



هيئة تنظيم
مركز قطر للمال
QATAR FINANCIAL CENTRE
REGULATORY AUTHORITY

Miscellaneous Amendments Rules 2020

QFCRA Rules 2020-6

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

Dated 16 September 2020.

Abdulla Bin Saoud Al-Thani
Chairman



هيئة تنظيم
مركز قطر للمال
QATAR FINANCIAL CENTRE
REGULATORY AUTHORITY

Miscellaneous Amendments Rules 2020

QFCRA Rules 2020-6

made under the

Financial Services Regulations

Contents

	Page
1 Name of rules	1
2 Commencement	1
3 Amendments	1
4 Explanatory notes	1

Schedule 1	Banking Business Prudential Rules 2014	page 2
Schedule 2	Captive Insurance Business Rules 2011	3
Schedule 3	Collective Investments Schemes Rules 2010	3
Schedule 4	General Rules 2005	6
Schedule 5	Insurance Business Rules 2006	11

1 Name of rules

These rules are the *Miscellaneous Amendments Rules 2020*.

2 Commencement

These rules commence on 15 October 2020.

3 Amendments

These rules amend the Rules in Schedules 1 to 5.

4 Explanatory notes

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

Schedule 1 Banking Business Prudential Rules 2014

(see rule 3)

[1.1] Rule 1.1.4, guidance 1

omit

Anti-Money Laundering and Combating Terrorist Financing Rules 2010).

insert

Anti-Money Laundering and Combating the Financing of Terrorism Rules 2019).

Explanatory note

This amendment arises from the repeal of the old AML/CFTR Rules and AMLG Rules and their replacement with new Rules.

[1.2] Glossary, definition of customer, paragraph (b)

substitute

- (b) in relation to an investment dealer — a business customer of the firm (within the meaning given in CIPR).

Explanatory note

This amendment fixes a wrong cross reference.

[1.3] Glossary, definition of month, paragraph (b)

substitute

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

Explanatory note

This amendment inserts a missing “the”.

Schedule 2 Captive Insurance Business Rules 2011

(see rule 3)

[2.1] Rule 1.1.3

substitute

1.1.3 Effect of definitions, notes and examples

- (1) A definition in the Glossary 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.

[2.2] Glossary, definition of MLRO function

substitute

MLRO function means the function of being an authorised firm's money laundering reporting officer under the *Anti-Money Laundering and Combating the Financing of Terrorism Rules 2019*.

Explanatory note

This amendment arises from the repeal of the old AML/CFTR Rules and AMLG Rules and their replacement with new Rules.

Schedule 3 Collective Investments Schemes Rules 2010

(see rule 3)

[3.1] Rule 1.1.4

substitute

1.1.4 Effect of definitions, notes and examples

- (1) A definition in the Glossary 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.

1.1.5 References to particular currencies

In these rules, the specification of an amount of money in a particular currency is also taken to specify the equivalent sum in any other currency at the relevant time.

[3.2] Rules 1.2.12 (2) (a), (2) (b) and (3)

omit

market counterparty

insert

eligible counterparty

[3.3] Rules 1.2.12 (4)

omit

a market counterparty

insert

an eligible counterparty

[3.4] Rule 1.2.12 (6)

substitute

- (6) In this rule:

eligible counterparty has the same meaning as in the *Investment Management and Advisory Rules 2014*.

[3.5] Rule 12.6.2

substitute

12.6.2 Real estate investment trusts or REITs

- (1) An operator, or a person marketing a fund, must not use the term “Real Estate Investment Trust” or “REIT”, or refer to a fund or otherwise hold out a fund as being a real estate investment trust, unless the fund is a QFC retail property fund that satisfies subrule (2).
- (2) A QFC retail property fund is a *real estate investment trust (REIT)* if:
 - (a) the fund is a closed-ended scheme;
 - (b) the fund is listed in the Qatar Stock Exchange or another regulated exchange;
 - (c) the fund’s constitutional document and prospectus state that:
 - (i) if the fund invests in vacant land for the purpose of development, the total value of those investments in vacant land must not exceed 20% of the value of the fund’s net assets;
 - (ii) except to enable the fund to meet with its liquidity requirements, the fund will not borrow, or enter into any other transaction that will result in a financial obligation, if the fund’s total borrowings or obligations will exceed 50% of the value of its net assets;
 - (iii) the fund will distribute to unitholders at least 80% of its audited annual net income (adjusted to exclude any fair value capital gains).

Guidance

- 1 For a REIT that holds an immovable through an intermediate holding vehicle or vehicles, the timing of distributions of income may depend on the law of the jurisdiction where the vehicle or vehicles are established.
- 2 Nothing in this rule prevents a REIT from distributing more than the percentage stated in its constitutional document and prospectus. If the REIT proposes to distribute less than that percentage, rule 12.6.6 would apply and prior approval from unitholders would be required.

Note A REIT must be a QFC collective investment company or a QFC collective investment trust (see rule 12.6.3). A REIT must be primarily aimed at investments in income-generating immovables (see definition of *property fund*).

- (3) If a REIT fails to satisfy a requirement in subrule (2) or in its constitutional document and prospectus, the operator and the

independent entity of the REIT must notify the Regulatory Authority and the relevant exchange immediately, but within 1 business day. The notice must state any action that has been, or will be, taken to correct the breach.

Explanatory note

This amendment removes the prohibition against investing in vacant land and removes the requirements for guarantees and proof of revenue, before REITs are allowed to invest in income-producing immovables. This amendment aligns the rule on REITs with the QFMA's listing rules.

Schedule 4 General Rules 2005

(see rule 3)

[4.1] Rule 10.1.1

substitute

10.1.1 Application of Chapter 10

- (1) This Chapter applies to an authorised firm, or an applicant for an authorisation.
- (2) Parts 10.7 and 10.8 also apply to a DNFBP.

Explanatory note

This amendment enables the Regulatory Authority to impose fees on DNFBPs as part of its supervisory oversight over DNFBPs under Law No. (20) of 2019 on Anti-Money Laundering and Combating the Financing of Terrorism.

[4.2] Rule 10.7.1 (2) (j)

substitute

- (j) the *Private Placement Schemes Rules 2010*, rule 5.5.3 (Reports and accounts generally) and rule 7.2.6 (Accounting and reports during winding-up);
- (k) the *Anti-Money Laundering and Combating the Financing of Terrorism Rules 2019*, rule 2.3.10 (Annual reports).

Explanatory note

This amendment includes rule 2.3.10 of the *Anti-Money Laundering and Combating the Financing of Terrorism Rules 2019* as one of the rules that a person may contravene and be made to pay a late fee for.

[4.3] Rule 10.7.2

substitute

10.7.2 Late fees

- (1) A fee, of the relevant amount, is payable by a person for a contravention by the person to which this Part applies if the contravention continues for 2 business days or longer.
- (2) The **relevant amount** is the total of:
 - (a) QR 800; and
 - (b) QR 400 for each business day (or part of a business day) after the 2nd business day during which the contravention continues.

Note The Regulatory Authority may reduce, waive or refund such a fee (see rule 10.2.3).

Explanatory note

This amendment shortens the number of days for measuring the delay from 5 business days to 2 before late fees become payable. This amendment also sets the late fees in Qatari Riyals (from the old US dollar amounts) to align it with rule 10.8.2.

[4.4] Rule 10.8.1 (1)

omit

an authorised firm

insert

a person

Explanatory note

This amendment applies the rule to DNFBBs.

[4.5] Rule 10.8.1 (2)

omit all the words before paragraph (a)

insert

- (2) For subrule (1), a person **fails to comply** with a requirement if the person:

Explanatory note

This amendment applies the rule to DNFBBs.

[4.6] Rule 10.8.2

substitute

10.8.2 Late fees

- (1) A fee, of the relevant amount, is payable by the person concerned if a failure referred to in rule 10.8.1 continues for 2 business days or longer after the specified date for compliance.
- (2) The **relevant amount** is the total of:
 - (a) QR 800; and
 - (b) QR 400 for each business day (or part of a business day) after the 2nd business day during which the failure continues.

Note The Regulatory Authority may reduce, waive or refund such a fee (see rule 10.2.3).

Explanatory note

This amendment shortens the number of days for measuring the delay from 5 business days to 2 before late fees become payable. This amendment also applies the rule to DNFBPs.

[4.7] Chapter 11

substitute

Chapter 11 Inclusion, exclusion and restriction of activities and products

Part 11.1 Activities

11.1.1 Definitions for Chapter 11

In this Part:

commercial captive finance, as an activity of an entity (the **captive financier**), means providing finance to a commercial customer to enable the customer to lease or purchase (through finance lease, operating lease, hire-purchase or a similar form) an asset (usually immoveable properties, machinery, vehicles and equipment) from the captive financier's parent entity or from a member of the parent entity's group.

commercial customer means a business customer or eligible counterparty within the meaning of each of those terms in the *Customer and Investor Protection Rules 2019*.

11.1.2 Declaration of providing captive finance as regulated activity

Subject to rule 11.1.3, for FSR, article 23, the regulated activity of providing credit facilities is taken to include the activity of providing captive finance by way of business. The activity of providing captive finance by way of business is therefore a regulated activity.

11.1.3 Exclusion of certain captive finance to commercial customers

For FSR, article 25 (2), providing captive finance is not regarded as carried on by way of business (and is therefore not a regulated activity) if it is carried on by way of commercial captive finance.

Note An entity that provides captive finance to commercial customers (and carries on no other regulated activity) in or from the QFC in the circumstances described in rule 11.1.3 need only be licensed and does not need to apply for an authorisation from the Regulatory Authority.

Part 11.2 Products

11.2.1 Declaration of captive finance as specified product

For FSR, Schedule 3, Part 3, the specified product *credit facility* is taken to include captive finance (through finance lease, operating lease, hire-purchase or a similar form).

11.2.2 Options and futures that are and are not specified products

The circumstances in which either an *option* or a *futures* contract is regarded as being made for commercial purposes and therefore excluded from the respective definition of a *specified product*; and conversely, the circumstances in which it is considered to be made for investment purposes and therefore included within the respective definition, are set out below:

- (a) a contract is regarded as made for investment purposes if:
 - (i) it is made, or traded, on a regulated exchange; or

-
- (ii) it is made otherwise than on a regulated exchange, but is expressed to be traded on:
 - (A) a regulated exchange; or
 - (B) the same terms on which an equivalent contract would be traded on a regulated exchange;
 - (b) a contract not falling within paragraph (a) is regarded as made for commercial purposes if under the terms of the contract delivery is to be made within 7 days, unless it can be shown that there existed an understanding that (notwithstanding the express terms of the contract) delivery would not be made within 7 days;
 - (c) the following are indications that a contract not falling within paragraph (a) or (b) is made for commercial purposes (the absence of them is an indication that it is made for investment purposes):
 - (i) 1 or more of the parties produces, or uses in its business, the commodity or other property;
 - (ii) the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of it; or
 - (iii) the price, the lot size, the delivery date and other terms are determined by the parties for the purposes of the particular contract and not by reference (or not solely by reference) to regularly published prices, to standard lots or delivery dates or to standard terms;
 - (d) the following are indications that a contract is made for investment purposes:
 - (i) it is expressed to be as traded on a regulated exchange;
 - (ii) performance of the contract is ensured by a regulated exchange or a clearing house; or
 - (iii) there are arrangements for the payment or provision of margin; and
 - (e) for the purposes of paragraph (a), a price is to be taken to be agreed on when a contract is made:
 - (i) notwithstanding that it is left to be determined by reference to the price at which a contract could be entered into on a

market or exchange or could be entered into at a time and place specified in the contract; or

- (ii) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.

11.2.3 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 FSR, Schedule 3, Part 3, paragraphs 10.3 and 10.4.

Guidance

Contracts of insurance are further sub-defined in INAP into those constituting *non-investment insurance contracts*, *pure protection contracts* and *long term care insurance contracts* and the restrictions surrounding activities conducted in relation to them are detailed in PINS.

Explanatory note

This amendment inserts a new regulated activity and its exclusion (see Part 11.1) and its related specified product (see rule 11.2.1).

[4.8] Glossary

insert

DNFBP means designated non-financial business or profession (within the meaning of the *Anti-Money Laundering and Combating the Financing of Terrorism Rules 2019*).

Explanatory note

This amendment inserts the definition of the acronym DNFBP which is now used in GENE.

Schedule 5 Insurance Business Rules 2006

(see rule 3)

[5.1] Rule 1.1.2

substitute

1.1.2 Effect of definitions, notes and examples

- (1) A definition in the Glossary 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.

[5.2] Rule 3.5.1, note

omit

Appendix 3

insert

Schedule 3

Explanatory note

This amendment and the next correct wrong cross references.

[5.3] Rule 3.6.1, note

omit

Appendix 3

insert

Schedule 3

[5.4] Rule 3.7.1 (2)

substitute

- (2) However, if the amount calculated under subrule (1) is more than the amount of the *ceiling* calculated by means of the formula in subrule (3), the insurer's ORR is the amount of the ceiling.
- (3) The formula is:

$$(IRR + InsRR) \times \left(\frac{0.15}{0.85}\right);$$

where:

IRR is the insurer's investment risk requirement.

InsRR is the insurer's insurance risk requirement.

Explanatory note

This amendment clarifies the calculation of the operational risk reserve.