



QATAR FINANCIAL CENTRE

**REGULATORY
AUTHORITY**

Private Placement Schemes Rules 2010 (PRIV)

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QATAR FINANCIAL CENTRE

**REGULATORY
AUTHORITY**

Private Placement Schemes Rules 2010

made under the

Financial Services Regulations

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Chapter 1 General provisions

Part 1.1 Introductory

1.1.1 Name of rules

These rules are the *Private Placement Schemes Rules 2010* (or PRIV).

1.1.2 Commencement

These rules commence on 1 January 2011.

1.1.3 Application of PRIV

- (1) These rules apply only to private placement schemes.

Note A collective investment scheme that is established in the QFC may be registered under these rules as a private placement scheme or under COLL as a qualified investor scheme or retail scheme. COLL also deals with the marketing and sale in or from the QFC of units in schemes that are not established in the QFC, including schemes that are similar or equivalent to private placement schemes established in the QFC.

- (2) To remove any doubt, a reference in these rules to a *collective investment scheme* or *scheme* is a reference to a private placement scheme unless the contrary intention appears.

1.1.4 What is a *private placement scheme*?

- (1) A collective investment scheme (or scheme) is a *private placement scheme* if—
- (a) it is established in the QFC; and
 - (b) it is registered under these rules as a private placement scheme; and
 - (c) the number of unitholders does not at any time exceed 100.

Note 1 *Collective investment scheme* (or *scheme*) is defined in r 1.2.1.

Note 2 *Unitholder* is defined in r 1.2.5.

- (2) For this rule and the constitutional document of a scheme, in working out the number of unitholders that the scheme has at any time—
- (a) joint holders of a unit count as a single unitholder; and
 - (b) a unit held on trust for a beneficiary is taken to be held by the beneficiary (rather than the trustee) if—
 - (i) the beneficiary is presently entitled to a share of—
 - (A) the trust estate; or
 - (B) the income of the trust estate; or
 - (ii) the beneficiary is, whether separately or together with other beneficiaries, in a position to control the trustee.

1.1.5 Glossary

The glossary at the end of these rules is part of these rules.

Note 1 There are also relevant definitions in the INAP glossary. To assist the reader, the application of a definition in that glossary would usually be indicated by the word(s) being in italics (other than bold italics).

- Note 2* By contrast, the application of a definition in the glossary in these rules is not indicated by the word(s) being in italics.
- Note 3* For the application of definitions, see INAP, r 2.1.8 (Application of definitions).
- Note 4* A note in or to these rules is explanatory and is not part of the rules (see INAP, r 2.1.6 (1) and r 2.1.7).
- Note 5* However, examples and guidance are part of these rules (see INAP, r 2.1.4 (1) (b) and (2)).
- Note 6* An example is not exhaustive, and may extend, but does not limit the meaning of these rules or the particular provision of these rules to which it relates (see INAP, r 2.1.5).
- Note 7* For the effect of guidance, see the *Financial Services Regulations*, art 17 (4).

Part 1.2 Basic concepts and key terms

Division 1.2.A Concepts generally

1.2.1 What is a *collective investment scheme*?

A *collective investment scheme* (or *scheme*) is an arrangement that is a collective investment fund under the *Financial Services Regulations* (other than an arrangement that is not a scheme under COLL, schedule 1).

Note on FSR definition of collective investment fund

The *Financial Services Regulations* (FSR), schedule 3, part 3, paragraphs 6.2 to 6.6 provide as follows:

6.2 Subject to paragraphs 6.5 and 6.6, a collective investment fund is any arrangement:

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

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

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

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	Rule 1.2.2

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

- (1) the contributions of the participants and the profits or income out of which payments to be made are pooled; or
- (2) the property is managed as a whole by or on behalf of the operator of the scheme.

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

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

1.2.2 Who is a *participant*?

A *participant* in a collective investment scheme (or scheme) is a person who takes part (or is to take part) in the scheme by making a contribution to the scheme property.

1.2.3 What is the *scheme property*?

The *scheme property* of a collective investment scheme (or scheme) is the property held for or in the scheme.

Note *Property* is defined in the glossary.

1.2.4 What is a *unit*?

A *unit* in a collective investment scheme (or scheme) is a unit representing the rights or interests (however described) of a participant in the scheme.

Note The nature of the rights or interests will differ according to the form of the scheme. If the scheme is a company, the units would be shares in the company.

1.2.5 **Who is the *unitholder*?**

The *unitholder* of a unit in a collective investment scheme (or scheme) is the person whose name is entered for the unit in the unitholder register.

Note *Unitholder register* is defined in the glossary.

1.2.6 **Who is the *operator*?**

- (1) The *operator* of a collective investment scheme (or scheme) is the person responsible under these rules for managing the scheme, including all of the scheme property.

Note 1 *Scheme property* is defined in r 1.2.3

Note 2 The operator may outsource the management of all or a part of the scheme property (see pt 6.5).

- (2) This rule does not limit the operator's functions under these rules.

Note *Function* is defined in the glossary.

1.2.7 **What are *open-ended* and *closed-ended* schemes?**

- (1) An *open-ended scheme* is a collective investment scheme (or scheme) that permits its units to be redeemed, whether continuously or periodically.

Note *Unit* is defined in r 1.2.4. *Redemption* is defined in the glossary.

- (2) A *closed-ended scheme* is a collective investment scheme (or scheme) that does not permit its units to be redeemed.

- (3) A scheme registered under these rules may be an open-ended scheme or closed-ended scheme.

1.2.8 What are *umbrella schemes* and *subschemes*?

- (1) An *umbrella scheme* is a collective investment scheme (or scheme) under which the contributions of the unitholders, and the profit or income out of which payments are to be made to them, are pooled separately in relation to separate parts of the scheme property.

Note *Unitholder* is defined in r 1.2.5 and *scheme property* is defined in r 1.2.3.

- (2) A *subscheme* of an umbrella scheme is a part of the scheme property that is pooled separately.
- (3) An umbrella scheme must be an open-ended scheme.

Note *Open-ended scheme* is defined in r 1.2.7 (1).

1.2.9 What is an *Islamic fund*?

A scheme, or a subscheme of an umbrella scheme, is an *Islamic fund* if the constitutional document of the scheme states that the scheme or subscheme is an Islamic fund.

Note 1 *Umbrella scheme* and *subscheme* are defined in r 1.2.8. *Constitutional document* is defined in r 3.1.1.

Note 2 The following provisions must be complied with in relation to Islamic funds:

- r 5.5.1 (2) and (3) (Accounting standards)
- pt 6.9 (Shari'a Supervisory Board)
- sch 1 (Constitutional document content), r S1.4 (Islamic funds)
- sch 2 (Prospectus content), r S2.2 (f) (Description of scheme etc) and r S2.4 (Islamic funds).

1.2.10 Who is a *qualified investor*?

- (1) For these rules, a person can be a qualified investor for a scheme or an authorised firm (or both).
- (2) A *qualified investor* for a scheme is—
 - (a) a person who would be a *business customer* or *market counterparty* of the scheme in relation to dealings in investments that consist of (or include) units in the scheme if the scheme were an authorised firm and the person were a *client* of the scheme; or
 - (b) a person who is a *business customer* or *market counterparty* of any authorised firm in relation to dealings in investments that consist of (or include) units in the scheme.

Note 1 *Client*, *business customer* and *market counterparty* are defined in COND, r 1.2.1, r 1.2.5 and r 1.2.7 respectively.

Note 2 *Authorised firm* and *dealing in investments* are defined in the glossary.

- (3) A *qualified investor* for an authorised firm in relation to units in a scheme is a person who is a *business customer* or *market counterparty* of the firm in relation to dealings in investments that consist of (or include) units in the scheme.

Division 1.2.B Legal forms for schemes

1.2.11 Permitted legal forms for schemes

A scheme must take 1 of the following legal forms:

- (a) a collective investment company (or CIC);
- (b) a collective investment partnership (or CIP);

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(c) a collective investment trust (or CIT);

(d) another permitted form of scheme.

Note The permitted legal forms of schemes are defined in r 1.2.12 to r 1.2.15.

1.2.12 What is a *collective investment company* (or *CIC*)?

- (1) A *collective investment company* (or *CIC*) is a company incorporated under the *Companies Regulations 2005* if its articles of association provide that the company is established for the sole purpose of constituting a collective investment scheme.

Note *Articles of association* is defined in the glossary.

- (2) If the *CIC* is an open-ended scheme, it must be an open-ended company with variable share capital.

Note *Open-ended scheme* is defined in r 1.2.7 (1).

1.2.13 What is a *collective investment partnership* (or *CIP*)?

A *collective investment partnership* (or *CIP*) is a limited partnership registered under the *Partnership Regulations 2007* if its partnership agreement provides that the partnership is established for the sole purpose of constituting a collective investment scheme.

Note *Partnership agreement* is defined in the glossary.

1.2.14 What is a *collective investment trust (or CIT)*?

A *collective investment trust (or CIT)* is an express trust created under the *Trust Regulations 2007* if its trust instrument provides that the trust is established for the sole purpose of constituting a collective investment scheme.

Note *Trust instrument* is defined in the glossary.

1.2.15 What is *another permitted form of scheme*?

Another permitted form of scheme is an entity (other than a CIC, CIP or CIT) if—

- (a) the legal form of the entity—
 - (i) is permitted under regulations made under the QFC Law or rules made by the Regulatory Authority or QFC Authority; or
 - (ii) otherwise permitted under an approval, authority, or licence, (however described) given by the QFC Authority under the QFC Law; and
- (b) an instrument creating the legal form of the entity provides that the entity is established for the sole purpose of constituting a collective investment scheme.

Note *Entity*, *QFC Law* and *instrument* are defined in the glossary.

Chapter 2 Registration of schemes

2.1.1 Application for registration of scheme

- (1) The person who is to become the initial operator of a scheme established in the QFC may apply to the Regulatory Authority for registration of the scheme under these rules.

Note 1 **Operator** is defined in r 1.2.6.

Note 2 See the following provisions:

- r 3.1.4 (Constitutional document and checklist to be filed with registration application)
 - r 5.2.5 (Prospectus, checklist and any translations to be filed with registration application).
- (2) The Regulatory Authority may, in writing, require the applicant to give the authority additional information or documents that the authority reasonably needs to decide the application.
 - (3) If the applicant does not comply with the requirement, the Regulatory Authority may refuse to consider the application.
 - (4) The applicant may withdraw the application by notice given to the Regulatory Authority at any time before the application is decided.

- (5) 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 about the change immediately, but by no later than the next business day.

Note **Business day** is defined in the glossary.

2.1.2 Decision on application for registration of scheme

- (1) On an application under rule 2.1.1 for registration of a scheme, the Regulatory Authority must—
- (a) register the scheme under these rules as a private placement scheme; or
 - (b) refuse to register the scheme under these rules.
- (2) The Regulatory Authority must register the scheme unless it considers that—
- (a) the constitutional document does not comply with rule 3.1.2 (Matters to be included in constitutional document) or contains a provision that conflicts with any provision of these rules; or
 - (b) the name of the scheme, any subscheme of the scheme, or a class of units—
 - (i) is substantially similar to the name of—
 - (A) a scheme registered under COLL or these rules; or
 - (B) a subscheme of an umbrella scheme registered under COLL or these rules; or

(C) a class of units for a scheme registered under COLL or these rules; or

(ii) is otherwise undesirable or misleading; or

Note ***Umbrella scheme*** and ***subscheme*** are defined in r 1.2.8. ***Class*** is defined in the glossary.

Guidance on names of CIC

A scheme that is a CIC must not include in its name the following words, abbreviations of the following words or similar words or abbreviations:

- (a) limited;
- (b) unlimited;
- (c) public limited company.

(c) the person named in the application as the person who is to become the initial operator of the scheme is not eligible, on the scheme's registration, to be the operator of the scheme under rule 4.1.1 (Requirements for operator); or

Note ***Operator*** is defined in r 1.2.6.

(d) the person named in the application as the person who is to become the initial auditor of the scheme is not eligible to be the auditor of the scheme under GENE, section 9.7 (Auditors) as applied by rule 5.5.2 (6) (Appointment and removal of auditors etc); or

(e) the prospectus drawn up for the scheme does not comply with these rules; or

Note ***Prospectus*** is defined in the glossary.

(f) the scheme does not otherwise comply with these rules; or

- (g) the proposed arrangements for safeguarding the scheme property do not provide an appropriate level of protection for participants and potential participants in the scheme; or

Guidance

The Regulatory Authority would usually expect the scheme property to be held by an independent custodian that is authorised in the QFC or another jurisdiction providing an appropriate level of protection for participants and potential participants in the scheme.

- (h) if the scheme is to be a closed-ended scheme—it is inappropriate for the scheme to be a closed-ended scheme; or

Note **Closed-ended scheme** is defined in r 1.2.7 (2).

- (i) the dominant purpose of the scheme becoming registered under these rules is to avoid the application of provisions of COLL that should apply to the scheme in the interests of participants or potential participants in the scheme; or
- (j) it is otherwise inappropriate for the scheme to be registered under these rules, particularly having regard to the interests of participants and potential participants in the scheme.

Note 1 **Participant** is defined in r 1.2.2.

Note 2 The Regulatory Authority has power under the *Financial Services Regulations*, art 105 to give certain directions in relation to collective investment funds, including a direction to cease the issue or redemption of units in the fund and to wind up the fund.

- (3) The Regulatory Authority may register the scheme either—
- (a) without conditions, restrictions or requirements; or
- (b) with the conditions, restrictions or requirements it considers appropriate.

- (4) The Regulatory Authority must give the applicant written notice of its decision on the application.
- (5) If the Regulatory Authority refuses to register the scheme or registers the scheme with conditions, restrictions or requirements not agreed to by the applicant, the notice must—
 - (a) give reasons for the decision; and
 - (b) tell the applicant that the applicant may appeal to the QFC Regulatory Tribunal against the decision.

Chapter 3 Constitutional requirements

Part 3.1 Constitutional document

3.1.1 What is the *constitutional document* for a scheme?

The *constitutional document*, for a scheme, is—

- (a) for a CIC—the articles of association of the company; and
- (b) for a CIP—the partnership agreement of the partnership; and
- (c) for a CIT—the trust instrument of the trust; and
- (d) for another permitted form of scheme—any instrument creating the legal form of the entity.

Note *CIC, CIP, CIT* and *another permitted form of scheme* are defined in div 1.2.B (Legal forms for schemes). *Articles of association, partnership agreement* and *trust instrument* are defined in the glossary.

3.1.2 Matters to be included in constitutional document

The constitutional document of a scheme must include the statements and provisions required by schedule 1 (Constitutional document content) for the scheme.

3.1.3 Relationship between constitutional document and these rules

- (1) The constitutional document of a scheme must not contain a provision—
 - (a) that conflicts with any provision of these rules; or

- (b) that is unfairly prejudicial to the interest of unitholders generally or to the unitholders of any class of units.

Note **Class** is defined in the glossary.

- (2) A provision of the constitutional document of a scheme has no effect to the extent—
 - (a) that it conflicts with any provision of these rules; or
 - (b) that it is unfairly prejudicial to the interest of unitholders generally or to the unitholders of any class of units.
- (3) However, a provision of the constitutional document of a scheme must not be taken to conflict with a provision of these rules to the extent it can operate concurrently with the provision of these rules.
- (4) Any power given by these rules to a scheme, or to the operator of a scheme, is subject to any applicable condition, restriction or requirement in the scheme's constitutional document.

3.1.4 Constitutional document and checklist to be filed with registration application

The person who is to become the operator of a scheme under these rules must file with the application for registration of the scheme—

- (a) a copy of the scheme's constitutional document; and
- (b) a checklist prepared by the person listing all the statements and provisions required by these rules and indicating where they are in the constitutional document.

3.1.5 Amendments of constitutional document

- (1) This rule applies if the constitutional document of a scheme is amended.
- (2) Not later than 21 days after the day the amendment is made, the operator must file with the Regulatory Authority—
 - (a) a copy of the amendment and the constitutional document as amended; and
 - (b) a written certificate by the operator stating that—
 - (i) the amendment was made in accordance with these rules and the scheme’s constitutional document; and
 - (ii) the constitutional document as amended does not contain a provision that conflicts with any provision of these rules.

Part 3.2 Units

3.2.1 Fractions of units

The constitutional document of a scheme may authorise the scheme to issue fractions of units.

Note *Constitutional document* is defined in r 3.1.1.

3.2.2 Smaller and larger denomination shares etc—CICs

- (1) The constitutional document of a CIC may provide that the rights attached to shares of any class are to be expressed in 2 denominations; one of which (the *smaller denomination*) is to be such proportion of the other (the *larger denomination*) as is fixed by the constitutional document.

Note *CIC* is defined in r 1.2.12. *Constitutional document* is defined in r 3.1.1.

- (2) For any class of shares of a CIC to which subrule (1) applies, any share with rights expressed in the smaller denomination is a *smaller denomination share*, and any share with rights expressed in the larger denomination is a *larger denomination share*.
- (3) For any class of shares of a CIC that is not expressed in 2 denominations, the rights that attach to a share of the class are equal to the rights that attach to every other share of that class.

- (4) For any class of shares of a CIC that is expressed in 2 denominations—
- (a) the rights that attach to a share of the class are equal to the rights that attach to every other share of that class of the same denomination; and
 - (b) the rights that attach to a smaller denomination share of the class are the relevant proportion of the rights that attach to a larger denomination share of that class.

- (5) For subrule (4) (b):

relevant proportion means the proportion fixed by the constitutional document (as mentioned in subrule (1)).

3.2.3 Bearer certificates may not be issued

- (1) Bearer certificates may not be issued for units in a scheme.
- (2) In this rule:

bearer certificate means a certificate or other document evidencing title that indicates that the bearer is entitled to the units in the scheme stated in it.

Note *Document evidencing title* is defined in the glossary.

3.2.4 Classes of units

The operator of a scheme may, in accordance with the constitutional document, issue the classes of units that are set out in the constitutional document.

Note *Constitutional document* is defined in r 3.1.1. *Class* is defined in the glossary.

3.2.5 Limited issue

- (1) This rule applies to units in a scheme if, under the constitutional document, the issue of the units may be limited.
- (2) The operator may only issue the units if the issue—
 - (a) is permitted by the constitutional document; and
 - (b) is in accordance with the conditions, restrictions and requirements (if any) stated in the latest filed prospectus.

Note **Latest filed prospectus** is defined in the glossary.

Chapter 4 The operator

4.1.1 Requirements for operator

(1) The operator of a scheme must be an authorised firm that—

(a) is a corporation; and

Note **Corporation** is defined in the glossary.

(b) has an authorisation for each of the following regulated activities:

(i) operating collective investment schemes;

(ii) dealing in investments;

(iii) managing investments;

(iv) providing custody services; and

Note **Authorisation, regulated activity** and the regulated activities mentioned in this paragraph are defined in the glossary.

(c) is permitted under the scope of its authorisation to be the operator of the scheme, schemes of that kind or any scheme registered in the QFC; and

(d) for a CIC or CIP—is a different person from the scheme.

Note **CIC** and **CIP** are defined in r 1.2.12 and r 1.2.13 respectively.

4.1.2 Operator must comply with legal and regulatory requirements

(1) The operator of a scheme must comply with every legal and regulatory requirement applying to the operator—

(a) in relation to the scheme; or

- (b) as the operator of a scheme; or
 - (c) as an authorised firm.
- (2) Without limiting subrule (1), the operator must act in accordance with the following:
- (a) these rules;
 - (b) any regulations under which the scheme is established, including any law applied by, or that supplements, those regulations;
 - (c) the other provisions of the law applying in the QFC in relation to—
 - (i) the scheme; or
 - (ii) the operator as the operator of a scheme or as an authorised firm;
 - (d) the scope of the operator's authorisation, including any conditions, restrictions or requirements;

Note **Authorisation** is defined in the glossary.

- (e) the scope of the scheme's registration, including any conditions, restrictions or requirements;
- (f) the constitutional document;

Note **Constitutional document** is defined in r 3.1.1.

- (g) the latest filed prospectus.

Note **Latest filed prospectus** is defined the glossary.

4.1.3 Functions of operator generally

- (1) The operator of a scheme is responsible for managing the scheme, including all the scheme property.

Note **Scheme property** is defined in r 1.2.3.

- (2) Without limiting subrule (1), the operator of a scheme must—

- (a) ensure that decisions about investments and borrowings by the scheme are made in accordance with the scheme's investment objectives, strategies and policy as stated in the constitutional document and latest filed prospectus; and

Note **Borrowing** and **latest filed prospectus** are defined in the glossary. **Constitutional document** is defined in r 3.1.1.

- (b) value the scheme property in accordance with these rules; and

- (c) calculate the scheme's net asset value, and net asset value per unit, in accordance with these rules; and

Note **Net asset value** and **net asset value per unit** are defined in the glossary.

- (d) if the scheme is an open-ended scheme—calculate the price of units for issue and redemption in accordance with these rules; and

Note **Open-ended scheme** is defined in r 1.2.7 (1).

- (e) ensure the scheme property is—

- (i) clearly identified as scheme property; and

- (ii) held separately from the operator's own property, and the property of any other scheme.

Guidance

The Regulatory Authority would regard paragraph (e) (ii) as satisfied if the scheme property is held by an appropriate independent custodian (see r 2.1.2 (2) (g)).

4.1.4 Duty of operator to report certain breaches of law

- (1) This rule applies if—
 - (a) the operator of a scheme becomes aware that the operator or any other person has breached, or suspects on reasonable grounds that the operator or any other person may have breached or may be about to breach, in relation to the scheme any provision of these rules, any other *Rules*, any other law of the QFC or the law of any other jurisdiction; and
 - Note* **Rules** is defined in INAP. **Breach** and **jurisdiction** are defined in the glossary.
 - (b) the breach has had, or is likely to have, a material adverse effect on the scheme or the interests of unitholders.
- (2) The operator must tell the Regulatory Authority about the breach immediately, but within 1 business day.

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.

Note **Business day** is defined in the glossary.

- (3) The operator must give the Regulatory Authority any information about the breach that the authority reasonably requires.

Note Under GENE, r 4.1.3 an authorised firm must also advise the authority of certain significant events.

4.1.5 Particular duties of operator

The operator of a scheme must—

- (a) act honestly; and
- (b) exercise the degree of care and diligence that a reasonable person would exercise in the operator's position; and
- (c) act in the best interests of the unitholders and, if there is a conflict between the unitholders' interests and its own interests, give priority to the unitholders' interests; and
- (d) unless otherwise required or permitted by the constitutional document, treat unitholders who hold units in the same class equally and unitholders who hold units in different classes fairly; and

Note **Class** is defined in the glossary.

- (e) not make improper use of information acquired as a result of being the operator—
 - (i) to gain, directly or indirectly, a personal advantage or an advantage for another person; or
 - (ii) to cause detriment to the unitholders; and
- (f) not make improper use of the position of operator—
 - (i) to gain, directly or indirectly, a personal advantage or an advantage for another person; or

(ii) to cause detriment to the unitholders.

4.1.6 Property safeguarding functions of operator

- (1) The operator of a scheme is responsible for the safeguarding of all the scheme property.

Note 1 **Scheme property** is defined in r 1.2.3.

Note 2 See also guidance to r 2.1.2 (2) (g).

- (2) Without limiting subrule (1), the operator must—
- (a) ensure that all the scheme property is properly accounted for; and
 - (b) ensure that all the scheme property is—
 - (i) clearly identified as scheme property; and
 - (ii) held separately from the operator's own property and the property of any other person; and
 - (c) ensure that any scheme property in registrable form is appropriately registered as soon as practicable; and
 - (d) take into its custody or control under this rule all documents evidencing title to scheme property, other than in relation to derivatives and forward positions; and

Note **Document evidencing title** and **derivative** are defined in the glossary.

- (e) ensure that any resulting benefit of a derivative or forward transaction is received by it for the scheme property; and
- (f) collect, hold and deal with income in relation to the scheme property.

- (3) If the operator is of the opinion that a deal in property in relation to the scheme breaches these rules or the constitutional document, the operator must, subject to the constitutional document—
- (a) cancel the transaction or make a disposal or acquisition to restore the previous situation; and
 - (b) meet any resulting loss or expense.

Note **Deal** and **breach** are defined in the glossary.

4.1.7 Register of unitholders

- (1) The operator of a scheme must ensure that a register of unitholders is kept as part of the operator's records under rule 4.1.8.
- (2) The operator must exercise all due diligence and take reasonable care to ensure that—
- (a) the register is accurate, complete and up to date; and
 - (b) only a person who is a qualified investor for the scheme is recorded in the register.

Note 1 **Qualified investor**, for a scheme, is defined in r 1.2.10 (2).

Note 2 Rule 6.3.1 specifies the information that must be included in the register.

4.1.8 Records of operator

- (1) The operator of a scheme must make the records necessary—
- (a) to enable the operator to comply with—
 - (i) these rules; and

- (ii) the other provisions of the law applying in the QFC in relation to—
 - (A) the scheme; or
 - (B) the operator as the operator of a scheme or as an authorised firm; and
 - (b) to demonstrate at all times whether it has complied with these rules.
- (2) If the scheme is an open-ended scheme and the latest filed prospectus states that the operator's policy is to require a dilution adjustment or dilution levy, the operator must make a record of—
- (a) how it calculates and estimates dilution; and
 - (b) its policy and method for deciding the rate or amount of any dilution adjustment or dilution levy.
- Note* **Latest filed prospectus**, **dilution adjustment**, **dilution levy** and **dilution** are defined in the glossary. **Open-ended scheme** is defined in r 1.2.7 (1).
- (3) Subrule (2) does not limit subrule (1).
- (4) The operator must keep records made for this rule for at least 6 years after the day they are made.
- (5) The operator must, at the request of the Regulatory Authority or the auditor of the scheme—
- (a) make records kept under this rule available for inspection within a reasonable period of not longer than 3 days; and

- (b) provide a copy of any of the records, in the requested form (if any), within a reasonable period of not longer than 3 days.
- (6) The operator must not charge for making records available, or providing a copy of any records, under subrule (5).

Note GENE, ch 6 also contains provisions about record-keeping.

4.1.9 Operator must give information etc to auditor

The operator of a scheme must, on request, immediately give the auditor of the scheme the information and explanations in relation to the scheme that the auditor reasonably requires.

4.1.10 Duties of officers etc of operator

- (1) This rule applies to a person who is an officer, employee or agent of the operator of a scheme.
- (2) The person must not—
 - (a) make improper use of information acquired as a result of being a person to whom this rule applies—
 - (i) to gain, directly or indirectly, a personal advantage or an advantage for another person; or
 - (ii) to cause detriment to unitholders; or
 - (b) make improper use of the person's position as a person to whom this rule applies—
 - (i) to gain, directly or indirectly, a personal advantage or an advantage for another person; or
 - (ii) to cause detriment to unitholders.

4.1.11 Provisions of ch 4 do not limit other functions

- (1) This rule applies to a provision of this chapter that gives a function (however expressed) to the Regulatory Authority, the operator of a scheme or another person.

Note **Function** is defined in this glossary.

- (2) To remove any doubt, the provision is additional to, and does not limit, any function given to the Regulatory Authority, operator or other person under—
 - (a) any other provision of these rules; or
 - (b) any other law of the QFC; or
 - (c) for the operator—the constitutional document.

Chapter 5 Investor relations

Part 5.1 Transactions with affected persons

5.1.1 Who is an *affected person* for a scheme?

An *affected person* for a scheme is any of the following:

- (a) the operator;
- (b) a member (however described) of the governing body of the operator or, for a CIC or CIP, the scheme;
- (c) any investment adviser for the scheme;
- (d) a person to whom functions of the operator in relation to the scheme are outsourced;
- (e) the auditor of the scheme;
- (f) any associated person for any person mentioned in paragraphs (a) to (e);
- (g) a unitholder with 5% or more in value of all the units then in issue.

Note *Governing body, investment adviser, function* and *associated person* are defined in the glossary. *CIC* and *CIP* are defined in r 1.2.12 and r 1.2.13 respectively. *Outsourcing* is defined in r 6.5.1.

5.1.2 Transactions with affected persons—general rule

- (1) This rule applies to a transaction by the operator of a scheme in relation to the scheme property if the transaction is with an affected person.

- (2) The operator must ensure that the transaction—
- (a) is on terms at least as favourable to the scheme as any comparable transaction on normal commercial terms negotiated at arm's length with an independent third party; and
 - (b) does not breach any other provision of this part; and
 - (c) is not prohibited by the constitutional document or the latest filed prospectus.

Note 1 **Constitutional document** is defined in r 3.1.1. **Breach** and **latest filed prospectus** are defined in the glossary.

Note 2 See also sch 1 (Constitutional document content), r S1.27 (Conflicts of interest with affected persons).

5.1.3 Transactions with affected persons—prior notice to unitholders

- (1) This rule applies to a proposed transaction by the operator of a scheme in relation to the scheme property if the transaction is with an affected person.
- (2) The operator must not enter into the transaction unless the operator has given the unitholders prior written notice of the transaction (or transactions that include the transaction), including an explanation of how rule 5.1.2 has been complied with in relation to the transaction (or the transactions).

Example of written notice

notice given in the scheme's latest filed prospectus

5.1.4 Transactions with affected persons—details required for scheme’s annual reports

- (1) If the operator of a scheme enters into any transaction with an affected person in relation to the scheme property during an annual accounting period, the scheme’s annual report for the period must include—
 - (a) a summary of the total value of transactions with affected persons in relation to the scheme property during the period; and
 - (b) a summary of the nature of the transactions; and
 - (c) a summary of the identities of the affected persons; and
 - (d) if the unitholders voted at a general meeting held during the period to approve a transaction with an affected person—details of the approval and the results of the voting in relation to the approval.
- (2) If the operator of a scheme does not enter into a transaction with an affected person in relation to the scheme property during an annual accounting period, the scheme’s annual report for the period must include a statement to that effect.

Part 5.2 Prospectus requirements

5.2.1 Prospectus to be drawn up

The operator of a scheme must ensure that a prospectus is drawn up for the scheme in accordance with these rules.

Note *Prospectus* is defined in the glossary.

5.2.2 Prospectus etc to be made available

The operator of a scheme must make available free of charge the latest filed prospectus, and the latest filed translation of the prospectus in each language for which there is a translation prepared by or for the operator, to any person eligible to invest in the scheme before the person buys units (or additional units) in the scheme.

Note *Latest filed prospectus* and *latest filed translation* are defined in the glossary.

5.2.3 General information requirements for prospectus

- (1) The operator of a scheme must ensure that the scheme's prospectus at all times contains all the information that investors and their professional advisers would reasonably require, and reasonably expect to have drawn to their attention, in the prospectus for the purpose of making an informed judgment about—
 - (a) the merits and risks of participating in the scheme; and
 - (b) the extent and characteristics of the risks accepted by participating in the scheme.

- (2) The operator must ensure that at all times the prospectus contains a clear and easily understandable explanation of any risks that investment in the scheme may reasonably be regarded as presenting to investors in the scheme.
- (3) Without limiting subrules (1) and (2), the operator must ensure that at all times the prospectus includes the information, statements and provisions required for the scheme by schedule 2 (Prospectus content).
- (4) If the scheme is a closed-ended scheme, this rule ceases to apply to the scheme on the final closing of the scheme in accordance with the constitutional document.

Note *Closed-ended scheme* is defined in r 1.2.7 (2).

5.2.4 Other general requirements for prospectus

- (1) The operator of a scheme must ensure that any prospectus for the scheme—
 - (a) is in English; and
 - (b) presents information about the scheme clearly and fairly; and
 - (c) does not contain any untrue or misleading statement; and
 - (d) otherwise complies with these rules.
- (2) Subrule (1) (a) does not prevent the operator preparing, or arranging for the preparation of, a translation of the prospectus in any other language.
- (3) However, the operator must ensure that any translation of a prospectus prepared by or for the operator—
 - (a) presents information about the scheme clearly and fairly; and

- (b) does not contain any untrue or misleading statement; and
- (c) is otherwise a correct translation; and
- (d) prominently displays the date of the translation; and
- (e) states that it is a translation authorised by the operator; and
- (f) otherwise complies with these rules.

5.2.5 Prospectus, checklist and any translations to be filed with registration application

- (1) The person who is to become the operator of a collective investment scheme established in the QFC must file with the application for registration of the scheme under these rules—
 - (a) the original prospectus for the scheme; and
 - (b) a checklist prepared by the person listing all the statements and information required by these rules and indicating where they are in the original prospectus; and
 - (c) each translation of the original prospectus that has been prepared by or for the person; and
 - (d) for each translation mentioned in paragraph (c)—a certificate by the person who made the translation stating that the translation is a correct translation of the original prospectus.
- (2) If the person mentioned in subrule (1) (either before or after becoming the initial operator of the scheme), or a person who is a later operator of the scheme, prepares another translation of the original prospectus or has another translation prepared, the person must immediately, but within 1 business day after the

day the translation is prepared, file with the Regulatory Authority—

- (a) the translation; and
- (b) a certificate by the person who made the translation stating that the translation is a correct translation of the original prospectus.

Examples

See examples to rule 4.1.4 (2) on the meaning of ‘within 1 business day’.

- (3) The certificate of a person under subrule (1) (d) or (2) (b) must state, in English, the person’s—
 - (a) full name and address; and
 - (b) qualifications for making the translation.

5.2.6 Revisions of prospectus etc

- (1) The operator of a scheme must keep the latest filed prospectus under review.

Note For the application of this rule to a closed-ended scheme, see r (12).

- (2) If the operator becomes aware of the happening of any materially significant change affecting a statement or information required to be included in the prospectus, the operator must—
 - (a) immediately revise the prospectus and immediately file a revised or supplementary prospectus with the Regulatory Authority; and
 - (b) if a translation of the latest filed prospectus has been filed with the authority in a particular language—the operator must immediately prepare, or arrange for the preparation

of, a translation of the revised or supplementary prospectus in that language and immediately file the translation with the authority.

Example of materially significant change

a change in the scheme's investment objectives, strategies or policy

- (3) Without limiting subrules (1) and (2), the operator must, at least once every year—
 - (a) review the latest filed prospectus, make any revisions necessary and, whether or not revisions are necessary, immediately file a prospectus or revised prospectus with the Regulatory Authority; and
 - (b) if a translation of the latest filed prospectus has been filed with the authority in a particular language—file with any revised or supplementary prospectus filed under paragraph (a) a translation of that prospectus in the same language.
- (4) Subrule (3) does not apply in relation to a period of at least 12 months if the operator does not issue, or offer to issue, units in the scheme at any time during the period.
- (5) To remove any doubt, subrules (2) and (3) do not prevent the operator—
 - (a) revising the latest filed prospectus at any other time; or
 - (b) preparing, or arranging for the preparation of, a translation or revised translation of the latest filed prospectus in any language.
- (6) If the operator revises the latest filed prospectus otherwise than under subrule (2) or (3), the operator must immediately file a

revised or supplementary prospectus with the Regulatory Authority.

- (7) If the operator prepares, or arranges for the preparation of, a translation or revised translation of the latest filed prospectus otherwise than under subrule (2) or (3), the operator must immediately file the translation with the Regulatory Authority.
- (8) A prospectus filed under this rule must be accompanied by a checklist prepared by the operator listing all the statements and information required by these rules and indicating where they are in the prospectus.
- (9) A translation of a prospectus filed under this rule must be accompanied by a certificate signed by the person who made the translation stating that the translation is a correct translation of the prospectus.
- (10) The certificate of a person under subrule (9) must state, in English, the person's—
 - (a) full name and address; and
 - (b) qualifications for making the translation.
- (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 rule 4.1.4 (2) on the meaning of 'within 1 business day'.

- (12) If the scheme is a closed-ended scheme, this rule ceases to apply to the scheme on the final closing of the scheme in accordance with the constitutional document.

Note **Closed-ended scheme** is defined in r 1.2.7 (2).

Part 5.3 Prospectus responsibility

5.3.1 Persons responsible for prospectus

- (1) Each of the following persons is responsible for a scheme's prospectus:
 - (a) the operator;
 - (b) each member (however described) of the governing body of the operator;
Note **Governing body** is defined in the glossary.
 - (c) subject to subrules (2) and (3), each person who has accepted, and is stated in the prospectus to have accepted, responsibility for the prospectus or any part of it;
 - (d) subject to subrules (2) and (3), each person who is taken under rule 5.3.2 (Responsibility for expert statements in prospectus) to have accepted responsibility for part of the prospectus;
 - (e) subject to subrules (2) and (3), each person not mentioned in paragraphs (a) to (d) who has authorised, and is stated in the prospectus to have authorised, the prospectus or any part of it.
- (2) If a person accepts (or is taken under rule 5.3.2 to have accepted) responsibility for, or authorises, only part of a prospectus, the person is responsible only for that part of the prospectus.

- (3) However, the person is responsible for that part of the prospectus only if it is included in, or substantially in, the form and context in which the person accepted responsibility for it, consented to its inclusion or authorised it.
- (4) This rule does not make a person responsible for a prospectus only because the person gave advice about its contents, in a professional capacity, to a person mentioned in subrule (1) (a) to (e).

5.3.2 Responsibility for expert statements in prospectus

- (1) For this rule, an *expert* is a person whose profession or reputation gives authority to statements made by the person.
- (2) For rule 5.3.1 (1) (d), an expert is taken to have accepted responsibility for a part of a scheme's prospectus if—
 - (a) the part is a statement made by, or is based on a statement made by, the expert; and
 - (b) the expert gave the operator written consent for the statement to be included in the prospectus; and
 - (c) the prospectus states that the expert authorised the statement; and
 - (d) the expert does not withdraw the consent, by written notice given to the operator, before the prospectus is filed with the Regulatory Authority.
- (3) The operator must keep the following for at least 6 years after the day the prospectus is last made available to a person eligible to invest in the scheme:
 - (a) the expert's consent;

- (b) any written notice given to the operator withdrawing the expert's consent.

5.3.3 Liability for prospectus

- (1) A person responsible under rule 5.3.1 (Persons responsible for prospectus) for a prospectus is liable to pay compensation to another person who acquires (or contracts to acquire) units in the scheme for any loss or damage arising from—
 - (a) any untrue or misleading statement in the prospectus; or
 - (b) the omission from the prospectus of any matter required by these rules to have been included in it.
- (2) However, if rule 5.3.1 (1) (c), (d) or (e) applies to the person, the person is only liable to pay compensation in relation to a part of the prospectus for which the person is responsible under rule 5.3.1 (2) and (3).
- (3) Also, this rule is subject to rule 5.3.4.
- (4) To remove any doubt, this rule does not limit any liability that exists apart from this rule.
- (5) In this rule:
prospectus includes a translation of the prospectus prepared by or for the operator.

5.3.4 Exceptions from liability for prospectus

- (1) A person (other than the operator) is not liable under rule 5.3.3 to pay compensation, in relation to a statement in, or omission from, a scheme's prospectus, to another person who acquires units in the scheme if—
- (a) at the time the prospectus was filed with the Regulatory Authority, the person believed on reasonable grounds, after having made all inquiries that were reasonable—
 - (i) that the statement was true and not misleading; or
 - (ii) that the omitted matter was properly omitted; and
- Note* See defs *acquire* and *prospectus* in r (6).
- (b) 1 or more of the following subparagraphs apply:
 - (i) the person continued in that belief until the units were acquired;
 - (ii) the units were acquired before it was reasonably practicable to bring a correction to the attention of potential purchasers of the units;
 - (iii) before the units were acquired, the person had already taken all reasonable steps to ensure that a correction was brought to the attention of potential purchasers of the units;
 - (iv) the person who acquired the units was not materially influenced or affected by the statement or omission in making the decision to invest.

- (2) A person (the *first person*) is not liable under rule 5.3.3 to pay compensation, in relation to a statement in a scheme's prospectus, to another person who acquired units in the scheme if—
- (a) the statement is a part of the prospectus for which a third person (the *expert*) is taken, under rule 5.3.2 (Responsibility for expert statements in prospectus), to have accepted responsibility; and
 - (b) at the time the prospectus was filed with the Regulatory Authority, the first person believed on reasonable grounds, after having made all inquiries that were reasonable—
 - (i) that the expert was competent to make the statement; and
 - (ii) that the expert gave the operator written consent to include the statement in the prospectus; and
 - (iii) that the expert had not withdrawn the consent; and
 - (iv) that the statement was included in, or substantially in, the form and context in which the expert consented to its inclusion; and
 - (c) 1 or more of the following subparagraphs apply:
 - (i) the first person continued in that belief until the units were acquired;
 - (ii) the units were acquired before it was reasonably practicable to bring a correction to the attention of potential purchasers of the units;
 - (iii) before the units were acquired, the first person had already taken all reasonable steps to ensure that a

- correction was brought to the attention of potential purchasers of the units;
- (iv) the person who acquired the units was not materially influenced by the statement in making the decision to invest.
- (3) For the application of subrule (1) (b) (iii) or (2) (c) (iii) in relation to a person, it is sufficient if, before the units were acquired—
- (a) the correction had been published in a way likely to bring it to the attention of potential purchasers of the units; or
- (b) the person took all reasonable steps to ensure that such a correction was published and believed on reasonable grounds the correction had been published.
- (4) A person is not liable under rule 5.3.3 to pay compensation, in relation to a statement in or omission from a scheme's prospectus, to another person who acquired units in the scheme if the other person knew, at the time of acquisition, that the statement was untrue or misleading or of the omission.
- (5) For this rule—
- (a) a revised or supplementary prospectus is taken to be a different prospectus from the original prospectus; and
- (b) each revised or supplementary prospectus filed with the Regulatory Authority is taken to be a different prospectus from each other revised or supplementary prospectus filed with the authority.
- (6) In this rule:
- acquire*** units includes contract to acquire them.

prospectus includes a translation of the prospectus prepared by or for the operator.

Part 5.4 Unitholder meetings

5.4.1 Unitholder meetings

- (1) The constitutional document of a scheme must set out details of the procedures for—
 - (a) calling and conducting unitholder meetings; and
 - (b) resolutions at unitholder meetings.
- (2) The procedures must be reasonable and fair as between the parties.

Part 5.5 Reports, accounts and auditors

Division 5.5.A Accounting standards and auditors

5.5.1 Accounting standards

- (1) Unless subrule (2) or (3) applies, the operator of a scheme must prepare and keep all financial accounts and statements in accordance with—
- (a) US GAAP; or
 - (b) UK GAAP or IFRS, as supplemented, if appropriate, by the Statement of Recommended Practice issued from time to time by—
 - (i) if the scheme is an open-ended scheme—the United Kingdom Investment Management Association; or
 - (ii) if the scheme a closed-ended scheme—the United Kingdom Association of Investment Companies.

Note **US GAAP**, **UK GAAP** and **IFRS** are defined in r (4). **Open-ended scheme** and **closed-ended scheme** are defined in r 1.2.7.

- (2) If the scheme is an Islamic fund, the operator must prepare and keep all financial accounts and statements in accordance with the accounting standards of AAOIFI FAS 14.

Note **Islamic fund** is defined in r 1.2.9. **AAOIFI** is defined in the glossary.

- (3) If the operator of an umbrella scheme operates 1 or more subschemes that are Islamic funds, it must prepare and keep all financial accounts and statements in accordance with IFRS, as supplemented by AAOIFI FAS 14.

Note 1 ***Umbrella scheme*** and ***subscheme*** are defined in r 1.2.8.

Note 2 AAOIFI FAS 14 sets out the accounting rules for conventional institutions that offer Islamic financial services.

- (4) In this rule:

IFRS means International Financial Reporting Standards.

UK GAAP means generally accepted accounting principles in the United Kingdom of Great Britain and Northern Ireland.

US GAAP means generally accepted accounting principles in the United States of America.

5.5.2 Appointment and removal of auditors etc

- (1) The operator of a scheme must ensure that there is an auditor of the scheme at all times, and that the auditor is a QFC approved auditor.
- (2) The operator of a scheme may, from time to time, appoint a QFC approved auditor as auditor of the scheme.
- (3) The audit fees of the auditor are as decided by the operator.
- (4) The operator may remove the auditor at any time.
- (5) The power under subrule (4) has effect despite anything in any agreement between the auditor and the operator, the scheme or both.

- (6) GENE, section 9.7 (Auditors) applies to the appointment and removal of the auditor of the scheme as if the scheme were an authorised firm.

Note **Authorised firm** is defined in the glossary.

- (7) In this rule:

QFC approved auditor means a person—

- (a) who is approved by the QFC Authority to act as an auditor; and
- (b) whose name is entered in the register of auditors maintained by the QFC Companies Registration Office.

Division 5.5.B Reports and accounts

5.5.3 Reports and accounts generally

- (1) The operator of a scheme must prepare a report for each annual accounting period and half-yearly accounting period in accordance with this division.

Note **Annual accounting period** and **half-yearly accounting period** are defined in the glossary.

- (2) However if the first annual accounting period is less than 12 months, a half-yearly report need not be prepared for that period.
- (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 3 months after the day the period ends.

- (4) The operator must give a copy of an annual or half-yearly report free of charge to any unitholder on request.
- (5) If a person eligible to invest in the scheme asks for a copy of the latest annual or half-yearly report, the operator must give a copy free of charge to the person before any sale (or further sale) of units to the person is concluded.
- (6) The operator must give a copy of each annual and half-yearly report to the Regulatory Authority within 21 days after the day the report is prepared.
- (7) If the scheme is an umbrella scheme, any annual report given to a unitholder or other person under subrule (4) or (5) may be a report prepared under rule 5.5.4 (3) for the relevant subscheme.
- (8) However, the operator must also give the unitholder or other person a copy of the annual report prepared under rule 5.5.4 (2) for the scheme as a whole if the unitholder or other person asks for it.

5.5.4 Contents of annual reports

- (1) An annual report for a scheme other than an umbrella scheme must contain the following:
 - (a) the full audited accounts for the annual accounting period;
 - (b) the operator's report for the period in accordance with rule 5.5.6 (Operator's reports);
 - (c) the auditor's report for the period in accordance with rule 5.5.7 (Auditor's reports).

Note See also r 5.1.4 (Transactions with affected persons—details required for scheme's annual reports).

- (2) An annual report for an umbrella scheme must be prepared for the scheme as a whole and must contain the following:
 - (a) for each subscheme—the full audited accounts for the subscheme for the annual accounting period and the operator’s report for the subscheme for the period in accordance with rule 5.5.6;
 - (b) an aggregation of all the accounts required by paragraph (a);
 - (c) the auditor’s report for the scheme for the period in accordance with rule 5.5.7.
- (3) If the scheme is an umbrella scheme, the operator may, in addition to complying with subrule (2), prepare a further annual report for any 1 or more individual subschemes.
- (4) A report under subrule (3) for a subscheme must contain the following:
 - (a) the full audited accounts for the subscheme for the annual accounting period;
 - (b) the operator’s report for the subscheme for the period in accordance with rule 5.5.6;
 - (c) the auditor’s report for the scheme for the period in accordance with rule 5.5.7.
- (5) The operator of a scheme must ensure that the accounts mentioned in subrule (1) (a), (2) (a) and (4) (a) give a true and fair view of—
 - (a) the net income and the net gains and losses on the scheme property of the scheme (or subscheme) for the annual accounting period; and

- (b) the financial position of the scheme (or subscheme) as at the end of the period.

5.5.5 Contents of half-yearly reports

- (1) A half-yearly report for a scheme, or a subscheme of umbrella scheme, must contain—
 - (a) the full accounts for the half-yearly accounting period; and
 - (b) the operator's report for the period in accordance with rule 5.5.6.
- (2) If the scheme is an umbrella scheme, the operator may choose whether the half-yearly report is prepared for the scheme as a whole, for each individual subscheme, or both.

5.5.6 Operator's reports

A report of the operator of a scheme for a period must include the following:

- (a) a review of the investment activities of the scheme (or subscheme) during the period against the prospectus applying to the period;
- (b) particulars of any fundamental or significant change in relation to the scheme (or subscheme) since the date of the operator's last report;
- (c) any other information that would enable unitholders to make an informed judgment on the development of the activities of the scheme (or subscheme) during the period and the results of those activities as at the end of the period.

5.5.7 Auditor's reports

The operator of a scheme must ensure that the report of the auditor to the unitholders for an annual accounting period includes the following statements:

- (a) whether, in the auditor's opinion, the accounts have been properly prepared in accordance with these rules and the constitutional document;
- (b) whether, in the auditor's opinion, the accounts give a true and fair view of—
 - (i) the net income and the net gains or losses of the scheme property for the period; and
 - (ii) the financial position of the scheme as at the end of the period;
- (c) whether the auditor is of the opinion that proper accounting records for the scheme have been kept and whether the accounts are in agreement with the accounting records;
- (d) whether the auditor has been given all the information and explanations that, to the best of the auditor's knowledge and belief, are necessary for the purposes of the audit;
- (e) whether the auditor is of the opinion that the information given in the operator's report for the period is consistent with the accounts.

Chapter 6 Operating duties and responsibilities

Part 6.1 Dealing

6.1.1 Application of pt 6.1 to umbrella schemes

- (1) This part applies to each subscheme of an umbrella scheme as if it were a separate scheme.

Note *Umbrella scheme* and *subscheme* are defined in r 1.2.8.

- (2) The currency of a subscheme may, if appropriate, be used for the subscheme instead of the base currency of the umbrella scheme.

Note *Base currency* is defined in the glossary.

6.1.2 Initial offer

The period of the initial offer for a scheme, and how it ends, must be set out in the latest filed prospectus and must not be of unreasonable length.

Note *Initial offer* and *latest filed prospectus* are defined in the glossary.

6.1.3 Issue and redemption of units generally

- (1) The operator of a scheme must ensure that at each valuation point there are at least as many units in issue of any class as there are units registered to unitholders of that class.

Note *Valuation point* and *class* are defined in the glossary.

- (2) In issuing or redeeming units, the operator must not do, or fail to do, anything that would, or might, give the operator, or an associated person for the operator, a benefit or advantage at the expense of a unitholder or potential unitholder.

Note **Issue**, **redemption** and **associated person** are defined in the glossary.

- (3) If the scheme is an open-ended scheme, the operator must arrange for the issue and redemption of units as required by the latest filed prospectus.

Note **Open-ended scheme** is defined in r 1.2.7 (1).

- (4) If the scheme is an open-ended scheme, the operator must keep a record of the issues and redemptions it makes.

- (5) If the operator breaches subrule (1) or (2), it must—

- (a) correct the breach as quickly as possible; and
- (b) reimburse the scheme any costs the scheme may have incurred in correcting the breach, subject to any reasonable minimum level for reimbursement provided in the latest filed prospectus.

Note **Breach** is defined in the glossary.

6.1.4 Issue and redemption of units in multiple classes

- (1) This rule applies to a scheme if the scheme is an open-ended scheme that has 2 or more classes of units in issue.

Note **Open-ended scheme** is defined in r 1.2.7 (1). **Class** is defined in the glossary.

- (2) The operator may treat all, or any 2 or more, of the classes (the **relevant classes**) as a single class in deciding how many units

are to be issued or redeemed by reference to a particular valuation point if either—

- (a) the relevant classes have the same entitlement to participate in the scheme property, and the same liability for charges, expenses, and other payments, that may be recovered from the scheme property; or
- (b) the relevant classes differ only as to whether income is distributed or accumulated by periodic credit to capital, and the price of the units in each class is calculated by reference to undivided shares in the scheme property.

6.1.5 Limited issue

If an open-ended scheme limits the issue of units in any class, units in the class can only be issued if the issue—

- (a) is in accordance with the constitutional document and the latest filed prospectus; and
- (b) will not materially prejudice any existing unitholders.

Note *Open-ended scheme* is defined in r 1.2.7 (1). *Issue, class* and *latest filed prospectus* are defined in the glossary. *Constitutional document* is defined in r 3.1.1.

6.1.6 Issue only to qualified investors

To remove any doubt, the operator of a scheme must not issue units in the scheme to a person who is not a qualified investor for the scheme.

Note *Issue* is defined in the glossary. *Qualified investor*, for a scheme, is defined in r 1.2.10 (2).

Part 6.2 Valuation and pricing

6.2.1 Application of pt 6.2 to umbrella schemes

- (1) This part applies in relation to each subscheme of an umbrella scheme as if it were a separate scheme.

Note **Umbrella scheme** and **subscheme** are defined in r 1.2.8.

- (2) The currency of a subscheme may, if appropriate, be used for the subscheme instead of the base currency of the umbrella scheme.

Note **Base currency** is defined in the glossary.

6.2.2 Valuation

- (1) For these rules, the value of the scheme property of a scheme is its net asset value.

Note **Net asset value** is defined in the glossary.

- (2) To calculate the price of units in the scheme, the operator must conduct a fair and accurate valuation of all scheme property, on a forward price basis, in accordance with—

- (a) these rules; and
- (b) the constitutional document and latest filed prospectus.

Note **Constitutional document** is defined in r 3.1.1. **Forward price** and **latest filed prospectus** are defined in the glossary.

6.2.3 Valuation points

- (1) An open-ended scheme must have a valuation point on each dealing day, other than a dealing day during the initial offer period.

Note **Open-ended scheme** is defined in r 1.2.7 (1). **Valuation point**, **dealing day** and **initial offer** are defined in the glossary.

- (2) The operator of an open-ended scheme must prepare a valuation of the scheme property in accordance with rule 6.2.2 at each valuation point.

6.2.4 Prices of units

- (1) The price of a unit in an open-ended scheme at a valuation point must be calculated by the operator—
 - (a) on the basis of the valuation under rule 6.2.3 (2) at the valuation point; and
 - (b) using forward prices and in a way that is fair and reasonable as between unitholders; and
 - (c) in a way that is otherwise in accordance with the constitutional document and the latest filed prospectus.

Note **Open-ended scheme** is defined in r 1.2.7 (1). **Constitutional document** is defined in r 3.1.1. **Valuation point** and **latest filed prospectus** are defined in the glossary.

- (2) For an open-ended scheme, the operator must, on request at any time, provide to any unitholder the price of any class of unit in the scheme, based on the latest valuation under rule 6.2.3 (2).

Note **Class** is defined in the glossary.

- (3) The price of a unit in a closed-ended scheme must be calculated by the operator in accordance with the constitutional document and the latest filed prospectus.

Note **Closed-ended scheme** is defined in r 1.2.7 (2).

- (4) For a closed-ended scheme, the operator must, on request at any time, provide to any unitholder the most recently calculated net asset value per unit.

Note **Closed-ended scheme** is defined in r 1.2.7 (2). **Net asset value per unit** is defined in the glossary.

Part 6.3 Title and register

6.3.1 Unitholder register requirements

- (1) The operator of a scheme must ensure that the unitholder register includes—
 - (a) the name and address of each person (a *relevant person*) who is or has been a unitholder (for joint unitholders, no more than 4 persons need to be included); and
 - (b) the number or percentage of units (including fractions of a unit) in each class held by each relevant person; and
 - (c) the date each relevant person was registered for the units in the person's name and, if relevant, ceased to be registered for the units in the person's name; and
 - (d) the number or percentage of units in each class currently in issue.

Note 1 *Unitholder register* is defined in the glossary. *Unitholder* and *unit* are defined in r 1.2.5 and r 1.2.4 respectively.

Note 2 For the operator's obligation to keep the register, see r 4.1.7.

- (2) The operator—
 - (a) must not enter notice of any trust (whether express, implied or constructive) on the register; and
 - (b) is not bound by notice of any trust.
- (3) The operator must rely on the register as conclusive evidence of the persons entitled to the units entered on it.

- (4) The operator must take all reasonable steps to ensure that the information on the register is at all times complete and up to date.
- (5) Without limiting subrule (4), the operator must do the following in relation to the register:
 - (a) take reasonable steps to update the register on receiving written notice of a change of name or address of a unitholder;
 - (b) ensure that the register, or a copy of the register, is available for inspection in the QFC during ordinary business hours by or on behalf of any unitholder, the Regulatory Authority or the auditor of the scheme;
 - (c) on request by or on behalf of any unitholder, give the unitholder a copy of the register entries relating to the unitholder;
 - (d) carry out the conversion of units allowed under rule 6.3.4 (Conversion of units).
- (6) If the operator receives written notice of a change of name of a unitholder and a certificate has been issued for the unitholder's units, the operator must also either endorse the existing certificate or issue an updated one.

6.3.2 Transfer of units by act of parties

- (1) Every unitholder of a scheme is entitled to transfer units entered in the unitholder register in the unitholder's name by an instrument of transfer in any form that the operator approves, but the operator is under no duty to accept the transfer unless it

is permitted by the constitutional document and the latest filed prospectus.

Note **Constitutional document** is defined in r 3.1.1. **Latest filed prospectus** is defined in the glossary.

- (2) However, the operator must not accept the transfer of units entered in the unitholder register unless the transferee is a qualified investor for the scheme.

Note **Qualified investor**, for a scheme, is defined in r 1.2.10 (2).

- (3) Every instrument of transfer of units in a scheme must be signed by, or on behalf of, the unitholder transferring the units (or, if the unitholder is a corporation, may be signed by 2 members of its governing body on behalf of the corporation).

Note **Corporation** and **governing body** are defined in the glossary.

- (4) The transferor must be treated as the unitholder until the transferee's name is entered in the unitholder register.
- (5) Every instrument of transfer must be left for registration with the operator accompanied by—
- (a) any document required by the law applying in the QFC; and
 - (b) any other evidence reasonably required by the operator.
- (6) The operator must keep an instrument of transfer for at least 6 years after the day it is registered.
- (7) On registration of an instrument of transfer, a record of the transferor, the transferee and the date of transfer must be made in the unitholder register.

6.3.3 Certificates for units

- (1) If units in a scheme are issued or rule 6.3.2 (Transfer of units by act of parties) is complied with in relation to the transfer of units in a scheme, the operator may issue a document evidencing title to the units in accordance with the constitutional document.

Note **Document evidencing title** is defined in the glossary.
Constitutional document is defined in r 3.1.1.

- (2) However, the operator must issue a document evidencing title as soon as practicable if the procedures for redeeming units require unitholders to surrender the document evidencing title.

6.3.4 Conversion of units

- (1) This rule applies to a scheme if there are 2 or more classes of units offered for issue.

Note **Class** and **issue** are defined in the glossary.

- (2) A unitholder has the right to convert the units from a class to another class if converting the units does not breach the latest filed prospectus.

Note **Latest filed prospectus** and **breach** are defined in the glossary.

Part 6.4 Operator—appointment and removal

6.4.1 Initial appointment of operator

On the registration of a scheme under these rules, the person named in the application for registration as the person who is to become the operator becomes the initial operator of the scheme.

6.4.2 Removal of operator

- (1) The unitholders of a scheme may, in accordance with the constitutional document—
 - (a) remove the operator; and
 - (b) appoint another person as the operator of the scheme.

Note *Constitutional document* is defined in r 3.1.1.

- (2) Without limiting subrule (1), the unitholders must, under that subrule, remove the operator (and appoint another person as the operator of the scheme) if the operator is no longer eligible to be the operator of the scheme under rule 4.1.1 (Requirements for operator) because of action taken by the Regulatory Authority under the *Financial Services Regulations*, whether or not under article 31 (Own initiative action by Regulatory Authority).
- (3) The person appointed as operator under subrule (1) must be eligible to be the operator of the scheme under rule 4.1.1.

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

Examples

See examples to rule 4.1.4 (2) on the meaning of ‘within 1 business day’.

- (5) On the removal of the former operator under subrule (1), the former operator is released from all further obligations under these rules and the constitutional document.

Note **Constitutional document** is defined in r 3.1.1.

- (6) Subrule (5) does not affect the rights of a person in relation to an act or omission of the former operator before its removal.
- (7) If the name of the scheme contains a reference to the name of the former operator, the former operator is entitled to require the replacement operator to propose a change to the name of the scheme.
- (8) This rule does not affect—
- (a) any right to the compensation that the former operator has under the constitutional document; or
 - (b) any right that the former operator has under the constitutional document in relation to units held by the operator.

6.4.3 Retirement of operator

- (1) The operator of a scheme is entitled to retire as operator in favour of another person if—
 - (a) the operator appoints the other person as operator and assigns all its rights and functions as operator to the person; and
 - (b) the person is eligible to be the operator of the scheme under rule 4.1.1 (Requirements for operator).
- (2) On the appointment of the person taking effect, the former operator—
 - (a) is released from all further obligations under these rules and the constitutional document; and
Note *Constitutional document* is defined in r 3.1.1.
 - (b) may keep any consideration paid to it in relation to the change without having to account for it to any unitholder.
- (3) Subrule (2) (a) does not affect the rights of any person in relation to an act or omission by the former operator before its retirement.
- (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 about the retirement and the appointment.

Examples

See examples to rule 4.1.4 (2) on the meaning of 'within 1 business day'.

6.4.4 Consequences of removal or retirement of operator

- (1) If the operator of a scheme is removed or retires, it is entitled to continue to be recorded in the unitholder register for the units it holds.
- (2) Subrule (1) is subject to any restriction in the latest filed prospectus relating to the permitted categories of unitholders.

Note **Latest filed prospectus** is defined in the glossary.

- (3) If the operator of a scheme is removed or retires, the operator must, without delay, transfer or deliver the scheme property held by it to the replacement operator unless the QFC Court otherwise orders.
- (4) Until all the scheme property has been transferred or delivered, the operator remains accountable for it to the unitholders.

Part 6.5 Outsourcing

6.5.1 What is *outsourcing*?

- (1) For these rules, *outsourcing*, for a scheme, is any form of arrangement that involves the operator relying on a third party service provider (including a member of its group) for the exercise of a function in relation to the scheme under these rules, any other *Rules*, the constitutional document or the latest filed prospectus.

Note *Group, exercise, function* and *latest filed prospectus* are defined in the glossary. *Rules* is defined in INAP. *Constitutional document* is defined in r 3.1.1.

- (2) However, *outsourcing* does not include the following arrangements:
- (a) discrete advisory services (including, for example, the provision of legal advice), audit services, procurement of specialised training, billing, and physical security;
 - (b) supply arrangements and functions (including, for example, the supply of electricity or water and the provision of catering and cleaning services);
 - (c) purchase of standardised services (including, for example, market information services and the provision of prices);
 - (d) the appointment of a group employee to exercise a controlled function for an authorised firm.

Note *Employee, controlled function* and *authorised firm* are defined in the glossary.

6.5.2 Outsourcing by operator

- (1) The operator of a scheme may outsource its functions in relation to the scheme in accordance with this part, and not otherwise.

Note The outsourcing provisions of CTRL do not apply in relation to an outsourcing of functions under this part (see CTRL, r 5.1.1)).

- (2) However, the operator must not outsource functions if the outsourcing may adversely impact on the Regulatory Authority's ability to supervise the operator's activities.
- (3) Also, the operator must not outsource to a person the function of holding documents evidencing title to scheme property unless the person is prohibited under the outsourcing agreement from giving them to a third party without the operator's agreement.

Note **Document evidencing title** is defined in the glossary.

6.5.3 Outsourcing notice and information

- (1) The operator of a scheme must give the Regulatory Authority reasonable notice of its intention to outsource a function under this part.
- (2) The notice must be given at least 10 business days before the day the operator outsources the function.

Note **Business day** is defined in the glossary.

- (3) The operator must give the Regulatory Authority any information about the proposed outsourcing that the authority reasonably needs.

6.5.4 Provisions applying to outsourcing by operator

- (1) This rule applies in relation to an outsourcing of functions made by the operator of a scheme under this part to another person (the *service provider*).
- (2) The outsourcing must be in writing and in the form of, or part of, an agreement between the operator and the service provider (the *outsourcing agreement*).
- (3) The outsourcing agreement must—
 - (a) describe in adequate detail the functions (the *outsourced functions*) to be exercised by the service provider under the outsourcing; and
 - (b) describe in adequate detail the service standards to be applied by the service provider in exercising the outsourced functions; and
 - (c) state that it is an outsourcing agreement under these rules; and
 - (d) ensure that the operator can, at all times, effectively monitor the exercise of the outsourced functions by the service provider; and
 - (e) authorise the operator—
 - (i) to give further instructions to the service provider about the exercise of the outsourced functions; and
 - (ii) to withdraw the outsourcing at any time, including with immediate effect, if this is in the interests of the unitholders; and
 - (f) not prevent the operator from acting in the best interests of the unitholders in relation to the outsourced functions; and

- (g) not prevent the scheme from being managed in the best interests of the unitholders; and
 - (h) ensure that the scheme's auditor can effectively exercise its functions in relation to the scheme; and
 - (i) require the service provider to comply with these rules, and any other law applying in the QFC, in relation to the outsourced functions; and
 - (j) apply the law of the QFC to the agreement; and
 - (k) ensure that the operator and its internal and external auditors have access to books, records and data relating to the exercise of functions under the outsourcing; and
 - (l) ensure that the outsourcing provides appropriate protection for confidential information and personal data; and
- Note* **Personal data** is defined in the glossary.
- (m) provide appropriate contingency arrangements; and
- Note* See r 6.5.5 (3) and (4) (Outsourcing management).
- (n) require the service provider to deal with the Regulatory Authority in an open and cooperative way in relation to the exercise of the outsourced functions; and
 - (o) require the service provider to give the Regulatory Authority access to books, records and data relating to the exercise of the outsourced functions; and
 - (p) require the service provider to give the Regulatory Authority any information it reasonably requires about the outsourced functions; and

- (q) require the service provider to keep any records made by the service provider in relation to the outsourced functions for at least 6 years after the day they are made; and
 - (r) prevent the service provider from further outsourcing any of the outsourced functions to another person without the prior approval of the operator.
- (4) Without limiting subrule (3), the operator must take the steps necessary to mitigate against any operational risks in relation to the outsourcing.
- (5) The outsourcing agreement may provide that it has effect only in stated circumstances or subject to stated conditions, limits and directions.
- (6) The outsourcing of the outsourced functions to the service provider—
 - (a) does not relieve the operator from any regulatory obligations in relation to the outsourced functions; and
 - (b) does not prevent the operator from exercising all or part of the outsourced functions, despite anything in the outsourcing agreement or any other agreement.
- (7) The operator remains responsible for ensuring—
 - (a) that all applicable QFC regulatory requirements are complied with in relation to the outsourced functions; and
 - (b) that the outsourced functions are otherwise properly exercised.
- (8) The service provider must exercise the outsourced functions subject to the terms of the outsourcing agreement, including any conditions, limits and directions in the outsourcing agreement.

- (9) So far as the outsourcing agreement is expressed to operate as a delegation, these rules, all other laws applying in the QFC, the constitutional document and the latest filed prospectus apply to the service provider in exercising the outsourced functions as if the service provider were the operator.

Note *Constitutional document* is defined in r 3.1.1. *Latest filed prospectus* is defined in the glossary.

- (10) Without limiting subrule (9), a function may be exercised by the service provider on the service provider's state of mind if—
- (a) the exercise of the function is dependent on the operator's state of mind; and
 - (b) the function is included in the outsourced functions; and
 - (c) the outsourcing agreement is expressed to operate as a delegation in relation to the function.
- (11) So far as the outsourcing agreement is expressed to operate as a delegation, anything done by or in relation to the service provider in relation to the outsourced functions is taken to have been done by or in relation to the operator.
- (12) In this rule:
- state of mind* includes knowledge, intention, opinion, belief or purpose.

6.5.5 Outsourcing management

- (1) The operator of a scheme must exercise appropriate skill, care and diligence in selecting, entering into and exiting from outsourcings by it under this part.

- (2) The operator must ensure that—
- (a) 1 or more senior managers approve and periodically review its policy and procedures for functions outsourced under this part, including its procedures for the following:
 - (i) the assessment of feasibility;
 - (ii) the assessment of risk;
 - (iii) the assessment of impact on its functions;
 - (iv) the costing of outsourcings;
 - (v) the criteria for selecting service providers; and
- Note* *Senior manager* is defined in the glossary.
- (b) every service provider has the ability and capacity to exercise reliably and professionally the functions to be outsourced to the service provider, both at the start of the outsourcing and throughout its life cycle, having regard, for example, to—
 - (i) whether the service provider is regulated, to what extent and by whom; and
 - (ii) whether the exercise of the outsourced functions is subject to specific regulation or supervision; and
 - (iii) the risk that outsourced functions are not properly exercised because of the number of other persons using the service provider; and
 - (iv) the financial stability and expertise of the service provider; and
 - (v) potential conflicts of interest that may arise in relation to the outsourced functions.

- (3) The operator must ensure that it has a comprehensive contingency arrangement to allow business continuity if there is a significant loss of services from the service provider, including an exit strategy and, if appropriate, partial exit and step-in clauses.
- (4) The contingency arrangement must cover, among other things, the following:
 - (a) a significant loss of resources by the service provider;
 - (b) financial failure of the service provider;
 - (c) an unexpected termination of the outsourcing.

6.5.6 Application of pt 6.5 to further outsourcing

- (1) This part applies to the further outsourcing, whether or not by the third party service provider, of a function outsourced to the third party service provider under this part as if—
 - (a) the further outsourcing of the function were an outsourcing of the function; and
 - (b) all necessary changes were made.
- (2) To remove any doubt, this rule is subject to rule 6.5.4 (3) (r) (Provisions applying to outsourcing by operator).

6.5.7 Systems and controls for outsourcings

If the operator of a scheme outsources a function in relation to the scheme under this part, the operator must ensure that, as part of its risk management framework, it implements and maintains systems and controls to monitor the exercise of the outsourced function.

Note **Function** and **exercise** are defined in the glossary.

Part 6.6 Payments

6.6.1 Payments

- (1) The operator of a scheme must ensure that the scheme does not incur any expense in relation to any movable or immovable property unless—
 - (a) investing in the property is in accordance with the scheme's investment objectives, strategies and policy; or
 - (b) the property is necessary for the direct pursuit of the scheme's business of investing in any investments to which it is dedicated.

Note **Dedicated** is defined in the glossary.

- (2) Payments made by the operator out of the scheme property may be made from capital property rather than from income if the basis for this is set out in the latest filed prospectus.

Note **Capital property** and **latest filed prospectus** are defined in the glossary.

Part 6.7 Accounting periods

6.7.1 Accounting periods

- (1) A scheme must have—
 - (a) an annual accounting period; and
 - (b) a half-yearly accounting period.
- (2) A half-yearly accounting period starts on the first day of an annual accounting period and ends—
 - (a) on the day 6 months before the last day of the annual accounting period; or
 - (b) on another reasonable date stated in the latest filed prospectus.

Note **Latest filed prospectus** is defined in the glossary.

- (3) The first annual accounting period starts—
 - (a) on the first day of the initial offer period; or
 - (b) if there is not an initial offer period for the scheme—on the date the scheme is registered;

and, in either case, ends on the next accounting reference date unless subrule (4) applies.

Note **Initial offer** and **accounting reference date** are defined in the glossary.

- (4) If the accounting reference date falls less than 6 months after the start of the first annual accounting period, the operator may extend the period to the next accounting reference date.

(5) Each annual accounting period after the first period is for 12 months, starting on the next day after the accounting reference date and ending on the next accounting reference date, unless subrule (7) applies.

(6) Each annual accounting period or half yearly accounting period ends at the end of the day worked out under this rule or, if the operator so decides, at the last valuation point on that day.

Note *Day* and *valuation point* are defined in the glossary.

(7) If the accounting reference date stated in the scheme's latest filed prospectus is changed, the operator may extend or shorten the annual accounting period by up to 6 months to end on the next accounting reference date.

(8) Before extending or shortening an annual accounting period under subrule (4) or (7), the operator must—

- (a) consult the scheme's auditor; and
- (b) give the Regulatory Authority reasonable notice.

(9) If the annual accounting period is extended under subrule (4) or (7) and this results in a longer than usual period before the publication of reports to unitholders, the operator must make summary information about the scheme's investment activities available to unitholders during the period in accordance with PRIN, principle 7 (Customers' interests) and principle 8 (Communications with clients).

Part 6.8 Names

6.8.1 Name of scheme etc

- (1) The operator of a scheme must ensure that the name of the scheme, any subscheme of the scheme, or a class of units, is not undesirable or misleading.

Note **Subscheme** is defined in r 1.2.8. **Class** is defined in the glossary.

Guidance on names of CIC

A scheme that is a CIC must not include in its name the following words, abbreviations of the following words or similar words or abbreviations:

- (a) limited;
 - (b) unlimited;
 - (c) public limited company.
- (2) If the Regulatory Authority is of the opinion that the operator is in breach of subrule (1) in relation to a name, it may direct the operator to take the steps necessary to have the name changed.
 - (3) In deciding whether to give a direction under subrule (2) in relation to a name for a breach of subrule (1), the Regulatory Authority must consider whether the name—
 - (a) implies that the scheme (or a part of the scheme) has merits that might, or might not, be justified; or
 - (b) implies that the operator has merits that might, or might not, be justified; or
 - (c) is inconsistent with the scheme's investment objectives, strategies or policy; or

- (d) might mislead investors into thinking that a person other than the operator is responsible for managing the scheme (or part of the scheme); or
 - (e) incorrectly implies that the scheme is not—
 - (i) a collective investment scheme; or
 - (ii) a private placement scheme; or
 - (iii) a scheme registered in the QFC or under these rules; or
 - (iv) if the scheme is an open-ended scheme—an open-ended scheme; or
 - (v) if the scheme is a closed-ended scheme—a closed-ended scheme; or
- Note* *Open-ended scheme* and *closed-ended* scheme are defined in r 1.2.7.
- (f) is, in the Regulatory Authority’s opinion, likely to offend the public or a part of the public; or
 - (g) is substantially similar to the name of—
 - (i) a scheme registered under COLL or these rules; or
 - (ii) a subscheme of an umbrella scheme registered under COLL or these rules; or
 - (iii) a class of units for a scheme registered under COLL or these rules; or

(h) implies a degree of security in relation to the capital or income that is not justified.

Examples of names for para (e)

names that include the word ‘plan’ or ‘account’

Examples of names for para (h)

names that include the word ‘guaranteed’, ‘protected’ or ‘secured’

- (4) Subrule (3) does not limit the matters the Regulatory Authority may consider.
- (5) If the name includes the word ‘guaranteed’, ‘protected’ or ‘secured’ (or a similar word), the Regulatory Authority may regard the name as undesirable or misleading unless the operator satisfies it of the matters mentioned in subrules (8) and (9).
- (6) If the name indicates or implies a guaranteed capital return, income return or both, the Regulatory Authority may regard the name as undesirable or misleading unless the operator satisfies it—
- (a) that the total amount paid for a unit is guaranteed under a guarantee; and
 - (b) of the matters mentioned in subrules (8) and (9).
- (7) If the name indicates or implies a degree of capital security (for example, the words ‘capital protected’ or words with a similar meaning), the Regulatory Authority may regard the name as undesirable or misleading unless the operator satisfies it—
- (a) that an amount not materially less than the total amount paid for a unit is guaranteed under a guarantee; and
 - (b) that the scheme’s investment objectives, strategies and policy show a clear intention to provide a material degree

of security in relation to the total amount paid for a unit;
and

- (c) that the degree of capital security is apparent from the name and clearly stated in the latest filed prospectus; and
 - (d) of the matters mentioned in subrules (8) and (9).
- (8) For subrule (5), (6) or (7), the operator must satisfy the Regulatory Authority that the scheme has a guarantee in relation to which all the following requirements are met:
- (a) the guarantee is given by a person other than the operator or an associated person for the operator;
Note *Associated person* is defined in the glossary.
 - (b) the guarantor has the authority and resources to honour the terms of the guarantee;
 - (c) the guarantee covers all unitholders of the scheme and is legally enforceable by each unitholder or by a person acting on the unitholder's behalf;
 - (d) the guarantee relates to the total amount paid for a unit;
 - (e) the guarantee provides for payment at a stated date or dates and is unconditional although reasonable commercial exclusions such as force majeure may be included;
 - (f) if the guarantee applies to different classes of units—it is identical in its application to all classes except for differences attributable to income already received, or charges already incurred, by the different classes of units.
- (9) For subrule (5), (6) or (7), the operator must also satisfy the Regulatory Authority that the terms of the guarantee and the

credentials of the guarantor are clearly set out in detail in the latest filed prospectus and that any exclusions such as force majeure are highlighted.

- (10) In deciding whether it is satisfied for subrule (7), the Regulatory Authority must take into account whether the degree of capital security implied by the name fairly reflects the nature of the arrangements for providing the security.
- (11) Subrule (10) does not limit the matters the Regulatory Authority may take into account for subrule (7).
- (12) In this rule:

total amount paid, for a unit, includes any charge or other cost paid or incurred when the unit was bought.

6.8.2 Use of certain names

- (1) The operator of a scheme must ensure that the name of the scheme, or of a class of units, does not state or imply that the scheme is an Islamic fund unless the scheme is an Islamic fund.

Note *Islamic fund* is defined in r 1.2.9.

- (2) The operator of an umbrella scheme must ensure that the name of a subscheme, or of a class of units of a subscheme, does not state or imply that the subscheme is an Islamic fund unless the subscheme is an Islamic fund.

Note *Umbrella scheme* and *subscheme* are defined in r 1.2.8.

Part 6.9 Shari'a Supervisory Board

6.9.1 Islamic fund must have a supervisory board

- (1) The operator of a scheme that is an Islamic fund, or an umbrella scheme that has a subscheme that is an Islamic fund, must ensure that there is at all times a Shari'a Supervisory Board for the fund (or subscheme).

Note **Islamic fund** is defined in r 1.2.9. **Umbrella scheme** and **subscheme** are defined in r 1.2.8.

- (2) Any decision relating to the appointment or dismissal of a member of the Shari'a Supervisory Board, or to a change affecting the board, must be made by the operator.
- (3) ISFI, chapter 6 applies to a scheme that is an Islamic fund, or an umbrella scheme that has a subscheme that is an Islamic fund, as if—
 - (a) the scheme (or subscheme) were an authorised firm to which the chapter applies; and

Note **Authorised firm** is defined in the glossary.

- (b) a reference to the **authorised firm** or its governing body were, subject to subrule (2), a reference to the scheme (or subscheme) or the operator, as the context requires; and
- (c) all other necessary changes were made.

Chapter 7 Suspension, winding up and transfer schemes

Part 7.1 Suspension and restart of dealings

7.1.1 Suspension and restart of dealings

- (1) The operator of an open-ended scheme may, within any parameters that are fair and reasonable to all unitholders and are set out in the latest filed prospectus, temporarily suspend dealings in all units or a class of units.

Note *Open-ended scheme* is defined in r 1.2.7 (1). *Latest filed prospectus*, *deal* and *class* are defined in the glossary.

- (2) The operator may suspend dealings under subrule (1) only if the operator has decided, having regard to the interests of all the unitholders in the scheme and on reasonable grounds, that there is a good and sufficient reason for the suspension in the interests of unitholders or potential unitholders.
- (3) If the operator decides to suspend dealings, the operator must tell the Regulatory Authority about the suspension and the reasons for it immediately, but within 1 business day after the day the operator makes the decision.

Examples for this rule on ‘within 1 business day’

See examples to rule 4.1.4 (2) on the meaning of ‘within 1 business day’.

- (4) The operator must also notify the unitholders about the suspension as soon as practicable after the suspension starts.

- (5) The operator must ensure that the suspension continues only for as long as it is justified having regard to the interests of all the unitholders in the scheme.
- (6) The suspension of dealings must end as soon as subrule (5) no longer applies.
- (7) The operator must—
 - (a) review the suspension at least every 28 days; and
 - (b) tell the Regulatory Authority about the result of the review immediately, but within 1 business day after conducting the review.
- (8) If the operator becomes aware of any material change in circumstances that may affect the continuation of the suspension, the operator must tell the Regulatory Authority about the change immediately, but within 1 business day.
- (9) The Regulatory Authority may, at any time, direct the operator to end the suspension.
- (10) The operator must immediately comply with the direction.
- (11) If the suspension ends, the operator must tell the Regulatory Authority about the restart of dealings immediately, but within 1 business day after the day dealings restart.

Note The Regulatory Authority has power under the *Financial Services Regulations*, art 105 to give certain directions in relation to collective investment schemes (which are called collective investment funds in those regulations), including a direction to cease the issue or redemption of units in the scheme and to wind up the scheme.

Part 7.2 Winding up

7.2.1 Application of pt 7.2 to subschemes of umbrella schemes

This part applies to a subscheme of an umbrella scheme as if—

- (a) a reference to a *scheme* were a reference to the subscheme; and
- (b) a reference to *units* were a reference to units in the class or classes related to the subscheme; and
- (c) a reference to a *meeting of unitholders* were a reference to a meeting of unitholders of the class or classes mentioned in paragraph (b); and
- (d) a reference to a *special resolution* were a reference to a special resolution passed at a meeting of unitholders mentioned in paragraph (c); and
- (e) a reference to the *scheme property* were a reference to the scheme property attributed to the subscheme; and
- (f) a reference to *liabilities* were a reference to liabilities of the scheme attributable to the subscheme; and
- (g) all other necessary changes were made.

Note *Subscheme* and *umbrella scheme* are defined in r 1.2.8.

7.2.2 When scheme may be wound up

A scheme may be wound up—

- (a) by order of the QFC Court under the *Insolvency Regulations 2005* or any other regulations in force in the QFC; or
- (b) if not inconsistent with any regulations in force in the QFC or these rules—in the way and circumstances provided in the constitutional document; or

Note *Constitutional document* is defined r 3.1.1.

- (c) in the way and in any other circumstances provided by these rules or any other rules made by the Regulatory Authority.

7.2.3 Winding-up required by constitutional document

The constitutional document of a scheme may provide that the scheme is to be wound up—

- (a) at a stated time; or
- (b) in stated circumstances or on the happening of a stated event.

Note *Constitutional document* is defined r 3.1.1.

7.2.4 Notification to Regulatory Authority that scheme not commercially viable etc

- (1) If the operator of a scheme believes, on reasonable grounds, that the scheme is not commercially viable or the scheme's purpose cannot be accomplished, the operator must give the Regulatory

Authority notice about the matter immediately, but within 1 business day after the day the operator forms the belief.

Examples

See examples to rule 4.1.4 (2) on the meaning of ‘within 1 business day’.

- (2) The notice must include the following information:
- (a) the name of the scheme and its registration number given by the Regulatory Authority;
 - (b) the size and type of scheme;
 - (c) the number of unitholders;
 - (d) if the scheme is an open-ended scheme—whether dealing in the scheme’s units has been suspended;
Note **Open-ended scheme** is defined in r 1.2.7 (1).
 - (e) why the operator believes that the scheme is not commercially viable or the scheme’s purpose cannot be accomplished;
 - (f) what consideration has been given to the scheme entering into a transfer scheme under part 7.3 (Transfer schemes) with another scheme registered in the QFC or a subscheme of an umbrella scheme registered in the QFC and the reasons why a transfer scheme is not possible;
 - (g) whether unitholders have been told of the intention to seek winding-up and, if not, whether and when they will be told of the intention;
 - (h) details of any proposed rebate of charges to be made to unitholders who recently purchased units;
 - (i) the preferred date for the start of the winding-up.

- (3) The Regulatory Authority may, in writing, require the operator to provide any further information or documents that the authority reasonably needs in relation to the scheme.

7.2.5 Winding-up by operator

- (1) This rule applies if any of the following circumstances (the *prescribed circumstances*) exist in relation to a scheme:
- (a) on a request by the operator for the cancellation of the scheme's registration, the Regulatory Authority agrees in principle that it will cancel the scheme's registration on the completion of the winding-up of the scheme;
 - (b) the operator believes, on reasonable grounds, that the scheme is not commercially viable or the scheme's purpose cannot be accomplished;
 - (c) if the constitutional document states that the duration of the scheme is limited—the scheme's duration ends;
 - (d) the unitholders of the scheme direct the operator under the constitutional document to wind up the scheme;
 - (e) if the scheme is subject to a transfer scheme approved under part 7.3 (Transfer schemes) under which it is to be left with no property—the transfer scheme commences.
- (2) If any of the prescribed circumstances apply in relation to the scheme—
- (a) the operator must cease—
 - (i) any dealing in the scheme's units; and
 - (ii) investing or borrowing for the scheme; and

Note **Dealing** and **borrowing** are defined in the glossary.

- (b) the operator must take the steps necessary to wind up the scheme in accordance with any regulations in force in the QFC that apply to the winding-up, these rules, and any other rules made by the Regulatory Authority that apply to the winding-up.
- (3) If any of the prescribed circumstances mentioned in subrule (1) (a) to (d) apply in relation to the scheme—
- (a) the operator must realise the scheme property as soon as practicable; and
 - (b) after meeting or making provision for all the scheme's liabilities and the costs of the winding-up, the operator must distribute the proceeds of the realisation to the unitholders in accordance with the constitutional document; and
- Note* *Constitutional document* is defined r 3.1.1.
- (c) any unclaimed net proceeds or other cash (including unclaimed distribution payments) held by the operator after the end of 12 months from the day they became payable must be paid into the QFC Court, after meeting or making provision for the costs of paying them into the QFC Court under this paragraph.
- (4) If the operator and 1 or more unitholders agree, the requirement to realise the scheme property does not apply to the part of the scheme property proportionate to their entitlement.
- (5) The operator may distribute the part of the scheme property mentioned in subrule (4) to the unitholders mentioned in that subrule, after making the adjustments or provisions that appear appropriate to ensure that the unitholders bear a proportionate share of the liabilities of the scheme and the costs of the winding-up.

- (6) If the prescribed circumstances mentioned in subrule (1) (e) apply in relation to the scheme, the operator must wind up the scheme in accordance with the approved transfer scheme.
- (7) As soon as practicable after starting the winding-up, the operator—
- (a) tell the unitholders about the winding-up; and
 - (b) publish notice of the winding-up in an English and an Arabic language national newspaper and, if the scheme has a website, on the scheme’s website.
- (8) Not later than 5 business days after the day the winding-up of the scheme is completed, the operator must—
- (a) tell the Regulatory Authority about the completion of the winding-up; and
 - (b) ask the authority to cancel the scheme’s registration.
- Note* **Business day** is defined in the glossary.
- (9) This rule is subject to any order of the QFC Court.

7.2.6 Accounting and reports during winding-up

- (1) While a scheme is being wound up, whether under rule 7.2.5 (Winding-up by operator) or otherwise—
- (a) the annual accounting periods and half-yearly accounting periods of the scheme continue to run; and
 - (b) the provisions of these rules about annual and interim allocation of income continue to apply to the scheme; and
 - (c) reports to unitholders and the Regulatory Authority continue to be required in relation to the scheme.

- (2) However, if the operator, after consulting the scheme's auditor and the Regulatory Authority, decides on reasonable grounds that timely preparation of a report under these rules is not required in the interest of unitholders or the Regulatory Authority, the operator may dispense with preparation of the report within the time otherwise required by these rules.
- (3) A period to which subrule (2) applies must be covered in the next relevant report required under these rules.
- (4) At the completion of the winding-up, the accounting period then running is regarded as the final annual accounting period.
- (5) Within 2 months after the end of the final annual accounting period, the final report of the operator must be sent to the Regulatory Authority and each person who was a unitholder immediately before the end of the final annual accounting period.
- (6) This rule is subject to any order of the QFC Court.

Part 7.3 Transfer schemes

7.3.1 Purpose—pt 7.3

The purpose of this part is to make rules under the *Financial Services Regulations*, article 103 modifying those regulations, part 16 (Control of Business Transfers) in relation to schemes.

7.3.2 Transfer schemes

- (1) *Financial Services Regulations*, part 16 is modified in accordance with the following provisions of this rule.
- (2) If, for the purpose of a relevant scheme, it is proposed that scheme property of a scheme should become the property of another scheme registered in the QFC or the property of a subscheme of an umbrella scheme registered in the QFC, the proposal must not be implemented without the approval of a special resolution of the unitholders of the first scheme, unless subrule (3) applies.

Note **Subscheme** and **umbrella scheme** are defined in r 1.2.8. **Special resolution** is defined in the glossary.

- (3) If, for the purpose of a relevant scheme, it is proposed that scheme property attributable to a subscheme (the *first subscheme*) of an umbrella scheme (the *first umbrella scheme*) should become the property of another scheme registered in the QFC or another subscheme of an umbrella scheme registered in the QFC (whether or not of the first umbrella scheme), the proposal must not be implemented without the approval of—
- (a) a special resolution of the unitholders in the first subscheme; and
 - (b) a special resolution of the unitholders of units in the first umbrella scheme, unless implementation of the scheme is not likely to result in any material prejudice to the interests of the unitholders in any other subscheme of the first umbrella scheme.
- (4) If it is proposed that a scheme or a subscheme of an umbrella scheme should receive property (other than its first property) under a relevant scheme, or an arrangement equivalent to a scheme of arrangement, that is entered into by another scheme registered in the QFC, by a subscheme of an umbrella scheme registered in the QFC or by corporation, the proposal must not be implemented without the approval of a special resolution of the unitholders of the first scheme or of the class or classes of units related to the first subscheme (as appropriate).
- Note* **Corporation** is defined in the glossary.
- (5) However, if the operator agrees that the receipt of the property by the scheme or subscheme as mentioned in subrule (4)—
- (a) is not likely to result in any material prejudice to the interests of the unitholders of the scheme; and
 - (b) is consistent with the investment objectives, strategies and policy of the scheme or subscheme;

the property may be transferred to the scheme or subscheme, and units may be issued in exchange for the property, as part of the relevant scheme without the approval of a special resolution.

- (6) To remove any doubt, ***relevant scheme*** has the meaning given by the *Financial Services Regulations*, article 94 (4).

Chapter 8 Financial promotions and relevant investment activities

8.1.1 **Certain financial promotions only to qualified investors etc**

- (1) An authorised firm must not make or approve a financial promotion in relation to a scheme if the financial promotion is addressed to, or disseminated in such a way that it is likely to be received by, a person who is not a qualified investor for the firm.

Note **Qualified investor**, for an authorised firm, is defined in r 1.2.10 (3).

- (2) An authorised firm must not conduct a relevant investment activity for a *client* in or from the QFC in relation to units in a scheme unless the *client* is a qualified investor for the firm.

Note 1 **Relevant investment activity** is defined in the glossary.

Note 2 **Client** is defined in COND, r 1.2.1.

- (3) For this rule, **qualified investor** includes a person who is not a qualified investor for the authorised firm if the firm believes, on reasonable grounds, that the firm could classify the person under COND as a *business customer* for the firm.

Note **Business customer** is defined in COND, r 1.2.5.

Chapter 9 Other provisions

Part 9.1 General

9.1.1 Restitution orders for breach of relevant requirements

- (1) A private person may apply to the QFC Court for a restitution order if the person suffers loss or damage as a result of a breach of a relevant requirement in relation to a scheme.

Note 1 This rule is made under *Financial Services Regulations*, art 65.

Note 2 **Person**, **QFC Court**, **breach** and **relevant requirement** are defined in the glossary.

- (2) In this rule:

private person means—

- (a) an individual, except when acting in the course of conducting any regulated activity; or
- (b) any other person, except when acting in the course of conducting business of any kind.

Note **Regulated activity** is defined in the glossary.

9.1.2 Service of notices and other documents on unitholders

- (1) If a provision of these rules authorises or requires any notice or other document to be served on a unitholder of a scheme (whether the word ‘serve’, ‘give’, ‘notify’, ‘send’ or ‘tell’, or

some other word, is used), the notice or other document may be served—

- (a) by sending it by prepaid post to the unitholder's postal address shown in the unitholder register; or
- (b) by leaving it at the unitholder's business or residential address shown in the unitholder register; or
- (c) by sending it to the unitholder using an electronic medium in accordance with rule 9.1.3 (Notices and other documents to be in legible form etc).

Note **Unitholder** is defined in r 1.2.5. **Document** and **unitholder register** are defined in the glossary.

- (2) Any notice or other document served by post under this rule is taken to have been served when it would have been received in the ordinary course of post.
- (3) For subrule (2), it is presumed (unless evidence sufficient to raise doubt about the presumption is presented) that a postal article sent by prepaid post is received on the 5th business day after the day it is posted.

Note **Business day** is defined in the glossary.

- (4) Any document left at an address, or served otherwise than by post, under this rule is taken to have been served on that day.

9.1.3 Notices and other documents to be in legible form etc

- (1) If a provision of these rules authorises or requires any notice or other document to be served on, or information to be given to any person (other than the Regulatory Authority), (whether the word ‘serve’, ‘give’, ‘notify’, ‘send’ or ‘tell’, or some other word, is used), the document or information must be served or given in a legible form.

Note **Document** is defined in the glossary.

- (2) For subrule (1), any form is a **legible form** if the form—
- (a) is consistent with the knowledge that the person serving the document, or giving the information, has about how the recipient of the document or information wishes or expects to receive it; and
 - (b) can be provided in a durable medium by the person serving the document or giving the information; and
 - (c) enables the recipient to know or record the time of receipt; and
 - (d) is reasonable in the context.
- (3) In these rules, any requirement that a document be signed may be satisfied by an electronic signature or electronic evidence of assent.

Part 9.2 Fees

9.2.1 Application fees

- (1) An applicant under these rules for registration of a scheme established in the QFC must pay the Regulatory Authority an application fee of the relevant amount.
- (2) The fee must be paid when the application is filed with the Regulatory Authority.
- (3) The Regulatory Authority may also, by written notice given to the applicant, require the applicant to pay a supplementary fee to the authority not later than the time stated in the notice if it expects to incur substantial costs in dealing with the application.
- (4) If subrule (2), or a notice under subrule (3), is not complied with, the application is taken not to have been made until the fee is paid.
- (5) The fee is non-refundable, whether or not the application is successful.
- (6) In this rule:
relevant amount, for a scheme, means—
 - (a) if the scheme is not an umbrella scheme or is an umbrella scheme with only 1 subscheme—US\$ 2 000; or
 - (b) if the scheme is an umbrella scheme with 2 or more subschemes—whichever is the lesser of the following:
 - (i) US\$ 1 000 x number of subschemes;
 - (ii) US\$ 10 000.

9.2.2 Annual fees

- (1) The operator of a scheme must pay the Regulatory Authority an annual fee for each year that the scheme is registered.

Note **Year** is defined in the glossary.

- (2) The annual fee for the first year of registration is the amount calculated as follows:

$$\frac{\text{relevant amount x whole months in year after registration day}}{12}$$

Note **Month** is defined in the glossary.

- (3) The annual fee for the first year of registration must be paid within 21 days after the day the scheme is registered.
- (4) The annual fee for a subsequent year of registration is the relevant amount.
- (5) The annual fee for a subsequent year of registration must be paid on or before 1 January in the year.
- (6) If an annual fee is not paid in accordance with this rule, the amount of the fee is increased by 1% for each month, or part of a month, that it remains unpaid after the date it became payable.
- (7) Subrule (6) does not limit any action that the Regulatory Authority may take if an annual fee is not paid in accordance with this rule.
- (8) In this rule:

relevant amount, for a scheme, means—

- (a) if the scheme is not an umbrella scheme or is an umbrella scheme with only 1 subscheme—US\$ 2 000; or

- (b) if the scheme is an umbrella scheme with 2 or more subschemes—whichever is the lesser of the following:
 - (i) US\$ 1 000 x number of subschemes;
 - (ii) US\$ 10 000.

9.2.3 Waiver etc of fees

The Regulatory Authority may, if it considers it equitable to do so, reduce, waive or refund all or part of a fee payable under this part.

Chapter 10 Transitional

10.1.1 Existing registered private placement funds

- (1) This rule applies if, immediately before its commencement, an entity was registered under the *Collective Investment Funds Rulebook* as a qualified investor fund and was a private placement fund.
- (2) The entity is taken, on the commencement of this rule, to be registered under these rules as a private placement scheme.
- (3) However, if—
 - (a) immediately before the commencement of this rule, the entity's constitutional document and latest filed prospectus complied with the *Collective Investment Funds Rulebook*, after taking into account any waiver or modification in force under the *Financial Services Regulations* in relation to the entity; but

Note **Constitutional document** is defined in r 3.1.1. **Latest filed prospectus** is defined in the glossary

- (b) after the commencement the constitutional document or latest filed prospectus (or both) do not comply with a provision of these rules;

then—

- (c) the constitutional document and latest filed prospectus need not comply with the provision until 31 December 2011; and

- (d) until the constitutional document and latest filed prospectus are amended, as required, to comply with the provision, the provision has effect subject to the constitutional document and latest filed prospectus.
- (4) Any waiver or modification in force in relation to the entity under the *Financial Services Regulations* continues to apply in relation to the entity in accordance with its terms until the earlier of the following:
 - (a) the waiver or modification is revoked;
 - (b) 31 December 2011.
- (5) Subrules (3) and (4) and this subrule expire on 31 December 2011.

Schedule 1 Constitutional document content

(see r 3.1.2)

S1.1 Name of scheme

A statement of the name of the scheme.

S1.2 Scheme is established in QFC etc

A statement that—

- (a) the scheme is a collective investment scheme established in the QFC; and
- (b) the constitutional document is governed by the law applying in the QFC in relation to collective investment schemes; and
- (c) the scheme is a private placement scheme; and
- (d) units in the scheme can only be recorded in the unitholder register in the name of 100 persons (or a stated lesser number of persons).

S1.3 Legal form of scheme etc

A statement of the legal form of the scheme.

Note For the permitted legal forms of schemes, see r 1.2.11.

S1.4 Islamic funds

For an Islamic fund—

- (a) a statement that the scheme (or subscheme) is an Islamic fund and consequently that its entire business operations are conducted in accordance with Shari'a; and
- (b) a statement providing details of its Shari'a Supervisory Board.

Note **Islamic fund** is defined in r 1.2.9. **Shari'a Supervisory Board** is defined in the glossary.

S1.5 Investment objectives and policy etc

The following statements:

- (a) a statement of the scheme's investment objectives (including its financial objectives) and, in particular—
 - (i) the types of investments in which it (and, if applicable, each subscheme) may invest; and
 - (ii) the scheme's investment strategies, including its approach to borrowing and gearing;
- (b) that the object of the scheme is to invest in investments of those types with the aim of spreading investment risk and giving unitholders the benefits of the investments;
- (c) a statement of the scheme's policy for achieving its investment objectives.

Note **Investment** and **borrowing** are defined in the glossary. **Subscheme** is defined in r 1.2.8.

S1.6 Duration of limited schemes

If the duration of the scheme is limited, a statement to that effect, of the duration of the scheme and, if appropriate, of any conditions for extending the duration of the scheme.

S1.7 Unitholder's liability to pay

- (1) A provision that—
- (a) a unitholder is not liable to make any further payment for a unit after paying the price for the unit; and
 - (b) no further liability can be imposed on the unitholder in relation to the unit.

Note **Unit** and **unitholder** are defined in r 1.2.4 and r 1.2.5 respectively. **Price** is defined in the glossary.

- (2) A provision that the unitholders are not liable for—
- (a) the debts or other liabilities of the scheme; or
 - (b) acts or omissions of the operator.

S1.8 Fees, charges and other expenses of scheme

Each of the following statements:

- (a) that fees, charges and other expenses in relation to the scheme may be taken out of scheme property;
- (b) a statement of how the amounts of fees, charges and other expenses are to be calculated.

Note **Scheme property** is defined r 1.2.3.

S1.9 Classes of units

A statement of—

- (a) the classes of units that may be issued for the scheme; and
- (b) for an umbrella scheme—the classes of units that may be issued for each subscheme of the scheme; and
- (c) the rights attaching to units in each class, including any provision for the expression of the rights in 2 or more denominations.

Note *Class* and *issue* are defined in the glossary. *Umbrella scheme* and *subscheme* are defined in r 1.2.8.

S1.10 Income and capital distribution

- (1) A statement providing details of—
 - (a) the distribution policy of the scheme; and
 - (b) the person responsible for calculating, transferring, allocating and distributing income or capital for any class of unit in issue during an accounting period; and
 - (c) any provision for payment of income or capital and when income or capital must be distributed.
- (2) If relevant, a provision for income equalisation.

Note *Income equalisation* is defined in the glossary.

S1.11 Investment and borrowing restrictions

- (1) A statement providing details of all investment restrictions applying to the scheme or, if there are no restrictions, a statement to that effect.

- (2) A statement providing details of all borrowing restrictions applying to the scheme or, if there are no restrictions, a statement to that effect.

Note **Investment** and **borrowing** are defined in the glossary.

S1.12 Management of borrowing risks

A statement providing details of how any risks posed by borrowings of the scheme are to be managed.

Note **Borrowing** is defined in the glossary.

S1.13 Valuation and pricing

- (1) A statement setting out the basis for, and frequency of, valuation of the scheme.
- (2) For an open-ended scheme, a statement setting out the basis for, and frequency of pricing of each class of units in the scheme.

Note **Open-ended scheme** is defined in r 1.2.7 (1). **Class** is defined in the glossary.

S1.14 Base currency

A statement of the base currency of the scheme.

Note **Base currency** is defined in the glossary.

S1.15 Functions of operator

A statement providing details of the functions of the operator under these rules in relation to the scheme.

S1.16 Meetings

A statement providing details of the following:

- (a) the procedures for calling meetings of unitholders;

- (b) resolutions and voting at meetings of unitholders;
- (c) the voting rights of unitholders;
- (d) the matters that require the approval of unitholders;
- (e) the matters that require the approval of an ordinary resolution;
- (f) the matters that require the approval of a special resolution.

Note **Ordinary resolution** and **special resolution** are defined in the glossary.

S1.17 Other statements and provisions for CIC

- (1) For a CIC, the following statements:
 - (a) if the scheme is an open-ended scheme—a statement that the scheme is an open-ended company with variable share capital;
Note **Open-ended scheme** is defined in r 1.2.7 (1).
 - (b) a statement providing particulars of the scheme's capital structure, including the maximum and minimum sizes of the scheme's capital;
 - (c) a statement of the proportion of a larger denomination share represented by a smaller denomination share for any relevant class of units.

Note **CIC** is defined in r 1.2.12.

- (2) For a CIC that is an open-ended scheme, a provision authorising the allocation of redeemable shares without limit by reference to the CIC's net asset value at the relevant time.

S1.18 CIP partnership agreement binding etc

For a CIP, a statement that the partnership agreement—

- (a) is binding on each unitholder as if the unitholder had been a party to it; and
- (b) authorises and requires the operator to do everything required or permitted of it by its terms.

Note **CIP** is defined in r 1.2.13. **Partnership agreement** is defined in the glossary.

S1.19 CIT trust deed binding etc

For a CIT, a statement that the trust instrument—

- (a) is binding on each unitholder as if the unitholder had been a party to it; and
- (b) authorises and requires the operator to do everything required or permitted of it by its terms.

Note **CIT** is defined in r 1.2.14. **Trust instrument** is defined in the glossary.

S1.20 CIT declaration of trust

For a CIT, a statement that, subject to the trust instrument and the *Private Placement Schemes Rules 2010*—

- (a) the scheme property (other than amounts in any distribution account) is held by the operator on trust for the unitholders—
 - (i) according to the number of units held by each unitholder; or

- (ii) if relevant, according to the number of individual shares in the scheme property represented by the units held by each unitholder; and
- (b) the amounts in any distribution account are held by the operator on trust to distribute or apply in accordance with the trust instrument and those rules.

Note *CIT* is defined in r 1.2.14. *Trust instrument* and *distribution account* are defined in the glossary. *Scheme property* is defined in r 1.2.3.

S1.21 Assets other than cash for issue or redemption

If relevant, a statement authorising payment for the issue or redemption of units in the scheme to be made by the transfer of assets other than cash.

Note *Issue* and *redemption* are defined in the glossary.

S1.22 Suspension and winding-up

A statement providing details of—

- (a) the grounds on which the operator may initiate a suspension of the scheme; and
- (b) the methodology for working out the rights of unitholders to participate in the scheme property on winding-up.

S1.23 Amendment of constitutional document

A statement providing details of how the constitutional document may be amended.

S1.24 Redemption of units held in breach of QFC law

A statement that, if the holding of units by a unitholder is (or is reasonably considered by the operator to be) in breach of the *Private Placement Schemes Rules 2010*, any other law applying

in the QFC or the constitutional document, the units must be redeemed.

Note **Redemption** is defined in the glossary.

S1.25 Documents evidencing title to units

A statement providing details of any documents evidencing title to units.

Note **Document evidencing title** is defined in the glossary.

S1.26 Limits on unit issue and redemption

For an open-ended scheme and if relevant, a statement providing details of—

- (a) when the issue of units of any particular class may be limited; and
- (b) the provisions relating to any restrictions on the right to redeem units of any class.

Note **Open-ended scheme** is defined in r 1.2.7 (1). **Issue**, **class** and **redemption** are defined in the glossary.

S1.27 Conflicts of interests with affected persons

Provisions for managing conflicts of interests (or potential conflicts of interest) in transactions by the operator with affected persons in relation to the scheme property.

Note **Affected person** is defined in r 5.1.1.

S1.28 Fundamental and significant changes

Provisions providing—

- (a) for approval by, or adequate consultation with, unitholders about fundamental changes in relation to the scheme; and

- (b) appropriate notice to unitholders about significant changes in relation to the scheme.

S1.29 Other relevant matters

A statement providing details of the matters—

- (a) necessary to enable the scheme and the operator to obtain any privilege or power provided in these rules that is not otherwise provided in the constitutional document; and
- (b) otherwise required by these rules to be provided in the constitutional document.

Schedule 2 Prospectus content

(see r 5.2.3)

S2.1 Document status

A statement that the document is the prospectus of the scheme as at a particular date.

S2.2 Description of scheme etc

- (1) The following information and statements:
 - (a) the name of the scheme;
 - (b) that the scheme is registered as a private placement scheme under the *Private Placement Schemes Rules 2010*;
 - (c) the registration number given to the scheme by the Regulatory Authority;
 - (d) the legal form of the scheme;
 - (e) whether it is an open-ended or closed-ended scheme;
 - (f) if the scheme (or a subscheme) is an Islamic fund—that the scheme (or subscheme) is an Islamic fund;
 - (g) that the unitholders are not liable for—
 - (i) the debts and other liabilities of the scheme; or
 - (ii) acts or omissions of the operator;
 - (h) if the scheme has not started to operate—when the scheme is expected to start to operate;

Rule S2.3

- (i) if the duration of the scheme is limited—a statement to that effect, an indication of the duration of the scheme and, if appropriate, of any conditions for extending the duration of the scheme;
- (j) the base currency of the scheme;
- (k) if the scheme is a CIC—its capital structure, including the maximum and minimum sizes of its capital;
- (l) if applicable, any minimum initial investment in the scheme;
- (m) that any notice or other document may be served on the operator of the scheme at its registered office in the QFC;
- (n) the circumstances in which the scheme may be wound up and a summary of the procedure for, and the rights of the unitholders under, a winding-up;
- (o) the governing law for the scheme.

S2.3 Maximum number of unitholders

A statement that units in the scheme can only be recorded in the unitholder register in the name of 100 persons (or a stated lesser number of persons).

S2.4 Islamic funds

If the scheme (or a subscheme) is an Islamic fund, the following information:

- (a) that all operations of the scheme (or subscheme) must be conducted in accordance with Shari'a;
- (b) the names of the members of the Shari'a Supervisory Board and their qualifications and education;
- (c) the manner and frequency of Shari'a reviews;

(d) the disclosure required by AAOIFI FAS 14.

Note *Shari'a Supervisory Board* and *AAOIFI* are defined in the glossary.

S2.5 Investment objectives and policy etc

- (1) Sufficient information to enable a unitholder to ascertain the following:
 - (a) the scheme's investment objectives (including its financial objectives) and, in particular—
 - (i) the types of investments in which it (and, if applicable, each subscheme) may invest; and
 - (ii) the scheme's investment strategies, including its approach to borrowing and gearing;
 - (b) the scheme's policy for achieving its investment objectives, including—
 - (i) the general nature of the portfolio and any intended specialisation; and
 - (ii) any policy for the spreading of risk in the scheme property; and
 - (iii) the policy in relation to the exercise of borrowing powers;
 - (c) a description of any restrictions in the assets in which investments may be made;
 - (d) the extent (if any) to which the investment policy does not envisage the scheme property remaining fully invested at all times;

- (e) the scheme's policy for managing any risks posed by borrowings of the scheme.

Note Rule 5.2.3 (1) (General information requirements for prospectus) requires the prospectus to contain information in relation to—

- (a) the merits and risks of participating in the scheme; and
 - (b) the extent and characteristics of the risks accepted by participating in the scheme.
- (2) Details of any borrowing restrictions applying to the scheme.
 - (3) For investments in immovables, the following information:
 - (a) the jurisdictions where immovables in which the scheme may invest are located;
 - (b) the scheme's policy in relation to insurance of immovables forming part of the scheme property;
 - (c) the scheme's policy in relation to granting options over immovables in the scheme property and the purchase of options on immovables.
 - (4) If intended, a statement that the scheme property may consist of units in a scheme (the *second scheme*) that is managed by or operated by the operator or a person in the same group as the operator, and a statement about—
 - (a) the basis of the maximum amount of the charges in relation to transactions in the second scheme; and
 - (b) the extent to which the charges will be reimbursed to the scheme.
 - (5) If intended, a statement that stock lending arrangements or repo agreements may be entered into for the scheme, the procedures that must be applied in relation to them and the collateral that must be required.

S2.6 Distributions, accounting dates etc

- (1) Relevant details of accounting and distribution dates (including the accounting reference date), and a description of the procedures—
 - (a) for calculating and applying income and capital (including how any distributable income and capital is paid); and
 - (b) relating to unclaimed distributions.
- (2) Details of the main taxes levied in the scheme's income and capital, including tax (if any) deducted on distributions to unitholders.

S2.7 Characteristics of units in the scheme

Information about the following:

- (a) if there are 2 or more classes of units in issue or available for issue—the name of each class and the rights attached to each class so far as they differ from the rights attached to other classes;
- (b) how unitholders may exercise their voting rights and what these are;
- (c) if mandatory redemption or conversion of units from a class to another class may be required—in what circumstances that may be required;
- (d) for a CIT—the fact that the nature of the right represented by units is that of a beneficial interest under a trust;
- (e) if applicable, the circumstances where conversion from one class of units to another is not permitted;

- (f) if applicable, the terms on which a unit in one class may be converted to a unit in another class.

S2.8 Operator

The following information about the operator:

- (a) its name;
- (b) the nature of its legal status;
- (c) the date and place of its incorporation;
- (d) the address of its registered office in the QFC;
- (e) if it is a subsidiary—the name of its ultimate parent entity and the jurisdiction where the parent entity is incorporated;
- (f) if the duration of its legal status is limited—when its legal status will or may cease;
- (g) if it has share capital—the amount of its issued share capital and how much is paid up;
- (h) a summary of its functions under these rules in relation to the scheme;
- (i) its arrangements for safeguarding the scheme property and its use of agents and service providers;
- (j) a summary of the material provisions of the contracts to which it is a party in relation to the scheme that may be relevant to unitholders, including provisions (if any) relating to remuneration, remuneration sharing, termination, compensation on termination, and indemnity;
- (k) a summary of any outsourcings entered into by it under these rules in relation to the scheme;

- (l) the operator's policy in relation to the operator holding units in the scheme.

S2.9 Investment adviser

If an investment adviser is retained in relation to the business of the scheme—

- (a) its name; and
- (b) whether it is an authorised firm; and
- (c) if it conducts a significant activity other than providing services to the scheme as an investment adviser—what the significant activity is; and
- (d) a summary of the material provisions of the contracts to which it is a party in relation to the scheme that may be relevant to unitholders, including provisions (if any) relating to remuneration, remuneration sharing, termination, compensation on termination, and indemnity.

S2.10 Auditor

The name and address of the auditor of the scheme.

S2.11 Register of unitholders

Details of the address in the QFC where the unitholder register, or a copy of the unitholder register, is available for inspection by unitholders and when it can be inspected.

S2.12 Payments out of scheme property

- (1) The payments that may be made out of the scheme property to any person, whether by way of remuneration or charges for services, or reimbursement of expenses.

- (2) For each category of remuneration, charges or expenses, the following information:
- (a) the current rates or amounts of the remuneration, charges or expenses;
 - (b) how the remuneration, charges or expenses must be calculated and accrue and when they must be paid;
 - (c) if notice has been given to unitholders of the operator's intention to—
 - (i) introduce a new category of remuneration for its services; or
 - (ii) increase the basis of any current charge; or
 - (iii) change the basis of the treatment of a payment from the capital property;particulars of that introduction, increase or change and when it will take place;
 - (d) the types of any other charges and expenses that may be taken out of the scheme property;
 - (e) if all or part of the remuneration or expenses is to be treated as a charge to capital—
 - (i) that fact; and
 - (ii) the basis of the charge that may be treated as a capital charge.

S2.13 Dealing

- (1) For an open-ended scheme, details of the following:
- (a) the dealing days, and times on a dealing day, when the operator must receive instructions to issue or redeem units;

- (b) the procedures for the following:
 - (i) the issue and redemption of units;
 - (ii) the settlement of transactions;
- (c) the initial offer period and how it ends;
- (d) the steps required to be taken by a unitholder in redeeming units before the unitholder can receive the proceeds of the redemption, including any relevant notice periods and the circumstances in which, and periods for which, payment may be deferred;
- (e) the circumstances in which the redemption of units may be deferred, limited or suspended and how unitholders must be notified if this happens;
- (f) how unitholders must be notified when the redemption of units is no longer deferred, limited or suspended;
- (g) details of the minimum number, percentage or value of each class of units in the scheme that—
 - (i) any single person may hold; and
 - (ii) may be subject of any single transaction of issue or redemption;
- (h) if relevant, the circumstances in which the operator may arrange for, and the procedure for, the issue or redemption of units otherwise than in cash;
- (i) the circumstances in which the issue of units in any class may be limited and the procedures relating to this, including the conditions to be met for the issue of units in the class.

- (2) For a closed-ended scheme, details of the following:
 - (a) the initial offer period and how it ends;
 - (b) details of the minimum number, percentage or value of each type of unit in the scheme that any single person may hold.

S2.14 Exit arrangements

A statement of whether there are exit arrangements for participants in the scheme and, if so, a description of the arrangements.

S2.15 Valuation and pricing

- (1) A provision stating that there must be only a single forward price for any unit calculated from time to time by reference to a particular valuation point.
- (2) For an open-ended scheme, details about the following:
 - (a) how frequently, and at what times of the day, the scheme property must be regularly valued to calculate the price at which units in the scheme may be issued or redeemed, and a description of any circumstances in which the scheme property may be specially valued;
 - (b) how the value of the scheme property must be calculated in relation to each purpose for which it must be valued;
 - (c) how the price of units in each class must be calculated.
- (3) For a closed-ended scheme, details about the following:
 - (a) how frequently the scheme property must be valued;
 - (b) the circumstances in which a special valuation of the scheme property may be made;

- (c) how the value of the scheme property must be calculated in relation to each purpose for which it must be valued.

S2.16 Issue and redemption charges

If the operator makes any charges on the issue and redemption of units, details of the charging structure and how notice must be provided to unitholders of any increase.

Note **Open-ended scheme** is defined in r 1.2.7 (1).

S2.17 General information

Details of the following:

- (a) when annual and half-yearly reports must be published;
- (b) the scheme's accounting standard;
- (c) the address in the QFC where copies of the constitutional document, any amending or supplemental instruments, and the most recent annual and half-yearly reports, may be inspected and copies may be obtained.

S2.18 Mandatory statement about prospectus

- (1) The following statement prominently displayed on the first page (not including any cover page) of the prospectus:

‘This prospectus relates to a collective investment scheme established in the Qatar Financial Centre and registered by the Qatar Financial Centre Regulatory Authority (the **Regulatory Authority**) as a private placement scheme.

The number of unitholders of a private placement scheme must not at any time exceed 100.

The Regulatory Authority is not responsible for reviewing or verifying this prospectus or any related documents. The Regulatory Authority has not approved this prospectus or any related documents nor has the Regulatory Authority taken any steps to verify the statements, information or provisions in the prospectus or any related documents. The Regulatory Authority takes no responsibility for the accuracy of statements, information or provisions in this prospectus or any related documents.

The units to which this prospectus relates may be difficult, and take some time, to sell. Payment of redemption proceeds may also be delayed.

Returns from units can go down as well as up and you may also lose all or part of your investment.

Past performance of units is not a reliable indication of the future performance.

Prospective purchasers of the units offered should conduct their own due diligence and consider seeking independent legal and financial advice before deciding to invest in the scheme.

This prospectus is intended for distribution only to a limited type of investor (a 'qualified investor' as defined in the Regulatory Authority's *Private Placement Schemes Rules 2010*) and must not be given to, or relied on, by anyone else'.

- (2) If the scheme is a closed-ended scheme, the following additional paragraph must be inserted in the statement after the 3rd paragraph of the statement:

'This scheme is a closed-ended scheme and there is no obligation for the operator to redeem units.'

S2.19 Additional information for feeder funds

For a feeder fund, the following information:

- (a) a prominent risk warning to alert participants to the fact that they may be subject to higher fees arising from the layered investment structure;
- (b) details of the fees arising at the level of the feeder fund itself and the scheme (or subscheme) to which its investments are dedicated.

S2.20 Additional information for fund of funds

For a fund of funds, the following information:

- (a) a prominent risk warning to alert participants to the fact that they may be subject to higher fees arising from the layered investment structure;
- (b) details of the fees arising at the level of the fund of funds itself and, to the extent known, the schemes (and subschemes of umbrella schemes) to which its investments are dedicated.

S2.21 Additional statements and information for property funds

For a property fund, the following statements and information:

- (a) the nature of the commitment that participants will enter into;

- (b) if the scheme is an open-ended scheme—a prominent risk warning that refers to the particular circumstances in property markets that can cause difficulties in meeting redemptions;
- (c) details of transactions or agreements entered into, or proposed to be entered into, with affected persons;
- (d) full particulars of the nature and extent of the interest (if any) of affected persons in the immovables owned, or proposed to be acquired, by the scheme;
- (e) details of significant participants and the number or percentage of units held, or proposed to be held, by each of them;
- (f) a statement to explain the standards according to which property valuations are conducted for the scheme;
- (g) the maximum percentage of the scheme's net asset value at any time that may consist of property-related assets that are not traded or dealt in on markets provided for in the constitutional document;
- (h) the maximum percentage of the scheme's net asset value at any time that may be invested in any single immovable and, if applicable, the conditions under which the scheme may depart from this restriction;
- (i) the maximum percentage of the scheme's net asset value at any time that may consist of immovables that are unoccupied and non-income producing or in the course of substantial development, redevelopment or refurbishment;
- (j) the maximum percentage of the scheme's net asset value at any time that may be invested in immovables that are

subject to a security interest held otherwise than by the operator or its nominee or delegate.

S2.22 Information on umbrella schemes

For an umbrella scheme, the following information:

- (a) that a unitholder may exchange units in a subscheme for units in any other subscheme (other than a subscheme that has limited the issue of units);
- (b) that an exchange of units in a subscheme for units in another subscheme is treated as a redemption and issue;
- (c) that a unitholder who exchanges units in a subscheme for units in any other subscheme does not have the right to withdraw from or cancel the transaction;
- (d) the policy for allocating between subschemes any assets of, or costs, charges and expenses payable out of, scheme property that are not attributable to any particular subscheme;
- (e) what charges (if any) may be made on exchanging units in a subscheme for units in another subscheme;
- (f) for each subscheme—the currency in which the scheme property attributed to it must be valued, and the price of units calculated and payments made, if this currency is not the base currency of the umbrella scheme;
- (g) for an umbrella scheme constituted by a CIC—that the subschemes are not ‘ring-fenced’ and, if the umbrella scheme cannot meet liabilities attributable to any particular subscheme out of the assets attributable to that subscheme,

the remaining liabilities may have to be met out of the assets attributable to other subschemes.

S2.23 Application of prospectus contents to umbrella scheme

For an umbrella scheme, information, statements and provisions required must be provided—

- (a) for each subscheme if the information, statements or provisions for any subscheme differ from those for any other; and
- (b) for the umbrella scheme as a whole, but only if the information, statements or provisions are relevant to the umbrella scheme as a whole.

Glossary

(see r 1.1.5)

AAOIFI means the Accounting and Auditing Organisation for Islamic Financial Institutions.

accounting reference date, for a scheme, means the date stated in the scheme's latest filed prospectus as the date when the scheme's annual accounting period ends.

Note **Latest filed prospectus** and **annual accounting period** are defined in this glossary.

advising on investments means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 11.

Note **Regulated activity** is defined in this glossary.

affected person, for a scheme, has the meaning given by rule 5.1.1.

annual accounting period, for a scheme, means an annual accounting period of the scheme under these rules.

another permitted form of scheme has the meaning given by rule 1.2.15.

arranging deals in investments means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 5.

Note **Regulated activity** is defined in this glossary.

articles of association, for a CIC, means the CIC's articles of association as amended from time to time.

Note **CIC** is defined in r 1.2.12 and in this glossary.

associated person, for a person (A), means any of the following:

- (a) if A is a legal person—a legal person in the same group as A;

Note **Legal person** and **group** are defined in this glossary.

- (b) any other person whose business or domestic relationship with A might reasonably be expected to give rise to a community of interest between them that may involve a conflict of interest in dealing with third parties.

authorisation means an authorisation granted under the *Financial Services Regulations*, part 5.

authorised firm means a person that has an authorisation.

Note **Person** and **authorisation** are defined in this glossary.

base currency, for a scheme, means the currency stated in the constitutional document as the base currency of the scheme.

Note **Constitutional document** is defined in r 3.1.1.

borrowing, for a scheme, includes any arrangement (including a combination of derivatives) designed to achieve a temporary injection of money into the scheme property in the expectation that the amount will be repaid.

Note **Derivative** is defined in this glossary.

breach includes fail or refuse to comply with.

business day means a day that is not a Friday, Saturday, or a public or bank holiday in Qatar.

capital property, for a scheme, means the scheme property, other than income property and any amount in the distribution account (if any).

Note **Scheme property** is defined in r 1.2.3. **Income property** and **distribution account** are defined in this glossary.

CIC means a collective investment company.

Note **Collective investment company** is defined in r 1.2.12.

CIP means a collective investment partnership.

Note **Collective investment partnership** is defined in r 1.2.13.

CIT means a collective investment trust.

Note **Collective investment trust** is defined in r 1.2.14.

class, for a scheme, means—

- (a) a particular class of units in the scheme; or
- (b) if the scheme is an umbrella scheme—
 - (i) all the units relating to a single subscheme of the scheme; or
 - (ii) a particular class of units relating to single subscheme of the scheme.

Note **Unit** is defined in r 1.2.4. **Umbrella scheme** and **subscheme** are defined in r 1.2.8.

closed-ended scheme has the meaning given by rule 1.2.7 (2).

COLL means the *Collective Investment Schemes Rules 2010*.

collateral—

- (a) in relation to a stock lending arrangement or repo agreement, means—
 - (i) a transfer of assets (otherwise than by way of a sale) subject to a right of the transferor to have transferred back to it the same, or equivalent, assets; or
 - (ii) a letter of credit;

if the assets are transferred, or the letter of credit is issued, to secure the performance of a party to the transaction; and

(b) in any other case—means any form of security, guarantee or indemnity provided by way of security for the discharge of any liability arising from a transaction.

Note *Stock lending arrangement, repo agreement* and *derivative* are defined in this glossary.

collective investment company (or *CIC*) has the meaning given by rule 1.2.12.

collective investment partnership (or *CIP*) has the meaning given by rule 1.2.13.

collective investment scheme has the meaning given by rule 1.2.1.

collective investment trust (or *CIT*) has the meaning given by rule 1.2.14.

COND means the *Conduct of Business Rulebook*.

constitutional document, for a scheme, has the meaning given by rule 3.1.1.

contract for differences means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 9.

Note *Specified product* is defined in this glossary.

contract of insurance means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.

Note *Specified product* is defined in this glossary.

controlled function has the meaning given by the *Financial Services Regulations*, article 41 (2).

Note See CTRL, ch 3, for the functions that are controlled functions.

corporation—to remove any doubt, a *corporation* includes, but is not limited to—

- (a) a company; and
- (b) a limited partnership; and

(c) a limited liability partnership.

CTRL means the *Governance and Controlled Functions Rules 2012*.

day means a period of 24 hours starting at midnight.

deal—

(a) for units in an open-ended scheme—means issue or redeem the units; or

Note **Issue** and **redemption** are defined in this glossary.

(b) for any other investment or other property—means buy, sell, otherwise acquire, subscribe for or underwrite the investment or other property or offer or agree to do so, either as principal or agent, and includes, for an investment that is a contract of insurance, carry out the contract.

Note **Investment** and **contract of insurance** are defined in this glossary.

dealing day, for an open-ended scheme, means the period (if any) in a business day during which, in accordance with the latest filed prospectus, the operator is open to deal in units in the scheme.

Note **Business day**, **latest filed prospectus** and **deal** are defined in this glossary. **Open-ended scheme** is defined in r 1.2.7 (1).

dealing in investments means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 4.

Note **Regulated activity** is defined in this glossary.

dealing period, for an open-ended scheme, means the period between a valuation point and the next.

Note **Open-ended scheme** is defined in r 1.2.7 (1). **Valuation point** is defined in this glossary.

debt instrument means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 2.

Note **Specified product** is defined in this glossary.

dedicated, for investments of a scheme, means intended that the unitholders of units in the scheme should participate or receive—

- (a) profits or income arising from the acquisition, holding, management or disposal of investments of that kind; or
- (b) amounts paid out of profits or income mentioned in paragraph (a).

Note **Investment** is defined in this glossary.

derivative means a future, option or contract for differences.

Note **Future, option and contract for differences** are defined in this glossary.

dilution, for a scheme, means the amount of costs for dealing in investments incurred, or expected to be incurred, by the operator to the extent that these costs may reasonably be expected to result, or have resulted, from the acquisition, holding, management or disposal of investments by the operator as a consequence (whether or not immediate) of the increase or decrease of the cash resources of the scheme resulting from the issue or redemption of units over a period, including—

- (a) the costs of dealing in investments, and professional fees incurred, or expected to be incurred, in relation to the acquisition or disposal of an immovable; and
- (b) if there is a spread between the buying and selling prices of the investment—the indirect cost resulting from the difference between the prices.

Note **Investment, issue and redemption** are defined in this glossary.

dilution adjustment, for a scheme, means an adjustment to the price of a unit required by the operator under these rules for the purpose of reducing the effect of dilution.

Note **Price** and **dilution** are defined in this glossary.

dilution levy, for a scheme, means a charge at the rate, or of the amount, required by the operator under these rules for the purpose of reducing the effect of dilution.

Note **Dilution** is defined in this glossary.

director, for an entity, includes any person named as director of the entity and any person in accordance with whose instructions the entity is accustomed to act.

Note **Entity** and **person** are defined in this glossary.

distribution account, for a scheme, means the account (if any) to which the income property must be transferred as at the end of each annual accounting period.

Note **Income property** and **annual accounting period** are defined in this glossary.

document means a record of information in any form (including electronic form), and includes, for example—

- (a) anything in writing or on which there is writing; and
- (b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having a meaning for individuals qualified to interpret them; and
- (c) a drawing, map, photograph or plan; and
- (d) any other item or matter (in whatever form) that is, or could reasonably be considered to be, a record of information.

Note **Writing** is defined in this glossary.

document evidencing title means any means of evidencing title, whether or not in documentary form.

employee, of a person (A), means an individual—

- (a) who is employed or appointed by A, whether under a contract of service or services or otherwise; or
- (b) whose services are, under an arrangement between A and a third party, placed at the disposal and under the control of A.

entity means any kind of entity, and includes, for example, any person.

Note ***Person*** is defined in this glossary.

execute a transaction means carry into effect or perform the transaction, whether as principal or agent, and includes instructing another person to effect or perform the transaction.

exercise a function means exercise or perform the function.

Note ***Function*** is defined in this glossary.

feeder fund means a scheme dedicated to investments in a single other scheme.

Note ***Dedicated*** and ***investment*** are defined in this glossary.

financial promotion means a communication made using any medium (for example, brochures, telephone calls, the internet, emails and presentations) if the purpose or effect of the communication is—

- (a) to promote or advertise—
 - (i) a specified product; or

- (ii) a regulated activity (or any activity that would be a regulated activity if it were conducted in or from the QFC); or
- (b) to invite or induce any person—
 - (i) to enter into an agreement with any person in relation to a specified product; or
 - (ii) to engage in a regulated activity (or an activity that would be a regulated activity if it were conducted in or from the QFC).

Note **Specified product**, **regulated activity** and **person** are defined in the glossary.

forward price, for units in a scheme, means a price calculated by reference to the next valuation point after the operator receives instructions to issue or redeem the units.

Note **Issue**, **redemption**, **price** and **valuation point** are defined in this glossary.

function means any function, authority, duty or power.

fund of funds means a scheme dedicated to investments in 2 or more of the following:

- (a) schemes;
- (b) subschemes of umbrella schemes.

Note **Subscheme** and **umbrella scheme** are defined in r 1.2.8.

future means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 8.

Note **Specified product** is defined in this glossary.

GENE means the *General Rulebook*.

governing body, of an entity, means its board of directors, committee of management or other governing body (whatever it is called).

Note ***Entity*** is defined in this glossary.

group means the following:

- (a) a legal person (A);
- (b) any parent entity of A;
- (c) any subsidiary (direct or indirect) of A or of any parent entity of A.

Note ***Legal person, parent entity*** and ***subsidiary*** are defined in this glossary.

half-yearly accounting period, for a scheme, means a half-yearly accounting period of the scheme under these rules.

INAP means the *Interpretation and Application Rulebook*.

income equalisation, for a scheme, means a capital amount that, in accordance with a power in the constitutional document, is included in an allocation of income for a unit issued during the accounting period in relation to which the income allocation is made.

Note ***Constitutional document*** is defined in r 3.1.1. ***Issue*** is defined in this glossary.

income property, for a scheme, means all amounts considered by the operator, after consultation with the scheme's auditor, to be of the nature of income received or receivable in relation to the scheme property, other than any amount in the distribution account (if any).

Note ***Scheme property*** is defined in r 1.2.3. ***Distribution account*** is defined in this glossary.

INDI means the *Individuals Rules 2005*.

initial offer means—

- (a) for a scheme—an offer for the sale of units in the scheme if all or part of the consideration paid to the scheme for the units is to be used to acquire the initial scheme property; and
- (b) for a subscheme of an umbrella scheme—an offer for the sale of units in the subscheme if all or part of the consideration paid to the subscheme for the units is to be used to acquire the initial scheme property to be attributable to the subscheme.

Note ***Scheme property*** is defined in r 1.2.3. ***Umbrella scheme*** and ***subscheme*** are defined in r 1.2.8.

instrument means an instrument of any kind, and includes, for example, any writing or other document.

Note ***Writing*** and ***document*** are defined in this glossary.

investment means any investment, including any asset, right or interest.

investment adviser, for a scheme, means a person who is retained by the operator, under a commercial arrangement that is not a contract of service, to provide the operator with advice about—

- (a) the merits of investment opportunities for the scheme; or
- (b) information relevant to the making of judgments about the merits of investment opportunities for the scheme.

ISFI means the *Islamic Finance Rulebook*.

Islamic fund has the meaning given by rule 1.2.9.

issue, of a unit in a scheme, means the issue of a new unit in the scheme by the operator on behalf of the scheme.

jurisdiction means any kind of legal jurisdiction, and includes, for example—

- (a) the State; and

(b) a foreign country (whether or not an independent sovereign jurisdiction), or a state, province or other territory of such a foreign country; and

(c) the Qatar Financial Centre or a similar jurisdiction.

Note **The State** is defined in this glossary.

larger denomination share has the meaning given by rule 3.2.2 (2).

latest filed prospectus, of a scheme, means the prospectus (including any revised or supplementary prospectus) of the scheme most recently filed with the Regulatory Authority under these rules.

Note **Prospectus** is defined in this glossary.

latest filed translation, of a prospectus of a scheme in relation to a language, means the translation of the prospectus in that language most recently filed with the Regulatory Authority under these rules.

Note **Prospectus** is defined in this glossary.

legal person means an entity (other than an individual) on which the legal system of a jurisdiction confers rights and imposes duties, and includes, for example, any entity that can own, deal with or dispose of property.

Examples

- 1 a company
- 2 any other corporation
- 3 a partnership, whether or not incorporated
- 4 an association or other undertaking, whether or not incorporated

Note **Entity, jurisdiction** and **property** are defined in this glossary.

managing investments means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 10.

Note **Regulated activity** is defined in this glossary.

money means any form of money, including cheques and other payable orders.

month means calendar month.

net asset value, of a scheme at any time, means the value of the assets (including current assets) of the scheme at that time after deducting—

- (a) the current liabilities (including accrued expenses) of the scheme at that time; and
- (b) the longer-term liabilities of the scheme.

net asset value per unit, for a scheme at any time, means the net asset value of the scheme at that time divided by the number of units in issue at that time.

Note **Net asset value** is defined in this glossary. **Unit** is defined in r 1.2.4.

office includes position.

open-ended scheme has the meaning given by rule 1.2.7 (1).

operating collective investment schemes means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 12 as Operating a Collective Investment Fund.

Note **Regulated activity** is defined in this glossary.

operator, of a scheme, has the meaning given by rule 1.2.6.

option means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 7.

Note **Specified product** is defined in this glossary.

ordinary resolution, for a scheme or a class of units in a scheme, means a resolution passed at a general meeting of the scheme or a separate meeting of unitholders of that class of units if—

- (a) notice indicating the intention to propose the resolution was properly given; and

- (b) the resolution passed by a simple majority of the votes validly cast (whether as a show of hands or on a poll) for or against the resolution at the meeting.

Note **Class** is defined in this glossary.

outsourcing has the meaning given by rule 6.5.1.

parent entity, for a legal person (A), means any of the following:

- (a) a legal person that holds a majority of the voting power in A;
- (b) a legal person that is a member of A (whether direct or indirect, or through legal or beneficial entitlement) and alone, or together with 1 or more legal persons in the same group, holds a majority of the voting power in A;
- (c) a parent entity of any legal person that is a parent entity of A.

Note **Legal person** and **group** are defined in this glossary.

participant in a scheme has the meaning given by rule 1.2.2.

partnership agreement, for a CIP, means the CIP's partnership agreement as amended from time to time.

Note **CIP** is defined in r 1.2.13 and this glossary.

person means—

- (a) an individual (including an individual occupying an office from time to time); or
- (b) a legal person.

Note **Office** and **legal person** are defined in this glossary.

personal data means any information relating to an individual who can be identified, directly or indirectly, in particular by reference to an identification number or to 1 or more factors specific to the individual's physical, physiological, mental, economic, cultural or social identity.

price, of a unit in a scheme, means the price of the unit calculated in accordance with these rules.

Note **Unit** is defined in r 1.2.4.

PRIN means the *Principles Rulebook*.

PRIV means these rules.

private placement scheme has the meaning given by rule 1.1.4.

property means any estate or interest (whether present or future, vested or contingent, or tangible or intangible) in immovables or property of any other kind, and includes, for example—

- (a) money of any currency; and
- (b) bonds, securities, shares, and other negotiable or non-negotiable instruments of any kind; and
- (c) any right to interest, dividends, or other income, on or accruing from or generated by immovables or property of any other kind; and
- (d) any other things in action; and
- (e) any other charge, claim, demand, easement, encumbrance, lien, power, privilege, right, or title, recognised or protected by the law of any jurisdiction over, or in relation to, immovables or property of any other kind; and
- (f) any other documents evidencing title to, or to any interest in, immovables or property of any other kind.

Note **Money**, **jurisdiction** and **document** are defined in this glossary.

property fund—a scheme, or subscheme of an umbrella scheme, is a **property fund** if the scheme or subscheme is dedicated to investments in immovables.

Note **Subscheme** and **umbrella scheme** are defined in r 1.2.8. **Dedicated** and **investment** are defined in this glossary.

property-related assets means any of the following:

- (a) shares, debt instruments or warrants issued by an entity if a substantial activity of the entity relates to investment in immovables;
- (b) securities receipts that give rights in relation to an investment mentioned in paragraph (a).

Note ***Share, debt instrument, warrant, entity, investment*** and ***securities receipt*** are defined in this glossary.

prospectus, of a scheme, means a document (whatever called) containing information about the scheme, and includes a revised or supplementary prospectus.

Note ***Document*** is defined in this glossary.

providing custody services means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 8.

Note ***Regulated activity*** is defined in this glossary.

QFC means the Qatar Financial Centre.

QFC Court means the Qatar Financial Centre Civil and Commercial Court.

QFC Law means Law No. (7) of 2005 of the State.

Note ***The State*** is defined in this glossary.

qualified investor has the meaning given by rule 1.2.10.

redemption, of a unit in a scheme, means the redemption of an existing unit in the scheme by the operator on behalf of the scheme.

regulated activity means an activity that is a regulated activity under the *Financial Services Regulations*.

Regulatory Authority means the Regulatory Authority of the QFC.

related person—a person (*A*) is a **related person** for another person (*B*) if—

- (a) A and B are legal persons and members of the same group; or

Note **Legal person** and **group** are defined in this glossary.

- (b) A is a director or officer of B or of a member of the same group as B; or

Note **Director** is defined in this glossary.

- (c) A is an individual, B is a legal person and A is able to exercise significant influence over B; or

- (d) A is a spouse or minor child of an individual (*C*) and C is a related person for B under paragraph (b) or (c).

relevant investment activities means all or any of the following regulated activities:

- (a) dealing in investments;
(b) arranging deals in investments;
(c) advising on investments.

Note **Regulated activity** and the regulated activities mentioned in this definition are defined in this glossary.

relevant requirement—a person breaches a **relevant requirement** in the circumstances described in the *Financial Services Regulations*, article 84.

Note **Breach** is defined in this glossary.

remuneration means any form of remuneration, and includes benefits of any kind.

repo agreement means an agreement—

- (a) between a seller and buyer for the sale of securities, under which the seller agrees to repurchase the securities, or

equivalent securities, from the buyer on an agreed date and, usually, for a stated price; or

- (b) between a buyer and seller for the purchase of securities, under which the buyer agrees to resell the securities, or equivalent securities, to the seller on an agreed date and, usually, for a stated price.

Note *Security* is defined in this glossary.

scheme means a collective investment scheme.

Note *Collective investment scheme* (or *scheme*) is defined in r 1.2.1.

scheme of arrangement means an arrangement relating to a scheme (the *transferor scheme*), or to a subscheme of an umbrella scheme (the *transferor subscheme*), under which—

- (a) either—
 - (i) all or part of the property of the transferor scheme, or all or part of the property attributed to the transferor subscheme, is to become property of 1 or more schemes registered in the QFC (the *transferee scheme* or *transferee schemes*); or
 - (ii) all or part of the property attributed to the transferor subscheme is to become property attributed to 1 or more other subschemes of the same umbrella scheme registered in the QFC (the *transferee subscheme* or *transferee subschemes*); and
- (b) holders of units in the transferor scheme or transferor subscheme are to receive, in exchange for their respective interests in the property being transferred or reattributed, either—
 - (i) units in the transferee scheme, or 1 or more of the transferee schemes, to which the property is transferred; or

- (ii) units in the transferee subscheme, or 1 or more of the transferee subschemes, to which the property is reattributed.

Note **Property** is defined in this glossary.

scheme property, of a scheme, has the meaning given by rule 1.2.3.

securities receipt means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 5.

Note **Specified product** is defined in this glossary.

security means any of the following:

- (a) a share;
- (b) a debt instrument;
- (c) a warrant;
- (d) a securities receipt;
- (e) a unit in a collective investment scheme.

Note **Share, debt instrument, warrant** and **securities receipt** are defined in this glossary.

sell an investment means sell the investment in any way, and includes the following:

- (a) dispose of the investment for valuable consideration;
- (b) for an investment consisting of rights under a contract—
 - (i) surrender, assign or convert the rights for valuable consideration;

- (ii) assume the corresponding rights under the contract for valuable consideration;
- (c) for an investment consisting of rights under an arrangement—assume the corresponding liabilities under the arrangement for valuable consideration;
- (d) for any other investment—issue or create the investment or grant the rights or interests of which it consists.

Note **Investment** is defined in this glossary.

senior manager, of the operator of a scheme, means an individual employed by the operator, or by a member of the operator's group, who has responsibility either alone or with others for the management or supervision of 1 or more elements of the operator's business relevant to its functions in relation to the scheme.

Note **Group** and **function** are defined in this glossary.

series of transactions means a series of transactions executed to achieve a single investment decision or objective.

Note **Execute** is defined in this glossary.

share means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 1.

Note **Specified product** is defined in this glossary.

Shari'a Supervisory Board, of an Islamic fund, means the board constituted for the Islamic fund under rule 6.9.1.

Note **Islamic fund** is defined in r 1.2.9.

smaller denomination share has the meaning given by rule 3.2.2 (2).

special resolution, for a scheme or a class of units in a scheme, means a resolution passed at a general meeting of the scheme or a separate meeting of unitholders of that class of units if—

- (a) notice indicating the intention to propose the resolution as a special resolution was properly given; and
- (b) the resolution was passed by a majority of at least 75% of the votes validly cast (whether as a show of hands or on a poll) for or against the resolution at the meeting.

Note **Class** is defined in this glossary.

specified product means an investment or other type of product that is a specified product under the *Financial Services Regulations*.

stock lending arrangement means an arrangement between a person (the **borrower**) and another person (the **lender**) under which—

- (a) the lender transfers securities to the borrower otherwise than by way of sale; and
- (b) a requirement is imposed on the borrower to transfer back to the lender, otherwise than by way of sale, securities in the same quantity, with the same rights, and of the same type and nominal value, as the transferred securities (or, if agreed between the borrower and lender, assets into which the transferred securities have been transformed following a stock split, consolidation, conversion, merger, takeover, redemption or similar event).

Note **Security** is defined in this glossary.

subscheme, of an umbrella scheme, has the meaning given by rule 1.2.8 (2).

subsidiary—a legal person (A) is a **subsidiary** of another legal person (B) if B is a parent entity of A.

Note **Legal person** and **parent entity** are defined in this glossary.

the State means the State of Qatar.

trust instrument, for a CIT, means the CIT's trust instrument as amended from time to time, and includes any instrument expressed to be supplemental to it (as amended from time to time).

Note **CIT** is defined in r 1.2.14 and this glossary. **Instrument** is defined in this glossary.

umbrella scheme has the meaning given by rule 1.2.8 (1).

unit a scheme in has the meaning given by rule 1.2.4.

unitholder, of a unit in a scheme, has the meaning given by rule 1.2.5.

unitholder register, for a scheme, means the register of unitholders kept under these rules for the scheme.

valuation point, for a scheme, means a valuation point fixed by the operator in accordance with these rules and stated in the latest filed prospectus.

Note **Latest filed prospectus** is defined in the glossary.

warrant means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 4.

Note **Specified product** is defined in this glossary.

writing means any form of writing, and includes, for example, any way of representing or reproducing words, numbers, symbols or anything else in legible form (for example, by printing or photocopying).

year means calendar year.

Endnotes

1 Abbreviation key

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

2 Rules history

Private Placement Schemes Rules 2010

made by

Private Placement Schemes Rules 2010 (QFCRA Rules 2010-6)

Made 5 December 2010

Commenced 1 January 2011

Version No. 1

as amended by

Governance and Controlled Functions (Consequential and Miscellaneous) Amendment Rules 2012 (QFCRA Rules 2012-5 sch 4, pt 4.6)

Made 19 December 2012

Commenced 1 July 2013

Version No. 2

3 Amendment history

Outsourcing by operator

r.6.5.2 am Rules 2012-5

Glossary

def *controlled function*

am Rules 2012-5

def *CTRL*

sub Rules 2012-5

def *INDI*

sub Rules 2012-5