



هيئة تنظيم
مركز قطر للمال
QATAR FINANCIAL CENTRE
REGULATORY AUTHORITY

Customer Dispute Resolution Scheme Rules 2019

QFCRA Rules 2019-3

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

Dated 26 March 2019.

Mohammed bin Hamad bin Qasim Al Thani
Deputy Chairman



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Part 1 Preliminary

1 Name of rules

These rules are the *Customer Dispute Resolution Scheme Rules 2019* (or CDRS).

2 Commencement

These rules commence on 1 January 2020.

3 Effect of definitions, notes and examples

- (1) A definition in the glossary to these rules also applies to any instructions or document made under these rules.
- (2) A note in or to these rules is explanatory and is not part of these rules. However, examples and guidance are part of these rules.
- (3) An example is not exhaustive, and may extend, but does not limit, the meaning of these rules or the particular provision of these rules to which it relates.

Note Under FSR, article 17 (4), guidance is indicative of the view of the Regulatory Authority at the time and in the circumstances in which it was given.

4 Purpose of these rules

These rules establish, in accordance with FSR, article 86 (2), an independent body for dealing with complaints by authorised firms' customers. The scheme set out in these rules may be referred to as the *customer dispute resolution scheme*.

Part 2 The Independent Adjudicator

5 Establishment of Independent Adjudicator

- (1) The Independent Adjudicator is constituted by 1 or more members appointed by the Regulatory Authority from time to time.
- (2) The Adjudicator is not a part of the Authority and is not subject to direction by the Authority.

6 Qualifications for appointment as member of Independent Adjudicator

- (1) An individual is qualified for appointment as a member of the Independent Adjudicator if the Regulatory Authority is satisfied that he or she meets high standards of relevant professional knowledge, integrity and competence.
- (2) The Regulatory Authority is solely responsible for assessing an individual's professional knowledge (and its relevance), and his or her integrity and competence.

7 Appointment of members of Independent Adjudicator

- (1) A member of the Independent Adjudicator is to be appointed by written instrument. An appointment may be for a fixed period or for the adjudication of a particular complaint.
- (2) The terms of a member's appointment (including terms about ending the appointment) are as agreed between the member and the Regulatory Authority.

- (v) if the applicant is an individual who is entitled to benefit from an insurance contract issued to a retail customer of the firm—that customer; and
- (c) either:
 - (i) the response period for the complaint has not ended, but the firm has given a final response to the complaint and the applicant is not satisfied with that response; or
 - (ii) the response period for the complaint has ended.

Note See the glossary for the definition of *response period*.

9 When to apply

- (1) An application may be made to the Independent Adjudicator within 4 calendar months after:
 - (a) a final response is received (even if it was given after the end of the response period); or
 - (b) the response period has ended without the firm having given any response.
- (2) The Adjudicator may accept, consider and decide an application made after the end of the period allowed by subrule (1) if the Adjudicator is satisfied that there is sufficient reason for the delay in applying.

10 How to apply

An application to the Independent Adjudicator must be made to the Regulatory Authority at its address for the purpose notified on an approved website, or in any other way that the Authority allows.

Part 4 Independent Adjudicator's processes

11 Members of Independent Adjudicator not to act in conflict of interest

A member of the Independent Adjudicator must not act in relation to a complaint if doing so would expose him or her to a conflict of interest.

12 Firm must cooperate in adjudication

- (1) An authorised firm whose action or decision is the subject of an application to the Independent Adjudicator must participate in the adjudication process and must cooperate fully with the Adjudicator.
- (2) In particular, the Authority may request the firm to provide further information or copies of documents. The firm must comply with such a request.
- (3) The Authority may publish, on an approved website, procedures for making a complaint to the Adjudicator and for the operation of this scheme.
- (4) To the fullest possible extent, the principles in the *General Rules 2005*, Part 1.2, apply to an authorised firm in its relationship with the Adjudicator. For that purpose, the Adjudicator is taken to be a regulator.

Note The *General Rules 2005*, Part 1.2, contains provisions about the conduct of authorised firms in relation to their conduct of regulated activities in or from the QFC.

13 Adjudicator's process

- (1) The Independent Adjudicator must observe the principles of procedural fairness.
- (2) The Adjudicator is not bound by the technical law of evidence, but may inform itself about any matter in any way that it thinks appropriate. In particular, the Adjudicator may rely, without further inquiry, on information or documents given to the Adjudicator by the Regulatory Authority.

- (3) The Adjudicator is not obliged to grant an oral hearing to any party.
- (4) The Adjudicator must make a decision in accordance with the substantial equity and fairness of the matter. In particular, the Adjudicator may decide that a party may not rely on a contractual provision if it would be inequitable or unfair to do so.

Example

In deciding the equity and fairness of a matter, the Adjudicator might take into account any of the following:

- imbalances of power or information between the parties
 - the parties' actual intentions
 - the sincerity of each party
 - whether or not any consent given was truly an informed consent.
- (5) The Adjudicator must give its decision in writing and must transmit it through the Authority.
 - (6) If there is more than 1 member of the Adjudicator, a decision by any member is valid for all purposes as a decision of the Adjudicator.

Guidance

It is expected that only rarely, if ever, would a complaint be decided otherwise than by a single member of the Adjudicator.

- (7) Subject to this rule, the Adjudicator may determine its own procedure.

14 Adjudicator's powers

- (1) The Independent Adjudicator may direct an authorised firm to pay compensation, of no more than QR 400,000, to an applicant for losses and expenses that the applicant has actually incurred as a result of the actions by the firm that gave rise to a complaint.
- (2) The Adjudicator has no power to award costs in relation to an application, nor to award compensation or damages other than as set out in subrule (1).

15 Effects of Independent Adjudicator's decision

- (1) After the Independent Adjudicator has given a decision, the applicant may accept the decision or refuse to accept it, but must do either within 21 days after being notified of it. The Adjudicator may extend

the period for acceptance (either before or after the period has ended) if the Adjudicator is satisfied that there is sufficient reason to do so.

- (2) If the applicant does not accept the decision within the 21-day period (or any extension of it), the applicant is taken to have refused to accept the decision.
- (3) If the applicant refuses (or is taken to have refused) to accept the decision, the decision is of no effect.
- (4) If the applicant accepts the decision, the decision is binding on both the applicant and the authorised firm concerned.
- (5) The firm must comply with the decision (and in particular must pay the applicant any compensation awarded) as soon as reasonably practicable.
- (6) A decision is final and is not subject to appeal.

Part 5 Transitional

16 Transitional

- (1) The Independent Adjudicator established under COND, rule 8.1.2, is continued in existence.
- (2) The appointment of a member of the Adjudicator under COND, rule 8.1.4, continues in effect according to its terms.
- (3) An application under COND, Chapter 8, made to the Adjudicator before the commencement of these rules continues to have effect as an application under these rules.
- (4) A decision of the Adjudicator (including a decision to award compensation) made on such an application continues to have effect as a decision of the Adjudicator, as if made under these rules.

- (5) In this rule:

COND means the *Conduct of Business Rules 2007* (as in force immediately before 1 January 2020).

Glossary

(see rule 3 (1))

calendar month means a period beginning at the start of any day of one of the 12 named months of the year and ending:

- (a) at the end of the day before the corresponding day of the next named month; or
- (b) if there is no corresponding day—at the end of the last day of next named month.

complaint has the same meaning as in CIPR.

CIPR means the *Customer and Investor Protection Rules 2019*.

day means a period of 24 hours starting at midnight.

FSR means Financial Services Regulations.

Regulatory Authority means the Qatar Financial Centre Regulatory Authority.

response period for a complaint means the period allowed for a response to the complaint by CIPR, rule 3.8.5 (6).

retail customer has the same meaning as in CIPR.