



## **A summary of the public consultations on: CP2014/01: Banking Business Prudential Rules CP 2014/02: Investment Management and Advisory Rules CP 2014/03: Approved Individuals Regime and Miscellaneous Amendments**

### **Overview**

This document summarises the comments received and responses by the Regulatory Authority on three Consultation Papers released on 18 September 2014:

- 2014/01: *Proposed Banking Business Prudential Rules 2014;*
- 2014/02: *Proposed Investment Management and Advisory Rules 2014;*  
and
- 2014/03: *Approved Individuals Regime and Miscellaneous Amendments.*

The comments include both written submissions as well as comments made by firms during the 'Town Hall' meeting held on 14 October 2014. The formal consultation period closed on 2 November 2014.

This summary of public consultation published by the Regulatory Authority reflects its commitment to maintaining a transparent dialogue with stakeholders and an accountable policy-making process. Policy feedback on any future regulatory changes may be published when deemed appropriate.

The Regulatory Authority wishes to thank all the respondents for their comments and proactive engagement throughout the public consultation.

### **Background**

CP 2014/01 set out the proposal to introduce a new banking business prudential rulebook to update and enhance the prudential framework for banking business firms. The new rules will replace the prudential rules currently contained in the Investment and Banking Business Rules 2005 ("PIIB"), which will be repealed.

CP 2014/02 set out the proposal to introduce a new rulebook for investment management and advisory business, designed to update and simplify the existing prudential framework for firms carrying on this type of business. The rules will replace the current PIIB rules and will apply to firms currently categorised by PIIB as a category 3 or 4 firm, undertaking investment management and advisory business.



CP 2014/03 set out the proposals relating to the approved individual regime (“AI regime”). The proposed changes followed a wide-ranging internal review by the Regulatory Authority of the AI regime.

CP 2014/03 also proposed an amendment to clarify the net asset value requirement for insurance intermediaries contained in the Insurance Mediation Business Rules 2011.

## **Who should read this document?**

This document is relevant to all authorised firms as well as prospective firms that will be seeking approval to conduct regulated activities in the QFC. It is also relevant to current approved individuals and prospective individuals performing controlled functions or a customer facing function (“CFF”).

## **Summary of comments received and final rules**

The following sections summarise the key issues that arose in the feedback received and the Regulatory Authority’s views on this feedback. The Regulatory Authority’s views reflect the final policy decisions as contained in the following final rules: Banking Business Prudential Rules 2014; Investment Management and Advisory Rules 2014; and the Individuals (Assessment, Training and Competency) Rules 2014.

### **Banking Business Prudential Rules 2014 (“BANK”)**

There were four written responses received from firms on the BANK Rules and these focused on clarifications of the draft Rules. The limited number of responses may reflect the extensive consultation undertaken by the Regulatory Authority during the development and implementation of the accompanying changes in the prudential returns from authorised firms.

There were a small number of minor changes made to the BANK Rules after consultation. The final BANK Rules now include:

- greater detail on regulatory adjustments and deductions that are applicable to the calculation of regulatory capital;
- risk-weighted asset tables and risk-weights for specialised lending which are both used for the calculation of credit risk. Previously these items were solely contained in the prudential reporting returns;
- an amendment to the definition of ICAAP to link capital adequacy to the broader risks that firms face; and
- an easing on the limits for lending to related parties.



### **Investment Management and Advisory Rules (“INMA”)**

There were seven written responses received from firms on the INMA Rules. The responses focused on clarifications of the draft Rules. This has resulted in a small number of minor changes being made to the final INMA Rules as follows:

- The amounts of minimum paid-up share capital stated in Qatari Riyal in the draft Rules were revised downwards to more accurately reflect the existing U.S. dollar amounts.
- The requirement for certain firms to have a formal Internal Risk and Solvency Assessment (“IRSA”) has been removed. The Regulatory Authority will monitor the risk management profile of INMA firms and retain the flexibility to require firms to adopt more sophisticated risk management frameworks as appropriate.

### **Individuals (Assessment, Training and Competency) Rules 2014 (“INDI”).**

There were 13 written submissions received from firms on the draft INDI Rules. The new approval process for approved individual applications was generally welcomed. Several submissions questioned whether the greater reliance on a firm’s assessment may lead to inconsistent or less robust outcomes due to some firms interpreting the requirements differently, or otherwise lacking effective systems and controls. The Regulatory Authority recognises this risk and will use its supervisory framework to monitor firms to ensure both consistency in the assessment process and that firms’ systems and controls are effective.

#### Removal of CFFs from public register

The proposal that drew the most public feedback was the removal of individuals performing a CFF role from the Regulatory Authority’s public register. The draft Rules instead proposed that firms would be responsible for maintaining their own publicly available CFF registers.

Submissions suggested that a centralised public register maintained by the Regulatory Authority would support efforts to improve the professional status of CFFs and assist customers who may struggle to find this information on firms’ websites.

After careful review, the final INDI Rules continue to require a firm to maintain a publicly available register of its CFF’s and no public register will be maintained by the Regulatory Authority. The Regulatory Authority believes that the perceived benefits of having a public register comes at a cost of exposing the Regulatory Authority to considerable reputational risk, given the individuals on the register would no longer be approved or vetted by the Regulatory Authority.

However, the Regulatory Authority does agree that there is merit in:



- a having a notification regime in which a firm must notify the Regulatory Authority in relation to misconduct or a failure to meet expected standards of competency or fitness and propriety by an individual employed in a CFF role by the firm; and
- b recording in the public register, maintained by the Regulatory Authority, any enforcement actions taken by the Regulatory Authority against individuals who are performing, or have performed, a CFF role for an authorised firm.

Appropriate changes to the final INDI Rules have been made to reflect the notification requirement outlined above.

It is also proposed to include wording on the public register found on the Regulatory Authority's website that identifies the relevant approved individuals for each firm (such as the Senior Executive Function or Compliance Oversight Function) to whom enquiries can be directed regarding individuals performing a CFF role for the firm.

#### CISI Regulatory Qualification

Questions were raised in the 'Town Hall' meeting and subsequently in written submissions on the requirement for certain CFF roles to obtain the CISI Regulatory qualification, in particular for CFFs that undertake very simple arranging activities or who are providing basic scripted responses when selling retail general insurance and pure protection contracts.

In light of this feedback, the Regulatory Authority has re-examined this issue and has amended the final INDI Rules to allow an authorised firm to designate individuals as performing non-discretionary CFF activities for the firm. These designated individuals would not be required to obtain the CISI qualification, although they would still be required to obtain the Award in General Insurance. Examples of non-discretionary CFF activities include:

- using a sales process that involves putting scripted questions to retail customers;
- the use of prepared answers or scripted responses for retail customers by call centre staff;
- routine data collection from retail customers in filling out policy documentation;
- giving routine assistance with claims management to retail customers.

A firm can only designate an individual as performing non-discretionary CFF activities where:



- a the activities are for retail customers only and in relation to general insurance contracts, or pure protection contracts;
- b the firm employs at all times at least one individual performing a CFF role who has obtained the CISI Regulatory qualification (that is, an individual who can undertake discretionary CFF activities); and
- c the firm has appropriate systems, controls, policies and procedures to ensure that only employees qualified to provide discretionary activities do so.

#### Structure of the Individuals Rules 2005

While there was no direct comment on the structure of the draft INDI Rules, the Regulatory Authority has come to the conclusion that the existing rulebook was difficult to navigate given numerous deletions and additions over the last decade. Accordingly, the current INDI has been repealed and a new rulebook issued. The restructuring has not altered the substantive content of the final INDI Rules.