



## **Policy Statement No. 1**

# **QFC Firms Doing Business in the State**

## Summary

The Qatar Financial Centre Regulatory Authority (the “Regulatory Authority”), pursuant to its authority in Schedule 1, Paragraph 17.2 of Law No. (7) 2005 on the Law for the Qatar Financial Centre (“QFC Law”), is issuing this Policy Statement on the meaning and effect of Article 18(3) of that Law. This Policy Statement clarifies the business that firms licensed by the QFC Authority or authorised by the Regulatory Authority (collectively, “QFC Firms”) can conduct in the State of Qatar (“State”) but outside the Qatar Financial Centre (“QFC”), and the manner in which such business must be conducted in order to ensure that any State laws, rules or regulations that would otherwise apply to them do not.

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### 1. The QFC

- 1.1 On 16 February 2005, the State of Qatar ratified new legislation to establish the QFC, a financial and business centre established and located in Doha. The QFC Law was enacted by the Emir on 9 March 2005 and became effective on 1 May 2005. The QFC has been designed to attract international financial services institutions and major multi-national corporations and to encourage participation in the growing market for financial services in Qatar and elsewhere in the region.
- 1.2 The QFC will operate to international standards and provide a first class legal and business infrastructure for those doing business within the centre. The QFC's commercial and regulatory environment and systems conform to international best practices and are separate from and independent of the host Qatar systems. The standards required and the legal environment will be familiar to businesses currently operating in major financial centres around the world.
- 1.3 The QFC is operated by the QFC Authority, which is responsible for the commercial strategy and business development for the QFC, provides its administrative functions and licences firms that conduct certain activities that are not subject to the jurisdiction of the Regulatory Authority. The Regulatory Authority, an independent regulatory body established by Article 8 of the QFC Law reporting to Qatar’s Council of Ministers, is the QFC regulator. It regulates financial services firms that conduct certain enumerated regulated activities in or from the QFC. It has a broad range of regulatory powers to authorise, supervise and, when necessary, discipline firms and individuals. The powers, duties and functions of the Regulatory Authority are set out in the QFC Law and in the QFC Financial Services Regulations issued on 17 May 2005 with the consent of the Council of Ministers.
- 1.4 The QFC Law also establishes a QFC Appeals Body that will consider appeals arising from Regulatory Authority decisions, and a QFC Tribunal that will administer and enforce the QFC Law and Regulations issued thereunder.

### 2. The QFC Law

- 2.1 For purposes of this Policy Statement, the relevant provisions of the QFC Law are as follows. Article 2(2) provides that the location or boundaries of the QFC shall initially be set and altered from time to time by the Council of Ministers. Under Article 2(3) if an

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entity is already established in and operating in the State, the Minister of Economy and Commerce may designate the entity's premises for a six month period as a QFC location and may extend such designation for another six month period after which that entity must move its operations to a QFC location designated by the Council of Ministers. Any activity that is not conducted in or from a properly designated QFC location, and which is not consistent with this Policy Statement will fall outside the scope of the QFC Law.

- 2.2 Article 10(1) of the QFC Law provides that the regulatory and other activities specified in Schedule 3 of the QFC Law and any other activities authorised by the Council of Ministers (collectively, "Permitted Activities") may be conducted in and from the QFC.
- 2.3 Article 11(1) and (2) vests the QFC Authority and the Regulatory Authority with exclusive powers to licence or authorise QFC Firms to carry on Permitted Activities in or from the QFC, and to determine the terms and conditions for the issuance of such licences or authorisations. Under Article 11(3), unless stated otherwise in the QFC Law, the establishment and regulation of businesses in or from the QFC is governed exclusively by the QFC Law and Regulations issued thereunder. Article 11(4) states that any person properly licensed or authorised under the QFC Law shall require no further licence, consent or registration in the State of Qatar to carry on such activities in or from the QFC. Article 11(4) expressly provides that persons licensed or authorised under the QFC law (subject only as provided in Article 18) fall outside the jurisdiction of, among others, the Ministry of Economy and Commerce and the Qatar Central Bank, and that Qatar legal and regulatory requirements that would otherwise apply to QFC Firms shall not apply to the extent such Firms act in compliance with the QFC Law.
- 2.4 Article 18 clarifies how the QFC Law interacts with other State laws. Among other things: (a) Article 18(1) and (2) generally apply Qatar criminal/civil laws to the QFC except to the extent such Qatar criminal, civil or any other laws conflict with conduct or activity expressly licensed by the QFC Authority or authorized by the Regulatory Authority; (b) Article 18(4) authorises the QFC Authority to issue, and requires all State authorities to accept such, visas, permits and other documents for employment in or doing business with or in the QFC; and (c) Article 18(5) exempts the QFC Authority, the Regulatory Authority and related bodies from the Civil Service laws of the State and allows them to issue their own employment regulations.

### 3. Article 18(3) of the QFC Law

- 3.1 The provision of Article 18 that is most relevant to this Policy Statement is paragraph 3 which provides as follows:

*In relation to any activities conducted in any part of the State outside the QFC by any entity established in, and conducting operations from, the QFC and in relation to any contracts, transactions or arrangements made between any such entity and any person resident in the State or any entity established in the State but outside the QFC, the laws, rules and regulations of the State shall apply as if the entity established in, and conducting operations from, the QFC were established in a jurisdiction outside the State.*

- 3.2 The Regulatory Authority has received numerous inquiries concerning the meaning of this provision of the QFC Law and, as a consequence, of the scope of the QFC Law as it relates to the applicability of other State laws, rules and regulations when QFC Firms conduct business with persons and entities in the State. In consideration of this matter,

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the Regulatory Authority now issues this Policy Statement on the meaning and effect of Article 18(3) of the QFC Law.

- 3.3 Article 18(3) clarifies that QFC Firms will only be able to conduct activities in the State in reliance on their QFC licence or authorisation if they act in compliance with the requirements of the QFC Law and the terms of their licence or authorisation. Among other things, under Article 18(3) QFC Firms operating pursuant to a licence or authorisation issued by the QFC Authority or the Regulatory Authority, respectively, may not establish in the State in a non-QFC location and conduct business or activities from such locations in reliance on their QFC licence or authorisation. If any contracts, transactions or arrangements result from such business or activities, they will be governed by the laws, rules and regulations of the State as if the QFC Firm were established in a jurisdiction outside the State, and the QFC Firm could be deemed to be operating in the State without the requisite approvals from the relevant State authorities.
- 3.4 Article 18(3) does not prevent QFC Firms operating from a QFC location from entering the State and conducting the business and otherwise engaging in the Permitted Activities that they have been authorised to conduct under their QFC Authority licence or Regulatory Authority authorisation with persons or entities located in the State. For instance, the Regulatory Authority notes that Article 24 of the Financial Services Regulations specifically provides that a QFC Firm authorised by the Regulatory Authority may carry on certain Permitted Activities with or for retail customers in the State provided appropriate customer protections have been put in place.
- 3.5 Article 18(3) of the QFC Law must be read in the context of the wording of the QFC Law, and its purpose and intent. First, under Article 2, the Council of Ministers must designate the location(s) of the QFC. Second, Articles 10 and 11 of the QFC Law, respectively, enumerate the Permitted Activities that may be conducted in or from the QFC, and establish a legal structure that generally pre-empts the application of other State laws provided the conduct or activity in question is properly licensed or authorised by the QFC Authority or the Regulatory Authority and is undertaken from a QFC location. Third, the purpose of the QFC Law is not simply to facilitate business between QFC Firms but, amongst other things, to facilitate commerce and transactions between persons and entities in the State and the international institutions that would establish in the QFC under the QFC Law. Fourth, by establishing a structure that pre-empts the application of other State laws to QFC Firms, the State intended to facilitate QFC business and to provide legal certainty for transactions between QFC Firms and persons and entities in the State, and not to subject QFC Firms to parallel Qatar requirements that may otherwise apply to such transactions.

## 4. QFC Permitted Activities

- 4.1 The QFC Law generally, and the Financial Services Regulations more specifically prescribe a range of activities, the Permitted Activities, which may be conducted in or from the QFC. These activities are those most commonly recognised as constituting financial services or services found in support of financial services businesses, together with a number of related or corporate headquarters-type activities.
- 4.2 Within the range of Permitted Activities are two sub-classifications: Non-Regulated Activities which do not require extensive supervision, and Regulated Activities which are those financial services (such as banking, insurance or securities businesses) that require close and continuing scrutiny to ensure prudential soundness and the proper conduct of

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those businesses. Under Article 11 of the QFC Law both the QFC Authority and the Regulatory Authority are empowered, among other things, to specify which activities may be conducted in or from the QFC, and to impose conditions on how those activities are conducted.

- 4.3 The QFC Law requires all firms wishing to conduct Permitted Activities in or from the QFC to obtain a license from the QFC Authority. This allows the QFC Authority to ensure that any Permitted Activity proposed to be undertaken is consistent with the QFC's business strategy and commercial priorities. It is anticipated that the strategy and priorities will be published from time to time by the QFC Authority in the form of a Policy Statement. A licence from the QFC Authority alone will be sufficient to allow a firm to conduct Non-Regulated Activities.
- 4.4 A QFC Firm that wishes to conduct Permitted Activities that are also Regulated Activities may only do so pursuant to an authorisation issued by the Regulatory Authority. In determining whether to permit any particular Regulated Activity, the Regulatory Authority will have regard to its ability to satisfy its regulatory objectives in respect of those activities, and the circumstances of each Firm.

## 5. Ensuring Business is Conducted in or from the QFC

- 5.1 As noted above, the issuance of the QFC licence or authorisation permits the QFC Firm to enter the State to, among other things, meet with prospective and current clients in their offices and otherwise market their services, advertise in publications in Qatar, organize receptions and seminars, and all other things necessary and relevant to the conduct of their QFC business. In order to ensure it does not inadvertently bring itself within the scope of other State laws that might otherwise apply to its activities but for the QFC Law, the QFC Firm must ensure it takes the following measures.
- 5.2 The QFC Firm must ensure that its QFC Permitted Activities originate from or can be traced back to its place of business in the QFC location designated under Article 2 of the QFC Law. This means, among other things, that:
- correspondence concerning QFC business must clearly identify the QFC location of the QFC Firm;
  - all contacts between the QFC Firm and persons and entities in the State must be made by persons who are officers, directors, employees, or authorised agents, of the QFC Firm;
  - all contracts or other business concluded between the QFC Firm and a person or entity in the State must identify the QFC Firm as a QFC Firm and its QFC location; and
  - all transactions between the QFC Firm and a person or entity in the State must be identified as a transaction entered into by the QFC Firm at its QFC location, or if a branch of a firm located outside the State, at that firm's office located outside the State, and must be recorded as such in the QFC Firm's books and records.
- 5.3 If the QFC Firm also has a branch/headquarters office or affiliate in the State it must take measures to keep a clear and distinct separation between its QFC business and non-QFC business, including:

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- ensuring that the branch/headquarters is a true operating office for its non-QFC business and not a PO Box number or drop box;
  - maintaining separate books and records for each of the businesses that among other things, identify the source of the business and a basis for its allocation to the QFC Firm or its non-QFC branch/headquarters or affiliate;
  - to the extent reasonably possible, maintaining separate systems;
  - maintaining separate management systems; and
  - in circumstances where the same officer, director, employee or authorised agent may be acting on behalf of both entities, maintaining controls which permit the identification of the circumstances in which that officer, director, employee or authorised agent is acting on behalf the QFC Firm or the non-QFC firm.
- 5.4 To be very clear, it is important that QFC Firms understand that QFC permitted business that can be demonstrated as emanating or originating from, or is otherwise allocated to, a business at a non-QFC location in the State, or a branch/headquarters office or affiliate of the QFC Firm in the State will not be deemed to constitute Permitted Activities under the QFC Law and the QFC licence or authorisation obtained by the QFC Firm from the QFC Authority or Regulatory Authority will not protect it from any action deemed appropriate by other State authorities.

## 6. Conclusion

- 6.1 In summary, business conducted by QFC Firms in the State will be governed exclusively by the QFC Law if:
- it is undertaken from a location designated by the Council of Ministers as a QFC location;
  - it is one of the Permitted Activities;
  - it is permitted under the current business plan of the QFC Authority;
  - it is undertaken by a Firm that has been licensed by the QFC Authority or authorised by the Regulatory Authority;
  - it is approved for that particular QFC Firm under the terms of its licence or authorisation; and
  - the QFC Firm undertaking such conduct or activity complies with the steps outlined in section 5 of this Policy Statement.

**Issued on 11<sup>th</sup> September 2005 by the QFC Regulatory Authority at the Qatar Financial Centre, Doha, State of Qatar by**

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Chairman and CEO