



QATAR FINANCIAL CENTRE

**REGULATORY
AUTHORITY**

Captive Insurance Business Rules 2011

QFCRA Rules 2011-1

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

Dated 20 June 2011

PHILLIP THORPE
Chairman



Captive Insurance Business Rules 2011

QFCRA Rules 2011-1

made under the

Financial Services Regulations

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Chapter 1 General provisions

Part 1.1 Introductory

1.1.1 Name of rules

These rules are the *Captive Insurance Business Rules 2011* (CAPI).

1.1.2 Commencement

These rules commence on 1 July 2011.

1.1.3 Glossary

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

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

Note 2 By contrast, the application of a definition in the glossary in these rules is not indicated by the word(s) being in italics.

Note 3 For the application of definitions, see INAP, rule 2.1.8 (Application of definitions).

Note 4 A note on or to these rules is explanatory and is not part of the rules (see INAP, rule 2.1.6 (1) and rule 2.1.7).

Note 5 However, examples and guidance are part of these rules (see INAP, rule 2.1.4 (1) (b) and (2)).

Note 6 An example is not exhaustive, and may extend, but does not limit the meaning of these rules or the particular provision of these rules to which it relates (see INAP, rule 2.1.5).

Note 7 For the effect of guidance, see the *Financial Services Regulations*, article 17 (4).

Part 1.2 Key terms and basic concepts

1.2.1 QFC captive insurers and their classes

- (1) A *QFC captive insurer* is an authorised firm (or firm) with an authorisation for captive insurance business as a class 1, class 2, class 3 or class 4 captive insurer.

Note *Authorised firm* (or *firm*), *authorisation* and the classes of QFC captive insurers are defined in the glossary.

- (2) An insurer that is not incorporated in the QFC cannot be a QFC captive insurer.

Note Unlike some other regulated entities, QFC captive insurers are not allowed to operate as a *branch*.

1.2.2 What is *captive insurance business*?

- (1) *Captive insurance business* is the business of effecting or carrying out contracts of insurance as a class 1, class 2, class 3 or class 4 captive insurer.
- (2) For this purpose, a class 1, class 2, class 3 or class 4 captive insurer may effect or carry out contracts that are limited to contracts of reinsurance for risks insured by the cedent.

Note *Contract of insurance*, *contract of reinsurance* and *cedent* are defined in the glossary.

1.2.3 Who is a *class 1 captive insurer*?

A *class 1 captive insurer* is a QFC captive insurer that is permitted under the conditions of its authorisation to effect or carry out contracts of insurance only for risks related to or arising out of the business or operations of the group to which the insurer belongs.

Note *Group* is defined in the glossary.

1.2.4 Who is a *class 2 captive insurer*?

A *class 2 captive insurer* is a QFC captive insurer that is permitted under the conditions of its authorisation to obtain no more than 20% of its *gross written premium* from third party risks arising from business or operations that are closely linked to the business or operations of the group to which the insurer belongs.

Guidance

A firm applying to become a class 2 captive insurer will need to include in its application to the Regulatory Authority details of—

- (a) the third party risks it expects to insure; and
- (b) the close links between the businesses or operations mentioned in the rule.

In addition to the 20% cap in this rule, other limitations will most likely be imposed by the Regulatory Authority to ensure that the firm, for its closely-linked business, is restricted to only effecting and carrying out contracts of insurance for the closely-linked business described in its application.

Example of close links

A construction company that offers health insurance to its employees through a captive insurer may also want to extend that coverage to self-employed contractors working for the company. Although the self-employed contractors are considered *unrelated* to the construction company, a class 2 captive insurer for the company may be allowed to provide health insurance cover (up to 20% of its business) because of the self-employed contractors' close association to the construction company that owns the captive insurer.

1.2.5 Who is a *class 3 captive insurer*?

A *class 3 captive insurer* is a QFC captive insurer that—

- (a) is permitted under the conditions of its authorisation to effect or carry out contracts of insurance only for risks related to or arising out of the business or operations of persons who engage in similar, related or common—
 - (i) businesses; or
 - (ii) activities; or

-
- (iii) trade; or
 - (iv) services; or
 - (v) operations; and
- (b) is owned by the persons mentioned in paragraph (a) or by a *body corporate* of which all such persons are members.

1.2.6 Regulatory Authority may authorise entity as class 4 captive insurer

- (1) The Regulatory Authority may decide that an entity that does not meet the requirements for class 1 captive insurer, class 2 captive insurer or class 3 captive insurer is a class 4 captive insurer.

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

- (2) Without limiting subrule (1), the Regulatory Authority may take into account the following matters in deciding whether an entity is a class 4 captive insurer:
- (a) the business rationale for making the entity a captive insurer;
 - (b) the use or non-use of the entity as a risk management tool;
 - (c) the nature of the interests of the shareholders or members of the entity and whether they are aligned, or have some commonality with, the policyholder;
 - (d) any unique or expert knowledge of the shareholders or members of the entity about the risks to be insured;
 - (e) the appropriateness of the structure for the proposed activities or whether the business is more akin to a commercial insurer.

Guidance

A protected cell company that is to conduct captive insurance business is usually set up to insure risks that are not those of the owner of the protected cell company, so would normally be authorised as a class 4 captive insurer.

1.2.7 Who is a *captive insurance manager*?

A *captive insurance manager* is an authorised firm (or firm) with an authorisation for captive insurance management.

1.2.8 What is *captive insurance management*?

Captive insurance management is the administration of, and exercise of managerial functions for, a QFC captive insurer, and includes the administration of contracts of insurance for the insurer.

Note 1 *Exercise* and *functions* are defined in the glossary.

Note 2 Captive insurance management is a regulated activity (see *Insurance Mediation Business Rules 2011*, rule 1.2.6).

Chapter 2 Prudential requirements

Part 2.1 Prudential requirements— general

2.1.1 Financial resources—general requirement

- (1) A firm that is a QFC captive insurer must have, at all times, financial resources of the kinds and amounts required by, and calculated in accordance with, this chapter.
- (2) A firm must also have, at all times, additional financial resources that are adequate for the nature, size and complexity of its business to ensure that there is no significant risk that liabilities cannot be met as they fall due.
- (3) A firm must have systems and controls to enable it—
 - (a) to monitor its minimum capital and solvency requirements; and
 - (b) to show, at all times, whether it complies with this part.

Guidance

For rule 2.1.1 (2), the firm's governing body should assess whether the minimum financial resources required by these rules are adequate for the firm's business. Additional financial resources should be maintained by the firm if its governing body considers that the required minimum financial resources do not adequately reflect the risks of the firm's business.

Part 2.2 Minimum capital requirements

2.2.1 Firms must have minimum capital

- (1) A firm that is a QFC captive insurer must have, at all times, the minimum capital required under this part.
- (2) The minimum capital requirement for a firm is the highest of the following:
 - (a) the base capital requirement for the firm under rule 2.2.2;
 - (b) the premium risk component under rule 2.2.3;
 - (c) the technical provision risk component under rule 2.2.4 or rule 2.2.5.

Note The minimum capital requirement of a firm is made up of eligible capital of the firm under chapter 3.

2.2.2 What is a firm's *base capital requirement*?

The *base capital requirement* for a firm is—

- (a) for a class 1 captive insurer—US \$150,000; and
- (b) for a class 2 captive insurer—US \$400,000 unless the Regulatory Authority determines another amount for the firm; and
- (c) for a class 3 captive insurer—US \$250,000; and
- (d) for a class 4 captive insurer—US \$1 million unless the Regulatory Authority determines another amount for the firm.

2.2.3 What is a firm's *premium risk component*?

The *premium risk component* for a class 1, class 2, class 3 or class 4 captive insurer is the amount calculated in accordance with the following formula:

[20% × firm's *net written premium* up to US \$5 million]

+

[15% × firm's *net written premium* in excess of US \$5 million]

2.2.4 Technical provision risk component—firms conducting general insurance business

- (1) The *technical provision risk component* for a class 1, class 2, class 3 or class 4 captive insurer that conducts general insurance business is the amount calculated in accordance with the following formula:

[5% × firm's net claims reserve on property insurance]

+

[15% × firm's net claims reserve on liability insurance]

where:

net claims reserve on property insurance is the amount of the firm's net claims reserve on property insurance under general insurance contracts in categories 3 to 9 in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.3.

net claims reserve on liability insurance is the amount of the firm's net claims reserve on liability insurance under general insurance contracts in categories 1, 2 and 10 to 18 in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.3.

net claims reserve, as at a date, is the amount of the firm's provisions for—

-
- (a) claims incurred but not yet paid as at the date, including claims incurred but not yet reported; and
- (b) direct and indirect claims settlement expenses for those claims; less the amount of reinsurance and other recoveries expected to be received in respect of those claims.
- (2) Despite subrule (1), the Regulatory Authority may, by written notice, direct a firm (whether on application of the firm or on the authority's own initiative) to include a particular contract of insurance or category of contracts of insurance in the firm's net claims reserve on property insurance or net claims reserve on liability insurance.

Note In deciding whether a particular contract of insurance or category of contracts of insurance is to be included in the firm's net claims reserve on property insurance (at 5%) or net claims reserve on liability insurance (at 15%), the Regulatory Authority may consider, among other factors—

- (a) who would potentially be affected by the failure of the firm; and
- (b) whether the technical provisions for the contract have a lot of volatility or have the potential for adverse deviation.

For example, contracts of insurance where the failure of the firm affects third parties will usually be treated at the higher percentage. Thus, the failure of a firm that has group health insurance for its owner's business could significantly affect individual employees and will be treated at the higher percentage. In contrast contracts of insurance (such as those that insure against pure property risks) where the failure of the firm would only financially affect the owner, will usually be treated at the lower percentage.

2.2.5 Technical provision risk component—firms conducting life insurance business

The *technical provision risk component* for a class 1, class 2, class 3 or class 4 captive insurer that conducts life insurance business is 2.5% of the policyholder liabilities calculated using actuarial methods for life insurance.

Note The following tables summarise the percentages for the premium risk and technical provision risk components for captive insurers.

Premium risk component for captive insurers conducting general insurance business or life insurance business (see rule 2.2.3)	Percentage
First US \$5 million of <i>net written premium</i>	20%
PLUS	
Net written premium in excess of US \$5 million	15%

Technical provision risk component for captive insurers conducting general insurance business (see rule 2.2.4)	Percentage
Net claims reserve on property insurance	5%
PLUS	
Net claims reserve on liability insurance	15%

Technical provision risk component for captive insurers conducting life insurance business(see rule 2.2.5)	Percentage
Policyholder liabilities calculated using actuarial methods for life insurance	2.5%

2.2.6 Regulatory Authority to have regard to certain matters

- (1) In determining an amount for a class 2 or class 4 captive insurer under this part, the Regulatory Authority must have regard to the nature, scale and complexity of the firm's business.
- (2) Without limiting subrule (1), the Regulatory Authority may, in determining an amount for a class 2 captive insurer, take into account the following:
 - (a) the third party risks the captive insurer expects to insure;

-
- (b) how closely linked the business or operations giving rise to the third party risks are to the business or operations of the group to which the captive insurer belongs;
 - (c) the percentage of gross written premium (up to 20%) that captive insurer intends to obtain from third party risks;
 - (d) any burden or undue risks to the cedent or other policyholders.
- (3) Without limiting subrule (1), the Regulatory Authority may take into account the matters in rule 1.2.6 (2) (Regulatory Authority may authorise entity as class 4 captive insurer) in determining an amount for a class 4 captive insurer.

2.2.7 Obligation to tell Regulatory Authority about breach of part 2.2

If a firm that is a QFC captive insurer becomes aware, or has reasonable grounds to believe, that it is or may be (or may be about to be) in breach of any provision of this part, it must—

- (a) tell the Regulatory Authority orally about the matter immediately, but within 1 business day; and
- (b) by written notice given to the authority by no later than the next business day—
 - (i) confirm the oral notification; and
 - (ii) explain the nature of the breach or why the firm considers it may be (or may be about to be) in breach of the provision; and
 - (iii) set out the action that the firm proposes to take about the breach or to avoid the breach; and
- (c) not make any distribution to its shareholders or members, whether by way of dividends or otherwise, without the authority's written permission.

Examples—meaning of ‘within 1 business day’

- 1 If, on a business day, the firm becomes aware that it may be in breach of this part, the firm must tell the Regulatory Authority immediately, but on that day.
- 2 If, on a day that is not a business day, the firm becomes aware that it may be in breach of this part, the firm must tell the Regulatory Authority immediately, but by no later than the next business day.

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

Guidance

In dealing with a breach, or possible breach, of this part, the Regulatory Authority’s primary concern will be the interests of existing and prospective policyholders and clients. The authority recognises that there will be circumstances in which a problem may be resolved quickly, for example by support from a parent entity, without jeopardising the interests of policyholders and clients. In such circumstances, it will be in the interests of all parties for there to be minimum disruption to the firm’s business. The authority’s normal approach will be to seek to work cooperatively with firms to deal with any problems. There will, however, be circumstances in which it is necessary to take regulatory action to avoid exposing further policyholders and clients to the risk of the firm’s failure, and the authority will not hesitate to take appropriate action if it considers this necessary.

Part 2.3 Prudential requirements—other provisions

Division 2.3.A Prudential returns

2.3.1 Preparation of prudential returns

- (1) A firm that is a QFC captive insurer must prepare the annual prudential returns that it is required to prepare by the Regulatory Authority by written notice published on an *approved website*.
- (2) The Regulatory Authority may, by written notice given to a firm—
 - (a) require the firm to prepare additional prudential returns; or
 - (b) exempt the firm from the requirement to prepare annual returns or a particular annual return.
- (3) An exemption under subrule (2) (b) may be subject to conditions, restrictions or requirements.
- (4) A firm given an exemption under subrule (2) (b) must comply with all conditions, restrictions and requirements to which the exemption is subject.

2.3.2 Time limit for annual prudential returns

A firm must give an annual prudential return to the Regulatory Authority within 4 months after the day the relevant financial year of the firm ends.

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

Division 2.3.B Strategy and risk document

2.3.3 What is a *strategy and risk document*?

- (1) A firm that is a QFC captive insurer must prepare, at the beginning of each financial year, a high level document (the *strategy and risk document*) that describes the key elements of a firm's risk management policy.
- (2) A firm's strategy and risk document must be appropriate to the nature, scale and complexity of the firm's business and must include—
 - (a) the purpose of the firm as captive insurer; and
 - (b) its risk appetite and risk management strategy (or revised strategy); and
 - (c) a description of the risk assessment conducted by the firm and the results of that assessment; and
 - (d) an explanation about how the risks identified by the risk assessment are to be reported, monitored and managed; and
 - (e) the role and responsibilities of management in relation to risks; and
 - (f) systems and controls for managing risks; and
 - (g) the firm's forward budget; and
 - (h) an outline of the approval and review processes for the document.

Guidance

Although a strategy and risk document would not normally contain the policies or procedures that underpin the firm's risk management policy, it may refer to them for illustrative purposes.

2.3.4 Strategy and risk document—risk assessment

A risk assessment for a firm must have regard to the nature, scale and complexity of the firm's business and must include assessments in relation to the following risks:

- (a) insurance and reinsurance risk;
- (b) investment and liquidity risk;
- (c) market risk;
- (d) credit risk;
- (e) operational risk.

2.3.5 Strategy and risk document—approval by governing body

- (1) A firm must ensure that its strategy and risk document and any amendment to it are approved by its governing body.
- (2) The governing body of a firm must not approve the firm's strategy and risk document (or any amendment to it) unless it is satisfied that—
 - (a) the document, including any amendment, describes the key elements of the firm's risk management policy; and
 - (b) the risk management policy of the firm is appropriate; and
 - (c) the risk management strategy set out in the document gives reasonable assurance that all material risks facing the firm, specially those mentioned in rule 2.3.4, are being prudently and soundly managed.
- (3) The governing body must approve the strategy and risk document and any amendment to it with sufficient promptness to enable the firm to comply with its obligation under rule 2.3.7 (Strategy and risk document—copy must be given to Regulatory Authority).

2.3.6 Strategy and risk document—review by firm

A firm must review, and amend if necessary, its strategy and risk document if there is a material change to its risk management policy.

2.3.7 Strategy and risk document—copy must be given to Regulatory Authority

- (1) A firm must give the Regulatory Authority a copy of its strategy and risk document for a financial year within 2 months after the start of the financial year.
- (2) If a strategy and risk document of a firm is amended, the firm must give the Regulatory Authority a copy of the amendment, together with a copy of its strategy and risk document as amended, within 10 business days after the day the amendment is approved by the firm's governing body.

Note **Governing body**, **month** and **business day** are defined in the glossary.

2.3.8 Strategy and risk document—deviation

A firm must not intentionally deviate in a material way from its strategy and risk document unless—

- (a) the deviation has been approved by the governing body; and
- (b) the Regulatory Authority has been notified in writing about the deviation.

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

Division 2.3.C Restrictions on captive insurance business

2.3.9 Restrictions on captive insurance business—activities that may be conducted

- (1) A QFC captive insurer must not conduct any activity other than captive insurance business unless the activity is directly connected with, or conducted for the purposes of, captive insurance business.
- (2) For this rule, managing investments is not an activity directly connected with, or conducted for the purposes of, captive insurance business.

2.3.10 Restrictions on captive insurance business—long term and general insurance

A QFC captive insurer must not conduct, in or from the QFC, both long term insurance business and general insurance business unless the general insurance business is restricted to categories 1 (accident) and 2 (sickness).

Note *Long term insurance business, category* and *general insurance business* are defined in the glossary.

Chapter 3 Eligible capital

Note for chapter 3

This chapter sets out rules for determining a firm's total eligible capital for its minimum capital requirement under part 2.2.

3.1.1 What is *eligible capital*?

Eligible capital of a firm that is a QFC captive insurer means an instrument or other asset that is included in calculating the firm's minimum capital requirement under part 2.2.

3.1.2 What is a firm's *total eligible capital*?

- (1) The *total eligible capital* of a firm is the amount of the firm's eligible capital, calculated in accordance with the following formula:

$$\text{Eligible capital} - \text{Required deduction}$$

where:

Eligible capital means the sum of the firm's—

- (a) permanent share capital; and
- (b) share premium account; and
- (c) retained earnings or losses; and
- (d) the following items up to an amount not exceeding 50% of the sum of paragraphs (a), (b) and (c);
 - (i) qualifying letters of credits under rule 3.1.5;
 - (ii) any other instrument allowed by the Regulatory Authority under subrule (2) (a).

Note The Regulatory Authority may increase the 50% maximum (see subrule (2) (c)).

Required deduction, for a firm, means the sum of—

- (a) investments in subsidiaries and associates; and
 - (b) intangible assets; and
 - (c) inadmissible assets; and
 - (d) any other asset that the Regulatory Authority directs, under subrule (2) (b), the firm to include.
- (2) For calculating the firm's total eligible capital, the Regulatory Authority may, by written notice, do any 1 or more of the following:
- (a) allow the firm to include an instrument as eligible capital;
 - (b) direct the firm to include an asset as a required deduction;
 - (c) allow the firm to exceed the 50% limit in paragraph (d) of the definition of eligible capital in subrule (1).
- (3) Permission under subrule (2) (a) or (c) may be given on application of the firm or on the Regulatory Authority's own initiative.

Note The following table summarises the components for working out total eligible capital.

item	Components	applicable rule (if any)
Eligible capital		
1.1	permanent share capital	3.1.3
1.2	share premium account	3.1.4
1.3	retained earnings or losses	—
1.4	qualifying letter of credit	3.1.5
1.5	instruments allowed by the Regulatory Authority	3.1.2 (2) (a)

item	Components	applicable rule (if any)
Required deductions		
2.1	investments in subsidiaries and associates	—
2.2	intangible assets	3.1.6
2.3	inadmissible assets	3.1.7
2.4	deductions that the Regulatory Authority directs the firm to include	3.1.2 (2) (b)

3.1.3 What is *permanent share capital*?

Permanent share capital of a firm that is a QFC captive insurer means ordinary paid-up *share* capital or members' equity or its equivalent (however called) that meets the following requirements:

- (a) it is fully paid up;
- (b) any dividends in relation to it are non-cumulative;
- (c) it is available to absorb losses on a going concern basis;
- (d) in case of winding up or insolvency of the firm, it ranks for repayment after all other debts and liabilities;
- (e) it is undated;
- (f) the proceeds of its issue are immediately and fully available to the firm;
- (g) the firm is not obliged to pay any dividend on it (except in the form of *shares* that themselves comply with this rule);
- (h) the firm does not have any other obligation or commitment to transfer any economic benefit in relation to it;

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- (i) dividends and other charges on it can be paid only out of accumulated realised profits.

3.1.4 What is *share premium account*?

Share premium account is the difference between the nominal value of *shares* issued and the amount of money received for them (or, if the *shares* are not paid for in money, the fair value of the consideration received for them).

3.1.5 What are *qualifying letters of credit*?

- (1) A letter of credit is a *qualifying letter of credit* if—
 - (a) it meets the requirements in subrule (2); and
 - (b) the Regulatory Authority allows, under rule 3.1.2 (2) (a), that it be included as eligible capital.
- (2) A letter of credit meets the requirements of this subrule if—
 - (a) it is unconditional and irrevocable; and
 - (b) it does not contain a subordination clause; and
 - (c) it is, under subrule (3), legally enforceable in the QFC, Qatar or a *zone 1 country*; and
 - (d) it cannot be cancelled or amended without the consent of all parties; and
 - (e) it is for a fixed amount; and
 - (f) it is renewable annually; and
 - (g) the terms of the agreement between the bank and the firm do not require the firm to give collateral to the bank for issuing the letter of credit; and

Note Nothing in this paragraph prevents the parent entity of a firm from giving collateral to the bank for issuing the letter of credit.

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- (h) the bank that provides the letter of credit is, at the time of issue, and afterwards—
- (i) rated at least BBB+ by Standard & Poor's or the equivalent by another *rating agency*; and
 - (ii) regulated in Qatar or a *zone 1 country*.
- (3) For subrule (2) (c), a letter of credit is, or is taken to be, legally enforceable in the QFC, Qatar or a *zone 1 country* if—
- (a) it is issued by a bank regulated in Qatar; or
 - (b) it is issued by a bank regulated in a *zone 1 country* and the firm has an appropriate legal opinion that the letter of credit is enforceable in the QFC, Qatar or that country.

Note Under FSR, article 16, the Regulatory Authority may, in appropriate circumstances, waive or modify any or all of the requirements for qualifying letters of credit.

- (4) If a letter of credit ceases to be a qualifying letter of credit, the firm must—
- (a) immediately tell the Regulatory Authority in writing; and
 - (b) take the necessary steps to ensure that the firm continues to meet its minimum capital requirement (for example, by obtaining replacement qualifying letters of credit).

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

3.1.6 What are *intangible assets*?

- (1) ***Intangible assets*** of a firm include—
- (a) goodwill; and
 - (b) capitalised development costs; and
 - (c) brand names; and

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- (d) trademarks and similar rights; and
 - (e) licences.
- (2) The amount of deduction for intangible assets must be based on the full balance sheet value of the assets.

3.1.7 What are *inadmissible assets*?

Inadmissible assets of a firm include—

- (a) tangible fixed assets (including plant and equipment); and
- (b) deficiencies of net assets in subsidiaries; and
- (c) debts and other loans owed to the firm by *counterparties* if the obligation to pay is more than 180 days overdue; and
- (d) any investment by a subsidiary of the firm in the firm's *shares*; and
- (e) investments that are not *readily realisable investments*.

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

Chapter 4 Outsourcing managerial functions

4.1.1 Application of chapter 4

This part applies to the outsourcing of the managerial functions of a firm that is a QFC captive insurer.

Note 1 The management of a firm may be exercised by—

- (a) the firm itself; or
- (b) a captive insurance manager under an outsourcing agreement.

Note 2 For outsourcing of other matters by QFC captive insurers, see Controls Rulebook, chapter 5.

4.1.2 Outsourcing of firm's management

- (1) A firm may outsource its managerial functions to a captive insurance manager.
- (2) A firm that outsources its managerial functions to a captive insurance manager may apply to the Regulatory Authority for approval of an employee or employees of the captive insurance manager to exercise 1 or more of the following controlled functions:
 - (a) senior executive function;
 - (b) MLRO function;
 - (c) compliance oversight function;
 - (d) finance function.

Note *Senior executive function, MLRO function, compliance oversight function and finance function* are defined in the glossary.

Note 1 A firm that outsources its managerial functions to a captive insurance manager may choose to use—

- (a) its own employees to exercise controlled functions for the firm; or
- (b) the employees of the captive insurance manager to whom the firm has outsourced its managerial functions.

Note 2 For the rules on the approval of individuals to exercise controlled functions, see INDI, chapter 2 (Controlled Functions), chapter 4 (Fitness and Propriety) and chapter 5 (Competence, Training and Supervision).

4.1.3 Selecting captive insurance manager and entering into agreement

- (1) A firm must exercise due skill, care and diligence in selecting a captive insurance manager and in entering into, managing and terminating an outsourcing agreement.
- (2) In making a decision for subrule (1), the firm must have regard to—
 - (a) the ability and capacity of a captive insurance manager to exercise the outsourced activity or functions reliably and professionally at the start and during the life cycle of the outsourcing agreement; and
 - (b) whether the captive insurance manager has adequate resources (including employees, information technology, office space and equipment) to provide the services requested; and
 - (c) potential conflicts of interest that may arise from the provision of the service by the captive insurance manager; and
 - (d) the financial stability and expertise of the captive insurance manager; and
 - (e) any other relevant factors.

4.1.4 Outsourcing agreement must be in writing etc

- (1) An outsourcing agreement to which this part applies must be in writing.

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- (2) An outsourcing agreement must include—
- (a) a description of the activity and functions being outsourced; and
 - (b) provisions giving the Regulatory Authority, the firm and the firm’s internal auditors, external auditors or actuaries access to books, records and data belonging to the firm that may be in the possession or control of the captive insurance manager; and
 - (c) the obligation for parties to protect confidential information and *personal data*; and
 - (d) the termination rights of each party.
- (3) A firm must give the Regulatory Authority a copy of an outsourcing agreement within 5 business days after the day the agreement is signed by the parties.

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

4.1.5 Certain events to be notified to the Regulatory Authority

- (1) This rule applies if—
- (a) a firm has an outsourcing agreement with a captive insurance manager (the *old agreement*); and
 - (b) either—
 - (i) the captive insurance manager becomes insolvent; or
 - (ii) the captive insurance manager ceases to be authorised in the QFC; or
 - (iii) the old agreement is terminated or otherwise ceases.

Example

a firm may decide to terminate an outsourcing agreement because it wants to manage itself

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- (2) A firm must immediately tell the Regulatory Authority, in writing, about the occurrence of any of the matters in subrule (1) (b).

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

- (3) Unless a firm decides to manage itself, the firm must select another captive insurance manager and enter into a new outsourcing agreement with the new captive insurance manager—
 - (a) before the old agreement ceases; or
 - (b) if the old agreement has ceased—as soon as possible after the date the old agreement ceased.

4.1.6 Effect of outsourcing

- (1) Despite anything in this chapter, the outsourcing of an activity or function does not relieve the firm from any regulatory obligations in relation to the outsourced activity or function.
- (2) The firm, and its *senior management*, remain responsible for ensuring that—
 - (a) all QFC regulatory requirements are complied with in relation to the outsourced activity and function; and
 - (b) the outsourced activity or function is otherwise properly exercised.

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

Chapter 5 Additional requirements for protected cell companies

Guidance

- 1 The Regulatory Authority will examine each application for authorisation to conduct insurance business from a protected cell company on a case by case basis. The Regulatory Authority is of a general view that captive insurers with significant assets or premiums should be formed on a standalone basis rather than be run through a cell.
- 2 A protected cell company that is to conduct captive insurance business is usually set up to insure risks that are not those of the owner of the protected cell company, so would normally be authorised as a class 4 captive insurer.
- 3 This chapter sets out the capital requirements for an insurer that is a protected cell company.

5.1.1 Definitions for chapter 5

For this chapter—

non-cellular assets—see the Companies Regulations, article 157.

non-cellular eligible capital of a QFC captive insurer that is a protected cell company means the insurer's eligible capital calculated in accordance with chapter 3, but excluding—

- (a) cell shares (within the meaning given in the Companies Regulations, article 157); and
- (b) any capital instruments or equity reserves that are attributable to a cell.

recourse agreement means an agreement under which a cell is entitled to have recourse to non-cellular assets.

5.1.2 General requirement

A QFC captive insurer that is a protected cell company must at all times hold non-cellular eligible capital of at least—

- (a) US \$50,000; or
- (b) if the cells have recourse to non-cellular assets under 1 or more recourse agreements—a higher amount determined by the Regulatory Authority.

5.1.3 Captive insurers that are PCCs not to create cells without consent

A QFC captive insurer that is a protected cell company must not create a cell before it has obtained the written consent of the Regulatory Authority.

Note If a form is approved for the purpose of seeking the Regulatory Authority's consent under this rule, the approved form must be used (see *GENE*, rule 5.3.2).

5.1.4 Captive insurers that are PCCs to conduct insurance business only through cells

A QFC captive insurer that is a protected cell company must ensure that, when it conducts captive insurance business, each contract of insurance is attributable to a particular cell of the QFC captive insurer.

Note For the obligations of a QFC captive insurer that is a protected cell company and that effects long term insurance contracts, see rule 8.2.2.

5.1.5 Captive insurers that are PCCs not to conduct general and life insurance business through same cell

A QFC captive insurer that is a protected cell company must not conduct both general insurance business and long term insurance business through the same cell.

5.1.6 Minimum solvency criterion

- (1) A cell that is conducting captive insurance business (an *active cell*) must meet the minimum solvency criterion.
- (2) An active cell must comply with subrule (1) by—
 - (a) relying upon non-cellular assets under a recourse agreement; or
 - (b) satisfying the risk-based minimum solvency requirement in rule 5.1.7.

5.1.7 Risk-based minimum solvency requirement

- (1) The risk-based minimum solvency requirement for a cell is that the amount of the cell's net cellular assets must be greater than the liabilities attributable to the cell by at least the greater of—
 - (a) the cell's premium risk component; and
 - (b) its technical provision risk component.
- (2) In this rule:

net cellular assets, of a cell, are the assets attributable to the cell (other than any deductible assets) less the liabilities attributable to the cell.

deductible assets of a cell means—

- (a) investments in subsidiaries and associates; and
- (b) intangible assets; and
- (c) inadmissible assets; and
- (d) any other asset that the Regulatory Authority has directed the firm to include under rule 3.1.2 (2) (b).

5.1.8 What is a cell's *premium risk component*?

The *premium risk component* for a cell carrying out contracts of insurance as a class 1, class 2, class 3 or class 4 captive insurer is the amount calculated in accordance with the following formula:

[20% × cell's *net written premium* up to US \$5 million]

+

[15% × cell's *net written premium* in excess of US \$5 million]

5.1.9 Technical provision risk component—cells conducting general insurance business

- (1) The *technical provision risk component* for a cell carrying out contracts of insurance as a class 1, class 2, class 3 or class 4 captive insurer that conducts general insurance business is the amount calculated in accordance with the following formula:

[5% × cell's net claims reserve on property insurance]

+

[15% × cell's net claims reserve on liability insurance]

where:

net claims reserve on property insurance is the amount of the cell's net claims reserve on property insurance under general insurance contracts in categories 3 to 9 in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.3.

net claims reserve on liability insurance is the amount of the cell's net claims reserve on liability insurance under the other categories of general insurance contracts in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.3.

net claims reserve, as at a date, is the amount of the cell's provision for—

-
- (a) claims incurred but not yet paid as at the date, including claims incurred but not yet reported; and
- (b) direct and indirect claims settlement expenses for those claims; less the amount of reinsurance and other recoveries expected to be received in respect of those claims.
- (2) Despite subrule (1), the Regulatory Authority may, by written notice, direct a firm (whether on application of the firm or on the authority's own initiative) to include a particular contract of insurance or category of contracts of insurance in the net claims reserve on property insurance or net claims reserve on liability insurance for a cell of the firm.

Example

Suppose PCC Limited is a protected cell company that is authorised as a class 4 captive insurer. Cell 1 of PCC Limited conducts captive insurance business as a class 3 captive insurer. Cell 1 has no recourse to non-cellular assets. Under rule 5.1.6 (2), therefore, Cell 1 must satisfy the risk-based minimum solvency requirement as follows.

Supposing its net written premium to be US \$7.5 million, its premium risk component (see rule 5.1.8) is:

$$(20\% \times \$5\text{m}) + (15\% \times \$2.5\text{m}) = \$1\text{m} + \$375,000 = \$1.375\text{m}$$

Supposing its net claims reserve on property insurance under general insurance contracts in categories 3 to 9 is US \$2 million and its net claims reserve on liability insurance under the other categories of general insurance contracts is US \$5 million. Then its technical provision risk component (see rule 5.1.9) is:

$$(5\% \times \$2\text{m}) + (15\% \times \$5\text{m}) = \$1\text{m} + \$750,000 = \$1.75\text{m}$$

Because its technical provision risk component (\$1.75 million) is higher than its premium risk component (\$1.375 million), the risk-based minimum solvency requirement for Cell 1 (see rule 5.1.7) is that the total amount of its cellular assets must be higher than its cellular liabilities by:

at least US \$1.75 million

5.1.10 Technical provision risk component—cells conducting life insurance business

The *technical provision risk component* for a cell carrying out contracts of insurance as a class 1, class 2, class 3 or class 4 captive insurer that conducts life insurance business is 2.5% of the policyholder liabilities calculated using actuarial methods for life insurance.

5.1.11 Regulatory Authority to make available certain details of PCCs

In the record kept and made available by the Regulatory Authority under the FSR, article 18 (1) (F), the Regulatory Authority must include, for any QFC captive insurer that is a protected cell company, details of each cell created by the insurer.

Chapter 6 Measurement of value of assets and liabilities

Notes for chapter 6

- 1 This chapter sets out rules for the consistent measurement of the value of assets and liabilities for use in making reports under chapter 7 (Actuarial reporting) and in determining compliance with chapter 2 (Prudential requirements) and chapter 3 (Eligible capital).
- 2 This chapter is not intended to establish a basis of accounting for general purpose financial statements of firms. It does not prevent firms from adopting methods or principles of measuring values of assets and liabilities that might be considered excessively prudent if adopted for financial statements.

6.1.1 Classification of contracts

- (1) A firm that is a QFC captive insurer must, in its own records, classify—
 - (a) contracts of insurance carried out by it as a captive insurer; and
 - (b) contracts of reinsurance entered into by it as cedent;

according to the category in which the contracts fall.

Note *Cedent* and *category* are defined in the glossary.

- (2) If a contract of insurance is in more than 1 category, a firm must record separately the portions of the contract that relate to each category.
- (3) However, a firm need not record immaterial portions of a contract of insurance separately.

Guidance

A portion of a contract of insurance insuring a risk of a category other than the principal category of the contract will not normally be regarded as material if the interest that it insures—

- (a) is both related and subsidiary to the principal interest or interests insured under the contract; and
- (b) constitutes less than 10% of the *gross written premium* under the contract.

6.1.2 Accounting standards and principles

A firm must adopt 1 of the following as the basis of its accounting:

- (a) *IFRS*;
- (b) *UK GAAP*;
- (c) *US GAAP*;
- (d) any other accounting standards or principles prescribed in *Rules*.

6.1.3 Firms may use other methods

- (1) A firm may measure the value of an asset at less than the value determined in accordance with this chapter.
- (2) A firm may measure the value of a liability at more than the value determined in accordance with this chapter.
- (3) A firm may use a method that gives approximate values of assets and liabilities if the values obtained using the method would not be materially different from the values that would have been obtained using a method in this chapter.

6.1.4 Direction by Regulatory Authority

Despite any other provision in this chapter, the Regulatory Authority may, by written notice, direct a firm to measure the value of an asset or liability using the method or principle in the notice.

Chapter 7 Actuarial reporting

Note for chapter 7

This chapter sets out—

- (a) the key requirements for reporting by actuaries; and
- (b) criteria for reporting actuaries to ensure their independence, education, skill and experience.

Part 7.1 Obligations of firms

7.1.1 Firms must prepare report

- (1) A QFC captive insurer that conducts long term insurance business must prepare a financial condition report on an annual basis.
- (2) A QFC captive insurer that conducts general insurance business must—
 - (a) consider, on an annual basis, the need to prepare a financial condition report; and
 - (b) prepare a financial condition report at least once every 3 years.
- (3) A financial condition report must be prepared and signed by the reporting actuary.
- (4) The day the reporting actuary signs the financial condition report is the *reference date* for the purpose of dating the financial condition report.

Note *Long term insurance business* and *general insurance business* are defined in the glossary.

7.1.2 Firms must appoint reporting actuary

- (1) A QFC captive insurer that is required to prepare a financial condition report must appoint an actuary (the **reporting actuary**) to prepare the report.
- (2) An individual must not be appointed as a reporting actuary unless the individual meets the following criteria:
 - (a) the individual has appropriate formal qualifications as an actuary and is a member of a recognised professional body;
 - (b) the individual must not be exercising the controlled functions of senior executive function, *executive governance function* or *non-executive governance function* of the firm, or of a *related* body corporate (except when that *related* body corporate is a subsidiary of the firm);

Note **Controlled function** and **senior executive function** are defined in the glossary.
 - (c) the individual is neither—
 - (i) an auditor approved under article 85 (1) of the QFC Companies Regulations or article 37 of the Limited Liability Partnerships Regulations (the **approved auditor**) for the firm; nor
 - (ii) an employee or director of an entity of which the approved auditor is an employee or director; nor
 - (iii) a partner of the approved auditor;
 - (d) the individual has a minimum of 5 years relevant experience in the provision of actuarial services to *insurers*, in the QFC or in other jurisdictions, that is sufficiently recent to ensure familiarity with current issues in the provision of actuarial services to *insurers*.

7.1.3 Firms must ensure access to relevant data, etc

- (1) A firm that is a QFC captive insurer must ensure that a reporting actuary has access to all relevant data, information, reports and staff of the firm that the actuary reasonably believes are necessary to fulfil the actuary's responsibilities.
- (2) A firm must also take all reasonable steps to ensure that the reporting actuary has access to the firm's contractors.

Part 7.2 Financial condition reports

7.2.1 Purpose and standards of financial condition reports

- (1) A financial condition report for a firm that is a QFC captive insurer must give—
 - (a) an objective assessment of the overall financial condition of the firm; and
 - (b) if the firm conducts long term insurance business—an objective assessment of the financial condition of each long term insurance fund established by the firm.

Note *Long term insurance business* and *long term insurance fund* are defined in the glossary.

- (2) In preparing a financial condition report, a reporting actuary must have regard to the relevant professional standards.

7.2.2 What must be included in financial condition reports?

- (1) A financial condition report must include, at a minimum—
 - (a) the business overview described in subrule (2); and
 - (b) an assessment of the suitability and adequacy of the firm's risk management policy; and
 - (c) an assessment of the firm's experience and profitability for the year ending on the valuation date; and
 - (d) an assessment of the value of the firm's insurance liabilities; and
 - (e) an assessment of the adequacy of past estimates of the value of insurance liabilities, especially if there has been a change in the assumption or in the valuation method used by the firm since the last valuation; and

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- (f) an explanation of the following matters relating to the valuation of insurance liabilities:
 - (i) the assumptions used in the valuation process, including assumptions about inflation and discount rates, future expense rates and, if relevant, future investment income;
 - (ii) the adequacy and appropriateness of data made available to the reporting actuary by the firm;
 - (iii) the procedures undertaken by the reporting actuary to assess the reliability of the data;
 - (iv) the model or models used by the reporting actuary;
 - (v) the approach taken to estimate the variability of the estimate;
 - (vi) the sensitivity analyses undertaken; and
 - (g) if the firm conducts long term insurance business—a determination of the value of surplus (the *surplus determination*) in each long term insurance fund established by the firm.

Note A surplus determination is required before any distribution of surplus is made under rule 8.4.2 (Assets not to be transferred for other purposes) or rule 8.4.4 (Distributions by firm or cell deemed to constitute single long term insurance fund).

- (2) For subrule (1) (a), the business overview must—
 - (a) describe how the firm operates, including reinsurance arrangements made by the firm; and
 - (b) state whether the reporting actuary considers the reinsurance arrangements suitable and adequate and the reasons why the reporting actuary considers them to be so; and
 - (c) describe the documentation for reinsurance arrangements; and

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- (d) state whether the firm has limited risk transfer arrangements and, if it has, describe the impact of the arrangements; and
 - (e) comment on the pricing of the firm's products, including the adequacy of premiums; and
 - (f) include any other general matter that is relevant to, and that gives a general understanding of, the firm's business.

7.2.3 Consideration of outlook and future implications

- (1) A reporting actuary must consider the outlook and any future implications for a matter required, under rule 7.2.2, to be in the financial condition report (a *relevant matter*).
- (2) If the outlook or future implication of a relevant matter is adverse, the reporting actuary must propose recommendations to address the matter.
- (3) A reporting actuary may rely on expert opinion if the actuary feels unqualified to comment on a relevant matter.
- (4) Any expert opinion relied on by the actuary must be identified as such in the financial condition report.

7.2.4 Time for giving report

- (1) A reporting actuary must give the financial condition report to the firm within such time as to give the governing body of the firm reasonable opportunity to—
 - (a) consider and use the financial condition report in preparing the firm's annual returns; and
 - (b) give the financial condition report to the Regulatory Authority in accordance with subrule (2).
- (2) A financial condition report for a firm must be given to the Regulatory Authority within 4 months after the day the relevant financial year of the firm ends.

Part 7.3 Additional reports, special reviews and costs

7.3.1 Regulatory Authority may require additional reports

- (1) The Regulatory Authority may, by written notice, require a firm to prepare financial condition reports more frequently than required under rule 7.1.1 (Firm must prepare report) if the authority considers it necessary or desirable for the prudential supervision of the firm.
- (2) The financial condition report must be prepared and signed by the reporting actuary.
- (3) A firm must give to the Regulatory Authority the report required under subrule (1) within the period stated in the notice, unless the authority gives an extension of the period in writing.

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

7.3.2 Regulatory Authority may require special purpose reports

- (1) The Regulatory Authority may, by written notice, require a firm—
 - (a) to undertake a special purpose review of matters relating to the firm's operations, risk management or financial affairs, and
 - (b) to prepare a report on the review.
- (2) A special purpose review and report must be undertaken and prepared by a reporting actuary unless the Regulatory Authority appoints an actuary to undertake the review and prepare the report.
- (3) A special purpose review and report must be undertaken and prepared in accordance with relevant professional standards.
- (4) The special purpose report must—

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- (a) be prepared and signed by the actuary who prepared it; and
 - (b) be given by the actuary simultaneously to the Regulatory Authority and the firm within 3 months after the date of the written notice requiring the report, unless the authority gives an extension of the period in writing.

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

7.3.3 Costs of reports and reviews

- (1) The costs of financial condition reports for a firm must be borne by the firm.
- (2) The costs of any special purpose review and report for a firm must be borne by the firm.

Chapter 8 Additional requirements for long term insurance business

Part 8.1 Preliminary

8.1.1 Application of chapter 8

This chapter applies to a firm that is a QFC captive insurer that conducts—

- (a) long term insurance business; or
- (b) general insurance business if the contracts of insurance are general insurance contracts attributed to a long term insurance fund under rule 8.3.2.

Note 1 Under rule 8.3.2, general insurance contracts that fall within General Insurance Category 1 (Accident) or General Insurance Category 2 (Sickness) in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.3 may be attributed to a long term insurance fund.

Note 2 ***Long term insurance business, general insurance business, general insurance contracts*** and ***long term insurance fund*** are defined in the glossary.

Part 8.2 Establishment of long term insurance fund

8.2.1 Firm not a protected cell company

A QFC captive insurer that is not a protected cell company must, before it effects long term insurance contracts—

- (a) establish and maintain 1 or more long term insurance funds; or
- (b) give written notice to the Regulatory Authority that the firm is to be taken to constitute a single long term insurance fund.

Note *Protected cell company* is defined in the glossary.

8.2.2 Firm a protected cell company

A QFC captive insurer that is a protected cell company must, before it effects long term insurance contracts through a cell—

- (a) establish and maintain, for the cell, 1 or more long term insurance funds; or
- (b) give written notice to the Regulatory Authority that the cell is to be taken to constitute a single long term insurance fund.

Note 1 Under rule 5.1.4, a QFC captive insurer that is a protected cell company must ensure that, when it conducts captive insurance business, each contract of insurance is attributable to a particular cell of the QFC captive insurer.

Note 2 *Cell* is defined in the glossary.

8.2.3 Effect of deeming

- (1) A firm that is taken to constitute a single long term insurance fund under rule 8.2.1 (b) is taken to have established a long term insurance fund for the purpose of attributing all of the assets and liabilities of the firm.

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- (2) A cell that is taken to constitute a single long term insurance fund under rule 8.2.2 (b) is taken to have established a long term insurance fund for the purpose of attributing all of the assets and liabilities of the cell.

Part 8.3 Attribution of contracts to long term insurance fund

8.3.1 Attribution of all long term insurance contracts

A firm that is a QFC captive insurer must attribute all long term insurance contracts to a long term insurance fund.

8.3.2 Attribution of general insurance contracts

A firm that is a QFC captive insurer must not attribute general insurance contracts to a long term insurance fund unless the contracts are general insurance contracts that fall within general insurance category 1 (Accident) or general insurance category 2 (Sickness).

Part 8.4 Limitation on use of assets in long term insurance fund

8.4.1 Assets to be used only for contracts attributed

A firm must ensure that, except as provided in this part, assets attributable to a long term insurance fund are applied only for the purposes of the contracts attributed to the long term insurance fund.

8.4.2 Assets not to be transferred for other purposes

A firm must ensure that assets attributable to a long term insurance fund are not transferred for other purposes of the firm unless the transfer—

- (a) is a distribution of a surplus following a surplus determination and the transfer is made within 4 months after the reference date of the relevant financial condition report; or
- (b) is a distribution by way of dividend or return of capital, in accordance with rule 8.4.4; or
- (c) is made in exchange for other assets at fair value; or
- (d) is a reimbursement of expenditure borne on behalf of the long term insurance fund for expenses attributable to the long term insurance fund; or
- (e) is a reattribution of assets attributed to the long term insurance fund in error.

Note *Surplus determination, financial condition report* and *reference date* are defined in the glossary.

8.4.3 Distributions must comply with chapter 8

A firm must not make any distribution by way of dividend, or return of capital assets attributable to a long term insurance fund, if the distribution would be in breach of this chapter.

8.4.4 Distributions by firm or cell deemed to constitute single long term insurance fund

A firm or a cell that is taken to constitute a single long term insurance fund may only make a distribution by way of dividend or return of capital if—

- (a) the dividend or return of capital is a distribution of a surplus following a surplus determination; and
- (b) the distribution does not cause the aggregate amount of the dividends and returns of capital made by the firm or the cell since the reference date of the relevant financial condition report to exceed—
 - (i) if the payment is made within 4 months after that reference date—the amount of the surplus; or
 - (ii) if the payment is made more than 4 months after that reference date—50% of the amount of the surplus.

Note *Surplus determination, month* and *reference date* are defined in the glossary.

8.4.5 Assets not to be lent

A firm must not lend or otherwise make available for any other purposes of the firm (or any party *related* to the firm) assets attributable to a long term insurance fund.

8.4.6 Prohibited arrangements

A firm must not enter into any arrangement (whether or not described as a contract of reinsurance) under which a long term

insurance fund of the firm reinsures risk with another fund maintained by the same firm.

Guidance

Rule 8.4.6 operates to prohibit reinsurance between long term insurance funds of the same firm, as well as arrangements of the nature of internal contracts of reinsurance where the cession transaction is attributed to a long term insurance fund but the corresponding reinsurance acceptance transaction is not.

Chapter 9 Transfer of insurance business

9.1.1 Application of chapter 9

This chapter applies to a firm that is a QFC captive insurer if the firm effects an insurance business transfer.

Note Provisions on insurance business transfers may also be found in the *Financial Services Regulations*, part 16 (Control of Business Transfers).

9.1.2 Definitions for chapter 9

- (1) For this chapter:

interested party, in relation to a firm that is the transferor under a relevant scheme, means a policyholder of the firm affected by the scheme.

relevant scheme means a scheme effecting an insurance business transfer.

transferee under a relevant scheme (or proposed relevant scheme) means the insurer to which the insurance business transfer under the scheme is being made (or proposed to be made).

transferor under a relevant scheme (or proposed relevant scheme) means the firm making (or proposing to make) the insurance business transfer under the scheme.

- (2) *Insurance business transfer*, by a firm, means the transfer of all or part of the business of effecting or carrying out contracts of insurance or reinsurance undertaken by the firm in or from the QFC.
- (3) However, *insurance business transfer* does not include—
- (a) the transfer of business relating to contracts of reinsurance entered into between members of the same group; and

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- (b) the transfer of business of all of a firm's business that consists solely of effecting and carrying out contracts of reinsurance in or from the QFC if all the policyholders of the transferor who will be affected by the transfer have consented to it; and
 - (c) the transfer of business of all of a firm's business if—
 - (i) all the policyholders of the firm are *controllers* of the firm or firms in the same group as the transferee; and
 - (ii) all the policyholders of the transferor who will be affected by the transfer have consented to the transfer.

9.1.3 Form and content of scheme report

- (1) For the *Financial Services Regulations*, article 97 a *scheme report* must be in writing and must include the following matters:
 - (a) the names and contact details of the transferor and transferee;
 - (b) the purpose of the relevant scheme;
 - (c) a description of the business (including categories of contracts of insurance), assets, rights and liabilities (including technical provisions, premiums and claims incurred) to be transferred;
 - (d) the terms of the agreement or deed under which the transfer will be carried out;
 - (e) particulars of any other arrangements necessary to give effect to the transfer;
 - (f) the effects of the transfer on interested parties, including any action that interested parties must or may take before, or because of, the transfer;
 - (g) a comparison between the likely effects on interested parties of implementing the transfer and not implementing the transfer;

-
- (h) a statement about any alternative schemes considered in preparing the report and how the proposed relevant scheme compares with those alternative schemes, particularly in their likely effects on interested parties;
 - (i) if different groups of interested parties are likely to be affected in different ways by the scheme—a statement about the material differences in the ways the groups are likely to be affected;
 - (j) the compensation (if any) offered to interested parties for any loss of rights or expectations;
 - (k) the likely effect of the scheme on investment management, new business strategies, administration, expense levels, and valuation basis, so far as they may affect—
 - (i) interested parties' contractual rights; and
 - (ii) levels of service provided to interested parties;
 - (l) any other matters that the entity preparing the report considers should be included in the report.
- (2) The scheme report must also include:
- (a) a statement that—
 - (i) there will be no materially adverse consequences from the proposed transfer to the policyholders of either the transferor or the transferee; and
 - (ii) the transferor and transferee will, if applicable, meet their minimum capital requirements after taking the proposed transfer into account; and
 - (b) a description of—
 - (i) any reinsurance arrangements that will be transferred to the transferee under the scheme; and

-
- (ii) any guarantee or additional reinsurance proposed to cover the business that will be transferred or retained by the transferor.

9.1.4 Summary of scheme

The scheme report must include a summary of the proposed relevant scheme which contains, at a minimum, the following:

- (a) the names and contact details of the transferor and transferee;
- (b) a statement that the firm intends to transfer the policy or policies of interested parties to another insurer, on or after a stated date;
- (c) a short explanation of the likely effects of the transfer on interested parties, including any action that interested parties must or may take before, or because of, the transfer;
- (d) information about the right of interested parties to be heard at a hearing on the application for approval of the scheme;
- (e) if interested parties do not need to take any action before, or because of, the transfer—a statement to that effect;
- (f) the compensation (if any) offered to interested parties for any loss of rights or expectations;
- (g) a statement about how the relevant scheme compares with alternative schemes considered by the entity that prepared the scheme report;
- (h) how interested parties can obtain further information and inspect relevant documents as may be available for public inspection.

9.1.5 Notice of intention and summary of report

- (1) The transferor under a proposed relevant scheme must give written notice of the scheme to every interested party.
- (2) The notice may be given personally or sent by prepaid post to the interested party's last-known postal address.
- (3) The notice must include—
 - (a) a statement about where and when an interested party may—
 - (i) obtain a copy of the scheme report; and
 - (ii) obtain further information about the proposed relevant scheme; and
 - (iii) inspect any associated documents that may be available for inspection by interested parties; and
 - (b) the summary under rule 9.1.4.
- (4) The transferor must also give a copy of the notice to the Regulatory Authority.
- (5) The notice must be published—
 - (a) in Arabic in an Arabic newspaper approved by the Authority; and
 - (b) in English in an English newspaper approved by the Authority; and
 - (c) together with a copy of the scheme report, in Arabic and English on an *approved website*.
- (6) The period within which an interested party must be able to obtain a copy of the scheme report must be at least 30 days beginning on the day the notice is published (or last published) in accordance with subrule (5).

Chapter 10 Captive insurers in run-off

Part 10.1 General provisions

10.1.1 Terms and concepts relating to run-offs

- (1) A firm that is a QFC captive insurer, a cell or a long term insurance fund is *in run-off* if the firm, cell or fund has ceased to effect contracts of insurance for the whole of its captive insurance business or for a category of contracts of insurance previously effected by it.

Note However, a firm, cell or long term insurance fund that is in run-off continues to carry out the contracts of insurance included in the run-off by paying out any future claims arising from them and permitting premiums and losses to run to their normal expiration.

- (2) The reasons why a firm, cell or long term insurance fund may *go into run-off* or be *placed into run-off* (and thereby cease to effect contracts of insurance as described in subrule (1)) include—
- (a) a decision of the governing body of the firm to cease to conduct captive insurance business; and
 - (b) a business or strategic decision to cease to effect contracts of insurance for a category of contracts of insurance; and
 - (c) the winding up or liquidation of the business; and
 - (d) a decision of the Regulatory Authority to withdraw the firm's authorisation; and
 - (e) a direction of the Regulatory Authority; and
 - (f) a court order or decision to wind up or liquidate the group to which the firm belongs.

10.1.2 Obligation of firm in run-off under FSR

Unless the Regulatory Authority directs otherwise, a firm must comply with this chapter if the firm is in run-off because of a decision or written notice of the authority, under the *Financial Services Regulations*, to the effect that the firm is to cease to effect contracts of insurance.

10.1.3 Contracts effected under existing term

- (1) In determining whether a firm is effecting contracts of insurance (or whether a firm has ceased to effect contracts of insurance), contracts of insurance that are effected under a term of an existing contract must be ignored unless the Regulatory Authority decides otherwise in respect of a particular contract.
- (2) This rule applies whether the contracts of insurance are effected through a cell or long term insurance fund.

Guidance

The effect of this rule is to disregard, for the purpose of determining whether this chapter applies, contracts of insurance that are effected by a firm because of a term of an existing contract of insurance. A contract will normally only be regarded as being effected under a term of an existing contract if—

- (a) the firm does not have discretion to decline to effect the new contract; or
- (b) it would be unreasonable for the firm, having regard to the interests of the policyholder, to decline to effect the new contract.

Part 10.2 **Notices and run-off plans**

Division 10.2.A **Ceasing to effect contracts in a category**

10.2.1 **Firms must notify Regulatory Authority—ceasing to effect contracts in a category**

- (1) This rule applies to a firm that is a QFC captive insurer if the firm ceases, or decides to cease, to effect new contracts of insurance or to renew contracts of insurance—
 - (a) in a category in which the firm has previously effected contracts of insurance; or
 - (b) for a cell or long term insurance fund—in a category in which the firm has previously effected contracts of insurance through the cell or long term insurance fund.

Note *Category* is defined in the glossary.

- (2) A firm to which this rule applies is taken to have undergone a material change for purposes of rule 2.3.6 (Strategy and risk document—review by firm) and must—
 - (a) by written notice, tell the Regulatory Authority about ceasing, or deciding to cease, to effect contracts of insurance in the category; and
 - (b) if the firm’s strategy and risk document is amended following a review under rule 2.3.6—give the Regulatory Authority a copy of the amendment, together with a copy of its strategy and risk document as amended, within 10 business days after the day the amendment is approved by the firm’s governing body.

Note Any material amendment to a firm's strategy and risk document must be approved by its governing body (see rule 2.3.5 (1)).

Division 10.2.B Ceasing to effect contracts for entire captive insurance business

10.2.2 Application of div 10.2.B

This division applies to a firm that is a QFC captive insurer if the firm—

- (a) goes into, or is in, run-off or maintains a cell or long term insurance fund that is in run-off; or
- (b) makes a decision to go into run-off or to place a cell or long term insurance fund into run-off; or
- (c) has its authorisation to effect contracts of insurance for its entire captive insurance business, or for the entire captive insurance business of a cell or long term insurance fund, withdrawn by the Regulatory Authority.

Note 1 An event or decision mentioned in this rule is a material change for purposes of rule 2.3.6 (Strategy and risk document—review by firm) and the firm must review and amend its strategy and risk document.

Note 2 Any material amendment to a firm's strategy and risk document must be approved by its governing body (see rule 2.3.5 (1)).

10.2.3 Firms must notify Regulatory Authority—events and decisions

- (1) A firm to which this division applies must, by written notice, tell the Regulatory Authority about an event or decision in rule 10.2.2 (a) or (b).
- (2) The notice must be given within 28 days after—
 - (a) the firm, or cell or long term insurance fund that it maintains, goes into run-off; or

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- (b) the firm makes the decision to go into run-off or place the cell or long term insurance fund into run-off.

10.2.4 Run-off plan—firm decides to go into run-off

- (1) If a firm decides to go into run-off, or to place a cell or a long term insurance fund into run-off, the firm must give the Regulatory Authority a written run-off plan for the captive insurance business, cell or long term insurance fund being placed into run-off.
- (2) The run-off plan must be given at the same time the notice in rule 10.2.3 is given.

10.2.5 Run-off plan—Regulatory Authority withdraws firm's authorisation

- (1) This rule applies if the Regulatory Authority withdraws a firm's authorisation to effect contracts of insurance for—
 - (a) its entire captive insurance business; or
 - (b) the entire captive insurance business of a cell or long term insurance fund.
- (2) A firm must give the Regulatory Authority a written run-off plan for the captive insurance business of the firm, cell or long term insurance fund.
- (3) The run-off plan must be given within 28 days after the firm receives the notice of withdrawal of the authorisation unless the notice specifies a longer period.

10.2.6 Period of run-off plan

- (1) A firm must ensure that a run-off plan given to the Regulatory Authority covers the period until all liabilities to policyholders relating to the captive insurance business in run-off are met.

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- (2) The run-off plan must include—
- (a) an explanation of how, and the extent to which, liabilities to policyholders will be met in full as they fall due; and
 - (b) an explanation of how, and the extent to which, the firm will maintain its compliance with the requirements of these rules until all liabilities to policyholders are met; and
 - (c) a description, appropriate to the scale and complexity of the firm's business, of its business strategy; and
 - (d) financial projections showing, in a form appropriate to the scale and complexity of the firm's operations, the forecast financial position of the firm as at the end of each reporting period during the period covered by the run-off plan; and
 - (e) an assessment of the sensitivity of the financial position of the firm to stress arising from realistic scenarios relevant to the circumstances of the firm; and
 - (f) details of planned run-off reinsurance protections and the extent to which the protections match the scenarios mentioned in paragraph (e); and
 - (g) details of the claims handling and reserving strategy; and
 - (h) details of the cost of the management of the run-off.
- (3) For a cell or long term insurance fund in run-off, the run-off plan must deal with the matters in subrule (2) so far as they relate to the cell or long term insurance fund.

10.2.7 Firms to monitor run-off plan etc

- (1) A firm that has given a run-off plan to the Regulatory Authority must monitor the matters in the plan.
- (2) If there is a significant departure from the run-off plan, the firm must, in writing, immediately tell the Regulatory Authority, but by

no later than the second business day after the day the departure happens or starts.

Note **Writing** and **business day** are defined in the glossary.

10.2.8 Amended run-off plan

- (1) If a firm gives notice of a significant departure from a run-off plan, the Regulatory Authority may, by written notice, require the firm to give to the authority an amended run-off plan.
- (2) The amended run-off plan must be given within 28 days after the firm receives the notice requiring the amended plan unless the notice specifies a longer period.

Part 10.3 Provisions for contracts relating to captive insurance business in run-off

10.3.1 Application of part 10.3

This part applies to a firm that—

- (a) is in run-off in relation to its entire captive insurance business or the entire captive insurance business of a cell or long term insurance fund; or
- (b) has given notice to the Regulatory Authority under rule 10.2.3 for its entire captive insurance business or the entire captive insurance business of a cell or long term insurance fund; or
- (c) has received a written notice from the Regulatory Authority withdrawing the firm's authorisation to effect contracts of insurance for its entire captive insurance business, or for the entire captive insurance business of a cell or long term insurance fund.

10.3.2 Firms in run-off must notify Regulatory Authority of certain contracts

- (1) A firm to which this part applies must—
 - (a) within 10 business days after the day its captive insurance business goes, or is placed, into run-off, notify the Regulatory Authority in writing about the existence and principal features of any notifiable contract that existed at the time the business entered into run-off; and
 - (b) within 10 business days after the day it enters into a notifiable contract in relation to its captive insurance business in runoff,

notify the Regulatory Authority in writing about the existence and principal features of the contract.

Note **Business day** and **writing** are defined in the glossary.

(2) To remove any doubt, subrule (1) (b) applies whether or not the captive insurance business is conducted through a cell or long term insurance fund that is in run-off.

(3) In this rule:

notifiable contract means—

- (a) a contract with a person *related* to the firm, other than a contract of insurance effected by the firm before going into run-off; or
- (b) a contract relating to the management of all or any of the captive insurance business in run-off; or
- (c) a contract for reinsurance of all or any of the captive insurance business in run-off; or
- (d) any other contract with a person with whom a contract of the kind mentioned in paragraph (b) or (c) was entered into or a person *related* to such a person.

10.3.3 Regulatory Authority may request additional information

- (1) The Regulatory Authority may, by written notice given to a firm that has notified the authority about a notifiable contract under rule 10.3.2, require the firm to give the authority, within a stated reasonable period, additional information about the contract.
- (2) The firm must comply with the requirement.
- (3) The power given by subrule (1) is additional to the Regulatory Authority's other powers.

Note See for example *Financial Services Regulations*, article 48 (Power to obtain documents and information).

Part 10.4 Limitations on distributions by captive insurers in run-off

10.4.1 Firms not to make distribution

- (1) A firm that is a QFC captive insurer in run-off must not make, without the written consent of the Regulatory Authority—
 - (a) any distribution to shareholders or members of the firm, whether by way of dividends or otherwise; or
 - (b) any payment of management fees.
- (2) A distribution or payment of management fees must be made within the period, if any, stated in the written consent given by the Regulatory Authority.
- (3) Subrule (1) (b) does not apply to management fees payable under a notifiable contract under rule 10.3.2.

Glossary

(see r 1.1.3)

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

authorised firm (or **firm**) means a person that has an authorisation.

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

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

captive insurance business has the meaning given in rule 1.2.2.

captive insurance management has the meaning given in rule 1.2.8.

captive insurance manager has the meaning given in rule 1.2.7.

carrying out contracts of insurance means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 3.

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

category, of a contract of insurance, means a category under the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.

cedent means a firm which arranges to transfer all or part of the risk undertaken under a contract of insurance to another insurer, in order to reduce its exposure.

Note **Cedent** is also known as reinsured.

cell means a cell created by a protected cell company for the purpose of segregating and protecting cellular assets in the manner provided by the Companies Regulations.

cellular assets of a protected cell company means the assets of the company that are attributable to its cells.

class 1 captive insurer has the meaning given in rule 1.2.3.

class 2 captive insurer has the meaning given in rule 1.2.4.

class 3 captive insurer has the meaning given in rule 1.2.5.

class 4 captive insurer means a captive insurer authorised under rule 1.2.6.

Companies Regulations means the QFC Companies Regulations 2005.

company means an entity incorporated under—

- (a) the Companies Regulations; or
- (b) the law of a country or territory outside the QFC where the liability of each of its members (in its capacity as a member) is limited, under the laws of that jurisdiction, to the amount of its capital contribution to the company.

compliance oversight function has the meaning given in INDI section 2.1.

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

contract of reinsurance means a contract of insurance covering all or part of a risk to which a person is exposed under a contract of insurance.

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

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

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

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

effecting contracts of insurance means the regulated activity described in the *Financial Services Regulations* schedule 3, part 2, paragraph 2.

employee, in relation to a person (A), means an individual—

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

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

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

exercise a function means exercise or perform the function.

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

finance function has the meaning given in INDI section 2.1.

financial condition report means the report required to be prepared by a reporting actuary under chapter 7.

firm (or **authorised firm**) means a person that has an authorisation.

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

function means any function, authority, duty or power.

general insurance business means the business of effecting contracts of insurance or carrying out contracts of insurance, where the contracts of insurance are general insurance contracts.

general insurance contract means a contract of insurance that falls within 1 or more of the categories described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.3.

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

group means the following:

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

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

INAP means the *Interpretation and Application Rulebook*.

INDI means the *Individuals Rulebook*.

insurance business is the business of conducting either or both of the following regulated activities:

- (a) effecting contracts of insurance;
- (b) carrying out contracts of insurance.

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

insurance liabilities, of a QFC captive insurer, means liabilities of the captive insurer arising out of its general insurance business and long term insurance business.

inadmissible assets has the meaning given in rule 3.1.7.

intangible assets has the meaning given in rule 3.1.6.

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

- (a) the State of Qatar; and
- (b) a foreign country (whether or not an independent sovereign jurisdiction), or a state, province or other territory of such a foreign country; and
- (c) the Qatar Financial Centre or a similar jurisdiction.

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

Examples

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

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

long term insurance business means the business of effecting contracts of insurance or carrying out contracts of insurance, where the contracts of insurance are long term insurance contracts.

long term insurance contract means a contract of insurance that falls within 1 or more of the categories described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.4.

long term insurance fund means a fund established or constituted under part 8.2.

MLRO function means the function of being an authorised firm's money laundering reporting officer under the *Anti-Money Laundering and Combating Terrorist Financing Rules 2010*.

month means calendar month.

office includes position.

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

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

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

person means—

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

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

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

- (a) money of any currency; and
- (b) bonds, securities, shares, and other negotiable or non-negotiable instruments of any kind; and

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

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

protected cell company means a company incorporated as, or converted into, a protected cell company under the Companies Regulations.

QFC means the Qatar Financial Centre.

QFC captive insurer has the meaning given in rule 1.2.1.

reporting actuary means an actuary appointed under rule 7.1.2 (Firm must appoint reporting actuary) to prepare a financial condition report.

reference date, for a financial condition report, has the meaning given in rule 7.1.1 (4).

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

Regulatory Authority means the Regulatory Authority of the QFC.

senior executive function has the meaning given in INDI section 2.1.

strategy and risk document has the meaning given in rule 2.3.3.

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

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

surplus determination, in relation to a financial condition report, means a determination of the value of a surplus under rule 7.2.2 (1) (g).

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