

The Qatar Financial Centre special company regulations: Getting better all the time

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The amended Special Company Regulations (“Regulations”) and the new Special Company Rules in relation to companies in the Qatar Financial Centre (“QFC”) were issued by the QFC Authority (“QFCA”) at the end of 2013.

The amended Regulations effectively relaxed some of the restrictions on the activities of the two types of entities governed by these regulations – the ‘special purpose company’ and the ‘holding company’ – and would be of interest to companies that are considering setting up such entities in Qatar, regardless of the location of the other companies in their group.

Special Purpose Companies

Special purpose companies may only be incorporated in the QFC for the purpose of a ‘Transaction’ and are permitted to carry out the following activities:

1. the acquisition, holding and disposal of any asset in connection with and for the purpose of a Transaction;
2. the obtaining of any type of financing, the granting of any type of security interest over its assets, the providing of any indemnity or similar support for the benefit of its shareholders or the entering into any type of hedging arrangements, in connection with and for the purpose of a Transaction;
3. financing of the entity for which Transaction the special purpose company has been established (such entity being referred to as the “Initiator”) or another special purpose company;
4. acting as trust administrator or agent for any participant in a Transaction;
5. any other activity approved by the QFCA that falls within the ‘Permitted Activities’ identified in paragraphs 10 to 15 of Schedule 3 to the QFC Law (e.g. the provision of professional services or the business activities of company headquarters, management offices and treasury operations), or qualifies as an exemption under Schedule 3 to the Financial Services Regulations (financial-type services which fall within one of the exemptions, such as transactions carried out within the same group of companies or in connection with a joint venture); or
6. activities that fall within any of paragraphs 1 to 9 of Schedule 3 to the QFC Law (eg. financial or investment business, asset management, insurance, etc) and which are not carried on by way of business.

The definition of a ‘Transaction’ in the new Regulations effectively removes the previous restriction on the type of transaction for which a Special Purpose Company may be set up. A ‘Transaction’ is now defined as “a transaction or series of transactions in connection with which the Special Purpose Company has been established”. This broad definition is a departure from the previous version of the Regulations, which had limited the type of transactions to Islamic or conventional structured finance transactions, including securitisations or other capital markets transactions.

With the removal of this restriction, the potential of a special purpose company could be expanded for the purpose of transactions such as mergers and acquisitions or corporate restructuring exercises.

Holding Company

A holding company established in the QFC may only carry on the following activities:

1. holding and maintaining one or more subsidiary;
2. granting any type of security interest over its assets for its own benefit or for the benefit of any of its subsidiaries;
3. providing an indemnity, guarantee or similar support to any third party for its own benefit or for the benefit of any of its subsidiaries;
4. the acquisition, holding or disposal of any interest in any asset whether tangible or intangible for its own benefit or for the benefit of any of its subsidiaries;
5. providing any type of loan or other form of financing to any other member of its group;
6. any activities which are ancillary to the activities set out under (a) to (e) above; and
7. any other activity approved QFC Authority that falls within the Permitted Activities identified in paragraphs 12, 14, or 15 of Schedule 3 to the QFC Law (e.g. the business activities of company headquarters, management offices and treasury operations or the business of provision, formation, operation and administration of companies), or qualifies as an exemption under Schedule 3 to the Financial Services Regulations.

The activities have been broadened slightly in the revised Regulations to provide that a holding company may take the actions in paragraphs (b), (c) and (d) above for its own benefit, not just for the benefit of its subsidiaries, and to provide loans or other financing to any member of its group of companies and not just its subsidiaries; these would appear to be activities reasonably within the contemplation of any company.

Also of significance is the removal of certain reporting requirements previously imposed on holding companies. One is the requirement for a holding company to give prior written notice to the QFCA (and if applicable, the QFC Regulatory Authority) if it intends to provide services to any of its subsidiaries and await approval from the QFCA before it can proceed to supply such services.

The other requirements that have been removed are the requirements to submit an annual business plan to the QFCA on the holding company's proposed activities and to give 21 days' prior notice before conducting activities that are not in the business plan.

The changes represent a positive move as the result would be to reduce the administrative burden on holding companies.

Greater Possibilities

One advantage of establishing holding companies in the QFC and which may not have been fully appreciated in the past by companies seeking to establish an entity in Qatar is that the Regulations do not impose any restriction on the types of activities or business carried out by the subsidiaries of a QFC holding company. This consideration, together with the changes to the Regulations in respect of special purpose companies and the indication from the QFC that applications are dealt with in very short timeframes, should make it more attractive for companies that may wish to consider establishing a special purpose company or holding company in Qatar (whether or not the rest of their operations are located in Qatar) to take advantage of the QFC's low-tax regime and other benefits of having an office in Qatar.