



QATAR FINANCIAL CENTRE

**REGULATORY  
AUTHORITY**

# **Islamic Finance Amendments Rules 2012**

## **QFCRA Rules 2012-3**

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

Dated 19 December 2012.

Abdulla Saoud Al-Thani  
Chairman

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# Islamic Finance Amendments Rules 2012

## QFCRA Rules 2012-3

made under the

*Financial Services Regulations*

## Contents

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	Page	
1 Name of rules	1	
2 Commencement	1	
3 Rules amended	1	
5 Explanatory notes	1	
<b>Schedule 1</b>	<b>Amendments of the Islamic Finance Rulebook</b>	<b>2</b>
<b>Schedule 2</b>	<b>Consequential and miscellaneous amendments</b>	<b>2</b>
<b>Part 2.1</b>	<b>Amendments of the General Rules 2005</b>	<b>2</b>
<b>Part 2.2</b>	<b>Amendments of the Insurance Business Rules 2006</b>	<b>2</b>

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<b>Part 2.3</b>	<b>Amendments of the Interpretation and Application Rulebook</b>	page <b>2</b>
<b>Part 2.4</b>	<b>Amendments of the Investment and Banking Business Rules 2005</b>	<b>2</b>

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**1 Name of rules**

These rules are the *Islamic Finance Amendments Rules 2012*.

**2 Commencement**

These rules commence on 1 February 2013.

**3 Rules amended**

These rules amend the *Rules* mentioned in schedules 1 and 2.

**4 Explanatory notes**

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

# Schedule 1      Amendments of the Islamic Finance Rulebook

(see r 4)

## [1.1]      Background to this Rulebook

*omit*

### Explanatory note

This amendment omits material that is no longer needed.

## [1.2]      Chapters 1 and 2

*substitute*

## Chapter 1      General provisions

### Part 1.1      Preliminary

#### 1.1.1      Name of rules

These rules are the *Islamic Finance Rules 2005* (or ISFI).

#### 1.1.2      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 is usually indicated by the defined term's being in italics (other than bold italics) in these rules.

*Note 2*      By contrast, the application of a definition in the glossary in these rules is not indicated by the defined term's being in italics.

*Note 3*      For the application of definitions, see *INAP*, r 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*, r 2.1.6 (1) and r 2.1.7).

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

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*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*, r 2.1.5).

*Note 7* For the effect of guidance, see *FSR*, art 17 (4).

## Part 1.2 Key concepts

### 1.2.1 What is *Islamic financial business*?

*Islamic financial business* is the business of carrying on 1 or more *regulated activities* in accordance with Shari'a.

### 1.2.2 What is an *Islamic financial institution*?

An *Islamic financial institution* is an authorised firm whose authorisation includes a condition that the whole of the firm's business must be conducted in accordance with Shari'a.

*Note* For firms that conduct a part (but not the whole) of their business in accordance with Shari'a, see ch 8 (Islamic windows).

### 1.2.3 What is a *profit sharing investment account (or PSIA)*?

- (1) A *profit sharing investment account (or PSIA)* is an account, portfolio or fund that satisfies the following conditions:
  - (a) it is managed by an authorised firm in accordance with Shari'a and is held out as such;
  - (b) under the management agreement with the firm—
    - (i) the investor concerned and the firm agree to share any profit in a specified ratio; and
    - (ii) the investor agrees to bear any loss not caused by the firm's negligence or breach of contract;
  - (c) the management of the account, portfolio or fund is a *regulated activity*.
- (2) A *restricted PSIA* is a PSIA that is subject to a restriction as to where, how or for what purpose the investment funds may be invested.

## **Chapter 2                      Conduct of Islamic financial business**

### **Part 2.1                      Authorisation**

#### **2.1.1                      Additional requirement for application**

An applicant for authorisation that proposes to conduct its business in accordance with Shari'a must state that fact in its application.

#### **2.1.2                      Authorisation only if applicant required to be Shari'a-compliant**

The Regulatory Authority may grant an authorisation as an Islamic financial institution only if the applicant's constitutional documents require the business to be conducted in accordance with Shari'a.

#### **2.1.3                      Condition as to compliance with Shari'a**

If the Regulatory Authority grants an authorisation as an Islamic financial institution, the authority must impose on the authorisation a condition that the business must be conducted in accordance with Shari'a.

### **Part 2.2                      Conduct of business**

#### **2.2.1                      Other firms not to be held out as Islamic financial institutions etc**

An authorised firm that is not an Islamic financial institution—

- (a) must not hold itself out as an Islamic financial institution; and
- (b) must not hold itself out as conducting Islamic financial business unless the firm's authorisation permits it to operate an Islamic window.

*Note*                      In relation to Islamic windows and their operation, see ch 8.



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### **2.2.2 Islamic financial institutions not to conduct other financial business etc**

An Islamic financial institution—

- (a) must not hold itself out as conducting financial business other than Islamic financial business; and
- (b) must not carry on any *regulated activity* otherwise than in accordance with Shari'a.

#### **Explanatory note**

This amendment—

- renames ISFI consistently with more recent rules
- inserts a glossary provision with notes (the glossary will facilitate the use of definitions that apply only to these rules, and will enable the usage of definitions to be rationalised)
- provides a description of 3 key concepts
- imposes particular requirements on an applicant for authorisation that proposes to conduct its business in accordance with Shari'a
- removes references to 'endorsement to conduct Islamic financial business' (an applicant for authorisation that proposes to conduct the whole of its business in accordance with Shari'a is now to be authorised as an Islamic financial institution)
- prohibits a firm that is not an Islamic financial institution from holding itself out as such, or from carrying on Islamic financial business otherwise than as set out in ch 8 (Islamic windows)
- prohibits an Islamic financial institution from conducting financial business that is not Islamic financial business.

**[1.3] Before rule 3.1.1***omit***3 Disclosure****3.1 Disclosure requirements in relation to Islamic Financial Business***insert***Chapter 3 Disclosure****3.1.1A Islamic financial institutions to disclose status**

An Islamic financial institution must ensure that it discloses appropriately to each of its *clients*—

- (a) that it is an Islamic financial institution; and
- (b) that its business is required to be conducted in accordance with Shari'a.

**Explanatory note**

This amendment brings the chapter heading into line with current practice, removes an unnecessary heading and inserts a requirement for an Islamic financial institution to disclose that fact to its *clients*.

**[1.4] Chapters 4 and 5***substitute***Chapter 5 Policies, procedures, systems and controls****5.1.1 General requirement**

An Islamic financial institution must establish, implement and maintain policies, procedures, systems and controls that ensure that its business is conducted in accordance with Shari'a.

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### 5.1.2 Policy and procedures manual

- (1) An Islamic financial institution must establish, implement and maintain an Islamic financial business policy and procedures manual that addresses the following matters:
  - (a) how the compliance function will be undertaken in relation to compliance with Shari'a;
  - (b) how the institution's Shari'a supervisory board will oversee and advise it in regard to the institution's Islamic financial business;
  - (c) how fatwas, rulings and guidelines of the Shari'a supervisory board will be recorded, disseminated and implemented and the internal Shari'a review undertaken;  
*Note* For the requirement to conduct an internal Shari'a review, see r 6.3.1.
  - (d) how disputes between the Shari'a supervisory board and the institution in relation to Shari'a compliance will be addressed;
  - (e) the process for approving the internal policies, procedures, systems and controls to ensure that—
    - (i) Islamic financial business is conducted in accordance with Shari'a; and
    - (ii) information is disseminated to investors appropriately;
  - (f) how conflicts of interest and potential conflicts of interest will be identified and managed.
- (2) If the institution manages 1 or more PSIA's, the manual must also contain the following matters:
  - (a) the basis upon which PSIA's will be taken to be restricted or unrestricted;
  - (b) procedures to ensure that the institution manages PSIA's in accordance with their holders' instructions;
  - (c) the basis for allocation of profit or loss to a PSIA;
  - (d) the basis for allocation of expenses to a PSIA;

- (e) how the institution's own funds and funds from PSIA's and restricted PSIA's are to be controlled;
- (f) how the funds of each type of PSIA holder will be managed;
- (g) how the institution will determine the priority for the investment of its own funds and those of PSIA holders;
- (h) how provisions and reserves against equity and assets in accordance with AAOIFI FAS 11 are to be applied;
- (i) how any losses incurred as a result of misconduct or negligence for which the institution is responsible will be dealt with.

**Explanatory note**

This amendment—

- removes ch 4 (which required an Islamic financial institution's constitutional documents to require compliance with Shari'a), the substance of which is moved to ch 2 (new r 2.1.2) by another amendment
- removes former r 5.1.2, applicable only to the operation of an Islamic window (the relevant parts of the former r 5.1.2 are re-applied by new ch 8, inserted by another amendment)
- clarifies the operation of present rule 5.2.1 relating to an Islamic financial institution's policies and procedures manual.

**[1.5] Rule 6.3.2**

*omit*

*Islamic Financial Institution*

*insert*

Islamic financial institution

**Explanatory note**

This amendment removes unnecessary italics and capitalisation.

**[1.6] Rule 6.3.3**

*omit*

**Explanatory note**

This amendment removes a reference to Islamic windows. A rule to the same effect is inserted in new ch 8 (relating to the conduct of business by means of Islamic windows).

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**[1.7] Rule 7.1.2**

*substitute*

**7.1.2 Contents of terms of business**

An Islamic financial institution must ensure that the *terms of business* that it gives to a *client* contain, in addition to the matters required under *COND*, the following information:

- (a) how the *client's* funds will be managed and invested (including details of the firm's policy on diversification of the portfolio);
- (b) the basis for the allocation of profit between the firm and the *client*;
- (c) confirmation of the investment objectives of the PSIA concerned, including details of any restriction requested by the *client*.

**Explanatory note**

This amendment corrects references to *COND*, and otherwise clarifies the rule's operation.

**[1.8] Rule 7.1.4 (including the heading Islamic Window)**

*omit*

**Explanatory note**

This amendment removes a reference to Islamic windows. A rule to the same effect is inserted in new ch 8 (relating to the conduct of business by means of Islamic windows).

**[1.9] Rule 7.1.5**

*omit*

by the *Rules* in the *COND Rulebook*,

*insert*

by *COND*,

**Explanatory note**

This amendment corrects a reference to *COND*.

**[1.10] After rule 7.1.5***insert*

## **Chapter 8 Islamic windows**

### **8.1.1 What is an *Islamic window*?**

If an authorised firm conducts a part (but not the whole) of its business in accordance with Shari'a, the part so conducted is an *Islamic window*.

### **8.1.2 What kinds of business may be conducted by means of an Islamic window?**

- (1) Only insurance business (within the meaning given in *PINS*, rule 1.2.4) may be conducted by means of an Islamic window.
- (2) An authorised firm that is in any PIIB category (within the meaning given by *PIIB*, rule 1.3.1 to rule 1.3.5) must not operate an Islamic window.

### **8.1.3 Authorisation to operate Islamic window**

- (1) An applicant for authorisation that proposes to operate an Islamic window must state that fact in its application.
- (2) An authorised firm that proposes to operate an Islamic window must apply to the Regulatory Authority for an appropriate variation of the conditions of its authorisation.

### **8.1.4 Conditions of operating Islamic windows**

- (1) An authorised firm that operates an Islamic window—
  - (a) must identify the part or parts of its business that are to be conducted in accordance with Shari'a; and
  - (b) must establish and maintain policies, procedures, systems and controls that ensure that that part or those parts are so conducted.

- 
- (2) An authorised firm that operates an Islamic window must comply with—
    - (a) chapter 3 (except rule 3.1.1As); and
    - (b) chapter 5;in relation to the part or parts of its business conducted by means of the window.
  - (3) For the application of chapter 3 and chapter 5 to such a firm, references to an Islamic financial institution are to be read as references to the firm.
  - (4) The firm must ensure that the disclosures required by AAOIFI FAS 18 are made to each *client* with whom, or on whose behalf, it conducts Islamic financial business.

#### **8.1.5 Shari'a supervisory board**

- (1) An authorised firm that operates an Islamic window must comply with chapter 6 in relation to the part or parts of its business that is conducted by means of the window.
- (2) For the application of chapter 6 to such a firm, references to an Islamic financial institution are to be read as references to the firm.

#### **8.1.6 Performance of internal Shari'a review**

- (1) An authorised firm that operates an Islamic window must, to the extent possible, perform the internal Shari'a review in accordance with the AAOIFI Standards on Governance (GSIFI No. 3).

*Note* An authorised firm that operates an Islamic window must perform an internal Shari'a review of the firm's compliance with fatwas, rulings and guidelines issued by its Shari'a supervisory board—see r 6.3.1, as applied by r 8.1.5.

- (2) If the firm cannot perform its entire internal Shari'a review in accordance with those standards, it must document how it will perform the remainder of that review.

## Glossary

(see r 1.1.2)

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

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

**Islamic financial business** has the meaning given by rule 1.2.1.

**Islamic financial institution** has the meaning given by rule 1.2.2.

**Islamic window** has the meaning given by rule 8.1.1.

**profit sharing investment account** has the meaning given by rule 1.2.3.

**PSIA** means profit sharing investment account.

**Regulatory Authority** means the Regulatory Authority of the *QFC*.

**restricted PSIA** has the meaning given by rule 1.2.3 (2).

**Shari'a supervisory board**, of an authorised firm, means the board appointed for the firm under rule 6.1.1.

### Explanatory note

This amendment inserts—

- a new ch 8, dealing with Islamic windows
- a new glossary.

### [1.11] Further amendments—substitution of 'Islamic financial institution' for 'authorised firm' etc

item	provision	omit	insert
1	3.1.1	<i>Authorised Firm</i>	Islamic financial institution
2	3.1.1 (A)	<i>Authorised Firm's</i>	institution's
3	3.1.2	<i>Authorised Firm</i>	Islamic financial institution
4	3.1.3	<i>Authorised Firm</i>	Islamic financial institution
5	3.1.3, guidance 1	an <i>Authorised Firm</i>	an Islamic financial institution



<b>item</b>	<b>provision</b>	<b>omit</b>	<b>insert</b>
6	3.1.3, guidance 1	the <i>Authorised Firm</i>	the institution
7	6.1.1, 6.1.2, 6.1.3	<i>Authorised Firm</i>	Islamic financial institution
8	6.1.5	An <i>Authorised Firm</i>	An Islamic financial institution
9	6.1.5	the <i>Authorised Firm</i> .	the institution.
10	6.1.6, 6.1.7, 6.2.1, 6.2.2 (1)	<i>Authorised Firm</i>	Islamic financial institution
11	6.2.2 (2)	<i>authorised firm</i>	Islamic financial institution
12	6.2.2 (2)	firm	institution
13	6.2.2, example	<i>authorised firm</i>	Islamic financial institution
14	6.2.2, example	firm's	institution's
15	6.3.4, guidance	<i>Authorised Firms</i>	Islamic financial institutions
16	7.1.1	an <i>Authorised Firm</i>	an Islamic financial institution
17	7.1.1	the <i>Authorised Firm</i>	the institution
18	7.1.2 (B)	<i>Authorised Firm</i>	institution
19	7.1.3 (1)	an <i>Authorised Firm</i> as if the <i>Authorised Firm</i>	an Islamic financial institution as if the institution
20	7.1.3 (2)	An <i>Authorised Firm</i>	An Islamic financial institution
21	7.1.5	<i>Authorised Firm</i>	Islamic financial institution

**Explanatory note**

These amendments substitute 'Islamic financial institution' for '*Authorised Firm*' as appropriate, and make consequential changes.

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**[1.12] Further amendments—other terms no longer defined in INAP for these rules**

<b>item</b>	<b>provision</b>	<b><i>omit</i></b>	<b><i>insert</i></b>
1	all	<i>Authorisation</i>	authorisation
2	all	<i>Regulatory Authority</i>	Regulatory Authority
3	all	<i>Shari'a Supervisory Board</i>	Shari'a supervisory board
4	rules 7.1.1 and 7.1.3 (1)	<i>Profit Sharing Investment Account</i>	PSIA

**Explanatory note**

This amendment removes unnecessary italics and capitals for certain terms that are now defined in the glossary to ISFI.

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## Schedule 2      Consequential and miscellaneous amendments

(see r 4)

### Part 2.1      Amendments of the Collective Investment Schemes Rules 2010

#### [2.1]      Rule S1.16 (2)

*substitute*

(2) In subrule (1):

*profit sharing investment account* has the meaning given by *ISFI*,  
rule 1.2.3.

#### **Explanatory note**

This amendment substitutes a reference to the definition of *profit sharing investment account* inserted into *ISFI* by another amendment.

## Part 2.2                      Amendments of the Insurance Business Rules 2006

(see r 4)

### **[2.2]        Rules 6.1.1 and 6.1.2 (including guidance)**

*substitute*

#### **6.1.1        Application of ch 6**

- (1) This chapter applies to a takaful entity.
- (2) In the case of a takaful entity that is not an Islamic financial institution, this chapter applies only to the part of the entity's business that is Islamic financial business.

##### **Guidance**

- 1    A takaful entity is required to comply with the requirements in *ISFI* and any other relevant regulatory requirements.
- 2    This chapter sets out additional requirements applying to takaful entities. A takaful entity must also comply with all the other requirements in these rules relevant to the takaful business it conducts.

##### **Explanatory note**

This amendment is consequent on the removal by these amending rules of the requirement for an endorsement to conduct Islamic financial business.

### **[2.3]        Glossary**

*insert the following definitions*

*Islamic financial business* has the meaning given by *ISFI*, rule 1.2.1.

*Islamic financial institution* has the meaning given by *ISFI*, rule 1.2.2.

##### **Explanatory note**

This amendment inserts definitions of 2 terms specific to PINS, formerly only in INAP.

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**[2.4] Further amendments—italics and capitalisation**

<b>item</b>	<b><i>omit</i></b>	<b><i>insert</i></b>
1	<i>Islamic Financial Business</i>	Islamic financial business
2	<i>Islamic Financial Institution</i>	Islamic financial institution

**Explanatory note**

These amendments remove unnecessary italics and capitalisation.

## Part 2.3                      Amendments of the Interpretation and Application Rulebook

(see r 4)

### **[2.5]            Glossary, definition of ISFI**

*substitute*

*ISFI* means the *Islamic Finance Rules 2005*.

#### **Explanatory note**

This amendment substitutes a new definition (consequent on the substitution of a new citation of *ISFI* by another amendment).

### **[2.6]            Glossary, definitions of Islamic contract, Islamic Financial Institution and Islamic Window**

*substitute*

*Islamic financial institution* has the meaning given by ISFI, rule 1.2.2.

*Islamic window* has the meaning given by ISFI, rule 8.1.1.

#### **Explanatory note**

This amendment omits the definition of *Islamic contract* (a term used only in PIIB, a definition of which is inserted into the glossary to PIIB by another amendment), and substitutes definitions of *Islamic financial institution* and *Islamic window* referring to those inserted into ISFI by another amendment.

### **[2.7]            Glossary, definitions of profit sharing investment account (PSIA), Project Finance and project finance business**

*omit*

#### **Explanatory note**

This amendment omits—

- a definition (*profit sharing investment account (PSIA)*) moved to ISFI by another amendment
- 2 definitions of terms apparently not used anywhere else in the rules (*project finance* and *project finance business*).

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## Part 2.4 Amendments of the Investment and Banking Business Rules 2005

### [2.8] Rules 3.1.1 and 3.1.2 (including guidance)

*substitute*

#### 3.1.1 Application of ch 3

This chapter applies to an authorised firm that conducts Islamic financial business.

##### **Guidance**

- 1 An authorised firm that conducts Islamic financial business must comply with the requirements in *ISFI* and any other applicable regulatory requirements.
- 2 An authorised firm that conducts Islamic financial business must also comply with the prudential requirements in these rules relating to its *trading-book* and *non-trading-book* activities, including *credit risk*, *market risk*, *liquidity risk* and *group risk*.

##### **Explanatory note**

This amendment is consequent on the removal, by these rules, of the possibility of an authorised firm to which PIIB applies conducting Islamic financial business by operating an Islamic window.

### [2.9] Glossary

*insert the following definitions*

*Islamic contract* means a contract designed to comply with Shari'a.

*Islamic financial business* has the meaning given by *ISFI*, rule 1.2.1.

*Islamic financial institution* has the meaning given by *ISFI*, rule 1.2.2.

*profit sharing investment account* has the meaning given by *ISFI*, rule 1.2.3.

*PSIA* means profit sharing investment account.

*restricted PSIA* has the meaning given by ISFI, rule 1.2.3 (2).

*unrestricted PSIA* means a PSIA that is not a restricted PSIA.

**Explanatory note**

This amendment inserts a number of definitions of terms used in PIIB that were formerly only in INAP.

**[2.10] Further amendments—italics and capitalisation**

item	omit	insert
1	<i>Islamic Financial Business</i>	Islamic financial business
2	<i>Islamic Financial Institution</i>	Islamic financial institution
3	<i>Profit Sharing Investment Account</i>	PSIA
4	<i>Profit Sharing Investment Accounts</i>	PSIAs
5	<i>profit sharing investment account</i>	PSIA
6	<i>PSIA (other than in combinations like PSIA COMcredit)</i>	PSIA
7	<i>Restricted Profit Sharing Investment Accounts</i>	restricted PSIAs
8	<i>Restricted PSIA</i>	restricted PSIA
9	<i>Restricted PSIAs</i>	restricted PSIAs
10	<i>Shari'a Supervisory Board</i>	<i>Shari'a supervisory board</i>
11	<i>Unrestricted Profit Sharing Investment Accounts</i>	unrestricted PSIAs
12	<i>Unrestricted PSIA</i>	unrestricted PSIA
13	<i>Unrestricted PSIAs</i>	unrestricted PSIAs

**Explanatory note**

These amendments remove unnecessary italics and capitalisation.