



Islamic Finance Rules 2005 (ISFI)

Version No. 4

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**Includes amendments made by
Islamic Finance Amendments Rules 2012
(QFCRA Rules 2012-3)**



QATAR FINANCIAL CENTRE

**REGULATORY
AUTHORITY**

Islamic Finance Rules 2005

made under the
Financial Services Regulations

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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)).

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.

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.

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.

3.1.1 An Islamic financial institution must disclose the following information to each *client* with whom or on behalf of whom it conducts, or proposes to conduct, Islamic financial business:

- (a) the members of the institution's Shari'a supervisory board;
- (b) if the *client* requests, the manner and frequency of Shari'a reviews.

3.1.2 An Islamic financial institution must disclose the information referred to in rule 3.1.1 to its relevant *clients*—

- (a) prior to conducting Islamic financial business with or on behalf of that *client*; and
- (b) thereafter, whenever the information changes.

Guidance

An Islamic financial institution may include the information required by rule 3.1.1 in the *terms of business* provided to a *client*.

3.1.3 An Islamic financial institution which effects or carries out *contracts of insurance* must disclose in its financial statements—

- (a) those matters set out in AAOIFI FAS 12, in the manner required by AAOIFI FAS 12; and
- (b) those matters set out in AAOIFI FAS 13.

Guidance

1 One of the important matters required to be disclosed by an Islamic financial institution pursuant to rule 3.1.3 (b) is the basis applied by the institution in

Chapter 3 Disclosure

Rule 3.1.3

treating any insurance deficit or surplus. Appendix B to AAOIFI FAS 13 provides some guidance as to how such a deficit or a surplus may be treated.

- 2 That appendix states that there are a number of ways to address an insurance deficit, including—
 - (a) settling the deficit from the reserve of policyholders, if any; and
 - (b) borrowing from the shareholders funds or from others the amount of the deficit which should be paid back from future surpluses; and
 - (c) asking the policyholders to meet the deficit pro rata; and
 - (d) increasing the future premium contribution of policyholders on a pro-rata basis.
- 3 That appendix also states that there are a number of ways to allocate an insurance surplus, including—
 - (a) allocating the surplus to all policyholders, regardless of whether or not they have made claims on the policy during the financial period; and
 - (b) allocating the surplus only among policyholders who have not made any claims during the financial period; and
 - (c) allocating the surplus among those who have not made any claims and among those who have made claims of amounts less than their insurance contributions, provided that the latter category of policyholders should receive only the difference between their insurance contributions and their claims during the financial period; and
 - (d) allocating the surplus between policyholders and shareholders; and
 - (e) allocating the surplus by using other methods.

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.

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.

Chapter 6 Shari'a supervisory board

Part 6.1 Appointment and operation of a Shari'a supervisory board

- 6.1.1** An Islamic financial institution must—
- (a) appoint a Shari'a supervisory board; and
 - (b) ensure that—
 - (i) its Shari'a supervisory board consists of at least 3 members; and
 - (ii) the members appointed to the Shari'a supervisory board are competent to perform their functions as Shari'a supervisory board members taking into account their qualifications and previous experience; and
 - (iii) any appointments, dismissals or changes in respect of members of the Shari'a supervisory board are approved by the *governing body* of the Islamic financial institution; and
 - (iv) no member of the Shari'a supervisory board is a director or controller of the Islamic financial institution.
- 6.1.2** An Islamic financial institution must document its policy in relation to—
- (a) how appointments, dismissals or changes will be made to the Shari'a supervisory board; and
 - (b) the process through which the suitability of Shari'a supervisory board members will be considered; and
 - (c) the remuneration of the members of the Shari'a supervisory board.

Record-keeping

- 6.1.3** An Islamic financial institution must establish and retain records of—
- (a) its assessment of the competence of the Shari'a supervisory board members; and
 - (b) the agreed terms of engagement of each member of the Shari'a supervisory board;
- for at least 6 years following the date on which the individual ceased to be a member of the Shari'a supervisory board.
- 6.1.4** The records of the assessment of competence of Shari'a supervisory board members in rule 6.1.3 (a) must include at a minimum—
- (a) the factors that have been taken into account when making the assessment of competence; and
 - (b) the qualifications and experience of the Shari'a supervisory board members; and
 - (c) the basis upon which the authorised firm has deemed that the proposed Shari'a supervisory board member is suitable; and
 - (d) details of any other Shari'a supervisory boards of which the proposed Shari'a supervisory board member is, or has been, a member.
- 6.1.5** An Islamic financial institution must take reasonable steps to ensure that the members of the Shari'a supervisory board are independent of and not subject to any conflict of interest with respect to the institution.
- 6.1.6** An Islamic financial institution must provide the Regulatory Authority, upon request, with information on its appointed or proposed Shari'a supervisory board members with regard to the qualifications, skills, experience and independence of the Shari'a supervisory board members.
- 6.1.7** An Islamic financial institution must take reasonable steps to ensure that it and its *employees*—
- (a) provide such assistance as the Shari'a supervisory board reasonably requires to discharge its duties; and

- (b) give the Shari'a supervisory board right of access at all reasonable times to relevant records and information; and
- (c) do not interfere with the Shari'a supervisory board's ability to discharge its duties; and
- (d) do not provide false or misleading information to the Shari'a supervisory board.

Part 6.2 Shari'a reviews

- 6.2.1** An Islamic financial institution must ensure that all Shari'a reviews are undertaken by the Shari'a supervisory board in accordance with the AAOIFI Standards on Governance (GSIFI No 2).
- 6.2.2** (1) An Islamic financial institution must commission an annual report from the Shari'a supervisory board which complies with the AAOIFI Standards on Governance (GSIFI No 1).
- (2) An Islamic financial institution must give the Regulatory Authority a copy of each annual report of the institution's Shari'a supervisory board within 4 *months* after the day the relevant financial year of the institution ends.

Example

If a financial year of an Islamic financial institution ends on 31 December in a year, the annual report of the institution's Shari'a supervisory board must be given to the Regulatory Authority before 1 May in the next year.

Part 6.3 Internal Shari'a review

- 6.3.1** An authorised firm must perform an internal Shari'a review to assess the extent to which the authorised firm complies with fatwas, rulings and guidelines issued by the authorised firm's Shari'a supervisory board.
- 6.3.2** An Islamic financial institution must perform the internal Shari'a review in accordance with the AAOIFI Standards on Governance (GSIFI No. 3).
- 6.3.4** An authorised firm must ensure that—
- (a) the internal Shari'a review is performed by the internal audit function or the compliance function of the authorised firm; and
 - (b) the individuals or departments involved in performing the review are competent and sufficiently independent to assess compliance with Shari'a.

Guidance

For the purposes of assessing competency of personnel or departments which perform the internal Shari'a review, Islamic financial institutions should consult the AAOIFI Standards on Governance (GSIFI No. 3).

Chapter 7 Conduct of business standards

Part 7.1 Conduct of Islamic financial business

Profit sharing investment accounts

7.1.1 Where a transaction will involve a *client* becoming a PSIA holder, an Islamic financial institution must warn the *client* in writing that the risk of loss rests with the *client* and that the institution will not share in the losses, unless there is negligence or misconduct for which it is responsible.

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 institution and the *client*;
- (c) confirmation of the investment objectives of the PSIA concerned, including details of any restriction requested by the *client*.

7.1.3 (1) *COND*, rules 4.4.7 to 4.4.10, applies to an Islamic financial institution as if the institution is an investment manager in respect of those *clients* who are PSIA holders.

(2) An Islamic financial institution must ensure that a periodic statement provided to a *client* in accordance with *COND*, rules 4.4.7 to 4.4.10, contains, in addition to those matters referred to in *COND*, the following information:

- (a) details of the performance of the *client's* investment;

- (b) the allocation of profit between the *authorised firm* and the *client*.

Financial communication

- 7.1.5** Before an Islamic financial institution issues or approves a *financial communication*, it must ensure that, in addition to the information required by *COND*, the material states which Shari'a supervisory board has reviewed the products or services to which the material relates.

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.

Endnotes

1 Abbreviation key

a	=	after	ins	=	inserted/added
am	=	amended	om	=	omitted/repealed
amdt	=	amendment	orig	=	original
app	=	appendix	par	=	paragraph/subparagraph
art	=	article	prev	=	previously
att	=	attachment	pt	=	part
b	=	before	r	=	rule/subrule
ch	=	chapter	renum	=	renumbered
def	=	definition	reloc	=	relocated
div	=	division	s	=	section
g	=	guidance	sch	=	schedule
glos	=	glossary	sdiv	=	subdivision
hdg	=	heading	sub	=	substituted

2 Rules history

Islamic Finance Rules 2005 (ISFI)

made by

Islamic Finance Rulebook Rule Making Instrument No. 5, 2005 (RM05/2005)

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Version No. 1

as amended by

Conduct of Business Rulebook Rule Making Instrument 2007 (RM2007/01 att G)

made 28 June 2007

commenced 1 July 2007

Version No. 2

Miscellaneous Amendments Rules 2009 (Rules 2009-2 sch 1, pt 1.10)

made 6 December 2009

commenced 6 December 2009

Version No. 3

Islamic Finance Amendments Rules 2012 (QFCRA Rules 2012-3 sch 1)

made 19 December 2012

commenced 1 February 2013

Version No. 4

3 Amendment history

Background

om Rules 2012-3

General provisions

ch 1 sub Rules 2012-3

Conduct of Islamic financial business

ch 2 sub Rules 2012-3

r 2.2.1 am Rules 2009-2

sub Rules 2012-3

r 2.3.1 am Rules 2009-2

sub Rules 2012-3

Disclosure

ch 3 hdg sub Rules 2012-3

pt 3.1 hdg om Rules 2012-3

Islamic financial institutions to disclose status

r 3.1.1A ins Rules 2012-3

r 3.1.1 am Rules 2012-3

r .3.1.2 am Rules 2012-3

r 3.1.3 am Rules 2012-3

r 3.1.3 g am Rules 2012-3

Constitutional Documents

ch 4 om Rules 2012-3

Policies, procedures systems and controls

ch 5 sub Rules 2012-3

Appointment and operation of a Shari'a supervisory board

r 6.1.1 am Rules 2012-3

r 6.1.2 am Rules 2012-3

r 6.1.3 am Rules 2012-3

r 6.1.5 am Rules 2012-3

r 6.1.6 am Rules 2012-3

Endnotes

r 6.1.7 am Rules 2012-3

Shari'a reviews

r 6.2.1 am Rules 2012-3

r 6.2.2 am Rules 2009-2; Rules 2012-3

Internal Shari'a reviews

r 6.3.2 am Rules 2012-3

r 6.3.3 om Rules 2012-3

r 6.3.4 g am Rules 2012-3

Conduct of business standards

r 7.1.1 am Rules 2012-3

Contents of terms of business

r 7.1.2 sub Rules 2012-3

r 7.1.3 am RM2007/01; Rules 2012-3

r 7.1.4 om Rules 2012-3

r 7.1.5 am rules 2012-3

Islamic windows

ch 8 ins Rules 2012-3

Glossary

ins Rules 2012-3

4 Editorial changes in this version

INAP, r 3.1.7, authorises certain editorial changes to Rules on publication (provided that the changes do not change the legal effect of the Rules). In this version of ISFI, the following changes have been made:

- the table of contents and the page headers and footers have been brought into line with current practice
- certain defined terms are no longer capitalised
- some provisions formerly lettered with upper-case letters are now lettered with lower-case letters (and references to them changed accordingly)
- “Chapter” and “part” have been inserted in headings (and references to the chapter or part changed accordingly)
- numbers formerly spelt out in the text are now shown as numerals (except at the beginning of a provision)
- minor changes to punctuation
- “and” or “or” inserted at the ends of certain paragraphs and subparagraphs, as appropriate, and omitted at the ends of paragraphs and subparagraphs where the sequence is preceded by “the following” or a similar expression.

