



Miscellaneous Amendments Rules 2009

QFCRA Rules 2009-2

The Board of the Qatar Financial Centre Regulatory Authority makes the following *Rules*, and gives the following guidance, under the *Financial Services Regulations*.

Dated: 6 December 2009

Phillip Thorpe
Chairman



Miscellaneous Amendments Rules 2009

QFCRA Rules 2009-2

made under the

Financial Services Regulations

Contents

		Page
1	Name of rules	1
2	Commencement	1
3	Rules amended	1
4	Explanatory notes	1

	page
Schedule 1	Minor amendments 2
Part 1.1	Anti Money Laundering Rulebook (AMLR) 2
Part 1.2	Assets Rulebook (ASET) 5
Part 1.3	Collective Investment Funds Rulebook (COLL) 15
Part 1.4	Conduct of Business Rulebook (COND) 30
Part 1.5	Controls Rulebook (CTRL) 44
Part 1.6	General Rulebook (GENE) 46
Part 1.7	Individuals Rulebook (INDI) 67
Part 1.8	Interim Prudential—Investment, Insurance Mediation and Banking Business Rulebook (PIIB) 70
Part 1.9	Interpretation and Application Rulebook (INAP) 81
Part 1.10	Islamic Finance Rulebook (ISFI) 112
Part 1.11	Prudential—Insurance Rulebook (PINS) 114
Schedule 2	Technical amendments 124
Part 2.1	Collective Investment Funds Rulebook (COLL) 124
Part 2.2	Conduct of Business Rulebook (COND) 124
Part 2.3	General Rulebook (GENE) 126
Part 2.4	Interim Prudential—Investment, Insurance Mediation and Banking Business Rulebook (PIIB) 126
Part 2.5	Prudential—Insurance Rulebook (PINS) 127

1 Name of rules

These rules are the *Miscellaneous Amendments Rules 2009*.

2 Commencement

These rules commence on the day they are made.

3 Rules amended

These rules amend the *Rules* mentioned in schedule 1 (Minor amendments) and schedule 2 (Technical amendments).

4 Explanatory notes

An explanatory note in these rules is not part of these rules.

Schedule 1 Minor amendments

(see r 3)

Part 1.1 Anti Money Laundering Rulebook (AMLR)

[1.1] Section 3.7 heading

substitute

3.7 Reporting by MLRO and relevant persons

Explanatory note

This amendment is consequential on the insertion of a new rule into the section by another amendment. The new heading more accurately reflects the scope of the section (and the related provisions of the *AMLR Regulations*).

[1.2] New rule 3.7.1

in section 3.7 after provisions about AML Regulations, insert

3.7.1 Time limit for complying with AML Regulations, art 8 (10)

- (1) Without limiting the *AML Regulations*, article 8 (10), a *relevant person* must ensure that that *provision* is complied with in relation to a financial year of the *person* no later than 4 *months* after the day the financial year ends.

Example

If a financial year of a *person* ends on 31 December in a year, article 8 (10) must be complied with before 1 May in the next year.

- (2) However, if the first financial year of the *person* is longer than 12 *months*, subrule (1) applies to the *person* in relation to the first

financial year as if that financial year were divided into 2 separate financial years—

- (a) the first of which were the difference between the length of the first financial year and 12 *months*; and
- (b) the second of which were 12 *months*.

Example

If the first financial year of a *person* starts on 1 October 2009 and ends on 31 December 2010, article 8 (10) must be complied with by the *person*—

- (a) in relation to the period from 1 October 2009 to 31 December 2009—before 1 May 2010; and
- (b) in relation to the period from 1 January 2010 to 31 December 2010—before 1 May 2011.

Explanatory note (outer time limit)

This amendment inserts a rule setting outer limits for the times within which a relevant person must comply with the reporting obligation under the AML Regulations, article 8 (10).

[1.3] Appendix 1, rule A1.1.5, guidance 2

omit

months

substitute

months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the guidance.

[1.4] Appendix 1, rule A1.2.1, guidance 6 d

omit

Designated Exchange

substitute

eligible exchange

Explanatory note

This amendment revises the guidance consequentially on the replacement (by other amendments) of the definition of *designated exchange* by the definitions of *eligible exchange* and *regulated exchange*. The guidance deals with the procedures for establishing identity.

[1.5] Appendix 1, rule A1.2.1, guidance 9

omit

Designated Exchange

substitute

eligible exchange

Explanatory note

This amendment revises the guidance consequentially on the replacement (by other amendments) of the definition of *designated exchange* by the definitions of *eligible exchange* and *regulated exchange*. The guidance deals with the procedures for establishing identity.

Part 1.2 Assets Rulebook (ASET)

[1.6] Rule 2.1.2, new note

insert

Note For audit and reporting requirements in relation to *client money*, see *GENE*, r 9.4.1 and r 9.5.1 (1) (d).

Explanatory note

This amendment is consequential on the omission of section 2.12 by another amendment.

[1.7] Rules 2.5.2 and 2.6.5

omit

within one calendar month after the *Authorised Firm's* dispatch of the notice,

substitute

within 1 *month* after the day the *authorised firm* sends the request to provide the acknowledgment,

Explanatory note (months)

This amendment clarifies the time periods in the *Rules* (which relate to the period within which an eligible bank or eligible third party must acknowledge how client money is to be treated).

[1.8] Rule 2.7.2 (C)

substitute

- (c) interest credited to the account that exceeds the amount payable to *clients* as interest if the interest has not been credited to the account for longer than 1 *month*; or

Explanatory note (months)

This amendment clarifies the time period provided in the provision (which provides an exception to the requirement not to hold money that is not client money in a client bank account).

[1.9] Rule 2.10.1

substitute

2.10.1 Periodic client money statements to be prepared and sent to client

- (1) An *authorised firm* that holds *client money* must prepare, and send to the *client*, periodic statements that include the information described in rule 2.10.2.
- (2) Each statement must be prepared as at a date (the *reporting date*) that is not more than—
 - (a) 1 *month* since the last statement; or
 - (b) if another interval is agreed with the *client*—the agreed interval.
- (3) Each statement must be sent to the *client* within 1 *month* after the reporting date.

Explanatory note (months)

This amendment remakes rule 2.10.1 to clarify the time periods for preparing and sending reports about client money.

[1.10] Rule 2.10.2

omit

2.10.2 The statement must include:

substitute

2.10.2 Contents of periodic client money statements

A statement under rule 2.10.1 must include—

Explanatory note

This amendment is consequential on the remaking of rule 2.10.1.

[1.11] Rule 2.10.3

omit

Explanatory note

This amendment is consequential on the remaking of rule 2.10.1, which sets out in a single rule the time periods for preparing and sending reports about client money.

[1.12] Rule 2.10.4

omit

2.10.4 (1) Subject to (2), an
substitute

2.10.3 When periodic client money statements need not be sent to client

(1) An

Explanatory note

This amendment is consequential on the omission of rule 2.10.3 by another amendment, and inserts a heading for the rule and omits unnecessary words.

[1.13] Rule 2.11.1

omit

calendar month

substitute

month

Explanatory note (months)

This amendment is consequential on the insertion of a new definition of *calendar month* into INAP (see also def *month*) by another amendment.

[1.14] Rule 2.11.9

substitute

**2.11.9 Notice to be given of certain material discrepancies—
client money**

- (1) This rule applies if—
 - (a) an *authorised firm* identifies a material discrepancy in performing a reconciliation under rule 2.11.3; and
 - (b) the discrepancy is not rectified by the end of the next *business day* after the day it is identified.
- (2) The *authorised firm* must notify the *Regulatory Authority* of the discrepancy immediately, but by no later than the second *business day* after the day it is identified.
- (3) In this rule:

material discrepancy includes discrepancies that have the cumulative effect of being material.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to notify the Regulatory Authority of a material discrepancy identified by a reconciliation of the client bank accounts and third party accounts in which it holds client money. The amendment also remakes guidance of a substantive nature as a substantive provision.

[1.15] Section 2.12

omit

Explanatory note

This amendment omits a provision that duplicates provisions of GENE, rule 9.4.1 and rule 9.5.1 (1) (d). A note is included by another amendment drawing attention to the GENE requirements.

[1.16] Rule 4.1.1, new note

after subrule (4), insert

Note For audit and reporting requirements in relation to custody services, see *GENE*, r 9.4.1 and r 9.5.1 (1) (f).

Explanatory note

This amendment is consequential on the omission of section 4.10 by another amendment.

[1.17] Rule 4.5.5 (1) (e)

substitute

(e) *an eligible clearing house; or*

Explanatory note

This amendment revises the paragraph consequentially on the replacement (by other amendments) of the definition of *designated clearing house* by the definition of *eligible clearing house*. Rule 4.5.5 defines the persons who are eligible custodians in relation to clients of authorised firms.

[1.18] Rules 4.8.1 and 4.8.2

substitute

4.8.1 Periodic custody investment statements to be prepared and sent to client

- (1) *An authorised firm that provides custody services for a client must prepare, and send to the client, periodic statements listing the client's custody investments.*
- (2) *Each statement must be prepared as at a date (the reporting date) that is not more than—*
 - (a) *6 months since the last statement; or*
 - (b) *if another interval is agreed with the client—the agreed interval.*
- (3) *Each statement must be sent to the client within 1 month after the reporting date.*

Explanatory note (months)

This amendment clarifies the time periods for preparing and sending reports about a client's custody investments.

[1.19] Rule 4.8.3

omit

4.8.3 (1) Subject to (2), an

substitute

4.8.2 When periodic custody statements need not be sent to client

(1) An

Explanatory note

This amendment is consequential on the omission of rule 4.8.2 by another amendment, and inserts a heading for the rule and omits unnecessary words.

[1.20] Rule 4.9.1 (A)

omit

calendar month

substitute

month

Explanatory note (months)

This amendment is consequential on the insertion of a new definition of *calendar month* into INAP (see also def *month*) by another amendment.

[1.21] Rule 4.9.1 (B) and (C)

omit

six months

substitute

6 months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which relates to reconciliation of records of client investments).

[1.22] Rule 4.9.6

substitute

**4.9.6 Notice to be given of certain material discrepancies—
custody investments**

- (1) This rule applies if—
 - (a) an *authorised firm* identifies a material discrepancy in performing a reconciliation under rule 4.9.1; and
 - (b) the discrepancy is not rectified by the end of the next *business day* after the day it is identified.
- (2) The *authorised firm* must notify the *Regulatory Authority* of the discrepancy immediately, but by no later than the second *business day* after the day it is identified.
- (3) In this rule:

material discrepancy includes discrepancies that have the cumulative effect of being material.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to notify the Regulatory Authority of a material discrepancy identified by a reconciliation in relation to the provision of custody services. This amendment also includes a definition of *material discrepancy* in line with the definition included in rule 2.11.9 by another amendment.

[1.23] Section 4.10

omit

Explanatory note

This amendment omits a provision that duplicates provisions of GENE, rule 9.4.1 and rule 9.5.1 (1) (f). A note is included by another amendment drawing attention to the GENE requirements.

[1.24] Section 5.3

substitute

5.3 Reports on relevant investments held as collateral

5.3.1 Periodic relevant investment statements to be prepared and sent to client

- (1) An *authorised firm* that holds *relevant investments* of a *client* under an arrangement described in rule 5.1.1 must prepare, and send to the *client*, periodic statements listing the investments and their market values.
- (2) Each statement must be prepared as at a date (the *reporting date*) that is not more than—
 - (a) 6 *months* since the last statement; or
 - (b) if another interval is agreed with the *client*—the agreed interval.
- (3) Each statement must be sent to the *client* within 1 *month* after the reporting date.

Explanatory note (months)

This amendment clarifies the time periods for preparing and sending reports about a client's investments.

[1.25] Chapter 6

substitute

6 Client mandates

6.1.1 Mandates—systems and controls

- (1) In this rule:

mandate means any *written* authority from a *client* of an *authorised firm* under which the firm may control assets or liabilities of the *client* in the course of, or in connection with, the firm's—

 - (a) *investment business*; or

-
- (b) *insurance mediation business*, except so far as it relates to a *reinsurance contract*.

Examples of authority

- 1 authority for direct debit of a bank account
- 2 authority to charge a credit card

- (2) If an *authorised firm* holds 1 or more mandates, it must establish appropriate systems and controls in relation to its use of the mandates to prevent misuse of the authority given by the mandates.
- (3) Without limiting subrule (2), the systems and controls must include the following:
- (a) an up-to-date list of the *authorised firm's* mandates and all conditions and restrictions imposed by *clients* on their use;
 - (b) a record of all transactions entered into using a mandate and appropriate controls to ensure that each transaction is within the scope of the authority given by the relevant mandate;
 - (c) details of the procedures and authorities for giving and receiving instructions under the mandates;
 - (d) all reasonable steps to ensure that any *employees* who are, or are likely to be, required to give or receive instructions under a mandate are fully aware of its terms, including—
 - (i) the procedures and authorities for giving and receiving instructions under the mandate; and
 - (ii) all conditions and restrictions (if any) imposed by the *client* on its use.

Explanatory note

This amendment remakes the provisions of ASET about mandates to incorporate the provisions of the definition of *mandate* presently in INAP and removes inconsistencies between the 2 sets of provisions. The revised definition of *mandate* excludes authorities in relation to reinsurance contracts and includes examples of authorities. The amendment also tightens systems and controls to prevent misuse of mandates given by clients.

[1.26] Rule 7.1.1, new note

after subrule (2), insert

Note For audit and reporting requirements for insurance money, see *GENE*, r 9.4.1 and r 9.5.1 (1) (e).

Explanatory note

This amendment is consequential on the omission of section 7.4 by another amendment.

[1.27] Section 7.4

omit

Explanatory note

This amendment omits a provision that duplicates provisions of *GENE*, rule 9.4.1 and rule 9.5.1 (1) (e). A note is included by another amendment drawing attention to the *GENE* requirements.

Part 1.3 Collective Investment Funds Rulebook (COLL)

[1.28] Rule 2.1.2 (6)

substitute

- (6) If, at any time between the making of the application and the application being withdrawn or decided, the applicant becomes aware of a material change that is reasonably likely to be relevant to the *Regulatory Authority's* consideration of the application, the applicant must tell the authority in *writing* about the change immediately, but by no later than the next *business day*.

Explanatory note (outer time limit)

This amendment requires an applicant for registration of a collective investment fund to tell the Regulatory Authority of any material change likely to be relevant to the authority's consideration of the application 'immediately' rather than 'without delay' and sets an outer time limit for the notification to be given.

[1.29] Rule 2.1.3 (6)

omit

Explanatory note

This amendment omits a provision that is no longer needed following amendments of the QFC Law made by Law No. (2) of 2009. Under the QFC Law as amended all decisions of the Regulatory Authority may be appealed to the Regulatory Tribunal.

[1.30] Rule 4.1.5 (2) (a)

substitute

- (a) tell the *Regulatory Authority* in *writing* about the breach immediately, but within 1 *business day*; and

Examples—meaning of 'within 1 business day'

- 1 If, on a *business day*, the *operator* becomes aware of the breach, the *operator* must tell the authority about it immediately, but on that day.

-
- 2 If, on a day that is not a *business day*, the *operator* becomes aware of the breach, the *operator* must tell the authority about it immediately, but by no later than the next *business day*.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about certain breaches (or anticipated breaches) of COLL, any other law applying in the QFC or the applicable law of any other jurisdiction.

[1.31] Rule 4.1.9

substitute

4.1.9 Maintenance of capital notification

If the capital of a *registered CIC* changes so that it falls below the minimum, or exceeds the maximum, stated in the *constitutional document*, the *operator* must tell the *Regulatory Authority* in *writing* about the change immediately, but within 1 *business day* after the day the change happens.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered CIC to tell the Regulatory Authority if the capital of the registered CIC falls below the minimum, or exceeds the maximum, stated in the constitutional document.

[1.32] Rule 4.2.4 (3)

omit everything before paragraph (a), substitute

- (3) Subrule (4) applies if—

Explanatory note

This amendment is consequential on the insertion of new rule 4.2.4 (4) by another amendment.

[1.33] Rule 4.2.4 (4)

renumber as rule 4.2.4 (5)

Explanatory note

This amendment is consequential on the insertion of new rule 4.2.4 (4) by another amendment.

[1.34] New rule 4.2.4 (4)

insert

- (4) If this subrule applies, the *independent entity* must tell the *Regulatory Authority* in *writing* about the breach or suspected breach immediately, but within 1 *business day*.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the independent entity of a registered fund to tell the Regulatory Authority about a breach or suspected breach of any applicable law.

[1.35] Rule 4.2.12 (6)

substitute

- (6) On the removal of the *independent entity*, the *operator* must tell the *Regulatory Authority* in *writing* about the removal immediately, but within 1 *business day* after the day the *independent entity* is removed.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

- (7) On the appointment of another *person* as the *independent entity*, the *operator* must tell the *Regulatory Authority* in *writing* about the appointment immediately, but within 1 *business day* after the day the appointment is made.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about the removal and appointment of a non-QFC independent entity.

[1.36] Rule 4.2.13 (7)

omit

Explanatory note

This amendment omits a provision that is no longer needed following amendments of the QFC Law made by Law No. (2) of 2009. Under the QFC Law as amended all decisions of the Regulatory Authority may be appealed to the Regulatory Tribunal.

[1.37] Rule 4.2.13 (8) and (9)

renumber as rule 4.2.13 (7) and (8)

Explanatory note

This amendment is consequential on the omission of rule 4.2.13 (7) by another amendment.

[1.38] Rule 5.2.5 (2)

omit

immediately

substitute

immediately, but within 1 *business day* after the day the translation is prepared,

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to give the Regulatory Authority the translation of, and translation certificate for, a prospectus.

[1.39] Rule 5.2.5 (2), new examples

insert

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment inserts examples for the meaning of ‘within 1 business day’ consequentially on the previous amendment of rule 5.2.5 (2).

[1.40] New rule 5.2.6 (11)

insert

- (11) If, under this rule, the *operator* is required to do something immediately, the *operator* must do the thing immediately, but within 1 *business day* after the day the requirement to do the thing arises.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets outer time limits for the operator of a registered fund to take certain action under the rule in relation to revisions of the fund’s prospectus.

[1.41] Rule 5.6.1 (3)

- (3) A report for an *annual accounting period* must be prepared within 4 *months* after the day the period ends, and a report for a *half-yearly accounting period* must be prepared within 2 *months* after the day the period ends.

Explanatory note (months)

This amendment clarifies the time periods provided in the provision.

[1.42] Rule 7.3.2 (3)

substitute

- (3) If the *independent entity* gives the *operator* a notice under subrule (1) or (2), the *independent entity* must give the *Regulatory Authority* a copy of the notice immediately, but within 1 *business day* after the day the notice is given to the *operator*.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the independent entity of a registered fund to give the Regulatory Authority a copy of a notice removing the operator.

[1.43] Rule 7.3.3 (4)

substitute

- (4) On the retirement of the *operator*, the replacement *operator* must immediately, but within 1 *business day* after the day the replacement *operator's* appointment takes effect, tell the *Regulatory Authority* in *writing* about the retirement and the appointment.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of 'within 1 *business day*'.

Explanatory note (outer time limit)

This amendment sets an outer time limit for a replacement operator to tell the Regulatory Authority about the retirement of the previous operator and the appointment of the replacement operator.

[1.44] Rule 7.3.5 (4)

substitute

- (4) On the retirement of the *independent entity*, the *operator* must immediately, but within 1 *business day* after the day the retirement takes effect, tell the *Regulatory Authority* in *writing* about the retirement and the appointment of the other *person* as the *independent entity*.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of 'within 1 *business day*'.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about the replacement of the independent entity on retirement.

[1.45] Rule 7.3.6 (2) (a)

substitute

- (a) tell the *Regulatory Authority* in *writing* about the removal immediately, but within 1 *business day* after the day the *independent entity* is removed; and

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about the removal of the independent entity by special resolution of the unitholders.

[1.46] Rule 7.3.6 (4)

- (4) On the appointment of the other *person* as the *independent entity*, the *operator* must tell the *Regulatory Authority* in *writing* about the appointment immediately, but within 1 *business day* after the day the appointment is made.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about the appointment of a replacement independent entity for the fund.

[1.47] Rule 7.3.7 (3) (a)

substitute

- (a) tell the *Regulatory Authority* in *writing* about the removal immediately, but within 1 *business day* after the day the *independent entity* is removed; and

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about the removal of the independent entity for the fund.

[1.48] Rule 7.3.7 (5) (other than the note)

substitute

-
- (5) On the appointment of the other *person* as the *independent entity*, the *operator* must tell the *Regulatory Authority* in *writing* about the appointment immediately, but within 1 *business day* after the day the appointment is made.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority about the appointment of a replacement independent entity for the fund.

[1.49] Rule 7.6.2 (2) and (4)

omit

months

substitute

months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions (which set outer limits for the annual income allocation date and any interim income allocation date).

[1.50] Rule 8.1.1 (3)

substitute

- (3) If the *operator* decides to suspend *dealings*, the *operator* must tell the *Regulatory Authority* and the *unitholders* in *writing* about the suspension and the reasons for it immediately, but within 1 *business day* after the day the *operator* makes the decision.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered qualified investor fund to tell the Regulatory Authority about the suspension of dealings by the operator.

[1.51] Rule 8.1.1 (5)

substitute

- (5) If a suspension of *dealings* ends under subrule (4) (b), the *operator* must tell the *Regulatory Authority* in *writing* about the restart of *dealings* immediately, but within 1 *business day* after the day *dealings* restart.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered qualified investor fund to tell the Regulatory Authority about the ending of a suspension in dealings by the operator.

[1.52] Rule 8.2.5 (1)

substitute

- (1) If the *operator* of a *registered fund* believes, on reasonable grounds, that the fund is not commercially viable or the fund’s purpose cannot be accomplished, the *operator* must tell the *Regulatory Authority* in *writing* about the matter immediately, but within 1 *business day* after the day the *operator* forms the belief.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator of a registered fund to tell the Regulatory Authority if it believes, on reasonable grounds, that the fund is not commercially viable or the fund’s purpose cannot be accomplished.

[1.53] Rule 8.2.6 (9)

substitute

- (9) Not later than 5 *business days* after the day the winding-up of the *registered fund* is completed, the *operator* or *independent entity* must—

-
- (a) tell the *Regulatory Authority* about the completion of the winding-up; and
 - (b) ask the authority to cancel the fund's registration.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the operator or independent entity of a registered fund to tell the Regulatory Authority about the completion of the winding-up of the fund and ask for the cancellation of the fund's registration.

[1.54] Schedule 1, rule S1.14

substitute

S1.14 Bodies corporate

- (1) A *body corporate* incorporated in the *QFC* is not an arrangement that constitutes a *collective investment fund* unless it is—
 - (a) a *CIC*; or
 - (b) a *CIP*; or
 - (c) another permitted fund entity.
- (2) A *body corporate* (other than a partnership) incorporated outside the *QFC* is not an arrangement that constitutes a *collective investment fund* unless the arrangement meets the property condition in subrule (3) and the investment condition in subrule (4).
- (3) For subrule (2), an arrangement meets the property condition if it is made in relation to *property* that belongs beneficially to, and is managed by or on behalf of, the *body corporate* and the *body corporate* has for its purpose the investment of its *property* with the aim of—
 - (a) spreading investment risk; and
 - (b) giving its members the benefit of the results of the management of its *property*.
- (4) For subrule (2), an arrangement meets the investment condition if, in relation to the *body corporate*, a reasonable investor would, if the

investor were to take part in the arrangement—

- (a) expect to be able to realise, within a period appearing to the investor to be reasonable, the investor's investment in the arrangement (represented, at any time, by the value of *shares* in, or *securities* of, the *body corporate* held by the investor as a participant in the arrangement); and
 - (b) be satisfied that the investment would be realised on a basis calculated wholly or mainly by reference to the value of *property* in relation to which the *body corporate* makes arrangements.
- (5) In deciding whether the investment condition is satisfied, no account is to be taken of any actual or potential redemption or repurchase of *shares* or *securities* under provisions in force in any *jurisdiction* other than the *QFC* corresponding to the *Companies Regulations 2005*, article 31 (Redemption or purchase of own shares).
- (6) However, the *Regulatory Authority* may, by written notice given to the *body corporate*, declare that subrule (1) or (2) does not apply in relation the *body corporate*.
- (7) The *Regulatory Authority* may make a declaration under subrule (6) if it considers that making the declaration is desirable to protect—
- (a) the interests of participants or potential participants in the *body corporate*; or
 - (b) the *financial system*.
- (8) If the *Regulatory Authority* gives the *body corporate* a notice under subrule (6), the notice must—
- (a) give reasons for the decision to make the declaration; and
 - (b) tell the *body corporate* that it may appeal to the *Regulatory Tribunal* against the decision.
- (9) In this rule:

another permitted fund entity has the meaning given by rule 1.1.3 (5) (Legal forms for registered funds).

S1.15 Partnerships

- (1) A partnership incorporated or otherwise established in the *QFC* as a partnership (and not a branch) is not an arrangement that constitutes a *collective investment fund* unless it is—
 - (a) a *CIP*; or
 - (b) another permitted fund entity.
- (2) A partnership incorporated or otherwise established outside the *QFC* is not an arrangement that constitutes a *collective investment fund* unless the arrangement meets the property condition in subrule (3) and the investment condition in subrule (4).
- (3) For subrule (2), an arrangement meets the property condition if it is made in relation to *property* that belongs beneficially to, and is managed by or on behalf of, the partnership and the partnership has for its purpose the investment of its *property* with the aim of—
 - (a) spreading investment risk; and
 - (b) giving its members the benefit of the results of the management of its *property*.
- (4) For subrule (2), an arrangement meets the investment condition if, in relation to the partnership, a reasonable investor would, if the investor were to take part in the arrangement—
 - (a) expect to be able to realise, within a period appearing to the investor to be reasonable, the investor's investment in the arrangement (whether or not represented, at any time, by the value of *shares* in, or *securities* of, the partnership held by the investor as a participant in the arrangement); and
 - (b) be satisfied that the investment would be realised on a basis calculated wholly or mainly by reference to the value of

property in relation to which the partnership makes arrangements.

- (5) However, the *Regulatory Authority* may, by written notice given to the partnership, declare that subrule (1) or (2) does not apply in relation the partnership.
- (6) The *Regulatory Authority* may make a declaration under subrule (5) if it considers that making the declaration is desirable to protect—
 - (a) the interests of participants or potential participants in the partnership; or
 - (b) the *financial system*.
- (7) If the *Regulatory Authority* gives the partnership a notice under subrule (5), the notice must—
 - (a) give reasons for the decision to make the declaration; and
 - (b) tell the partnership that it may appeal to the *Regulatory Tribunal* against the decision.
- (8) In this rule:

another permitted fund entity has the meaning given by rule 1.1.3 (5) (Legal forms for registered funds).

Explanatory note

Rule S1.14 presently excludes certain bodies corporate and partnerships from the definition of ***collective investment fund*** in the *Financial Services Regulations*, schedule 3, part 3, paragraph 6. The effect of this amendment is to include foreign bodies corporate (ie bodies incorporated outside the QFC) and foreign partnerships (ie partnerships incorporated or otherwise established outside the QFC) that meet certain property and investment conditions in the definition of ***collective investment fund***. The property and investment conditions are based on provisions of the UK *Financial Services and Markets Act 2000*, section 236.

The amendment does not remake rule S1.14 (7). That provision is no longer needed following amendments of the QFC Law made by Law No. (2) of 2009. Under the QFC Law as amended, all decisions of the Regulatory Authority may be appealed to the Regulatory Tribunal.

[1.55] Schedule 1, rule S1.15

renumber as rule S1.16

Explanatory note

This amendment is consequential on the remaking of rule S1.14 as 2 rules (S1.14 and S1.15) by the previous amendment.

[1.56] Schedule 3, rule S3.2

omit everything before paragraph (a), substitute

S3.2 Description of fund etc

- (1) The following information and statements:

Explanatory note

This amendment is consequential on the next amendment of rule S3.2.

[1.57] Schedule 3, new rule S3.2 (2)

before the note, insert

- (2) In this rule:

listed fund means a *qualified investor fund* that has been admitted to a list of *securities* kept by a *regulated exchange*.

Explanatory note

This amendment relocates a definition presently in INAP and revises the definition consequentially on the replacement (by other amendments) of the definition of *designated exchange* by the definitions of *eligible exchange* and *regulated exchange*. The definition relates to the list of information and statements about the fund required to be included in a prospectus for a qualified investor fund.

[1.58] Schedule 4, modification S4.29, substituted rule 7.3.2 (4)

substitute

- (4) If a replacement *operator* is appointed under subrule (1), the replacement *operator* must tell the *Regulatory Authority* about the *special resolution* immediately, but within 1 *business day* after the day the appointment is made.

Examples

See examples to r 4.1.5 (2) (a) on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for the replacement operator of a private placement fund to tell the *Regulatory Authority* about a special resolution that removed the previous operator and appointed the replacement operator.

[1.59] Schedule 4, modification S4.79

omit

New rule S3.2 (ba)

substitute

New rule S3.2 (1) (ba)

Explanatory note

This amendment is consequential on amendments of schedule 3, rule S3.2.

[1.60] Schedule 4, modification S4.80

omit

Rule S3.2 (f) (ii)

substitute

Rule S3.2 (1) (f) (ii)

Explanatory note

This amendment is consequential on amendments of schedule 3, rule S3.2.

[1.61] Schedule 4, modification S4.81

omit

Rule S3.2 (m)

substitute

Rule S3.2 (1) (m)

Explanatory note

This amendment is consequential on amendments of schedule 3, rule S3.2.

Part 1.4 Conduct of Business Rulebook (COND)

[1.62] New part 1.1 heading

before rule 1.1.1, insert

Part 1.1 Overview

Explanatory note

This amendment is consequential on the insertion of a new part 1.2 by another amendment.

[1.63] Rule 1.1.1, note 2 (including table 1.1.1)

substitute

Note 2 Categories of client

The following terms are used to describe different categories of *client* in *COND*:

- *customer*
- *commercial customer*
- *business customer*
- *retail customer*
- *market counterparty*.

Each of the terms is defined in division 1.2.A. The interrelated definitions of *client* and *customer* (and the various categories of *client* and *customer*) need to be understood when reading *COND*.

The regulatory protections in *COND* are built up in layers according to the vulnerability of the type of *client* in question. Chapters in *COND* are generally arranged in the following way:

- rules that *authorised firms* must follow when doing business with *clients*;
- rules that *authorised firms* must follow when doing business with *customers* ie *clients* that are not *market counterparties*;
- rules that *authorised firms* must follow when doing business with *retail customers* ie *customers* that are not *commercial customers* or *business customers*.

Explanatory note

This amendment is consequential on the relocation and revision of definitions related to clients, customers and market counterparties by other amendments.

[1.64] Rule 1.1.2

omit

Explanatory note

This amendment is consequential on the omission of attachment 1 by another amendment.

[1.65] New part 1.2

insert

Part 1.2 Basic concepts

Division 1.2.A Clients, customers and market counterparties

1.2.1 Who is a *client*?

A *client*, of an *authorised firm*, is a person to whom the firm (or an *approved representative*, or *non-QFC intermediary*, of the firm) provides, intends or wishes to provide or has provided a service or product in conducting a *regulated activity*, and includes a *collective investment fund* even if it does not have a separate legal personality, but does not include a beneficiary of a trust.

1.2.2 Categories of *client*

A *client* may be—

- (a) a *customer*; or
- (b) a *market counterparty*.

1.2.3 Categories of *customer*

- (1) For *insurance business* and *insurance mediation business* in relation

to *non-investment insurance contracts*, a **customer** is—

- (a) a *commercial customer*; or
- (b) a *retail customer*.

(2) For any other business, a **customer** is—

- (a) a *business customer*; or
- (b) a *retail customer*.

1.2.4 Who is a *commercial customer*?

(1) A **commercial customer**, in relation to an *authorised firm*, is—

- (a) a *person* other than an individual; or
- (b) an individual who is acting for purposes of the individual's trade, business or profession (if any); or
- (c) a *client* of the firm who is classified by the firm as a commercial customer under rule 2.3.2 (Client classification—opting up);

but does not include a *market counterparty*.

(2) However, if a *client* of an *authorised firm* is classified by the firm as a commercial customer only in relation to particular *regulated activities*, the *client* is a *commercial customer* only for the purposes of those activities.

1.2.5 Who is a *business customer*?

(1) A **business customer**, in relation to an *authorised firm*, is—

- (a) a *collective investment fund*; or
- (b) a *body corporate* that has, or has had at any time during the previous 2 years, called-up share capital or net assets of at least US \$5 million (or its equivalent in any other currency at the relevant time); or

-
- (c) a *body corporate* with a holding company or subsidiary that has, or has had at any time during the previous 2 years, called-up share capital or net assets of at least US \$5 million (or its equivalent in any other currency at the relevant time); or
 - (d) a partnership or unincorporated association that has, or has had at any time during the previous 2 years, net assets of at least US \$5 million (or its equivalent in any other currency at the relevant time) and, for a limited partnership, calculated without deducting loans owing to any of the partners; or
 - (e) a trustee of a trust that has, or has had at any time during the previous 2 years, assets of at least US \$5 million (or its equivalent in any other currency at the relevant time) calculated by aggregating the value of the cash and investments forming part of the trust's assets, but before deducting its liabilities; or
 - (f) a *client* of the firm who is classified by the firm as a business customer under rule 2.3.2 (Client classification—opting up);
- but does not include a *market counterparty*.

- (2) However, if a *client* of an *authorised firm* is classified by the firm as a business customer only in relation to particular *regulated activities*, the *client* is a *business customer* only for the purposes of those activities.

1.2.6 Who is a *retail customer*?

- (1) For *insurance business* and *insurance mediation business* in relation to *non-investment insurance contracts*, a ***retail customer***, in relation to an *authorised firm*, is a *client* of the firm who is not a *commercial customer* in relation to the firm.
- (2) For any other business, a ***retail customer***, in relation to an *authorised firm*, is a *client* of the firm who is not a *business customer* in relation to the firm.

1.2.7 Who is a *market counterparty*?

A *market counterparty*, in relation to an *authorised firm*, is a *client* of the firm that is any of the following:

- (a) an *approved representative*, or *non-QFC intermediary*, of the firm;
- (b) an *authorised firm* or *regulated financial institution*;
- (c) an *entity* in the same *group* as an *authorised firm* or *regulated financial institution*;
- (d) an *eligible clearing house* or *eligible exchange*;
- (e) a government, government agency, or central bank or other national monetary authority, of any *jurisdiction*;
- (f) a state investment body, or a body charged with, or intervening in, management of the public debt;
- (g) a supranational organisation if the members of the organisation are *jurisdictions*, central banks or national monetary authorities.

Explanatory note

This amendment inserts new definitions, and moves definitions from INAP, that relate to clients, customers and market counterparties so that they are together and more readily accessible by users of COND.

The definition of *client* in proposed rule 1.2.1 is based on the definition of *client* in the UK Financial Service Authority's Handbook Glossary. Unlike the existing definition in INAP the proposed definition does not depend on the categories of client. Proposed rule 1.2.2 deals separately with the 2 categories of client, namely, customer and market counterparty.

Proposed rule 1.2.3 has 2 definitions of *customer*. For insurance business and insurance mediation business in relation to non-investment insurance contracts, a *customer* is a commercial customer or retail customer. For any other business, a *customer* is a business customer or retail customer.

Proposed 1.2.4 defines *commercial customer*. The definition has been revised to make it easier to read and also make it clear that a customer who would otherwise be a retail customer may be classified under rule 2.3.2 as a commercial customer.

Proposed 1.2.5 defines *business customer*. The definition is substantially the same as the existing INAP definition. However, the proposed definition makes it clearer that ‘opting up’ under rule 2.3.2 applies only in relation to the authorised firm that classifies the relevant customer.

Proposed rule 1.2.6 defines *retail customer*. The 2 definitions provided in the rule are substantially the same as the existing INAP definitions. However, the types of business to which the definitions apply follow the types of business provided for in the new definitions of *customer* in proposed rule 1.2.3.

Proposed rule 1.2.7 defines *market counterparty*. The definition is substantially the same as the existing INAP definition, but with 2 significant changes. First, the definition uses regulated financial institution rather eligible third party. This will enable the definition to apply to business that is not investment business. Second, the definition is revised consequentially on the replacement (by other amendments) of the definitions of *designated clearing house* and *designated exchange* by the definitions of *eligible clearing house*, *eligible exchange* and *regulated exchange*.

[1.66] Rule 2.2.1 (2), note

omit

Explanatory note

This amendment is consequential on the next amendment of rule 2.2.1.

[1.67] New rule 2.2.1 (4)

insert

- (4) To remove any doubt, the definition of *employee* in *INAP*, glossary does not apply to this rule.

Note In this rule, ‘employee’ has its ordinary (undefined) meaning.

Explanatory note

This amendment is consequential on the replacement of existing INAP, rule 1.4.1 by another amendment.

[1.68] Rule 2.2.2 (2) (a), note

omit

Explanatory note

This amendment is consequential on the next amendment of rule 2.2.2.

[1.69] New rule 2.2.2 (4)

insert

- (4) To remove any doubt, the definition of *employee* in *INAP*, glossary does not apply to this rule.

Note In this rule, ‘employee’ has its ordinary (undefined) meaning.

Explanatory note

This amendment is consequential on the replacement of existing *INAP*, rule 1.4.1 by another amendment.

[1.70] Rule 2.2.3 (1) (a), note

omit

Explanatory note

This amendment is consequential on the next amendment of rule 2.2.3.

[1.71] New rule 2.2.3 (4)

insert

- (4) To remove any doubt, the definition of *employee* in *INAP*, glossary does not apply to this rule.

Note In this rule, ‘employee’ has its ordinary (undefined) meaning.

Explanatory note

This amendment is consequential on the replacement of existing *INAP*, rule 1.4.1 by another amendment.

[1.72] Rule 2.2.7

substitute

2.2.7 Approved representative and non-QFC intermediary handling client money or insurance money

- (1) An *authorised firm* must take reasonable steps to ensure that *client money* received by an *approved representative* or *non-QFC intermediary* of the firm is paid into a *client bank account* of the

firm as soon as possible after it is received, but within 1 *business day* after the day it is received.

- (2) An *authorised firm* must take reasonable steps to ensure that *insurance money* received by an *approved representative* or *non-QFC intermediary* of the firm is paid into an *insurance bank account* of the firm as soon as possible after it is received, but within 1 *business day* after the day it is received.

Explanatory note (outer time limit)

This amendment extends rule 2.2.7 to cover insurance money and clarifies the time within which money must be paid into the relevant kind of account.

[1.73] Rule 2.3.1 (1) and (2)

substitute

- (1) Before conducting business with or for a *client*, an *authorised firm* must take reasonable steps to establish whether the *client* is, and then classify the *client* as—
- (a) a *retail customer*; or
 - (b) for *insurance business* or *insurance mediation business* in relation to *non-investment insurance contracts*—a *commercial customer*; or
 - (c) for other business—a *business customer*; or
 - (d) a *market counterparty*.
- (2) If it is not clear to an *authorised firm* whether a particular *client* is a *retail customer* or a *commercial customer* or *business customer*, the firm must classify the *client* as a *retail customer*.

Explanatory note

This amendment is consequential on the revised definition of *customer* inserted by another amendment.

[1.74] Rule 2.3.2 (1)

substitute

-
- (1) If a *client* of an *authorised firm* would apart from this rule be required to be classified as a *retail customer* and the firm complies with this rule in relation to the *client*, the firm may classify the *client* as a commercial customer or business customer (or both) in relation to all *regulated activities* or particular *regulated activities*.

Explanatory note

This amendment allows a retail customer to be classified as a commercial customer or business customer (or both). The rule presently only allows a retail customer to be classified as a business customer.

[1.75] Rule 2.3.2 (2) and (3)

after each mention of
business customer
insert
or commercial customer

Explanatory note

This amendment is consequential on the replacement of rule 2.3.2 (1) by another amendment.

[1.76] Rule 2.3.2 (5) (a) and (b)

omit
business customer
substitute
business customer or commercial customer

Explanatory note

This amendment is consequential on the replacement of rule 2.3.2 (1) by another amendment.

[1.77] Rule 2.3.3 (2) (a) and (b)

substitute
(a) the agent is another *authorised firm*; or

(b) the agent is a *regulated financial institution*; or

Explanatory note

This amendment is consequential on the revised definition of *market counterparty* inserted by another amendment.

[1.78] Rule 3.3.3 (1) (b) (ii)

omit

12-month

substitute

12-month

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with financial promotions that include or refer to past performance of regulated activities or specified products).

[1.79] Rule 4.4.8 (a)

omit

6-monthly

substitute

6-monthly

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with the giving of periodic statements to investment business customers).

[1.80] Rule 4.4.8 (b)

omit

monthly

substitute

monthly

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with the giving of periodic statements to investment business customers who are retail customers with an uncovered open position resulting from a contingent liability transaction).

[1.81] Rule 4.5.16 (3)

substitute

- (3) This rule does not apply to a *non-market-price transaction* if it is subject to the rules of an *eligible exchange*.

Explanatory note

This amendment revises the subrule consequentially on the replacement (by other amendments) of the definition of *designated exchange* by the definitions of *eligible exchange* and *regulated exchange*. The subrule provides an exception to the provisions of the rule regulating non-market-price transactions.

[1.82] Rule 5.5.1 (3) (a)

substitute

- (a) the contract is for a term of less than 1 *month*; or

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which provides an exception to the requirement to give a customer adequate advance notice of the end of the term of a non-investment insurance contract).

[1.83] Rule 6.2.6 (2) (a)

substitute

- (a) a *non-investment insurance contract* that provides cover for less than 1 *month*;

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with an exception to the right to cancel non-investment insurance contracts).

[1.84] Rule 6.2.6 (2) (c)

substitute

- (c) a *non-investment insurance contract* that is a *pure protection contract* with a term of *6 months* or less.

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with an exception to the right to cancel non-investment insurance contracts).

[1.85] Schedule 4, rule S4.1 (2)

omit

12-month

substitute

12-month

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with the requirements for producing investment research recommendations).

[1.86] Schedule 4, rule S4.3 (1)

substitute

- (1) This rule applies to a *research recommendation* produced by an *authorised firm* in relation to a *relevant investment*.

Explanatory note

This amendment clarifies the application of the rule and is consequential on the omission of the definition of *relevant issuer* in INAP by another amendment.

[1.87] Schedule 4, rule S4.3 (2) (a)

omit

and the *relevant issuer*

substitute

and the issuer of the *relevant investment* (the *relevant issuer*)

Explanatory note

This amendment relocates the definition of *relevant issuer* from INAP to this rule. The definition is only used in this rule.

[1.88] Schedule 4, rule S4.3 (2) (a) (i) and (ii) and (b) to (f) and (5)

omit

relevant issuer

substitute

relevant issuer

Explanatory note

This amendment is consequential on the omission of the definition of *relevant issuer* in INAP by another amendment.

[1.89] Schedule 4, rule S4.3 (2) (d) and (3) (b)

omit

months

substitute

months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions (which relate to disclosure of interests requirements for investment research recommendations).

[1.90] Schedule 4, rule S4.3 (6) (b)

omit everything after

during

substitute

the last 12 *months*.

Explanatory note (months)

This amendment applies the definition of *month* in INAP to the provision (which relates to disclosure of interests requirements for investment research recommendations). The amendment also corrects a typographical error.

[1.91] Attachment 1

omit

Explanatory note

This amendment omits explanatory material that is not part of the rulebook. It is proposed to publish the material, in an updated and improved form, as a separate document. It is not practicable to do this within the confines of COND.

Part 1.5 Controls Rulebook (CTRL)

[1.92] Rule 4.11.1, guidance

substitute

Note See esp *GENE*, ch 6 (Recordkeeping) and sch 3 (Overview of recordkeeping requirements).

Explanatory note

This amendment replaces guidance with a note consequentially on the amendments of *GENE* about recordkeeping.

[1.93] Section 5.2

substitute

5.2 Notification of material outsourcing arrangements

5.2.1 Material outsourcing arrangement not to be entered into without prior notice

An *authorised firm* must not enter into a *material outsourcing* arrangement unless it gave *written* notice to the *Regulatory Authority* of its intention to enter into the arrangement at least 30 *business days* before the day it enters into the arrangement.

5.2.2 Requirement to give additional information about material outsourcing arrangement

- (1) The *Regulatory Authority* may, by *written* notice given to an *authorised firm*, require the firm to give the authority, within a stated reasonable period, stated information in *writing* about a *material outsourcing* arrangement (or proposed *material outsourcing* arrangement) that the authority reasonably needs to enable it to decide whether the arrangement complies with this chapter.
- (2) The *authorised firm* must comply with the requirement.

(3) The power given by this rule is additional to the *Regulatory Authority's* other powers.

Note See eg *Financial Services Regulations*, art 48 (Powers to obtain documents and information).

Explanatory note (outer time limit)

This amendment remakes rule 5.2.1 to set a minimum period for the prior notice that an authorised firm must give to the Regulatory Authority of a material outsourcing arrangement.

The amendment also remakes rule 5.2.2 to make it clear that a request for information about a material outsourcing arrangement may set a reasonable period within which the request must be complied with.

Part 1.6 General Rulebook (GENE)

[1.94] Section 4.3 heading

substitute

4.3 Notice of certain events required

Explanatory note

This amendment is consequential on the restructuring of sections 4.3 to 4.8 as a single section.

[1.95] Rule 4.3.1

substitute

4.3.1 Notice of changes in certain core details

- (1) An *authorised firm* must give the *Regulatory Authority* reasonable *written* notice of at least 10 *business day* before any proposed change in relation to a matter to which this rule applies.
- (2) If the *authorised firm* cannot give advance notice of a change in relation to a matter to which this rule applies in accordance with subrule (1), the firm must tell the *Regulatory Authority* in *writing* about the change immediately after it becomes aware that the change is to happen or has happened, but by no later than the second *business day* after the day it becomes aware of the change.
- (3) This rule applies to the following matters:
 - (a) the *authorised firm's* name;
 - (b) any business or trading name under which the firm conducts a *regulated activity* in or from the *QFC*;
 - (c) the address of the firm's principal place of business in the *QFC*;
 - (d) if the firm is a *branch*—its registered office or head office address;

-
- (e) the firm's legal structure;
 - (f) the name of an *approved individual* for the firm or any material matter relating to the *approved individual's* suitability and competence to *exercise a controlled function* for which the individual is approved.

Explanatory note (outer time limit)

This amendment sets a minimum time for the advance notice that an authorised firm must give of certain changes. The amendment also makes it clear that an authorised firm must tell the Regulatory Authority about changes for which it cannot give advance notice and sets an outer time limit for the notice to be given.

[1.96] Rule 4.3.2

substitute

4.3.2 Notice of establishing or closing of branch office by local firm

A *local firm* must not establish or close a branch office anywhere in the world from which it proposes to conduct, or conducts, financial services unless it gave *written* notice to the *Regulatory Authority* of its intention to do so at least 10 *business days* before the day it establishes or closes the branch office.

Explanatory note (outer time limit)

This amendment remakes rule 4.3.2 to set a minimum period for the prior notice that a local firm must give the Regulatory Authority of a branch office establishment or closure.

[1.97] Section 4.4 heading

omit

Explanatory note

This amendment is consequential on the restructuring of sections 4.3 to 4.8 as a single section.

[1.98] Rule 4.4.1

omit everything before paragraph (A), substitute

4.3.3 Notice of certain significant events

- (1) If an *authorised firm* becomes aware, or has reasonable grounds to believe, that a matter to which this rule applies has or may have happened, or may be about to happen, the firm must tell the *Regulatory Authority* about the matter immediately, but within 1 *business day*.

Examples—meaning of ‘within 1 business day’

- 1 If, on a *business day*, the *authorised firm* becomes aware that a matter to which this rule applies has or may have happened, the firm must tell the authority about it immediately, but on that day.
- 2 If, on a day that is not a *business day*, the *authorised firm* has reasonable grounds to believe that a matter to which this rule applies may be about to happen, the firm must tell the authority about it immediately, but by no later than the next *business day*.

- (2) This rule applies to the following matters:

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the Regulatory Authority about certain significant events.

[1.99] Rule 4.4.1 (H)

omit last mention of

or

Explanatory note

This amendment is consequential on the previous amendment of rule 4.4.1.

[1.100] Section 4.5 heading

omit

Explanatory note

This amendment is consequential on the restructuring of sections 4.3 to 4.8 as a single section.

[1.101] Rule 4.5.1

omit everything before paragraph (A), substitute

4.3.4 Notice of events relating to fraud etc

- (1) If an event to which this rule applies happens in relation to the activities of an *authorised firm* that are conducted in or from the *QFC*, the firm must tell the *Regulatory Authority* in *writing* about the event immediately, but within 1 *business day* after the day the event happens.

Examples

See examples to rule 4.3.3 (1) on the meaning of ‘within 1 *business day*’.

- (2) This rule applies to the following events:

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the Regulatory Authority about certain events relating to fraud, irregularities and misconduct.

[1.102] Rule 4.5.1 (D)

omit last mention of

or

Explanatory note

This amendment is consequential on the previous amendment of rule 4.5.1.

[1.103] Section 4.6

substitute

4.3.5 Notice of certain events involving other regulators

- (1) If an *authorised firm* becomes aware of an event to which this rule applies, the firm must tell the *Regulatory Authority* in *writing* about the event immediately, but within 1 *business day*.

Examples

See examples to rule 4.3.3 (1) on the meaning of ‘within 1 *business day*’.

-
- (2) This rule applies to the following events:
- (a) an application by the *authorised firm* for, or for revocation of, an authorisation (however described) to conduct financial services in any *jurisdiction* outside the *QFC* is granted, refused or withdrawn (however described);
 - (b) an application by the firm for, or for revocation of, membership of any exchange or clearing house is granted, refused or withdrawn (however described);
 - (c) an *overseas regulator* starts an investigation (however described) into any of the firm's affairs;
 - (d) an *overseas regulator* appoints investigators (however described) to investigate any of the firm's affairs;
 - (e) disciplinary measures or sanctions (however described) are imposed on the firm by an *overseas regulator*, or any exchange or clearing house, in relation to its conduct of financial services.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the Regulatory Authority about certain events involving other regulators. The amendment also makes minor clarifications to the scope of the rule.

[1.104] Section 4.7

substitute

4.3.6 Notice of certain action against authorised firm

- (1) If an *authorised firm* becomes aware of an event to which this rule applies, the firm must tell the *Regulatory Authority* in *writing* about the event immediately, but within 1 *business day*.

Examples

See examples to rule 4.3.3 (1) on the meaning of 'within 1 *business day*'.

- (2) This rule applies to the following events:

-
- (a) a civil proceeding is brought against the *authorised firm* and the amount involved is significant in relation to its financial resources or reputation;
 - (b) the firm is prosecuted for, or found guilty of, any offence involving fraud or dishonesty;
 - (c) a penalty is imposed on the firm for tax evasion.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the Regulatory Authority about certain action in relation to the firm.

[1.105] Rule 4.8.1

omit everything before paragraph (A), substitute

4.3.7 Notice of certain insolvency-related events

- (1) If an *authorised firm* becomes aware of an event to which this rule applies, the firm must tell the *Regulatory Authority* in *writing* about the event immediately, but within 1 *business day*.

Examples

See examples to rule 4.3.3 (1) on the meaning of ‘within 1 *business day*’.

- (2) This rule applies to the following events:

Explanatory note (outer time limit)

This amendment sets an outer time for an authorised firm to tell the Regulatory Authority about certain insolvency events.

[1.106] Rule 4.8.1 (D)

omit last mention of

or

Explanatory note

This amendment is consequential on the previous amendment of rule 4.8.1.

[1.107] Rule 5.1.1, guidance

substitute

Note 1 Schedule 2 provides an overview of the provisions of *Rules* under which there are requirements to provide periodic reports to the *Regulatory Authority*.

Note 2 In the absence of a specific form for a reporting requirement, QFC Form Q14 should be used for a report to the *Regulatory Authority*.

Explanatory note

This amendment replaces existing guidance with notes that are partly consequential on other amendments of GENE about periodic reporting requirements.

[1.108] Section 5.3

omit

Explanatory note

This amendment is consequential on the replacement of the guidance in rule 5.1.1.

[1.109] Rule 6.1.1, new note

insert

Note Schedule 3 provides an overview of recordkeeping requirements.

Explanatory note

This amendment inserts a note to draw the reader's attention to schedule 3.

[1.110] Section 6.3

omit

Explanatory note

This amendment is consequential on the insertion of a new note in rule 6.1.1.

[1.111] Rule 7.2.4 (other than guidance)

substitute

7.2.4 Notice of material change in circumstances—applicant for waiver etc

If an applicant for a *waiver or modification notice* becomes aware of any material change in circumstances that may affect the *Regulatory*

Authority's decision on the application, the applicant must tell the authority in *writing* about the change immediately, but within 1 *business day*.

Examples

See examples to rule 4.3.3 (1) on the meaning of 'within 1 *business day*'.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an applicant for a waiver or modification notice to tell the *Regulatory Authority* about a material change in circumstances.

[1.112] Section 7.6

substitute

7.6 Continuing relevance of waiver or modification notice

7.6.1 Notice of material change in circumstances—firm with waiver etc

If a *waiver or modification notice* applies to an *authorised firm* and the firm becomes aware of any material change in circumstances that may affect the continuing relevance of the notice, the firm must tell the *Regulatory Authority* in *writing* about the change immediately, but within 1 *business day*.

Examples

See examples to rule 4.3.3 (1) on the meaning of 'within 1 *business day*'.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the *Regulatory Authority* about a material change in circumstance that may affect the continuing relevance of a waiver or modification notice applying to the firm.

[1.113] Section 7.9

omit

Explanatory note

This amendment omits the section consequentially on the amendments of the QFC Law made by Law No. (2) of 2009

[1.114] Rule 8.3.3, guidance

substitute

Note See r 4.3.3 for an authorised firm's obligation to tell the authority about proposed restructurings, mergers, acquisitions, reorganisations and business expansions.

Explanatory note

This amendment replaces guidance with a note about other matters that an authorised firm must tell the authority about.

[1.115] Rule 8.4.7

substitute

8.4.7 Time limit for giving controller notice

A *controller notice* for an acquisition or change in *control* must be given to the *Regulatory Authority*—

- (a) at least 20 *business days* before the acquisition or change in *control* happens; or
- (b) if it is not practicable to give the notice in accordance with paragraph (a)—immediately after the *person* required to give the notice becomes aware of the proposed or actual acquisition or change in *control*, but within 1 *business day*.

Examples

See examples to rule 4.3.3 (1) on the meaning of 'within 1 *business day*'.

Explanatory note (outer time limit)

This amendment remakes rule 8.4.7 to clarify when a controller notice must be given to the Regulatory Authority. The amendment also changes a reference to 30 days to 20 business days and sets an outer limit for a controller notice to be given to the authority if it is not practicable to give the notice at least 20 business days in advance.

[1.116] Rule 8.6.1 (1)

substitute

-
- (1) An *authorised firm* must give the *Regulatory Authority* a controller's report for each financial year of the firm within 4 *months* after the day the financial year ends.

Example

If a financial year of an *authorised firm* ends on 31 December in a year, the controller's report for the financial year must be given to the *Regulatory Authority* before 1 May in the next year.

Explanatory note (months)

This amendment clarifies the time limit within which a controller's report must be given to the *Regulatory Authority*.

[1.117] Rule 9.4.1

omit everything before paragraph (A), substitute

9.4.1 Time limit for examining and reporting financial accounts and statements etc

Within 4 *months* after the day each financial year of an *authorised firm* ends, the firm must—

Explanatory note (months)

This amendment clarifies the time limit within which an *authorised firm* must file its financial statements and audit reports with the *Regulatory Authority*.

[1.118] Sections 9.7 and 9.8

substitute

9.7 Auditors

9.7.1 Section 9.7 additional to other provisions

To remove any doubt, if an *authorised firm* is a limited liability company, limited liability partnership, or limited partnership, incorporated under any *Regulations*, this part is additional to the provisions of any *Regulations* (including any rules made or in force under any *Regulations*) applying in relation to the firm as such a company or partnership.

9.7.2 Appointment of auditor

- (1) An *authorised firm* may, from time to time, appoint an auditor for the firm, and must ensure that there is, at all times, an auditor appointed for the firm.
- (2) Before appointing an auditor (whether or not in replacement of another auditor and whether or not the appointment is at the direction of the *Regulatory Authority*), the firm must apply to the authority in writing for approval to appoint the proposed auditor.
- (3) The application must include a statement that the *authorised firm* is satisfied that the proposed auditor is eligible to be appointed as the firm's auditor under rule 9.7.3 (1) (Eligibility for appointment as auditor).
- (4) The *Regulatory Authority* must—
 - (a) approve the appointment of the proposed auditor; or
 - (b) refuse to approve the appointment of the proposed auditor.
- (5) The *Regulatory Authority* must give the *authorised firm* written notice of its decision on the application.
- (6) If the *Regulatory Authority* refuses to approve the appointment of the proposed auditor, the notice must—
 - (a) give reasons for the decision; and
 - (b) tell the *authorised firm* that it may appeal to the *Regulatory Tribunal* against the decision.
- (7) The *authorised firm* must not appoint the proposed auditor unless the *Regulatory Authority* has approved the appointment.
- (8) If the *authorised firm* appoints the proposed auditor, the firm must tell the *Regulatory Authority* in writing about the appointment, and when it takes effect, immediately, but by no later than the second *business day* after the day the appointment is made.

9.7.3 Eligibility for appointment as auditor

- (1) An *authorised firm* must not appoint a *person* as auditor for the firm unless the *person*—
 - (a) has consented in *writing* to the appointment being made; and
 - (b) has the skills, resources and experience necessary to audit the firm's business; and
 - (c) has satisfied the firm that it and its relevant audit staff are—
 - (i) independent of the firm; and
 - (ii) not subject to any conflict of interest in relation to the firm.
- (2) The *authorised firm* must make and keep sufficient records to demonstrate that it complied with subrule (1) before the appointment was made.
- (3) The records must be kept for at least 6 years after the day the *person* ceases to be auditor for the *authorised firm*.

9.7.4 Direction to replace auditor

- (1) This rule applies if the *Regulatory Authority* considers that a *person* appointed as auditor for an *authorised firm* is not suitable to be, or to continue to be, auditor for the firm.
- (2) The *Regulatory Authority* may, by *written* notice, direct the *authorised firm* to end the *person's* appointment as auditor and to appoint another auditor for the firm.
- (3) The *authorised firm* must comply with the direction within the period stated in the direction or, if no period is stated, within a reasonable period.
- (4) The *Regulatory Authority* must give the *person* a copy of the notice.
- (5) The notice must—
 - (a) give, or be accompanied by, reasons for the direction; and

-
- (b) state that the *authorised firm* or *person* (or both) may appeal to the *Regulatory Tribunal* against the decision to give the direction.

9.7.5 Direction to appoint auditor

- (1) This rule applies if there is not, at any time, an auditor appointed for an *authorised firm*.

Note See r 9.7.6 for the duty of an *authorised firm* to notify the authority if the appointment of an auditor ends for any reason.

- (2) The *Regulatory Authority* may, by *written* notice, direct the *authorised firm* to appoint an auditor for the firm.

Note The auditor must be appointed in accordance with r 9.7.2 (Appointment of auditor).

- (3) The *authorised firm* must comply with the direction within the period stated in the direction or, if no period is stated, within a reasonable period.

9.7.6 Notification if appointment of auditor ends

If the appointment of an auditor of an *authorised firm* ends for any reason, the firm must tell the *Regulatory Authority* in *writing* immediately, but by no later than the second *business day* after the day the appointment ends—

- (a) that the appointment has ended; and
(b) the reason for the appointment ending.

Note For the obligation of the *person* to notify the *Regulatory Authority* if the *person's* appointment ends, see *Financial Services Regulations*, art 91 (Resignation of auditors and actuaries).

Explanatory note

This amendment remakes the provisions of GENE about the appointment and removal of auditors of authorised firms. Under the remade provisions an authorised firm must not appoint a proposed auditor unless the Regulatory Authority has, on the firm's application, approved the appointment. The application must include a statement that the firm is satisfied that the

proposed auditor is eligible to be appointed. The remade provisions make it clear that an authorised firm must have an auditor at all times and empower the Regulatory Authority to direct an authorised firm to appoint an auditor if it does not have one. The remade provisions also clarify various matters relating to the appointment and removal of auditors, including time limits within which certain notices must be given to the Regulatory Authority.

[1.119] Rule 10.2.2

omit each mention of

calendar month

substitute

month

Explanatory note (months)

This amendment is consequential on the insertion of a new definition of *calendar month*, and a revised definition of *month*, into INAP by other amendments.

[1.120] Rule 11.2.1 (A)

substitute

- (a) a contract is regarded as made for investment purposes if—
 - (i) it is made, or traded, on a *regulated exchange*; or
 - (ii) it is made otherwise than on a *regulated exchange*, but is expressed to be traded on—
 - (A) a *regulated exchange*; or
 - (B) the same terms on which an equivalent contract would be traded on a *regulated exchange*;

Explanatory note

This amendment revises the paragraph consequentially on the replacement (by other amendments) of the definition of *designated exchange* by the definitions of *eligible exchange* and *regulated exchange*. Rule 11.2.1 deals with the circumstances in which an option or futures contract is to be regarded as for commercial or investment purposes. Options and futures contracts made for commercial purposes are not specified products under the *Financial Services Regulations*.

[1.121] Rule 11.2.1 (D) (i) and (ii)

omit

an investment exchange

substitute

a *regulated exchange*

Explanatory note

This amendment clarifies references to an exchange using the definition of *regulated exchange* inserted by another amendment.

[1.122] Appendix 2

substitute

Schedule 2 Overview of reporting requirements

Note on reporting requirements

This note provides a list of *provisions* of the *Rules* under which there are requirements to report periodically to the *Regulatory Authority*. However, the list may not be a complete statement of all relevant provisions and should not be relied on as such.

1 COLL**1.1 Operators**

- r 5.1.4 (Transactions with affected persons—details required for annual report)
- r 5.6.1 (Reports and accounts generally)
- r 5.6.2 (Content of annual reports)
- r 5.6.3 (Content of half-yearly reports)
- r 5.6.4 (Operator's reports)

1.2 Independent entities

- r 4.2.10 (Non-QFC independent entities—annual compliance certificate)
- r 5.6.5 (Independent entity's reports)

1.3 Auditors

- r 5.6.6 (Auditor's reports)

-
- 1.4 Reports during winding-up**
 - r 8.2.7 (Accounting and reports during winding-up)
 - 1.5 Foreign fund promotions**
 - r 10.1.5 (Quarterly returns for foreign fund promotions etc)
 - 2 GENE**
 - 2.1 Annual controllers report**
 - r 8.6.1
 - 2.2 Financial accounts and statements**
 - r 9.4.1
 - 2.3 Audit reports**
 - r 9.4.1 and r 9.5.1
 - 3 PIIB**
 - 3.1 Prudential returns**
 - r 1.4.1
 - 4 ISFI**
 - 4.1 Shari'a Supervisory Board reports**
 - r 6.2.2
 - 5 PINS**
 - 5.1 Prudential returns**
 - r 1.4.1
 - 5.2 Financial condition reports**
 - r 9.3.2
 - 5.3 Independent actuarial reports**
 - r 9.4.2

Explanatory note

This amendment replaces the table in the appendix with a more comprehensive list of the provisions under which there are obligations to provide periodic reports to the Regulatory Authority.

substitute

Schedule 3 Overview of recordkeeping requirements

Note on recordkeeping requirements

This note provides a list of *provisions* of the *Rules* under which there are recordkeeping requirements. However, the list may not be a complete statement of all relevant provisions and should not be relied on as such.

1 *AMLR*

1.1 *AML records*

- r 3.1.1 (g) and (h)
- s 3.9, guidance 2
- r A1.1.1 (c)

2 *ASET*

2.1 *Client money*

- r 2.2.1 (e) (ii)
- r 2.5.8
- s 2.13
- r 3.3.2(b)

2.2 *Custody services*

- r 4.1.4 (a) and (c)
- r 4.4.1
- r 4.4.3
- r 4.6.2 (b)
- s 4.11

2.3 *Collateral for investment business*

- r 5.2.1

2.4 *Mandates over client accounts*

- r 6.1.1 (3) (b)

2.5 Insurance money

- r 7.3.11
- s 7.5

3 COLL

3.1 Operators

- r 4.1.6 (Register of unitholders)
- r 4.1.7 (Records of operator)
- r 5.5.1 (Unitholder meetings)
- r 7.1.5 (Issue and cancellation of units generally)
- r 7.2.1 (Requirements for unitholder register)
- r 7.2.3 (7) (Transfer of units by act of parties)

3.2 Independent entities

- r 4.2.7 (Records of independent entity)

3.3 Foreign funds

- r 10.1.6 (Foreign funds—recordkeeping by authorised firms)

4 COND

4.1 Obligations of all authorised firms

- r 2.2.8 (Approved representative and non-QFC intermediary—recordkeeping)
- r 2.3.5 (Client classification—recordkeeping)
- r 2.5.10 (Inducements—recordkeeping)
- r 2.6.5 (Customer complaints—recordkeeping)
- r 2.8.1 (General recordkeeping obligation)

4.2 Financial promotions

- r 3.4.1 (Financial promotions—recordkeeping)

4.3 Conduct of investment business

- r 4.2.9 (Initial client contact—recordkeeping)
- r 4.3.9 (Retail investment services—recordkeeping)
- r 4.3.20 (Life policies—recordkeeping)
- r 4.4.6 (Confirmation notes—recordkeeping)
- r 4.4.10 (Periodic statements—recordkeeping)
- r 4.4.15 (Relevant investment contracts cancellation—recordkeeping)
- r 4.5.1 (2) (b) (Investment research—conflicts of interest and impartiality)
- r 4.5.4 (Investment research recommendations—recordkeeping)
- r 4.5.6 (Personal account transaction—recordkeeping)
- r 4.5.9 (Dealing and managing—recordkeeping)

-
- r 4.5.10 (c) (Dealing and managing—aggregation of customer orders)
 - r 4.5.13 (2) and (3) (Aggregation of customer orders—fair allocation etc)
 - r 4.5.16 (2) (Dealing and managing—non-market price transactions)
 - sch 5 (Recordkeeping—dealing and managing)

4.4 Conduct of non-investment insurance mediation business

- r 5.3.5 (Non-investment insurance advice—recordkeeping)

4.5 Conduct of insurance business

- r 6.2.10 (Insurance contract cancellation—recordkeeping)
- r 6.3.4 (Claims handling—recordkeeping)

4.6 Conduct of deposit taking business

- r 7.2.5 (Terms of business for deposit taking—recordkeeping)

5 CTRL

5.1 Management oversight reports

- r 2.2.2

5.2 Allocation of responsibilities

- r 3.2.1
- r 3.2.2

5.3 Systems, procedures, controls and resources reports

- r 4.1.3 (1)

5.4 Business records

- r 4.11.1

6 GENE

6.1 Restrictions on client money and insurance money

- r 2.5.2

6.2 General recordkeeping requirement

- r 6.1.1

6.3 Accounting and financial records

- r 9.2.1
- r 9.2.2
- r 9.3.1

6.4 Auditors

- r 9.7.3 (2) (Eligibility for appointment as auditor)

-
- 7** ***INDI***
- 7.1** **Suitability and competence of approved individuals**
- r 5.1.5
- 7.2** **Continuing competence of approved individuals**
- r 5.3.1
- 8** ***PIIB***
- 8.1** **Transfers between trading book and non-trading book**
- r 1.3.9 (2)
 - r A1.7.1 (a)
- 8.2** **Credit**
- A4.2, guidance 34
- 8.3** **Connected counterparty exemptions**
- r A4.8.12 (c)
- 8.4** **Credit derivatives**
- r A4.11.4 – r A4.11.9
 - r A4.11.12
 - r A4.11.16 – r A4.11.17
 - r A4.11.22 (b)
 - r A4.11.28
 - r A4.11.33
 - r A4.11.37
 - r A4.11.41
- 8.5** **Market risk**
- A5.1, guidance 19
- 9** ***ISFI***
- 9.1** **Shari’a Supervisory Board**
- r 6.1.3 – r 6.1.4
- 10** ***PINS***
- 10.1** **Long-term insurance business—segregation**
- r 5.4.1 – r 5.4.5
- 10.2** **Takaful funds—segregation**
- r 6.4.2

10.3 Classification of insurance contracts

- r 8.3.2 – r 8.3.2

10.4 Consolidated supervision—group transactions

- r 10.3.2

Explanatory note

This amendment replaces the table in the appendix with a more comprehensive list of the provisions under which there are recordkeeping obligations.

Part 1.7 Individuals Rulebook (INDI)

[1.124] New rule 3.3.3

insert

3.3.3 **When application to withdraw registration of approved individual must be made**

- (1) This rule applies if an *authorised firm* becomes aware that, for any reason, an individual who is an *approved individual* for the firm is to cease to *exercise*, or has ceased to *exercise*, a *controlled function* for the firm.
- (2) The *authorised firm* must make an application under this section to withdraw the individual's registration to *exercise* the *controlled function* for the firm.
- (3) The *authorised firm* must make the application to the *Regulatory Authority*—
 - (a) at least 10 *business days* before the day the individual is to cease to *exercise* the *controlled function* for the firm; or
 - (b) if it is not practicable to make the application to the authority in accordance with paragraph (a)—immediately after the firm becomes aware that the individual is to cease to *exercise*, or has ceased to *exercise*, the *controlled function*, but within 2 *business days*.

Examples—meaning of 'within 2 business days'

- 1 If, on a *business day*, the *authorised firm* becomes aware that the individual will cease to exercise the *controlled function*, the firm must make the application immediately, but by no later than the next *business day*.
- 2 If, on a day that is not a *business day*, the *authorised firm* becomes aware that the individual has ceased to exercise the *controlled function*, the firm must make the application immediately, but by no later than 2 *business days* after that day.

Explanatory note (outer time limit)

This amendment inserts a new rule that requires an authorised firm to apply to withdraw an individual's registration as an approved individual for the firm if the firm becomes aware that the individual is to cease to exercise, or has ceased to exercise, controlled functions for the firm. The new rule also sets an outer time limit for the application to be made.

[1.125] Rule 3.4.1

substitute

3.4.1 Insurer to give notice before removal of approved actuary

- (1) An *insurer* must give the *Regulatory Authority* reasonable advance *written* notice of at least 2 *business days* of a proposal to remove an *approved actuary* for the *insurer*.
- (2) The notice must include the reasons for the removal.

3.4.1A Notification by insurer if appointment of approved actuary ends

If the appointment of an *approved actuary* for an *insurer* ends for any reason, the *insurer* must tell the *Regulatory Authority* in *writing* immediately, but by no later than the second *business day* after the day the appointment ends—

- (a) that the appointment has ended; and
- (b) the reason for the appointment ending.

Note For the obligation of the *approved actuary* to notify the *Regulatory Authority* if the actuary's appointment ends, see *Financial Services Regulations*, art 91 (Resignation of auditors and actuaries).

Explanatory note (outer time limit)

This amendment requires an insurer to give advance notice to the Regulatory Authority of a proposal to remove an approved actuary, requires an insurer to notify the authority if an approved actuary's appointment ends for any reason, and sets outer time limits for the notifications to be given to the authority.

[1.126] Rule 3.4.2

substitute

3.4.2 Insurer must appoint approved actuary if vacancy arises

If at any time there is not an *approved actuary* for an *insurer*, the *insurer* must appoint an *approved actuary* as soon as practicable, but within 3 *months* after the day the vacancy arises.

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the rule.

[1.127] Rule 6.2.1 (A)

substitute

- (a) the visits do not total more than 45 days in any consecutive 12 *months*;

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with a limit on temporary cover for the customer facing function).

Part 1.8 Interim Prudential—Investment, Insurance Mediation and Banking Business Rulebook (PIIB)

[1.128] Rule 1.3.7 (c) (ii)

omit

preceding 12 month period.

substitute

previous 12 *months*.

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with when an authorised firm must have a trading book).

[1.129] Rule 1.5.3

substitute

1.5.3 Time limit for annual prudential returns

An *authorised firm* must give an annual prudential return to the *Regulatory Authority* within 4 *months* after the day the relevant financial year of the firm ends.

Example

If a financial year of an *authorised firm* ends on 31 December in a year, the annual prudential return for the year must be given to the *Regulatory Authority* before 1 May in the next year.

1.5.4 Time limit for biannual prudential returns

- (1) An *authorised firm* must give a biannual prudential return to the *Regulatory Authority* within 1 *month* after the day the relevant standard biannual period ends.

Example

If a standard biannual period ends on 30 June in a year, the biannual prudential return for the period must be given to the *Regulatory Authority* before 1 August in the year.

(2) In this rule:

standard biannual period means the 6-month period ending on 30 June or 31 December.

1.5.5 Time limit for quarterly prudential returns

(1) An *authorised firm* must give a quarterly prudential return to the *Regulatory Authority* within 1 month after the day the relevant standard quarter ends.

Example

If a standard quarter ends on 31 March in a year, the quarterly prudential return for the period must be given to the *Regulatory Authority* before 1 May in the year.

(2) In this rule:

standard quarter means the 3-month period ending on 31 March, 30 June, 30 September or 31 December.

Explanatory note (months)

This amendment clarifies the time limit for providing annual prudential returns, biannual prudential returns and quarterly prudential returns.

[1.130] Rule 2.2.4 (other than guidance)

substitute

2.2.4 Notice to be given of ch 2 breaches

If an *authorised firm* becomes aware, or has reasonable grounds to believe, that it has or may have breached, or may be about to breach, a *provision* of this chapter, the firm must—

- (a) immediately tell the *Regulatory Authority* orally about the breach or anticipated breach; and
- (b) by *written* notice given to the authority, confirm the oral notification within 1 *business day*.

Examples—meaning of ‘within 1 business day’

- 1 If, on a *business day*, the *authorised firm* becomes aware that a breach has or may have happened, the firm must confirm its oral notification to the authority on that day.
- 2 If, on a day that is not a *business day*, the *authorised firm* has reasonable grounds to believe that a breach may be about to happen, the firm must confirm its oral notification to the authority by no later than the next *business day*.

Explanatory note (outer time limit)

This amendment clarifies the circumstances in which an authorised firm must tell the Regulatory Authority about breaches of capital requirements and sets an outer time limit for the firm to do this.

[1.131] Rule 2.5.4 (1)

omit

12 month

substitute

12-month

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which deals with calculating a firm’s annual audited expenditure).

[1.132] Rule 2.5.5

substitute

2.5.5 Revision of annual audited expenditure

- (1) This rule applies if an *authorised firm’s* expenditure materially changes or the scope of its *authorisation* changes.
- (2) The *authorised firm* must revise its *annual audited expenditure*, and tell the *Regulatory Authority* in *writing* about its revised *annual audited expenditure*, within 5 *business days* after the day the change happens.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an *authorised firm* to revise its annual audited expenditure and tell the Regulatory Authority about it.

[1.133] Rule 2.7.1 (1) (D)

substitute

- (d) audited reserves also include capital contributions if—
- (i) the capital contributions satisfy the requirements of paragraph (a); and
 - (ii) the firm told the *Regulatory Authority* in *writing* of its intention to include the capital contributions at least 1 *month* before the day they were included;

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which relates to a component of capital) and corrects a minor paragraphing error.

[1.134] Rule 3.6.3

substitute

3.6.3 Monitor and control of PSIA expenditures etc

- (1) An *authorised firm* must monitor and control its *exposures* arising from *PSIAs* on a daily basis to ensure that they remain within the risk concentration limits under this section.
- (2) If an *authorised firm* becomes aware, or has reasonable grounds to believe, that it has or may have breached, or may be about to breach, the risk concentration limits under this section, the firm must—
 - (a) tell the *Regulatory Authority* orally about the breach or anticipated breach immediately, but within 1 *business day*; and
 - (b) by *written* notice given to the authority, confirm the oral notification by no later than the next *business day*.

Examples for para (a)

See examples to rule 2.2.4 on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment clarifies the circumstances in which an authorised firm must tell the Regulatory Authority, orally and then in writing, about a breach or anticipated breach of the risk concentration limits under section 3.6 and sets outer time limits for the firm to do this.

[1.135] Rule 4.5.3

substitute

4.5.3 Notice to be given if trading book exposure may exceed limit etc

- (1) This rule applies if an *authorised firm* becomes aware, or has reasonable grounds to believe, that its *trading book exposure* (or its *trading book exposure* added to *non-trading book exposure*) to a *counterparty*, a group of *closely related counterparties*, or a group of *connected counterparties*, has or may have exceeded, or may be about to exceed, 25% of its *capital resources*.
- (2) The *authorised firm* must—
 - (a) tell the *Regulatory Authority* orally about the matter immediately, but within 1 *business day*; and
 - (b) by *written* notice given to the authority by no later than the next *business day*—
 - (i) confirm the oral notification; and
 - (ii) explain the nature of its *trading book exposure*; and
 - (iii) seek guidance from the authority about the prudential treatment of the *trading book exposure*.

Examples for para (a)

See examples to rule 2.2.4 on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment remakes rule 4.5.3 to set out the circumstances in which an authorised firm must tell the Regulatory Authority, orally and then in writing, about exceeding, or possibly exceeding, the risk concentration limits under section 4.5, and sets outer time limits for the firm to do this.

[1.136] Rule 4.5.6

omit everything before paragraph (A), substitute

4.5.6 (1) An *authorised firm* must do the following:

Explanatory note

This amendment is consequential on the amendment of rule 4.5.6 (G) and (H) by the next amendment.

[1.137] Rule 4.5.6 (G) and (H)

substitute

- (g) monitor and control its *exposures* on a daily basis within the risk concentration limits under this section.
- (2) If an *authorised firm* becomes aware, or has reasonable grounds to believe, that it has or may have breached, or may be about to breach, the risk concentration limits under this section, the firm must—
 - (a) tell the *Regulatory Authority* orally about the breach or anticipated breach immediately, but within 1 *business day*; and

Examples

See examples to rule 2.2.4 on the meaning of ‘within 1 *business day*’.

- (b) by *written* notice given to the authority, confirm the oral notification by no later than the next *business day*.

Explanatory note (outer time limit)

This amendment clarifies the circumstances in which an authorised firm must tell the Regulatory Authority, orally and then in writing, about a breach or anticipated breach of the risk concentration limits under section 4.5 and sets outer time limits for the firm to do this.

[1.138] Rule 6.2.3 (1) (B)

substitute

- (b) the *authorised firm* tells the *Regulatory Authority* in writing about the delegation immediately after it is made, but within 1 *business day* after the delegation is made.

Examples for para (b)

See examples to rule 2.2.4 on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the Regulatory Authority about the delegation of the management of its liquidity risk.

[1.139] Rule 6.3.3 (2) (B) (ii)

substitute

- (ii) sight—1 *month*; and

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which relates to the maturity mismatch approach to measuring liquidity).

[1.140] Rule 6.3.4 (3)

substitute

- (3) If an *authorised firm* exceeds either or both of the net cumulative *maturity mismatch* limits applying under subrule (4) in relation to any of the means of funding used by it, the firm must—
- (a) tell the *Regulatory Authority* orally about the matter immediately, but within 1 *business day*; and
- (b) by *written* notice given to the authority, confirm the oral notification, and clearly explain what steps it will take to bring its liquidity position back within the limits, by no later than the next *business day*.

Examples

See examples to rule 2.2.4 on the meaning of ‘within 1 *business day*’.

-
- (4) For subrule (3), the net cumulative maturity mismatch limits are—
- (a) sight—8 days, negative 15%; and
 - (b) sight—1 *month*, negative 25%.

Explanatory note (outer time limit and months)

This amendment requires an authorised firm to give the Regulatory Authority initial oral notification about exceeding certain cumulative maturity mismatch limits and sets outer time limits for the firm to give the initial oral notification and written confirmation. The amendment also makes it clear that the definition of *month* in INAP applies to substituted rule 6.3.4 (4) (b).

[1.141] Rule 7.1.2 (3)

substitute

- (3) The *Regulatory Authority* may, by *written* notice given to an *authorised firm*, require the firm to give the authority, within a stated reasonable period, stated information in *writing* about any of the following:
 - (a) other *group entities* for the firm;
 - (b) the *group* structure;
 - (c) the systems and controls in place to manage *group risk*.
- (4) An *authorised firm* must comply with a requirement under subrule (3).
- (5) The power given by subrule (3) is additional to the *Regulatory Authority's* other powers.

Note See eg *Financial Services Regulations*, art 48 (Power to obtain documents and information).

Explanatory note (outer time limit)

This amendment remakes rule 7.1.2 (3) to make it clear that a request for information under the subrule may set a reasonable period within which the request must be complied with.

[1.142] Rule 7.3.1 (2)

substitute

-
- (2) If an *authorised firm* receives a *written* confirmation under subrule (1) (b) and the circumstances on which the confirmation was based change, the firm must tell the *Regulatory Authority* about the changed circumstances immediately, but within 1 *business day* after the day the firm becomes aware of the change.

Examples

See examples to rule 2.2.4 on the meaning of ‘within 1 *business day*’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for an authorised firm to tell the Regulatory Authority about changes in circumstances affecting the firm’s consolidated prudential supervision by another regulator.

[1.143] Appendix 4, rule A4.3.6 (3), definition of *in default*, paragraph (a)

omit

monthly

substitute

monthly

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision.

[1.144] Appendix 4, rule A4.8.1 (E) (i) (b)

substitute

- (b) the *authorised firm* gave the *Regulatory Authority* written notice of the *exposures* at least 10 *business days* before the day the *exposures* (or the earliest of them) arose; and

Explanatory note (outer time limit)

This amendment sets a minimum period for the notice that an authorised firm must give of certain exposures.

[1.145] Appendix 4, rule A6.3.1 (4), table

omit each mention of

months'

substitute

months

Explanatory note (months)

This amendment makes it clear that the definition of *month* applies to the table and removes inappropriate possessives.

[1.146] Further amendments, mentions of *month*

omit each mention of

month

substitute

month

in the following provisions:

- rule A1.4.1 (A)
- rule A4.8.12 (A)
- rule A5.2.16 (2), table
- rule A5.2.20 (2), table
- rule A5.5.5 (1) (B), table
- rule A5.5.5, table after guidance

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions.

[1.147] Further amendments, mentions of *months*

omit each mention of

months

substitute

months

in the following provisions:

- rule A5.2.13 (4), table
- rule A5.2.16 (2), table
- rule A5.2.20 (2), table
- rule A5.3.6 (A)
- rule A5.5.5 (1) (B), table
- rule A5.5.5, table after guidance
- rule 5.6.4 (2)
- section A5.8, Quantitative standards guidance, 3 e

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions.

Part 1.9 Interpretation and Application Rulebook (INAP)

[1.148] Chapters 1 and 2

substitute

Part 1 General provisions

1.1.1 Name of Rules

These *Rules* are the *Interpretation and Application Rulebook* (or *INAP*).

1.1.2 Application of INAP

These *Rules* apply to all *Rules*.

Part 2 Rules of interpretation and application

2.1.1 Provisions of pt 2 must be applied

- (1) A *provision* of this part must be applied, in accordance with the terms of the *provision*, to any *Rules*, except so far as it is displaced expressly or by contrary intention.
- (2) A *provision* of this part must not be taken to be displaced by a contrary intention in a *provision* of any *Rules* so far as the *provisions* can operate concurrently.

2.1.2 Exercise of functions between making and commencement of Rules

- (1) This rule applies to a *function* under a *provision* of any *Rules* in the following situations:

-
- (a) the *function* is given by a *provision* (the ***authorising provision***), but the *provision* has not commenced;
 - (b) the *function* is given by a *provision* (the ***authorising provision***) as amended by another *provision* (the ***amending provision***), but either or both of the *provisions* have not commenced.
- (2) The *function* may be *exercised* at any time even though the *authorising provision*, or the *authorising provision* and *amending provision* (or either of them), is not in force at the time.
 - (3) For the *exercise* of the *function*, the *authorising provision*, or the *authorising provision* and the *amending provision*, are taken to be in force at the time of the *exercise* of the *function*.
 - (4) Also, anything else may be done in relation to the *function* at any time for the purpose of bringing, or in relation to bringing, the *authorising provision*, the *authorising provision* as amended by the *amending provision*, or any other *provision* of the *Rules* containing the *provision* or *provisions*, into operation.

2.1.3 References to laws include references to laws as in force from time to time etc

- (1) In any *Rules*, a reference to a law includes a reference to the following:
 - (a) the law as originally made, and as amended from time to time since it was originally made;
 - (b) if the law has been repealed and remade (with or without changes) since the reference was made—the law as remade (or last remade), as amended from time to time since it was remade (or last remade);
 - (c) if a relevant *provision* of the law has been omitted and remade (with or without changes) in another law since the reference was made—the law in which the *provision* was remade (or last remade), as in force when the *provision* was remade (or last

remade), and as amended from time to time since the *provision* was remade (or last remade).

Note Law is defined in r (4).

- (2) In any *Rules*, a reference to a *provision* of a law includes a reference to the following:
- (a) the *provision* as originally made, and as amended from time to time since it was originally made;
 - (b) if the *provision* has been omitted and remade (with or without changes and whether in the law or another law) since the reference was made—the *provision* as remade (or last remade), and as amended from time to time since it was remade (or last remade).
- (3) To remove any doubt, if the name of a law is amended (including by substitution), a reference in any *Rules* to the law by its name before the amendment includes a reference to the law by its name as amended.
- (4) In this rule:
- law* means—
- (a) a law of any *jurisdiction*; and
 - (b) any regulations, rules or other *instruments* (however described and whether legislative or administrative) made or in force under a law of any *jurisdiction*;

and includes the *QFC Law* or any other law of the *State* and any *Regulations* or *Rules*.

name, of a law, includes any citation of, or other way of referring to, the law.

2.1.4 Material that is part of Rules

- (1) The following things in, or to, any *Rules* are part of the *Rules*:
- (a) a heading to a *provision*;

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- (b) an example or diagram;
 - (c) a schedule, appendix, dictionary or glossary;
 - (d) punctuation;
 - (e) a *provision* number.
- (2) Any guidance in whatever form in any *Rules* is also part of the *Rules*.
 - (3) To remove any doubt, subrule (2) is subject to the *Financial Services Regulations*, article 17 (4) (Guidance).

Note *Financial Services Regulations*, art 17 (4) states that guidance issued by the *Regulatory Authority* is indicative of its view at the time, and in the circumstances, in which it was given and is non-binding.
 - (4) Subrule (1) (a) applies to a heading to a *provision* in any *Rules* only if—
 - (a) the *Rules* were made after 1 January 2007; or
 - (b) the heading was amended or inserted into the *Rules* after 1 January 2007.

2.1.5 Effect of examples

An example in any *Rules* —

- (a) is not exhaustive; and
- (b) may extend, but does not limit, the meaning of the *Rules* or the particular *provision* of the *Rules* to which it relates.

2.1.6 Material that is not part of Rules

- (1) The following things in, or to, any *Rules* are not part of the *Rules*:
 - (a) a footnote, endnote or other note;
 - (b) a table of contents (however described), reader's guide or index.

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- (2) Anything mentioned in subrule (1) (a) or (b) does not become part of the *Rules* because it is amended or inserted by any *Rules*.

2.1.7 Effect of notes

A note in or to any *Rules* is explanatory.

2.1.8 Application of definitions

- (1) A definition in the glossary to these *Rules* applies to any *Rules*, unless these *Rules* or any other *Rules* provide for the definition to have a different application.

Note To assist the reader, the application of a definition in that glossary to any word(s) would usually be indicated by the word(s) being in italics (other than bold italics).

- (2) A definition in the dictionary or glossary to any other *Rules* applies to the entire *Rules*, and only to those *Rules*, unless the *Rules* or any other *Rules* provide for the definition to have a different application.
- (3) A definition in a rule of any *Rules* applies to the entire rule, and only to the rule, unless the *Rules* provide for the definition to have a different application.
- (4) A definition in any *Rules* applies except so far as the contrary intention appears.
- (5) If *Rules* define a term, other parts of speech and grammatical forms of the term have corresponding meanings.
- (6) In this rule:
definition means a *provision* (however expressed) that—
(a) gives meaning to a term; or

(b) limits or extends the meaning of a term.

rule includes any *provision* corresponding to a rule.

2.1.9 Gender and number

In any *Rules* —

- (a) words indicating gender include every other gender; and
- (b) words in the singular include the plural and words in the plural include the singular.

2.1.10 Meaning of *may* and *must*

- (1) In any *Rules*, the word *may*, or a similar term, used in relation to a *function* indicates that the *function* may be *exercised* or not *exercised*, at discretion.
- (2) In any *Rules*, the word *must*, or a similar term, used in relation to a *function* indicates that the *function* is required to be *exercised*.

2.1.11 Working out periods of time generally

- (1) This rule applies in working out a period of 1 day or longer for the purposes of any *Rules*, whether the period is a period in the future or past.
- (2) A period of time described as starting at, on or with a stated day, act or event includes the stated day or the day of the stated act or event.
- (3) A period of time described as starting from or after a stated day, act or event does not include the stated day or the day of the stated act or event.
- (4) A period of time described as ending at, by, on or with, or as continuing to, a stated day, act or event includes the stated day or the day of the stated act or event.
- (5) A period of time described as ending before a stated day, act or event does not include the stated day or the day of the stated act or event.

-
- (6) A reference to a number of days between acts or events does not include the day when the acts or events happen.

2.1.12 Doing things for which no time is fixed

- (1) This rule applies if—
- (a) under any *Rules*, something must or may be done; but
 - (b) no time is provided to do the thing.
- (2) The thing must or may be done as soon as practicable and as often as needed.

2.1.13 Continuing effect of obligations

If, under a *provision* of any *Rules*, an act is required to be done, the obligation to do the act continues until the act is done even if—

- (a) the *provision* required the act to be done within a particular period or before a particular time, and the period has ended or the time has passed; or
- (b) an *entity* has committed or been found guilty of an offence, or a penalty has been imposed, in relation to the failure to do the act.

2.1.14 Power to make instruments

- (1) If any *Rules* give a power that can be exercised by making an *instrument*, the *Rules* give power to make the *instrument*.
- (2) If any *Rules* give power to make an *instrument*, the power may be exercised from time to time.

2.1.15 Power to make instrument includes power to amend or repeal

- (1) Power given under *Rules* to make an *instrument* includes power to amend or repeal the *instrument*.

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- (2) The power to amend or repeal an *instrument* is exercisable in the same way, and subject to the same conditions, as the power to make the *instrument*.

2.1.16 Instruments may have retrospective effect

A *provision* of an *instrument* made under any *Rules* may commence before the day the *instrument* is made if the *provision* does not operate to the disadvantage of a *person* (other than the *Regulatory Authority*) by—

- (a) adversely affecting the *person's* rights; or
- (b) imposing liabilities on the *person*.

Part 3 Publication of Rules and regulatory material

3.1.1 Definitions—pt3

In this part:

Chief Executive Officer means the Chief Executive Officer of the *Regulatory Authority*.

regulatory material means the following:

- (a) a *waiver or modification notice*;
- (b) guidance issued by the *Regulatory Authority*, other than guidance issued to an *authorised firm* or *person* individually;
- (c) a form approved or otherwise prescribed (however described) by the *Regulatory Authority* under any *Regulations*;
- (d) an approval, notice, policy or other *instrument* made or issued (however described) by the *Regulatory Authority* under any *Regulations*, other than an *instrument* made or issued for an *authorised firm* or *person* individually;

and includes any *provision* of any *regulatory material*.

Rules include any *provision* of any **Rules**.

3.1.2 Approved websites

- (1) The *Chief Executive Officer* may approve websites for this part.
- (2) The *Regulatory Authority* may enter into agreements or arrangements to ensure that users can authenticate an *approved website* or material on an *approved website*

3.1.3 Publication and authorisation of Rules and regulatory material

- (1) The *Regulatory Authority* may publish *written* or electronic versions of any *Rules* or *regulatory material*, whether as made or issued (however described) or as amended from time to time.
Note ‘Written’ includes printed (see glossary, def **writing**).
- (2) The *Regulatory Authority* may authorise any of these versions (or any format of any of these versions).

3.1.4 Authorised electronic versions—Rules and regulatory material

- (1) An electronic copy of any *Rules* or *regulatory material* is an authorised electronic version if—
 - (a) it is an electronic copy of a version authorised by the *Regulatory Authority* that is accessed at, or downloaded from, an *approved website* in a format authorised by the *Chief Executive Officer*, by notice published on an *approved website*; or
 - (b) it is an electronic copy of a version authorised by the *Regulatory Authority* and is in the format in which it is authorised by the authority.

Example of electronic format that may be authorised

a locked pdf file

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- (2) It is presumed, unless the contrary is proved—
- (a) that an internet site purporting to be an *approved website* is an *approved website*; and
 - (b) that an electronic copy of any *Rules* or *regulatory material* accessed at, or downloaded from, an *approved website* and purporting to be authorised by the *Regulatory Authority* (however expressed) is an authorised electronic version of the *Rules* or *regulatory material*; and
 - (c) that any other electronic copy of any *Rules* or *regulatory material* purporting to be authorised by the *Regulatory Authority* (however expressed) is an authorised electronic version of the *Rules* or *regulatory material*; and
 - (d) that an authorised electronic version of any *Rules* or *regulatory material* purporting to be a version of the *Rules* or *regulatory material* as made or issued (however described) correctly shows the *Rules* or *regulatory material* as made or issued; and
 - (e) that an authorised electronic version of any *Rules* or *regulatory material* purporting to be a version of the *Rules* or *regulatory material* as in force (however described) at any time or during any period correctly shows the *Rules* or *regulatory material* as in force at that time or during that period.

Examples for par (e)

- 1 A statement ‘Effective: 1 October 2008’ or ‘Effective: 1/10/08’ in an authorised electronic version of any *Rules* means that the version correctly shows the *Rules* as in force on 1 October 2008.
- 2 A statement “Effective: 7 April 2008—30 September 2008” or ‘Effective: 7/4/08—30/9/08’ in an authorised electronic version of any *Rules* means that the version correctly shows the *Rules* as in force during the period from 7 April 2008 to 30 September 2008 (both dates included).

3.1.5 Authorised written versions—Rules and regulatory material

- (1) A *written* copy of any *Rules* or *regulatory material* is an authorised *written* version if—
 - (a) it is a written copy of a version authorised by the *Regulatory Authority*; or
 - (b) it is a *written* copy produced directly from an authorised electronic version of the *Rules* or *regulatory material*.

Example

An authorised electronic version of any *Rules* is downloaded from an *approved website* and printed. The printed copy is an authorised written version of the *Rules*.

- (2) It is presumed, unless the contrary is proved—
 - (a) that a *written* copy of any *Rules* or *regulatory material* purporting to be authorised by the *Regulatory Authority* (however expressed) is an authorised *written* version of the *Rules* or *regulatory material*; and
 - (b) that an authorised *written* version of any *Rules* or *regulatory material* purporting to be a version of the *Rules* or *regulatory material* as made or issued (however described) correctly shows the *Rules* or *regulatory material* as made or issued; and
 - (c) that an authorised *written* version of any *Rules* or *regulatory material* purporting to be a version of the *Rules* or *regulatory material* as in force (however described) at any time or during any period correctly shows the *Rules* or *regulatory material* as in force at that time or during that period.

Examples for par (c)

See examples for rule 3.1.4 (2) (e).

- (3) Subrule (2) does not limit rule 3.1.4 (2) (Authorised electronic versions—Rules and regulatory material).

3.1.6 Notice of certain matters

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- (1) Proof is not required about—
- (a) the making or issue (however described) of any *Rules* or *regulatory material*; or
 - (b) the *provisions* of any *Rules* or *regulatory material*, whether as made or issued (however described) or as in force from time to time; or
 - (c) the commencement, amendment, repeal, modification, waiver or expiry (however described) of any *Rules* or *regulatory material*; or
 - (d) amendments or other changes made under rule 3.1.7 (Preparation of Rules and regulatory material for publication); or
 - (e) the authorisation under this part of an electronic or *written* version of any *Rules* or *regulatory material*; or
 - (f) whether a website is an *approved website*; or
 - (g) the publication of anything on an *approved website*.
- (2) A court or tribunal may inform itself of anything mentioned in subrule (1) in any way it considers appropriate.

Examples of ways that may be appropriate

- 1 using a version of any *Rules* or *regulatory material* downloaded from an *approved website* using the internet
 - 2 using information obtained from an *approved website* using the internet
 - 3 using an authorised *written* version of any *Rules* or *regulatory material*
- (3) However, the court or tribunal must consider whether any source that it intends to use appears to be a reliable source of information.
- (4) For subrule (3), an authorised electronic or *written* version of any *Rules* or *regulatory material* is a reliable source of information.
- (5) This rule does not limit any other *provision* of a law, *Regulations* or *Rules*.

3.1.7 Preparation of Rules and regulatory material for publication

- (1) In preparing a *written* or electronic version of any *Rules* or *regulatory material* for publication, the *Regulatory Authority* may—
 - (a) make editorial amendments, and other textual amendments of a technical or formal nature; and
 - (b) make other editorial changes by way of format, layout, presentation or printing style.
- (2) However, this rule does not permit the making of any amendment of any *Rules* or *regulatory material* that would change the legal effect of the *Rules* or *regulatory material*.
- (3) For this rule, an ***editorial amendment*** is an amendment that—
 - (a) updates or corrects a reference to, or to any *provision* of, any law or other *instrument*; or
 - (b) goes only to a matter of spelling, punctuation, or the use (or non-use) of conjunctives, disjunctives or capitals; or
 - (c) numbers or paragraphs (to any level) any *provision*, or changes the order of definitions or other *provisions*, of any *Rules* or *regulatory material*; or
 - (d) changes the naming or numbering of a *provision* of any *Rules* or *regulatory material*; or
 - (e) replaces a reference to a *provision* of any law or other *instrument* with a different form of reference to the *provision*; or
 - (f) changes the way of referring to or expressing a number, year, date, time, amount of money, quantity, measurement or any similar matter; or
 - (g) changes the form, layout or wording of any definition; or
 - (h) updates a reference to the heading of a *provision* of any law or other *instrument*; or

-
- (i) omits the enacting or making words (however described) of any *Rules* or *regulatory material* (including any signatures); or
 - (j) omits a *provision* of any *Rules* or *regulatory material* that has expired or the operation of which is exhausted or spent; or
 - (k) inserts, omits or changes anything not forming part of any *Rules* or *regulatory material*, including, for example, any table of contents (however described) or endnote; or
 - (l) is consequential on any other editorial amendment.
- (4) Any *Rules* or *regulatory material* amended or otherwise changed under this rule has effect for all purposes, on and after publication by the *Regulatory Authority*, as if the changes had been made by other *Rules* or *regulatory material* of the same kind.

- (5) In this rule:

law means—

- (a) a law of any *jurisdiction*; and
- (b) any regulations, rules or other *instruments* (however described and whether legislative or administrative) made or in force under a law of any *jurisdiction*;

and includes the *QFC Law* or any other law of the *State* and any *Regulations* or *Rules*.

3.1.8 Authorisation to exercise certain functions under pt 3 etc

- (1) The Chief Executive Officer may authorise *employees* of the *Regulatory Authority* to *exercise* for the authority *functions* under or in relation to any of the following *provisions* of this part:
 - rule 3.1.3 (Publication and authorisation of Rules and regulatory material)
 - rule 3.1.7 (Preparation of Rules and regulatory material for publication).

-
- (2) A *function* mentioned in subrule (1) that is *exercised* by an *employee* authorised under that subrule is taken to have been exercised by the *Regulatory Authority*.

Explanatory note

General

This amendment remakes chapters 1 and 2 of INAP. Proposed parts 1 and 2 replace the existing provisions of chapter 1, but include a number of new provisions that deal more comprehensively with the interpretation and application of Regulatory Authority Rules. Proposed part 3 contains new provisions dealing with the publication of Rules and certain other instruments made or issued by the authority.

The existing provisions of chapter 2 are omitted and not replaced. The chapter presently provides an automatic exemption from complying with rules in the event of an emergency if certain conditions are met. The recent global financial turmoil has demonstrated that the emergency provisions are inappropriate and that a more managed approach is needed to deal with emergencies.

Proposed part 1

Proposed rule 1.1.1 provides for the naming of INAP.

Proposed rule 1.1.2 provides for the application of INAP. The proposed rule replaces existing section 1.1.

Proposed part 2

This part sets out, in a more comprehensive form, rules for the interpretation and application of Regulatory Authority Rules.

Proposed rule 2.1.1 requires a provision of the part to be applied to any Rules, except so far as the provision is displaced expressly or by contrary intention.

Proposed rule 2.1.2 deals with Rules that do not commence when they are made. The rule enables functions given by uncommenced Rules to be exercised for the purpose, among other things, of enabling the Rules to be commenced.

Proposed rule 2.1.3 deals with references to laws and provisions of laws. The rule replaces existing section 1.5.

Proposed rule 2.1.4 sets out comprehensively the material that is part of Rules. Under the rule provision headings, examples and diagrams, schedules and their equivalents, punctuation, provision numbers, and guidance, in or to any Rules are generally part of the Rules. The transitional provision for provision headings in subrule (4) will enable the review (and, if necessary, revision of) provision headings made before 1 January 2007. The rule reflects current practice.

Proposed rule 2.1.5 deals with the effect of examples. Examples are a useful drafting device and are increasingly used in Rules. The rule reflects current practice.

Proposed rule 2.1.6 sets out comprehensively the material that is not part of rules. The rule reflects current practice.

Proposed rule 2.1.7 deals with the effect of notes. The rule replaces existing section 1.6.

Proposed rule 2.1.8 deals comprehensively with the application of definitions in Rules. The rule largely reflects current practice. However, although the application of definitions in the glossary to INAP will continue to be indicated by italics to assist the reader, the application of a definition in INAP will not require the use of italics. The rule replaces existing section 1.4.

Proposed rule 2.1.9 sets out rules for gender and number. The rule replaces existing section 1.3 (apart from the definition of *writing* that is relocated to the glossary by another amendment).

Proposed rule 2.1.10 deals with the meaning of ‘may’ and ‘must’ (and similar terms). The rule reflects current practice.

Proposed rule 2.1.11 sets out the rules for working out periods of time of 1 day or longer. The rule will assist in ensuring greater certainty in working out periods of time and reflects current practice.

Proposed rule 2.1.12 deals with the doing of things for which no time is fixed.

Proposed rule 2.1.13 makes it clear that, if an act is required to be done, the obligation to do the act continues until it is done, even though, for example, the act was not done within the time in which it was required to be done.

Proposed rule 2.1.14 deals with the power to make instruments. The rule makes it clear, among other things, that the power can be exercised from time to time. The rule complements proposed rule 2.1.15.

Proposed rule 2.1.15 makes it clear that power to make an instrument eg a written notice includes power to amend or repeal the instrument. The rule also makes it clear how the power to amend or repeal an instrument may be exercised.

Proposed rule 2.1.16 sets out when instruments made under Rules can be given retrospective effect. The rule makes it clear that instruments cannot be made retrospectively if they would operate to the disadvantage of a person other than the Regulatory Authority by adversely affecting the person’s rights or imposing liabilities on the person.

Proposed part 3

This part contains provisions about the publication of Rules and certain other instruments made by the Regulatory Authority.

Proposed rule 3.1.1 sets out definitions for the part. The definition of *regulatory material* describes, in a broad way, the instruments (apart from Rules) that may be published under the part. The definition covers instruments such as waiver or modification notices, general guidance and forms.

Proposed rule 3.1.2 authorises the Chief Executive Officer to approve websites. These websites would be used for the authorised publication of Rules and regulatory material under the part.

Proposed rule 3.1.3 authorises the Regulatory Authority to publish written or electronic versions of Rules and regulatory material. It also provides authority for the Regulatory Authority to authorise (or give official status) to any of those versions. The effect of authorising versions is dealt with in rules 3.1.4 to 3.1.6.

Proposed rule 3.1.4 deals with authorised electronic versions of Rules and regulatory material. Under the rule it will be possible, for example, to authorise electronic versions of Rules and regulatory material that are accessed at, or downloaded from, an approved website. Subrule (2) sets out matters that are presumed for authorised electronic versions. These matters are not required to be proved in, for example, court or tribunal proceedings.

Proposed rule 3.1.5 deals with authorised written versions of Rules and regulatory material. Under the rule it will be possible, for example, to authorise printed versions of Rules. Copies printed directly from an authorised electronic version of Rules will themselves also be authorised written versions. Subrule (2) sets out matters that are presumed for authorised written versions. These matters are not required to be proved in, for example, court or tribunal proceedings.

Proposed rule 3.1.6 sets out other matters relating to Rules and regulatory material about which proof is not required. The rule will enable Rules and regulatory material to be used in court or tribunal proceedings without being formally proved. The provisions of the rule support the use of electronic and written versions of Rules and regulatory material that are authorised versions under rules 3.1.4 and 3.1.5.

Proposed rule 3.1.7 authorises the making of certain editorial amendments, and other changes by way of format, layout, presentation and printing style, in preparing versions of Rules and regulatory material for publication. Subrule (2) expressly provides that the rule does not permit the making of a change to any Rules or regulatory material that would change the legal effect of the Rules or regulatory material. The rule will facilitate the publication of Rules and regulatory material and will enable authorised versions of Rules and regulatory material to be prepared and published.

Proposed rule 3.1.8 allows the Chief Executive Officer to authorise Regulatory Authority employees to exercise certain functions under the part related to the publication of Rules and regulatory material.

[1.149] Chapter 3 heading

substitute

Glossary

(r 2.1.8 (1))

Definitions for all Rules

Explanatory note

This amendment revises the heading of the glossary consequentially on the replacement of chapters 1 and 2 by another amendment.

[1.150] Glossary, definition of *Appeals Body*

omit

Explanatory note

This amendment omits a definition that is no longer needed following amendments of the QFC Law made by Law No. (2) of 2009.

[1.151] Glossary, new definition of *approved website*

insert

approved website	means a website that is approved under rule 3.1.2.
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Explanatory note

This amendment inserts a definition of a term that is used in INAP, part 3 (which is inserted by another amendment).

[1.152] Glossary, definition of *business customer*

substitute

business customer	has the meaning given by <i>COND</i> , rule 1.2.5.
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Explanatory note

This amendment is consequential on the revision, and relocation to *COND*, of the definition by another amendment.

[1.153] Glossary, new definition of *calendar month*

insert

calendar month	means a period beginning at the start of any day of one of the 12 months of the year (a <i>named month</i>) and
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	<p>ending—</p> <p>(a) at the end of the day before the corresponding day of the next named month; or</p> <p>(b) if there is no corresponding day—at the end of the last day of next named month.</p> <p>Examples</p> <p>1 The period beginning at the start of 5 July 2009 and ending at midnight on 4 August 2009 is a calendar month.</p> <p>2 The period beginning at the start of 30 January 2009 and ending at midnight on 28 February 2009 is a calendar month.</p> <p>The calendar month ends on the last day of February because in that year February does not have a day corresponding to 29 January (because 2009 is not a leap year). If the period began at the start of 30 January 2012 (ie a leap year), the calendar month would end on 29 February 2012.</p>
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Explanatory note (months)

This amendment inserts a new definition of the *calendar month*. The term ‘calendar month’ is currently used in the definition of *month* in INAP, but is not defined.

[1.154] Glossary, new definition of *Chief Executive Officer*

insert

Chief Executive Officer	in <i>INAP</i> , part 3 (Publication of Rules and regulatory material), has the meaning given by rule 3.1.1.
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Explanatory note

This amendment is consequential on the insertion of the definition into part 3 by another amendment.

[1.155] Glossary, new definition of *Civil and Commercial Court*

insert

Civil and Commercial Court	means the Civil and Commercial Court of the <i>QFC</i> established under the <i>QFC Law</i> .
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Explanatory note

This amendment inserts a new definition of the *Civil and Commercial Court*.

[1.156] Glossary, definition of *Client*

substitute

client	has the meaning given by <i>COND</i> , rule 1.2.1.
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Explanatory note

This amendment is consequential on the revision, and relocation to *COND*, of the definition by another amendment.

[1.157] Glossary, definition of *Commercial Customer*

substitute

commercial customer	has the meaning given by <i>COND</i> , rule 1.2.4.
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Explanatory note

This amendment is consequential on the revision, and relocation to *COND*, of the definition by another amendment.

[1.158] Glossary, definition of *Customer*

substitute

customer	<p>(a) for <i>AMLR</i>—has the meaning given by <i>AML Regulations</i>, article 19; and</p> <p>(b) for any other <i>Rules</i> and in relation to an <i>authorised firm</i>, has the meaning given by—</p> <p>(i) for <i>insurance business</i> and <i>insurance mediation business</i> in relation to <i>non-investment insurance contracts</i>—<i>COND</i>, rule 1.2.3 (1); and</p> <p>(ii) for any other business—<i>COND</i>, rule 1.2.3 (2).</p>
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Explanatory note

This amendment is consequential on the revision, and relocation to *COND*, of the definition by another amendment.

[1.159] Glossary, definitions of *Designed Clearing House* and *Designated Exchange*

omit

Explanatory note

This amendment omits definitions that are replaced by other definitions (*eligible clearing house*, *eligible exchange* and *regulated exchange*) that are inserted by other amendments.

[1.160] Glossary, new definitions of *eligible clearing house* and *eligible exchange*

insert

eligible clearing house	<p>means a clearing house through which transactions on a <i>regulated exchange</i> may be cleared if—</p> <p>(a) the clearing house is incorporated or otherwise established in a</p>
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	<i>jurisdiction</i> outside the <i>QFC</i> ; and (b) the <i>Regulatory Authority</i> has not, by notice published on an <i>approved website</i> , declared that this definition does not apply to the <i>jurisdiction</i> .
eligible exchange	means a <i>regulated exchange</i> if the <i>Regulatory Authority</i> has not, by notice published on an <i>approved website</i> , declared that this definition does not apply to the <i>jurisdiction</i> in which the exchange is incorporated or otherwise established.

Explanatory note

This amendment inserts 2 of the definitions that replace the existing definitions of *designated clearing house* and *designated exchange*. Unlike the existing definitions, the replacement definitions do not rely on requirements being stipulated, or on designation, by the Regulatory Authority from time to time for their operation. Instead the definitions include criteria that must be satisfied for a clearing house to be an eligible clearing house or an exchange to be an eligible exchange (see also def *regulated exchange* inserted by another amendment). However, under the definitions the Regulatory Authority has power to exclude clearing houses and exchanges incorporated or otherwise established in declared jurisdictions.

[1.161] Glossary, definition of *Emergency*

omit

Explanatory note

This amendment is consequential on the omission of the chapter of INAP on emergency (chapter 2) by another amendment.

[1.162] Glossary, definition of *Instrument*

substitute

instrument	means— (a) in relation to a <i>derivative</i> —any
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	<p>investment, asset or thing on which the value of the <i>derivative</i> may be based; and</p> <p>(b) in any other case—any instrument of any kind, and includes, for example, any <i>writing</i> or other <i>document</i>.</p>
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Explanatory note

This amendment remakes the existing definition of *instrument*, which relates only to derivatives, to cover instruments generally. The extended meaning of the definition is used in new provisions of part 2 that are inserted by another amendment (see eg r 2.1.2 (Exercise of functions between making and commencement of Rules)).

[1.163] Glossary, definition of *Investment Analyst*

omit

Explanatory note

This amendment omits a definition that is no longer used in the rules.

[1.164] Glossary, definition of *listed fund*

omit

Explanatory note

This amendment omits the definition of *listed fund* from INAP, because the definition is only used in COLL, schedule 3, rule S3.2. The definition is inserted into that rule (in an amended form) by another amendment.

[1.165] Glossary, definition of *mandate*

omit

Explanatory note

This amendment is consequential on the remaking of ASET, chapter 6 by another amendment. The definition of *mandate* is only used in that chapter.

[1.166] Glossary, definition of *market counterparty*

substitute

market counterparty	has the meaning given by <i>COND</i> , rule 1.2.7.
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Explanatory note

This amendment is consequential on the revision, and relocation to *COND*, of the definition by another amendment.

[1.167] Glossary, definition of *Minister*

substitute

Minister	means the Minister of Economy and Finance of the <i>State</i> .
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Explanatory note

This amendment revises the definition to update the Minister's title.

[1.168] Glossary, definition of *month*

substitute

month	means a <i>calendar month</i> .
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Explanatory note (months)

This amendment is consequential on the new definition of *calendar month* that is inserted by another amendment.

[1.169] Glossary, definition of *Profit Sharing Investment Account (PSIA)*

substitute

profit sharing investment account (PSIA)	means an account, portfolio or fund of an investor if— (a) it is managed by an <i>authorised firm</i> — (i) in relation to any
--	--

	<p>investment (including any asset, right or interest) permitted under the <i>FSR</i> that is held for or in the account, portfolio or fund; and</p> <p>(ii) in accordance with Shari'a and held out as such; and</p> <p>(iii) under an agreement with the firm under which—</p> <p style="padding-left: 40px;">(A) the investor agrees to share any profit with the firm in accordance with a predetermined specified percentage or ratio; and</p> <p style="padding-left: 40px;">(B) the investor agrees that the investor alone will bear any loss unless loss is caused by the firm's negligence or breach of contract; and</p> <p>(b) the management of the account, portfolio or fund is the conduct of a <i>regulated activity</i> by the firm.</p>
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Explanatory note

This amendment remakes the definition to make it clear that the management of a profit sharing investment account in the QFC must be the conduct of a regulated activity by an authorised firm in accordance with the FSR and that the account may only be managed in relation to investments (including assets, rights or interests) permitted under the FSR.

[1.170] Glossary, new definition of *provision*

insert

provision	, of a law, any <i>Rules</i> or any other <i>instrument</i> , means any words or anything else that is part of the law, <i>Rules</i> or other <i>instrument</i> , and includes, for example— (a) provisions that consist of groups of words (for example, rules, subrules and paragraphs); and (b) provisions that consist of groups of other provisions (for example, parts).
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Explanatory note

This amendment inserts a new definition of the *provision*. The definition is used in new provisions of part 2 that are inserted by another amendment (see eg r 2.1.2 (Exercise of functions between making and commencement of Rules)).

[1.171] Glossary, definition of *pure protection contract*

substitute

pure protection contract	means a <i>long term insurance contract</i> that meets all of the following conditions: (a) the benefits under the contract are payable only on death or for incapacity due to
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	<p>injury, sickness or infirmity;</p> <p>(b) the contract has no surrender value, or the consideration consists of a single premium and the surrender value does not exceed that premium;</p> <p>(c) the contract makes no provision for its conversion or extension in a way that would result in it ceasing to comply with paragraph (a) or (b);</p> <p>(d) the contract is not a <i>reinsurance contract</i>.</p>
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Explanatory note

This amendment revises the definition to remove the requirement that the contract provide that benefits are payable on death (other than death due to accident) only if the death happens within 10 years or before the insured attains 70 years of age. The revision of the definition is consistent with the definition of the term in the UK Financial Services Authority Handbook Glossary.

[1.172] Glossary, definition of *readily realisable investment*

substitute

<p>readily realisable investment</p>	<p>means any of the following:</p> <p>(a) a government or public <i>security</i> denominated in the currency of the <i>jurisdiction</i> of its issuer;</p> <p>(b) any other <i>security</i> that is admitted to official listing on, or regularly traded on or under the rules of, a <i>regulated exchange</i>;</p>
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	(c) a newly issued <i>security</i> that can reasonably be expected to fall within paragraph (b) when trading in it starts.
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Explanatory note

This amendment revises the definition consequentially on the replacement (by other amendments) of the definition of *designated exchange* by the definitions *eligible exchange* and *regulated exchange*.

[1.173] Glossary, new definition of *regulated exchange*

insert

regulated exchange	<p>means an exchange—</p> <p>(a) that is incorporated or otherwise established in a <i>jurisdiction</i> outside the <i>QFC</i>; and</p> <p>(b) that is regulated as an exchange by an <i>overseas regulator</i> in that <i>jurisdiction</i>.</p>
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Explanatory note

This amendment inserts a definition that, together with the definition of *eligible exchange* inserted by another amendment, replaces the existing definition of *designated exchange*. Unlike the existing definition, the replacement definition does not rely on requirements being stipulated, or on designation, by the Regulatory Authority from time to time for its operation. Instead the definition includes criteria that must be satisfied for an exchange to be a regulated exchange. The definition of *regulated exchange* is used in, among other contexts, the definition of *eligible exchange*.

[1.174] Glossary, new definition of *regulatory material*

insert

regulatory material	in <i>INAP</i> , part 3 (Publication of Rules and regulatory material), has the meaning given by rule 3.1.1.
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Explanatory note

This amendment is consequential on the insertion of the definition into part 3 by another amendment.

[1.175] Glossary, definition of *Regulatory Tribunal*

substitute

Regulatory Tribunal	means the <i>QFC</i> Regulatory Tribunal established under the <i>QFC Law</i> .
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Explanatory note

This amendment revises the consequentially on amendments of the QFC Law made by Law No. (2) of 2009.

[1.176] Glossary, definition of *Relevant Issuer*

omit

Explanatory note

This amendment omits a definition that is relocated to COND, rule S4.3 by another amendment. The definition is only used in that rule.

[1.177] Glossary, definition of *Retail Customer*

substitute

retail customer	<p>in relation to an <i>authorised firm</i>, has the meaning given by—</p> <p>(a) for <i>insurance business</i> and <i>insurance mediation business</i> in relation to <i>non-investment insurance contracts</i>—<i>COND</i>, rule 1.2.6 (1); and</p> <p>(b) for any other business—<i>COND</i>,</p>
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	rule 1.2.6 (2).
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Explanatory note

This amendment is consequential on the revision, and relocation to COND, of the definition by another amendment.

[1.178] Glossary, definition of *rule*

substitute

Rules	<p>means any rules made by the <i>Regulatory Authority</i>, and include—</p> <p>(a) any standard, principle or code of practice made by the <i>Regulatory Authority</i>; and</p> <p>(b) any other <i>instrument</i> made or in force under any rules, standard, principle or code of practice made by the <i>Regulatory Authority</i>; and</p> <p>(c) for <i>INAP</i>, part 3 (Publication of Rules and regulatory material)—any <i>provision</i> of any rules made by the <i>Regulatory Authority</i> or any standard, principle or code of practice or other <i>instrument</i> mentioned in paragraph (a) or (b).</p>
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Explanatory note

This amendment revises the definition to change the defined term to the plural (in upper case), simplify the definition and include instruments made or in force under any rules (or instruments

treated as rules for the definition, namely, standards, principles and codes of practice). Paragraph (c) is consequential on the insertion of a definition into part 3 by another amendment.

[1.179] Glossary, definitions of *TDR Regulations and Tribunal*

omit

Explanatory note

This amendment omits definitions that are no longer needed following amendments of the QFC Law made by Law No. (2) of 2009.

[1.180] Glossary, new definition of *writing*

insert

writing	includes any way of representing or reproducing words in legible form (for example, by printing or photocopying).
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Explanatory note

This amendment relocates a definition presently in rule 1.3.1 (D) and adds examples.

Part 1.10 Islamic Finance Rulebook (ISFI)

[1.181] Rule 2.2.1 (5)

omit

Explanatory note

This amendment omits a provision that is no longer needed following amendments of the QFC Law made by Law No. (2) of 2009. Under the QFC Law as amended all decisions of the Regulatory Authority may be appealed to the Regulatory Tribunal.

[1.182] Rule 2.3.1 (5) (D)

omit

Appeals Body or Tribunal

substitute

Civil and Commercial Court or Regulatory Tribunal

Explanatory note

This amendment is consequential on the amendments of the QFC Law made by Law No. (2) of 2009.

[1.183] Rule 2.3.1 (6)

omit

Explanatory note

This amendment omits a provision that is no longer needed following amendments of the QFC Law made by Law No. (2) of 2009. Under the QFC Law as amended all decisions of the Regulatory Authority may be appealed to the Regulatory Tribunal.

[1.184] Rule 6.2.2 (2)

substitute

- (2) An *authorised firm* must give the *Regulatory Authority* a copy of each annual report of the firm's *Shari'a Supervisory Board* within 4 months after the day the relevant financial year of the firm ends.

Example

If a financial year of an *authorised firm* ends on 31 December in a year, the annual report of the firm's Shari'a Supervisory Board must be given to the *Regulatory Authority* before 1 May in the next year.

Explanatory note (months)

This amendment clarifies the time limit within which an annual report of a Shari'a Supervisory Board must be given to the Regulatory Authority.

Part 1.11 Prudential—Insurance Rulebook (PINS)

[1.185] Rule 1.3.1

omit everything before paragraph (A), substitute

1.3.1 Requests for views of insurer's governing body

- (1) The *Regulatory Authority* may, by *written* notice given to an *insurer*, request the *governing body* of an *insurer* to give the authority, within a stated reasonable period, its view in *writing* about—

Explanatory note (outer time limit)

This amendment makes it clear that a request under rule 1.3.1 may set a reasonable period within which the request must be complied with.

[1.186] New rule 1.3.1 (2) and (3)

insert

- (2) The *authorised firm* must ensure that the request is complied with.
- (3) The power given by this rule is additional to the *Regulatory Authority's* other powers.

Note See eg *Financial Services Regulations*, art 48 (Powers to obtain documents and information).

Explanatory note

This amendment is consequential on the previous amendment of rule 1.3.1.

[1.187] Rule 1.4.6

substitute

1.4.6 Time limit for annual prudential returns of insurers

An *insurer* must give an annual prudential return to the *Regulatory Authority* within 4 *months* after the day the relevant financial year of the *insurer* ends.

Example

If a financial year of an *insurer* ends on 31 December in a year, the annual prudential return for the year must be given to the *Regulatory Authority* before 1 May in the next year.

Explanatory note (months)

This amendment clarifies the time limit within which an annual prudential return of an insurer must be given to the Regulatory Authority.

[1.188] Rule 1.4.7

substitute

1.4.7 Time limit for biannual prudential returns of insurers

- (1) An *insurer* must give a biannual prudential return to the *Regulatory Authority* within 1 *month* after the day the relevant standard biannual period ends.

Example

If a standard biannual period ends on 30 June in a year, the biannual prudential return for the period must be given to the *Regulatory Authority* before 1 August in the year.

- (2) In this rule:

standard biannual period means the 6-month period ending on 30 June or 31 December.

Explanatory note (months)

This amendment clarifies the time limit within which a biannual prudential return of an insurer must be given to the Regulatory Authority.

[1.189] Rule 1.4.8

substitute

1.4.8 Time limit for quarterly prudential returns of insurers

- (1) An *insurer* must give a quarterly prudential return to the *Regulatory Authority* within 1 *month* after the day the relevant standard quarter ends.

Example

If a standard quarter ends on 31 March in a year, the quarterly prudential return for the period must be given to the *Regulatory Authority* before 1 May in the year.

- (2) In this rule:

standard quarter means the 3-month period ending on 31 March, 30 June, 30 September or 31 December.

Explanatory note (months)

This amendment clarifies the time limit within which a quarterly prudential return of an insurer must be given to the Regulatory Authority.

[1.190] Section 3.9

substitute

3.9 Failure to maintain appropriate financial resources or comply with capital requirements

3.9.1 Possible breach of r 1.2.1 or ch 3

If an *insurer* becomes aware, or has reasonable grounds to believe, that it may be, or may be about to be, in breach of rule 1.2.1 or any provision of this chapter, it must—

- (a) tell the *Regulatory Authority* orally about the matter immediately, but within 1 *business day*; and
- (b) by *written* notice given to the authority by no later than the next *business day*—
 - (i) confirm the oral notification; and
 - (ii) explain why the *insurer* considers it may be, or may be about to be, in breach of the provision; and

-
- (iii) set out the action that the *insurer* proposes to take to avoid the breach; and
 - (c) not make any distribution to its shareholders or members, whether by way of dividends or otherwise, without the authority's *written* permission.

Examples—meaning of ‘within 1 business day’

- 1 If, on a *business day*, the *insurer* becomes aware that it may be in breach of this chapter or rule 1.2.1, the *insurer* must tell the authority immediately, but on that day
- 2 If, on a day that is not a *business day*, the *insurer* becomes aware that it may be in breach of this chapter or rule 1.2.1, the *insurer* must tell the authority immediately, but by no later than the next *business day*.

3.9.2 Breach of r 1.2.1 or ch 3

If an *insurer* becomes aware that it is in breach of rule 1.2.1 or any provision of this chapter, it must—

- (a) tell the *Regulatory Authority* orally about the matter immediately, but within 1 *business day*; and

Examples

See examples to rule 3.9.1 on the meaning of ‘within 1 *business day*’.

- (b) by *written* notice given to the authority by no later than the next *business day*—
 - (i) confirm the oral notification; and
 - (ii) explain the nature of the breach; and
 - (iii) set out the action that the *insurer* proposes to take about the breach; and
- (c) cease *effecting contracts of insurance* in or from the *QFC* until the authority gives it *written* permission to recommence; and
- (d) not make any distribution to its shareholders or members, whether by way of dividends or otherwise, without the authority's *written* permission.

Note See also r 4.4.2 (1) (b) (i) which prohibits the payment of interest or principal for subordinated debt included as part of the *insurer's* eligible capital if the *insurer* is in breach of its minimum capital requirement.

Guidance for s 3.9

In dealing with a breach, or possible breach, of this chapter, the *Regulatory Authority's* primary concern will be the interests of policyholders, both existing and prospective. It recognises that there will be circumstances in which a problem may be resolved quickly, for example by support from a *parent entity*, without jeopardising the interests of policyholders. In such circumstances, it will be in the interests of all parties for there to be minimum disruption to the *insurer's* business. The authority's normal approach will be to seek to work cooperatively with *insurers* to deal with any problems. There will, however, be circumstances in which it is necessary to take firm action to avoid exposing further policyholders to the risk of the *insurer's* failure, and the authority will not hesitate to take disciplinary action if it considers this necessary.

Explanatory note (outer time limit)

This amendment remakes section 3.9 to set out the circumstances in which an insurer must tell the Regulatory Authority, orally and then in writing, about breaching, or possibly breaching, financial and capital requirements, and sets outer time limits for the insurer to do this.

[1.191] Rule 4.3.1 (C)

substitute

- (c) audited reserves also include capital contributions if—
- (i) the capital contributions satisfy the requirements of paragraph (a); and
 - (ii) the *insurer* told the *Regulatory Authority* in *writing* of its intention to include the capital contributions at least 1 *month* before the day they were included;

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which relates to a component of capital) and corrects a minor paragraphing error.

[1.192] Rule 4.8.3

omit

six months

substitute

6 months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which relates to an insurer giving prior notice to the Regulatory Authority of its intention to reduce its tier two capital).

[1.193] Rules 5.5.2 (A) and 5.5.4 (A) and (B)

omit

four months

substitute

4 months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions (which relate to limitations on the use of assets in a long term insurance fund).

[1.194] Rule 6.6.3 (1)

omit

Board.

substitute

Board, but within 1 *business day* after the day the approval is given.

Example

See examples to rule 3.9.1 on the meaning of ‘within 1 business day’.

Explanatory note (outer time limit)

This amendment sets an outer time limit for a takaful entity to give a copy of a policy approved by its Shari’a Supervisory Board to the Regulatory Authority.

[1.195] Rule 6.6.4 (3)

omit

four months

substitute

4 months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions (which relate to distributions from a takaful fund).

[1.196] Rules 9.3.3 (2), 9.4.3 (2) and 10.2.2

omit

three months

substitute

3 months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provisions (which relate to the submission of various reports and compliance with a notice under rule 10.2.2).

[1.197] Rule 12.3.6

substitute

12.3.6 Insurer to monitor run-off plan etc

- (1) This rule applies to an *insurer* that has given a run-off plan to the *Regulatory Authority*.
- (2) The *insurer* must monitor the matters provided in the run-off plan.
- (3) If there is a significant departure from the run-off plan, the *insurer* must tell the *Regulatory Authority* in *writing* immediately, but by no later than the second *business day* after the day the departure happens or starts.

Explanatory note (outer time limit)

This amendment changes the time limit for an insurer to tell the Regulatory Authority about a significant departure from a run-off plan (from ‘promptly’ to ‘immediately’) and sets an outer time limit for the notification.

[1.198] Rules 12.4.1

omit

12.4.1 This section applies only to an *Insurer* that:

substitute

12.4.1 Application—s 12.4

This section applies only to an *insurer* that—

Explanatory note

This amendment inserts a heading consequentially on the remaking of r 12.4.2 and 12.4.3 by another amendment.

[1.199] Rules 12.4.2 and 12.4.3

substitute

12.4.2 Insurer with business in run-off to notify authority of certain contracts

- (1) An *insurer* to which this section applies must—
 - (a) within 10 *business days* after the day its *insurance business* enters into run-off, tell the *Regulatory Authority* in *writing* about the existence and principal features of any notifiable contract that existed at the time the business entered into run-off; and
 - (b) within 10 *business days* after the day it enters into a notifiable contract in relation to its *insurance business* in runoff, tell the *Regulatory Authority* in *writing* about the existence and principal features of the contract.
- (2) To remove any doubt, subrule (1) (b) applies whether or not the *insurance business* is conducted through a *cell*, *takaful fund* or a *long term insurance fund* that is in run-off.

(3) In this rule:

notifiable contract means—

- (a) a contract with a *person related to the insurer*, other than a *contract of insurance* effected by the *insurer* before going into run-off; or
- (b) a contract with any *person* relating to the management of all or any of the *insurance business* in run-off; or
- (c) a contract with any *person* for reinsurance of all or any of the *insurance business* in run-off; or
- (d) any other contract with a *person* mentioned in paragraph (b) or (c) or a *person* related to such a *person*.

12.4.3 Request for additional information about contract notified under r 12.4.2

- (1) The *Regulatory Authority* may, by *written* notice given to an *insurer* that has notified the authority about a contract under rule 12.4.2, require the *insurer* to give the authority, within a stated reasonable period, additional information in *writing* about the contract.
- (2) The *insurer* must comply with the requirement.
- (3) The power given by subrule (1) is additional to the *Regulatory Authority's* other powers.

Note See eg *Financial Services Regulations*, art 48 (Power to obtain documents and information).

Explanatory note (outer time limit)

This amendment remakes rule 12.4.2 to clarify its operation and set outer time limits for the notification of certain contracts during run-off. The amendment also remakes rule 12.4.3 to make it clear that a request for additional information under the rule may set a reasonable period within which the request must be complied.

[1.200] Rule A3.2.1, table (A)

omit each mention of

months

substitute

months

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the table (which relates to the calculation of credit risk component).

[1.201] Rule A3.7.9

omit

twelve months

substitute

12 *months*

Explanatory note (months)

This amendment makes it clear that the definition of *month* in INAP applies to the provision (which relates to the apportionment of premium for certain general insurance contracts).

Schedule 2 Technical amendments

(see r 3)

Part 2.1 Collective Investment Funds Rulebook (COLL)

[2.1] Rule 10.2.2 (1)

omit

relation *providing*

substitute

relation to *providing*

Explanatory note

This amendment inserts a missing word.

Part 2.2 Conduct of Business Rulebook (COND)

[2.2] Table 1.1.1, note 4 (5th paragraph)

omit

to the following *relevant investments*

substitute

to *relevant investments*

Explanatory note

This amendment omits unnecessary words.

[2.3] Rule 4.3.15 (1) (b)

omit

terms

substitute

term

Explanatory note

This amendment corrects a typographical error. It was intended that the product disclosure document for a life policy for a retail customer should include the term, rather than the terms, of the contract (compare COND, r 5.4.3 (f), which deals with product disclosure for a non-investment insurance contract). COND, rule 4.3.19 deals with the provision to the customer of a policy document containing all the terms of the policy.

[2.4] Schedule 2, rule S2.2 (b)

omit

or an option

substitute

for an option

Explanatory note

This amendment corrects a typographical error.

[2.5] Schedule 4, rule S4.1 (c) (i)

omit

(for example, 'buy' 'sell' or 'hold')

substitute

(for example, 'buy' 'sell' or 'hold')

Explanatory note

This amendment inserts a missing quotation mark.

Part 2.3 General Rulebook (GENE)

[2.6] New rule 6.2.1 (A)

in section 6.2 before rule 6.2.1, insert

6.2.1A Application of s 6.2

To remove any doubt, this section applies to records that an *authorised firm* is required to keep (however described) under any *Regulations or Rules*.

Explanatory note

This rule is proposed to be included to assist the reader to understand more easily the application of section 6.2 (Maintenance of records). There is no change intended in the application of the section (see r 6.1.1).

Part 2.4 Interim Prudential—Investment, Insurance Mediation and Banking Business Rulebook (PIIB)

[2.7] Rule A6.3.1 (4), table

omit each mention of

years'

substitute

years

Explanatory note

This amendment removes inappropriate possessives.

[2.8] Appendix 4, rules A5.2.18 and A5.2.22, guidance

omit

Zone 1&2

substitute

zones A and B

Explanatory note

This amendment corrects a typographical error.

[2.9] Appendix 4, rules A5.2.18 and A5.2.22, guidance

omit

Zone 2&3

substitute

zones B and C

Explanatory note

This amendment corrects a typographical error.

[2.10] Appendix 4, rules A5.2.18 and A5.2.22, guidance

omit

Zones 1&3

substitute

zones A and C

Explanatory note

This amendment corrects a typographical error.

Part 2.5 Prudential—Insurance Rulebook (PINS)

[2.11] Rule 5.4.1

omit

Rules 5.2.1

substitute

rule 5.2.1

Explanatory note

This amendment corrects a grammatical error.