



Financial Services Regulations

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Regulations not amended

QATAR FINANCIAL CENTRE

REGULATION NO. 1 of 2005

QFC FINANCIAL SERVICES REGULATIONS
relating to the management,
objectives, duties, functions, powers and
constitution of the QFC Regulatory Authority

The Minister of Economy and Commerce, with the consent of the Council of Ministers, hereby enacts the following regulations pursuant to Article 9 of Law No. (7) of 2005

Mohammed bin Ahmed bin Jassim Al Thani
Minister of Economy and Commerce of the State of Qatar

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PART 1: APPLICATION, COMMENCEMENT AND INTERPRETATION

Article 1 - Citation

These Regulations may be referred to as the Financial Services Regulations.

Article 2 – Application

- (1) These Regulations are made by the Minister pursuant to Article 9 of the QFC Law and have received the consent of the Council of Ministers as required by Article 8.1 of the QFC Law and amongst other things define the management, objectives, duties, functions, powers and constitution of the Regulatory Authority (including the activities which shall fall to be regulated, licensed and supervised by the Regulatory Authority). These Regulations also define the management objectives, duties, functions, powers and constitution of the Appeals Body as required by Articles 8.1 and 8.2 of the QFC Law.
- (2) These Regulations shall apply in the QFC. To the fullest extent permitted by the QFC Law, the laws, rules and regulations of the State concerning the matters dealt with by or under these Regulations shall not apply in the QFC.

Article 3 - Commencement

These Regulations shall come into force on 17 May 2005.

Article 4 – Language

In accordance with Article 9 of the QFC Law, these Regulations are written in the English language and the 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 18.

PART 2: INTRODUCTION

Article 6 - Interrelation with QFC

The QFC was established pursuant to the QFC Law and the commercial operations of the QFC are managed by the QFC Authority. The objectives of the QFC Authority are:

- (1) to establish, develop and promote the QFC as a leading location for international finance and business designed to attract international banking, financial services, insurance businesses, corporate head office functions, as well as other business;
- (2) to participate, in consultation with the Regulatory Body and the Appeals Body as may be appropriate, in the establishment and maintenance of an appropriate legal and regulatory regime to govern the QFC and activities lawfully conducted within it or conducted outside it by persons, companies or entities established within it;
- (3) to ensure the QFC, including the QFC Institutions, have adequate finance or are able to obtain adequate finance, so that they can finance their respective activities without undue difficulty and are financially stable;
- (4) to act in accordance with and promote international best practice and to eliminate bureaucracy to the maximum extent possible; and
- (5) all other things reasonably considered by it to be necessary, desirable or appropriate to achieve, further or assist in relation to any of the above objects.

Article 7 - The Regulatory Authority

- (1) The Regulatory Authority was established by the QFC Law for the purposes of regulating, authorising and supervising banking, financial and insurance-related businesses carried on in or from the QFC.
- (2) Certain other duties, functions and powers arising out of other Regulations (for example those relating to anti-money laundering) are also conferred on the Regulatory Authority under these Regulations.
- (3) The Regulatory Authority is a body corporate owned by the State reporting to the Council of Ministers. The Regulatory Authority has, under the QFC Law, financial and administrative autonomy from the State, the QFCA, the Appeals Body and other QFC Institutions. The Regulatory Authority has an independent budget for which the State has primary responsibility.

Article 8 - The Appeals Body

- (1) The Appeals Body was established by the QFC Law for the purposes of hearing appeals against the decisions of the Regulatory Authority.

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- (2) The Appeals Body has, under the QFC Law, financial and administrative autonomy from the State, the QFCA, the Regulatory Authority and other QFC Institutions. The Appeals Body has an independent budget for which the State has primary responsibility. According to the QFC Law, the Appeals Members are independent in the performance of their duties and neither the State, the Council of Ministers, the Chairman of the QFCA, the Regulatory Authority nor any other person may intervene in the course of the decisions of the Appeals Body.
 - (3) The Appeals Body is the only body with jurisdiction to hear appeals against decisions made by the Regulatory Authority and its decision is final and binding on the parties and is not subject to further appeal.
 - (4) The Appeals Body must comply with the requirements as to its management and constitution set out in Schedule 4.
 - (5) Without prejudice to any other powers and rights that it may have hereunder or under any other applicable laws or Regulations, the Appeals Body shall have the powers and rights and be subject to the duties and obligations set out in Schedule 4.

Article 9 – The Tribunal

- (1) The QFC Law also makes provision for the establishment of the Tribunal which will have jurisdiction to determine disputes relating to activities undertaken in or from the QFC, or events occurring in the QFC, or to make orders, directions or determinations in accordance with and to the extent provided for in the TDR Regulations.
- (2) The jurisdiction of the Tribunal will include (subject to Article 8(3) (Jurisdiction of the Appeals Body)):
 - (A) any civil or commercial proceedings brought by any Person pursuant to the TDR Regulations or any other QFC Law or Regulation;
 - (B) any application for judicial review of a decision of the QFC Authority taken under any QFC Law or Regulation, or of a Person exercising the powers and functions of a body established under the QFC Law or any Regulation;
 - (C) any application brought pursuant to any QFC Law or Regulation;
 - (D) any matter that appears to the Tribunal, or the application of the QFC Authority, to affect the integrity of the QFC or the QFC Law, or which is alleged by any other Person to affect that integrity and which the Tribunal thinks fit to hear; and
 - (E) any other class of case that another law empowers the Tribunal to hear and determine.

PART 3 : THE REGULATORY AUTHORITY

Article 10 - Background

This Part of these Regulations sets out and elaborates on the background to the creation of the Regulatory Authority under the QFC Law, the objectives of the Regulatory Authority, and provisions relating to its constitution and governance.

Article 11 - Management and constitution

- (1) The Regulatory Authority must comply with the requirements as to its management and constitution set out in Schedule 1.
- (2) Without prejudice to any other powers and rights that it may have hereunder or under any other applicable laws or Regulations, the Regulatory Authority shall have the powers and rights and be subject to the duties and obligations set out in Schedule 1.

Article 12 - Objectives

- (1) The Regulatory Authority shall exercise its functions and powers under the QFC Law and these Regulations in accordance with the Regulatory Objectives set out in Article 12(3).
- (2) The Regulatory Authority shall be entitled to do, or refrain from doing, such other acts or things as it considers necessary, desirable or appropriate for or incidental to the exercise of its functions and powers in accordance with Article 12(1).
- (3) The objectives of the Regulatory Authority are:
 - (A) the promotion and maintenance of efficiency, transparency and the integrity of the QFC;
 - (B) the promotion and maintenance of confidence in the QFC of users and prospective users of the QFC;
 - (C) the maintenance of the financial stability of the QFC, including the reduction of systemic risk relating to the QFC;
 - (D) the prevention, detection and restraint of conduct which causes or may cause damage to the reputation of the QFC, through appropriate means including the imposition of fines and other sanctions;
 - (E) the provision of appropriate protection to those licensed to carry on business at the QFC and their clients or customers;

In considering what constitutes appropriate protection, the Regulatory Authority shall take into account:

 - (i) the financial integrity of Authorised Firms through appropriate financial resources requirements complemented by a robust system of internal controls;

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- (ii) the differing degrees of protection which may be appropriate for clients or customers of Authorised Firms as a result of their experience, expertise, business and means and the differing degree of information which it may be appropriate to give to such clients or customers;
 - (iii) the differing degree of risk involved in different kinds of investment or transaction; and
 - (iv) the general principle that clients or customers of Authorised Firms should take responsibility for their own decisions;
- (F) the promotion of understanding of the objectives of the QFC amongst users and prospective users of the QFC and other interested Persons;
- (G) ensuring the Regulatory Authority is run with a view to:
- (i) it operating at all times in accordance with best international standards for financial and business centres of a similar kind; and
 - (ii) establishing and maintaining the QFC as a leading financial and business centre in the Middle East; and
- (H) minimising the extent to which the business carried on by a Person carrying on Regulated Activities can be used for the purposes of or in connection with Financial Crime.

In considering this objective, the Regulatory Authority shall have regard to the desirability of Authorised Firms having appropriate systems, controls and procedures to detect and prevent the incidence of Financial Crime.

- (4) Except as set out in the QFC Law or in these Regulations, the Regulatory Authority shall perform its functions and discharge its duties and determine its own procedures and management in such manner as it shall decide, provided that it shall always operate in compliance with the requirements and provisions of the QFC Law and these Regulations.
- (5) For the purposes of Article 12(3) (Regulatory Objectives) and 13(2) (International Competitiveness), the Regulatory Authority shall be entitled to assume that it will fulfill its objectives relating to the QFC by fulfilling those objectives with respect to the Financial System operating within the QFC.

Article 13 - Principles of Good Regulation

In exercising its functions and powers under the QFC Law and these Regulations, the Regulatory Authority shall have regard to:

- (1) the need to use its resources in the most efficient and economic way;
- (2) the desirability of facilitating innovation and fostering the international competitiveness of the QFC;

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- (3) the desirability of fostering competition between those who are subject to regulation by the Regulatory Authority;
 - (4) the principle that the Regulatory Authority should exercise its powers and functions in a fair and transparent manner;
 - (5) the need to comply with such generally accepted principles of good governance as it is reasonable to regard as applicable to it;
 - (6) the need to balance the burdens and restrictions on firms with the benefit of regulation; and
 - (7) the need to act in accordance with all laws and Regulations to which it is subject.

Article 14 - Conflicts

The Regulatory Authority shall put in place procedures to identify and manage conflicts of interest to which its directors, officers, employees and agents may be subject in the performance of their duties with a view to ensuring, amongst other things, that such Persons will not play any part in the making of decisions on matters in respect of which they are subject to a material conflict of interest.

Article 15 – Powers to issue Rules

- (1) The Regulatory Authority may make Rules to the extent set out in the QFC Law, these Regulations or Related Regulations as it deems necessary or appropriate to facilitate the pursuit, achievement and furtherance of the Regulatory Objectives or to aid it to implement, carry out or enforce its duties, functions and powers under the QFC Law, these Regulations or Related Regulations.
- (2) In particular, the Regulatory Authority may make Rules in respect of:
 - (A) the process and requirements for individuals to become approved or other Persons to become authorised to carry on Regulated Activities in or from the QFC (including any terms, conditions and requirements applying to such approvals and Authorisations and the process and requirements for varying or withdrawing such approvals or Authorisations);
 - (B) standards of conduct applicable to particular Persons in the QFC (including standards applicable when those Persons deal with particular types of client or customer (or prospective client or customer) or when carrying on particular types of business);
 - (C) the levels and types of resources (including financial resources and human resources) to be maintained by particular Persons in the QFC;
 - (D) the infrastructure, systems, controls and process to be implemented and maintained by particular Persons in the QFC;

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- (E) the safeguarding or protection by particular Persons in the QFC of monies and other assets belonging to their clients or customers;
 - (F) the fees payable by particular Persons in the QFC to the Regulatory Authority (on a periodic basis or in respect of particular circumstances or events);
 - (G) processes, requirements and standards applicable to Persons in the QFC when dealing with the Regulatory Authority;
 - (H) the conduct of the Regulatory Authority and its officers, employees and agents in relation to the exercise of the Regulatory Authority's powers and the performance of its functions, including the exercise of its powers relating to supervision, investigation, intervention and disciplinary proceedings, as appropriate; and
 - (I) duties, powers and functions conferred on or delegated to the Regulatory Authority under Schedule 2.
- (3) The Regulatory Authority may also issue standards, principles or codes of practice which, unless otherwise stated in such standards, principles or codes shall constitute Rules for the purpose of these Regulations.
- (4) Before making any Rules pursuant to Article 15(1), the Regulatory Authority shall publish the proposed Rules on the Regulatory Authority's website. The publication shall contain the following information:
- (A) the draft text of the proposed Rules;
 - (B) the date on which the Rules will come into force; and
 - (C) an invitation to make comments to the Regulatory Authority and the date by which comments must be received.
- (5) The procedures set out in Article 15(4) shall not apply to the making of Rules if the Regulatory Authority determines that the delay in bringing such Rules into force that would arise as a consequence of compliance with Article 15(4) would be contrary to the interests of the QFC or if such amendments are minor or inconsequential. In such circumstances the information that would otherwise be required to be published pursuant to Article 15(4) shall be published on the Regulatory Authority's website no later than the day on which the relevant Rules come into force.
- (6) The Regulatory Authority may also issue such other consultative documents, open letters, policy statements, information notices, discussion documents and undertake such other forms of consultation and discussion as it thinks appropriate.
- (7) Rules issued under these Regulations are binding on those to whom they are expressed to apply.
- (8) References in this Article to "making Rules" shall be construed as including making amendments to existing Rules.

Article 16 – Waiver or modification of Rules

- (1) The Regulatory Authority may, on the Application of a Person in the QFC, or on its own initiative, by means of a written notice provide that one or more provisions of the Rules made pursuant to Article 15(1) either:
 - (A) shall apply to such Person with such modifications as may be specified in the written notice; or
 - (B) shall not apply in relation to such Person.
- (2) The Regulatory Authority must be satisfied, when giving a notice under Article 16(1) in relation to a Person, that:
 - (A) either:
 - (i) the burden experienced by that Person in complying with the relevant Rule would significantly outweigh the benefits that the Rule was intended to achieve; or
 - (ii) compliance with the Rule would not achieve or further the purpose for which the relevant Rule was made; and
 - (B) the notice would not result in undue risk to Persons whose interests the Rule is intended to protect.
- (3) A written notice under Article 16(1) may be given subject to conditions.
- (4) Unless the Regulatory Authority is satisfied that it is inappropriate or unnecessary to do so, it must publish a written notice issued under Article 16 in such a way (including publication on its website) as it considers appropriate for bringing the notice to the attention of:
 - (A) those likely to be affected by it; and
 - (B) others who may be likely to become subject to a similar notice.
- (5) The Regulatory Authority may on the Application of the Person to whom it applies, or on its own initiative:
 - (A) revoke a written notice; or
 - (B) vary a written notice.
- (6) With respect to the publication of a revocation or variation, Article 16(4) applies analogously.
- (7) The Regulatory Authority may issue Rules, in particular with respect to the provision of a written notice and the procedures in relation thereto.

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- (8) Any decision of the Regulatory Authority with respect to the granting or refusal of a waiver or modification of Rules pursuant to Article 16 may be referred to the Appeals Body by the Person to whom the waiver or modification relates (or would relate if granted).

Article 17 - Guidance

- (1) The Regulatory Authority may give Guidance consisting of such information and advice as it considers appropriate:
- (A) with respect to the operation of the QFC Law, these Regulations, any Rules or any Related Regulations;
 - (B) with respect to any matters relating to functions of the Regulatory Authority;
 - (C) for the purpose of meeting the Regulatory Objectives; and
 - (D) with respect to any other matters about which it appears to the Regulatory Authority to be desirable to give information or advice.
- (2) Guidance issued by the Regulatory Authority may be given generally, to a class of Authorised Firm, or to any Authorised Firm or other Person individually. Such Guidance may be issued either at the request of the Person seeking such Guidance or by the Regulatory Authority on its own initiative.
- (3) If the Regulatory Authority proposes to give Guidance to Persons generally, or to a class of Authorised Firm, in relation to Rules to which those persons are subject, Articles 15(4) and (5) (Publicity Requirements) apply to the proposed Guidance as it applies to proposed Rules.
- (4) Guidance issued by the Regulatory Authority is indicative of the view of the Regulatory Authority at the time and in the circumstances in which it was given and is non-binding.
- (5) The Regulatory Authority may make Rules prescribing the procedures pursuant to which Persons or particular types of Persons may apply to the Regulatory Authority for Guidance and any fees payable by such Persons in respect of such Applications.
- (6) Unless the Regulatory Authority is satisfied that it is inappropriate or unnecessary to do so, it must publish Guidance which is given generally or to a class of Authorised Firm or Person in such a way (including on the Regulatory Authority's website) as it considers appropriate for bringing the Guidance to the attention of:
- (A) those likely to be affected by it; and
 - (B) others who may be likely to become subject to similar Guidance.

Article 18 - Public records

- (1) The Regulatory Authority shall make the following information available to the public during normal working hours:
 - (A) Regulations issued under the QFC Law;
 - (B) Rules issued by the Regulatory Authority and any proposed Rules to the extent required by Article 15(4);
 - (C) waivers or modifications of Rules to the extent required by Article 16(4);
 - (D) Guidance to the extent required by Article 17(6) and proposed general Guidance to the extent required by Article 17(3);
 - (E) consultative documents, open letters, information notices, policy statements and open discussion documents issued by the Regulatory Authority;
 - (F) details of all Authorised Firms together with such other information relating to the Regulated Activities that such Authorised Firms are authorised to carry on as the Regulatory Authority considers appropriate;
 - (G) details of all Approved Individuals recording the full name of each Approved Individual, any previous names of the Approved Individual, the name of the Authorised Firm(s) for or on behalf of whom the Approved Individual performs Controlled Functions, the Controlled Functions that the Approved Individual is registered to perform and such other information as the Regulatory Authority considers appropriate;
 - (H) public censures and the results of other enforcement or disciplinary actions pursuant to Part 9 (Disciplinary and Enforcement Powers) (subject to completion of any applicable appeal at the Appeals Body or expiry of any applicable right to appeal);
 - (I) details of decisions by the Appeals Body;
 - (J) if the Regulatory Authority considers it appropriate, information concerning conditions or requirements imposed on the Authorised Firms or Approved Individuals and the withdrawal of any Authorisations or approvals whether as a result of the own initiative powers of the Regulatory Authority or otherwise;
 - (K) the Regulatory Authority's policy on penalties;
 - (L) the Regulatory Authority's annual report; and
 - (M) such other information consistent with the Regulatory Objectives as the Regulatory Authority considers to be relevant in connection with its functions.
- (2) The information referred to in Article 18(1) may be kept and made available in such form and manner as the Regulatory Authority considers appropriate provided that the Regulatory Authority shall also publish quarterly details of the Regulations and Rules

referred to in Article 18(1)(A)-(B) issued during the preceding quarter. The Regulatory Authority may publish such information with or without charge.

- (3) The Regulatory Authority shall not be obliged to make information available to the public or otherwise publish it if it believes that to do so would not be in the public interest or in the interests of the Financial System or would be unfair to any Person or Persons (other than the Regulatory Authority itself) to whom such information relates (in whole or in part).

Article 19 - Confidentiality

- (1) Subject to Article 20(5) (Information relating to requests from Overseas Regulators) the following Persons shall not disclose any Confidential Information received by them in the exercise of their respective functions under the QFC Law or these Regulations (or any Related Regulations) otherwise than as permitted by Article 19(3) and (4):
- (A) the Regulatory Authority, or any of its officers, employees, agents or contractors;
 - (B) any Nominated Person nominated or approved by the Regulatory Authority to undertake a report pursuant to Article 49;
 - (C) any external Investigator appointed by the Regulatory Authority pursuant to Article 50 (Appointment of Investigators) and 51 (Investigations of Companies);
 - (D) any Auditors and Actuaries referred in Part 15 (Appointment of Auditors and Actuaries)
 - (E) any Independent Person appointed to undertake a review under paragraph 23 of Schedule 1 (Review of Regulatory Authority) or deal with complaints against the Regulatory Authority in accordance with paragraph 25 of Schedule 1 (Complaints against the Regulatory Authority); nor
 - (F) Persons undertaking an Inquiry pursuant to paragraph 24 of Schedule 1 (Inquiry relating to the Financial System),
- (2) The restriction on disclosure of Confidential Information referred to in Article 19(1) shall also apply to any Person (other than the Person to whom the duty of confidentiality is owed) coming into possession of such Confidential Information.
- (3) Confidential Information may be disclosed by the Regulatory Authority or the Persons referred to in Article 19(1) and (2) in the following circumstances:
- (A) with the consent of the Person to whom the duty of confidentiality is owed;
 - (B) where such disclosure is permitted or required by or pursuant to the QFC Law, these Regulations or any other Regulation conferring powers, duties or functions on the Regulatory Authority;
 - (C) in response to a legally enforceable demand;

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- (D) where the disclosure is made in good faith for the purposes of the performance or exercise by the Regulatory Authority of any of its functions, duties and powers under the QFC Law, this Regulation or any Related Regulations;
 - (E) (in the case of Persons other than the Regulatory Authority) to the Regulatory Authority;
 - (F) (in the case of a review or inquiry referred to in Article 19(1)(E) and (F) above), to the Council of Ministers;
 - (G) to the Tribunal or Appeals Body in connection with any matter falling within their jurisdiction;
 - (H) to any body, agency or authority performing functions relating to the detection or prevention of money laundering whether in the State or internationally;
 - (I) to any other civil or criminal enforcement agency or authority, whether in the State or internationally; or
 - (J) to Overseas Regulators in accordance with Article 20 (International Relations and Co-operation).
- (4) In exercising the duties, functions and powers assigned or delegated to the Regulatory Authority as referred to in Schedule 2, paragraph 1, the Regulatory Authority (or any of the Persons referred to in Article 19.1 acting on behalf of the Regulatory Authority) shall be permitted to disclose to the Person assigning or delegating such duties, functions and powers only such Confidential Information as is obtained in the performance of the delegated duties, functions and powers, but not any Confidential Information obtained otherwise than in such capacity unless such disclosure is permitted in accordance with Article 19(3).

Article 20 – International relations and co-operation

- (1) The Regulatory Authority shall foster relations with Overseas Regulators and International Regulatory Associations outside the QFC with a view to promoting the highest standards of domestic and international regulation and supervision and providing mutual assistance to ensure the integrity of the international marketplace.
- (2) The Regulatory Authority may, in pursuance of Article 20(1), enter into such memoranda of understanding, protocols or similar arrangements (whether or not binding) as it considers appropriate.
- (3) The Regulatory Authority shall exercise such of its powers under the QFC Law or these Regulations (or any Related Regulations) as it considers appropriate to co-operate with and provide assistance to Overseas Regulators in the exercise of their functions or in connection with the prevention or detection of Financial Crime.
- (4) In deciding whether or not to exercise its powers under Article 20(3), the Regulatory Authority may take into account such factors as it considers relevant, including:

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- (A) whether the country or territory of the relevant Overseas Regulators would confer corresponding co-operation and assistance to the Regulatory Authority;
 - (B) whether the requested co-operation or assistance relates to a breach of law, or other requirement which has no close parallel in the QFC; and
 - (C) the seriousness of the case and whether it is in the public interest to provide the requested co-operation or assistance.

However, the Regulatory Authority may not deny co-operation or assistance solely on the basis that the type of conduct to which a request for co-operation or assistance from the other Overseas Regulators relates would not result in a violation of the QFC Law, this Regulation, any other Regulation or the Rules.

- (5) The Regulatory Authority will keep confidential any requests for co-operation and assistance received from another Overseas Regulator. The Regulatory Authority will keep confidential any Confidential Information received from an Overseas Regulator pursuant to a request for co-operation or assistance made by the Regulatory Authority to that other Overseas Regulator except:
 - (A) to the extent that it uses the Confidential Information for the purposes set out in the request for assistance or co-operation including ensuring compliance with the Regulations or Rules to which the request relates;
 - (B) to the extent that it uses the Confidential Information for purposes within the general framework of the use stated in the request for assistance or co-operation, including conducting a civil or administrative enforcement proceeding, assisting in a criminal prosecution or conducting any investigation for any purported or suspected contravention of the provisions specified in the request (where such purported or suspected contravention pertains to the QFC Law, these Regulations, the Rules or any Related Regulations);
 - (C) with the consent of the Overseas Regulator that has supplied the information or document; or
 - (D) in response to a legally enforceable demand, provided that the Regulatory Authority notifies the Overseas Regulator that has supplied the information or document prior to complying with the demand and asserts such appropriate legal exemptions and privileges with respect to such information as may be available to it.
- (6) The Regulatory Authority may decide that it will not exercise its powers under Article 20(3) unless the Overseas Regulator undertakes to make such contribution towards the cost of such co-operation and assistance as the Regulatory Authority considers appropriate.

Article 21 – Powers relating to other Regulations

The Regulatory Authority, in addition to the powers, duties and functions conferred on it under these Regulations shall have the powers, duties and functions delegated to or conferred on it in accordance with Schedule 2.

PART 4: REGULATED ACTIVITIES

Article 22 - Background

- (1) The QFC Law provides that no activities may be conducted in or from the QFC unless they fall within the general categories of Permitted Activities set out in the QFC Law (and which are set out in Part 4 of Schedule 3 for ease of reference).
- (2) The QFC Law also provides that no Regulated Activities are to be conducted in or from the QFC save pursuant to an appropriate approval, authorisation or licence from the Regulatory Authority.

Article 23 – Regulated Activities

- (1) Subject to Article 23(2), an activity is a Regulated Activity for the purposes of the QFC Law and these Regulations if it:
 - (A) falls within one or more of the categories of Specified Activities set out in Part 2 of Schedule 3 applying (to the extent stated in Part 2 of Schedule 3) to one or more Specified Products; and
 - (B) is carried on by way of business as described in Article 25.
- (2) An activity will not be a Regulated Activity for the purposes of Article 23(1), if it falls within one or more of the exemptions set out in Part 1 of Schedule 3.

Article 24 – Regulated Activities in respect of retail customers

- (1) The Regulatory Authority may authorise Persons to carry on Regulated Activities with or for retail customers in the State after it has put in place measures to ensure appropriate customer protections commensurate with the needs of such customers.
- (2) References in Articles 24(1) to retail customers are to individuals having such characteristics or such other type or category of Person as the Regulatory Authority may specify by Rules.

Article 25 - Activities carried on by way of business

- (1) Subject to Article 25(2) for the purposes of this Part an activity is carried on by way of business if:
 - (A) the Person who carries on the activity;
 - (i) holds himself out to other Persons as engaging in that activity; or
 - (ii) regularly solicits Persons other than Authorised Firms to engage with him in transactions constituting that activity; or

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- (B) the activity is carried on in a manner which is otherwise deemed to constitute the carrying on of an activity by way of business in accordance with Rules issued by the Regulatory Authority under Article 25(2).
- (2) The Regulatory Authority may from time to time issue Rules
- (A) as to the circumstances in which an activity is or is not to be regarded as carried on by way of business to supplement the provisions in this Article; and
 - (B) in respect of the scope of Article 25(1)(A) including the circumstances in which a Person should not be regarded as holding out or soliciting or should otherwise be regarded as a customer to the market (and accordingly not carrying on a Regulated Activity for the purposes of the QFC Law and these Regulations).

Article 26 – Activities conducted in or from the QFC

- (1) A Person who would not otherwise be regarded as carrying on activities in or from the QFC shall be deemed to be carrying on activities in or from the QFC for the purposes of Article 11(2) of the QFC Law and these Regulations if:
- (A) that Person is a QFC Entity and the day-to-day management of those activities (even if those activities are undertaken in whole or in part from outside the QFC) are the responsibility of the QFC Entity;
 - (B) that Person's head office is outside the QFC but the activity is carried on from an establishment maintained by him in the QFC; or
 - (C) the activities are conducted in circumstances that are deemed to amount to activities carried on in or from the QFC under Rules made by the Regulatory Authority in accordance with Article 23(2).
- (2) The Regulatory Authority may from time to time issue Rules as to the circumstances in which activities capable of having an effect in the QFC are or are not to be regarded as conducted in or from the QFC.

PART 5: AUTHORISATION REQUIREMENTS AND PROCESS

Article 27 - Application

- (1) An Application for an Authorisation may be made to the Regulatory Authority by:
 - (C) a body corporate;
 - (D) a partnership; or
 - (E) an unincorporated association.
- (2) Authorisation constitutes an approval, authorisation or licence for the purposes of Article 11(2) of the QFC Law.
- (3) An Authorised Firm may apply to the Regulatory Authority to vary its Authorisation. A variation may include:
 - (A) extending an Authorised Firm's Authorisation to include Regulated Activities other than those in respect of which it already has an Authorisation;
 - (B) varying conditions restrictions or requirements imposed on its Authorisation in accordance with Article 29(1) or 31(2); or
 - (C) withdrawing its Authorisation in respect of one or more Regulated Activities.
- (4) The Applicant for an Authorisation, variation of an Authorisation or withdrawal of Authorisation as a whole may withdraw its Application by giving the Regulatory Authority written notice at any time before the Regulatory Authority determines the Application.

Article 28 - Form and content of Application

- (1) An Application for an Authorisation or variation or withdrawal of an Authorisation shall be in such form and contain such information as may be prescribed by the Regulatory Authority from time to time.
- (2) The Regulatory Authority may waive all or any part of its generally adopted requirements as to form and contents either in individual cases or generally, provided it is satisfied in either case that:
 - (A) materially similar, up-to-date information is provided in other documentation already issued or completed by the Applicant;
 - (B) such information is not necessary in the light of any registration or authorisation the Applicant may have in a jurisdiction outside the QFC; or
 - (C) such information is not considered by the Regulatory Authority to be relevant in the context of any particular Application.

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- (3) The Regulatory Authority may require the Applicant to provide further information which the Regulatory Authority reasonably requires to be able to decide whether to approve an Application to which Article 28 relates.
 - (4) If at any time between the making of the Application and the grant of the Authorisation, variation or, as the case may be, withdrawal, the Applicant or the signatories to the relevant Application become(s) aware of a material change which is reasonably likely to be relevant to the Application under consideration by the Regulatory Authority, the Applicant or signatories (as the case may be) shall inform the Regulatory Authority in writing of such a change without delay.

Article 29 - Grant of Authorisation, variation or withdrawal and rejection of an Application

- (1) The Regulatory Authority may:
 - (A) grant an Application for an Authorisation, variation or withdrawal of an Authorisation either without conditions, restrictions or requirements or with such conditions, restrictions or requirements as it considers appropriate; or
 - (B) reject the Application.
- (2) The Regulatory Authority may make Rules setting out the criteria which an Application for an Authorisation, or for variation or withdrawal of an Authorisation, must satisfy before an Application can be granted by the Regulatory Authority. Such criteria shall include requirements (as appropriate) relating to:
 - (A) the fitness and propriety of an Applicant having regard to all the circumstances, including his connection with any Person, the nature of any Regulated Activity that he carries on or seeks to carry on and the need to ensure that his affairs are conducted soundly and prudently;
 - (B) the legal form that an Applicant must adopt;
 - (C) the resources of the Applicant, whether financial or otherwise;
 - (D) the Applicant's systems and controls;
 - (E) the location of the Applicant's offices;
 - (F) in the case of an Application for a withdrawal, the interests of the clients or customers of the Authorised Firm, and the effective supervision of the Financial System; and
 - (G) the Regulatory Authority's ability to effectively supervise the Applicant or Authorised Firm.
- (3) In considering an Application for an Authorisation or to vary or withdraw an Authorisation, the Regulatory Authority may have regard to any person appearing to it to be, or likely to be, in a contractual relationship with the Applicant or connected with the Applicant.

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- (4) An Authorisation or variation of an Authorisation may only be granted if the Applicant is at the time the Application is granted or immediately thereafter, a QFC Entity, or otherwise has registered a place of business in the QFC with the CRO and has a Licence issued by or on behalf of the QFCA.
 - (5) Without limitation to Article 29(2)(G), if the Applicant has Close Links with another Person, the Regulatory Authority must be satisfied in considering an Application for Authorisation or variation of an Authorisation:
 - (A) that those links are not likely to prevent the Regulatory Authority's effective supervision of the Applicant; and
 - (B) if it appears to the Regulatory Authority that such other Person is subject to the laws, regulations or administrative provisions of a jurisdiction outside the QFC, that neither those provisions, nor any deficiency in their enforcement, would prevent the Regulatory Authority's effective supervision of the Applicant.
 - (6) Where the Regulatory Authority:
 - (A) grants an Application for Authorisation or variation or withdrawal of an Authorisation, the Regulatory Authority must notify the Applicant accordingly; or
 - (B) rejects an Application for Authorisation or variation or withdrawal of an Authorisation, the Regulatory Authority shall promptly inform the Applicant in writing of such refusal and, where requested by the Applicant, the reasons for such refusal, and of the Applicant's right to appeal that decision to the Appeals Body.
 - (7) Where the Regulatory Authority grants an Application for Authorisation or variation of an Authorisation, it must also notify the Applicant of the Regulated Activity or Activities that may be carried out following such grant (and of any restriction, condition or requirement imposed on the Applicant) in a format which the Regulatory Authority considers appropriate.

Article 30 - Status of Authorisation

- (1) An Authorisation granted pursuant to this Part is not transferable.
- (2) If the Authorised Firm is a partnership or an unincorporated association:
 - (A) it is authorised to carry on the Regulated Activities concerned in the name of the partnership or unincorporated association; and
 - (B) its Authorisation is not affected by any change in its membership.
- (3) Article 30(2)(B) is subject to the requirements as to the approval of and notification of Controllers and changes of control contained in Part 6.

Article 31 - Own initiative action by the Regulatory Authority

- (1) The Regulatory Authority may exercise any of the powers or take any of the steps set out in Article 31(2) at any time where it considers it appropriate to do so in accordance with the Regulatory Objectives, including where it is satisfied that:
 - (A) an Authorised Firm is failing, or is likely to fail, to satisfy the criteria referred to in Articles 29 (2)-(5) (Grant or Rejection of Applications for Authorisation, variation or withdrawal);
 - (B) an Authorised Firm has failed, during a period of at least 12 months, to carry on a Regulated Activity for which it has an Authorisation;
 - (C) it is desirable to take such steps to exercise such power in order to protect the interests of clients or customers of an Authorised Firm or the Financial System;
 - (D) an Authorised Firm is in breach of, or has been, in breach of one or more conditions, restrictions or requirements applicable to its Authorisation;
 - (E) an Authorised Firm is (or has been) otherwise in breach of the QFC Law, these Regulations or any Rules or other relevant legislation;
 - (F) an Authorised Firm is in breach of a requirement under Part 6 (Controllers); or
 - (G) a request has been received from an Overseas Regulator in accordance with Article 20 (International Relations and Co-operation).
- (2) The powers and steps referred to in Article 31(1) are, by written notice to the Authorised Firm, to:
 - (A) impose or vary such conditions, restrictions and requirements on an Authorisation as the Regulatory Authority shall consider appropriate;
 - (B) require a Person specified in the condition, restriction or requirement to take or refrain from taking such action as the Regulatory Authority considers appropriate; or
 - (C) withdraw the Authorised Firm's Authorisation or vary its Authorisation to remove one or more Regulated Activities.
- (3) Subject to Article 31(4), the Regulatory Authority may only exercise powers or take steps pursuant to Article 31(2) where it has provided the relevant Authorised Firm beforehand with an appropriate opportunity to make representations to the Regulatory Authority in relation to the proposed steps and has given due consideration to those representations in determining the steps to be taken.
- (4) The requirement on the Regulatory Authority under paragraph 31(3) above shall not apply:
 - (A) where the Regulatory Authority concludes that any delay likely to arise as a result of the requirement to allow representations contained in Article 31(3) is prejudicial to the interests of the clients or customers of the Authorised Firm, or the Financial

System (provided in such case that the Regulatory Authority shall provide the Authorised Firm with an opportunity to make such representations promptly after such powers have been exercised or steps taken and shall give due consideration to such representations); or

- (B) the powers to be exercised or steps to be taken follow a determination by the Regulatory Authority pursuant to Part 9 (Disciplinary and Enforcement Powers) or a decision by the Appeals Body or Tribunal relating to or affecting the Authorised Firm in question.

Article 32 - Right to refer matters to the Appeals Body

Any decision made by the Regulatory Authority pursuant to Articles 29 or 31 may be referred to the Appeals Body by the Applicant or Authorised Firm to which the decision relates.

Article 33 – Enforceability of agreements

- (1) An agreement made in the course of carrying on a Regulated Activity by a Person who is not an Authorised Firm shall be unenforceable against the other party to the agreement.
- (2) The other party to the agreement may apply to the Tribunal to recover:
- (A) any money paid or property transferred by him under the agreement; and
- (B) compensation for any loss suffered by him as a result of such payment or transfer.
- (3) If the other party chooses not to perform his obligations under the agreement or recovers any money paid or property transferred by him under the agreement, he shall repay any money or property received by him under the agreement.
- (4) Where property transferred under the agreement has been transferred to a third party, references in this Article 33 to such property shall be interpreted as references to the value of the property at the time of the transfer under the agreement.
- (5) If the Tribunal is satisfied that:
- (A) the Person referred to in Article 33(1) reasonably believed that he was not in breach of the Authorisation requirement set out in Article 11(2) of the QFC Law, and
- (B) it is just and equitable in all the circumstances to do so,

the Tribunal may make an order declaring that the agreement referred to in Article 33(1) shall be upheld and that money and property paid or transferred under the agreement be retained, or otherwise dealt with in such way as the Tribunal shall determine.

PART 6: CONTROLLERS

Article 34 - Scope of application

- (1) This Part applies to:
 - (A) Persons who acquire, or change their level or type of control over an Authorised Firm; and
 - (B) Authorised Firms who are the subject of such acquisition or change of controlin both cases being an Authorised Firm(s) to which Article 34(2) relates.
- (2) The Authorised Firms to which Article 34(1) shall apply are:
 - (A) QFC Entities which are Authorised Firms;
 - (B) other Authorised Firms to which this Part applies pursuant to a condition, restriction or requirement to that effect imposed by the Regulatory Authority under Part 5.

Article 35 - Approval of Regulatory Authority

No Person may assume control, or assume an increased level of control, over an Authorised Firm unless the Regulatory Authority shall have first given its approval in accordance with the following provisions of this Part.

Article 36 - Obligation to notify the Regulatory Authority

- (1) Where a Person proposes to:
 - (A) acquire control over an Authorised Firm; or
 - (B) to increase, decrease or change his existing level or type of control or to cease to have control over an Authorised Firm,a Controller Notice must be submitted to the Regulatory Authority in accordance with the following provisions.
- (2) Subject to Article 36(3), the Controller Notice must be submitted by the Authorised Firm in question not less than 30 days in advance of the proposed acquisition of or change in control or, where this is not reasonably practicable, immediately upon becoming aware of the proposed or actual acquisition of or change in control.
- (3) Where the Authorised Firm is:
 - (A) not aware of the acquisition of or change in control; or
 - (B) is not able to obtain sufficient information to submit the Controller Notice,the Controller Notice must instead be submitted by the Person who is proposing to acquire or change, or has acquired or changed, control. In the case of (B) above, the Authorised

Firm shall promptly upon becoming aware of the acquisition or change or proposed acquisition or change, notify the Regulatory Authority in writing of all relevant information in its possession about the acquisition or change or proposed acquisition or change and notify the Person in question of his obligations under this Part.

- (4) The Authorised Firm must have in place systems and controls aimed at ensuring that it is advised of and monitors any acquisition of or change in control to which this Part applies.
- (5) A Controller Notice shall be given to the Regulatory Authority in writing and shall include such information and be accompanied by such documents, and be signed or executed by such Persons and in such manner as the Regulatory Authority may reasonably require.
- (6) The Regulatory Authority may require the Authorised Firm or Person submitting a Controller Notice to provide such additional information or documents as it reasonably considers necessary in order to enable it to determine what action it should take in response to the Controller Notice.
- (7) The Regulatory Authority shall not be obliged to confirm receipt of the Controller Notice.
- (8) Article 108 of these Regulations (Notices and other Information) shall apply in respect of each Controller Notice.

Article 37 - Acquiring and changing control

- (1) For the purposes of this Part, a Person acquires control over an Authorised Firm where he first:
 - (A) holds 10% or more of the shares in the Authorised Firm, or is entitled to exercise or control the exercise of 10% or more of the voting power in the Authorised Firm;
 - (B) holds 10% or more of the shares in a Parent Entity of the Authorised Firm or is entitled to exercise or control the exercise of 10% or more of the voting power in a Parent Entity of the Authorised Firm; or
 - (C) is able to exercise significant influence over the management of the Authorised Firm or a Parent Entity of the Authorised Firm by virtue of his shareholding or voting power, or by contractual or other arrangements.
- (2) The Regulatory Authority may issue Rules specifying the levels and type of control, and of change in control which will give rise to a notification requirement under Article 36 or require approval under Article 35.
- (3) For the purposes of this Article:
 - (A) shares -
 - (i) in relation to an Authorised Firm or relevant Parent Entity with a share capital, means allotted shares;

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- (ii) in relation to an Authorised Firm or relevant Parent Entity with capital but no share capital, means rights to share in the capital of the Authorised Firm or relevant Parent Entity; and
 - (iii) in relation to an Authorised Firm or relevant Parent Entity without capital, means interests conferring any right to share in the profits, or liability to contribute to the losses, of the Authorised Firm or relevant Parent Entity; or giving rise to any obligation to contribute to the debts or expenses of the Authorised Firm or relevant Parent Entity in the event of a winding-up; and
- (B) voting power, in relation to an Authorised Firm or relevant Parent Entity which does not have general meetings at which matters are decided by the exercise of voting rights, means the right under the constitution of the Authorised Firm or relevant Parent Entity to direct the overall policy of the Authorised Firm or relevant Parent Entity or alter the terms of its constitution.
- (4) References in this Part to a change of control include any of the matters referred to in Article 36(1)(B) and reference to a Person acquiring or changing control shall be to a Person acquiring or changing control either alone or together with one or more Associate(s).

Article 38 - Decision of the Regulatory Authority

- (1) The Regulatory Authority may:
- (A) unconditionally approve the Person having or increasing or proposing to have or increase the control for which a Controller Notice would be required under Article 36;
 - (B) approve such Person subject to such conditions as the Regulatory Authority thinks fit; or
 - (C) refuse to give its approval.
- (2) The Regulatory Authority shall seek to make its determination within 30 days of receipt of all the required information and shall notify the Authorised Firm in question (or where the Controller Notice has been submitted by another Person, both the Authorised Firm and that other Person) of its determination promptly once the determination has been made.
- (3) In reaching its determination, the Regulatory Authority may consult with such parties, including competent authorities outside the QFC, as it considers appropriate.
- (4) The Regulatory Authority may only grant unconditional approval if it is satisfied that:
- (A) the Person acquiring or increasing the control is a fit and proper Person to have the control in question; and
 - (B) the conditions in Article 29(5)(A) and (B) (Close Links) have been met; and
 - (C) granting such approval would be consistent with the Regulatory Objectives.

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- (5) The Regulatory Authority may, on its own initiative:
- (A) cancel or vary a condition imposed under this Article;
 - (B) withdraw an approval, or impose conditions on it, where it has reason to believe that the criteria set out in Article 38(4) are no longer satisfied.
- (6) The rights of the Regulatory Authority set out in Article 38(1) shall apply notwithstanding the fact that a Controller Notice has not been submitted (in contravention of the requirements set out in Article 36), or has not been submitted in accordance with the requirements of Article 36.
- (7) Any determination or decision made by the Regulatory Authority pursuant to Article 38(1) or (5) or Article 39(1)(A) may be referred to the Appeals Body by the Authorised Firm to which the proposed or actual acquisition of or change in control relates.

Article 39 - Improperly acquired shares

- (1) If a Person has acquired, or has continued to hold, any shares in contravention of a determination or decision of the Regulatory Authority pursuant to Article 38(1) or (5) the Regulatory Authority may:
- (A) withdraw the Authorisation of the Authorised Firm pursuant to Article 31(2)(C) (unless that Person has ceased to hold any shares or have control); or
 - (B) apply to the Tribunal for an order:
 - (i) restricting the transfer of any shares to which the obligations in Article 36 relate;
 - (ii) restricting the voting rights exercisable in respect of such shares;
 - (iii) restricting the issuing and transfer of further shares which may have been agreed to be issued or transferred;
 - (iv) requiring that, except in a liquidation, no payment be made of any sums of whatever nature due in respect of such shares; or
 - (v) requiring the sale of any such shares (in which event the sale proceeds less the costs of sale and any costs incurred by the Regulatory Authority in respect of obtaining such order shall be paid into the Tribunal for the benefit of the Persons beneficially interested in them),

and such other order ancillary to or necessary for the implementation of the above as the Tribunal shall think fit.

Article 40 - Annual reporting of Persons having control over an Authorised Firm

- (1) An Authorised Firm must submit to the Regulatory Authority an annual report on the Persons having control over it within four months of its financial year end.

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- (2) The Authorised Firm's annual report on the Persons having control over it must include:
- (A) the name of each Person having control; and
 - (B) the level and type of control.

PART 7: INDIVIDUALS AND CONTROLLED FUNCTIONS

Article 41 – Approval of Persons performing Controlled Functions

- (1) An Authorised Firm must ensure that no individual acting for:
- (A) the Authorised Firm; or
 - (B) a contractor of the Authorised Firm
- performs a Controlled Function for that Authorised Firm unless the individual is approved by the Regulatory Authority as an Approved Individual.
- (2) Controlled Function means a function which involves:
- (A) the exercise of significant influence over the conduct of the firm's affairs in relation to Regulated Activities;
 - (B) dealing directly with clients or customers in relation to Regulated Activities; or
 - (C) dealing with the property of clients or customers
- and is specified as a Controlled Function in Rules issued by the Regulatory Authority from time to time.
- (3) The Regulatory Authority shall make Rules detailing:
- (A) the procedure for Application to the Authority for registration as an Approved Individual including requirements as to the form and content of the Application, any fees payable by an Authorised Firm in respect of its Approved Individuals and the procedures for modification or withdrawal of an Approved Individual's registration;
 - (B) principles or other requirements to which Approved Individuals are required to adhere in the performance of Controlled Functions;
 - (C) requirements for Approved Individuals to report to the Regulatory Authority; and
 - (D) the circumstances in which registration of an Approved Individual may be withdrawn at the instance of the Regulatory Authority.

Article 42 – Form and content of Application

- (1) An Application for approval under Article 41 shall be in such form and contain such information as may be prescribed by the Regulatory Authority from time to time.
- (2) The Regulatory Authority may waive any of its requirements as to form and contents of an Application under Article 41 provided that it is satisfied that the required information is provided by other means, or the information is not necessary in the circumstances.

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- (3) The Regulatory Authority may require the Applicant to provide further information which it reasonably requires to be able to decide whether to approve an Application under Article 41.
 - (4) If at any time between the making of an Application under this Article and the grant, modification or withdrawal of approval by the Authority, the Applicant, the Person in respect of whom the Application is made or the signatories to the relevant Application forms become(s) aware of a material change which is reasonably likely to be relevant to the Application, the Applicant, Person or signatories (as the case may be) shall inform the Regulatory Authority in writing without delay.

Article 43 - Grant of approval or variation

- (1) The Regulatory Authority may:
 - (A) grant or vary an approval under Article 41 either without conditions restrictions or requirements or with such conditions restrictions or requirements as it considers appropriate; or
 - (B) reject the Application.
- (2) The Regulatory Authority may make Rules setting out the criteria which the Person in respect of whom the Application for approval under Article 41 is made must satisfy. Such criteria shall include requirements relating to:
 - (A) suitability requirements to be met by an individual seeking approval as an Approved Individual, including the criteria used to assess fitness and propriety; and
 - (B) requirements as to qualifications and competence of Approved Individuals.
- (3) Where the Regulatory Authority:
 - (A) grants an Application for approval or variation of an approval under Article 41, the Regulatory Authority must notify the Authorised Firm accordingly; or
 - (B) rejects an Application for approval or variation of an approval, the Regulatory Authority shall promptly inform the Authorised Firm in writing of such refusal and, where requested by the Authorised Firm, the reasons for such refusal and of the applicant's right to appeal that decision to the Appeals Body.
- (4) Where the Regulatory Authority grants an Application for approval or variation of an approval it must also notify the Authorised Firm of the Controlled Functions which that person can carry out (and any conditions, restrictions or requirements applicable to the approval) in a format which the Regulatory Authority considers appropriate and where an Application for withdrawal is granted, the Regulatory Authority must notify the Authorised Firm accordingly.

Article 44 - Status of Approval

An approval granted under Article 43 is not transferable.

Article 45 - Misconduct

- (1) The Regulatory Authority may take action against any Person under this Article if:
 - (A) it appears to the Regulatory Authority that the Person is guilty of misconduct; and
 - (B) the Regulatory Authority is satisfied that it is appropriate to take action against him.
- (2) A Person is guilty of misconduct if:
 - (A) he performs any function in contravention of a prohibition order issued by the Regulatory Authority under Article 62;
 - (B) whilst a Approved Individual, he breaches any Rules issued by the Regulatory Authority detailing matters set out under Article 41(3)(B) and (C); or
 - (C) he has been knowingly involved in a contravention by the relevant Authorised Firm of a requirement imposed on that Authorised Firm by the Regulatory Authority under the QFC Law, these Regulations, the Rules or any Related Regulations.

Article 46 - Own initiative action by the Regulatory Authority

- (1) The Regulatory Authority may exercise any of the powers or take any of the steps set out in Article 46(2) at any time where it is satisfied that:
 - (A) an Approved Individual is failing, or is likely to fail, to satisfy the criteria referred to in Article 43(2) (Suitability and Related Requirements);
 - (B) an Approved Individual has failed, during a period of at least 12 months, to carry on a Controlled Function for which he has been approved;
 - (C) it is desirable to take such steps to exercise such power in order to protect the interests of clients or customers of an Authorised Firm or the Financial System;
 - (D) an Approved Individual or the Authorised Firm in respect of which the Approved Individual is approved is in breach of, or has been in breach of, one or more conditions, restrictions or requirements applicable to his approval or its Authorisation;
 - (E) an Approved Individual or the Authorised Firm in respect of which the Approved Individual is approved is otherwise in breach of, or has otherwise been in breach of, the QFC Law, these Regulations or any Rules or other relevant legislation; or
 - (G) a request to that effect has been received from an Overseas Regulator in accordance with Article 20 (International Relations and Co-operation).

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- (2) The powers and steps referred to in Article 46(1) are by written notice to the Regulated Firm to:
- (A) impose or vary such conditions, restrictions and requirements on the approval of an Approved Individual as the Regulatory Authority shall consider appropriate;
 - (B) require an Approved Individual specified in the condition, restriction or requirement to take or refrain from taking such action as the Regulatory Authority considers appropriate; or
 - (C) withdraw the Approved Individual's approval or vary its approval to remove one or more Controlled Functions.
- (3) Subject to Article 46(4), the Regulatory Authority may only exercise powers or take steps pursuant to Article 46(2) where it has provided the relevant Authorised Firm beforehand with an appropriate opportunity to make representations to the Regulatory Authority in relation to the proposed steps and has given due consideration to those representations in determining the steps to be taken.
- (4) The requirement on the Regulatory Authority under paragraph 46(3) above shall not apply:
- (A) where the Regulatory Authority concludes that any delay likely to arise as a result of the requirement to allow representations contained in Article 46(3) is prejudicial to the interests of the clients or customers of the Authorised Firm, or the Financial System (provided in such case that the Regulatory Authority shall provide the Authorised Firm with an opportunity to make such representations promptly after such powers have been exercised or steps taken and shall give due consideration to such representations); or
 - (B) the powers to be exercised or steps to be taken follow a determination by the Regulatory Authority pursuant to Part 9 (Disciplinary and Enforcement Powers) or a decision by the Appeals Body or Tribunal relating to or affecting the Authorised Firm in question.

Article 47 - Right to refer matters to the Appeals Body

Any decision by the Regulatory Authority pursuant to Articles 43, 45 or 46 may be referred to the Appeals Body by the Person or Authorised Firm affected.

PART 8: SUPERVISION AND INVESTIGATIONS

Article 48 – Powers to obtain documents and information

- (1) The Regulatory Authority may require the production by a Person in the QFC or (subject to Article 48(2)) elsewhere of:
 - (A) specified information or information of a specified description; and/or
 - (B) specified documents or documents of a specified description,within such timetable and in such form and manner as the Regulated Authority may reasonably require.
- (2) The Tribunal may on application by the Regulatory Authority order that the Regulatory Authority may make a requirement under Article 48(1) in respect of a Person outside the QFC (whether in the State or otherwise). The Regulatory Authority may request the appropriate Overseas Regulator to assist in exercising the power under Article 48(1) in respect of any such Person.
- (3) The Regulatory Authority may enter the premises of any Person in the QFC at any time for the purpose of inspecting and copying information or documents stored in any form on such premises.
- (4) The Person to which Article 48(1) or (3) relates must give the Regulatory Authority all such assistance as the Regulatory Authority may reasonably require.

Article 49 – Reports

- (1) The Regulatory Authority may, by notice in writing given to a Person require the production to the Regulatory Authority of a report by a Nominated Person on any matter about which the Regulatory Authority has required or could require the provision of information or production of documents under Article 48.
- (2) The Regulatory Authority may require any such report to be in such form as may be specified in the notice.
- (3) The Nominated Person appointed to make any report required by Article 49(1) must be nominated or approved by the Regulatory Authority.
- (4) Where a report under Article 49 has been required, the Person to whom a notice has been given under Article 49(1) must give the Person or Persons appointed to make the report all such assistance as that Person may reasonably require.
- (5) The obligation in Article 49(4) is enforceable on application by the Regulatory Authority to the Tribunal.
- (6) The costs of providing a report under Article 49 shall be borne by the Person to whom a notice has been given under Article 49(1).

Article 50 – Appointment of Investigators

- (1) If it appears to the Regulatory Authority that there is a good reason for doing so, the Regulatory Authority may appoint one or more competent Investigators, who may be or include employees of the Regulatory Authority, to conduct investigations into a suspected contravention of a Relevant Requirement and to report to the Regulatory Authority accordingly.
- (2) The Regulatory Authority must give written notice of the appointment of an Investigator to all Persons subject to investigation, unless it believes that giving such notice would risk frustrating the investigation in a material way. Any such notice must specify the purpose of and reason for the investigation.
- (3) A Person under investigation is entitled to legal representation during the course of an investigation under Article 50.
- (4) The Regulatory Authority shall pay the costs and expenses of an investigation save that, where, as a result of an investigation under Article 50, the Person under investigation is found to have contravened a Relevant Requirement, the Regulatory Authority or, where appropriate, the Appeals Body or Tribunal, may order that the Person must pay the Regulatory Authority in respect of the whole or any part of the costs and expenses of the investigation.

Article 51– Investigation of Companies, LLPs and branches

- (1) In relation to any Company incorporated or branch registered under the Companies Regulations and any LLP incorporated under the LLP Regulations, the Regulatory Authority may also appoint Investigators under Article 50 if:
 - (A) in the case of a Company, the Company has, or the members of the Company holding not less than ten per cent in nominal value of the issue of share capital of the company have requested the Regulatory Authority in writing (setting out the reasons for the request) to do so; or
 - (B) the Regulatory Authority considers that there are circumstances suggesting that:
 - (i) the affairs of the Company, branch or LLP are being or have been conducted with intent to defraud the creditors of the company or of any other Person, or otherwise for a fraudulent or unlawful purpose, or in a manner unfairly prejudicial to some part of its members;
 - (ii) any actual or proposed act or omission by or on behalf of the Company, branch or LLP is or could be prejudicial to some part of its members;
 - (iii) any Person concerned with the formation or management of the Company, branch or LLP or its affairs has in connection therewith been guilty of fraud, misfeasance or other misconduct toward it or towards its members;

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- (iv) the members of the Company, branch or LLP (or any of them) have not been given all the information with respect to its affairs to which they are entitled or which they might reasonably expect; or
 - (v) the company has been carrying on in or from the QFC a business which it is not permitted to be carried on in the QFC.
- (2) Investigators appointed under Articles 50 or 51 to investigate the affairs of a Company, branch or LLP may also investigate and report on the affairs of another Entity which is or has been the Subsidiary of the Company, LLP or Entity which has registered a branch under the Companies Regulations or a Subsidiary of any of its Parent Entities, if they consider it necessary for the purposes of their investigation.

Article 52 – Investigations – duties and powers

- (1) An Investigator appointed under Article 50 or 51 must, unless the investigation is discontinued for any reason, make a written report of his investigation to the Regulatory Authority.
- (2) In support of an investigation, the Regulatory Authority may require, by written notice, any Person:
- (A) to attend before the Investigator at a specified time and place and to answer questions;
 - (B) to produce at a specified time and place any specified document or documents of a specified description; and/or
 - (C) provide such information or assistance as the Investigator may require and the Person is able to give.
- (3) The Regulatory Authority may require the relevant Person to give such information or produce such documents within such reasonable time period and/or at such a specified place as detailed in the written notice.
- (4) Where the Regulatory Authority is conducting an investigation under Article 50 or 51 and has reasonable grounds for believing that an Approved Individual may have engaged in conduct that would form grounds for the withdrawal or variation of that Approved Individual's status, it may, upon written notice to both the Approved Individual and the relevant Authorised Firm, suspend or vary that individual's approved status for the duration of the investigation and/or and related proceedings insofar as such investigation or proceedings relate to that individual.
- (5) Where the Regulatory Authority is conducting an investigation into a Person under Article 49 or 50 it may apply to the Tribunal for an order that all or any of the assets, books and records of the Person be preserved and not moved or otherwise dealt with.

Article 53 – Admissibility

A statement made, information given or documents produced in compliance with a request under this Part shall be admissible in evidence in any proceedings, provided it also complies with any requirements governing the admissibility of evidence in the relevant proceedings.

Article 54 – The role of the Tribunal in investigations

- (1) The Regulatory Authority may apply to the Tribunal to assist in the enforcement of the Regulatory Authority's powers in this Part 8.
- (2) The Tribunal shall provide such assistance as it considers appropriate in the circumstances and in accordance with its powers, including the imposition of financial penalties for contraventions in accordance with these Regulations and the issue of search orders and orders for the seizure of documents and/or information.

Article 55 – Self incrimination

- (1) Subject to Article 56, it is not a reasonable excuse for a Person to refuse or fail to:
 - (A) permit the inspection or copying of any information or document;
 - (B) produce, or disclose, or procure the production or disclosure of, any information or document; or
 - (C) answer questions;

pursuant to any requirement under this Part, on the grounds that any such information or document or answer, as the case may be, might tend to incriminate the Person or make the Person liable to a financial penalty.

Article 56 – Protected Items

- (1) A Person may not be required under these Regulations to produce, disclose or permit the inspection of Protected Items.
- (2) A communication or item is not a Protected Item if it is held with the intention of furthering a criminal purpose.

Article 57 – Obstruction of the Regulatory Authority

A Person shall not engage in conduct, including:

- (1) the destruction of documents;
- (2) the failure to give or produce information or documents specified by the Regulatory Authority;

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- (3) the failure to attend before the Regulatory Authority at a specified time and place to answer questions;
 - (4) the giving of information that is false or misleading; and
 - (5) the failure to give any assistance in relation to an investigation which the Person is able to give;

that is intended to obstruct the Regulatory Authority in the exercise of its powers under the QFC Law, these Regulations or any Related Regulations.

PART 9: DISCIPLINARY AND ENFORCEMENT POWERS

Article 58 – Public censure

If the Regulatory Authority considers that a Person has contravened a Relevant Requirement (and, in the case of an Authorised Firm or Approved Individual, irrespective of whether that Person is still an Authorised Firm or Approved Individual), the Regulatory Authority may publish a statement to that effect.

Article 59 – Financial penalties

- (1) If the Regulatory Authority considers that a Person has contravened a Relevant Requirement, it may impose on it a financial penalty, in respect of the contravention, of such amount as it considers appropriate.
- (2) The Regulatory Authority may not in respect of any contravention impose a financial penalty under this Article 59 in respect of any matter for which the Person has already been sanctioned by the Tribunal.
- (3) A penalty under this Part 9 is payable to the Regulatory Authority unless the Regulatory Authority determines otherwise.
- (4) Any penalty that is not paid within the period stipulated by the Regulatory Authority may on application to the Tribunal be recovered by the Regulatory Authority as a debt.
- (5) Without limitation to Article 18, the Regulatory Authority may publish a statement describing the contravention to which this Article relates and the amount of any financial penalty imposed.

Article 60 – Appointment of managers

- (1) The Regulatory Authority may by written notice require any Person to appoint one or more individuals to act as managers of the business of such Person on such terms as the Regulatory Authority may specify in any such notice.
- (2) The individual or individuals appointed to act as managers of the business of the Person under Article 60(1) must be nominated or approved by the Regulatory Authority.

Article 61 – Undertakings

- (1) The Regulatory Authority may by written notice require any Person to give the Regulatory Authority a legally enforceable undertaking in such terms as the Regulatory Authority shall specify in any such notice. Such terms may include an undertaking by the Person to refrain from engaging in any particular type of conduct.
- (2) The Person may withdraw or vary the undertaking at any time, but only with the consent of the Regulatory Authority.
- (3) If the Regulatory Authority is satisfied that the Person who gave the undertaking has been in breach of any of its terms, it may apply to the Tribunal for an order directing the Person

to comply with the relevant terms of the undertaking or any other order that the Tribunal considers appropriate.

Article 62 – Prohibitions and restrictions

The Regulatory Authority may by written notice:

- (1) prohibit an Authorised Firm or Approved Individual from:
 - (A) entering into certain specified transactions or types of transaction;
 - (B) soliciting business from certain specified Persons or types of Person; or
 - (C) carrying on business in a specified manner or other than in a specified manner;
- (2) require an Authorised Firm or Approved Individual to carry on business or conduct itself or himself in a specified manner; or
- (3) prohibit a Person from performing a specified function, any function falling within a specified description or any function.

Article 63 – Injunctions

- (1) If the Regulatory Authority is satisfied that a Person:
 - (A) will contravene a Relevant Requirement; or
 - (B) has contravened a Relevant Requirement and there is a reasonable likelihood that the contravention will continue or be repeated,

the Regulatory Authority may apply to the Tribunal for an order restraining such contravention.

- (2) If the Regulatory Authority is satisfied that:
 - (A) a Person has contravened a Relevant Requirement; and
 - (B) there are steps which could be taken to remedy the contravention,the Regulatory Authority may apply to the Tribunal for an order requiring the Person to take such steps as it may direct to remedy the contravention.

- (3) If the Regulatory Authority is satisfied that a Person may have:
 - (A) contravened a Relevant Requirement; or
 - (B) been knowingly concerned in the contravention of a Relevant Requirement,the Regulatory Authority may apply to the Tribunal for an order restraining the Person from disposing of, or otherwise dealing with, any of its assets.

Article 64 – Restitution orders

If the Regulatory Authority is satisfied that a Person has contravened a Relevant Requirement, or been knowingly concerned in the contravention of a Relevant Requirement, and

- (A) profits have accrued to him as a result of the contravention, or
- (B) one or more Persons have suffered loss or been otherwise adversely affected as a result of the contravention,

then the Regulatory Authority may apply to the Tribunal for an order requiring the Person concerned to pay to the appropriate Person or distribute among the appropriate Persons such amount as appears to the Authority to be just, having regard to the profits appearing to the Regulatory Authority to have accrued and/or to the extent of the loss or other adverse effect suffered.

Article 65 – Civil proceedings

The Regulatory Authority may make Rules giving Persons generally or particular categories of Persons who have suffered loss or damage as a result of the contravention by a Person of a Relevant Requirement the right to apply to the Tribunal for a restitution order against such Person.

Article 66 – Appeals

If the Regulatory Authority exercises any of its disciplinary powers under this Part 9, the Person concerned may, within 28 days of receipt of a Decision Notice in accordance with Article 71, or such longer period as may be advised by the Regulatory Authority in such notice, refer the matter to the Appeals Body.

Article 67 – Power of Regulatory Authority to intervene in any proceedings

- (1) The Regulatory Authority may intervene as a party in any proceedings before the Tribunal where it considers such intervention appropriate to meet the Regulatory Objectives.
- (2) Where the Regulatory Authority so intervenes it shall, subject to any other law, have all the rights, duties and liabilities of such a party in such proceedings.

Article 68 – Effect of provisions

For the avoidance of doubt, nothing in any Article in this Part limits the generality of any other Article in this Part, or the generality of any other provision in the QFC Law or these Regulations or the Rules or any Related Regulations.

Article 69 – Procedural irregularities

- (1) A procedure under these Regulations or any Related Regulations is not invalidated because of any procedural irregularity unless the Tribunal declares the procedure to be

invalid.

(2) For the purposes of this Article:

- (A) procedure includes the making of a decision, the conduct of a hearing, the giving of a notice, and any proceedings (legal or otherwise); and
- (B) procedural irregularity includes a reference to a defect, irregularity or deficiency of notice or time.

PART 10: ENFORCEMENT PROCEDURE

Article 70 – Right to make written representations

- (1) Subject to Article 70(2), if the Regulatory Authority proposes to exercise its disciplinary powers under Part 9 in relation to any Person, it must first give that Person:
 - (A) a written notice specifying the action which the Regulatory Authority proposes to take; and
 - (B) an opportunity to make written representations to the Regulatory Authority in relation to the proposed action to be taken.
- (2) The Regulatory Authority may specify in any such notice the manner and time within which any such written representations must be made.
- (3) The requirement under Article 70(1) shall not apply:
 - (A) to the exercise by the Regulatory Authority of its powers under Articles 62 or 63; or
 - (B) where the Regulatory Authority concludes that any delay likely to arise as a result of the requirement under Article 70(1) might be prejudicial to the interests of the clients or customers of the relevant Person, the QFC or the Financial System.

Article 71 – Decision Notices

- (1) Subject to Articles 70 and 71(2), if the Regulatory Authority decides to exercise a disciplinary power under Part 9 in relation to any Person, it must give such Person a Decision Notice.
- (2) The requirement to give a Decision Notice does not apply to the exercise by the Regulatory Authority of its powers under Articles 62 or 63.
- (3) A Decision Notice must:
 - (A) be in writing;
 - (B) give the Regulatory Authority's reasons for the decision to take the action to which the notice relates;
 - (C) state whether Article 77 (Access to Regulatory Authority Material) applies and, if so, describe its effect; and
 - (D) give an indication of:
 - (i) any right to have the matter referred to the Appeals Body within a reasonable period specified in the notice; and
 - (ii) the procedure on such a reference.

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- (4) In the case of a statement under Article 58 the Decision Notice must set out the terms of the statement.
 - (5) In the case of a financial penalty, the Decision Notice must state the amount of the financial penalty and the period within which it is to be paid.

Article 72 – Implementation of a Decision Notice

If a Person who has received a Decision Notice does not refer the matter to the Appeals Body within the time period specified in the notice, the Regulatory Authority may take the action specified in the Decision Notice.

Article 73 – Discontinuance of proceedings

- (1) If the Regulatory Authority decides not to take the action to which a Decision Notice relates, it must give a notice of discontinuance identifying the proceedings which are being discontinued to the Person to whom the Decision Notice was given.
- (2) If a Person to whom a Decision Notice is given does refer the matter to the Appeals Body, that Person may apply to the Appeals Body to stay the action specified in the Decision Notice pending the outcome of the appeal.

Article 74 – Publishing Information

Subject to Article 18 and any other rights and obligations contained in the QFC Law and these Regulations on the part of the Regulatory Authority relating to the publication of information, neither the Regulatory Authority nor any Person to whom a Decision Notice is given or copied may publish the notice or any details concerning it.

Article 75 – Publication of statements

After a statement under Article 58 is published, the Regulatory Authority must send a copy of it to the relevant Person and to any other Person to whom a copy of the relevant Decision Notice was given under Article 76.

Article 76 – Third party rights

- (1) If any of the reasons contained in a Decision Notice relate to a matter which:
 - (A) identifies a Person (the “Third Party”) other than the Person to whom the notice is given, and
 - (B) in the opinion of the Regulatory Authority, is prejudicial to the Third Party,a copy of the notice must be given to the Third Party.
- (2) The notice copied to the Third Party must specify a reasonable period within which he may make representations to the Regulatory Authority.

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- (3) A copy of the notice is not required to be given to a Third Party if the Regulatory Authority considers it impractical to do so.
 - (4) The Third Party may refer to the Appeals Body:
 - (A) the decision in question or any aspect of the decision, so far as it relates to him; or
 - (B) any opinion expressed by the Regulatory Authority in relation to him.
 - (5) The copy of the Decision Notice must be accompanied by an indication of the Third Party's right to make a reference to the Appeals Body and the procedure in such a reference.
 - (6) If the Third Party does refer the matter to the Appeals Body the Third Party may apply to the Appeals Body to stay the action specified in the Decision Notice.
 - (7) The Third Party must be given a copy of any notice of discontinuance applicable to the proceedings to which the Decision Notice related.

Article 77 – Access to Regulatory Authority material

- (1) If the Regulatory Authority gives a Person a Decision Notice it must allow him access to the material on which it relied in taking the decision which gave rise to the obligation to give the notice.
- (2) The Regulatory Authority may refuse a Person access to particular material if, in its opinion, allowing access to the material would not be in the public interest or would not be fair (whether to other parties to whom the material relates or otherwise).
- (3) If the Regulatory Authority does not allow a Person access to material, it must give him written notice of:
 - (A) the refusal; and
 - (B) the reasons for it.

Article 78 – Procedure in relation to Decision Notices

- (1) The Regulatory Authority may issue Rules relating to the procedure that it proposes to follow in relation to the giving of Decision Notices.
- (2) Subject to Article 69 (Procedural Irregularities), when giving a Decision Notice the Regulatory Authority must follow its stated procedure.
- (3) If the Regulatory Authority changes the procedure in a material way, it must publish revised Rules or a revised statement.

Article 79 – Policy in relation to penalties

- (1) The Regulatory Authority must prepare and publish a statement of its policy with respect to:
 - (A) the imposition of financial penalties under Article 59; and
 - (B) the amount of penalties under Article 59.
- (2) The Regulatory Authority's policy in determining the amount of a financial penalty must include a requirement to have regard to:
 - (A) the seriousness of the contravention in question in relation to the nature of the requirement contravened;
 - (B) the extent to which that contravention was deliberate or reckless;
 - (C) whether the Person on whom the penalty is to be imposed is an individual; and
 - (D) the effect on third parties, clients or customers and the best interests of the Financial System.
- (3) The Regulatory Authority may at any time alter or replace a statement issued under this Article.
- (4) If a statement published under this Article is altered or replaced, the Regulatory Authority must publish the altered or replacement statement.

PART 11: FINANCIAL COMMUNICATIONS

Article 80 – Regulatory Authority’s powers to make Rules in relation to Financial Communications.

- (1) The Regulatory Authority may make Rules relating to the circumstances in which Financial Communications may be made or approved by Authorised Firms and the form and content of such Financial Communications.
- (2) A “Financial Communication” is any communication (made via any medium including brochures, telephone calls and presentations) the purpose or effect of which is:
 - (A) to promote or advertise (i) Specified Products or (ii) any Regulated Activity (or any activity that would be a Regulated Activity if it was carried on in or from the QFC); or
 - (B) to invite or induce any Person (i) to enter into an agreement with any Person in relation to a Specified Product or (ii) to engage in any Regulated Activity (or an activity that would be a Regulated Activity if it was carried on in or from the QFC).

Article 81 – Prohibition on issue of Financial Promotions other than by Authorised Firms.

- (1) Subject to Article 81(2), no QFC Licensed Firm other than an Authorised Firm may make (or cause to be made) in the course of business any Financial Communication unless the content of the communication has been approved for the purposes of this Article by an Authorised Firm.
- (2) Article 81(1) shall not apply:
 - (A) in respect of any Financial Communication made to another QFC Licensed Firm; or
 - (B) to such other types or category of recipient or in such other circumstances as may be set out in Rules made by the Regulatory Authority.
- (3) The Regulatory Authority may make Rules prohibiting or restricting the extent to which, or the circumstances in which, Persons outside the QFC (whether in the State or otherwise) may send Financial Communications to Persons in the QFC or capable of having an effect in the QFC, but in the absence of such Rules there will be no restriction on such Financial Communications and a Person outside the QFC shall not be deemed to be carrying on business in or from the QFC purely by virtue of making such Financial Communication to a Person in the QFC.

PART 12 : MARKET ABUSE

Article 82 – Abusive Conduct

A Person may not behave in relation to an Investment or anything which is the subject matter of (or whose price or value is expressed by reference to the price or value of) an Investment, where such behaviour consists of that Person:

- (1) acquiring or disposing of, or attempting to acquire or dispose of, for his own account or for the account of a third party, either directly or indirectly, an Investment, on the basis of inside information relating to the Investment;
- (2) disclosing inside information to another Person otherwise than in the proper course of the exercise of his employment, profession or duties;
- (3) recommending or inducing any Person, on the basis of inside information, to acquire or dispose of an Investment to which that information relates;
- (4) effecting, or participating in effecting, transactions or orders to trade (otherwise than for legitimate reasons in conformity with accepted market practice on the relevant market) which:
 - (A) give, or are likely to give a false or misleading impression as to the supply of, or demand for, or as to the price or value of, one or more Investments, or
 - (B) secure the price of one or more Investments at an abnormal or artificial level;
- (5) effecting, or participating in effecting, transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance; or
- (6) disseminating, or causing the dissemination of, information by any means which gives, or is likely to give, a false or misleading impression as to an Investment by a Person who knew or could reasonably be expected to have known that the information was false or misleading.

Article 83 – Rules relating to Market Abuse

The Regulatory Authority may issue Rules in respect of the scope and effect of Article 82, including:

- (1) the meaning of inside information;
- (2) particular types of conduct that are to be regarded as contravening or not contravening Article 82;
- (3) particular types of conduct that are not to be regarded as contravening Article 82; and
- (4) reasons which may or may not be regarded as legitimate, and practices that may or may not be regarded as accepted market practice for the purposes of Article 82(4),

and such Rules shall be binding on all Persons to whom Article 82 relates.

PART 13: CONTRAVENTIONS

Article 84 – Contravention of Relevant Requirements

- (1) For the purposes of these Regulations a Person contravenes a Relevant Requirement if he:
- (A) fails to comply with any prohibition or requirement imposed on him by the Regulatory Authority or any undertaking given by him to the Regulatory Authority;
 - (B) does any act or thing that is prohibited under or breaches any requirement of the QFC Law, these Regulations, the Rules or any other Related Regulations;
 - (C) omits to do any act or thing that he is required to do under the QFC Law, the Rules or any of the Regulations referred to in Article 84(1)(B);
 - (D) commits an act of fraud or abuses any fiduciary duty which he owes to his clients or customers; or
 - (E) otherwise commits any contravention described as such in these Regulations.
- (2) Without prejudice to the generality of Article 84(1), for the purposes of these Regulations a Person contravenes a Relevant Requirement if he:
- (A) knowingly or recklessly provides to the Regulatory Authority any information which is false, misleading or deceptive, or conceals information where the concealment of such information is likely to mislead or deceive the Regulatory Authority;
 - (B) conducts Regulated Activities in or from the QFC in breach of Article 11.2 of the QFC Law;
 - (C) knows or suspects that Regulatory Authority action under Parts 5-10 of these Regulations is being or is likely to be conducted and:
 - (i) falsifies, conceals, destroys or otherwise disposes of a document which he knows or suspects is or would be relevant to such action, or
 - (ii) causes or permits the falsification, concealment, destruction or disposal of such a document,

unless he shows that he had no intention of concealing facts disclosed by the documents from the Regulatory Authority or any Nominated Person preparing a report or Investigator undertaking an investigation under Part 8 (Supervision and Investigations) of these Regulations.

Article 85 – Involvement in contraventions

- (1) If a Person is knowingly concerned in the contravention of a Relevant Requirement by another Person, that Person also commits a contravention of a Relevant Requirement.
- (2) If an officer of a body corporate is knowingly concerned in the contravention of a Relevant Requirement committed by a body corporate, the officer also commits a contravention of a Relevant Requirement.
- (3) If the affairs of a body corporate are managed by its members, Article 85(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 body corporate.
- (4) If a partner (or a Person purporting to act as a partner) is knowingly concerned in a contravention of a Relevant Requirement committed by a partnership in which he is a partner or by all or some of its constituent partners, he also commits a contravention of a Relevant Requirement.
- (5) If an officer of an unincorporated association (other than a partnership) or a member of its governing body is knowingly concerned in a contravention of a Relevant Requirement committed by the association, that officer or member also commits a contravention of a Relevant Requirement.
- (6) For the purposes of Article 85, officer means a director, member of a committee of management, chief executive, manager, secretary or other similar officer of the body corporate or association, or a Person purporting to act in such capacity, and an individual who is a Controller of the body.
- (7) For the purposes of Article 85, a Person is knowingly concerned in a contravention of a Relevant Requirement if, and only if, that 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; or
 - (D) has conspired with another or others to commit the contravention.

PART 14: COMPLAINTS AND COMPENSATION

Article 86 - Complaints

The Regulatory Authority may make Rules:

- (1) relating to the manner in which, and time within which, Authorised Firms deal with complaints received from their clients or customers;
- (2) establishing an independent body:
 - (A) to hear complaints made against Authorised Firms by their clients or customers; and
 - (B) to require Authorised Firms to pay compensation to the clients or customers that refer such complaints to that body in the event that such complaints are upheld;
- (3) relating to the procedure for referring a complaint to the independent body referred to in Article 86(2) and the procedure for such a complaint to be heard by that body; and
- (4) governing the funding of the independent body referred to in Article 86(2) and requiring Authorised Firms to contribute to such funding,

and such Rules shall be binding on all Authorised Firms.

Article 87 – Compensation

- (1) The Regulatory Authority may make Rules:
 - (A) establishing a fund for the payment of compensation to clients or customers of Authorised Firms in the event that those Authorised Firms default in the payment of monies owed to those clients or customers;
 - (B) governing the eligibility of clients or customers to be so compensated out of the assets of the compensation fund referred to in Article 87(1)(A); and
 - (C) governing the funding of the compensation fund referred to in Article 87(1)(A) and requiring Authorised Firms to contribute to such funding,

and such Rules shall be binding on all Authorised Firms.

PART 15: APPOINTMENT OF AUDITORS AND ACTUARIES

Article 88 - Appointment of Auditors and Actuaries

- (1) The Regulatory Authority may make Rules which require an Authorised Firm or an Authorised Firm falling within a particular class, to appoint an Auditor or an Actuary, if it is not already subject to a separate requirement to do so.
- (2) The Regulatory Authority may make such Rules regarding:
 - (A) the appointment, term of office, registration or removal of Auditors or Actuaries;
 - (B) the qualification or approval of Auditors or Actuaries;
 - (C) the duties, functions and powers of Auditors or Actuaries;
 - (D) the scope, content and timing of any reports, reviews or audits to be undertaken by Auditors or Actuaries;
 - (E) the approval by the Regulatory Authority of Auditors or Actuaries;
 - (F) the remuneration of Auditors or Actuaries;
 - (G) the notification or reporting obligations of Auditors or Actuaries (whether to the relevant Authorised Firm, the Regulatory Authority or otherwise); and
 - (H) such other related or ancillary matters the Regulatory Authority thinks fit.
- (3) An Auditor or Actuary to whom any such Rules made by the Regulatory Authority apply shall comply with and have such rights and powers as are prescribed by such Rules.
- (4) Any decision taken by the Regulatory Authority permitting the Regulatory Authority to remove, disqualify or refuse to approve an Auditor or Actuary may be referred to the Appeals Body by the Auditor or Actuary affected.

Article 89 – Disclosure of Information

- (1) An Auditor or Actuary which is, or has been, appointed by an Authorised Firm under Article 88(1) (or any other Law or Regulation) or has knowledge of an Authorised Firm by virtue of its appointment as an Auditor or Actuary to any Person with whom an Authorised Firm has Close Links and any director, officer, employee, agent or contractor of an Auditor or Accountant so appointed:
 - (A) must disclose to the Regulatory Authority any matter concerning the Authorised Firm which suggests a breach, (whether actual, suspected or anticipated) of the QFC Law, these Regulations the Rules or other Related Regulations;
 - (B) may inform the Regulatory Authority (whether or not in response to a request from the Regulatory Authority) of any matter concerning the Authorised Firm and give his opinion in respect of any such matter (provided that he is acting in good faith

and he reasonably believes that the information is relevant to any functions of the Regulatory Authority and the proper functioning of the Authorised Firm);

and will not contravene any duty to which he is subject merely by giving the Regulatory Authority such information.

- (2) Article 89(1) shall not apply to the extent that making such a disclosure or providing such information or opinion would result in disclosure of a Protected Item.
- (3) No Person shall be subject to detriment, loss or damage purely by reason of his acting in such a way that causes or assists an Auditor or Actuary:
 - (A) to comply with its obligation to make a disclosure to the Regulatory Authority under Article 89(1)(A); or
 - (B) to exercise its rights to inform the Regulatory Authority of or give an opinion in respect of any matter as provided in Article 89(1)(B).

Article 90 - Rights and obligations affecting Auditors and Actuaries

- (1) An Authorised Firm, or any director, officer, employee, agent or contractor of the Authorised Firm shall co-operate with Auditors or Actuaries appointed pursuant to Article 88 in the fulfilment of their respective duties as such.
- (2) An Auditor of, or an Actuary acting for, an Authorised Firm under 88(1):
 - (A) has a right of access at all times to the Authorised Firm's books, accounts and material records; and
 - (B) is entitled to require from the Authorised Firm's officers such information and explanations as he reasonably considers necessary for the performance of his duties as Auditor or Actuary.
- (3) Any provision in an agreement between an Authorised Firm and an Auditor or Actuary or director, officer agent or contractor of an Authorised Firm which is inconsistent with their respective obligations under this Part shall be void.

Article 91 - Resignation of Auditors and Actuaries

Where an Auditor or Actuary ceases for any reason to be appointed by the Authorised Firm under Article 88, the Auditor or Actuary must:

- (1) notify the Regulatory Authority of that fact in writing without delay;
- (2) notify the Regulatory Authority of any matter connected with its ceasing to act for the Authorised Firm, which it thinks ought to be drawn to the Regulatory Authority's attention; or

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- (3) if there is no such matter as described in Article 91(2), notify the Regulatory Authority of that fact.

Article 92 - Contravention

A Person commits a contravention of these Regulations if he:

- (1) knowingly or recklessly:
- (A) gives an Auditor or Actuary appointed pursuant to Article 88 information which the Auditor or Actuary requires, or is entitled to require, which is false or misleading in a material particular; or
 - (B) omits to give an Auditor or Actuary information where the omission of such information is likely to mislead or deceive; or
- (2) destroys or conceals information, documents and records when he knows, or ought reasonably to know, that such conduct would or could result in such Auditors or Actuaries being unable to fully and effectively fulfil their functions under this Part.

PART 16: CONTROL OF BUSINESS TRANSFERS

Article 93 - Application

This Part applies in respect of:

- (1) an Insurance Business Transfer;
- (2) a Banking Business Transfer, and
- (3) a Relevant Business Transfer.

Article 94 - Business Transfers

For the purposes of Article 93:

- (1) an Insurance Business Transfer is a transfer of the whole or part of the business of effecting or carrying out contracts of insurance or reinsurance undertaken by an Authorised Firm in or from the QFC other than where the business relates to reinsurance contracts entered into between members of the same Group;
- (2) a Banking Business Transfer is a transfer of the whole or part of the business of accepting Deposits undertaken by an Authorised Firm in or from the QFC;
- (3) a Relevant Business Transfer is a transfer of the whole or part of the business of carrying on Regulated Activities (other than as provided by (1) and (2) above) by an Authorised Firm in or from the QFC and either:
 - (A) the Authorised Firm has elected to enter into a scheme of transfer in accordance with this Part; or
 - (B) the transfer is of a type which the Regulatory Authority may by Rules determine should be a Relevant Business Transfer for the purposes of this Part; and
- (4) a Relevant Scheme is a scheme effecting an Insurance Business Transfer, a Banking Business Transfer or a Relevant Business Transfer.

Article 95 - Requirement for order sanctioning Relevant Schemes

A Relevant Scheme shall have effect only if an order has been made in relation to it under Article 100.

Article 96 - Application for an order from the Tribunal

An application may be made to the Tribunal for an order sanctioning a Relevant Scheme either by the transferor or transferee under the Relevant Scheme, or both.

Article 97 – Reports

- (1) An application made under Article 96 in respect of a Relevant Scheme must be accompanied by a Scheme Report prepared by a Person nominated for the purpose by

the Authority appearing to the Regulatory Authority to have the skills necessary to enable him to make a proper report.

- (2) The Regulatory Authority may issue Rules setting out requirements as to the form and content of a Scheme Report.
- (3) The Regulatory Authority may waive the requirement set out in Article 97(1) if the Regulatory Authority is satisfied that, by reason of urgency, it is in the interests of the QFC to do so.
- (4) The Tribunal may, on application of the Regulatory Authority, appoint an independent Person appearing to the Tribunal to have the skills necessary to do so to report to the Regulatory Authority on such aspect of the Relevant Scheme as the Tribunal considers appropriate.

Article 98 – Publicity

- (1) The transferor under a Relevant Scheme must give written notice of the proposed transfer to all Interested Parties.
- (2) The Regulatory Authority may issue Rules setting out requirements as to the form, content and timing of such notification and the categories of Interested Parties to which Article 97 (1) applies, together with such ancillary requirements as it thinks fit.
- (3) The requirements referred to in Article 98(1) may include requirements for the publication of information relating to the transfer in a form of mass media appropriate to bring the proposed transfer to the attention of Interested Parties and the type, form and content of documentation which must be made available to Interested Parties.
- (4) The Regulatory Authority may waive the requirement set out in Article 98(1) if the Regulatory Authority is satisfied that, by reason of urgency, it is in the interests of the QFC to do so.

Article 99 - Rights to participate in proceedings

The following are entitled to be heard by the Tribunal in respect of any application made under Article 96 in addition to the proposed transferor and transferee:

- (1) the Regulatory Authority;
- (2) any Person (including an employee of the proposed transferor or transferee) who alleges that he would be adversely affected by the sanctioning or implementation of the Relevant Scheme.

Article 100 - Sanction of a Relevant Scheme by the Tribunal

The Tribunal may make an order under this Article sanctioning a Relevant Scheme if:

- (1) the requirements stipulated by the Regulatory Authority pursuant to Articles 97 and 98 have been complied with;

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- (2) on or before the Relevant Scheme becoming effective, the transferee:
- (A) will have the authorisation required (if any) to enable it to carry on the business which is to be transferred to it in the place to which it is to be transferred; and
 - (B) will possess adequate financial resources to carry on the business concerned in accordance with the legislation applicable in the place to which it is to be transferred; and
- (3) the Tribunal considers, in all the circumstances of the case, it is appropriate to sanction the Relevant Scheme.

Article 101 - Effect of order sanctioning a Relevant Scheme

- (1) If the Tribunal makes an order under Article 100, it may by that or any subsequent order make such provision (if any) as it thinks fit:
- (A) for the transfer to the transferee of the whole or any part of the undertaking concerned and of any property or liabilities of the Authorised Firm concerned;
 - (B) for the allotment by the transferee of any shares, debentures, policies or other similar interests in the transferee which under the Relevant Scheme are to be allotted to or for any other Person;
 - (C) for the continuation by (or against) the transferee of any pending legal proceedings by (or against) the Authorised Firm concerned;
 - (D) with respect to such incidental, consequential and supplementary matters as are, in its opinion, necessary to secure that the Relevant Scheme is fully and effectively carried out;
 - (E) for dealing with the interests of any Person who, within such time and in such manner as the Tribunal may direct, objects to the Relevant Scheme;
 - (F) for the dissolution, without winding-up, of any firm concerned; or
 - (G) for the reduction, on such terms and subject to such conditions (if any) as it thinks fit, of the benefits payable under:
 - (i) any insurance policy, or
 - (ii) insurance policies generally, entered into by the firm concerned and transferred as a result of the Relevant Scheme.
- (2) An order to which Article 101(1) refers may-
- (A) transfer property or liabilities whether or not the transferor otherwise has the capacity to effect the transfer in question;
 - (B) make provision in relation to property which was held by the transferor as trustee;

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- (C) make provision as to future or contingent rights or liabilities of the transferor, including provision as to the construction of instruments under which such rights or liabilities may arise.
- (3) If an order to which Article 101(1) refers makes provision for the transfer of property or liabilities-
- (A) the property is transferred to and vests in; and
 - (B) the liabilities are transferred to and become liabilities of,
- the transferee as a result of the order.
- (4) If any property or liability included in the order is governed by the law of any country or territory outside the QFC, the order may require the transferor, if the transferee so requires, to take all necessary steps for securing that the transfer to the transferee of the property or liability is fully effective under the law of that country or territory.
- (5) Property transferred as the result of an order to which Article 101(1) refers may, if the Tribunal so directs, vest in the transferee free from any charge or security interest which is (as a result of the Relevant Scheme) to cease to have effect.

Article 102 - Independent Report

The Tribunal hearing an application in respect of a Relevant Scheme may, on application of the Regulatory Authority, appoint an independent Person appearing to the Tribunal to have the skills necessary to do so to report to the Regulatory Authority on such aspects of the Relevant Scheme as the Tribunal considers appropriate.

Article 103 - Modification

The Regulatory Authority may make Rules allowing for the disapplication or modification of the requirements set out in this Part either generally or in prescribed cases where it considers it appropriate to do so in accordance with the Regulatory Objectives.

PART 17: INVESTMENT FUNDS

Article 104 – Registration of Collective Investment Funds

- (1) The Regulatory Authority may make Rules relating to the registration by it of Collective Investment Funds.
- (2) Rules made by the Regulatory Authority under Article 104(1) may provide that all or certain categories of Collective Investment Fund may not be established or promoted in or from the QFC unless they have been registered.
- (3) Rules made by the Regulatory Authority under Article 104(1) may also include provisions as to:
 - (A) the constitution, management and operation of such Collective Investment Funds;
 - (B) the investment and borrowing powers of such Collective Investment Funds;
 - (C) the procedure for Application to the Regulatory Authority for registration of Collective Investment Funds;
 - (D) operating duties and responsibilities in respect of Collective Investment Funds;
 - (E) the registration of offering material or particulars and reporting requirements for Collective Investment Funds; and
 - (F) suspension of dealings in and termination of Collective Investment Funds.

Article 105 – Power to Make Directions in respect of Collective Investment Funds

- (1) The Regulatory Authority may give a direction under this Article if it appears to the Regulatory Authority that:
 - (A) in respect of a Collective Investment Fund registered under Article 104(1), one or more of the requirements under Rules made pursuant to Article 104(1) is no longer satisfied or is likely to be breached; or
 - (B) it is desirable to give such a direction in order to protect the interests of holders of Units or potential holders of Units in a registered Collective Investment Fund.
- (2) A direction under this Article may:
 - (A) (in the case of a Collective Investment Fund established in the QFC) require the Person or Persons responsible for the management or operation of a registered Collective Investment Scheme:
 - (i) to cease the issue or redemption of both the issue and redemption of Units in the Collective Investment Fund; or
 - (ii) to wind up the Collective Investment Fund;

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- (B) (in the case of any Collective Investment Fund registered under Article 104(1)) withdraw the Regulatory Authority's registration of that Collective Investment Fund;
or
 - (C) restrict or suspend promotion or sale of Units in a Collective Investment Fund.
- (3) Any direction pursuant to this Article may be referred to the Appeals Body by the Person or Persons referred to in Article 105(2)(A) or by the affected Collective Investment Fund.

PART 18: MISCELLANEOUS

Article 106 – Gaming Contracts

No contract the execution or performance of which constitutes a Regulated Activity shall be void or unenforceable by virtue of being, or having characteristics of, a wager or gaming contract.

Article 107 – Language of Communication and Documentation

- (1) All communications made to the Regulatory Authority in accordance with or pursuant to these Regulations shall be in English unless otherwise permitted by the Regulatory Authority.
- (2) All internal procedures, records or other documentation created or maintained by Authorised Firm or Approved Individuals as the Regulatory Authority shall determine shall be in English.

Article 108 – Notices and other Information provided to the Regulatory Authority

- (1) The Regulatory Authority may make Rules setting out:
 - (A) matters in respect of which notification must be given, or information provided to, the Regulatory Authority by Authorised Firms, Approved Individuals or other Persons;
 - (B) the form and content of such notifications and information;
 - (C) the means by which and time within which such notifications must be given or information provided;
 - (D) the means by which such notification or information shall be signed and executed or deemed to be signed and executed by or on behalf of such Authorised Firms, Approved Individuals or other Persons; or
 - (E) such ancillary requirements as the Regulatory Authority considers appropriate.
- (2) Article 108(1) is subject to Article 56 (Protected Items).
- (3) A Person providing information or documentation to the Regulatory Authority whether pursuant to the requirements of the QFC Law, these Regulations, the Rules, any Related Regulations, or voluntarily, will not be subject to any liability, nor any breach of duty by virtue of having done so provided that the Person has acted in good faith and in the reasonable belief that the information or documentation is relevant to any of the functions of the Regulatory Authority under the QFC Law or these Regulations, the Rules or such other Regulations.

PART 19: INTERPRETATION AND DEFINITIONS

Article 109 - 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 is, where the context permits, to any Person in respect of which the Regulatory Authority has jurisdiction under or pursuant to the QFC Law or these Regulations (or any other Related Regulations) or whose conduct or activities are or may be subject to the QFC Law or any such Regulations.
- (2) The headings in these Regulations shall not affect its interpretation.
- (3) A reference in these Regulations to a Schedule, an Article or a Part using a short form description of such 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.
- (4) 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.
- (5) A reference in an Article or other division or Schedule 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 or Schedule 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 reference 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.

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- (8) References to Chairman, Chief Executive Officer, Director General, director or similar expressions are, where the context permits, a reference to the Person holding that office from time to time.
- (9) The Regulatory Authority may by Rules restrict the meaning or scope of the expressions “Entity”, “Group”, “Parent Entity” or “Subsidiary” as applied in or pursuant to these Regulations.

Article 110 - Definitions

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

Actuary	an actuary referred to in Part 15 (Appointment of Auditors and Actuaries)
Administration	an administration under the Insolvency Regulations
Administrator	a Person appointed under the Insolvency Regulations to manage a Company’s affairs, business and property
Anti-Money Laundering Regulations or AML Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the prevention and detection of money laundering
Appeals Body	the Appeals Body of the QFC established pursuant to Article 8 of the QFC Law
Appeals Member	a member of the Appeals Body as provided by Schedule 5 of the QFC Law
Applicant	a Person submitting an Application (which in the case of an Application for approval of a Person as an Approved Individual under Part 7 of these Regulations (Individuals and Controlled Functions) shall be the Authorised Firm submitting the Application
Application	an application : (A) for an Authorisation, or variation or withdrawal of an Authorisation under Part 5 of these Regulations (Authorisation Requirements and Process); (B) for an approval of a Person as an Approved Individual under Part 7 of

these Regulations (Individuals and Controlled Functions);

- (C) for Guidance or a waiver (or revocation or variation of a waiver) of Rules;
- (D) for a QFCA Licence; or
- (E) for registration of a Collective Investment Fund under Part 17

as the context requires

Approved Individual

a Person approved by the Regulatory Authority for the purposes of performing one or more Controlled Functions on behalf of an Authorised Firm pursuant to Article 41

Associate

in relation to a Person holding shares in an Authorised Firm or a Parent Entity of an Authorised Firm, or entitled to exercise or control the exercise of voting power in an Authorised Firm or a Parent Entity of an Authorised Firm:

- (A) the spouse of that Person;
- (B) a child or stepchild of that Person;
- (C) the trustee of any settlement (including any disposition or arrangement under which property is held on trust (or subject to a comparable obligation) under which that Person has a life interest in possession);
- (D) an Entity of which that Person is a director;
- (E) an Entity in the same Group as that Person;
- (F) a Person who is an employee or partner of that Person;
- (G) if that Person is an Entity:
 - (i) a director of that Person;

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- (ii) a Subsidiary of that Person;
 - (iii) a director or employee of such Subsidiary; or
- (H) if that Person has with any other Person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in the Authorised Firm or a Parent Entity of the Authorised Firm or under which they undertake to act together in exercising their voting power in relation to the Authorised Firm or a Parent Entity of an Authorised Firm (other than where the only such agreement or arrangement to which they are party forms part of the constitutional documents of the Authorised Firm or, as the case may be, the Parent Entity)

Auditor	an auditor referred to in Part 13 (Appointment of Auditors and Actuaries)
Authorisation	an authorisation from the Regulatory Authority to carry on Regulated Activities in or from the QFC
Authorised Firm	a body corporate, partnership or unincorporated association which has been granted and continues to hold an Authorisation granted by the Regulatory Authority in accordance with Article 29 (Grant of Authorisation, variation or withdrawal and rejection of an Application)
Board	the Board of Directors of the QFC Authority
Chairman	(other than in Schedule 1 (Regulatory Authority) and Schedule 4 (Appeals Body)) the Chairman of the QFC Authority (in Schedule 1 (Regulatory Authority)) the Chairman of the Regulatory Authority (in Schedule 4 (Appeals Body)) the Chairman of the Appeals Body
Chief Executive Officer	the chief executive officer of the Regulatory Authority

Close Links

an Authorised Firm has close links with another Person if

- (A) that other Person is a Parent Entity of the Authorised Firm;
- (B) that other Person is a Subsidiary of the Authorised Firm;
- (C) that other Person is a Parent Entity of a Subsidiary of the Authorised Firm;
- (D) that other Person is a Subsidiary of a Parent Entity of the Authorised Firm;
- (E) that other Person owns or controls 20% or more of the voting rights or capital of the Authorised Firm; or
- (F) the Authorised Firm owns or controls 20% or more of the voting rights or capital of that other Person

Close Relative

in relation to a Person means

- (A) his spouse;
- (B) his children and step-children, his parents and step-parents, his brothers, his sisters, his half brothers and half sisters, and his step-brothers and step-sisters; and
- (C) the spouse of any person within (B)

Collective Investment Fund

has the meaning given to that term in paragraph 6 of Part 3 of Schedule 3

Companies Regulations

Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the incorporation of Companies and related requirements and procedures

Company

a company incorporated under the Companies Regulations

Company Arrangement

A composition with a Company's creditors in satisfaction of its debts which has been approved under the Insolvency Regulations

Confidential Information	<p>information of a confidential nature received by the Regulatory Authority in the exercise of its functions other than information:</p> <p>(A) which 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 19;</p> <p>(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</p>
Controller	a Person having or acquiring, either alone or together with one or more Associate(s), control (as described in Article 37(1)) over an Authorised Firm to which Article 34(2) relates
Controlled Function	a function in respect of which an individual is required to be an Approved Individual as more particularly described in Article 41
Controller Notice	a notice relating to a change in control of an Authorised Firm or Parent Entity of an Authorised Firm as required by Article 36
Council of Ministers	the Council of Ministers of the State
CRO	the Companies Registration Office established pursuant to Article 7 of the QFC Law
Decision Notice	a notice issued by the Regulatory Authority under Article 71 of these Regulations
Director General	the Director General of the QFC Authority
Entity	a body corporate or partnership or unincorporated association carrying on a trade or business with a view to profit
Establishment	the head office, a branch or permanent place of business of an Entity
Financial Communication	has the meaning set out in Article 80(2)
Financial Crime	the use of the Financial System for criminal, fraudulent or dishonest purposes including insider dealing, market abuse or handling the

	proceeds of crime
Financial System	the financial system operating in or from the QFC, including those matters to which these Regulations apply
Group	with respect to an Entity: <ul style="list-style-type: none"> (A) that Entity; (B) any Parent Entity of the Entity; and (C) any Subsidiary (direct or indirect) of that Entity or of any Parent Entity of that Entity
Guidance	guidance issued, or to be issued, by the Regulatory Authority under Article 17
Independent Person	means an independent person; <ul style="list-style-type: none"> (A) appointed by the Council of Ministers to undertake a review pursuant to paragraph 23 of Schedule 1; or (B) appointed by the Regulatory Authority to investigate and deal with complaints against the Regulatory Authority in accordance with paragraph 25 of Schedule 1
Insolvency Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to insolvency and related requirements and procedures
Insurer	a Person carrying on either or both of the Regulated Activities of Effecting a Contract of Insurance or Carrying Out a Contract of Insurance (as defined in Part 2 of Schedule 3)
Interested Parties	categories of Persons who may be affected by a Relevant Scheme under Part 16 (Control of Business Transfers) as determined from time to time by the Regulatory Authority
International Regulatory Association	an international or supranational association or forum of regulatory or governmental authorities or bodies or similar organisation

Investigator	a Person appointed to conduct an investigation under Part 8 (Supervision and Investigations)
Investment	a Share, Debt Instrument, Warrant, Securities Receipt, Unit in a Collective Investment Fund, Option, Future, or Contract for Differences (each as defined in Part 3 of Schedule 3)
Licence	a licence, approval or authorisation to operate in the QFC issued by the QFC Authority pursuant to Article 11.1 of the QFC Law
LLP	a limited liability partnership established under the LLP Regulations
LLP Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the establishment of LLPs
Long Term Insurer	<p>a Person carrying on either or both of the Regulated Activities of:</p> <p>(A) Effecting a Contract of Insurance that is a Long Term Insurance Contract; or</p> <p>(B) Carrying out a Contract of Insurance that is a Long Term Insurance Contract</p> <p>(as described in Part 2 of Schedule 3)</p>
Minister	the Minister of Economy and Commerce of the State
Nominated Person	a Person nominated or approved by the Regulatory Authority to undertake a report pursuant to Article 49
Non-Regulated Activities	activities which are not Regulated Activities
Overseas Regulator	a regulatory or governmental authority, body or agency in a jurisdiction outside the QFC (whether in the State or otherwise)
Parent Entity	<p>an Entity which, with respect to another Entity:</p> <p>(A) holds a majority of the voting rights in that other Entity;</p> <p>(B) is a member of that other Entity (whether direct or indirect, or through legal or beneficial entitlement) and has</p>

the right to appoint or remove a majority of the board of directors of that other Entity;

- (C) has the right to exercise a dominant influence over the management and operation of that other Entity through:
- (i) provisions contained in the constitutive documents of that other Entity; or
 - (ii) any contractual arrangement relating to the management and operation of that other Entity;
- (D) is a member of that other Entity (whether direct or indirect, or through legal or beneficial entitlement) and alone, or together with one or more Associate(s) holds a majority of the voting rights in that other Entity

or is a Parent Entity of any Entity which is a Parent Entity of that other Entity

Permitted Activities

the activities listed in Part 4 of Schedule 3 and described as such and designated by the Council of Ministers under Article 10(1) of the QFC Law

Person

includes a natural or legal person, body corporate, or body unincorporate, including a branch, company, partnership, unincorporated association or other undertaking, government or state

Principles of Good Regulation

the principles described in Article 13

Protected Item

a communication between a professional legal adviser and his client or any Person representing his client, which is made either in connection with the giving of legal advice to the client or in connection with, or in contemplation of, legal proceedings (including the exercise of powers by the Regulatory Authority under these Regulations, Appeals Body proceedings and proceedings before the Tribunal) and for the purposes of those proceedings

QFC	the Qatar Financial Centre
QFC Authority or QFCA	the Qatar Financial Centre Authority established pursuant to Article 3 of the QFC Law
QFC Entity	a Company incorporated under the Companies Regulations or an LLP incorporated under the LLP Regulations
QFC Institutions	the CRO, the Tribunal and any other institution or body created under Article 6 or Article 9 of the QFC Law
QFC Law	Law No. (7) of 2005 of the State
QFC Licensed Firm	an Entity which has been granted a Licence by the QFCA
Registrar	the Registrar of the Appeals Body as described in Schedule 4
Regulated Activities	has the meaning set out in Article 23
Regulations	Regulations enacted by the Minister in accordance with Article 9 of the QFC Law
Regulatory Authority	the Regulatory Authority of the QFC established pursuant to Article 8 of the QFC Law
Regulatory Authority Board	the board of Regulatory Authority as described in Schedule 1
Regulatory Objectives	the objectives of the Regulatory Authority set out in Article 12 of these Regulations
Related Regulations	any Regulations conferring powers, duties or functions on the Regulatory Authority or Persons specified in Article 19(1) (as the case may be) or with respect to which the Regulatory Authority or such Persons have powers, duties or functions (whether by virtue of delegation, assignment or otherwise)
Relevant Requirement	has the meaning set out in Article 84 (1)
Relevant Scheme	a transfer scheme described in Article 94(4) (Control of Business Transfers)

Rules	Rules made by the Regulatory Authority pursuant to the QFC Law, these Regulations or any other Regulation pursuant to which the Regulatory Authority has power to make rules, including, where the context permits, standards, principles and codes of practice
Scheme Report	a report on the terms of a Relevant Scheme in accordance with Part 16 of this Regulation (Control of Business Transfers)
Specified Activity	an activity set out in part 2 of Schedule 3
Specified Product	an Investment or other type of product set out in Part 3 of Schedule 3
State	the State of Qatar
Subsidiary	an Entity is a Subsidiary of another Entity if that other Entity is the Parent Entity of the first Entity
TDR Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the Tribunal and the resolution of disputes
Third Party	has the meaning given to it in Article 76(1)(A) (Third Parties Affected by Decision Notices)
Tribunal	the tribunal established or to be established pursuant to the TDR Regulations
Winding-up Resolution	a resolution for the voluntary winding-up of a Company made in accordance with the Insolvency Regulations

SCHEDULE 1: THE REGULATORY AUTHORITY

The following paragraphs set out and where appropriate elaborate on or extend the provisions in the QFC Law relating to the management, constitution, operation, powers and rights of the Regulatory Authority.

1. Background

- 1.1 The Regulatory Authority has been established by the QFC Law for the purposes of regulating, licensing and supervising banking, financial and insurance-related businesses carried on in or from the QFC. The precise activities to be regulated are set out in Schedule 3.
- 1.2 According to the QFC Law, these Regulations and any other Regulations defining the management, objectives, duties, functions, powers and constitution of the Regulatory Authority may only be enacted, varied or revoked with the consent of the Council of Ministers.
- 1.3 The Regulatory Authority has the power under the QFC law to prepare and submit to the Minister such Regulations (or amendments, modifications to or repeal of existing Regulations) as it shall deem appropriate to achieve its objectives or to aid it to implement, carry out and enforce its powers and functions from time to time, including provisions for the determination and payment of compensation and fines in the event of breach of, or as otherwise provided in, any such Regulations.
- 1.4 The Minister is required by the QFC Law, when seeking consent to the enactment of such Regulations from the Council of Ministers, to provide to the Council of Ministers a copy of the draft Regulations submitted by the Regulatory Authority together with the Minister's comments in relation to the same. In giving its consent, the Council of Ministers may require such changes, modifications or additions as it thinks fit. The consent of the Regulatory Authority is not required for such changes, modifications or additions to be made.
- 1.5 The Regulatory Authority has capacity to enter into contracts, to sue and be sued (subject to the immunity referred to in paragraph 11 below) and to own and lease assets of all types for the purpose of achieving its objectives.
- 1.6 The head office of the Regulatory Authority is required to be situated in the QFC.

2. Budget

- 2.1 According to the QFC Law, the Regulatory Authority has an independent budget and the laws of the State regarding the general budget of the State and its ministries do not apply to the Regulatory Authority's budget.
- 2.2 The Regulatory Authority is required to prepare a budget for its activities in respect of each financial year (as described in paragraph 7 below) and submit the budget to the Minister. The Minister is required by the QFC Law to transmit the budget to the Council of Ministers (with such comments, if any, as he sees appropriate) for approval.

3. **Funding**

Subject to the Regulatory Authority having complied with its obligations under paragraph 2.2 above, the State is required to provide adequate funding directly to the Regulatory Authority, independent from the budget of the QFC Authority and independent from its control. The Council of Ministers may direct the QFC Authority to provide funding out of its budget to the Regulatory Authority and also to provide support services, provided that it is satisfied that such arrangements will not compromise the independence of those bodies.

4. **Powers to raise revenues**

4.1 The powers of the Regulatory Authority to raise revenues in addition to funding granted by the State and to borrow money shall be as set out in paragraph 4.2.

4.2 In addition to funding granted to the Regulatory Authority by the State or by the QFC Authority where directed pursuant to paragraph 3, the Regulatory Authority shall be permitted to raise revenue to fund and finance its activities pursuant to or contemplated by the QFC Law or this Regulation in such ways as it deems appropriate including:

- (A) by such fees and charges in respect of the performance and exercise of its duties, functions and powers (including fees for Applications for licensing, authorisation or approval according to these Regulations) as the Regulatory Authority may from time to time prescribe in Rules;
- (B) through financial penalties and fines paid in accordance with these Regulations (whether pursuant to an order of the Tribunal or Appeals Body or otherwise to the extent consistent with policies to be approved by the Regulatory Authority Board from time to time with respect to the use of fines), or
- (C) such other sources of revenues as may be provided for in the QFC Law, these Regulations or any Related Regulations.

5. **Powers to borrow money**

5.1 Subject to the approval of the Council of Ministers for borrowings in excess of the equivalent of 15 million US dollars (or such other limit as the Council of Ministers may from time to time determine) the Regulatory Authority may borrow money (including money in a currency other than the currency of the State) for the purpose of achieving the Regulatory Objectives. Any monies borrowed by the Regulatory Authority under this Schedule and any interest accruing thereon may be secured by the revenue, funds or property of the Regulatory Authority.

5.2 Without prejudice to paragraph 6, the funds of the Regulatory Authority not immediately required for the purposes of expenditure may be invested by the Regulatory Authority in such investments as shall be authorised by the Regulatory Authority Board.

6. **Treatment of Surpluses**

6.1 Any surpluses of income over expenditure (whether budgeted for or not) realised by the Regulatory Authority may be retained by it, or returned to the State, as the Regulatory

Authority shall decide. Any such surpluses may also be applied to the repayment of any indebtedness incurred by the Regulatory Authority or to the creation of a general reserve and such other reserves as the Regulatory Authority Board may reasonably think fit.

- 6.2 The Regulatory Authority may invest its financial resources which are not immediately required in accordance with an investment policy approved in advance by the Regulatory Authority Board.

7. **Accounting Requirements - Financial Year**

The financial year of the Regulatory Authority shall commence on the first day of January and end on the last day of December each year, save that the first financial year 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.

8. **Accounts**

The Regulatory Authority is required by the QFC Law to keep accounting records which are sufficient to show and explain its transactions and are such as to disclose with reasonable accuracy at any time its income and expenditure and assets and liabilities and financial position. As soon as reasonably practicable after the end of each financial year, the Regulatory Authority is required to prepare accounts in accordance with internationally accepted accounting principles.

9. **Audit Requirement**

- 9.1 The Regulatory Authority is required to have its annual accounts audited by independent auditors, being a firm of chartered accountants with an office in the State. The auditors shall report as to whether the relevant accounts show a true and fair view of the financial affairs of the Regulatory Authority during the financial year in question and its assets and liabilities at the end of the year in question. The auditors shall report on such other matters as they may consider appropriate.

- 9.2 The Regulatory Authority shall as soon as reasonably practicable after the end of each financial year send to the Council of Ministers a copy of its audited accounts and a report of its activities and such further reports as the Council of Ministers may require.

- 9.3 The auditors shall have right of access at all reasonable times to all information held or controlled by the Regulatory Authority or any of its directors, officers, employees, agents or contractors reasonably required by the auditors for the purposes of preparing the report.

- 9.4 The Regulatory Authority and its directors, officers, employees, agents and contractors shall co-operate with the auditors in the performance of their duties under this Schedule and shall provide the auditors with such information and explanation as the auditors shall reasonably consider necessary.

10. **State Audit Bureau**

The Regulatory Authority shall be exempt from the control of the State audit bureau.

11. **Liability of the Regulatory Authority**

- 11.1 According to the QFC Law, the Regulatory Authority shall be responsible for any obligations or liabilities arising out of the conduct of its activities (subject to the immunity set out in the following paragraph) and the State shall have no liability for its acts or omissions.
- 11.2 The QFC Law also provides that, subject to the following paragraph, neither the Regulatory Authority, nor any members of the Regulatory Authority Board nor the holders of offices in the Regulatory Authority shall incur any civil liability in relation to any acts or omissions done or omitted to be done in good faith in carrying out or purporting to carry out their respective powers, duties or functions under or pursuant to the QFC Law, these Regulations or any Related Regulations.
- 11.3 Neither the Regulatory Authority nor any members of the Regulatory Authority Board, members or officers, are relieved from civil liability in connection with any commercial contract entered into by them.

12. **Constitution of the Board**

- 12.1 The Regulatory Authority is required by the QFC Law to have a board with a maximum of six board members, including a Chairman and a Chief Executive Officer, appointed by a decision of the Council of Ministers. The role of Chairman and Chief Executive Officer may be held by one individual for such period as the Council of Ministers may determine. The Regulatory Authority Board members are required to be Persons whom the Council of Ministers believes to have appropriate expertise in the regulation of banking, financial or insurance businesses.
- 12.2 No member of the Regulatory Authority Board may be a member of the Board or of the Appeals Body or be employed by the QFC Authority or the Appeals Body. Any member of the Regulatory Authority Board who becomes such a member or so employed shall automatically thereupon cease to be a member of the Regulatory Authority Board.
- 12.3 Except as otherwise provided below or in the QFC Law, the appointment of each member of the Regulatory Authority Board shall be for a period of three years which may be renewed. The level of remuneration of the Regulatory Authority Board members is to be determined by the Council of Ministers, except that the Regulatory Authority Board may determine the terms and conditions upon which any member of the Regulatory Authority Board is employed by the Regulatory Authority to carry out duties and functions in addition to his duties and functions as a member of the Regulatory Authority Board.

13. **Meetings**

- 13.1 The Chairman of the Regulatory Authority Board is required to fix the date, time and place of the first meeting of the Regulatory Authority Board no later than two months after the Regulatory Authority Board has been constituted.
- 13.2 The Regulatory Authority Board will hold as many meetings as may be necessary for the performance of its functions subject to meeting at least four times a year. Each Regulatory Authority Board member is required to be given at least two months advance

written notice of the time, date and place of such meeting provided that (1) telephone meetings may be convened on not less than forty eight hours advance written notice and (2) meetings may be held at shorter notice with the unanimous consent of all of the Regulatory Authority Board members.

- 13.3 The quorum for a meeting of the Regulatory Authority Board is four Regulatory Authority Board members.
- 13.4 Decisions of the Regulatory Authority Board at meetings are to be taken by majority vote, with each Regulatory Authority Board Member having one vote. A Regulatory Authority Board member may not vote at a meeting concerning a matter in which he has, directly or indirectly, an interest or duty which conflicts or may conflict with the interest of the Regulatory Authority. In the event of an equality of votes on any matter, the Chairman of the Regulatory Authority Board has a second or casting vote.
- 13.5 A resolution in writing signed by all the Regulatory Authority Board members entitled to receive notice of a meeting of the Regulatory Authority Board or of a committee of the Regulatory Authority Board will be as valid and effective as if it had been passed at a meeting of the Regulatory Authority Board or of that committee.
- 13.6 A meeting of the Regulatory Authority Board may be held by telephone, provided that the requirements as to notice and quorum described above are complied with.

14. **Proxies**

- 14.1 Any Regulatory Authority Board member may appoint any other Regulatory Authority Board member to represent him at any meeting of the Regulatory Authority Board and to vote for him thereat.

15. **Regulation and Removal of Directors**

- 15.1 Any member of the Regulatory Authority Board may at any time resign his office by giving not less than thirty days written notice to the Council of Ministers.
- 15.2 The Council of Ministers may remove any member of the Regulatory Authority Board on notice or with immediate effect if:
- (1) he has become incapable through ill-health of effectively performing the duties of his office;
 - (2) he is declared bankrupt; or
 - (3) he is convicted of a criminal offence or the Council of Ministers is satisfied that he has been guilty of serious misconduct which, in either case, in the opinion of the Council of Ministers, is of a nature which warrants his removal from office.

16. **Chief Executive Officer**

- 16.1 The Chief Executive Officer of the Regulatory Authority is to be appointed by the Regulatory Authority Board from amongst the members of the Regulatory Authority Board

and will be responsible to the Regulatory Authority Board for the day to day administration and operation of the Regulatory Authority to the extent authorised and empowered by the Regulatory Authority Board from time to time. Pending, and subject to, such determination by the Regulatory Authority Board, the Chief Executive Officer may undertake all functions relating to the day-to-day administration and operation of the Regulatory Authority subject, for the avoidance of doubt, to those matters specifically reserved to the Regulatory Board or a committee of the Regulatory Board under paragraph 19.

- 16.2 The Chief Executive Officer is required to make such reports to the Regulatory Authority Board regarding his activities and the operation of the Regulatory Authority as the Regulatory Authority Board may require and without prejudice to the foregoing is required in any event to provide a written report to the Regulatory Authority Board on such matters on a quarterly basis.
- 16.3 In the event that the Chairman and/or Chief Executive Officer is appointed by the Council of Ministers prior to the appointment of the remainder of the Regulatory Authority Board, then the Chairman and/or Chief Executive Officer is required to consult with the Minister prior to entering into major commitments on behalf of the Regulatory Authority until such time as the Regulatory Authority Board is quorate.

17. Duties and Powers of the Regulatory Authority Board

- 17.1 The Regulatory Authority shall have the powers and exercise the duties and functions conferred on it by the QFC Law and these Regulations and any Related Regulations enacted from time to time pursuant to the QFC Law.
- 17.2 Except as otherwise provided by the QFC Law or these Regulations, the Regulatory Authority is to be managed by the Regulatory Authority Board. The powers, duties and functions of the Regulatory Authority Board shall include:
- (1) laying down general policies and plans for the Regulatory Authority;
 - (2) proposing and submitting Regulations as described in paragraph 1.3 of this Schedule;
 - (3) ensuring the Regulatory Authority is run in accordance with the Regulatory Objectives and the Principles of Good Regulation;
 - (4) providing all infrastructure, personnel, services and support as may be needed for the purposes of this paragraph 17.2;
 - (5) arranging for the proper administration and operation of the Regulatory Authority and the delegation of powers to the Chairman and Chief Executive Officer in this regard as it thinks appropriate;
 - (6) preparing in each year the budget of the Regulatory Authority and submitting the same to the Minister as described in paragraph 2 of this Schedule;
 - (7) determining policies for the investment of surplus funds in accordance with paragraph 5.2 subject to paragraph 6 of this Schedule (Treatment of Surpluses)

and ensuring the funds received by it are spent in such manner as to deliver its objectives;

- (8) reporting to the Council of Ministers on the activities of the Regulatory Authority as required by the QFC Law and these Regulations; and
- (9) exercising all the other powers and perform all the other duties and pursuing and endeavouring to achieve all the other Regulatory Objectives as provided by or contemplated by the QFC Law and these Regulations.

17.3 The validity of any act of the Regulatory Authority will not be affected by a vacancy in the office of Chairman or Chief Executive Officer of the Regulatory Authority Board or by a defect in the appointment of such a Person.

18. Delegation

18.1 The Regulatory Authority Board may delegate any of its powers to any committee of the Regulatory Authority Board consisting of two or more Regulatory Authority Board members, and may establish the regulations to govern proceedings and meetings of such committee.

18.2 A committee may create working advisory groups (or similar) and co-opt such ex-officio members on to such groups as it thinks appropriate.

19. Restrictions on Delegation

19.1 The following may not be delegated by the Regulatory Authority Board:

- (1) approving the annual accounts of the Regulatory Authority;
- (2) approving the annual report of the Regulatory Authority and otherwise approving reports to the Council of Ministers on the activities of the Regulatory Authority as required by the QFC Law and these Regulations;
- (3) approving the policy of the Regulatory Authority with respect to fees and penalties;
- (4) approving the annual budget of the Regulatory Authority;
- (5) approving regulations to be proposed to the Minister for approval by the Council of Ministers as described in paragraph 1.3 of this Schedule;
- (6) issuing Rules on behalf of the Regulatory Authority; and
- (7) issuing Decision Notices pursuant to Part 10 except as provided in paragraph 19.3.

19.2 The following matters may be delegated to a committee of the Regulatory Authority Board and must be approved by such committee (unless approved by the Regulatory Authority Board):

- (1) approving Guidance of general application; and

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- (2) issuing Decision Notices to the extent permitted by paragraph 19.3.

19.3 Decision Notices may be issued by:

- (1) a committee of the Regulatory Authority Board, or
- (2) Chief Executive Officer (or, to the extent permitted by internal procedures of the Regulatory Authority, other executive officers of the Regulatory Authority)

to the extent they relate to routine matters or minor contraventions within the meaning of and treated in accordance with policies issued and approved by the Regulatory Authority Board from time to time.

19.4 The Regulatory Authority may delegate to a non executive committee of the Regulatory Authority Board:

- (1) reviewing the performance of the Chief Executive Officer;
- (2) keeping under review compliance by the Regulatory Authority Board with the Regulatory Objectives and the Principles of Good Regulation; and
- (3) keeping under review the sufficiency and effectiveness of the Regulatory Authority's internal financial controls.

20. **Status**

20.1 All members of the Regulatory Authority Board and all employees of, and Persons acting under the direction of the Regulatory Authority shall be deemed to be public officers/servants for the purposes of Criminal Law No. 11 of 2004 of the State.

21. **Records**

21.1 The Regulatory Authority must maintain appropriate arrangements for:

- (1) recording decisions made in the exercise of its functions; and
- (2) the safekeeping of those records which it would be appropriate to record in accordance with the Regulatory Objectives.

21.2 Records created pursuant to paragraph 21.1 must be maintained for at least six years

22. **Reports**

22.1 The Regulatory Authority is required to comply with the following reporting requirements:

- (1) to provide a copy of its audited accounts and report of its auditors to the Council of Ministers as described in paragraph 9 of this Schedule.
- (2) to provide an annual report to the Council of Ministers within four months of the end of each financial year reviewing the activities of the Regulatory Authority

throughout that year and the extent to which, in its opinion, the Regulatory Objectives have been met and the Principles of Good Regulation complied with and to make such report available for public inspection in such manner as the Regulatory Authority considers appropriate; and

- (3) to provide such other reports to the Council of Ministers on the activities of the Regulatory Authority at such frequency and in such manner as the Council of Ministers may determine (all such reports to be copied to the Minister for review and comment).

23. Reviews

- 23.1 The Council of Ministers may appoint a suitably qualified Independent Person to conduct a review of the economy, efficiency and effectiveness with which the Regulatory Authority has used its resources in discharging its functions (either as a whole or in respect of specified functions).
- 23.2 The review must be in writing and set out such recommendations (if any) considered appropriate by the Person undertaking the review.
- 23.3 The Council of Ministers shall be entitled to publish such review, or a summary of it, in such manner as it thinks appropriate in the public interest.
- 23.4 The costs and expenses of the review and report shall be borne by the State.
- 23.5 The Independent Person shall have access at all reasonable times to documents or information held by or on behalf of the Regulatory Authority on prior notice and shall be entitled to require from the directors, officers or employees of the Regulatory Authority, or other Persons holding or accountable for such documents or information, such information and explanations as the Independent Person shall reasonably require.
- 23.6 The Persons referred to in paragraph 23.5 shall co-operate with the requirements of the Independent Person in the exercise of powers and duties under this paragraph.

24. Inquiries

- 24.1 The Council of Ministers may arrange for an independent inquiry to be undertaken where it believes that there may have been a serious failure in the operation of the Financial System (or parts of it) posing a significant risk to the QFC or the Regulatory Objectives and it is in the public interest to hold such an inquiry.
- 24.2 The inquiry undertaken under paragraph 24.1 can relate to such matters as may be specified by the Council of Ministers and shall be undertaken in such way and subject to such interim reporting requirements, as the Council of Ministers shall determine.
- 24.3 The Person undertaking the inquiry must make a written report to the Council of Ministers in writing setting out such recommendations as he considers appropriate.
- 24.4 The Person undertaking the inquiry shall be entitled to require from any Person who, in his opinion, is able to provide any information, or explanations, or produce any document

which is relevant to the inquiry, to provide any such information or explanation or produce any such document.

24.5 The Persons referred to in paragraph 24.4 shall co-operate with the requirements of the Person undertaking the inquiry in the exercise of powers and duties under this paragraph 24.

24.6 On conclusion of the inquiry, the Person undertaking the inquiry shall make a written report to the Council of Ministers with such recommendations (if any) which he considers appropriate.

24.7 The Council of Ministers shall be entitled to publish such report or a summary of it, in such manner as it thinks appropriate in the public interest.

25. **Complaints against the Regulatory Authority**

25.1 The Regulatory Authority must make arrangements for the prompt, efficient, impartial and independent investigation of complaints made against it arising out of the exercise, or failure to exercise, any of its functions (other than the formulation of regulatory policy, Rules and Guidance and proposing Regulations as described in paragraph 1.3 of this Schedule).

25.2 For the purposes of paragraph 25.1, the Regulatory Authority shall appoint an Independent Person on such terms as the Regulatory Authority considers appropriate to investigate and deal with any complaints made against the Regulatory Authority which are not promptly and satisfactorily dealt with by the Regulatory Authority.

25.3 The Regulatory Authority shall not be obliged to investigate or arrange for the investigation of:

- (1) any complaint which it reasonably considers would be more appropriately dealt with in another way (for example by the Appeals Body or the Tribunal);
- (2) any complaint about the Regulatory Authority's relationship with its employees;
- (3) any complaint connected with contractual or commercial disputes involving the Regulatory Authority and not connected with its regulatory function;
- (4) any complaint relating to the role of the Regulatory Authority in recommending or commenting on proposed regulations or regulatory policy, the making of Rules and the issuing of Guidance and waivers; and
- (5) complaints which the Regulatory Authority reasonably considers to be frivolous or to amount to no more than a dissatisfaction with its general policies or with the exercise of, or failure to exercise, a discretion where no unreasonable, unprofessional or other misconduct is alleged.

25.4 Subject to paragraph 25.5, the Independent Person shall be entitled to publish such details of its findings in respect of complaints made against the Regulatory Authority as it thinks appropriate.

25.5 The details published by the Independent Person pursuant to paragraph 25.4 shall not disclose the name of any Person (other than the Regulatory Authority) or contain particulars which are likely to identify any such Person unless in the opinion of the Independent Person:

- (A) the omission of such particulars would be likely to materially impair the effectiveness of the details published, or
- (B) it is necessary in the overriding interest of the public to do so, taking into account the interests of any other Person referred to in this paragraph.

SCHEDULE 2: OTHER DUTIES, FUNCTIONS AND POWERS CONFERRED ON THE REGULATORY AUTHORITY

1. General

- 1.1 The Regulatory Authority may undertake such duties, functions and powers as may be lawfully vested, assigned or delegated in or to it pursuant to any Regulations from time to time.
- 1.2 For the avoidance of doubt, the duties, functions and powers of the Regulatory Authority under Parts 8-10 of the Regulations shall (where appropriate and unless otherwise stated in the Regulations or instrument effecting such vesting, assignment or delegation) apply equally in respect of the duties, functions and powers vested, assigned or delegated in or to the Regulatory Authority pursuant to paragraph 1.1.

2. Money Laundering

- 2.1 All duties, functions and powers relating to monitoring, supervision and investigation, enforcement and related powers in respect of Regulations enacted or to be enacted in relation to the prevention and detection of money laundering (including responsibility for overseeing compliance by Persons to whom such Regulations apply with the provisions of such Regulations) are hereby vested in the Regulatory Authority.
- 2.2 For the avoidance of doubt, the duties, functions and powers of the Regulatory Authority under Parts 8-10 of these Regulations shall (where appropriate) apply equally in respect of the duties, functions and powers vested in the Regulatory Authority pursuant to paragraph 2.1.

3. Insolvency

3.1 General

- (1) Paragraph 3 does not have effect until the coming into force of the Insolvency Regulations.
- (2) Upon the coming into force of the Insolvency Regulations, the general law of insolvency contained in the Insolvency Regulations and any analogous Regulations enacted from time to time relating to Companies or other types of entity (including provisions relating to branches or establishments of overseas entities in the QFC), has effect subject to the duties, functions and powers conferred on the Regulatory Authority under paragraph 3 (which, in the case of the analogous Regulations described above, shall apply *mutatis mutandis*).
- (3) Words used in paragraph 3, not otherwise defined in these Regulations, have the meanings given to them in the Insolvency Regulations.

3.2 Company Arrangements

(1) Regulatory Authority's powers to participate in proceedings: Company Arrangement

- (A) Paragraph 3.2(1) applies in respect of a Company which is an Authorised Firm and is subject to a Company Arrangement.
- (B) The Regulatory Authority, being dissatisfied by any act, omission or decision of the supervisor of a Company Arrangement, may make an application to the Tribunal in relation to the Company under the relevant Article of the Insolvency Regulations.
- (C) If a Person other than the Regulatory Authority makes an application referred to in paragraph 3.2(1)(B) to the Tribunal in relation to the Company, the Regulatory Authority shall be served with notice of the application and is entitled to be heard at any hearing relating to the application.

3.3 Administration

(1) Applications

- (A) The Regulatory Authority may apply to the Tribunal for an Administration order in relation to a Company which:
 - (i) is, or has been, an Authorised Firm; or
 - (ii) is carrying on, or has carried on, a Regulated Activity in contravention of the QFC Law.
- (B) Paragraph 3.3(1)(C) applies to a Company in respect of which an application is made by the Regulatory Authority under this paragraph 3.3(1).
- (C) If the Company is in default on an obligation to pay a sum due and payable under an agreement the making or performance of which constitutes or is part of a Regulated Activity carried on by the Company, it is to be treated for the purpose of making an Administration order as unable to pay its debts.

(2) Insurers

- (A) The Regulatory Authority may by Rules provide that such provisions of the Insolvency Regulations relating to Administration as may be specified are to apply in relation to Insurers with such modifications as may be specified.
- (B) A Rule under this paragraph 3.3(2):
 - (i) may provide that such provisions of paragraph 3 as may be specified are to apply in relation to the Administration of Insurers in

accordance with the Rule with such modifications as may be specified; and

(ii) requires the consent of the Regulatory Authority.

(C) For the purposes of this paragraph 3.3(2) "specified" means specified in the Rule made under paragraph 3.3(2)(A).

(3) Administrator's duty to report to Regulatory Authority

If:

(A) a Company is in Administration by virtue of an application or an appointment made by a Person other than the Regulatory Authority; and

(B) it appears to the Administrator that the Company is carrying on, or has carried on, a Regulated Activity in contravention of the QFC Law

the Administrator must report the matter to the Regulatory Authority without delay.

(4) Regulatory Authority's powers to participate in proceedings

(A) Paragraph 3.3(4) applies if a Person other than the Regulatory Authority makes an Administration application to the Tribunal or appoints an Administrator under the Insolvency Regulations in relation to a Company which:

(i) is, or has been, an Authorised Firm; or

(ii) is carrying on, or has carried on, a Regulated Activity in contravention of the QFC Law.

(B) The Regulatory Authority shall be served with notice of the application or notice of intention to appoint and is entitled to be heard:

(i) at the hearing of the application; and

(ii) at any other hearing of the Tribunal in relation to the Company under the Insolvency Regulations.

(C) Any notice or other document required to be sent to a creditor of the Company must also be sent to the Regulatory Authority.

(D) The Regulatory Authority, believing that the Administrator is managing, or proposes to manage, the Company's affairs in a manner which is unfairly prejudicial, may apply to the Tribunal under the relevant Article of the Insolvency Regulations.

(E) The Regulatory Authority may appoint a representative:

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- (i) to attend any meeting of creditors of the Company summoned under any enactment;
 - (ii) to attend any meeting of a creditors' committee established in relation to the Company; and
 - (iii) to make representations as to any matter for decision at such a meeting.

3.4 Voluntary Winding Up

(1) Regulatory Authority's powers to participate in proceedings

- (A) Paragraph 3.4(I) applies in relation to a Company which:
 - (i) is being wound up voluntarily;
 - (ii) is an Authorised Firm; and
 - (iii) is not a Long Term Insurer.
- (B) The Regulatory Authority shall be served with notice of any application to the Tribunal in relation to the voluntary winding-up of the Company and is entitled to be heard at any hearing of the application.
- (C) Any notice or other document required to be sent to a creditor of the Company must also be sent to the Regulatory Authority.
- (D) The Regulatory Authority may appoint a representative:
 - (i) to attend any meeting of creditors of the Company summoned under the Insolvency Regulations;
 - (ii) to attend any meeting of a creditors' committee established in relation to the Company; and
 - (iii) to make representations as to any matter for decision at such a meeting.
- (E) The voluntary winding-up of the Company does not bar the right of the Regulatory Authority to have it wound up by the Tribunal.

3.5 Insurers

(1) Long Term Insurers

- (A) A Long Term Insurer may not be wound up voluntarily without the consent of the Regulatory Authority.
- (B) If notice of a general meeting of a Long Term Insurer is given, specifying the intention to propose a Winding-up Resolution of the Long Term Insurer,

a director of the Long Term Insurer must notify the Regulatory Authority as soon as practicable after he becomes aware of it.

- (C) A Person who fails to comply with paragraph 3.4(1)(B) shall be liable to a fine.
- (D) A Long Term Insurer that passes a Winding-up Resolution must forward a copy of that Winding-up Resolution to the Registrar, accompanied by a certificate issued by the Regulatory Authority stating that it consents to the voluntary winding-up of the Long Term Insurer.
- (E) If paragraph 3.4(1)(D) is complied with, the voluntary winding-up is to be treated as having commenced at the time the resolution was passed.
- (F) If paragraph 3.4(1)(D) is not complied with, the resolution has no effect.

3.6 Compulsory Winding-Up

(1) Winding-up applications

- (A) The Regulatory Authority may apply to the Tribunal for the winding up of a Company which:
 - (i) is, or has been, an Authorised Firm; or
 - (ii) is carrying on, or has carried on, a Regulated Activity in contravention of the QFC Law.
- (B) On such an application, the Tribunal may wind up the Company if:
 - (i) the Company is unable to pay its debts within the meaning of the Insolvency Regulations; or
 - (ii) the Tribunal is of the opinion that it is just and equitable that it should be wound up.
- (C) If a Company is in default on an obligation to pay a sum due and payable under an agreement the making or performance of which constitutes or is part of a Regulated Activity carried on by the Company concerned, it is to be treated for the purpose of paragraph 3.6(1)(B)(i) as unable to pay its debts.

(2) Insurers: service of application on Regulatory Authority

- (A) If a Person other than the Regulatory Authority makes an application for the winding-up of an Insurer, the applicant must serve a copy of the application on the Regulatory Authority.
- (B) If a Person other than the Regulatory Authority applies to have a provisional liquidator appointed under the Insolvency Regulations in respect of an Insurer, the applicant must serve a copy of the application on the Regulatory Authority.

(3) **Liquidation's duty to report to Regulatory Authority**

If:

- (A) a Company is being wound up voluntarily or a body is being wound up on an application made by a person other than the Regulatory Authority; and
- (B) it appears to the liquidator that the Company or body is carrying on, or has carried on, a Regulated Activity in contravention of the QFC Law,

the liquidator must report the matter to the Regulatory Authority without delay.

(4) **Regulatory Authority's powers to participate in proceedings**

- (A) Paragraph 3.6(4) applies if a Person other than the Regulatory Authority makes an application for the winding-up of a Company which:
 - (i) is, or has been, an Authorised Firm; or
 - (ii) is carrying on, or has carried on, a Regulated Activity in contravention of the QFC Law.
- (B) The Regulatory Authority shall be served with notice of the application and is entitled to be heard:
 - (i) at the hearing of the application; and
 - (ii) at any other hearing of the Tribunal in relation to the Company under or by virtue of the Insolvency Regulations.
- (C) Any notice or other document required to be sent to a creditor of the Company must also be sent to the Regulatory Authority.
- (D) The Regulatory Authority may appoint a representative:
 - (i) to attend any meeting of creditors of the Company;
 - (ii) to attend any meeting of a creditors' committee established in relation to the Company; and
 - (iii) to make representations as to any matter for decision at such a meeting.

3.7 Provisions Against Debt Avoidance

(1) **Regulatory Authority's right to apply for an order**

- (A) The Regulatory Authority may apply for an order in respect of a transaction at an undervalue in relation to a Company if:

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- (i) at the time the transaction at an undervalue was entered into, the Company was carrying on a Regulated Activity (whether or not in contravention of the QFC Law); and
 - (ii) a creditor of the Company is or was party to an agreement entered into with the Company, the making or performance of which constituted or was part of a Regulated Activity carried on by the Company.
- (B) An application made under paragraph 3.7(1) is to be treated as made on behalf of every creditor to whom paragraph 3.7(1)(A)(ii) applies.

3.8 Supplemental Provisions Concerning Insurers

(1) Continuation of contracts of Long Term Insurance Contracts where Long Term Insurer is in liquidation

- (A) Paragraph 3.8(1) applies in relation to the winding-up of a Long Term Insurer.
- (B) Unless the Tribunal otherwise orders, the liquidator must carry on the Insurer's business so far as it consists of Carrying Out Contracts of Insurance which are Long Term Insurance Contracts with a view to its being transferred as a going concern to a Person who may lawfully carry out those contracts.
- (C) In carrying on the business, the liquidator:
 - (i) may agree to the variation of any Contracts of Insurance in existence when the winding-up order is made; but
 - (ii) must not effect any new Contracts of Insurance.
- (D) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the Insurer attributable to Long Term Insurance Contracts effected by the Insurer require the appointment of a special manager, he may apply to the Tribunal.
- (E) On such an application, the Tribunal may appoint a special manager to act during such time as the Tribunal may direct.
- (F) The special manager is to have such powers as the Tribunal may direct.
- (G) If the Tribunal thinks fit, it may reduce the value of one or more of the Long Term Insurance Contracts effected by the Insurer.
- (H) Any reduction is to be on such terms and subject to such conditions (if any) as the Tribunal thinks fit.

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- (I) The Tribunal may, on the application of an official, appoint an independent actuary to investigate the Insurer's business so far as it consists of carrying out its Long Term Insurance Contracts and to report to the official:
 - (i) on the desirability or otherwise of that part of the Insurer's business being continued; and
 - (ii) on any reduction in the Long Term Insurance Contracts effected by the Insurer that may be necessary for successful continuation of that part of the Insurer's business.
 - (J) For the purposes of paragraph 3.8(1) "official" means:
 - (i) the liquidator;
 - (ii) a special manager appointed under paragraph 3.8(1)(E); or
 - (iii) the Regulatory Authority.

(2) Reducing the value of contracts instead of winding-up

- (A) This paragraph 3.8(2) applies in relation to an Insurer which has been proved to be unable to pay its debts.
- (B) If the Tribunal thinks fit, it may reduce the value of one or more of the Insurer's contracts instead of making a winding-up order.
- (C) Any reduction is to be on such terms and subject to such conditions (if any) as the Tribunal thinks fit.

(3) Treatment of assets on winding-up

- (A) The Regulatory Authority may by Rules provide for the treatment of the assets of an Insurer on its winding-up.
- (B) The Rules may, in particular, provide for:
 - (i) assets representing a particular part of the Insurer's business to be available only for meeting liabilities attributable to that part of the Insurer's business; and
 - (ii) separate general meetings of the creditors to be held in respect of liabilities attributable to a particular part of the Insurer's business.
- (C) Regulations made under this paragraph 3.8(3) may include provision:
 - (i) for determining the amount of the liabilities of an Insurer to policyholders of any class or description for the purpose of proof in a winding-up; and

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- (ii) generally for carrying into effect the provisions of paragraph 3 with respect to the winding up of Insurers:
- (D) Regulations made under paragraph 3.8(3) may, in particular, make provision for all or any of the following matters:
- (i) the identification of assets and liabilities;
 - (ii) the apportionment, between assets of different classes or descriptions, of:
 - (a) the costs, charges and expenses of the winding-up; and
 - (b) any debts of the Insurer of a specified class or description;
 - (iii) the determination of the amount of liabilities of a specified description;
 - (iv) the application of assets for meeting liabilities of a specified description;
 - (v) the application of assets representing any excess of a specified description.
- (E) For the purposes of paragraph 3.8(3) "specified" means specified in Rules made under paragraph 3.8(3).

SCHEDULE 3: REGULATED ACTIVITIES AND PERMITTED ACTIVITIES

Part 1: Exemptions

An activity will not constitute Regulated Activities for the purposes of these Regulations if it falls within one or more of the categories set out in the following paragraphs.

1. Group Exemption

The Group Exemption applies to an activity other than Effecting a Contract of Insurance or Carrying Out a Contract of Insurance carried on with or for Persons within the same Group as the Person undertaking that activity.

2. Joint Venture Exemption

2.1 The Joint Venture Exemption applies to an activity other than Effecting a Contract of Insurance or Carrying Out a Contract of Insurance carried on by a Person if that Person and all the Persons with or for whom it is carrying on such activity are, or propose to become, participants in a joint venture where the activity is carried on for the purposes of, or in connection with that joint venture.

2.2 For the purposes of paragraph 2.1:

- (1) a joint venture means an enterprise into which two or more Persons enter for commercial purposes relating to a business carried on by them (provided that that business is not the business of engaging in a Regulated Activity); and
- (2) the term “a participant in a joint venture” is to be regarded as including (1) a person who is within the same Group as a participant in that joint venture; and (2) the joint venture vehicle.

3. Trustee Exemption

The Trustee Exemption applies to an activity which:

3.1 is carried on by a bare trustee on the instructions of a beneficiary; and

3.2 would not constitute a Regulated Activity if that activity were carried on by that beneficiary provided that the trustee is not separately remunerated for carrying on that activity.

4. Professional Business Exemption

4.1 The Professional Business Exemption applies to the activities of Arranging Deals in Investments, Arranging Credit Facilities, Arranging the Provision of Custody Services and Advising on Investments where the activity in question:

- (1) is carried on in the course of a professional business that does not otherwise consist of the carrying on of a Regulated Activity; and

(2) is a necessary part of that profession or business

provided the Person carrying on the activity is not separately remunerated for carrying on that activity.

4.2 For the purposes of paragraph 4.1 a professional business is the business of providing legal, actuarial or accounting services.

5. Sale of Body Corporate Exemption

5.1 The Sale of Body Corporate Exemption applies to the activity of Dealing in Investments where the activity in question constitutes the sale of shares in a body corporate by a qualifying transferor to a qualifying transferee such that on completion of the sale, the qualifying transferee holds 50% or more of the voting shares in that body corporate or may reasonably be regarded as having acquired day to day control of the affairs of that body corporate.

5.2 The Sale of Body Corporate Exemption applies to the activities of Advising on Investments, Arranging Deals in Investments and Arranging Credit Facilities where the advice or arrangements are made in connection with a sale of the kind described in paragraph 5.1.

5.3 To qualify for the purposes of paragraph 5.1 the transferor and the transferee must be:

(1) a body corporate, a partnership or an individual; or

(2) a group comprised of individuals each of whom is a director or manager of the body corporate (or in the case of a transferee will, immediately following the sale be a director or manager of the body corporate) or a Close Relative of any such individuals and the trustees of any such individuals.

6. Employee Share Scheme Exemption

The Employee Share Scheme Exemption applies to the activities of Dealing in Investments, Providing Custody Services, Arranging the Provision of Custody Services, Arranging Deals in Investments and Advising on Investments where

6.1 the purpose of the activity in question is to facilitate the participation by employees, directors, former employees or former directors of a body corporate in Shares of that body corporate or Shares of a member of the same Group as that body corporate or other Investments whose price is linked to such Shares; and

6.2 the activity in question is carried out by the body corporate or a member of the same Group as that body corporate.

7. Special Purpose Vehicle Exemption

7.1 Subject to paragraph 7.2, the Special Purpose Vehicle Exemption applies to activities carried on by an Entity having the characteristics of a project finance special purpose

vehicle in relation to any financing or related activities (including the procurement of insurance) undertaken by that Entity;

7.2 The Regulatory Authority may make Rules specifying:

- (1) the types of Entity which will be deemed to have the characteristics of a project finance special purpose vehicle for the purposes of paragraph 7.1;
- (2) the types of financing or related activities (including the procurement of insurance) to which the Special Purpose Vehicle Exemption applies; and
- (3) in respect of any activity specified in sub-paragraph (2), the circumstances in which the Special Purpose Vehicle Exemption will apply.

8. Collective Investment Funds Exemption

The Collective Investment Funds Exemption applies to the activity of Dealing in Investments where that activity is carried on by a Collective Investment Fund in the circumstances and to the extent so provided in Rules made by the Regulatory Authority.

Part 2: Specified Activities

An activity is a Specified Activity for the purposes of Article 23(1)(A) of these Regulations if it falls within one of the descriptions set out in the following paragraphs and does not fall within the scope of any of the exclusions set out in that paragraph.

1. Deposit Taking

1.1 Activity

Deposit Taking is the activity of accepting money received as a Deposit if:

- (1) that money is lent to others; or
- (2) any other activity of the Person accepting the deposit is financed wholly, or to a material extent, out of the capital of or interest on that money.

1.2 Exclusions

There are no specific exclusions for this activity.

2. Effecting a Contract of Insurance

2.1 Activity

Effecting a Contract of Insurance is the activity of effecting a Contract of Insurance as Principal.

2.2 Exclusions

There are no specific exclusions for this activity.

3. Carrying out a Contract of Insurance

3.1 Activity

Carrying out a Contract of Insurance is the activity of carrying out a Contract of Insurance as Principal.

3.2 Exclusions

There are no specific exclusions for this activity.

4. Dealing in Investments

4.1 Activity

Dealing in Investments is:

- (1) the activity of buying, selling, subscribing for or underwriting Investments or agreeing to do so, either as a principal or as an agent; or
- (2) the activity of buying, selling, underwriting or entering into a Contract of Insurance as agent or agreeing to do so.

4.2 Exclusions

The following activities are excluded from the Specified Activity of Dealing in Investments:

- (1) the issue by a body corporate of its own Shares or Debentures or of its own Share Warrants or Debenture Warrants; and
- (2) the acceptance by a Person of an Instrument Creating or Acknowledging Indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which that Person has made, granted or provided.

5. Arranging Deals in Investments

5.1 Activity

Arranging Deals in Investments is the activity of making, or agreeing to make arrangements with a view to another Person buying, selling, subscribing for or underwriting an Investment or Contract of Insurance.

5.2 Exclusions

- (1) The making by a Person of arrangements with a view to the following are excluded from the Specified Activity of Arranging Deals in Investments:
 - (A) a transaction, contract or facility to which that Person is to be a party either as principal or as agent for another Person;
 - (B) the issue by a body corporate of its own Shares or Debentures or of its own Share Warrants or Debenture Warrants;
 - (C) the acceptance by a Person of an Instrument Creating or Acknowledging Indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which that Person has made, granted or provided; and
 - (D) the provision of finance to enable a Person to buy, sell, subscribe for or underwrite Investments.

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- (2) A Person does not carry on the Specified Activity of Arranging Deals in Investments merely by providing the means by which one party to a transaction is able to communicate with other parties to such a transaction.

6. Providing Credit Facilities

6.1 Activity

Providing Credit Facilities is the activity of providing a Credit Facility to another Person.

6.2 Exclusions

A Person does not carry on the Specified Activity of Providing Credit Facilities if the Credit Facility is to be provided by a Regulated Firm in the course of carrying on once or more of the following activities:

- (1) Dealing in Investments;
- (2) Arranging Deals in Investments;
- (3) Managing Investments;
- (4) Operating a Collective Investment Fund; or
- (5) Provision of Custody Services.

7. Arranging Credit Facilities

7.1 Activity

Arranging Credit Facilities is the activity of arranging for the Provision of a Credit Facility by one or more Persons.

7.2 Exclusions

A Person will not carry on the Specified Activity of Arranging Credit Facilities if:

- (1) he is to be a party to the Provision of Credit Facilities in question; or
- (2) he merely provides the means by which a Person providing a Credit Facility communicates with the Person to whom the Credit Facility is or is to be provided.

8. Providing Custody Services

8.1 Activity

- (1) Providing Custody Services is the activity of both safeguarding and administering assets belonging to another which consist of or include Investments or Long Term Insurance Contracts or agreeing to do so.

(2) For the purposes of paragraph (1) the following activities do not constitute administering assets:

- (A) providing information as to the number of units or the value of any assets safeguarded;
- (B) converting currency; or
- (C) transmitting documents.

8.2 Exclusions

A Person does not carry out the Specified Activity of Providing Custody Services if that Person does so under a delegation arrangement with an Authorised Firm which has permission to carry on the Specified Activity of Providing Custody Services, provided that the Authorised Firm accepts a responsibility for the assets which is no less onerous than it would have if it were doing the safeguarding and administration itself.

9. Arranging the Provision of Custody Services

9.1 Activity

Arranging the Provision of Custody Services is the activity of arranging for one or more Persons to Provide Custody Services.

9.2 Exclusions

A Person will not carry on the Specified Activity of Arranging the Provision of Custody if:

- (1) he is to provide custody services himself; or
- (2) he merely provides the means by which the provider of custody communicates with the Person to whom Custody Services are or are to be provided.

10. Managing Investments

10.1 Activity

Managing Investments is the activity of managing, or agreeing to manage, assets belonging to another Person where:

- (1) the assets consist of or include Investments or Long Term Insurance Contracts; and
- (2) the arrangements for their management are such that the assets may consist of or include Investments at the discretion of the Person managing or offering or agreeing to manage them.

10.2 Exclusions

There are no specific exclusions for this activity.

11. Advising on Investments

11.1 Activity

Advising on Investments is the activity of giving or agreeing to give advice to a Person on the merits of

- (1) buying, selling, subscribing for or underwriting a particular Investment or Contract of Insurance; or
- (2) exercising any right conferred by an Investment to acquire, dispose of, underwrite or convert an Investment or Contract of Insurance.

11.2 Exclusions

The giving of advice in a newspaper, journal, magazine or other periodical publication is excluded from the Specified Activity of Advising on Investments provided that the principal purpose of the publication or service taken as a whole (including any advertisements or other promotional material contained in it) is not Advising on Investments or leading or enabling a Person to Deal in Investments, Effect Contracts of Insurance or Carry Out Contracts of Insurance.

12. Operating a Collective Investment Fund

12.1 Activity

- (1) Operating a Collective Investment Fund is the activity of establishing, operating or winding-up a Collective Investment Fund.
- (2) For the purposes of paragraph (1) a Person operates a Collective Investment Fund if he:
 - (A) acts in the capacity of trustee of a Collective Investment Fund that takes the form of a trust;
 - (B) acts as transfer or registration agent for the Collective Investment Fund, or provides valuation or accounting services for the Collective Investment Fund; or
 - (C) otherwise has responsibility for the day to day administration of those parts of the business of the Collective Investment Fund that do not constitute Managing Investments.

12.2 Exclusions

There are no specific exclusions for this Activity.

Part 3: Specified Products

Each of the following is a Specified Product for the purposes of these Regulations.

1. Share

A share or stock in the share capital of:

- 1.1 any body corporate (wherever incorporated); or
- 1.2 any unincorporated body constituted under the law of a country or territory outside the QFC,
other than a Unit in a Collective Investment Fund.

2. Debt Instrument

2.1 Subject to paragraph 2.2, an instrument creating or acknowledging indebtedness that is:

- (1) a debenture;
- (2) debenture stock;
- (3) loan stock;
- (4) a bond;
- (5) a certificate of deposit; or
- (6) any other instrument creating or acknowledging a present or future indebtedness that is transferable without the consent of the borrower.

2.2 Paragraph 2.1 does not apply to an instrument:

- (1) acknowledging or creating a debt for goods or services;
- (2) a bill of exchange (including a cheque), banker's draft or letter of credit but not a bill of exchange accepted by a banker;
- (3) a banknote, a statement showing a balance on a bank account;
- (4) a lease or other disposition of property; or
- (5) a contract of insurance.

3. Credit Facility

3.1 Subject to paragraph 3.2, any advance, loan or other facility in whatever form or by whatever name called whereby the Person to whom such advance, loan or other facility is given has access, indirectly or directly, to the funds of the Person giving it.

3.2 An advance loan or facility made under an instrument that is (or but for paragraphs 2.1-2.6 of the definition of the definition of Debt Instrument, would be) a Debt Instrument is not a Credit Facility for the purposes of this Regulation.

4. Warrants

Warrants or other instruments entitling the holder to subscribe for:

4.1 Shares; or

4.2 Debt Instruments.

5. Securities Receipt

5.1 Subject to paragraph 5.2, a certificate or other instrument which confers contractual or property rights in respect of a Share, a Debt Instrument or a Warrant held by a Person (the security holder) other than the Person on whom the rights are conferred by the certificate or other instrument (the certificate beneficiary), the transfer of which may be effected without requiring the consent of the security holder;

5.2 An Option is not a Securities Receipt for the purposes of this Regulation.

6. Unit in a Collective Investment Fund

6.1 Units in a Collective Investment Fund within the meaning of paragraph 6.2.

6.2 Subject to paragraphs 6.5 and 6.6, a Collective Investment Fund is any arrangement:

- (1) the purpose or effect of which is to enable persons taking part in the arrangements (the participants) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of property or sums paid out of such profits or income;
- (2) that meets the property condition in paragraph 6.3 and the investment condition in paragraph 6.4.

6.3 An arrangement will meet the property condition referred to in paragraph (2) if:

- (1) the arrangement is made with respect to property of any description, including money, whether the participants become owners of the property or any part of it or otherwise; and
- (2) any of the participants do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or give directions in respect of the property.

6.4 An arrangement will meet the investment condition referred to in paragraph 6.2 if:

- (1) the contributions of the participants and the profits or income out of which payments to be made are pooled; and

(2) the property is managed as a whole by or on behalf of the operator of the scheme.

6.5 Arrangements for such pooling as is mentioned in paragraph 6.4(1) in relation to separate parts of the property are not to be regarded as constituting a single Collective Investment Fund unless the participants are entitled to exchange rights in one part for rights in another.

6.6 The Regulatory Authority may make Rules specifying the circumstances in which particular arrangements do not constitute a Collective Investment Fund for the purposes of paragraph 6.1.

7. Options

7.1 Options to acquire or dispose of:

- (1) a Share, Debt Instrument, Warrant, Securities Receipt, Unit in a Collective Investment Fund, Future, or Contract for Differences;
- (2) currency of any country or territory;
- (3) metals / commodities; or
- (4) an option of the kind specified in paragraphs 7.1(1), (2) or (3).

7.2 The Regulatory Authority may issue Rules excluding from the scope of paragraph 7.1 options which are entered into for commercial and not investment purposes and setting out circumstances in which a contract is to be regarded as made for commercial or investment purposes for the purposes of paragraph 7.2.

8. Future

8.1 Subject to paragraphs 8.2 and 8.3 rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed on when the contract is made and which is made for investment and not commercial purposes.

8.2 A contract is not a Future for the purposes of paragraph 8.1 if the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of the property.

8.3 The Regulatory Authority may issue Rules as to the circumstances in which a contract is to be regarded as made for commercial or investment purposes for the purposes of paragraph 8.1.

9. Contract for Differences

9.1 Subject to paragraph 9.2 – 9.3 rights under a contract the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to fluctuations in:

- (1) the value or price of property of any description; or

(2) an index or other factor designated for that purpose in the contract.

9.2 A contract will not be a Contract for Differences for the purposes of paragraph 9.1 if:

(1) the parties intend that the profit is to be secured or the loss avoided by one or more of the parties taking delivery of any property to which the contract relates;

(2) money is received on terms that the entire principal amount will be repaid (after deduction of reasonable fees, if relevant) but any interest or other return to be paid on the sum received will be calculated by reference to fluctuations in an index or other factor; or

(3) the contract is a Contract of Insurance.

9.3 The Regulatory Authority may issue Rules excluding from the scope of paragraph 9.1 contracts for differences which are entered into for commercial and not investment purposes and setting out the circumstances in which a contract is to be regarded as made for commercial or investment purposes for the purposes of paragraph 9.1.

10. Contract of insurance

10.1 Rights under a qualifying contract of insurance or reinsurance that is either a General Insurance Contract within the scope of paragraph 10.3 or a Long Term Insurance Contract within the scope of paragraph 10.4.

10.2 The Regulatory Authority shall make Rules prescribing the circumstances in which a contract is a qualifying contract of insurance for the purposes of paragraph 10.1.

10.3 A qualifying contract of insurance will be a General Insurance Contract if it falls within one or more of the following categories:

General Insurance Category 1: Accident

Contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the Person insured:

(1) sustaining injury as the result of an accident or of an accident of a specified class;

(2) dying as a result of an accident or of an accident of a specified class; or

(3) becoming incapacitated in consequence of disease or of disease of a specified class,

including contracts relating to industrial injury and occupational disease but excluding contracts falling within Long Term Insurance Category 4: Permanent Health described in paragraph 10.4 of this Schedule.

General Insurance Category 2: Sickness

Contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of loss to the Persons insured attributable to sickness or infirmity but excluding contracts falling within Long Term Insurance Category 4: Permanent Health described in paragraph 10.4 of this Schedule.

General Insurance Category 3: Land vehicles

Contracts of insurance against loss of or damage to vehicles used on land, including motor vehicles but excluding railway rolling stock.

General Insurance Category 4: Railway rolling stock

Contract of insurance against loss of or damage to railway rolling stock.

General Insurance Category 5: Aircraft

Contracts of insurance upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft.

General Insurance Category 6: Ships

Contracts of insurance upon vessels used on the sea or on inland water, or upon the machinery, tackle, furniture or equipment of such vessels.

General Insurance Category 7: Goods in transit

Contracts of insurance against loss of or damage to merchandise, baggage and all other goods in transit, irrespective of the form of transport.

General Insurance Category 8: Fire and natural forces

Contracts of insurance against loss of or damage to property (other than property to which paragraphs 3 to 7 relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence.

General Insurance Category 9: Damage to property

Contracts of insurance against loss of or damage to property (other than property to which paragraphs 3 to 7 relate) due to hail or frost or any other event (such as theft) other than those mentioned in paragraph 8.

General Insurance Category 10: Motor vehicle liability

Contracts of insurance against damage arising out of or in connection with the use of motor vehicles on land, including third-party risks and carrier's liability.

General Insurance Category 11: Aircraft liability

Contracts of insurance against damage arising out of or in connection with the use of aircraft, including third-party risks and carrier's liability.

General Insurance Category 12: Liability of ships

Contracts of insurance against damage arising out of or in connection with the use of vessels on the sea or on inland water, including third party risks and carrier's liability.

General Insurance Category 13: General liability

Contracts of insurance against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which General Insurance Categories 10, 11 or 12 relates.

General Insurance Category 14: Credit

Contracts of insurance against risks of loss to the Persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due.

General Insurance Category 15: Suretyship

- (1) Contracts of insurance against the risks of loss to the Persons insured arising from their having to perform contracts of guarantee entered into by them.
- (2) Fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, where these are:
 - (A) effected or carried out by a Person not carrying on the business of Deposit Taking;
 - (B) not effected merely incidentally to some other business carried on by the Person effecting them; and
 - (C) effected in return for the payment of one or more premiums.

General Insurance Category 16: Miscellaneous financial loss

Contracts of insurance against any of the following risks, namely:

- (1) risks of loss to the Persons insured attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on;
- (2) risks of loss to the Persons insured attributable to their incurring unforeseen expense (other than loss such as is covered by contracts falling within General Insurance Category 18); or

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- (3) risks which do not fall within sub-paragraph (1) or (2) and which are not of a kind such that contracts of insurance against them fall within any other General Insurance Category.

General Insurance Category 17: Legal expenses

Contracts of insurance against risks of loss to the Persons insured attributable to their incurring legal expenses (including costs of litigation).

General Insurance Category 18: Assistance

Contracts of insurance providing either or both of the following benefits, namely:

- (1) assistance (whether in cash or in kind) for Persons who get into difficulties while travelling, while away from home or while away from their permanent residence; or
- (2) assistance (whether in cash or in kind) for Persons who get into difficulties otherwise than as mentioned in sub-paragraph (1).

- 10.4 A qualifying contract of insurance will be a Long Term Insurance Contract if it falls within one or more of the following categories:

Long Term Insurance Category 1: Life and annuity

Contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Long Term Insurance Category 3.

Long Term Insurance Category 2: Marriage and birth

Contract of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.

Long Term Insurance Category 3: Linked long term

Contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by references to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).

Long Term Insurance Category 4: Permanent health

Contracts of insurance providing specified benefits against risks of Persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that:

- (1) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for the Persons concerned, or without limit of time; and

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- (2) either are not expressed to be terminable by the Insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.

Long Term Insurance Category 5: Tontines

Tontines.

Long Term Insurance Category 6: Capital redemption contracts

Capital redemption contracts, where effected or carried out by a Person who does not carry on a banking business, and otherwise carries on the Specified Activity of Effecting Contracts of Insurance or Carrying Out Contracts of Insurance.

Long Term Insurance Category 7: Pension fund management

- (1) Pension fund management contracts, and
- (2) pension fund management contracts which are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest,

where effected or carried out by a person who does not carry on a banking business, and otherwise carries on the Specified Activity of Effecting Contracts of Insurance or Carrying Out Contracts of Insurance.

11. Deposits

- 11.1 Subject to paragraphs 11.2, 11.3 and 11.4, rights under any contract under which a sum of money is paid on terms under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the Person making the payment and the Person receiving it.
- 11.2 Rights under a contract will not be a Deposit for the purposes of paragraph 11.1 if money is paid:
- (1) by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services is or are not in fact sold, hired, or otherwise provided;
- (2) by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or
- (3) by way of security for the delivery up or return of property, whether in a particular state of repair or otherwise.
- 11.3 Rights under a contract will not be a Deposit for the purposes of paragraph 11.1 if the Person who pays the money is:
- (1) carrying on a business consisting wholly or significantly of lending money;

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- (2) an Authorised Firm which has permission to carry on Deposit Taking or to effect or carry out Contracts of Insurance;
 - (3) a member of the same Group as the payee; or
 - (4) a Close relative, director, manager or Controller of the payee.

11.4 Rights under a contract will not be a Deposit for the purposes of paragraph 11.1 if the payee of the money is:

- (1) a lawyer acting in the course of his profession duly licensed by the QFC Authority
- (2) the issuer of a Debt Instrument;
- (3) the recipient of a Credit Facility; or
- (4) an Authorised Firm (other than one whose Authorisation permits it to carry on Deposit Taking) in the course of carrying one or more of the following activities:
 - (A) Dealing in Investments;
 - (B) Arranging Deals in Investments;
 - (C) Managing Investments;
 - (D) Operating a Collective Investment Fund; or
 - (E) Provision of Custody Services.

13. Rights in investments

Any right or interest in any Investment under this Part.

Part 4: Activities in the QFC under the QFC Law

1. Permitted activities within the QFC

- 1.1 The QFC Law provides that no activities other than Permitted Activities may be carried on in the QFC.
- 1.2 The following are the Permitted Activities itemised in the QFC Law:
- (1) financial business, banking business of whatever nature, and investment business, including (without limit) all business activities that are customarily provided by investment, corporate and wholesale financing banks, as well as Islamic and electronic banking business;
 - (2) insurance and reinsurance business of all categories;
 - (3) money market, stock exchange and commodity market business of all categories, including trading in and dealing in precious metals, stocks, bonds, securities, and other financial activities derived therefrom, or associated therewith;
 - (4) money and asset management business, investment fund business, the provision of project finance and corporate finance in all business fields and Islamic banking and financing business;
 - (5) funds administration, fund advisory and fiduciary business of all kinds;
 - (6) pension fund business and the business of credit companies;
 - (7) the business of insurance broking, stock broking, and all other financial brokerage business;
 - (8) financial agency business and the business of provision of corporate finance and other financial advice, investment advice and investment services of all kinds;
 - (9) the provision of financial custodian services and the business of acting as legal trustees;
 - (10) the business of ship broking and shipping agents;
 - (11) the business of provision of classification services and investment grading and other grading services;
 - (12) business activities of company headquarters, management offices and treasury operations and other related functions for all kinds of business, and the administration of companies generally;
 - (13) the business of providing professional services including but not limited to audit, accounting, tax, consulting and legal services;

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- (14) business activities of holding companies, and the provision, formation, operation and administration of trusts and similar arrangements of all kinds; and
 - (15) the business of provision, formation, operation and administration of companies.

2. Activities Prohibited in the QFC

The Council of Ministers may designate any activities as prohibited from being carried on in or from the QFC on the grounds that it is contrary to the interests of the State or to public policy.

SCHEDULE 4: THE APPEALS BODY

1. **Establishment and role of the Appeals Body**

- 1.1 The Appeals Body has been established by the QFC Law for the purpose of hearing appeals by entities, individuals and corporate bodies against the decisions of the Regulatory Authority.
- 1.2 The Appeals Body can prepare and submit to the Minister for consideration such Regulations (or amendments, modifications to or repeal of existing Regulations) as it shall deem appropriate to achieve its objectives or to aid it to implement, carry out and enforce its powers and functions from time to time.
- 1.3 The Appeals Body is the only body with the jurisdiction to hear appeals against decisions made by the Regulatory Authority and its decision is final and binding on all the parties and shall not be subject to further appeal.
- 1.4 The Appeals Body has capacity to enter into contracts, to sue and to be sued and to own and lease assets of all types for the purpose of achieving its objectives.

2. **Constitution of the Appeals Body**

- 2.1 When hearing an appeal, the Appeals Body shall comprise a Chairman and two additional members.
- 2.2 The Chairman and the Appeals Members are to be appointed by a decision of the Council of Ministers appointed in accordance with the QFC Law. The Council of Ministers shall determine the terms and conditions of appointment of the Chairman and Appeals Members.
- 2.3 The Appeals Members shall be of good character and not less than thirty years of age and shall have legal knowledge and experience.
- 2.4 Each Appeals Member shall be appointed for a term of five years.
- 2.5 No member of the Appeals Body may be a member of the Board or of the Regulatory Authority or be employed by the QFC Authority or the Regulatory Authority. Any member of the Appeals Body who becomes such a member or so employed shall automatically thereupon cease to be a member of the Appeals Body.
- 2.6 Any member of the Appeals Body may at any time resign his office by giving not less than thirty days' notice to the Regulatory Authority addressed to the Chairman.
- 2.7 An Appeals Member may be removed by a decision of the Council of Ministers if:
 - (1) he has become incapable through ill-health of effectively performing the duties of his office;
 - (2) he is declared bankrupt; or

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- (3) he is convicted of a criminal offence or the Council of Ministers is satisfied that he has been guilty of serious misconduct which, in either case, in the opinion of the Council of Ministers, is of a nature which warrants his removal from office.

2.8 The Appeals Members shall be independent in the performance of their duties and neither the State, the Council of Ministers, the Chairman, the QFC Authority, the Regulatory Authority nor any other person shall intervene in the course of their decisions.

3. **The Registry**

3.1 The Appeals Body shall have:

- (1) A Registry, at a location to be determined by the Chairman, to handle the processing of appeals, the management of the Appeals Body and its timetable.
- (2) A Registrar appointed by the Chairman.

3.2 The Registrar shall hold office on such terms and conditions, as are determined and published by the Chairman.

3.3 The Chairman may appoint such other officers as are necessary for the fulfilment of the duties of the Appeals Body.

4. **Jurisdiction of the Appeals Body**

4.1 The Appeals Body shall hear appeals by entities, individuals and corporate bodies against such decisions of the Regulatory Authority as are set out below.

4.2 A Person may appeal to the Appeals Body only where it has jurisdiction to hear and determine the appeal under this paragraph.

4.3 The Appeals Body shall not be bound to follow its previous decisions although they shall be of persuasive authority.

4.4 The Appeals Body has jurisdiction to hear and determine any appeal in relation to:

- (1) those matters stated in these Regulations to be subject to such appeal; and
- (2) such other jurisdiction as may be conferred by or under any other law or Regulation.

5. **Proceedings of the Appeals Body**

5.1 Subject to the QFC Law and these Regulations, the Appeals Body may make such rules as appear to it to be necessary or expedient in respect of the conduct of proceedings before it.

5.2 Appeals shall be governed by these Regulations and any rules published pursuant to this Regulation.

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- 5.3 Proceedings and decisions of the Appeals Body shall be heard and given in private unless the Appeals Body hearing an appeal orders otherwise.
- 5.4 A decision of the Appeals Body shall be final and binding on the parties and shall not be subject to further appeal.
- 5.5 An appeal to the Appeals Body must be made before the end of:
- (1) such reasonable period as is set out in the relevant Decision Notice issued by the Regulatory Authority; or
 - (2) such other longer period as the Appeals Body may allow.
- 5.6 A Person shall commence an Appeal by filing with the Registry to the Appeals Body a written notice setting out the nature of the appeal and including information as to:
- (1) the full name, description and address of the applicant;
 - (2) a description of the nature and circumstances of the matter giving rise to the appeal;
 - (3) the basis for the Appeal Body's jurisdiction;
 - (4) a statement of the relief sought; and
 - (5) such other information as is relevant to the Appeal.
- 5.7 The Appeal proceedings will commence when the written notice under this paragraph is received by the Registry.
- 5.8 Upon the Chairman of the Appeals Body receiving notice of an appeal falling within its jurisdiction, the Chairman shall convene the Appeals Body to hear and determine the appeal and shall notify the appellant and any other interested party of when and where the appeal will be heard.

6. Powers of the Appeals Body

- 6.1 When hearing and determining an appeal, the Appeals Body may:
- (1) consider any evidence relating to the subject matter of the appeal, whether or not such evidence was available to the Regulatory Authority at the material time;
 - (2) receive and consider any material by way of oral evidence, written statements or documents, even if such material may not be admissible in evidence in civil or criminal proceedings in a court of law;
 - (3) determine the manner in which such material is received;

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- (4) by notice in writing require a Person to attend before it at any sitting and to give evidence and produce any item, record or document in his possession relating to the subject matter of the appeal;
 - (5) examine or cause to be examined on oath or otherwise a Person attending before it and require the Person to answer truthfully any question which the Appeals Body considers appropriate for the purposes of the proceedings;
 - (6) administer oaths;
 - (7) order a Person not to publish or otherwise disclose any material disclosed by any Person to the Appeals Body; or
 - (8) exercise such other powers or make such other orders as may be necessary for or ancillary to the conduct of the appeal or the performance of its function.

6.2 At the conclusion of an appeal, the Appeals Body shall:

- (1) determine what, if any, is the appropriate action for the Regulatory Authority to take in relation to the matter;
- (2) remit the matter to the Regulatory Authority with such directions (if any) as the Appeals Body considers appropriate for giving effect to its determination, save that such directions may not require the Regulatory Authority to take any step which it would not otherwise have power to take; and
- (3) make an order requiring a party to the appeal to pay a specified amount, being all or part of the costs of the appeal, including those of any party to the appeal. Such costs may be recovered from the recipient of the order as a debt due to the party which incurred the costs.

6.3 The Regulatory Authority must act in accordance with the determination of, and any direction given by, the Appeals Body.

6.4 A certificate signed by the Chairman or proper officer of the Appeals Body which states that the Appeals Body made a specified determination or made a specified finding of fact on a specified day, is in any proceedings before the Tribunal, where relevant:

- (1) exclusive evidence of the determination of the Appeals Body made on that day; and
- (2) evidence of the relevant finding of fact.

6.5 The Appeals Body may, on determining a reference, make recommendations as to the Regulatory Authority's procedures.

6.6 The Appeals Body may stay the decision of the Regulatory Authority to which the appeal relates and any related steps proposed to be taken by the Regulatory Authority until the Appeal has been determined.

6.7 An order of the Appeals Body shall be enforceable as if it were an order of the Tribunal.

7. Funding and Budget

7.1 Budget

The Appeals Body shall prepare a budget for its activities in respect of each financial year and shall submit the budget to the Minister for approval by the Council of Ministers.

7.2 Funding

Subject to the Appeals Body having complied with its obligations under paragraph 7.1 above, the State shall provide funding directly to the Appeals Body. The Council of Ministers may direct the QFC Authority to provide funding out of its budget to the Appeals Body and to provide support services provided it is satisfied that such arrangements will not compromise the independence of the Appeals Body.

7.3 Powers to raise revenues

The Appeals Body shall be permitted to raise revenue to fund and finance its activities pursuant to or contemplated by the QFC Law or this Regulation in such ways as it deems appropriate including (without limitation) by:

- (1) such fees and charges in respect of the performance and exercise of its duties, functions and powers as the Appeals Body may from time to time prescribe; and
- (2) such other sources of revenues as may be provided for in the QFC Law, these Regulations or in other Regulations.

7.4 Treatment of Surpluses

- (1) Any surpluses of income over expenditure (whether budgeted for or not) realised by the Appeals Body may be retained by it, or returned to the State, as the Appeals Body shall decide. Any such surpluses may also be applied to the repayment of any indebtedness incurred by the Appeals Body or to the creation of a general reserve and such other reserves as the members of the Appeals Body may reasonably think fit.
- (2) The Appeals Body may invest its financial resources which are not immediately required in accordance with an investment policy approved in advance by the members of the Appeals Body.

8. Accounting Requirements

8.1 Financial Year

The financial year of the Appeals Body shall commence on the first day of January and end on the last day of December each year, save that the first financial year 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.

8.2 Accounts

The Appeals Body shall keep accounting records which are sufficient to show and explain its transactions and are such as to disclose with reasonable accuracy at any time its income and expenditure and assets and liabilities and financial position. As soon as reasonably practicable after the end of each financial year, the Appeals Body shall prepare accounts in accordance with internationally accepted accounting principles.

8.3 Audit Requirement

- (1) The annual accounts of the Appeals Body shall be audited by independent auditors, being a firm of chartered accountants with an office in the State. The auditors shall report as to whether the relevant accounts show a true and fair view of the financial affairs of the body in question during the financial year in question and its assets and liabilities at the end of the year in question. The auditors shall report on such other matters as they may consider appropriate.
- (2) The Appeals Body shall as soon as reasonably practicable after the end of each financial year send to the Council of Ministers a copy of its audited accounts and a report of its activities and when required such further reports as the Council of Ministers may require.
- (3) The auditors shall have right of access at all reasonable times to all information held or controlled by the Appeals Body, the Chairman and Appeals Members or any of the officers, employees, agents or contractors of the Appeals Body reasonably required by the auditors for the purposes of preparing the report.
- (4) The Appeals Body, the Chairman and Appeals members and the officers, employees, agents and contractors of the Appeals Body shall co-operate with the auditors in the performance of their duties under this Schedule and shall provide the auditors with such information and explanation as the auditors shall reasonably consider necessary.

8.4 State Audit Bureau

The Appeals Body shall be exempt from the control of the State audit bureau.

9. Miscellaneous

9.1 Liability of the Appeals Body

- (1) The Appeals Body shall be responsible for any obligations or liabilities arising out of the conduct of its activities (subject to the immunity set out in paragraph 9.1(2)) and the State shall have no liability for its acts or omissions.
- (2) Subject to paragraph 9.1(3) the Appeals Body, and all members of the Appeals Body or employees of, or Persons acting under the direction of, the Appeals Body, shall incur no civil liability in relation to acts or omissions done or omitted to be done in good faith in carrying out or purporting to carry out their respective powers, duties or functions under or pursuant to the QFC Law or Regulations.

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- (3) Neither the Appeals Body nor any members or officers of the Appeals Body are relieved from civil liability in connection with any commercial contract entered into by it.

9.2 **Status**

All members of the Appeals Body and all employees of, and Persons acting under the direction of the Appeals Body shall be deemed to be public officers/servants for the purposes of the Criminal Law No. (11) of 2004 of the State.

Endnotes

1 Abbreviation key

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

2 Regulations history

Financial Services Regulations

made by

Financial Services Regulations (QFC Regulations 2005-1)

Made 17 May 2005

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