



## **Miscellaneous Amendments Rules 2010 (No 2)**

### **QFCRA Rules 2010-4**

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The Board of the Qatar Financial Centre Regulatory Authority makes the following rules, and gives the following guidance, under Law No. (4) of 2010 on Anti-Money Laundering and Combating the Financing of Terrorism and the *Financial Services Regulations*.

Dated 19 September 2010

PHILLIP THORPE  
Chairman



# Miscellaneous Amendments Rules 2010 (No 2)

## QFCRA Rules 2010-4

made under

Law No. (4) of 2010 on Anti-Money Laundering and Combating the Financing of Terrorism, and

the *Financial Services Regulations*

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**1 Name of rules**

These rules are the *Miscellaneous Amendments Rules 2010 (No 2)*.

**2 Commencement**

- (1) The following provisions commence on the day these rules are made:
  - rules 1 to 4
  - schedule 1, part 1.1 (other than amendments [1.13] and [1.15])
  - schedule 2, part 1.2.
- (2) The remaining provisions of these rules commence on 1 October 2010.

**3 Rules amended**

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

**4 Explanatory notes**

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

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## Schedule 1      Minor amendments

(see r 3)

### Part 1.1                      Anti-Money Laundering and Combating Terrorist Financing Rules 2010 (AML/CFTR)

#### [1.1]      After rule 1.3.8

*insert*

#### 1.3.9      What is a *correspondent securities relationship*?

A *correspondent securities relationship* is a relationship under which services in relation to securities are provided by a firm (the *correspondent*) to another firm (the *respondent*).

**Examples of services in relation to securities**

buying, selling, lending or otherwise holding securities

*Note*      *Firm* is defined in r 1.3.1.

**Explanatory note**

This amendment inserts a new definition of *correspondent securities relationship* for use in the rules.

#### [1.2]      Rule 2.1.4, note

*omit*

- r 3.3.5 (3) (Correspondent banking relationships generally).

*substitute*

- r 3.3.5 (3) (Correspondent banking relationships generally)
- r 3.3.11 (3) (Correspondent securities relationships generally).

**Explanatory note**

This amendment is consequential on the inclusion by another amendment of a rule about correspondent securities relationships (see new rule 3.3.11).

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**[1.3] Rule 3.3.6 (2)**

*substitute*

- (2) A financial institution must not enter into, or continue, a correspondent banking relationship or correspondent securities relationship with a shell bank.

*Note* **Correspondent banking** is defined in r 1.3.7. **Correspondent securities relationship** is defined in r 1.3.9.

**Explanatory note**

This amendment extends the operation of the subrule to prohibit a financial institution from entering into a correspondent securities relationship with a shell bank.

**[1.4] Rule 3.3.6 (3)**

*substitute*

- (3) A financial institution must not enter into, or continue—
- (a) a correspondent banking relationship with a bank in any jurisdiction if the bank is known to permit its accounts to be used by a shell bank; or
  - (b) a correspondent securities relationship with a firm in any jurisdiction if the firm is known to permit its accounts to be used by a shell bank.

**Explanatory note**

Rule 3.3.6 (3) presently prohibits a financial institution from entering into, or continuing, a correspondent banking relationship with a bank that is known to permit its accounts to be used by a shell bank. This amendment makes it clear that the bank with which the financial institution might have a correspondent banking relationship can be in the QFC, elsewhere in Qatar or in a foreign jurisdiction. This amendment also extends the prohibition to correspondent securities relationships with any firm.

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**[1.5] After rule 3.3.10**

*insert*

**3.3.11 Correspondent securities relationships generally**

- (1) Before a firm (the *correspondent*) establishes a correspondent securities relationship with another firm (the *respondent*) in a foreign jurisdiction, the correspondent must do all of the following:
  - (a) gather sufficient information about the respondent to understand fully the nature of its business;
  - (b) decide from publicly available information the respondent's reputation and the quality of its regulation and supervision;
  - (c) assess the respondent's AML/CFT policies, procedures, systems and controls, and decide that they are adequate and effective;
  - (d) obtain senior management approval to establish the relationship;
  - (e) document its responsibilities and those of the respondent, including in relation to AML and CFT matters;
  - (f) be satisfied that, in relation to the respondent's customers that will have direct access to accounts of the correspondent, the respondent—
    - (i) will have conducted customer due diligence measures for the customers and verified the customers' identities; and
    - (ii) will conduct ongoing monitoring for the customers; and
    - (iii) will be able to provide to the correspondent, on request, the documents, data or information obtained in conducting CDD and ongoing monitoring for the customers.

*Note* ***Correspondent securities relationship*** is defined in r 1.3.9 and ***foreign jurisdiction*** is defined in the glossary.

- 
- (2) Without limiting subrule (1) (b), in making a decision for that provision, the correspondent must consider all of the following:
- (a) whether the respondent has been the subject of any investigation, or civil or criminal proceeding, relating to money laundering or terrorist financing;
  - (b) the respondent's financial position;
  - (c) whether it is regulated and supervised (at least for AML and CFT purposes) by a regulatory or governmental authority, body or agency equivalent to the Regulator in each foreign jurisdiction in which it operates;
  - (d) whether each foreign jurisdiction in which it operates has an effective AML/CFT regime;  
*Note* See r 3.5.4 (Decisions about effectiveness of AML/CFT regimes in other jurisdictions).
  - (e) if the respondent is a subsidiary of another legal person—the following additional matters:
    - (i) the other person's domicile and location (if different);
    - (ii) its reputation;
    - (iii) whether it is regulated and supervised (at least for AML and CFT purposes) by a regulatory or governmental authority, body or agency equivalent to the Regulator in each jurisdiction in which it operates;
    - (iv) whether each foreign jurisdiction in which it operates has an effective AML/CFT regime;
    - (v) its ownership, control and management structure (including whether it is owned, controlled or managed by a politically exposed person).
- (3) If the correspondent establishes a correspondent securities relationship with the respondent, the correspondent must—

- 
- (a) if the respondent is in a high risk jurisdiction—conduct enhanced ongoing monitoring of the volume and nature of the transactions conducted under the relationship; and
  - (b) in any case—at least annually review the relationship and the transactions conducted under it.

*Note* See esp pt 3.5 (Jurisdiction risk).

**Explanatory note**

This amendment includes a rule about correspondent securities relationships equivalent to the existing rule about correspondent banking relationships (see r 3.3.5).

**[1.6] Rule 3.4.7 (c)**

*omit*

party.

*substitute*

party; or

**Explanatory note**

This amendment is consequential on the other amendments relating to correspondent securities relationships.

**[1.7] New rule 3.4.7 (d)**

*insert*

- (d) under a correspondent securities relationship to which the firm is a party.

**Explanatory note**

This amendment is consequential on the other amendments relating to correspondent securities relationships. Rule 3.4.7 presently excludes certain customer due diligence measures conducted for a firm from division 3.4.B (Reliance on others generally). The amendment extends the exclusions to customer due diligence measures conducted under a correspondent securities relationship to which the firm is a party.

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**[1.8] Rule 3.4.7, note**

*omit*

- r 3.3.5 (Correspondent banking relationships generally).

*substitute*

- r 3.3.5 (Correspondent banking relationships generally)
- r 3.3.11 (Correspondent securities relationships generally).

**Explanatory note**

This amendment is consequential on the other amendments relating to correspondent securities relationships.

**[1.9] Rule 4.4.1, note**

*insert*

- r 3.3.11 (3) (a) (Correspondent securities relationships generally)

**Explanatory note**

This amendment is consequential on the other amendments relating to correspondent securities relationships.

**[1.10] Rule 4.5.2 (a)**

*substitute*

- (a) a financial institution that is based, or incorporated or otherwise established, in Qatar and that is acting on its own behalf; or

**Explanatory note**

Rule 4.5.2 presently permits reduced or simplified customer due diligence in certain cases where the customer is a financial institution. This amendment makes it clear that reduced or simplified customer due diligence may be conducted on a financial institution that is based, or incorporated or otherwise established, in Qatar only if the financial institution is acting on its own behalf.

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**[1.11] Rule 4.5.2 (b) (ii)**

*omit*

requirements.

*substitute*

requirements; and

**Explanatory note**

This amendment is consequential on the insertion of new rule 4.5.2 (b) (iii) by the next amendment.

**[1.12] New rule 4.5.2 (b) (iii)**

*insert*

(iii) is acting on its own behalf.

**Explanatory note**

This amendment makes it clear that reduced or simplified customer due diligence may be conducted on certain financial institutions that are based, or incorporated or otherwise established, in a foreign jurisdiction only if they are acting on their own behalf.

**[1.13] Chapter 8**

*omit*

**Explanatory note**

This amendment omits provisions about forms that are no longer needed because of provisions being inserted into GENE by other amendments (see esp provisions of proposed new s 5.3 about approved forms).

**[1.14] Glossary, new definition of *correspondent securities relationship***

*insert*

*correspondent securities relationship* has the meaning given by rule 1.3.9.

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**Explanatory note**

This amendment inserts a new definition of *correspondent securities relationship* for use in the rules.

**[1.15] Further amendments, mentions of *in writing***

*omit each mention of*

in writing

*in the following provisions*

- rule 2.1.5 (5)
- rule 2.1.6 (7)
- rule 2.1.7 (6) (b)
- rule 5.1.7 (6)

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

## **Part 1.2 Assets Rulebook (ASET)**

**[1.16] Rule 2.2.1 (B) (iii)**

*omit*

in writing

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

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## Part 1.3                      Collective Investment Funds Rulebook (COLL)

### [1.17]      Rule 2.1.2 (2) (other than note)

*omit*

#### **Explanatory note**

This amendment omits a provision about forms that is no longer needed because of provisions being inserted into GENE by other amendments (see esp provisions of proposed new ch 12 about approved forms).

### [1.18]      Rule 2.1.2 (3) to (6)

*renumber as rule 2.1.2 (2) to (5)*

#### **Explanatory note**

This amendment provides for the consequential renumbering of provisions.

### [1.19]      Rule 11.1.1

*omit*

#### **Explanatory note**

This amendment omits a provision about forms that is no longer needed because of provisions being inserted into GENE by other amendments (see esp provisions of proposed new s 5.3 about approved forms).

### [1.20]      Rule 11.1.4 (1)

*after*

*any person*

*insert*

*(other than the Regulatory Authority)*

#### **Explanatory note**

Rule 11.1.4 deals with the service of notices and other documents under COLL and the giving of information under COLL. The rule presently applies to the service of documents on, and the giving of information to, the Regulatory Authority. Because of the provisions being inserted into GENE by other amendments, it is no longer appropriate for the rule to apply in relation to

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the Regulatory Authority. The amendment, therefore, ends the application of the rule in relation to the Regulatory Authority.

**[1.21] Rule 11.1.4 (4)**

*omit*

**Explanatory note**

This amendment is consequential on the amendment of rule 11.1.4 (1).

## **Part 1.4 Controls Rulebook (CTRL)**

**[1.22] Rules 4.10.2 (5) (b) and 5.2.1**

*omit*

*written*

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.23] Rule 5.2.2**

*omit*

*in writing*

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

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## Part 1.5                      General Rulebook (GENE)

### [1.24]      Rule 2.4.2

*substitute*

#### 2.4.2      Applicant for authorisation must be incorporated etc in QFC

An application for *authorisation* may be granted only if the applicant is—

- (a) a limited liability company incorporated under the *Companies Regulations 2005*; or
- (b) a limited liability partnership incorporated under the *Limited Liability Partnerships Regulations 2005*; or
- (c) a partnership formed (including a limited partnership incorporated) under the *Partnership Regulations 2007*; or
- (d) an *entity* registered as a branch under any *Regulations*.

#### **Explanatory note**

This amendment removes redundant material about the order of licensing by the QFC Authority and authorisation by the Regulatory Authority. The *QFC Authority Regulations*, article 21 (6) requires the Regulatory Authority authorisation to be granted first. The amendment also updates the rule to reflect the enactment of the *Partnership Regulations 2007*, to remove redundant material about variations of authorisations, and to refer to registration as a branch rather than having a registered place of business in the QFC.

### [1.25]      Section 3.2

*omit*

#### **Explanatory note**

This amendment omits material covered by provisions about communications to the Regulatory Authority that are inserted by another amendment (see proposed new ch 5 of GENE).

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**[1.26] Chapter 4 heading**

*substitute*

## **4 Notice of certain events required**

### **Explanatory note**

This amendment is consequential on the other amendments of the chapter.

**[1.27] Sections 4.1 and 4.2**

*omit*

### **Explanatory note**

This amendment omits provisions that are no longer necessary or that deal with matters covered by provisions inserted into GENE by other amendments.

**[1.28] Chapter 5**

*substitute*

## **5 Communications to Regulatory Authority**

### **5.1 Communications to Regulatory Authority—general provisions**

#### **5.1.1 Communications to Regulatory Authority must generally be in writing**

- (1) This rule applies if a *person* is required or permitted under any *Law, Regulations or Rules* to give any information (however described), or make another communication, to the *Regulatory Authority*.

#### **Examples of application of rule**

- 1 a *person* is permitted under any *Rules* to make any application or request, or to give any election, to the authority

- 
- 2 a *person* is required under any *Regulations* to give the authority any certificate, declaration, notice, return or statement of opinion or belief
- 3 a *person* is required under any *Rules* to notify or tell the authority about something
- (2) The *person* must give the information, or make the other communication, to the *Regulatory Authority* in *writing* unless—
- (a) the information or communication is required or permitted under any *Law, Regulations* or *Rules* to be given or made to it in another way; or
- (b) the authority, whether under this subrule or otherwise, requires or permits the *person* to give the information, or make the communication, to it in another way.

*Note* See esp r 5.1.3 (Giving documents to Regulatory Authority—general requirements) and r 5.4.1 (Electronic submission system).

- (3) A requirement or permission under subrule (2) (b) may be imposed or given either—
- (a) generally or otherwise by *written* notice published on an *approved website*; or
- (b) by notice given to the *person* in relation to the giving of particular information, or the making of a particular communication, to the *Regulatory Authority* by the *person*.
- (4) A permission under subrule (2) (b) may be given subject to conditions.
- (5) If the *person* gives the information, or makes the other communication, to the *Regulatory Authority* in *contravention* of—
- (a) this rule; or
- (b) a requirement made under this rule; or
- (c) a condition of a permission given under this rule;

then, for the purpose of satisfying any requirement to give the information or make the other communication to the authority, the

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*person* is taken not to have given the information or made the other communication to the authority.

- (6) Without limiting subrule (5) and any other remedies available to the *Regulatory Authority* in relation to that *contravention*, the authority may require the *person* to give the information or make the communication to it in accordance with this rule (including any requirement or condition under this rule) within a stated time.
- (7) The *person* must comply with a requirement under subrule (6).

### **5.1.2 Communications to Regulatory Authority must generally be in English**

- (1) This rule applies if a *person* is required or permitted under any *Law, Regulations* or *Rules* to give any information (however described), or make another communication, to the *Regulatory Authority*.

#### **Examples of application of rule**

See examples of application of rule 5.1.1.

- (2) The *person* must give the information, or make the other communication, to the *Regulatory Authority* in English unless—
  - (a) the information or communication is required or permitted under any *Law, Regulations* or *Rules* to be given or made to it in another language; or
  - (b) the authority, whether under this subrule or otherwise, requires or permits the *person* to give the information, or make the communication, to it in another language.

*Note* See esp r 5.1.3 (Giving documents to Regulatory Authority—general requirements) and r 5.4.1 (Electronic submission system).

- (3) A requirement or permission under subrule (2) (b) may be imposed or given either—
  - (a) generally or otherwise by *written* notice published on a *approved website*; or

- 
- (b) by notice given to a *person* in relation to the giving of particular information, or the making of a particular communication, to the *Regulatory Authority* by the *person*.
- (4) A permission under subrule (2) (b) may be given subject to conditions.
- (5) If a *person* gives the information, or makes the other communication to the *Regulatory Authority*, in *contravention* of—
- (a) this rule; or
  - (b) a requirement made under this rule; or
  - (c) a condition of a permission given under this rule;
- then, for the purpose of satisfying any requirement to give the information or make the other communication to the authority, the *person* is taken not to have given the information or made the other communication to the authority.
- (6) Without limiting subrule (5) and any other remedies available to the *Regulatory Authority* in relation to that *contravention*, the authority may require the *person* to give the information or make the communication to it in accordance with this rule (including any requirement or condition under this rule) within a stated time.
- (7) The *person* must comply with the requirement under subrule (6).

### **5.1.3 Giving documents to Regulatory Authority—general requirements**

- (1) This rule applies if a *person* is required or permitted under any *Law*, *Regulations* or *Rules* to give a *document* (however described) to the *Regulatory Authority*, whether the word ‘give’, ‘lodge’, ‘serve’, ‘tell’ or some other word is used.
- Note* A ‘document’ includes anything in writing (see *INAP*, glossary, def *document*).
- (2) To remove any doubt, this rule applies in relation to a *document* (including a *document* in electronic form) if it includes or contains

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information (however described), or another communication, that a *person* is required or permitted under any *Law, Regulations* or *Rules* to give or make to the authority.

**Example**

See examples of application of rule 5.1.1.

- (3) The *Regulatory Authority* may, by *written* notice published on an *approved website*—
- (a) prescribe requirements (including requirements mentioned in subrule (4)) that must be complied with in relation to the giving of a *document* to the authority (the ***lodgement requirements***); and
  - (b) provide that stated requirements applying to the *document* under any *Rules* are taken to be satisfied if the lodgement requirements are satisfied in relation to the *document*.

**Examples of requirements for par (b)**

- 1 a requirement that information be given to the authority in *writing*
  - 2 a requirement that a *document* be signed by a particular *person* or in a particular way
  - 3 a requirement that a *document* or information in a *document* be verified in a particular way
- (4) Without limiting subrule (3) (a), a notice under that provision may—
- (a) require a *document* to be given to the *Regulatory Authority* in a stated way or form; or
  - (b) require a stated *person* or *persons* to sign the *document*; or
  - (c) require a *person* who is required or permitted to sign a *document* to sign and keep the signed *document* and to give a copy of the signed *document* in any form (including electronic form) to the *Regulatory Authority*; or

- 
- (d) require a *person* who is required or permitted to sign a *document*, to give a declaration or certificate (however described) in or with a *document*, or to verify (however described) a *document* or any information in or with a *document*, to take stated steps—
- (i) to confirm his or her identity; or
  - (ii) to indicate the *person's* agreement to, and acceptance of responsibility for the accuracy and completeness (however described) of, the *document*, information in the *document*, or any other *document* (or information in any other *document*); or
- (e) prescribe consequential or ancillary requirements in relation to the *document* or the giving of the *document* to the authority.
- (5) The *Regulatory Authority* may permit a *person* to give a *document* to the authority even though a lodgement requirement has not (or may not have) been complied with in relation to the *document*.
- (6) A permission under subrule (5) may be given subject to conditions.
- (7) If a *person* gives a *document* to the *Regulatory Authority* in *contravention* of—
- (a) a lodgement requirement (and without a permission under subrule (5)); or
  - (b) a condition of a permission given under that subrule;
- then, for the purpose of satisfying any requirement to give the *document* to the authority, the *person* is taken not to have given the *document* to the authority.
- (8) Without limiting subrule (7) and any other remedies available to the *Regulatory Authority* in relation to that *contravention*, the authority may require the *person* to give the *document* to the authority in accordance with any requirement or condition under this rule within a stated time.

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- (9) The *person* must comply with the requirement under subrule (8).

**5.1.4 Time documents are taken to have been given to Regulatory Authority**

- (1) If a *document* (however described) is given to the *Regulatory Authority* on a working day before the start of or during ordinary business hours on that day, the *document* is taken, for any *Rules*, to have been given to the authority on that day.
- (2) If a *document* (however described) is given to the *Regulatory Authority* on a day that is not a working day or on a working day after ordinary business hours on that day, the *document* is taken, for any *Rules*, to have been given to the authority on the next working day.
- (3) For this chapter, the *Regulatory Authority* may, by *written* notice published on an *approved website*, declare—
- (a) that a stated day is or is not a working day; or
  - (b) that stated times on a day are ordinary business hours on that day.
- (4) Subject to any notice made under subrule (3), in this rule:
- ordinary business hours*, on a day, means between 8 am and 5 pm on that day.
- working day* means a *business day*.

**5.1.5 Due date for periodic reports, returns and other documents**

- (1) If—

- 
- (a) an *authorised firm* is required under any *Rules* to give a report, return or other *document* (however described) to the *Regulatory Authority* periodically; and
  - (b) the firm would, apart from this rule, be required to give a particular report, return or other *document* of that kind to the authority on a day that is not a working day;

the firm may give the report, return or other *document* to the authority on the next working day.

*Note* Schedule 2 provides an overview of the provisions of *Rules* under which there are periodic reporting requirements.

- (2) The *Regulatory Authority* may, by *written* notice published on an *approved website*, declare that a report, return or other *document* (however described) is a report, return or other *document* to which this rule applies.
- (3) Subject to any notice made under rule 5.1.4 (3) (a) (Time documents are taken to have been given to Regulatory Authority), in this rule:

*working day* means a *business day*.

## 5.2 **Communications to Regulatory Authority—accuracy and completeness of information**

### 5.2.1 **Authorised firms must ensure accuracy and completeness of information given to Regulatory Authority etc**

- (1) An *authorised firm* or other *person* must take all reasonable steps to ensure that all information that the *person* gives to the *Regulatory Authority* under any *Law, Regulations* or *Rules* is—
  - (a) factually accurate or, for an estimate or judgment, fairly and properly based after appropriate inquiries have been made; and

- 
- (b) complete, in that it includes everything that the authority would reasonably expect to be told about.
- (2) Without limiting subrule (1), the *authorised firm* or other *person* must take particular care to ensure that information that the *person* gives to the *Regulatory Authority*—
- (a) is not false or misleading; and
  - (b) does not omit anything without which the information is false or misleading.
- (3) If the *authorised firm* or other *person* becomes aware that, or becomes aware of information that suggests (or may reasonably suggest) that, information given (or that may have been given) by it to the *Regulatory Authority*—
- (a) was (or may have been) factually inaccurate or, for an estimate or judgment, not fairly or properly based after appropriate inquiries had been made; or
  - (b) was (or may have been) incomplete, in that it did not (or may not) include something that the authority would reasonably expect to be told about; or
  - (c) was (or may have been) false or misleading; or
  - (d) omitted (or may have omitted) something without which the information was (or may have been) false or misleading; or
  - (e) was (or may have been) otherwise inaccurate or incomplete; or
  - (f) is no longer (or may no longer be) accurate and complete for any reason;

the *person* must tell the authority about the matter immediately, but within 1 *business day*.

**Examples**

See examples to rule 4.1.3 (1) on the meaning of ‘within 1 *business day*’.

- 
- (4) Without limiting subrule (3), the notification under that subrule must—
- (a) identify—
    - (i) the information given (or that may have been given) by the *authorised firm* or other *person* to the *Regulatory Authority*; and
    - (ii) the particulars in which—
      - (A) it was (or may have been) inaccurate or incomplete; or
      - (B) it is (or may) now be inaccurate or incomplete; and
  - (b) explain why those particulars of the information were (or may have been) given to the authority; and
  - (c) provide the correct and complete, or correct and complete up-to-date, information.
- (5) An *authorised firm* must—
- (a) have adequate and appropriate policies, procedures, systems and controls to ensure that it can comply, and does comply, with this rule; and
  - (b) make and keep the records necessary to show how it complied with this rule in relation to all information (however described) given by it to the *Regulatory Authority*.
- (6) A *person* (other than an *authorised firm*, but including a *person* acting on behalf of an *authorised firm*) who gives information (however described) to the *Regulatory Authority* under any *Law*, *Regulations* or *Rules* must make and keep the records necessary to show how the *person* complied with this rule in relation to the information.
- (7) For this rule and without limiting the *persons* who may give information to the *Regulatory Authority* on behalf of an *authorised firm*, any information given to the authority by an *approved*
-

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*individual* or *director* of the firm is taken to have been given to the authority by the firm.

- (8) This rule is additional to, and does not limit, any other *provision* of these rules or any other *Rules* (including *CTRL*).

### **5.2.2 Powers of Regulatory Authority in relation to inaccurate or incomplete information**

- (1) This rule applies if the *Regulatory Authority* considers that information (however described) given to it by an *authorised firm* or another *person* under any *Law, Regulations* or *Rules*—
- (a) is (or may be) factually inaccurate or, for an estimate or judgment, not fairly or properly based after appropriate inquiries had been made; or
  - (b) is (or may be) incomplete, in that it does not (or may not) include something that the authority would reasonably expect to be told about; or
  - (c) is (or may be) false or misleading; or
  - (d) omitted (or may have omitted) something without which the information is (or may be) false or misleading; or
  - (e) is otherwise (or may otherwise be) inaccurate or incomplete; or
  - (f) is no longer (or may no longer be) accurate and complete for any reason.
- (2) The *Regulatory Authority* may, by *written* notice given to the *authorised firm* or other *person*, require the *person* to do all or any of the following within the period stated in the notice:
- (a) give the authority an explanation or further information;
  - (b) provide the correct and complete, or correct and complete up-to-date, information;

- 
- (c) if the information is included in an application, report, return or other *document* (however described) all or any of the following:
- (i) amend the *document*;
  - (ii) withdraw the *document*;
  - (iii) give the authority a replacement *document*;
- (d) do anything else in relation to the information, or a *document* that includes the information, that the authority considers necessary or desirable for the *exercise* of its *functions*;
- (e) comply with the authority's directions in doing anything mentioned in paragraphs (a) to (d).
- (3) The *authorised firm* or other *person* must comply with a requirement under subrule (2).
- (4) To remove any doubt, the *Regulatory Authority* may give the *authorised firm* or other *person* 2 or more notices under subrule (2).
- (5) The power given by this rule is additional to the *Regulatory Authority's* other powers.

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

- (6) This rule does not limit any other action that the *Regulatory Authority* may take against the *authorised firm* or other *person* (or anyone else) in relation to the giving of the information to the authority.

*Note* See eg *Financial Services Regulations*, pt 9 (Disciplinary and enforcement powers).

## **5.3 Approved forms**

### **5.3.1 Approval of forms etc**

- (1) The *Regulatory Authority* may—

- 
- (a) approve forms for any purpose under or related to any *Law, Regulations* or *Rules*; and
  - (b) give instructions for the completion of approved forms.
- (2) To remove any doubt, instructions for the completion of an approved form may be given under subrule (1) (b) in the form itself or in a separate *document*.
  - (3) Forms approved, and instructions given, under subrule (1) must be published on an *approved website*.

### **5.3.2 Approved forms to be used and properly completed**

- (1) If a form is approved under rule 5.3.1 for a particular purpose, a *person* must—
  - (a) use the form for that purpose unless the *Regulatory Authority* permits the *person* not to use the form for the purpose; and
  - (b) properly complete the form in accordance with rule 5.3.3.
- (2) If the *person* does not use the form for that purpose or does not properly complete the form in accordance with rule 5.3.3, the purpose is taken not to be satisfied.

#### **Example**

If a *person* makes an application to the *Regulatory Authority* but does not use the form approved under rule 5.3.1 for the application, or uses the form but does not properly complete it in accordance with rule 5.3.3, the authority may treat the application as having not been made to it and accordingly refuse to consider it.

- (3) A permission under subrule (1) (a) may be given subject to conditions.
- (4) Without limiting subrule (2), if—
  - (a) a *person* is required or permitted under any *Law, Regulations* or *Rules* to give an application, report, return or other *document* (however described) to the *Regulatory Authority*; and

- 
- (b) a form is approved under rule 5.3.1 for the *document*; and
  - (c) the *person* gives the *document* to the authority; but
  - (d) any of the following applies:
    - (i) the *person* does not use the approved form (and does not have a permission under subrule (1) (a)); or
    - (ii) the *person* does not properly complete the form in accordance rule 5.3.3; or
    - (iii) a permission under subrule (1) (a) applies, but the *person* *contravenes* a condition of the permission;

then, for the purpose of satisfying any requirement to give the *document* to the authority, the *person* is taken not to have given the *document* to the authority unless the authority waives the requirement.

- (5) Without limiting subrule (4) and any other remedies available to the *Regulatory Authority* in relation to the *contravention* of subrule (1), the authority may require the *person* to give the *document* to the authority within a stated time using, and properly completing, the approved form.
- (6) The *person* must comply with the requirement under subrule (5).

### **5.3.3 Proper completion of approved forms**

- (1) This rule applies if a form approved by the *Regulatory Authority* under rule 5.3.1, or instructions given by the *Regulatory Authority* under that rule in relation to a form approved by the authority, require—
  - (a) the form to be signed, signed in a stated way or signed by a stated *person* or *persons*; or
  - (b) the form to be prepared in a stated way (for example, on paper of a stated size or quality or in a stated electronic form); or
  - (c) the form to be completed in a stated way; or

- 
- (d) stated information to be included in the form, or in a stated *document* to be attached to or given with the form; or
  - (e) a stated *document* to be attached to or given with the form; or
  - (f) the form, information or a *document* to be verified in a stated way (for example, by a declaration or certificate); or
  - (g) another requirement to be satisfied.
- (2) The form is properly completed only if the requirement is complied with unless the *Regulatory Authority* waives the non-compliance.
  - (3) Without limiting subrule (2), if the form is required to be signed by 2 or more *persons*, the requirement is not complied with (and the form is not properly completed) if the form is not signed by each of those *persons*.
  - (4) Without limiting subrule (2), if stated information is required to be included in the form, or in a stated *document* to be attached to or given with the form, the requirement is not complied with (and the form is not properly completed) if —
    - (a) the information is not included in the form or *document* at all; or
    - (b) the information that is included—
      - (i) is factually inaccurate in a material particular or, for an estimate or judgment, not fairly or properly based after appropriate inquiries have been made; or
      - (ii) is incomplete in a material particular; or
      - (iii) is false or misleading in a material particular; or
      - (iv) omits something without which the information is false or misleading in a material particular; or
      - (v) otherwise inaccurate or incomplete in a material particular.

- 
- (5) Without limiting subrule (2), if a stated *document* is required to be attached to or given with the form, the requirement is not complied with (and the form is not properly completed) if—
- (a) the *document* is not attached to or given with the form at all; or
  - (b) the *document* is attached to or given with the form but—
    - (i) the *document* itself is false or misleading in a material particular; or
    - (ii) the *document* includes information of a kind mentioned in subrule (4) (b) (i) to (v).
- (6) A decision by the *Regulatory Authority* under subrule (2) to waive non-compliance with a requirement may be made subject to conditions.
- (7) If a condition is contravened, the requirement is not complied with (and the form is not properly completed).

#### **5.3.4 Transitional provisions—approved forms and instructions**

- (1) If—
- (a) a form was, before the commencement of this rule, approved (however described) by the *Regulatory Authority* for any purpose under or related to any *Law, Regulations* or *Rules*; and
  - (b) the approval was in force immediately before that commencement;
- then, on that commencement, the form is taken to have been approved by the authority under rule 5.3.1 (1) for that purpose.
- (2) If—
- (a) instructions (however described) for the completion of a form mentioned in subrule (1) were, before the commencement of this rule, given (however described) by the *Regulatory Authority*; and

- 
- (b) the instructions were in force immediately before that commencement;
- then, on that commencement, the instructions are taken to have been given by the authority under rule 5.3.1 (1).
- (3) If, before the commencement of this rule, the form or instructions had been published in any way by the *Regulatory Authority*, then, despite rule 5.3.1 (3), the form or instructions need not be published after the commencement of this rule on an *approved website*.
- (4) If this rule is in force immediately before 1 July 2011, then, on that date—
- (a) this rule is taken to have been omitted; and
  - (b) any form or instructions to which it applied that are still in force are taken to have been revoked.

## 5.4 Electronic submission system

### 5.4.1 Electronic submission system

- (1) The *Regulatory Authority* may establish a system (the *electronic submission system*) to enable *authorised firms* and other *persons* to communicate to it electronically and, in particular, to give it *documents* and information in electronic form that can be reproduced by it in legible form.
- (2) The *Regulatory Authority* may, by *written* notice published on an *approved website*—
- (a) require or permit *authorised firms* and other *persons* (each of which is a *permitted user*) to make stated communications to it using the electronic submission system; and

- 
- (b) require stated communications to the authority on behalf of a permitted user to be submitted by a stated *person* or *persons*; and

**Example of requirement**

If the permitted user is an *authorised firm*, particular communications to the authority may be required to be submitted by an *approved individual* for, or *director* of, the firm.

- (c) issue instructions (*access instructions*) in relation to the provision of access to the system for individuals who are to use the system on behalf of permitted users, including, for example, instructions in relation to—
    - (i) the nomination of individuals to the *Regulatory Authority* by permitted users; and
    - (ii) the acceptance of nominated individuals by the authority; and
    - (iii) the withdrawal of nominations by permitted users; and
  - (d) issue instructions (*usage instructions*) about access to and use of the system, including, for example, instructions that the authority considers necessary or desirable to maintain the integrity and security of the system or confidence in its integrity and security.
- (3) An individual using the electronic submission system must not *contravene* any of the usage instructions.
  - (4) A permitted user of the electronic submission system must take all reasonable steps to ensure—
    - (a) that it nominates only suitable individuals to the *Regulatory Authority* to have access to the system; and
    - (b) that only individuals who are nominated by it, and accepted by the authority as users, have access to the system on its behalf; and

- 
- (c) that individuals who have access to the system on its behalf do not *contravene* the usage instructions or otherwise use the system improperly; and
  - (d) that it and its *directors*, officers, *employees*, agents and contractors do not do, or fail to do, anything that compromises, or could reasonably compromise, the integrity or security of the system or confidence in its integrity or security.
- (5) An *authorised firm* that is a permitted user of the electronic submission system must—
- (a) have adequate and appropriate policies, procedures, systems and controls to ensure that it can comply, and does comply, with subrule (4); and
  - (b) make and keep the records necessary to show how it complied with that subrule.
- (6) A *person* (other than an *authorised firm*) who is a permitted user of the electronic submission system must make and keep the records necessary to show how it complied with subrule (4).
- (7) If a communication is made to the *Regulatory Authority* using access to the electronic submission system provided to a permitted user (including to any individual nominated by the permitted user and accepted by the authority as a user), then, whether or not the communication was made by or on behalf of the permitted user—
- (a) the permitted user is taken to have made the communication to the authority; and
  - (b) for the purposes of the *Financial Services Regulations* and any *Rules*—is taken to have made the communication to the authority in *writing* and to have signed (and, if necessary, sealed, stamped or otherwise executed) the communication.

*Note* See *Financial Services Regulations*, art 108 (1) (D) and art 109 (1) (F).

- 
- (8) However, subrule (7) does not apply to the communication if the permitted user satisfies the *Regulatory Authority* that—
- (a) the communication was not made by it (or by any *person* on its behalf or with its approval or permission); and
  - (b) it complied fully with subrules (4) and (5); and
  - (c) the making of the communication was not caused or contributed to by a *contravention* of any of the usage instructions by an individual nominated by it for this rule (other than an individual whose nomination had been withdrawn in accordance with the access instructions); and
  - (d) it informed the authority that it had not made the communication immediately after becoming aware of it, but within 1 *business day*.

**Examples for r (8) (d) and r (10) (c)**

See examples to rule 4.1.3 (1) on meaning of ‘within 1 *business day*’.

- (9) If a communication is made to the *Regulatory Authority* using access to the electronic submission system provided to an individual nominated by a permitted user for this rule, then, whether or not the communication was made by or on behalf of the individual—
- (a) the individual is taken to have made the communication to the authority; and
  - (b) for the purposes of the *Financial Services Regulations* and any *Rules*—is taken to have made the communication to the authority in *writing* and to have signed (and, if necessary, otherwise executed) the communication.
- (10) However, subrule (9) does not apply to the communication if the individual satisfies the *Regulatory Authority* that—
- (a) the communication was not made by the individual (or by any *person* on the individual’s behalf or with the individual’s approval or permission); and

- 
- (b) the making of the communication was not caused or contributed to by a *contravention* by the individual of any of the usage instructions; and
  - (c) the individual informed the permitted user and the authority that the individual had not made the communication immediately after becoming aware of it, but within 1 *business day*.
- (11) A communication made to the *Regulatory Authority* using the electronic submission system is taken to have been made to the authority at the time it is received by the authority, but subject to rule 5.1.4 (Time documents are taken to have been given to Regulatory Authority).
- (12) This rule is additional to, and does not limit, rule 5.1.3 (Giving documents to Regulatory Authority—general requirements), any other provision of these rules or any other *Rules* (including *CTRL*).

**Explanatory note**

This amendment inserts a new chapter into GENE that deals comprehensively and flexibly with communications of all kinds to the Regulatory Authority, including the giving of information and documents to the authority. The new chapter replaces more limited provisions presently in GENE and other rules and will enable the authority to move over time to an integrated electronic submission system for all communications to it.

Proposed new section 5.1 contains general provisions about communications to the Regulatory Authority.

Rule 5.1.1 requires communications to the authority to be in writing and rule 5.1.2 requires communications to the authority to be in English. The rules are flexible in their application and allow for different provision to be made in any Law, Regulations or Rules or by a requirement or permission (general or particular) made by the authority under the rules.

Rule 5.1.3 allows the Regulatory Authority to prescribe, by notice published on an approved website, requirements (*lodgement requirements*) for giving documents to the authority (including documents in electronic form and documents that include or contain information or another communication). The rule also allows the authority to provide that stated requirements applying to the document under any Rules are satisfied if the lodgement requirements are satisfied.

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Rule 5.1.4 provides rules for deciding the time that documents are taken to be given to the Regulatory Authority. The rule allows business days and hours to be adjusted as necessary for the rule. Rule 5.1.5 provides for the extension of due date for a periodic report, return or other document if the due date falls on a day that is not a working day.

Proposed new section 5.2 contains provisions about the accuracy and completeness of information provided to the Regulatory Authority.

Rule 5.2.1 imposes duties on authorised firms and others that provide information to the Regulatory Authority to ensure that the information is accurate and complete and is corrected or updated if necessary. The rule requires authorised firms to have adequate and appropriate policies, procedures, systems and controls to ensure compliance with the rule and to make and keep records to demonstrate compliance. A person (other than an authorised firm) must make and keep records to demonstrate compliance with the rule.

Rule 5.2.2 provides specific powers for the Regulatory Authority in relation to inaccurate or incomplete information provided to it. The powers are additional to the authority's other powers and do not prevent it taking disciplinary or enforcement action in relation to the information.

Proposed new section 5.3 contains provisions for the approval of forms and the giving of instructions for their completion. The provisions allow the Regulatory Authority to approve forms for any purpose under or related to any Law, Regulations or Rules. Rule 5.3.2 requires approved forms to be used and properly completed. Rule 5.3.3 contains provisions about the proper completion of approved forms and rule 5.3.4 contains provisions saving existing approved forms and instructions.

Proposed new section 5.4 contains provisions about the Regulatory Authority's proposed electronic submission system. The system is intended to enable, over time, authorised firms and others to communicate to it electronically and in particular to give it documents and information in electronic form.

Rule 5.4.1 enables the Regulatory Authority to progressively require or permit the use of the electronic submission system and to issue instructions about access to and use of the system. Subject to limited exceptions, communications made to the authority using the system will be taken to be made on behalf the permitted user concerned and by the individual provided access to the system on the permitted user's nomination

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**[1.29] Rules 7.2.1 to 7.2.3**

*substitute*

**7.1.1 Application for waiver or modification of provisions of Rules**

An application under the *Financial Services Regulations (FSR)*, article 16 (Waiver or modifications of Rules) must include—

- (a) the applicant's name and QFC number; and
- (b) the provisions of the *Rules* to which the application relates; and
- (c) a clear explanation of the waiver or modification sought and why it is sought; and
- (d) details of any requirements for the waiver or modification sought and the reasons for them; and

**Example of requirements**

the waiver or modification is required for a particular, stated period

- (e) any reasons why the applicant requests that the waiver or modification notice should not be published or should be published without disclosing the applicant's identity or the confidential or proprietary nature of stated information; and
- (f) all relevant facts to support the application.

*Note 1* An application may be made by 'a Person in the QFC' eg an *authorised firm*.

*Note 2* For the matters about which the *Regulatory Authority* must be satisfied before giving a waiver or modification notice, see *FSR*, art 16 (2).

*Note 3* For the publication, revocation and variation of waiver and modification notices, see *FSR*, art 16 (4) to (6).

**Guidance**

- 1 An applicant for a waiver or modification may withdraw the application at any time up to when the application is decided. The applicant should give reasons for the withdrawal of the application.

- 
- 2 If a provision of the *Rules* is modified in its application to a *person*, contravention by the *person* of the provision as modified may be a contravention of a Relevant Requirement under the *FSR* (see art 84).
  - 3 If a waiver or modification notice is given to a *person* subject to a condition, contravention of the condition may also be a contravention of a Relevant Requirement under the *FSR*.

**Explanatory note**

This amendment omits material covered by provisions about communications to the Regulatory Authority that are inserted by another amendment (see proposed new ch 5 of GENE).

The *Financial Services Regulations*, article 16 permits an application for a waiver or modification to be made by ‘a Person in the QFC’. This includes, but is not limited to, an authorised firm. The substituted provision reflects the scope of article 16.

The amendment also brings together explanatory and guidance material that is presently contained in a number of different sections of GENE, chapter 7.

**[1.30] Rule 7.2.4, guidance**

*omit*

**Explanatory note**

This amendment provides for the omission of guidance that is no longer needed or appropriate.

**[1.31] Section 7.6**

*substitute*

**7.1.3 Notice of material change in circumstances—person with waiver etc**

If a waiver or modification under the *Financial Services Regulations* applies to a *person* and the *person* becomes aware of any material change in circumstances that may affect the continuing relevance of the waiver or modification, the *person* must tell the *Regulatory Authority* about the change immediately but within 1 *business day*.

**Examples**

See examples to rule 4.1.3 (1) on the meaning of ‘within 1 *business day*’.

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**Explanatory note**

This amendment revises the rule to reflect the scope of the *Financial Services Regulations*, article 16. The present rule does not, for example, cover waivers and modifications given to collective investment funds. The amendment also makes changes consequential on other amendments.

**[1.32] Rules 8.4.1 to 8.4.3, 8.4.5 and 8.4.6**

*omit*

**Explanatory note**

This amendment omits provisions about forms that are no longer needed because of provisions being inserted into GENE by other amendment (see esp provisions of proposed new s 5.3 about approved form). Rule 8.4.3 is covered by the Regulatory Authority's general powers under the *Financial Services Regulations*.

**[1.33] Schedule 3, item 1**

*substitute*

**1 AML/CFTR****1.1 AML/CFT records to be made by firm**

- r 1.2.6 (Principle 6—evidence of compliance)
- r 3.4.4 (2) (Electronic verification of identification documentation)
- r 4.3.10 (3) (Ongoing monitoring required)
- r 4.6.2 (Records of customer identification documentation etc)
- r 7.1.1 (Records about compliance)
- r 7.2.1 (Records for customers and transactions)
- r 7.2.2 (Training records)

**1.2 AML/CFT records to be made by MLRO**

- r 5.1.10 (Reporting records to be made by MLRO etc)
- r 5.2.2. (3) (Firm must ensure no tipping off occurs)
- r 5.2.3 (3) (Information relating to suspicious transaction reports to be safeguarded)

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**Explanatory note**

This amendment updates part of the list of reporting requirements in schedule 3.

**[1.34] Schedule 3, item 2.3**

*omit*

- r 5.2.1

*substitute*

- r 5.2.1 (Adequate records to be kept for relevant investments held as collateral)

**Explanatory note**

This amendment updates part of the list of reporting requirements in schedule 3.

**[1.35] Further amendments, mentions of *in writing***

*omit each mention of*

in writing

*in the following provisions*

- rule 4.3.1 (2)
- rule 4.3.4 (1)
- rule 4.3.5 (1)
- rule 4.3.6 (1)
- rule 4.3.7 (1)
- rule 7.2.4
- rule 9.7.2 (2) and (8)
- rule 9.7.6

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

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**[1.36] Further amendments, mentions of *written***

*omit each mention of*

written

*in the following provisions*

- rule 4.3.1 (1)
- rule 4.3.2

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

## **Part 1.6 Individuals Rulebook (INDI)**

**[1.37] Rule 3.4.1 (1)**

*omit*

written

**Explanatory note**

This amendment omits a word that is covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.38] Rule 3.4.1A**

*omit*

*in writing*

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

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**[1.39] Chapter 8**

*omit*

**Explanatory note**

This amendment omits provisions about forms that are no longer needed because of provisions being inserted into GENE by other amendments (see esp provisions proposed in s 5.3 about approved forms).

**Part 1.7 Interim Prudential—Investment,  
Insurance Mediation and Banking  
Business Rulebook (PIIB)**

**[1.40] Rule 1.4.1**

*omit everything before subrule (2), substitute*

**1.4.1 Preparation of prudential returns**

- (1) An *authorised firm* must prepare the annual, biannual and quarterly prudential returns that it is required to prepare by the *Regulatory Authority* by *written* notice published on an *approved website*.

**Explanatory note**

This amendment is consequential on the omission of rule 1.4.2 by another amendment. The amendment also inserts a rule heading and requires a notice under rule 1.4.1 (1) to be published on an approved website, that is, a website approved by the Regulatory Authority.

**[1.41] Rules 1.4.2 and 1.5.2**

*omit*

**Explanatory note**

This amendment omits provisions that are no longer needed because of provisions being inserted into GENE by other amendments (see esp provisions of proposed s 5.2 about the accuracy and completeness of communications to the Regulatory Authority and proposed new s 5.3 about approved forms and instructions for completing them).

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**[1.42] Rule 2.10.1 (1) (K)**

*omit first mention of*  
in writing

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.43] Rules 4.5.9 (1) (g) and 4.5.10 (1) (f)**

*omit*  
, in writing,

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.44] Appendix 5, rule A5.2.13, table A5.2.13**

*omit each mention of*  
months  
*substitute*  
months

**Explanatory note**

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

**[1.45] Further amendments, mentions of *in writing***

*omit each mention of*  
in writing  
*in the following provisions*

- 
- rule 2.5.5 (2)
  - rule 2.7.1 (1) (d) (ii)
  - rule 6.2.3 (1) (b)
  - rule 7.1.2 (3)
  - rule 7.3.4 (3) (B)
  - rule A5.4.6 (3) (B)

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.46] Further amendments, mentions of *written***

*omit each mention of*

written

*in the following provisions*

- rule 2.2.4 (b)
- rule 3.6.3 (2) (b)
- rule 4.5.3 (2) (b)
- rule 4.5.6 (2) (b)
- rule 6.3.4 (3) (b)
- rule A4.8.1 (E) (i) (b)
- rule A4.8.12 (A)

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

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## Part 1.8 Interpretation and Application Rulebook (INAP)

### [1.47] Rule 1.1.2

*substitute*

#### 1.1.2 Application of INAP

- (1) These rules apply to all *Rules*.  
*Note* *Rules* is defined in the glossary.
- (2) Also, part 2 (Rules of interpretation and application) applies to the following as if they were *Rules*:
  - (a) waiver or modification notices under the *Financial Services Regulations*;
  - (b) guidance issued by the Regulatory Authority.
- (3) In addition, the *Regulatory Authority* may, by *written* notice published on an *approved website*, apply part 2 (or stated provisions of that part or definitions in the glossary) to any other *document* made or issued (however described) by the authority.

#### Explanatory note

This amendment applies *INAP*, part 2 to waiver or modification notices and guidance issued by the Regulatory Authority and authorises provisions of the part to be applied to other documents made or issued by the authority. This will, for example, apply (or authorise the application) of the definitions in the glossary to these documents.

### [1.48] Glossary, definition of *Business Day*

*substitute*

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

#### Explanatory note

This amendment excludes bank holidays from the definition.

---

**[1.49] Glossary, new definition of *contravene***

*insert*

*contravene* includes fail or refuse to comply with.

**Explanatory note**

This amendment inserts a new definition of *contravene* for use in Rules.

**[1.50] Glossary, definition of *document***

*substitute*

*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
- (a) any other item or matter (in whatever form) that is, or could reasonably be considered to be, a record of information.

**Explanatory note**

This amendment clarifies the scope of the definition, and in particular makes it clear that it covers a record of information in any form (including electronic form) and anything in writing or on which there is writing. The definition is intended to have the broadest scope.

**[1.51] Glossary, new definition of *Law***

*insert*

*Law* means a law of the State.

---

**Explanatory note**

This amendment inserts a new definition of *Law* for use in Rules.

**[1.52] Glossary, definition *readily realisable investment*, paragraph (a)**

*substitute*

- (a) a *debt instrument* issued by or on behalf of a *jurisdiction*, or a public, regional or local authority of a *jurisdiction*, if the instrument is denominated in the *jurisdiction's* currency;

**Explanatory note**

This amendment clarifies the meaning of government or public security for the definition.

**[1.53] Glossary, definition of *writing***

*substitute*

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

**Explanatory note**

This amendment clarifies the scope of the definition.

## **Part 1.9 Prudential—Insurance Rulebook (PINS)**

**[1.54] Rule 1.4.1**

*omit everything before subrule (2), substitute—*

### **1.4.1 Preparation of prudential returns**

- (1) An *insurer* must prepare the annual, biannual and quarterly prudential returns that it is required to prepare by the *Regulatory Authority* by *written* notice published on an *approved website*.

---

**Explanatory note**

This amendment is consequential on the omission of rule 1.4.2 by another amendment. The amendment also inserts a rule heading and requires a notice under rule 1.4.1 (1) to be published on an approved website, that is, a website approved by the Regulatory Authority.

**[1.55] Rules 1.4.2 and 1.4.5**

*omit*

**Explanatory note**

This amendment omits provisions that are no longer needed because of provisions being inserted into GENE by other amendments (see esp provisions of proposed s 5.2 about the accuracy and completeness of communications to the Regulatory Authority and proposed new s 5.3 about approved forms and instructions for completing them).

**[1.56] Rule 4.4.2 (1) (K)**

*omit first mention of*  
in writing

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.57] Rule 5.2.3 (1)**

*omit*  
a written application  
*substitute*  
an application

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

---

**[1.58] Rule 12.3.3**

*omit*

within 28 days of

*substitute*

within 28 days after the day the insurer is given the

**Explanatory note**

This amendment clarifies the meaning of a period of time stated in the rule.

**[1.59] Further amendments, mentions of *in writing***

*omit each mention of*

in writing

*in the following provisions*

- rule 1.3.1 (1)
- rule 4.3.1 (c) (ii)
- rule 5.2.1 (B)
- rule 5.2.2 (B)
- rule 12.3.6 (3)
- rule 12.4.2 (1) (a) and (b)
- rule 12.4.3 (1)

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

**[1.60] Further amendments, mentions of *written***

*omit each mention of*

written

*in the following provisions*

---

- 
- rule 3.9.1 (b)
  - rule 3.9.2 (b)
  - rule 12.2.2
  - rule A3.7.3
  - rule A3.7.6
  - rule A3.8.3
  - rule A3.8.5

**Explanatory note**

This amendment omits words that are covered by provisions about communications to the Regulatory Authority that are being inserted by another amendment (see proposed new ch 5 of GENE). In particular, proposed new rule 5.1.1 requires information generally to be given to the Regulatory Authority in writing.

---

## Schedule 2      Technical amendments

(see r 3 )

### Part 2.1                      Anti-Money Laundering and Combating Terrorist Financing Rules 2010 (AML/CFTR)

#### [2.1]      Rule 1.3.2 (1) (k)

*omit first mention of*  
entities

##### Explanatory note

This amendment corrects a typographical error.

#### [2.2]      Glossary, definition of *property*, paragraph (d)

*after*  
generated by  
*insert*  
land or

##### Explanatory note

This amendment brings the paragraph more closely into line with paragraph (f) of the definition.

#### [2.3]      Glossary, definition of *property*, paragraph (g)

*after*  
property of any  
*insert*  
other

---

**Explanatory note**

This amendment inserts a missing word (compare par (f) of the definition).

## **Part 2.2                      Assets Rulebook (ASET)**

### **[2.4]            Rule 5.1.2**

*omit each mention of*

*Right to Use*

*substitute*

right to use

**Explanatory note**

This amendment removes the unnecessary capitalisation and italicisation of a term. In the context of the rule 5.1.2, it is clear that a 'right to use' is a right to use relevant investments as mentioned in rule 5.1.1 (B).

### **[2.5]            Rule 5.1.3**

*omit*

(without a *Right to Use*).

*substitute*

(without a right to use them as if the client's entire legal and beneficial interest in them had been transferred to the firm).

**Explanatory note**

This amendment will enable the definition of *Right to Use* in INAP to be omitted.

---

**[2.6] Section 5.2**

*substitute*

**5.2 Records for relevant investments held as collateral**

**5.2.1 Adequate records to be kept for relevant investments held as collateral**

- (1) This rule applies if an *authorised firm* receives or holds *relevant investments* of a *client* under an arrangement mentioned in rule 5.1.1.
- (2) However, if the *relevant investments* are received under an arrangement mentioned in rule 5.1.1 (b), this rule applies only if the *authorised firm* has *exercised* its right to use them as if the *client's* entire legal and beneficial interest in them had been transferred to the firm.
- (3) The *authorised firm* must keep adequate records to enable it to meet any future obligations to the *client* in relation to the *relevant investments*, including any return of equivalent *relevant investments* to the *client*.

**Explanatory note**

This amendment corrects the structure of rule 5.2.1, inserts a rule heading and clarifies the operation of the provisions.

**[2.7] Rule 7.3.1 (D)**

*omit*

*the bank*

*substitute*

the bank

**Explanatory note**

This amendment corrects the inappropriate italicisation of a word.

---

## Part 2.3                      Collective Investment Funds Rulebook (COLL)

### **[2.8]      Rule 10.1.3 (1)**

*omit*

*authorised fund*

*substitute*

*authorised firm*

#### **Explanatory note**

This amendment corrects a typographical error.

### **[2.9]      Rule 10.1.5 (4)**

*relocate definitions to correct alphabetical order*

#### **Explanatory note**

This amendment puts definitions in the correct alphabetical order.

### **[2.10]     Rule 10.1.5 (4)**

*omit*

*business*

*substitute*

*investment*

#### **Explanatory note**

This amendment corrects a typographical error.

### **[2.11]     Rule 10.1.6 (1) (c)**

*omit*

(however described)

---

**Explanatory note**

This amendment omits words that are redundant because of the application of the definition of *prospectus* in INAP.

**[2.12] Schedule 4, rule S4.81**

*omit everything after*

address

*substitute*

in the *QFC*;

**Explanatory note**

This amendment omits unnecessary punctuation.

## **Part 2.4                      Conduct of Business Rulebook (COND)**

**[2.13] Rule 1.2.6 (1) and (2)**

*before*

in relation to the firm

*substitute*

or *market counterparty*

**Explanatory note**

This amendment inserts missing words.

**[2.14] Rule 4.3.4 (2)**

*omit*

for the fund

*substitute*

for the *customer's* funds

---

**Explanatory note**

This amendment clarifies the application of the provision and corrects a typographical error.

**[2.15] Rule 4.3.4**

*omit*

of the fund

*substitute*

of the funds

**Explanatory note**

This amendment corrects a typographical error.

**[2.16] Schedule 6, rule S6.4 (1) (d)**

*omit*

an

*substitute*

a

**Explanatory note**

This amendment corrects a typographical error.

## **Part 2.5 Controls Rulebook (CTRL)**

**[2.17] 4.10.2 (5)**

*omit*

equivalent status in the

*substitute*

equivalent status in

---

**Explanatory note**

This amendment omits a redundant word.

## **Part 2.6                      General Rulebook (GENE)**

### **[2.18]      Chapter 1**

*omit*

**Explanatory note**

This amendment omits unnecessary provisions. The application of the rulebook is indicated in the relevant provisions.

### **[2.19]      Section 4.3 heading**

*omit*

**Explanatory note**

This amendment omits an unnecessary section heading.

### **[2.20]      Rules 4.3.1 to 4.3.7**

*renumber as rules 4.1.1 to 4.1.7*

**Explanatory note**

This amendment provides for the consequential renumbering of rules.

### **[2.21]      Rule 4.3.3 (2) (A)**

*substitute*

- (a) the *authorised firm's* failure to satisfy *fitness and propriety*;
- and

**Explanatory note**

This amendment italicises terms defined in INAP and brings the language of the paragraph more closely into line with the language elsewhere in GENE.

---

**[2.22] Rule 4.3.3 (2) (F), new example**

*insert*

**Example**

material changes in the firm's *controllers*

**Explanatory note**

This amendment relocates material presently in guidance to rule 4.3.3.

**[2.23] Rule 4.3.3 (2) (I)**

*substitute*

- (i) a *contravention* of any *Rules* by the firm because of an emergency outside the firm's control;
- (j) the implementation or planned implementation of major new or revised information technology systems or new technology affecting the firm's business, risk profile or resources.

**Explanatory note**

This amendment revises paragraph (i) to bring it more closely into line with the requirement in rule 4.3.3 (1) to tell the Regulatory Authority about certain matters that have or may have happened. The Regulatory Authority will, using its regulatory powers, be able to ask an authorised firm to tell it about the steps the firm has taken to deal with an emergency.

The amendment also remakes as a substantive provision in paragraph (j) material presently in guidance.

**[2.24] Rule 4.3.3, guidance**

*omit*

**Explanatory note**

This amendment omits guidance that is no longer needed.

**[2.25] Rules 4.3.4 (1), 4.3.5 (1), 4.3.6 (1) and 4.3.7 (1), examples**

*omit*

rule 4.3.3 (1)

*substitute*

rule 4.1.3 (1)

---

**Explanatory note**

This amendment is consequential on the renumbering of rule 4.3.3.

**[2.26] Section 6.1 heading and material before rule 6.1.1**

*substitute*

**6.1 General recordkeeping requirement**

**Explanatory note**

This amendment revises a section heading to bring it more closely into line with the contents of the section and omits material about the *Financial Services Regulations* that is included in a note inserted by another amendment.

**[2.27] Rule 6.1.1 note**

*substitute*

*Note 1* Schedule 3 provides an overview of recordkeeping requirements.

*Note 2* The *Financial Services Regulations*, art 107 (2) provides that all internal procedures, records or other documentation created or maintained by Authorised Firms or Approved Individuals as the Regulatory Authority shall determine shall be in English.

**Explanatory note**

This amendment inserts as a note material presently located before the rule.

**[2.28] Rule 6.2.3**

*omit*

**6.2.3**

*substitute*

**6.2.3 General requirement for records to be kept in English**

**Explanatory note**

This amendment inserts a rule heading.

---

**[2.29] Rule 6.2.4**

*omit*

**6.2.4**

*substitute*

**6.2.4 Keeping records in other languages**

**Explanatory note**

This amendment inserts a rule heading.

**[2.30] Section 7.1**

*omit*

**Explanatory note**

This amendment omits unnecessary provisions and explanatory material. The application of the provisions of the chapter is indicated by the provisions themselves. The explanatory material is replaced by a note inserted by an amendment in schedule 1.

**[2.31] Section 7.2 heading**

*omit*

**Explanatory note**

This amendment omits a heading that is redundant because of other amendments.

**[2.32] Rule 7.2.4**

*omit*

*waiver or modification notice*

*substitute*

*waiver or modification under the Financial Services Regulations*

**Explanatory note**

This amendment is consequential on the omission of a definition from INAP.

---

**[2.33] Rule 7.2.4, examples**

*omit*

rule 4.3.3 (1)

*substitute*

rule 4.1.3 (1)

**Explanatory note**

This amendment is consequential on the renumbering of rule 4.1.3.

**[2.34] Rule 7.2.4 (as amended)**

*renumber as rule 7.1.2*

**Explanatory note**

This amendment provides for the consequential renumbering of a rule.

**[2.35] Sections 7.3 to 7.5**

*omit*

**Explanatory note**

This amendment provides for the omission of guidance and explanatory material that has been relocated by other amendments or is no longer needed.

**[2.36] Sections 7.7 and 7.8**

*omit*

**Explanatory note**

This amendment provides for the omission of explanatory material that has been included in notes by another amendment.

**[2.37] Rule 8.3.3, note**

*omit*

r 4.3.3

*substitute*

r 4.1.3

---

**Explanatory note**

This amendment is consequential on the renumbering of rule 4.1.3.

**[2.38] Rule 8.4.7, examples**

*omit*

rule 4.3.3 (1)

*substitute*

rule 4.1.3 (1)

**Explanatory note**

This amendment is consequential on the renumbering of rule 4.1.3.

**[2.39] Section 11.1**

*substitute*

*Note for ch 11*

Provisions of the *Financial Services Regulations*, schedule 3, part 2 permit the making of rules in relation certain specified products (see par 7.2 (Options), par 8.3 (Futures) and par 10.2 (Qualifying contracts of insurance)). This chapter sets out rules, and related guidance, for those specified products.

**Explanatory note**

This amendment corrects a cross-reference and converts guidance into a note.

**[2.40] Section 11.2, material before rule 11.2.1 (including section heading)**

*omit*

**Explanatory note**

This amendment omits explanatory material that contains incorrect cross-references and also omits a heading that is no longer needed.

**[2.41] Rule 11.2.1**

*omit everything before*

The circumstances

*substitute*

---

### 11.1.1 Options and futures that are and are not specified products

#### Explanatory note

This amendment provides for the consequential renumbering of a rule and inserts a rule heading.

#### **[2.42] Rule 11.2.1 (B)**

*omit*

(A)

*substitute*

paragraph (a)

#### Explanatory note

This amendment clarifies a cross-reference.

#### **[2.43] Rule 11.2.1 (C)**

*omit*

(A) or (B)

*substitute*

paragraph (a) or (b)

#### Explanatory note

This amendment clarifies a cross-reference.

#### **[2.44] Rule 11.2.1 (E)**

*omit*

(A)

*substitute*

paragraph (a)

---

**Explanatory note**

This amendment clarifies a cross-reference.

**[2.45] Rule 11.2.1 (B) to (E)**

*renumber as rule 11.2.1 (b) to (e)*

**Explanatory note**

This amendment renumbers provisions consequentially on an earlier amendment of GENE.

**[2.46] Rule 11.3, material before 11.3.1 (including section heading)**

*omit*

**Explanatory note**

This amendment omits explanatory material that contains incorrect cross-references and also omits a heading that is no longer needed.

**[2.47] Rule 11.3.1 (other than guidance)**

*substitute*

**11.1.2 Contracts of insurance that are qualifying contracts of insurance**

*A contract of insurance* is a qualifying contract of insurance if it falls into 1 or more of the categories of general insurance contract or long term insurance contract mentioned in the *Financial Services Regulations*, schedule 3, part 3, paragraphs 10.3 and 10.4.

---

**Explanatory note**

This amendment provides for the consequential renumbering of a rule, inserts a rule heading and corrects cross-references.

## **Part 2.7                      Individuals Rulebook (INDI)**

### **[2.48]      Rule 2.4.1 (1)**

*omit*

*exercise*

*substitute*

*exercise*

**Explanatory note**

This amendment italicises a term that is defined in INAP.

### **[2.49]      Rule 2.4.2 (1)**

*omit*

*waiver or modification notice* was in force

*substitute*

waiver or modification notice was in force under the *Financial Services Regulations*

**Explanatory note**

This amendment is consequential on the omission of a definition from INAP.

### **[2.50]      Rules 3.4.1 to 3.4.3**

*renumber as rules 3.1.1 to 3.1.4*

**Explanatory note**

This amendment is consequential on earlier amendments of INDI.

---

## Part 2.8 Interpretation and Application Rulebook (INAP)

### [2.51] Rule 1.1.1

*omit*

These *Rules*

*substitute*

These rules

#### Explanatory note

This amendment omits the unnecessary capitalisation and italicisation of a word.

### [2.52] Rule 3.1.1, definition of *regulatory material*, paragraph (a)

*substitute*

- (a) a waiver or modification notice under the *Financial Services Regulations* (or a notice revoking or varying such a notice);

#### Explanatory note

This amendment is consequential on the omission of a definition from INAP and makes it clear that revoking and varying notices are also regulatory material for the definition.

### [2.53] Glossary, definition of *contingent liability transaction*

*omit*

a client

*substitute*

a *client*

#### Explanatory note

This amendment italicises a term that is defined in INAP.

---

**[2.54] Glossary, definition of *Identifiable Natural Person***

*omit*

**Explanatory note**

This amendment omits a definition that is no longer needed because of the proposed new definition of *personal data*.

**[2.55] Glossary, definition of *Non-local Firm***

*substitute*

*non-local firm* means an *authorised firm* that is not a *QFC entity*.

**Explanatory note**

This amendment revises the definition to remove the need to refer to the definition of *local firm* to understand it.

**[2.56] Glossary, definition of *OTC derivative***

*substitute*

*OTC derivative* means a *derivative* traded solely in transactions *over the counter*.

**Explanatory note**

This amendment includes missing words.

**[2.57] Glossary, definition of *over the counter***

*substitute*

*over the counter*, in relation to a transaction, means not effected by means of the facilities and services of, or governed by the rules of, an exchange.

**Explanatory note**

This amendment removes redundant words and makes the definition free-standing.

---

**[2.58] Glossary, definition of *Personal Data***

*substitute*

*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.

**Explanatory note**

This amendment removes redundant words and makes the definition free-standing.

**[2.59] Glossary, definition of *principal***

*substitute*

*principal*, in relation to an *option*, *future* or forward contract, means—

- (a) if the contract is an *option* on a *future*—the amount or value of the property that must be delivered to satisfy settlement of the *future*; or
- (b) in any other case—the amount or value of the property that must be delivered to satisfy settlement of the contract.

**Explanatory note**

This amendment inserts missing words and simplifies the wording of the definition.

**[2.60] Glossary, definition of *profit sharing investment account (PSIA)*, paragraph (a) (iii) (B)**

*after*

unless

*insert*

the

**Explanatory note**

This amendment inserts a missing word.

---

**[2.61] Glossary, definition of *Right to Use***

*omit*

**Explanatory note**

This amendment omits a definition that is no longer needed because of amendments in this schedule.

**[2.62] Glossary, definition of *UK GAAP***

*substitute*

*UK GAAP* means generally accepted accounting principles in the United Kingdom.

**Explanatory note**

This amendment inserts a word missing from the definition.

**[2.63] Glossary, definition of *Waiver or Modification Notice***

*omit*

**Explanatory note**

This amendment omits a definition that is no longer needed.

## **Part 2.9 Interim Prudential—Investment, Insurance Mediation and Banking Business Rulebook (PIIB)**

**[2.64] Section 1.5 heading**

*omit*

**Explanatory note**

This amendment omits an unnecessary section heading.

---

**[2.65] Rules 1.5.3 to 1.5.5**

*renumber as rules 1.4.2 to 1.4.4*

**Explanatory note**

This amendment provides for the consequential renumbering of rules.

**[2.66] Rule 3.4.1, guidance 2 and 3**

*omit*

*Right to Use*

*substitute*

right to use

**Explanatory note**

This amendment removes the inappropriate capitalisation and italicisation of a term. In the context of the guidance, the present definition of *Right to Use* is INAP is not applicable.

**[2.67] Appendix 4, rule A4.11.29, guidance 1 d i**

*substitute*

- (i) 10% risk weight, which equal to 20% (the risk weight of a *deposit-taker* authorised in Qatar (including the *QFC*) or a *zone 1 country*) x 50% (*CCF* of an undrawn credit commitment); plus

**Explanatory note**

This amendment clarifies the application of amendment [1.22] made by the *Miscellaneous Amendments Rules 2010* (QFCRA Rules 2010-01).

## **Part 2.10 Prudential—Insurance Rulebook (PINS)**

**[2.68] Rules 1.4.6 to 1.4.8**

*renumber as rules 1.4.2 to 1.4.4*

**Explanatory note**

This amendment provides for the consequential renumbering of rules.

---

---

**[2.69] Rule 6.6.3 (1)**

*omit*

**Example**

*substitute*

**Examples**

**Explanatory note**

This amendment corrects a typographical error.

**[2.70] Rule 12.4.2 (2)**

*omit*

or a

*substitute*

or

**Explanatory note**

This amendment omits a redundant word.