer under Article 108(1) of Cellular Assets attributable to a Cell of a PCC shall not of itself entitle creditors of that PCC to have recourse to the assets of the person to whom the Cellular Assets were transferred.
- (3) No transfer of the Cellular Assets attributable to a Cell of a PCC may be made except under the authority of, and in accordance with the terms and conditions of, an order of the Tribunal under this Article (a "Cell transfer order").
- (4) The Tribunal shall not make a Cell transfer order in relation to a Cell of a PCC unless it is satisfied:
  - (A) that the creditors of the PCC entitled to have recourse to the Cellular Assets attributable to the Cell consent to the transfer; or
  - (B) that those creditors would not be unfairly prejudiced by the transfer.
- (5) The Tribunal, on hearing an application for a Cell transfer order:
  - (A) may make an interim order or adjourn the hearing, conditionally or unconditionally; or
  - (B) may dispense with any of the requirements of Article 108(4).

- (6) The Tribunal may attach such conditions as it thinks fit to a Cell transfer order, including conditions as to the discharging of claims of creditors entitled to have recourse to the Cellular Assets attributable to the Cell in relation to which the order is sought.
- (7) The Tribunal may make a Cell transfer order in relation to a Cell of a PCC notwithstanding that:
  - (A) a liquidator has been appointed to act in respect of the PCC or the PCC has passed a resolution for voluntary winding up; or
  - (B) an administration order has been made in respect of the Cell, the PCC or any other Cell thereof.
- (8) Notice of an application to the Tribunal for a Cell transfer order shall be served upon:
  - (A) any liquidator or administrator of the PCC or the Cell concerned;
  - (B) the Regulatory Authority; and
  - (C) such other persons (if any) as the Tribunal may direct.
- (9) The provisions of this Article are without prejudice to any power of a PCC lawfully to make payments or transfers from the Cellular Assets attributable to any Cell of the PCC to a person entitled, in conformity with the provisions of this Part, to have recourse to those Cellular Assets.
- (10) For the avoidance of doubt, a PCC shall not require a Cell transfer order in order to invest, and change investment of, Cellular Assets or otherwise to make payments or transfers from Cellular Assets in the ordinary course of the PCC's Business.

**Article 109 - Administration orders in relation to PCCs or Cells**

- (1) Notwithstanding any statutory provision or rule of law to the contrary, an administrator may be appointed under the Insolvency Regulations in respect of a PCC or in respect of one or more Cells of a PCC.
- (2) Where an administrator is appointed under the Insolvency Regulations in respect of one or more Cells of a PCC, the relevant provisions of the Insolvency Regulations shall apply as if references therein to a Company were to be interpreted as references to a Cell.

## **PART 5: MIGRATION OF BODIES CORPORATE**

### **Article 110 - Transfer of incorporation to QFC**

- (1) A Non-QFC Company may, if authorised by the laws of the jurisdiction in which it was incorporated, apply to the CRO for the continuation of the Non-QFC Company as a Company.
- (2) An application for continuation shall be made to the CRO by using the form prescribed by the CRO and shall:
  - (A) be executed under seal and signed by an officer or director of the Non-QFC Company and verified by an affidavit of the person signing the application;
  - (B) be accompanied by articles of continuation that comply with Article 17(2)(l); and
  - (C) be accompanied by any other document prescribed by the CRO.
- (3) The articles of continuation shall make any amendments to the original articles of incorporation and any amendments thereto necessary to make the articles of continuation conform to these Regulations.

### **Article 111 - Certificate of continuation**

- (1) Should the CRO approve the application, the CRO shall:
  - (A) issue a certificate of continuation on the terms and conditions the CRO considers appropriate;
  - (B) register the Company; and
  - (C) allocate to the Company a number, which shall be the Company's registered number.
- (2) The CRO may refuse to issue a certificate of continuation if he considers it appropriate to do so.
- (3) The CRO is not required to provide reasons for refusing to issue a certificate of continuation.

### **Article 112 - Effect of certificate**

From the date of continuation stated in the certificate of continuation:

- (1) the Non-QFC Company becomes a Company to which this Regulation applies as if it has been incorporated under these Regulations;
- (2) the articles of continuation become the articles of the Company; and
- (3) the certificate of continuation is treated as the certificate of incorporation of the Company.

### **Article 113 - Copy of certificate of continuation**

The CRO shall send a copy of the certificate of continuation to the appropriate official or public body in the jurisdiction in which the application for continuation was authorised.

### **Article 114 - Rights and liabilities**

Where a Non-QFC Company is continued as a Company under these Regulations, the Company:

- (1) continues to have all the property, rights and privileges and is subject to all the liabilities, disabilities and debts that it had before the continuation; and
- (2) remains a party in any legal proceedings commenced in any jurisdiction in which it was a party before the continuation.

### **Article 115 - Transfer of incorporation from QFC to another jurisdiction**

- (1) A Company may, if it is authorised by:

- (A) a Special Resolution of the shareholders; and
- (B) the CRO in the manner prescribed in rules made by the QFC Authority

apply to the appropriate official or public body of a foreign jurisdiction to transfer its incorporation to the foreign jurisdiction and request that the Company be continued as a Non-QFC Company.

- (2) A Company shall not apply under Article 115(1) unless the laws of the foreign jurisdiction provide that the Non-QFC Company will:
  - (A) continue to have all the property, rights and privileges and is subject to all the liabilities, disabilities and debts that it had before the continuation; and
  - (B) remain a party in any legal proceedings commenced in any jurisdiction in which it was a party before the continuation.
- (3) A Company ceases to be a Company within the meaning of this Regulation when the Company is continued as a Non-QFC Company and when the Non-QFC Company files with the CRO a copy of the certificate or instrument of continuation certified by the appropriate official of the foreign jurisdiction.
- (4) When the CRO receives the foreign jurisdiction's certificate or instrument of continuation, the CRO must strike the name of the Company off the index of names maintained by the CRO.

### **Article 116 - Refusal to grant authorisation to transfer incorporation**

The CRO may refuse to authorise a Company to apply to be continued under Article 115(1).

## **PART 6: BRANCHES**

### **Article 117 - Requirement for registered Branch**

- (1) A Non-QFC Company shall not engage in or carry or purport to carry on any trade or Business activity in or from the QFC unless it is registered as a Branch with the CRO in accordance with Article 119 of these Regulations and shall comply with these Regulations in all other respects.
- (2) A Branch shall:
  - (A) appoint and retain at all times a Principal Representative in the QFC who is authorised to accept service of any Document or notice on behalf of the Branch and to undertake any other function as may be prescribed by these Regulations or any subsequent Regulations;
  - (B) have a principal place of business in the QFC to which all communications and notices may be addressed; and
  - (C) file with the CRO a notice of any change in the details of the:
    - (i) persons authorised to accept service;
    - (ii) address of the principal place of business in the QFC;
    - (iii) any restrictions or revocations in the power of attorney in favour of the person referred to in Article 117(2)(A);
    - (iv) constitutional documents of the Non-QFC company; and
    - (v) directors of the Non-QFC company.
- (3) All documentation required to be submitted to the CRO shall be in the English language, or accompanied by an appropriate translation into the English language.

### **Article 118 - Application to establish a Branch**

- (1) A Non-QFC Company wishing to establish a Branch in the QFC shall apply to the CRO for prior approval to establish a Branch in the QFC.
- (2) An application by a Non-QFC Company for approval to establish a Branch in the QFC shall:
  - (A) be made to the CRO in such form and manner as the CRO may require from time;
  - (B) describe the type of Business activity to be carried on from the Branch;
  - (C) state the full address of the principal place of business in the QFC;
  - (D) state the full name and address of the person authorised to accept service on behalf of the Branch;
  - (E) be accompanied by the following Documents, verified in such manner as the CRO may require:

- (i) a copy of the constitutional documents of the Non-QFC Company;
  - (ii) a copy of the audited accounts of the Non-QFC Company for the preceding two years, save where the applicant Non-QFC Company has been in existence for less than two years in which case a copy of the most recent audited accounts;
  - (iii) a copy of the resolution of the board of directors of the Non-QFC Company to establish a Branch in the QFC;
  - (iv) a power of attorney in favour of the person referred to in Article 117(2)(A);
  - (v) a list of the full Name, Address, date of birth, nationality and business occupation of each director of the Non-QFC Company;
  - (vi) a certified copy of the certificate of incorporation or other instrument evidencing the incorporation of the Non-QFC Company; and
  - (vii) such other Documents or information as the CRO or QFC Authority may in their absolute discretion require from time to time;
- (F) contain or be accompanied by such further particulars, verified in such manner, as the CRO or QFC Authority may require; and
- (G) be accompanied by any Prescribed Fee.

**Article 119 - Acceptance or refusal of application to register a Branch**

- (1) The CRO may on an application duly made in accordance with Article 118 accept or refuse the application.
- (2) Where the CRO accepts an application under this Article 119, it shall issue to the applicant a certificate of registration of the Branch in the QFC and such certificate shall be admissible in evidence in proceedings under these Regulations without further proof and shall be evidence of the facts certified or specified therein. A certificate of registration shall be conclusive evidence that the Non-QFC Company is registered with the name and number specified in it and that the requirements of these Regulations have been complied with in respect of the registration of the Non-QFC Company and thereafter no defect in the process prior to the registration thereof shall affect the validity of its registration.
- (3) A decision of the CRO refusing to accept an application to establish a Branch may be reviewed consistent with any applicable standards and procedures issued by the QFC Authority for such purpose.

**Article 120 - Prohibition of Branch with an undesirable name**

- (1) No Branch shall be registered with a name which is the same as or, in the opinion of the CRO, too like a name appearing in the index of names maintained by the CRO or which in the opinion of the CRO is offensive or otherwise undesirable.
- (2) If, in the opinion of the CRO, the name by which a Branch is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public, it may in writing direct the Branch to change its name within such period (being not less than one month) as the CRO may specify.

- (3) Such direction shall be complied with within the period specified in the direction or such longer period as the CRO may allow.

**Article 121- Principal Representatives**

Every Branch shall give notice in writing to the CRO of such particulars of its Principal Representative as the CRO may determine.

**Article 122 - Register of Branches**

- (1) The CRO shall maintain a register of Branches which shall include:
- (A) the name of the Branch and, if different, the name of the Non-QFC Company;
  - (B) the principal place in the QFC from which the Branch engages in or carries on any Business in the QFC and the address of the registered office of the Non-QFC Company;
  - (C) the Principal Representative of the Branch;
  - (D) the date and place of incorporation of its Non-QFC Company;
  - (E) the date of registration of the Branch;
  - (F) the registered number of the Branch; and
  - (G) such other information as the CRO shall determine.
- (2) If any particulars required by Article 122(1) are altered, the Branch shall give notice in writing to the CRO of the particulars of the alteration within 21 days after the alteration is made.

**Article 123 - Records to be kept by Branches**

- (1) Every Branch shall keep proper accounting Records with respect to all sums of money received and expended by the Branch and all sales and purchases of goods and services and other transactions by the Branch and the assets and Liabilities of the Branch. Such Records shall be sufficient to show and explain all transactions by the Branch and must be such as to:
- (A) disclose with reasonable accuracy the financial position of the Branch at any time; and
  - (B) enable the directors to ensure that any accounts prepared by the Branch comply with the requirements of these Regulations.

- (2) The Branch's accounting Records shall be:
- (A) kept at the Branch's principal place of business;
  - (B) preserved by the Branch for at least six years from the date to which they relate; and
  - (C) at all reasonable times open to inspection by directors and auditor of the relevant Non-QFC Company.

**Article 124 - Letterheads**

Every Branch shall have the following particulars on all Business letters, written orders for goods or services, invoices and receipts, written demands for payment and other such similar documentation:

- (1) its name which shall include the words "QFC Branch" or "Qatar Financial Centre Branch"; or
- (2) where the Branch name is different to the parent Non-QFC Company, the name shall include the words "QFC Branch of [the name of the parent Non-QFC Company];
- (3) the place of incorporation of the parent Non-QFC Company; and
- (4) the principal place in the QFC from which the Branch engages in or carries on any Business.

**Article 125 - Name to appear outside place of Business**

- (1) Every Branch shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its Business is carried on, in a conspicuous position and in letters easily legible.
- (2) If a Branch does not paint or affix, and keep painted or affixed, its name as required as above, then the Non-QFC Company concerned and every Officer of it who is in default is in contravention of these Regulations.

**Article 126 - Financial Penalties**

Where a Non-QFC Company fails to comply with any provision of this Part 6 and no other financial penalty is provided in these Regulations, the Non-QFC Company, its Officers and any person who appears to the Tribunal to be in charge of its affairs in the QFC shall be liable if so ordered by the Tribunal to pay the financial penalties prescribed by the CRO.



**PART 7: INTERNATIONAL BUSINESS COMPANIES**

Reserved

## **PART 8: CONTRAVENTIONS**

### **Article 127 - General contraventions**

- (1) A person who:
  - (A) does an act or thing that the person is prohibited from doing under an Article of these Regulations referred to in Schedule 1; or
  - (B) does not do an act or thing that the person is required or directed to do under an Article of these Regulations referred to in Schedule 1; or
  - (C) otherwise contravenes an Article of these Regulations referred to in Schedule 1commits a contravention of these Regulations.
- (2) In this Article 127, "person" does not include the QFC Authority, the Regulatory Authority, the CRO or the Registrar.

### **Article 128 - Involvement in contraventions**

- (1) If a person is knowingly concerned in the contravention of these Regulations or any other Regulations conferring functions on the CRO committed by another person, the aforementioned person as well as the other person, commits the contravention and is liable to be proceeded against and dealt with accordingly.
- (2) Without limiting the generality of Article 128(1), if an officer of an Entity is knowingly concerned in a contravention of these Regulations or any other Regulations conferring functions on the CRO committed by an Entity, the officer as well as the Entity commits the contravention and is liable to be proceeded against and dealt with accordingly.
- (3) If the affairs of an Entity are managed by its Members, Article 128(2) applies in relation to the acts and defaults of a Member in connection with his functions of management as if he were a director of the Entity.
- (4) For the purposes of this Article 128, "officer" means a director, member of a committee of management, chief executive, manager, secretary or other civil officer of an Entity, or a person purporting to act in such capacity, and an individual who is in control of the body.
- (5) For the purposes of this Article 128, a person is "knowingly concerned" in a contravention if, and only if, the person:
  - (A) has aided, abetted, counselled or procured the contravention;
  - (B) has induced, whether by threats or promises or otherwise, the contravention;
  - (C) has in any way, by act or omission, directly or indirectly, been knowingly involved in or been party to, the contravention;
  - (D) has conspired with another or others to effect the contravention; or
  - (E) has, alone or in concert with others, directly or indirectly, done, attempted or planned any of the following:

- (i) to conceal the existence or nature of a contravention; or
  - (ii) to obstruct, impede or prevent the QFC Authority, the Regulatory Authority or the CRO from detecting, investigating or prosecuting a contravention.
- (6) In this Article 128, “person” does not include the QFC Authority, the Regulatory Authority, the CRO or the Registrar.

**Article 129 - Imposition of financial penalties**

- (1) The QFC Authority may in rules prescribe procedures in relation to the imposition and recovery of financial penalties under these Regulations.
- (2) Where the CRO considers that a person has contravened a provision in these Regulations referred to in Schedule 1 and in relation to which a penalty is stipulated in that Schedule, it may impose by written notice given to the person a penalty, in respect of the contravention, of such amount as it considers appropriate but not exceeding the amount of the maximum penalty specified in Schedule 1 in respect of each contravention.
- (3) If, within the period specified in the notice:
- (A) the person pays the prescribed penalty to the CRO, then no proceedings may be commenced by the CRO against the person in respect of the relevant contravention; or
  - (B) the person takes such action as is prescribed in rules made by the QFC Authority to object to the imposition of the penalty or has not paid the prescribed penalty to the CRO, the CRO may apply to the Tribunal for, and the Tribunal may so order, the payment of the penalty or so much of the penalty as is not paid and make any further order as the Tribunal sees fit for recovery of the penalty.
- (4) A certificate that purports to be signed by or on behalf of the CRO and states that a written notice was given to the person pursuant to Article 129(2) imposing a penalty on the basis of specific facts is:
- (A) conclusive evidence of the giving of the notice to the person; and
  - (B) prima facie evidence of the facts contained in the notice
- in any proceedings commenced under this Article 129.
- (5) Where a person commits a contravention of these Regulations and no penalty is stipulated in Schedule 1 in relation to such contravention, such person shall be liable to such penalty as may be provided for or determined under any other provision of these Regulations or any other Regulations.

## **PART 9: OTHER PROVISIONS RELATING TO THE CRO**

### **Article 130 - Direction to Company to comply with these Regulations**

- (1) If a Company or any Officer of it fails to comply with:
  - (A) a provision of these Regulations or any other Regulations giving functions to the CRO; or
  - (B) a requirement made by the CRO pursuant to any power under any such Regulations

which requires either or both of them to deliver to or file with the CRO any Document or to give notice to it of any matter, the CRO may issue a direction that the Company or any Officer of it or both of them make good the failure within a time specified in that direction. Any person who fails to comply with such direction contravenes these Regulations.

- (2) If a Company or any Officer of it fails to comply with a provision of these Regulations, or any other Regulations which requires either or both of them to comply with a lawful requirement in relation to another person, the CRO may issue a direction that the Company or any Officer of it or both of them make good the failure within a time specified in that direction. Any person who fails to comply with such direction contravenes these Regulations.
- (3) If the CRO considers that the Company or any Officer of it has failed to comply with a direction, it may apply to the Tribunal for one or more of the following orders:
  - (A) an order directing the Company or Officer to comply with the direction or with any provision of the Regulations or any other Regulations giving functions to the CRO relevant to the issue of the direction;
  - (B) an order directing the Company or Officer to pay any costs incurred by the CRO or other person relating to the issue of the direction by the CRO or the breach of these Regulations or such other Regulations relevant to the issue of the direction; or
  - (C) any other order that the Tribunal considers appropriate.
- (4) Nothing in this Article 130 shall prejudice the operation of any Article of these or any other Regulations providing for the imposition of financial penalties on a Company or any Officer in respect of a failure mentioned above, nor any powers that the CRO or other person or the Tribunal may have under any other provision of these Regulations or any other Regulations.

### **Article 131 - Dissolution of Companies**

- (1) If the CRO has reason to believe that:
  - (A) a Company or Branch is not carrying on Business or is not in operation;
  - (B) a Company or Branch is acting in contravention of these Regulations; or
  - (C) it is prejudicial to the interests of the QFC for a Company or Branch to remain on the register;

it may give notice to the Company or Branch that at the conclusion of three months from the date of the notice, the Company or Branch shall be struck off the register unless reason is shown to the contrary.

- (2) If, by the end of the three month period, the CRO:
- (A) has received confirmation that the Company or Branch is no longer carrying on Business or is not in operation; or
  - (B) has not received from the Company or Branch sufficient reasons as to why the Company or Branch should not be struck off the register;

the CRO shall strike the name of the Company or Branch off the register and the Company or Branch shall be dissolved.

- (3) Where a Company or Branch is struck off the register under this Article, the liability of every director and Member of the Company or relevant Body Corporate, and in the case of the striking off of a Branch, the Body Corporate itself continues and may be enforced as if the Company or Branch had not been dissolved.

#### **Article 132 - False or Misleading Information**

A person shall not:

- (1) provide information which is false, misleading or deceptive to the CRO; or
- (2) conceal information where the concealment of such information is likely to mislead or deceive the CRO.

## **PART 10: APPLICATION TO TRIBUNAL**

### **Article 133 - Orders for compensation**

- (1) Where a person intentionally, recklessly or negligently commits a breach of any requirement, duty, prohibition, responsibility or obligation which is imposed by or under these Regulations or any other Regulations conferring functions on the CRO, the person is liable to compensate any other person for any loss or damage caused to that other person as a result of such conduct, and is otherwise liable to restore the person to the position they were in prior to such conduct.
- (2) Where a person suffers loss or damage caused as a result of conduct described in Article 133(1), the Tribunal may on application brought by the person, make orders for the recovery of damages or for compensation or for the recovery of property or any other order as the Tribunal sees fit, except where such liability is excluded under these Regulations or any Regulations conferring functions on the CRO.
- (3) Nothing in this Article 133 affects the powers that any person or the Tribunal may have apart from this Article.

### **Article 134 - Minority Member protection: unfair prejudice**

- (1) A Member of a Company may apply to the Tribunal on the ground that the Company's affairs are being or have been conducted in a manner which is unfairly prejudicial to the interests of some part of the Members (including at least himself) or that any actual or proposed act or omission by the Company (including an act or omission on its behalf) is or would be so prejudicial.
- (2) Pursuant to such application, the Tribunal may make an order to:
  - (A) require the Company to refrain from doing or continuing an act complained of by the applicant or to do an act which the applicant has complained it has omitted to do;
  - (B) provide for the purchase of the Shares of any Members of the Company or by the Company itself;
  - (C) authorise proceedings to be brought in the name and on behalf of the Company by such person or persons and on such terms as the Tribunal may direct;
  - (D) regulate the conduct of the Company's affairs in the future; or
  - (E) make such other order as the Tribunal thinks fit.
- (3) If an order under this Article 134 requires the Company not to make any, or any specified, alterations in its articles of association, the Company shall not then without leave of the Tribunal make any such alteration.
- (4) An alteration in the Company's articles of association made by virtue of an order under this Article 134 is of the same effect as if duly made by Special Resolution of the Company, and the provisions of these Regulations apply to its articles of association as so altered accordingly.

- (5) The order of the Tribunal recording the making of an order under this Article 134 altering, or giving leave to alter, a Company's articles of association shall, within 21 days from the making of the order or such longer period as the Tribunal may allow, be delivered by the Tribunal to the CRO for registration.
- (6) Nothing in this Article 134 affects the powers that any person or the Tribunal may have apart from this Article 134.

## **PART 11: REPORTING**

### **Article 135 - Reporting by the CRO**

- (1) The CRO shall report to the QFC Authority in such manner as the QFC Authority may direct.
- (2) The QFC Authority shall provide the Minister with a written report on the exercise of the powers and performance of the functions of the CRO and its financial activities.
- (3) Such report shall be prepared and provided before the end of the first quarter of the financial year of the CRO or within such other period as the Minister may require and shall relate to the previous financial year.
- (4) Such report may be published by the QFC Authority without undue delay or within such time period as the Minister otherwise directs.



## **PART 12: REGISTER OF FINANCING STATEMENTS**

### **Article 136 - Definitions**

In this Part the following expressions shall bear the meaning given to them in the Security Regulations 2005:

“Business Days”; “Collateral”; “Debtor”; “Goods”; “Land”; “Person”, “Proceeds”; “Property”; “Secured Party”; “Security Agreement”; “Security Interest”; and “Unique Identifying Number”.

### **Article 137 - The Register**

- (1) There is to be a register of financing statements established and maintained by the CRO.
- (2) Subject to the Security Regulations, these Regulations and any rules made by the QFC Authority, the filing of a financing statement is effective for the purposes of perfecting a Security Interest and determining priority.
- (3) The filing of a financing statement does not create a presumption that the Security Regulations applies to the transaction to which the filing relates.
- (4) The QFC Authority may make rules in respect of any matter that facilitates the administration of this Part or furthers the purposes of this Part, including but not limited to rules which may:
  - (A) provide criteria for the effective filing of financing statements, amendments and other records and notifications required or permitted under this Part, including without limitation requirements as to their form, content and medium and the identification of the Debtor, the Secured Party and the Collateral;
  - (B) provide for standard forms for use in filing financing statements, amendments and other records and notifications under paragraph (A);
  - (C) provide for indexing, publication and licensing of financing statements, amendments and other records either individually or collectively;
  - (D) exclude or limit the liability of the CRO; and
  - (E) prescribe fees payable for processing applications for filing and production of records under this Part.

### **Article 138 - Financing statement**

- (1) A financing statement must be filed in accordance with this Part and any further Regulations.
- (2) The filing of a financing statement is ineffective unless the Debtor consents to the filing. A Debtor who enters into a Security Agreement is treated as consenting to the filing of a financing statement which relates to the Collateral mentioned in the Security Agreement and its Proceeds.

- (3) The filing of a financing change statement which:
  - (A) adds to the Collateral covered by a financing statement; or
  - (B) adds a Debtor to a financing statementis ineffective unless that Debtor consents to the filing.
- (4) A Debtor may consent to the filing of a financing statement, or be treated as consenting under paragraph (2), with retrospective effect from the date of filing.
- (5) Subject to Article 142, a financing statement must contain the following information to be effective:
  - (A) the Name of the Debtor;
  - (B) the Debtor's registered number (if any);
  - (C) the Name and Address of the Secured Party or its agent (if any);
  - (D) a description of the Collateral;
  - (E) whether the filing is to continue indefinitely or for a specified period; and
  - (F) such other matters as may be prescribed in rules made by the QFC Authority.
- (6) If the Collateral is of a type which has a Unique Identifying Number, that number must also be included in the financing statement if that Collateral is of a type prescribed in rules made by the QFC Authority.

**Article 139 - Time of filing**

- (1) Filing of a financing statement is effective when a date, time and financing statement number are assigned to it by the CRO.
- (2) A financing statement may be filed:
  - (A) before or after a Security Agreement is made; and
  - (B) before or after a Security Interest attaches.
- (3) A financing statement may relate to one or more Security Agreements.
- (4) The CRO shall not accept a filing:
  - (A) until any Prescribed Fees are paid; and
  - (B) which does not provide information relating to each category listed in Article 138(5).
- (5) If the CRO is satisfied that an entry on the register was not filed in accordance with, or for the purposes of, this Part the CRO shall notify the Secured Party (or its agent) and any other person named on the financing statement. The CRO may remove the entry from the

register 21 Business Days after such notification unless any recipient of such notice applies for an order from the Tribunal to maintain that entry on the register.

- (6) On application to the Tribunal under Article 139(5), the Tribunal may order that the entry on the register:
- (A) be maintained on any condition that the Tribunal considers appropriate; or
  - (B) be removed

and the CRO must amend the register as relevant to that financing statement accordingly.

#### **Article 140 - Duration of filing**

- (1) Subject to paragraph (2), a filing continues to have effect:
- (A) indefinitely; or
  - (B) if a specified period is indicated on the financing statement, for that specified period.
- (2) A filing ceases to have effect when it is discharged.

#### **Article 141 - CRO to issue verification statement**

- (1) As soon as reasonably practicable after the filing of a financing statement or financing change statement the CRO must send a verification statement to the Person making the filing.
- (2) "Verification statement" means a statement containing:
- (A) the information contained in the financing statement or financing change statement;
  - (B) the financing statement number or financing change statement number;
  - (C) the date and time of filing; and
  - (D) any other prescribed data which is required to confirm the filing of a financing statement.
- (3) The Secured Party or Person named as the Secured Party in the financing statement or financing change statement must send to the Debtor a copy of the verification statement within ten Business Days of receiving it, unless the Debtor has waived in writing the right to receive a copy or the Debtor files the financing statement or financing change statement.

#### **Article 142 - Errors in financing statement**

- (1) A financing statement is not effective:
- (A) if it contains a defect, irregularity, omission or error such that the existence of the Security Interest would not be discovered by a reasonable search under Article 145 (whether or not a search is actually carried out); or

- (B) to the extent that it purports to include Collateral not mentioned in any Security Agreement to which it may relate.
- (2) Failure to provide a description in a financing statement in relation to any item or kind of Collateral does not make the filing ineffective with respect to other Collateral described in the financing statement.
- (3) Without limiting the generality of paragraph (1), a purchaser of Goods or Land with a Unique Identifying Number who searches the register using that number alone is taken to have made a reasonable search.
- (4) Failure to provide the correct Unique Identifying Number in relation to any item of Collateral does not make the filing ineffective with respect to other Collateral described in the financing statement.
- (5) The effectiveness of a financing statement is not otherwise affected by any defect, irregularity, omission or error not specified in paragraph (1).

#### **Article 143 - Renewal and amendment of filing**

- (1) A filing may be renewed by filing a financing change statement at any time before the filing expires and the period of time for which the filing is effective is extended by the renewal period indicated on the financing change statement.
- (2) An amendment to a filing may be effected by filing a financing change statement at any time before the filing expires, and the amendment is effective from the time when the financing change statement is filed to the expiry of the filing which is being amended.
- (3) If the Debtor changes its name, registered number (if any) or other identifier it must file a financing change statement within 21 Business Days.

#### **Article 144 - Filing of transfers and subordinations**

- (1) If a Secured Party with a Security Interest perfected by filing transfers the Security Interest or a part of it, a financing change statement may be filed disclosing the transfer. Where only an interest in part of the Collateral is transferred, the financing change statement must contain a description of the Collateral in which the interest is transferred.
- (2) After the filing of a financing change statement disclosing a transfer of a Security Interest, the transferee is the Secured Party for the purposes of the Security Regulations.
- (3) If a Secured Party transfers a Security Interest which is not perfected or has not been perfected by filing, a financing statement may be filed (before or after the transfer) in which the transferee is disclosed as the Secured Party.
- (4) For the avoidance of doubt, the transferee of a Security Interest is not required to file a financing change statement in order to continue the perfected status of the Security Interest against purchasers or in the event of insolvency.
- (5) Where a Security Interest has been subordinated by the Secured Party to the interest of another Person, a financing change statement may be filed to disclose the subordination at any time.

**Article 145 - Searches**

- (1) The register must be organised so as to permit searches using one or more of the following criteria:
  - (A) the name of the Debtor;
  - (B) the registered number of the Debtor (if any);
  - (C) the financing statement number;
  - (D) the Collateral's Unique Identifying Number (if any),and any additional criteria specified by the CRO.
- (2) A search result that purports to be authorised by the CRO, whether printed by the CRO or by any other Person, is receivable as evidence as prima facie proof of its contents, including:
  - (A) the date of filing of a financing statement to which the search result refers; and
  - (B) the order of filing of the financing statement as indicated by the financing statement number.
- (3) The CRO shall not authorise a search result until any Prescribed Fee is paid.

**Article 146 - Debtor may require financing change statement**

- (1) If:
  - (A) a financing statement is filed; and
  - (B) one of the conditions set out in column 1 of Table 1 in Schedule 2 to these Regulations is satisfied, the Debtor, or any Person with an interest in Property which falls within the Collateral description on the financing statement, may give a notice in writing (a "requirement notice") to the Secured Party.
- (2) The requirement notice must:
  - (A) specify the condition which is satisfied;
  - (B) require the Secured Party to file a financing change statement with the effect indicated in column 2 of Table 1 in Schedule 2 relating to that condition; and
  - (C) inform the Secured Party that failure to comply with the requirement notice may result in the Person who gives the notice filing the appropriate financing change statement.
- (3) If the Person who gives a requirement notice is not the sole Debtor, he must send a copy of the requirement notice to every other Debtor to whom the financing statement relates within five Business Days of the requirement notice being given to the Secured Party.

- (4) The Person who gives a requirement notice may file a financing change statement as requested in the requirement notice if the Secured Party does not, within 21 Business Days after the requirement notice is given, either:
- (A) comply with the requirement notice; or
  - (B) apply for an order from the Tribunal to maintain the filing of the financing statement to which the requirement notice relates and notify the Person who gave the requirement notice and the CRO accordingly.
- (5) If the CRO receives notification under paragraph (4)(B), he must as soon as reasonably practicable amend the entry on the register relating to the financing statement in question to show that it is the subject of a dispute.
- (6) On application to the Tribunal by a Secured Party, the Tribunal may order that the filing:
- (A) be maintained on any condition and for any period of time that the Tribunal considers appropriate, subject to Article 140 and Article 141; or
  - (B) be discharged or amended
- and the CRO must amend the entry on the register relating to the financing statement accordingly.
- (7) Notices under this Article 146 must be given in the prescribed manner.

## **PART 13: ACQUISITION OF MINORITIES IN TAKE-OVERS**

### **Article 147 – Definitions**

- (1) In this Part, a "take-over offer" means an offer to acquire all the Shares, or all the Shares of any class or classes, in a Company (other than Shares which at the date of the offer are already held by the offeror), being an offer on terms which are the same in relation to all the Shares to which the offer relates or, where those Shares include Shares of different classes, in relation to all the Shares of each class.
- (2) In this Article, "Shares" means Shares which have been allotted on the date of the offer but a take-over offer may include Shares that are subsequently allotted before a date specified in or determined in accordance with the terms of the offer.

### **Article 148 - Take-over offers**

- (1) The terms offered in relation to any Shares shall for the purposes of this Article 148 be treated as being the same in relation to all the Shares or, as the case may be, all the Shares of a class to which the offer relates notwithstanding any variation permitted by Article 148(2).
- (2) A variation is permitted by this paragraph where:
  - (A) the law of a country or territory outside the QFC precludes the acceptance of an offer in the form or the forms specified, or precludes it except after compliance by the offeror with conditions with which he is unable to comply or which he regards as unduly onerous; and
  - (B) the variation is such that the persons by whom the acceptance of an offer in that form is precluded are able to accept an offer in a different form but of substantially equivalent value.
- (3) The reference in Article 147(1) to Shares already held by the offeror includes a reference to Shares which he has contracted to acquire (which term shall include Shares which the offeror has an unconditional option to acquire) but shall not be construed as including Shares which are the subject of a contract binding the holder to accept the offer when it is made, being a contract entered into by the holder for nothing other than a promise by the offeror to make the offer.
- (4) Where the terms of an offer make provision for their revision and for acceptances on the previous terms to be treated as acceptances on the revised terms, the revision shall not be regarded for the purposes of this Part as the making of a fresh offer and references in this Part to the date of the offer shall accordingly be construed as references to the date on which the original offer was made.
- (5) In this Part "the offeror" means, subject to Article 154, the person making a take-over offer and "the Company" means the Company whose Shares are the subject of the offer.

### **Article 149 - Right of offeror to buy out minority Members**

- (1) If, in a case in which a take-over offer does not relate to Shares of different classes, the offeror has by virtue of acceptances of the offer acquired or contracted to acquire not less than nine-tenths in nominal value of the Shares to which the offer relates he may give

notice to the holder of any Shares to which the offer relates which the offeror has not acquired or contracted to acquire that he desires to acquire those Shares.

- (2) If, in a case in which a take-over offer relates to Shares of different classes, the offeror has by virtue of acceptances of the offer acquired or contracted to acquire not less than nine-tenths in nominal value of the Shares of any class to which the offer relates, he may give notice to the holder of any Shares of that class which the offeror has not acquired or contracted to acquire that he desires to acquire those Shares.
- (3) No notice shall be given under Article 149(1) or (2) unless the offeror has acquired or contracted to acquire the Shares necessary to satisfy the minimum specified in those paragraphs before the end of the period of four months beginning with the date of the offer; and no such notice shall be given after the end of the period of two months beginning with the date on which he has acquired or contracted to acquire Shares which satisfy that minimum.
- (4) When the offeror gives the first notice in relation to an offer he shall send a copy of it to the Company together with a declaration by him stating that the conditions for the giving of the notice are satisfied. A person who makes such a declaration must have reasonable grounds for believing it to be true.
- (5) Where the offeror is a Body Corporate (whether or not a Company within the meaning of these Regulations) the declaration shall be signed by a director.
- (6) If a person is proceeded against in respect of an alleged contravention for failing to send a copy of a notice as required by Article 149(4) it is a defence for him to prove that he took reasonable steps for securing compliance with that paragraph.
- (7) Where during the period within which a take-over offer can be accepted the offeror acquires or contracts to acquire any of the Shares to which the offer relates but otherwise than by virtue of acceptances of the offer, then if:
  - (A) the value of that for which they are acquired or contracted to be acquired ("the acquisition value") does not at that time exceed the value of that which is receivable by an acceptor under the terms of the offer; or
  - (B) those terms are subsequently revised so that when the revision is announced the acquisition value, at the time mentioned in Article 149(7)(A), no longer exceeds the value of that which is receivable by an acceptor under those terms

the offeror shall be treated for the purposes of this Article 149 as having acquired or contracted to acquire those Shares by virtue of acceptances of the offer; but in any other case those Shares shall be treated as excluded from those to which the offer relates.

#### **Article 150 - Effect of notice under Article 149**

- (1) The following provisions shall, subject to Article 148, have effect where a notice is given in respect of any Shares under Article 149.
- (2) The offeror shall be entitled and bound to acquire those Shares on the terms of the offer.
- (3) Where the terms of an offer are such as to give the holder of any Shares a choice of payment for his Shares the notice shall give particulars of the choice and state:



- (A) that the holder of the Shares may within six weeks from the date of the notice indicate his choice by a written communication sent to the offeror at an address specified in the notice; and
- (B) which payment specified in the offer is to be taken as applying in default of his indicating a choice as aforesaid

and the terms of the offer mentioned in Article 150(2) shall be determined accordingly.

- (4) Article 150(3) applies whether or not any time-limit or other conditions applicable to the choice under the terms of the offer can still be complied with; and if the payment chosen by the holder of the Shares:

- (A) is not cash and the offeror is no longer able to make that payment; or
- (B) was to have been made by a third party who is no longer bound or able to make that payment

the payment shall be taken to consist of an amount of cash payable by the offeror which at the date of the notice is equivalent to the chosen payment.

- (5) At the end of six weeks from the date of the notice the offeror shall forthwith:

- (A) send a copy of the notice to the Company; and
- (B) make payment to the Company for the Shares to which the notice relates.

- (6) The copy of the notice sent to the Company under Article 150(5)(A) shall be accompanied by an instrument of transfer executed on behalf of the Member by a person appointed by the offeror; and on receipt of that instrument the Company shall register the offeror as the holder of those Shares.

- (7) Where the payment referred to in Article 150(5)(B) is to be made in Shares or securities to be allotted by the offeror the reference in that paragraph to the making of payment shall be construed as a reference to the allotment of the Shares or securities to the Company.

- (8) Any sum received by a Company under Article 150(5)(B) and any other payment received under that paragraph shall not be the property of the Company but shall be held by the Company on behalf of the person entitled to the Shares in respect of which the sum or other payment was received.

- (9) Any sum received by a Company under Article 150(5)(B) and any dividend or other sum accruing from any other payment received by a Company under that paragraph, shall be paid into a separate bank account, being an account the balance on which bears interest at an appropriate rate and can be withdrawn by such notice (if any) as is appropriate.

#### **Article 151 - Right of minority Member to be bought out by offeror**

- (1) If in a case in which a take-over offer does not relate to Shares of different classes, at any time before the end of the period within which the offer can be accepted:

- (A) the offeror has by virtue of acceptances of the offer acquired or contracted to acquire some (but not all) of the Shares to which the offer relates; and
- (B) those Shares, with or without any other Shares in the Company which he has acquired or contracted to acquire, amount to not less than nine-tenths in nominal value of all the Shares in the Company

the holder of any Shares to which the offer relates who has not accepted the offer may by a written communication addressed to the offeror require him to acquire those Shares.

- (2) If a take-over offer relates to Shares of any class or classes and at any time before the end of the period within which the offer can be accepted:

- (A) the offeror has by virtue of acceptances of the offer acquired or contracted to acquire some (but not all) of the Shares of any class to which the offer relates; and
- (B) those Shares, with or without any other Shares of that class which he has acquired or contracted to acquire, amount to not less than nine-tenths in nominal value of all the Shares of that class

the holder of any Shares of that class who has not accepted the offer may by a written communication addressed to the offeror require him to acquire those Shares.

- (3) Within one month of the time specified in Article 151(1) the offeror shall give any Member who has not accepted the offer notice of the rights that are exercisable by him under that Article; and if the notice is given before the end of the period mentioned in that Article it shall state that the offer is still open for acceptance.
- (4) A notice under Article 151(3) may specify a period for the exercise of the rights, conferred by this Article and in that event the rights shall not be exercisable after the end of that period; but no such period shall end less than three months after the end of the period within which the offer can be accepted.
- (5) Article 151(3) does not apply if the offeror has given the Member notice in respect of the Shares in question under Article 149.
- (6) If the offeror fails to comply with Article 151(3) he and, if the offeror is an Entity, every officer of the Entity who is in default or to whose neglect the failure is attributable, commits a contravention.
- (7) If an offeror other than an Entity is proceeded against in respect of an alleged contravention for failing to comply with Article 151(3) it is a defence for him to prove that he took all reasonable steps for securing compliance with that Article.

#### **Article 152 - Effect of requirement under Article 151**

- (1) The following provisions shall, subject to Article 153, have effect where a Member exercises his rights in respect of any Shares under Article 151.
- (2) The offeror shall be entitled and bound to acquire those Shares on the terms of the offer or on such other terms as may be agreed.

(3) Where the terms of an offer are such as to give the holder of Shares a choice of payment for his Shares the holder of the Shares may indicate his choice when requiring the offeror to acquire them and the notice given to the holder under Article 151(3):

- (A) shall give particulars of the choice and of the rights conferred by this paragraph; and
- (B) may state which payment specified in the offer is to be taken as applying in default of his indicating a choice

and the terms of the offer mentioned in Article 152(2) shall be determined accordingly.

(4) Article 152(3) applies whether or not any time limit or other conditions applicable to the choice under the terms of the offer can still be complied with; and if the payment chosen by the holder of the Shares:

- (A) is not cash and the offeror is no longer able to make that payment; or
- (B) was to have been made by a third party who is no longer bound or able to make that payment

the payment shall be taken to consist of an amount of cash payable by the offeror which at the date when the holder of the Shares requires the offeror to acquire them is equivalent to the chosen payment.

#### **Article 153 - Applications to the Tribunal**

(1) Where a notice is given under Article 149 to the holder of any Shares the Tribunal may, on an application made by him within six weeks from the date on which the notice was given:

- (A) order that the offeror shall not be entitled and bound to acquire the Shares; or
- (B) specify terms of acquisition different from those of the offer.

(2) If an application to the Tribunal under Article 153(1) is pending at the end of the period mentioned in Article 150(5) that Article shall not have effect until the application has been disposed of.

(3) Where the holder of any Shares exercises his rights under Article 151 the Tribunal may, on an application made by him or the offeror, order that the terms on which the offeror is entitled and bound to acquire the Shares shall be such as the Tribunal thinks fit.

(4) No order for costs or expenses shall be made against a Member making an application under Article 153(1) or (3) unless the Tribunal considers:

- (A) that the application was unnecessary, improper or vexatious; or
- (B) there has been unreasonable delay in making the application or unreasonable conduct on his part in conducting the proceedings on the application.

(5) Where a take-over offer has not been accepted to the extent necessary for entitling the offeror to give notices under Article 149(1) or (2) the Tribunal may, on the application of the offeror, make an order authorising him to give notices under that Article if satisfied:

- (A) that the offeror has after reasonable enquiry been unable to trace one or more of the persons holding Shares to which the offer relates;
- (B) that the Shares which the offeror has acquired or contracted to acquire by virtue of acceptances of the offer, together with the Shares held by the person or persons mentioned in sub-paragraph (A), amount to not less than the minimum specified in that Article; and
- (C) that the terms offered are fair and reasonable

but the Tribunal shall not make an order under this Article unless it considers that it is just and equitable to do so having regard, in particular, to the number of Members who have been traced but who have not accepted the offer.

#### **Article 154 - Joint offers**

- (1) A take-over offer may be made by two or more persons jointly and in that event this Part has effect with the following modifications.
- (2) The conditions for the exercise of the rights conferred by Articles 149 and 151 shall be satisfied by the joint offerors acquiring or contracting to acquire the necessary Shares jointly (as respects acquisitions by virtue of acceptances of the offer) and either jointly or separately (in other cases); and, subject to the following provisions, the rights and obligations of the offeror under those Articles and Articles 150 and 152 shall be respectively joint rights and joint and several obligations of the joint offerors.
- (3) It shall be a sufficient compliance with any provision of those Articles requiring or authorising a notice or other Document to be given or sent by or to the joint offerors that it is given or sent by or to any of them; but the declaration required by Article 149(4) shall be made by all of them and, in the case of a joint offeror being an Entity, signed by a director of that Entity.
- (4) In Article 148, Article 150(7) and Article 153 references to the offeror shall be construed as references to the joint offerors or any of them.
- (5) In Article 150(6) references to the offeror shall be construed as references to the joint offerors or such of them as they may determine.
- (6) In Article 150(4)(A) references to the offeror being no longer able to make the relevant payment shall be construed as references to none of the joint offerors being able to do so.
- (7) In Article 153 references to the offeror shall be construed as references to the joint offerors except that any application under paragraph (3) or (5) may be made by any of them and the reference in sub-paragraph (5)(A) to the offeror having been unable to trace one or more of the persons holding Shares shall be construed as a reference to none of the offerors having been able to do so.

#### **Article 155 - Associates**

- (1) The requirement of Article 147(1) that a take-over offer must extend to all the Shares, or all the Shares of any class or classes, in a Company shall be regarded as satisfied notwithstanding that the offer does not extend to Shares which associates of the offeror hold or have contracted to acquire; but Shares which any such associate holds or has contracted to acquire, whether at the time when the offer is made or subsequently, shall

be disregarded for the purposes of any reference in this Part to the Shares to which a take-over offer relates.

- (2) Where during the period within which a take-over offer can be accepted any associate of the offeror acquires or contracts to acquire any of the Shares to which the offer relates, then, if the condition specified in Article 149(8)(A) or (B) is satisfied as respects those Shares they shall be treated for the purpose of that Article as Shares to which the offer relates.
- (3) In Article 151(1)(B) and Article 151(2)(B) the reference to Shares which the offeror has acquired or contracted to acquire shall include a reference to Shares which any associate of his has acquired or contracted to acquire.
- (4) In this Article 155, "associate", in relation to an offeror, means one or more of the following:
  - (A) a nominee of the offeror;
  - (B) a Holding Company, Subsidiary or fellow Subsidiary of the offeror or a nominee of such a Holding Company, Subsidiary or fellow Subsidiary; or
  - (C) a Body Corporate in which the offeror is substantially interested.
- (5) For the purposes of Article 155(4)(B) a Company is a fellow Subsidiary of another Body Corporate if both are Subsidiaries of the same Body Corporate but neither is a Subsidiary of the other.
- (6) For the purposes of Article 155(4)(C) an offeror has a substantial interest in a Body Corporate if:
  - (A) that body or its directors are accustomed to act in accordance with his directions or instructions; or
  - (B) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of that body; or
  - (C) he owns or controls directly or indirectly more than 20 per cent of the Share capital.
- (7) Where the offeror is an individual his associates shall also include his spouse and any child or step-child of his.

## PART 14: INTERPRETATION AND DEFINITIONS

### Article 156 - Interpretation

- (1) In these Regulations, a reference to:
  - (A) a provision of any law or regulation includes a reference to that provision as amended or re-enacted from time to time;
  - (B) an obligation to publish or cause to be published a particular Document shall, unless expressly provided otherwise in these Regulations, include publishing or causing to be published in printed or electronic form;
  - (C) a calendar year shall mean a year of the Gregorian calendar;
  - (D) a month shall mean a month of the Gregorian calendar;
  - (E) the masculine gender includes the feminine and the neuter;
  - (F) writing includes any form of representing or reproducing words in legible form; and
  - (G) references to a person includes any natural or legal person, Body Corporate, or body unincorporate, including a branch, company, partnership, unincorporated association, government or state.
- (2) The headings in these Regulations shall not affect its interpretation.
- (3) A reference in these Regulations to a Part, Article or Schedule by number only, and without further identification, is a reference to a Part, Article or Schedule of that number in these Regulations.
- (4) A reference in these Regulations to a Schedule, an Article or a Part using a short form description of such Schedule, Article or Part in parenthesis are for convenience only and the short form description shall not affect the construction of the Article or Part to which it relates.
- (5) A reference in an Article or other division of these Regulations to a paragraph, sub-paragraph or Article by number or letter only, and without further identification, is a reference to a paragraph, sub-paragraph or Article of that number or letter contained in the Article or other division of these Regulations in which that reference occurs.
- (6) Each of the Schedules to these Regulations shall have effect as if set out in these Regulations and references to these Regulations shall include reference to the Schedules.
- (7) Any reference in these Regulations to “include”, “including”, “in particular” “for example”, “such as” or similar expressions shall be considered as being by way of illustration or emphasis only and are not to be construed so as to limit the generality of any words preceding them.
- (8) References to chairman, Director General, director or similar expressions are, where the context permits, a reference to the person holding that office from time to time.

**Article 157 - Definitions**

The following words and phrases shall where the context permits have the meanings shown against each of them:

<b>Address</b>	in relation to a Member or Officer of a Company means:  (A) if an individual, his usual residential address; and  (B) if an Entity, its registered or principal office
<b>Affiliated Company</b>	any Subsidiary, Holding Company or other member of the same Group
<b>Appeals Body</b>	the Appeals Body of the QFC established pursuant to Article 8 of the QFC Law
<b>Appointed Newspaper</b>	a newspaper named on a list published by the CRO from time to time
<b>Authorised Firm</b>	a person that has been granted an authorisation in accordance with Part 5 of the Financial Services Regulations
<b>Bank</b>	a person who in the ordinary course of business receives deposits or other repayable sums
<b>Body Corporate</b>	any body corporate, whether incorporated or constituted in the QFC or elsewhere
<b>Branch</b>	a branch of a Non-QFC Company registered in the QFC under these Regulations or any other Regulations
<b>Business</b>	includes every trade, profession and occupation
<b>Business Day</b>	a day on which Banks are open for ordinary business in the QFC
<b>Cell</b>	a Cell created by a PCC for the purpose of segregating and protecting Cellular Assets in the manner provided by Part 4
<b>Cell Shares</b>	Shares created and issued by a PCC in respect of one of its Cells pursuant to the provisions of Article 97, the proceeds of the issue of which (the "Cell Share Capital") shall be comprised in the Cellular Assets attributable to that Cell
<b>Cell Share Capital</b>	the proceeds of issue of Cell Shares
<b>Cellular Assets</b>	the assets of a PCC attributable to the PCC Cells pursuant to Article 95(4)

<b>Collective Investment Fund</b>	a fund which is a Collective Investment Fund for the purposes of the Financial Services Regulations
<b>Company</b>	a company incorporated in the QFC under these Regulations or any other Regulations
<b>Confidential Information</b>	information of a confidential nature received by the CRO in the exercise of its functions other than information which: <ul style="list-style-type: none"> <li>(A) was, prior to such receipt, in the public domain or which has come into the public domain other than as a result of a contravention of Article 12; or</li> <li>(B) is a summary, collation, redaction or statistical representation or analysis of information from which it is not possible to ascertain that it relates to a particular person.</li> </ul>
<b>Council of Ministers</b>	the Council of Ministers of the State
<b>CRO</b>	the Companies Registration Office established pursuant to Article 7 of the QFC Law
<b>Document</b>	includes any document in writing, including, where permitted, a document in writing in electronic form
<b>Entity</b>	a Body Corporate or partnership or unincorporated association carrying on Business with a view to a profit
<b>Financial Services Regulations</b>	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the management, objectives, duties, functions, powers and constitution of the Regulatory Authority
<b>Group</b>	with respect to an Entity: <ul style="list-style-type: none"> <li>(A) that Entity;</li> <li>(B) any Holding Company of the Entity;</li> <li>(C) any Subsidiary (direct or indirect) of that Entity or of any Holding Company of that Entity.</li> </ul>
<b>Holding Company</b>	an Entity is a Holding Company of another Entity if the second Entity is a Subsidiary of the first Entity
<b>IFRS</b>	International Financial Reporting Standards
<b>Insolvency Regulations</b>	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to entities established in the QFC which are in financial difficulty or become insolvent



<b>Insurer</b>	a Company registered under these Regulations which is an Insurer for the purposes of the Financial Services Regulations
<b>Liabilities</b>	includes any amount reasonably necessary to retain for the purpose of providing for any liability or loss which is either likely to be incurred or certain to be incurred but uncertain as to the amount or as to the date on which it will arise
<b>LLC</b>	a limited liability company incorporated under these Regulations
<b>Member</b>	a member of a Company as defined in Article 19 of these Regulations
<b>Minister</b>	the Minister of Economy and Commerce of the State
<b>Name</b>	in relation to a Member or Officer of a Company means:  (A) if an individual, his forename and surname (or, in the case of a person usually known by a title, his title instead of or in addition to either or both his forename and surname); and  (B) if an Entity, its corporate name or firm name.
<b>Nominal Capital</b>	the par value of a Share when issued
<b>Non-Cellular Assets</b>	the assets of a PCC which are not Cellular Assets
<b>Non-QFC Company</b>	a Body Corporate not incorporated in the QFC
<b>Officer</b>	any director or secretary of a Company from time to time
<b>Ordinary Resolution</b>	a resolution passed by simple majority of such Members of a Company as (being entitled to do so) vote in person or, where proxies are allowed, by proxy at a meeting of the Company of which notice specifying the intention to propose the resolution has been duly given
<b>PCC</b>	a company incorporated as, or converted into, a protected cell company in accordance with the provisions of Part 4 of these Regulations
<b>Prescribed Fee</b>	a fee prescribed in rules made or approved by the QFC Authority
<b>Prescribed Form</b>	a form prescribed by or approved by the QFC Authority
<b>Principal Representative</b>	a person appointed under Article 117(2)(A) of these Regulations

<b>QFC</b>	the Qatar Financial Centre
<b>QFC Authority</b>	the Qatar Financial Centre Authority established pursuant to Article 3 of the QFC Law
<b>QFC Law</b>	Law No.(7) of 2005 of the State
<b>Records</b>	Documents and other records however stored
<b>Registrar</b>	the Registrar of the CRO appointed under Article 13 of these Regulations
<b>Regulations</b>	Regulations enacted by the Minister in accordance with Article 9 of the QFC Law
<b>Regulatory Authority</b>	the Regulatory Authority of the QFC established pursuant to Article 8 of the QFC Law
<b>Schedule</b>	a schedule to these Regulations
<b>Security Regulations</b>	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the giving and taking of security
<b>Share</b>	a share in the capital of a Company
<b>Special Resolution</b>	a resolution passed by at least 75% of such Members of the Company as (being entitled to do so) vote in person or, where proxies are allowed, by proxy at a meeting of the Company of which notice, specifying the intention to propose the resolution as a special resolution, has been duly given
<b>State</b>	the State of Qatar
<b>Subsidiary</b>	<p>an Entity is a Subsidiary of another Entity if the second Entity:</p> <p>(A) holds a majority of the voting rights in the first Entity;</p> <p>(B) is a member of the first Entity (whether direct or indirect, or through legal or beneficial entitlement) and has the right to appoint or remove a majority of the board of directors of the first Entity;</p> <p>(C) has the right to exercise a dominant influence over the management and operation of that other Entity through:</p> <p>(i) provisions contained in the constitutive documents of that other Entity; or</p> <p>(ii) any contractual arrangement relating to the</p>

	<p>management and operation of that other Entity; or</p> <p>(D) is a member of the first Entity (whether direct or indirect, or through legal or beneficial entitlement) and controls alone or pursuant to an agreement with other members or members, a majority of the voting rights in the first Entity;</p> <p>or if the first Entity is a Subsidiary of another Entity which is itself a Subsidiary of the second Entity</p>
<b>TDR Regulations</b>	Regulations enacted or to be enacted by the Council of Ministers pursuant to the QFC Law relating to the Tribunal and the resolution of disputes
<b>Transaction</b>	for the purposes of Part 4 of these Regulations, anything (including, without limitation, any agreement, arrangement, dealing, disposition, circumstance, event or relationship) whereby any liability arises or is imposed; and cognate expressions shall be construed accordingly
<b>Tribunal</b>	the tribunal established by the TDR Regulations
<b>UK GAAP</b>	generally accepted accounting principles in the United Kingdom
<b>US GAAP</b>	generally accepted accounting principles in the United States
<b>Wholly Owned Subsidiary</b>	<p>an Entity is a Wholly Owned Subsidiary of another Entity if the first Entity has no Members except:</p> <p>(A) the second Entity; and</p> <p>(B) wholly owned subsidiaries of, or persons acting on behalf of, the second Entity or the second Entity's wholly owned subsidiaries</p>

**SCHEDULE 1: CONTRAVENTIONS WITH FINANCIAL PENALTIES STIPULATED**

<b>Article creating contravention</b>	<b>General nature of contravention</b>	<b>Maximum Financial Penalty (US\$)</b>
23(2)	Allotment of shares at a discount	\$2,000
24	Non-compliant registration of transfer of Shares	\$2,000
25	Non-compliance with requirements in relation to certificates of Shares	\$2,000
27(4)	Company issues bearer Shares	\$5,000
34	Unlawful dividend or other distribution	\$5,000
39	Company failing to change name on direction of CRO	\$2,000
40	Improper use of "Limited Liability Company" etc	\$2,000
42	Company failing to have a registered office	\$2,000
44	Company failing to keep internal registers	\$2,000
45	Failure of name to appear outside place of business	\$2,000
46	Company failing to have name etc. on certain Documents	\$1,000
47	Company failing to lodge annual return	\$2,000
64	Company default in complying with CRO's direction to hold Company meeting	\$15,000
80(1)	Non-compliant maintenance of accounting Records	\$1,000
80(2)(A) and (B)	Failure to keep and preserve accounting Records	\$2,000
80(2)(C)	Failure to keep accounting Records open to inspection	\$10,000
82(3)	Failure of directors to approve and sign accounts	\$5,000
82(4)	Failure to comply with requirements within four months	\$10,000
83(3)	Failure to provide accounts	\$10,000
84	Publication of accounts without auditors' report	\$5,000

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85	Acting as auditor when not qualified	\$10,000
86	Company failing to appoint auditors	\$10,000
88	Failure of auditor to comply with resignation requirements	\$5,000
88(4)	Failure to file auditor's resignation with CRO and if applicable, Regulatory Authority	\$2,000
89	Failure of auditor to make a report as required	\$5,000
90(1) and (2)	Auditor failing to fulfil duties	\$5,000
90(3), (4), (5) and 91	Company and officers etc. not co-operating with auditor	\$5,000
92	Company and officers etc. obstructing auditor	\$5,000
105	Failure to inform persons they are dealing with a PCC	\$2,000
120(3)	Failure of Branch to change name on direction of CRO	\$2,000
121	Failure of Branch to give particulars of Principal Representative	\$2,000
122(2)	Failure of Branch to give notice of change of particulars	\$2,000
123	Failure of Branch to keep and preserve accounting records	\$2,000
124	Failure of Branch to have name etc. on certain documents	\$1,000
125	Failure of name of Branch to appear outside place of business	\$2,000
130	Failure to comply with direction of CRO	\$15,000
132	Provision of false or misleading information to the CRO	\$50,000
149(5)	Failure to sign declaration	\$5,000
151(3)	Offeror failing to give minority Member notice of rights	\$5,000

**SCHEDULE 2: FINANCING CHANGE STATEMENT**

**Table 1**

<b>Condition</b>	<b>Secured party may be required to file financing change statement as shown</b>
The obligations under all of the Security Agreements to which the financing statement relates have been performed or the Secured Party is required by the QFC Law or Regulations to release the Collateral.	To discharge the filing.
The Secured Party has agreed to release part or all of the Collateral described in the financing statement.	To amend or discharge the filing (as the case may be) so as to reflect the terms of the agreement.
The description of the Collateral contained in the financing statement includes an item or kind of Property that is not Collateral under a Security Agreement between the Secured Party and the Debtor.	To amend the Collateral description in the kinds of Property that are not Collateral under a Security Agreement between the Secured Party and the Debtor.
No Security Agreement exists between the persons named in the financing statement as the Secured Party and the Debtor.	To discharge the filing.

## Endnotes

### 1 Abbreviation key

a	=	after	om	=	omitted/repealed
am	=	amended	orig	=	original
amdt	=	amendment	par	=	paragraph/subparagraph
app	=	appendix	prev	=	previously
art	=	article	pt	=	part
att	=	attachment	r	=	rule/subrule
b	=	before	renum	=	renumbered
ch	=	chapter	reloc	=	relocated
def	=	definition	s	=	section
div	=	division	sch	=	schedule
g	=	guidance	sdiv	=	subdivision
hdg	=	heading	sub	=	substituted
ins	=	inserted/added			

### 2 Regulation history

#### **Companies Regulations 2005**

Made: 14 September 2005

Commenced: 14 September 2005

as amended by

#### **Companies Regulations (Amended) 2008/01**

Made: 4 May 2008

Commenced: 4 May 2008

### 3 Amendment history

#### **Power of QFC Authority and QFC Regulatory Authority to make rules**

art 5A                      ins 2008/01

#### **Role of the QFC Authority**

art 7                        am 2008/01

#### **Incorporation of a Limited Liability Company**

art 17                      am 2008/01

#### **Members**

art 19                      am 2008/01

#### **Return as to allotments**

art 22                      am 2008/01

#### **Share premium account**

art 26                      am 2008/01

#### **Reduction of share capital**

art 30                      am 2008/01

**Redemption or purchase of own Shares**

art 31 am 2008/01

**Duty to deliver annual returns**

art 47 am 2008/01

**Appointment of directors**

art 52 am 2008/01

**LLC accounts**

art 82 am 2008/01