



qatar

FINANCIAL CENTRE

INSOLVENCY RULES

2013

VER- 1

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1 General Provisions

1.1 Application

These Rules apply to every Person to whom the Insolvency Regulations apply.

1.2 Purpose

The purpose of these Rules is to provide further detail in respect of the operation of the Insolvency Regulations and to provide in particular for:

- (A) the registration of Insolvency Practitioners and Official Liquidators;
- (B) certain disclosures required to be made by Insolvency Practitioners;
- (C) a voluntary striking off regime.

These Rules should be read in conjunction with the Insolvency Regulations.

1.3 Interpretation

In these Rules:

- (A) defined terms are identified by the capitalisation of the initial letter of the word or phrase;
- (B) “Insolvency Practitioner” means an Administrator (including a provisionally appointed Administrator), Supervisor or Liquidator or provisional Liquidator;
- (C) “General Bond” means a bond complying with the requirements of Rule 2.1.4;
- (D) “Specific Bond” means a bond complying with the requirements of Rule 2.3.2; and
- (E) other defined terms have the same meaning they have in the QFC Insolvency Regulations, the QFC Companies Regulations, the QFC Employment Regulations, the QFC Immigration Regulations, the QFC Authority Regulations, the QFCA Rules and any other related QFC regulations or rules as relevant to the context in which they are used.

2 Insolvency Practitioners

2.1 Registration of Insolvency Practitioners

2.1.1 Register of Approved Insolvency Practitioners

- 1) The CRO will maintain the register of Insolvency Practitioners by recording the following information in respect of current and former registered Insolvency Practitioners:

- (A) full name;
- (B) address;
- (C) date of registration as a registered Insolvency Practitioner with the CRO;
- (D) if applicable, date of registration as an Official Liquidator; and
- (E) date of cessation of registration as an Insolvency Practitioner with the CRO.

2.1.2 Application for registration

- 1) An Insolvency Practitioner applying to be entered onto the register of Insolvency Practitioners maintained by the CRO must:
 - (A) complete the Prescribed Form in Appendix 1 and file it with the CRO;
 - (B) provide such additional information and/or documents as may be required by the CRO; and
 - (C) pay the Prescribed Fee stated in Appendix 2 to the CRO.
- 2) Before the CRO approves an Insolvency Practitioner to appear on the register, an applicant must satisfy the CRO that:
 - (A) the applicant is fit and proper within the meaning of Rule 2.1.3;
 - (B) the applicant holds adequate security within the meaning of Rule 2.1.4; and
 - (C) the applicant meets any other requirements prescribed by the CRO or the QFC Authority.

2.1.3 Fit and proper

- 1) The matters to be taken into account by the CRO in deciding whether an applicant is a fit and proper person to be registered as an Insolvency Practitioner shall include:
 - (A) the applicant's:
 - i) qualifications;
 - ii) experience;
 - iii) membership of appropriate professional bodies; and
 - iv) available resources;
 - (B) the identity of the applicant's firm; and
 - (C) any other information required by the CRO.
- 2) An applicant will meet the criteria in (1) if the applicant is:

- (A) licensed to act as an Insolvency Practitioner in a jurisdiction acceptable to the CRO; and
- (B) in good standing with the body responsible for the licensing of insolvency practitioners in that jurisdiction.

2.1.4 Security

- 1) For the purposes of Article 185(2) of the Insolvency Regulations, a person satisfies the requirement to hold adequate security if the person provides a General Bond which contains provision whereby a surety undertakes to be jointly and severally liable for losses in relation to the insolvent caused by:
 - (A) the fraud or dishonesty of the Insolvency Practitioner whether acting alone or in collusion with one or more persons; or
 - (B) the fraud or dishonesty of any person committed with the actual or constructive knowledge of the Insolvency Practitioner; and
 - (C) otherwise conforms to the requirements of this Rule.
- 2) The terms of the General Bond shall provide for the payment, in respect of each case where the Insolvency Practitioner acts, of claims in respect of liabilities for losses of the kind mentioned in sub-paragraph (1) above up to a sum of USD1,000,000 (“the General Penalty Sum”), in the event that the amounts payable under a relevant Specific Bond are insufficient to meet all claims arising out of any case.
- 3) The terms of the General Bond may provide:
 - (A) that total claims in respect of the acts of the Insolvency Practitioner under all bonds relating to the Insolvency Practitioner are to be limited to a maximum aggregate sum (which shall not be less than USD50,000,000); and
 - (B) for a time limit within which claims must be made.

2.1.5 Annual renewal

- 1) An insolvency practitioner must pay the Prescribed Fee stated in Appendix 2 to remain on the register of approved Insolvency Practitioners.
- 2) If, at any time after registration, an Insolvency Practitioner no longer meets the requirements for registration as an approved Insolvency Practitioner, the Insolvency Practitioner must immediately inform the CRO in writing.

2.1.6 Commencement and transitional provisions

- 1) Subject to sub-clause (2) below, the registration of an Insolvency Practitioner prior to the date on which these Rules come into force shall not be invalidated by reason of the fact that the person does not meet the requirements contained in these Rules. However, such person must, before the end of a period of one year from the date on which these Rules come into force, re-register as an Insolvency Practitioner in accordance with these Rules.

- 2) Registration of an Insolvency Practitioner prior to the commencement date will not entitle a person to registration on a new application for registration made after the commencement date if that person does not meet the requirements contained in these Rules.

2.2 Registration as an Official Liquidator

- 1) An Insolvency Practitioner registered under these Rules may apply to the CRO to be registered as an official Liquidator (“Official Liquidator”).
- 2) The CRO may register such Insolvency Practitioner as an Official Liquidator on such terms and for such period as it sees fit.
- 3) In accordance with Article 184(3) of the Insolvency Regulations, registration of an Insolvency Practitioner as an Official Liquidator constitutes an acknowledgement that the Insolvency Practitioner will accept any appointment made by the QFC Court as a Liquidator or provisional Liquidator to a Company in accordance with the provisions of any rules of procedure as may be made by the QFC Court.

2.3 Specific Bond

2.3.1 Requirement to maintain a Specific Bond

- 1) An Insolvency Practitioner must provide to the QFC Authority a Specific Bond in relation to each case in respect of which he is instructed.
- 2) The terms of the Specific Bond must comply with Rule 2.3.2.

2.3.2 Terms of the Specific Bond

- 1) The Specific Bond must contain provisions whereby a surety undertakes to be jointly and severally liable for losses in relation to the insolvent caused by:
 - (A) the fraud or dishonesty of the Insolvency Practitioner whether acting alone or in collusion with one or more persons; or
 - (B) the fraud or dishonesty of any person committed with the actual or constructive knowledge of the Insolvency Practitioner; and
 - (C) otherwise conforms to the requirements of this Rule.
- 2) The terms of the Specific Bond must provide:
 - (A) for the payment, in respect of each case where the Insolvency Practitioner acts, of claims in respect of liabilities for losses of the kind mentioned in sub-paragraph (1) up to an aggregate maximum sum in respect of that case (“the Specific Penalty Sum”) calculated in accordance with the provisions of Rule 2.3.3;
 - (B) for a schedule containing the name of the insolvent and the value of the insolvent’s assets to be submitted to the surety or cautioner within such period as may be specified in the bond;

- (C) that if at any time before the Insolvency Practitioner obtains the release or discharge in respect of acting in relation to an insolvent, the Insolvency Practitioner forms the opinion that the value of that insolvent's assets is greater than the current specific penalty sum, a revised Specific Penalty Sum shall be applicable on the submission within such time as may be specified in the bond of a cover schedule containing a revised value of the insolvent's assets; and
 - (D) for the payment of losses of the kind mentioned in sub-paragraph (1), whether they arise during the period in which the Insolvency Practitioner holds office in the capacity in which he was initially appointed or a subsequent period where he holds office in a subsequent capacity.
- 3) The terms of the Specific Bond may provide:
- (A) that total claims in respect of the acts of the Insolvency Practitioner under all bonds relating to the Insolvency Practitioner are to be limited to a maximum aggregate sum (which shall not be less than USD50,000,000); and
 - (B) for a time limit within which claims must be made.

2.3.3 Specific Penalty Sum

- 1) Subject to (2) and (3) below, the amount of the Specific Penalty Sum in respect of a case in which the insolvency practitioner acts, shall be equal to at least the value of the insolvent's assets as reasonably and properly estimated by the Insolvency Practitioner as at the date of the appointment but ignoring the value of any assets:
 - (A) charged to a third party to the extent of any amount which would be payable to that third party; or
 - (B) held on trust by the insolvent to the extent that any beneficial interest in those assets does not belong to the insolvent.
- 2) Where the value of the insolvent's assets is less than USD1,000,000, the Specific Penalty Sum shall be USD1,000,000.
- 3) Where the value of the insolvent's assets is more than USD10,000,000 the Specific Penalty Sum shall be USD10,000,000.

2.4 Disclosures required of Insolvency Practitioners

2.4.1 Disclosure of contraventions

- 1) Subject to Rule 2.4.2, an Insolvency Practitioner appointed in respect of a Company shall disclose to the CRO any matter which reasonably tends to show one of the following:
 - (A) a contravention, or likely contravention within the meaning of Article 127 of the Companies Regulations;

- (B) a contravention, or likely contravention within the meaning of Article 55 of the Limited Liability Partnership Regulations;
- (C) a contravention, or likely contravention within the meaning of Article 85 of the Partnership Regulations;
- (D) a contravention, or likely contravention of a Relevant Requirement within the meaning of CER Rule 6.1; or
- (E) that a person has been knowingly concerned in any such contravention or likely contravention.

2.4.2 Communications arising from the provision of professional legal advice

Rule 2.4.1 shall not apply to the extent that compliance with such a requirement would disclose a communication arising from the provision of professional legal advice.

2.4.3 Forms

An Insolvency Practitioner making a disclosure to the CRO in accordance with Rule 2.4.1 must:

- (A) complete the Prescribed Form in Appendix 1 and file it with the CRO; and
- (B) provide such additional material as may be required by the CRO.

3 Voluntary striking off

3.1 Application for striking off by a Company

3.1.1 Application for striking off

- 1) A Company may apply to the CRO to be struck off the register pursuant to Article 131(1)(A) of the Companies Regulations.
- 2) A Company applying to the CRO under (1) must:
 - (A) complete the Prescribed Form in Appendix 1 and file it with the CRO;
 - (B) attach to the Prescribed Form the documents and declarations prescribed in Rule 3.1.2;
 - (C) provide such additional material and information as may be required by the CRO; and
 - (D) pay the Prescribed Fee stated in Appendix 2 to the CRO.
- 3) The application in (1) must be made on the Company's behalf by at least the majority of its directors.

- 4) An application may not be made under this Rule if at any time since its incorporation the Company has been authorised by the Regulatory Authority to carry on Regulated Activities.

3.1.2 Prescribed documents and declarations

- 1) The following documents and declarations must be attached to an application made under Rule 3.1.1:
 - (A) a declaration by a majority of the directors at a properly convened directors' meeting that the majority wishes the Company to be struck off the register and that none of the circumstances described in Rules 3.3.1 and 3.3.2 below (being circumstances in which the directors would otherwise be prohibited under those Rules from making an application) exists in relation to the Company;
 - (B) a certified copy of a Special Resolution of the Members of the Company evidencing the agreement of at least 75% of the Members to the dissolution of the Company;
 - (C) audited financial statements of the Company signed by an external auditor indicating that all assets have been realised and all liabilities have been satisfied;
 - (D) a declaration by a director confirming that:
 - i) the Company has not traded for at least a period of twelve months immediately preceding the application;
 - ii) the Company has complied in full with its obligations under the QFC Employment and Immigration Regulations and that there are no longer any Employees employed by the Company and that all residence permits relating to any former Employee(s) of the Company have been cancelled;
 - (E) a guarantee and indemnity from any parent company or other person acceptable to the QFC Authority, in a form acceptable to the QFC Authority, to the effect that should any liabilities arise after the dissolution of the Company the parent company will meet those obligations;
 - (F) the original certificate of incorporation issued to the Company by the CRO; and
 - (G) any such information and/or material as may be required by the CRO.

3.1.3 Continuing duty to provide information

- 1) The directors of the Company making an application under 3.1.1 must immediately inform the CRO of any additional information:
 - (A) which is reasonably likely to be relevant to the CRO's decision to exercise its power; and
 - (B) of which they become aware from the time of making the application for winding up of the Company to the date of dissolution.

3.2 Power of the CRO

3.2.1 Determination of application by the CRO

- 1) When determining whether to exercise its power under Article 131(1)(A) of the Companies Regulations on the application of a Company under Rule 3.1.1, the CRO may:
 - (A) take account of such factors and circumstances as it considers relevant in its absolute discretion; and
 - (B) request the Company to provide such other information and/or documents as it considers relevant in its absolute discretion.
- 2) Where the CRO chooses to exercise its power under Article 131(1)(A) of the Companies Regulations, the CRO may waive entirely or shorten the period of three months mentioned in that Article to such period as it considers appropriate.

3.2.2 No need for winding up

- 1) The CRO may exercise its power under Article 131(1)(A) of the Companies Regulations whether or not the Company has been subject to winding up in accordance with Part 3 of the Insolvency Regulations.
- 2) Nothing in this Rule affects the power of the QFC Court to wind up a Company which has been struck off the register.

3.3 Circumstances in which an application must not be made

3.3.1 Activities of Company

- 1) An application under Rule 3.1.1 on behalf of a Company must not be made if, at any time in the immediately preceding three months, the Company has:
 - (A) changed its name;
 - (B) traded or otherwise carried on business;
 - (C) made a disposal for value of property or rights that, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business; or
 - (D) engaged in any other activity, except one which is:
 - i) necessary or expedient for the purpose of making an application under that Rule, or deciding whether to do so;
 - ii) necessary or expedient for the purpose of concluding the affairs of the Company
 - iii) necessary or expedient for the purpose of complying with any statutory requirement.

- 2) For the purposes of this Rule, a Company is not to be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.
- 3) An application made in contravention of this Rule amounts to a contravention of the Companies Regulations.

3.3.2 Other proceedings not concluded

- 1) An application under Rule 3.1.1 on behalf of a Company must not be made at a time when:
 - (A) an Arrangement in relation to the Company has been proposed under Part 2 Section 8 of the Insolvency Regulations and the matter has not been finally concluded;
 - (B) Article 26 of the Insolvency Regulations applies (interim moratorium where an application for an Administration Order has been made or notice of intention to appoint an Administrator has been filed);
 - (C) the Company is in administration under Part 2 of the Insolvency Regulations; or
 - (D) the Company is being wound up under Part 3 of the Insolvency Regulations, whether voluntarily or by the QFC Court, or an application under that Part for winding up has been presented and not finally dealt with or withdrawn.
- 2) For the purposes of (1)(A), the matter is finally concluded if:
 - (A) no meetings are to be summoned,
 - (B) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,
 - (C) an arrangement approved by meetings summoned under that section has been fully implemented, or
 - (D) the QFC Court makes an order revoking approval given at previous meetings and, if the QFC Court gives any directions, the Company has done whatever it is required to do under those directions.
- 3) An application made in contravention of this Rule amounts to a contravention of the Companies Regulations.

3.4 Notification of interested parties

3.4.1 Copy of application to be given to Members, Employees, etc

- 1) A person who makes an application under Rule 3.1.1 on behalf of a Company must secure that, within seven days from the day on which the application is made, a copy of it is given to every person who at any time on that day is:

- (A) a Member of the Company;
 - (B) an Employee of the Company;
 - (C) a creditor of the Company;
 - (D) a director of the Company; or
 - (E) a manager or trustee of any pension fund established for the benefit of the Employees of the Company.
- 2) Subsection (1) does not require a copy of the application to be given to a director who is a party to the application.
- 3) The duty imposed by this Rule ceases to apply if the application is withdrawn before the end of the period for giving the copy application.

3.4.2 Copy of application to be given to new Members, Employees, etc

- 1) This Rule applies in relation to any time after the day on which a Company makes an application under Rule 3.1.1 and before the day on which the application is finally dealt with or withdrawn.
- 2) A person who is a director of the Company at the end of a day on which another person becomes:
- (A) a Member of the Company;
 - (B) an Employee of the Company;
 - (C) a creditor of the Company;
 - (D) a director of the Company; or
 - (E) a manager or trustee of any pension fund established for the benefit of the Employees of the Company

must secure that a copy of the application is given to that person within seven days from that day.

- 3) The duty imposed by this section ceases to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.

3.4.3 Copy of application: provisions as to service of documents

- 1) The following provision has effect for the purposes of Rules 3.4.1 and 3.4.2 above.
- 2) A document is to be treated as given to a person if it is served on the person in the manner prescribed in Article 16(2) to (4) of the Insolvency Regulations.

3.5 Withdrawal of an application

3.5.1 Circumstances in which an application must be withdrawn

- 1) This Rule applies if, at any time on or after the day on which a Company makes an application under Rule 3.1.1 and before the day on which the application is finally dealt with or withdrawn:
 - (A) the Company;
 - i) changes its name;
 - ii) trades or otherwise carries on business;
 - iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under that Rule; or
 - iv) engages in any activity, except one to which subsection (4) applies.
 - (B) an arrangement in relation to the Company is being proposed under Part 2 Section 8 of the Insolvency Regulations and the matter has not been finally concluded;
 - (C) Article 26 of the Insolvency Regulations applies (interim moratorium where an application for an Administration Order has been made or notice of intention to appoint an Administrator has been filed);
 - (D) an Administrator is appointed under Part 2 of the Insolvency Regulations; or
 - (E) the Company is being wound up under Part 3 of the Insolvency Regulations, whether voluntarily or by the QFC Court, or an application under that Part for winding up is being presented and not finally dealt with or withdrawn.
- 2) A person who, at the end of a day on which any of the events mentioned in subsection (1) occurs, is a director of the Company must secure that the Company's application is withdrawn forthwith.
- 3) For the purposes of subsection (1)(A), a Company is not treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.
- 4) The excepted activities referred to in subsection (1)(A)(iv) are any activity which is:
 - (A) necessary or expedient for the purpose of making an application under Rule 3.1.1, or deciding whether to do so;
 - (B) necessary or expedient for the purpose of concluding the affairs of the Company; or
 - (C) necessary or expedient for the purpose of complying with any statutory requirement.
- 5) A failure to withdraw an application in contravention of this Rule amounts to a contravention of the Companies Regulations.

3.5.2 Withdrawal of application

An application under Rule 3.1.1 is withdrawn by notice to the CRO using the Prescribed Form in Appendix 1 and payment of the Prescribed Fee stated in Appendix 2.

Appendix 1: Prescribed Forms

For the purpose of the Insolvency Regulations and these Rules the Prescribed Forms are listed in the table below.

Purpose	Relevant Article or Rule	Form
Application for registration as an Insolvency Practitioner	Rule 2.1.2(1)(A)	Q04
Disclosure by Insolvency Practitioner	Rule 2.4.3	Q07
Application to be struck off the register	Rule 3.1.1	Q13/Q24
Withdrawal of application to be struck off the register	Rule 3.5.2	Q07

Appendix 2: Prescribed Fees

For the purpose of the Insolvency Regulations and these Rules the Prescribed Forms are listed in the table below.

Purpose	Relevant Article or Rule	Fee USD
Application for registration as an Insolvency Practitioner	Rule 2.1.2(1)(C)	500
Annual fee for Insolvency Practitioner	Rule 2.1.5	500
Application to be struck off the register	Rule 3.1.1	200
Withdrawal of application to be struck off the register	Rule 3.5.2	200

Appendix 3: Contraventions and financial penalties

For the purpose of these Insolvency Rules, the table below sets out the maximum financial penalties applied for a contravention of the Insolvency Regulations stipulated in these Rules.

Article creating contravention	General nature of contravention	Maximum financial penalty
3.3	Making an application for strike-off when prohibited	USD 10,000
3.5	Failure to withdraw strike-off application	USD 10,000