



# **Interim Prudential—Investment, Insurance, Mediation and Banking Amendment Rules 2009**

## **QFCRA Rules 2009-1**

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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

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Interim Prudential—Investment, Insurance, Mediation and  
Banking Amendment Rules 2009

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# Interim Prudential—Investment, Insurance, Mediation and Banking Amendment Rules 2009

## QFCRA Rules 2009-1

made under the

*Financial Services Regulations*

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### **1 Name of rules**

These rules are the *Interim Prudential—Investment, Insurance, Mediation and Banking Amendment Rules 2009*.

### **2 Commencement**

These rules commence on the day they are made.

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### **3 Amendments of PIIB**

The *Interim Prudential—Investment, Insurance, Mediation and Banking Rulebook (PIIB)* is amended in accordance with schedule 1.

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## Schedule 1      Amendments of Interim Prudential—Investment, Insurance, Mediation and Banking Rulebook (PIIB)

(see r 3)

### [1.1]      Rule 4.5.8

*substitute*

#### 4.5.8      Exclusion of exposure—agreement by parent entity to increase capital resources

An *authorised firm* may exclude an *exposure* from the concentration risk limits in this section if—

- (a) the firm's *parent entity* is set to increase, promptly, on demand and on the basis of a legally binding agreement, the firm's *capital resources* by—
  - (i) an amount sufficient to reverse completely the effect of any loss the firm may incur in relation to the *exposure*; or
  - (ii) the amount needed to ensure that the firm complies with the *capital requirements*; and
- (b) the firm has notified the *Regulatory Authority* that this rule applies to the firm.

#### 4.5.9      Exclusion of exposure—guarantee by parent entity that is non-QFC eligible bank

- (1) If an *authorised firm* has a *parent entity* that is an *eligible bank* incorporated in a *jurisdiction* outside the *QFC* (the *parent entity's home jurisdiction*), the firm may exclude an *exposure* from the concentration risk limits in this section if each of the following paragraphs is complied with:

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- (a) the *exposure* is to a *counterparty* of the firm that is not, or to a *group of closely related counterparties* of the firm that are not, *connected counterparties* of the firm;
  - (b) the *parent entity* has directly, explicitly, irrevocably and unconditionally guaranteed the *exposure*;
  - (c) the firm has obtained a written, reasoned and reputable external legal opinion confirming that the guarantee is—
    - (i) legally effective in the *QFC*, the home *jurisdiction* and any other relevant *jurisdiction*; and
    - (ii) enforceable in the *QFC* or the home *jurisdiction* (or both) in default, bankruptcy, liquidation or other similar circumstances affecting either—
      - (A) the *counterparty* or any of the *closely related counterparties*; or
      - (B) the firm;

**Guidance**

The firm may rely on a standard guarantee but should check with its legal advisors in relation to each guarantee that the requirements of this paragraph are met.

- (d) the *parent entity* has, in writing, told the *overseas regulator* in the home *jurisdiction* by which it is principally regulated for prudential purposes about the guarantee;
- (e) for the firm's *exposure* to the *counterparty* or *group of closely related counterparties*—the following conditions are satisfied:
  - (i) the total *exposure* to the *counterparty* or *group* does not exceed 150% of the firm's *capital resources*;
  - (ii) the on-balance sheet *exposure* component of that total *exposure* (if any) does not exceed 75% of the firm's *capital resources*;

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**Example**

An *authorised firm* with 5 million in *capital resources* can have a maximum total *exposure* to the *counterparty* (or group of *closely related counterparties*) of 7.5 million (ie, 150% of 5 million) of which no more than 3.75 million (ie, 75% of 5 million) of that maximum total *exposure* can be on-balance sheet *exposure*.

If the firm has a total *exposure* less than the maximum total *exposure*, say, 5 million, it can still have up to 3.75 million in on-balance sheet *exposure*.

- (f) if the firm has any *exposure* to its *connected counterparties*—the following conditions are satisfied:
  - (i) the total *exposure* to all its *connected counterparties* does not exceed 400% of the firm's *capital resources*;
  - (ii) the on-balance sheet *exposure* component of that total *exposure* (if any) does not exceed 200% of the firm's *capital resources*;

**Example**

An *authorised firm* with 5 million in *capital resources* can have a maximum total *exposure* to all its *connected counterparties* of 20 million (ie, 400% of 5 million) of which no more than 10 million (ie, 200% of 5 million) of that maximum total *exposure* can be on-balance sheet *exposure*.

If the firm has a total *exposure* less than the maximum total *exposure*, say, 12 million, it can still have up to 10 million in on-balance sheet *exposure*.

- (g) the firm has, in writing, told the *Regulatory Authority* about the guarantee and has received written confirmation from the authority that it does not object to the firm excluding the *exposure* from the concentration risk limits in this section;
  - (h) if the confirmation is subject to conditions—the conditions are complied with.
- (2) For subrule (1) (f), any *exposure* of the *authorised firm* that, under rule 4.5.8 or this rule, is excluded from the concentration risk limits in this section is taken to be to the *parent entity* and must be included in calculating the firm's total *exposure* and any on-balance sheet *exposure* component of that total *exposure*.

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- (3) Any *exposure* of the *authorised firm* that, immediately before the commencement of this rule, was excluded from the concentration risk limits in this section—
- (a) may continue to be excluded; but
  - (b) for the application of subrule (1) (e) and (f) to any other *exposure*, must be included in calculating the firm's total *exposure* and any on-balance sheet *exposure* component of that total *exposure*.
- (4) This rule does not limit the *functions* of the *Regulatory Authority* under any other *provision* of these rules or under any *provision* of any *Regulations* or any other *Rules*.
- (5) In this rule:
- condition***—
- (a) includes restriction and requirement; and
  - (b) if any condition is amended—includes the condition as amended.

***directly***, in relation to a guarantee, means that the guarantee must represent a direct claim on the *authorised firm's parent entity*.

***explicitly***, in relation to a guarantee, means that the guarantee must be linked to a specific *exposure* or *exposures*, so that the extent of the guarantee's coverage is clearly defined.

***irrevocably***, in relation to a guarantee, means that the guarantee must not contain a provision that would allow the *authorised firm's parent entity* unilaterally to cancel the guarantee.

***unconditionally***, in relation to a guarantee, means that the guarantee must not contain a provision that might prevent the *authorised firm's parent entity* from being obliged to pay out in a timely way under the guarantee.

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#### 4.5.10 Exclusion of exposure—guarantee by parent entity that is authorised firm

- (1) If an *authorised firm* (the **first firm**) has a *parent entity* that is an *authorised firm* with an *authorisation for deposit taking*, the first firm may exclude an *exposure* from the concentration risk limits in this section if each of the following paragraphs is complied with:
  - (a) the *exposure* is to a *counterparty* of the first firm that is not, or to a *group of closely related counterparties* of the first firm that are not, *connected counterparties* of the firm;
  - (b) the *parent entity* has directly, explicitly, irrevocably and unconditionally guaranteed the *exposure*;
  - (c) the first firm has obtained a written, reasoned and reputable external legal opinion confirming that the guarantee is—
    - (i) legally effective in the *QFC* and any other relevant *jurisdiction*; and
    - (ii) enforceable in the *QFC* in default, bankruptcy, liquidation or other similar circumstances affecting either—
      - (A) the *counterparty* or any of the *closely related counterparties*; or
      - (B) the first firm;

##### Guidance

The first firm may rely on a standard guarantee but should check with its legal advisors in relation to each guarantee that the requirements of this paragraph are met.

- (d) for the first firm's *exposure* to the *counterparty* or *group of closely related counterparties*—the following conditions are satisfied:
  - (i) the total *exposure* to the *counterparty* or *group* does not exceed 150% of the first firm's *capital resources*;



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- (ii) the on-balance sheet *exposure* component of that total *exposure* (if any) does not exceed 75% of the first firm's *capital resources*;

**Example**

See example to r 4.5.9 (1) (e).

- (e) if the first firm has any *exposure* to its *connected counterparties*—the following conditions are satisfied:
  - (i) the total *exposure* to all its *connected counterparties* does not exceed 400% of the first firm's *capital resources*;
  - (ii) the on-balance sheet *exposure* component of that total *exposure* (if any) does not exceed 200% of the first firm's *capital resources*;

**Example**

See example to r 4.5.9 (1) (f).

- (f) the first firm has, in writing, told the *Regulatory Authority* about the guarantee and has received written confirmation from the authority that it does not object to—
    - (i) the *parent entity* giving the guarantee; and
    - (ii) the first firm excluding the *exposure* from the concentration risk limits in this section;
  - (g) if the confirmation is subject to conditions—the conditions are complied with.
- (2) For subrule (1) (e), any *exposure* of the first firm that, under rule 4.5.8 or this rule, is excluded from the concentration risk limits in this section is taken to be to the *parent entity* and must be included in calculating the first firm's total *exposure* and any on-balance sheet *exposure* component of that total *exposure*.
  - (3) Any *exposure* of the first firm that, immediately before the commencement of this rule, was excluded from the concentration risk limits in this section—

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- (a) may continue to be excluded; but
  - (b) for the application of subrule (1) (d) and (e) to any other *exposure*, must be included in calculating the first firm's total *exposure* and any on-balance sheet *exposure* component of that total *exposure*.
- (4) This rule does not limit the *functions* of the *Regulatory Authority* under any other *provision* of these rules or under any *provision* of any *Regulations* or any other *Rules*.
- (5) A term defined in rule 4.5.9 (5) has the same meaning in this rule.