



# **MARKET INTERMEDIARIES AND REPRESENTATIVES LICENSE MODULE**



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<b>CHAPTER</b>	<b>MIR-A Introduction</b>

## MIR-A.1 Purpose

### *Executive Summary*

- MIR-A.1.1 Module MIR sets out the Central Bank of Bahrain's regulatory framework governing the licensing requirements of members undertaking any regulated activities in or from the Kingdom of Bahrain.
- MIR-A.1.2 The MIR Module seeks to introduce a consistent, effective and harmonised approach in regulation and supervision of members undertaking any regulated activities in or from Bahrain. It sets out the CBB requirements for authorisation of the controlled functions within the members regarding the initial, as well as ongoing compliance requirements.
- MIR-A.1.3 The key principles underlying the approach of the CBB in this Module aim:
- To promote fair, orderly and transparent conduct or transactions on any regulated activity undertaken by a member;
  - To facilitate and promote best international practices and conduct while undertaking or providing any regulated activity in or from Bahrain;
  - To reduce systemic risk;
  - To detect and deter manipulation and other misconduct;
  - To maintain integrity of trading through fair and equitable rules that strike an appropriate balance between the demands of different participants;
  - To maximize the regulatory effectiveness;
  - To minimize the regulatory cost; and
  - To maintain market integrity and investor confidence.
- MIR-A.1.4 Persons or entities undertaking any regulated activities or functions require prior CBB licensing and/or authorisation. MIR-B.2 provides the definitions for members which are impacted by this Module. These include, but are not limited to entities providing the following regulated activities:
- Undertaking or providing services related to arranging or trading in securities, whether as principal or as an agent;
  - Undertaking or providing any services related to the clearing or settlement of securities transactions, whether as principal or agent;
  - Undertaking or providing services related to the depositing of securities with a clearing house and licensed depository.



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## MIR-A.2 Module History

### *Evolution of Module*

- MIR-A.2.1 This Module was first issued in November 2009. Any material changes that are subsequently made to this Module are annotated with the calendar quarter date in which the change is made; Chapter UG-3 provides further details on Rulebook maintenance and version control.
- MIR-A.2.2 The Bahrain Stock Exchange’s Internal Regulation, issued on 24<sup>th</sup> December 1988 (particularly Chapter 4 Articles 15 to 35), stipulates the membership requirements for the Exchange.
- MIR-A.2.3 Resolution No. (2) of 1990, in respect of Certain Conditions Relating to Securities Trading; Resolution No. (4) of 1999, on the Rules and Procedures of Automated Trading at the Bahrain Stock Exchange; and Resolution No. (6) of 2001, in respect of Provision of Remote Trading at the Bahrain Stock Exchange; provides detailed provisions and requirements regarding the rights and obligations of the BSE members in respect of securities trading through the automated trading system at the BSE.
- MIR-A.2.4 Resolution No. (3) for the Year 2000, issued by the Chairman of the Bahrain Stock Exchange’s Board of Directors, with Respect to the Clearing, Settlement, Depository and Registry Rules provides for “the Participant” which means a BSE member who is accepted and permitted by the BSE to effect transfer of securities and other entries in relation to securities, by means of the CSDR System and provides detailed provision and requirements to be a participant in the CSDR System.
- MIR-A.2.5 A list of recent changes made to this Module is undertaken below:

Module Ref.	Change Date	Description of Changes
MIR-B.2.7, MIR-B.2.8A, MIR-B.2.17A, MIR-B.2.20A	04/2013	Amended and added definitions.
MIR-2.1.1	04/2013	Clarified licensing requirements.
MIR-2.1.2	04/2013	Clarified Subparagraph (d).
MIR-2.1.4A to MIR-2.1.4C	04/2013	References added to requirements under Resolution No.(16) for the year 2012.
MIR-2.1.5	04/2013	Removed reference to conventional bank as Islamic banks are also covered since reference is made to Volumes 1 and 2.
MIR-2.2.4	04/2013	Deleted dealers and exempt members from licensing categories.
MIR-2.2.4A	04/2013	Included external and proprietary membership conditions.
MIR-2.2.5	04/2013	Deleted reference to ‘dealer’ as discount brokers are not able to trade through dealers.



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## MIR-A.2 Module History (continued)

Module Ref.	Change Date	Description of Changes
MIR-2.2.7	04/2013	Deleted licensing conditions of dealers.
MIR-2.2.8A and MIR-2.2.8B	04/2013	Included specific external membership requirements.
MIR-2.2.8C	04/2013	Included the proprietary membership requirements.
MIR-2.2.9	04/2013	Clarified general status of clearing member.
MIR-2.2.11	04/2013	Updated name change to Form 3.
MIR-2.2.11A and MIR-2.2.11B	04/2013	New criteria for external members. CBB to retain market conduct supervision powers.
MIR-2.2.12	04/2013	Included specific reference to licensing.
MIR-2.2.12A	04/2013	Included general requirements for licensing as requirements for authorisation by the exchange.
MIR-2.2.12B	04/2013	Included provision for licensing amendment.
MIR-2.3 and MIR-2.4	04/2013	These Sections were deleted as exempted member was deleted as a licensing category.
MIR-2.8.1 and MIR-2.8.1A	04/2013	Provided details of annual fees due to the CBB.
MIR-2.10.1	04/2013	Included specific Rules for place of business.
MIR-3.1.6 to MIR-3.1.8	04/2013	Moved reference from Section MIR-4.17 on compliance officer and added reporting from compliance officer to the CBB.
MIR-3.2.2	04/2013	Added new residency requirements.
MIR-3.4.2	04/2013	Added reference to Form 3: Application for Approved Person Status.
MIR-4.7.7	04/2013	Included market maker agreement content.
MIR-4.7.7A	04/2013	Included criteria to be a market maker.
MIR-4.9.3 and MIR-4.9.4	04/2013	Added reference to report institutional information (IIS) to the CBB.
MIR-4.12.4(i)	04/2013	Added regulatory disclosure as exception from maintaining confidentiality.
MIR-4.17	04/2013	This Section was deleted and requirements moved to Paragraphs MIR-3.1.6 and MIR-3.1.7.
MIR-2.8	04/2014	Clarified Rules and guidance on annual license fees.
MIR-2.5.4, MIR-2.5.5, MIR-3.1.3 and MIR-4.8.9	07/2014	Removed reference to exempted member as this category was deleted as a licensing category in April 2013.
MIR-3.1.3	07/2014	Corrected reference to non-existent Subparagraph.
MIR-4.8.2	07/2014	Correction made to align with the requirements of the CBB Law.
MIR-1.1.7	04/2016	Legal basis updated to reflect Resolution No (23) of 2015.
MIR-3.1, MIR-3.3 and MIR-3.4	04/2016	Amended to be in line with Resolution No (23) of 2015 on Prior Approval Requirements for Approved Persons.
MIR-3.1.3	04/2016	Clarified that controlled function (d) Head of function cannot be combined with other functions.
MIR-3.4.1 and MIR-3.4.2	04/2016	Paragraph MIR-3.4.1 was deleted and clarification was made to Paragraph MIR-3.4.2 that approval for controlled functions referred to under Paragraph MIR-3.1.2, must be made by submitting Form 3.



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## MIR-A.2 Module History (continued)

### *Superseded Requirements*

MIR-A.2.6 This Module supersedes the following provisions contained in Circulars, or any other regulatory instruments:

Circular/Other Ref.	Provisions	Subject
BSE Internal Regulation Article No. 17	Article 17	Brokers registered with the Ministry of Commerce shall apply to the BSE Management for a new license for undertaking brokerage in securities.
Resolution No. (2) of 1995 Issued by the Chairman of the BSE	All	In respect of services provided by brokerage companies at the Bahrain Stock Exchange.
Resolution No. (2) of 2002 Issued by the Chairman of the BSE	All	In respect of the provision of custodial services through the Central Depository System at the Bahrain Stock Exchange.



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### **MIR-A.3 Interaction with other Modules**

MIR-A.3.1 All members and their employees and representatives must comply with all other Modules in Volume 6, in addition to other applicable laws, rules and regulations.





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## MIR–A.4 Division of Responsibilities

- MIR-A.4.1 A clear division of responsibilities between CBB as the regulator, the SRO's and their members is required:
- To maximise the regulatory effectiveness;
  - To permit flexibility to the SRO's in their functioning;
  - To achieve greater efficiency and transparency in the enforcement of the laws, rules and regulations;
  - To minimise the regulatory cost; and
  - To enforce the requirements related to the market conduct and good practices.
- MIR-A.4.2 As a regulator, CBB's role would be as follows:
- Regulatory supervision;
  - Maintaining and promoting fairness, efficiency and transparency within the capital market and securities businesses;
  - Acting as an enforcement agency with powers to investigate and take administrative, civil or criminal actions as it may deem appropriate;
  - Approving the business rules and by-laws of the SRO's whereby any changes in such business rules and by-laws would need prior approval of CBB; and
  - Licensing, supervision, inspection, investigation and enforcement on the SRO's and their members.
- MIR-A.4.3 As a CBB licensee, the main objective of the SRO is to promote:
- Fairness and investor protection;
  - Fair access to their systems, facilities and information;
  - The provision of timely and accessible relevant information and data; and
  - The efficient regulation of their members.
- MIR-A.4.4 As a CBB licensee, as well as a member, the main objectives of such entities are:
- Handling an execution of the investors or clients' orders or transactions in accordance with the CBB Law, rules and regulations, as well as with the business rules of the licensed exchange;
  - Clearing, settling and depositing of investors or clients' securities in accordance with the licensed clearing house business rules;
  - Handling and the protection of their client's securities, assets and money, in accordance with the applicable laws, rules and regulation and this Module;
  - Providing efficient and cost effective services to their clients and enhancing the public investors' confidence in the market; and
  - Providing any regulated activities undertaken by them in line with the industry standards and best international practices.



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<b>CHAPTER</b>	<b>MIR-B      Scope</b>

## MIR-B.1      Scope

**MIR-B.1.1**      This Module shall apply to any person undertaking any regulated activities as a member of an SRO (licensed exchange and/or licensed clearing house) in or from Bahrain.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-B Scope</b>

## MIR-B.2 Definitions

- MIR-B.2.1 “Business Rules” in relation to a licensed exchange, a futures exchange or a licensed market operator, means the rules, regulations, by-laws or such similar body of statements, by whatever name called, that governs the activities and conduct of:
- The licensed exchange or licensed market operator; or
  - Members of the respective licensed exchange or licensed market operator; and
  - Other persons in relation to it.
- MIR-B.2.2 “Broker” means person who acts as an intermediary between the buyer and seller, usually charging a commission. A broker who specializes in stocks, debt securities, commodities or options acts as agent and must be licensed by the CBB and registered with the licensed exchange as a member.
- MIR-B.2.3 “Chief Executive” or “General Manager” means a person who is responsible for the conduct of the licensee (regardless of actual title). The Chief Executive or General Manager must be resident in Bahrain. This person is responsible, alone or jointly, for the conduct of the whole of the firm, or, in the case of an Overseas Investment Firm Licensee, for all of the activities of the branch.
- MIR-B.2.4 “Client” means a person with or for whom a licensed member conducts or intends to conduct regulated activities.
- MIR-B.2.5 “Client Information” means transaction information relating to:
- A named client of a licensed member; or
  - A group of clients, from which the name of a client can be directly inferred from a licensed member.
- MIR-B.2.6 “Dealer” means a person acting as a principal in a securities transaction. Principals trade for their own account and risk. When buying from a broker acting as a dealer, the customer receives securities from the member’s inventory; the confirmation must disclose this when dealers trade for their own account as part of their responsibility for maintaining an orderly market. Since most brokerage firms operate as both brokers and principals (dealers) the term “broker-dealer” is commonly used.
- MIR-B.2.7 “Discount Broker” means a person who arranges orders to buy and sell securities and who supplies these orders to a licensed broker for execution.
- MIR-B.2.8 “Director” is any person who occupies the position of a Director, as defined in Article 173 of the Commercial Companies Law (Legislative Decree No. 21 of 2001).



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-B Scope</b>

## MIR-B.2 Definitions (continued)

- MIR-B.2.8A “External trading member” means an eligible foreign institution who is a member of a licensed exchange and licensed by the CBB but who conducts their regulated activity (including trading on behalf of their clients) exclusively outside the jurisdiction of the Kingdom of Bahrain.
- MIR-B.2.9 “Head of Function” means a person who exercises major managerial responsibilities, is responsible for a significant business or operating unit, or has senior managerial responsibility for maintaining accounts or other records of the licensee.
- MIR-B.2.10 “Licensed Exchange” means an exchange licensed by the CBB under the Markets & Exchange Module (MAE) of Rulebook Volume 6.
- MIR-B.2.11 “Licensed Clearing House” means a clearing house and/or depository licensed by the CBB under the Clearing, Settlement and Central Depository Module (CSD) of Rulebook Volume 6.
- MIR-B.2.12 “Licensed Market Operator” means a market operator licensed by the CBB under the Markets and Exchanges Module (MAE) of Rulebook Volume 6.
- MIR-B.2.13 “Licensed Member” for the purpose of this Module means a member who is licensed by the CBB under this Module.
- MIR-B.2.14 “Listing Rules” in relation to a licensed exchange means rules governing or relating to:
- (a) The admission to the official list of the licensed exchange or licensed market operator of the securities of corporations, governments, bodies unincorporated or other persons for the purpose of the quotation on the securities market of the licensed exchange of securities issued, or made available by such corporations, governments, bodies unincorporated or other persons, or the removal from that official list and for other purposes; or
  - (b) The activities or conduct of corporations, governments, bodies unincorporated and other persons who are admitted to that list.
- MIR-B.2.15 “Market Analysis” means research aimed at predicting or anticipating the direction of stock, debt securities, or commodity markets based on technical data about the movement of market prices or on fundamental data such as corporate earnings prospects, or supply and demand.



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## MIR-B.2 Definitions (continued)

- MIR-B.2.16 “Market Contract or Contracts” means:
- (a) A contract subject to the business rules of a licensed clearing house or central depository that is entered into between the licensed clearing house and a member pursuant to a novation (however described), whether before or after default proceedings have commenced, which is in accordance with those business rules and for the purposes of the clearing or settlement of transactions using the clearing facility of the licensed clearing house; or
  - (b) A transaction which is being cleared or settled using the clearing facility of a licensed clearing house and in accordance with the business rules of the licensed clearing house, whether or not a novation referred to in paragraph (a) is to take place.
- MIR-B.2.17 “Market Intermediary and Representative” means a person falling within a category referred to in MIR-2.2.3 which undertakes regulated activities.
- MIR-B.2.17A “Market Maker” means a licensed member authorised by a licensed exchange to provide buy and sell quotes as a principal in a security on a regular and continuous basis at fair market value.
- MIR-B.2.18 “Member” in relation to an SRO means a person who holds membership of any class or description in the SRO, whether or not he holds any share in the share capital of the SRO, as the case may be, and who has been approved by a licensed exchange to effect transactions on the trading system of the licensed exchange and/or approved by a licensed clearing house to effect the clearing, settlement or depositing of securities thereof.
- MIR-B.2.19 “Person”, for the purpose of this Module, shall mean a natural person, corporation, limited liability company, joint stock company, partnership, association, trust, fund or any organized group of persons whether incorporated or not.
- MIR-B.2.20 “Position” in relation to a securities or futures contract, means a securities or futures contract which is outstanding and which has not been liquidated:
- (a) By an off-setting transaction;
  - (b) By delivery of the securities or the commodity (or any other asset class) underlying the futures contract;
  - (c) Through settlement of the securities or futures contract in accordance with the business rules or practices of a securities or futures contracts, as the case may be; or
  - (d) By substituting the futures contract for a cash commodity.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-B Scope</b>

## MIR-B.2 Definitions (continued)

- MIR-B.2.20A “Proprietary trading member” means a locally incorporated entity accepted as a member by a licensed exchange and licensed by the CBB, and who conducts trading only for its own account or funds and who does not trade or accept instructions on behalf of clients or other third parties.
- MIR-B.2.21 “Registered representative” means an employee of a broker-dealer who acts as an account executive for clients. As such, the registered representative gives advice on which securities to buy and sell and he collects a percentage of the commission income he generates as compensation. To qualify as a registered representative, a person must acquire a background in the securities business and pass a series of tests and other qualifications imposed by the CBB and/or licensed exchange. “Registered” means licensed or authorised by the CBB and the licensed exchange.
- MIR-B.2.22 “Regulated Activities” for the purpose of this Module means any activity stipulated under the CBB Law Article (80).
- MIR-B.2.23 “Securities” means shares or bonds issued by shareholding companies, government debt instruments and the following financial instruments:
- (a) Shares in companies and other securities equivalent to shares in companies or other entities, and depository receipts in respect of shares;
  - (b) Bonds or other forms of debt, including depository receipts in respect of such securities;
  - (c) Warrants;
  - (d) Units, rights or interests (however described) of the participants in a collective investment scheme;
  - (e) Options, futures and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event);
  - (f) Options, futures and any other derivative contract relating to commodities that can be physically settled;
  - (g) Units in Real Estate Investment Trusts (REITs);
  - (h) Index tracking products and Islamic indices;
  - (i) Any other financial instrument approved as a financial instrument by the CBB for the purpose of trading such instrument on an exchange; and
  - (j) Islamic securities, being those financial instruments that are Shari’a compliant.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-B Scope</b>

## MIR-B.2 Definitions (continued)

MIR-B.2.24 “SRO” means a self-regulatory organization, being a Licensed Exchange, Licensed Market Operator or a Licensed Clearing House under Module MAE and/or Module CSD respectively.

MIR-B.2.25 “Transaction information” means information relating to:

- (a) Offers or invitations to purchase, sell, or exchange securities or futures contracts;
- (b) Executed transactions in securities or futures contracts; and
- (c) Transactions cleared or settled by a designated clearing house.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-1 Legal Basis and Regulated Activities</b>

## MIR-1.1 Legal Basis and Regulated Activities

MIR-1.1.1 Article (1) of the CBB Law defines “Financial Institutions” as: Banks, insurance companies, companies dealing in securities, portfolios and investment funds, financing companies, money exchange companies, money brokers and mediators, insurance brokers, mediators of the securities market, consultancy firms dealing in the financial service industry, credit rating firms, Bahrain securities market, capital markets, and precious metals and strategic commodities markets, financial sector support institutions, including institutions licensed to provide financial regulated activities according to Islamic Shari’a principles”.

In addition, Article (1) defines “Financial Sector Support Institutions” as: “institutions licensed for operating clearance houses, settlement payments, cheques and financial papers, and institutions which are wholly or partly set up by financial institutions in cooperation with the Central Bank, in order to provide regulated activities of a purely financial nature to the financial regulated activities industry”.

Article (1) defines “Market Maker” as: “Any person licensed by the Central Bank to sell and buy in the Stock Exchange to encourage trading in this market”.

MIR-1.1.2 The CBB defines the securities businesses in line with Article (80) of the CBB Law, which states that “Companies trading in securities are those companies whose objectives include one or more of the following activities:

1. Promoting and underwriting securities or financing investments therein;
2. Participating in incorporating of securities companies or increasing the capitals thereof.
3. Forming and managing securities portfolios.
4. Depositing, clearance and settlement of securities.
5. Brokering in securities transactions.
6. Providing advisory services related to securities.
7. Any other regulated activities as approved by the Central Bank.”

For the purpose of this Module, the abovementioned regulated activities that may be undertaken shall be only those activities within the parameters of the regulated business of the SRO, of which the member is a member which may include, but not be limited to the activities below:

“**advising on corporate finance**” means giving advice:

- (a) To any entity concerning compliance with or in respect of laws or regulatory requirements (including the listing rules of a securities exchange) relating to the raising of funds by any entity;
- (b) To the person making an offer or invitation to the public:
  - (i) To subscribe for or purchase securities; or
  - (ii) To sell or otherwise dispose of securities, concerning that offer or invitation; or
- (c) Concerning the arrangement, reconstruction, merger or takeover of a corporation or any of its assets or liabilities.





<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-1 Legal Basis and Regulated Activities</b>

## MIR-1.1 Legal Basis and Regulated Activities (continued)

“**agreement**” includes arrangement;

“**dealing in securities**” means (whether as principal or agent) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to acquiring, disposing of, subscribing for, or underwriting securities;

“**Portfolio management**” means undertaking on behalf of a client (whether on a discretionary authority granted by the customer or otherwise):

- (a) The management of a portfolio of securities or futures contracts; or
- (b) Foreign exchange trading or leveraged foreign exchange trading for the purpose of managing the client’s funds;

“**offer**” or “**offering**” includes invitation;

“**on a margin basis**”, means financial institutions entering into the contract or arrangement referred to therein by providing to the investor or his agent money, securities, property or other collateral which represents only a part of the value of the contract or arrangement to be entered into by him;

“**providing depositing, clearance and settlement of securities**” means providing or agreeing to provide any service where the person providing the service has, under an arrangement with another person (the client), possession or control of securities of the client and carries out one or more of the following functions for the client:

- (a) Settlement of transactions relating to the securities;
- (b) Collecting or distributing dividends or other pecuniary benefits derived from ownership or possession of the securities;
- (c) Paying tax or other costs associated with the securities;
- (d) Exercising rights, including without limitation voting rights, attached to or derived from the securities;
- (e) Any other function necessary or incidental to the safeguarding or administration of the securities, but does not include:-
  - (i) The regulated activities of a corporation which is a depository, as defined in Article (94) of the Law;
  - (ii) The provision of regulated activities to a related corporation or associated person, so long as none of the securities is:-
    - (A) Held on trust for another person by the related corporation or associated person;
    - (B) Held as a result of any custodial regulated activities undertaken by the related corporation or associated person to another person; or
    - (C) Beneficially owned by any person other than the related corporation or associated person;
  - (iii) The provision of regulated activities by a nominee corporation which are solely incidental to the business of a nominee corporation; or
  - (iv) Any other conduct as the CBB may prescribe;



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-1 Legal Basis and Regulated Activities</b>

## MIR-1.1 Legal Basis and Regulated Activities (continued)

"**securities financing**" means to directly or indirectly facilitate, by providing any credit facility, advance or loan:

- (a) The subscription for securities or purchase of listed or to be listed securities on a securities exchange or such other securities as the CBB may prescribe; and
- (b) Where applicable, the continued holding of those securities, whether or not those securities are pledged as security for the credit facility, advance or loan, but does not include the provision of any credit facility, advance or loan:-
  - (i) That forms part of an arrangement to underwrite or sub-underwrite securities;
  - (ii) To facilitate an acquisition of securities in accordance with the terms of a prospectus, to offer securities;
  - (iii) To a licensed member undertaking regulated activities to deal in securities or provide securities financing, or a financial institution, to facilitate acquisitions or holdings of securities;
  - (iv) By a listed company to its directors or employees to facilitate acquisitions or holdings of its own securities;
  - (v) By a member of a group of listed companies to another member of the group to facilitate acquisitions or holdings of securities by that other member; or
  - (vi) By an individual to a company in which he holds 10% or more of its issued share capital to facilitate acquisitions or holdings of securities;

"**trading in futures contracts**" means (whether as principal or agent):-

- (a) Making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to the purchase or sale of a futures contract; or
- (b) Soliciting or accepting any order for, or otherwise dealing in, a futures contract.

MIR-1.1.3 The regulated activities under sub-Articles 80 (1) and 80 (2) of the CBB Law shall be covered under the Offering of Securities Module (OFS) under this Volume.

MIR-1.1.4 The CBB Law Article (89) requires that "All trading in securities listed on the Exchange shall be conducted through a mediator who is licensed by the Central Bank and registered as a member of the Exchange".

MIR-1.1.5 The CBB Law Article (94) "Deposit of Securities" states that "No person may engage in depositing of securities without an authorisation from the Central Bank. "Deposit of Securities" means to register the ownership of the securities of a depositor in the name of a depository under a securities deposit agreement and in accordance with the form issued for this purpose by the depository. The Central Bank shall issue the rules governing the Deposit of Securities".



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## **MIR-1.1 Legal Basis and Regulated Activities (continued)**

- MIR-1.1.6 The CBB Law Article (113) states that:
- “(a) The Central Bank may request in writing from any licensee’s partner any reports that may be necessary under this law.
  - (b) The person who prepares such reports referred to in the previous paragraph must be:
    1. Nominated, appointed or approved by the Central Bank.
    2. Duly qualified to prepare such reports”.

MIR-1.1.7 This Module contains the prior approval requirements for approved persons under Resolution No (23) of 2015.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-2 Licensing</b>

## MIR-2.1 Licensing Requirements

**MIR-2.1.1** No person shall undertake any of the regulated activities under section MIR-1.1, or hold himself out as undertaking any regulated activities through a licensed exchange or licensed clearing house in or from Bahrain, unless the person is licensed by the CBB and accepted as a member of an SRO.

MIR-2.1.2 A person will be deemed to be undertaking business within or from Bahrain, if for example:

- (a) Such person is incorporated in Bahrain;
- (b) Such person uses an address situated in Bahrain for the correspondence;
- (c) Such person directly solicits clients who are resident within Bahrain; or
- (d) Such person utilises the services of a licensed exchange and/or licensed clearing house.

MIR-2.1.3 Without prejudice to the generality of Article (89) of the CBB Law, no person other than a licensed member shall use, in any language a word or expression which may reasonably be understood to mean that such person is a licensed member, or is carrying out a regulated activity unless he is a licensed person.

MIR-2.1.4 Except with the written approval of the CBB, no person other than a licensed member shall take or use, or have attached to or exhibited at any place:

- (a) The title or description “licensed member” in any language; or
- (b) Any title or description which resembles a title or description referred to in (a).

**MIR-2.1.4A** No person may market any financial services in the Kingdom of Bahrain unless:

- (a) Allowed to do by the terms of a license issued by the CBB;
- (b) The activities come within the terms of an exemption granted by the CBB by way of a Directive; or
- (c) Has obtained the express written permission of the CBB to offer financial services.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-2 Licensing</b>

## MIR-2.1 Licensing Requirements (continued)

- MIR-2.1.4B In accordance with Resolution No.(16) for the year 2012 and for the purpose of Paragraph MIR-2.1.4A, the word ‘market’ refers to any promotion, offering, announcement, advertising, broadcast or any other means of communication made for the purpose of inducing recipients to purchase or otherwise acquire financial services in return for monetary payment or some other form of valuable consideration.
- MIR-2.1.4C Persons in breach of Paragraph MIR-2.1.4A are considered in breach of Resolution No.(16) for the year 2012 and could be subject to penalties under Articles 129 and 161 of the CBB Law.
- MIR-2.1.5 Where a person is licensed under Volumes 1 or 2, then a separate license under Volume 6 is not required in order to undertake regulated activities of the kind specified under section MIR-1.1. Such person shall obtain the membership of the SRO before undertaking such regulated activities.
- MIR-2.1.6 Where a person is licensed under Volume 4 to undertake regulated activities of the kind specified under section MIR-1.1, such licence shall be regarded as being given under this Module of Volume 6 and the licensee shall abide by this Module and Volume 6 in respect of its undertaking of the above regulated activities.
- MIR-2.1.7 Depending on the type of regulated activities that a person wishes to undertake, an applicant must seek to be licensed either as a Category 1, Category 2, Category 3, Category 4, Category 5, Category 6, or Category 7 licensed member.



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<b>CHAPTER</b>	<b>MIR-2 Licensing</b>

## MIR-2.2 Application for License

MIR-2.2.1 Persons wishing to be licensed to undertake regulated activities within or from Bahrain must apply in writing to the CBB.

MIR-2.2.2 Unless otherwise approved by the CBB, the person undertaking any regulated activities shall be established as a corporation subject to the Commercial Companies Law 2001.

MIR-2.2.3 Any applicant must be independent of the SRO to which it wishes to become a member. For the purpose of this section, a person will not be considered independent if:

- (a) He owns an interest of 30% or more of equity securities of the SRO or any other company owned by the SRO. In the case of other securities, if he owns a significant interest in the securities of the SRO, or any other affiliated entity; or
- (b) He has a business relationship with, or financial interest in, the SRO or any other entity in the SRO's group that would give the SRO a material interest in the outcome of the application; or
- (c) He provides any service, assurance, or guidance in any event to the SRO, or to another entity in the SRO's group; or
- (d) A director, partner or employee of the applicant or another entity in the applicant's group has a material interest in the SRO or any other entity in the SRO's group.

MIR-2.2.4 Under this Module, a person may apply to the CBB to be:

- (1) A licensed discount broker;
- (2) A licensed broker;
- (3) [Deleted in April 2013];
- (4) A licensed broker-dealer;
- (5) A licensed clearing member;
- (6) [Deleted in April 2013];
- (7) [Deleted in April 2013].

MIR-2.2.4A Under this Module, a person may apply to the licensed exchange and the CBB to be an external trading member (provided it meets the requirements of Paragraph MIR-2.2.8A) or a proprietary trading member (provided it falls within the definition of Paragraph MIR-B.2.20A and meets the requirements of Paragraph MIR-2.2.8C).

MIR-2.2.5 The licensed discount broker may undertake only collecting of the investors or clients order which is required to be executed on the licensed exchange through a licensed broker or broker-dealer.



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## MIR-2.2 Application for License

MIR-2.2.6 The licensed brokers may undertake:

- (a) Trading in securities as agent;
- (b) Arranging transactions in securities as an agent.

MIR-2.2.7 [This Paragraph was deleted in April 2013]

MIR-2.2.8 The licensed broker-dealers may undertake:

- (a) Trading in securities as principal;
- (b) Trading in securities as agent;
- (c) Arranging transactions in securities as principal and agent;
- (d) Managing securities' portfolios;
- (e) Depositing of securities;
- (f) Advising on securities businesses;
- (g) Providing market research and analysis.

MIR-2.2.8A An external trading member accepted for membership by a licensed exchange and licensed by the CBB may undertake only the activities of a licensed, broker, dealer or broker-dealer outside the Kingdom of Bahrain. In order to be eligible, the external member must: be a member of an exchange or otherwise licensed and supervised in its home market by a securities regulator that is a signatory to the IOSCO MMOU or acceptable bilateral agreement. An external trading member may not conduct any business within the Kingdom of Bahrain.

MIR-2.2.8B In order to obtain a license from the CBB, an external trading member must meet the requirements of Paragraph MIR-2.2.11A and submit the application made for membership of the licensed exchange together with the approval of membership of such exchange. An external trading member's primary regulator and supervisor is the licensed exchange, of which it is a member and it is not required to comply with the provisions of this Module unless directed to do so by the CBB.

An external trading member is required to conclude the necessary agreements for the clearing and settlement of its transactions conducted on a licensed exchange. External trading members are not eligible to be members of a licensed clearing house or central securities depository.

MIR-2.2.8C In order to obtain a license from the CBB, a proprietary trading member must submit the application made for membership of the licensed exchange together with the approval of membership of such exchange. A proprietary trading member's primary regulator and supervisor is the licensed exchange, of which it is a member and it is not required to comply with the provisions of this Module unless directed to do so by the CBB.

MIR-2.2.9 The licensed clearing member (general) may undertake any regulated activities stipulated under Module CSD in general, and in particular:

- (a) Facilitating the deposit of securities;
- (b) Clearing and settlement of securities transactions as principal;



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## MIR-2.2 Application for License

MIR-2.2.9 (continued)

- (c) Clearing and settlement of securities transactions as agent;
- (d) Facilitating registration of dealings in deposited securities;
- (e) Provide custody services to deposited securities;
- (f) Facilitating netting of transactions in deposited securities;
- (g) Facilitating securities lending, including repurchase agreements and other economically equivalent transactions;
- (h) Finality of settlement;
- (i) Facilitating margin trading; or
- (j) Ensure achievement of Delivery versus Payment.

The licensed clearing house may restrict its members from undertaking part of the abovementioned regulated activities.

MIR-2.2.10 The licensed member may combine two or more regulated activities, providing these fall within the regulated activities list for their member category, and such combinations are not restricted by the CBB or SRO.

### MIR-2.2.11

With the exception of external trading members and proprietary trading members, an application for a license as a member to undertake any regulated activity under Paragraph MIR-1.1.2 shall be made in Form 1 (Application for Approval as a Licensed Member) and shall be lodged with the CBB together with:

- (a) Form 2 (Information on Shareholders and Subsidiaries) and Form 3 (Application for Approved Person Status);
- (b) Any relevant annex and information specified in those forms;
- (c) A non-refundable prescribed application fee of BD100 (One Hundred Bahraini Dinars);
- (d) A business plan setting forth the internal controlling procedures of the enterprise;
- (e) A business plan containing a budgeted accounting plan for the first three business years;
- (f) Memorandum and Articles of Association of the corporation, copies of the by-laws, its constitution and powers of management and the manner in which its business is proposed to be undertaken;
- (g) Policies and procedures for regulated activities undertaken;
- (h) The proposed organisation structure and the powers and duties of the persons performing controlled functions of the licensed member;
- (i) A copy of the application submitted to the licensed exchange or licensed clearing house, as the case may be and the qualification for membership;
- (j) A description of the proposed trading, clearing and settlement arrangements;





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## MIR-2.2 Application for License

- (k) Arrangements for risk management, compliance and internal controls;
- (l) Where regulated activities would be outsourced, copies of contracts and arrangements for oversight of their activities; and
- (m) Arrangements for complying with business rules of the licensed exchange and/or licensed clearing house.

**MIR-2.2.11A** Any licensed exchange, that accepts an external trading member, must together with the Final Membership and Commencement of Operation Checklist, provide the CBB with:

- (a) A copy of the application made to the licensed exchange for membership as an external trading member;
- (b) A description of the clearing and settlement arrangements including a copy of the signed contract with a licensed clearing member (general);
- (c) A copy of the external trading member's membership registration certificates with an exchange in its home and any other jurisdiction;
- (d) A copy of the external trading member's licensing or registration with its home market securities regulator (where required to be licensed or registered), which regulator must be a member of IOSCO and a signatory to the IOSCO MMOU or acceptable bilateral agreement; and
- (e) A letter of confirmation that the CBB Law and this Module are not in conflict with its market rules and legislation and where a conflict is determined, details must be provided for consideration and approval by the CBB.

MIR-2.2.11B The acceptance as a member of an external trading member or proprietary trading member by a licensed exchange does not in any way remove the authority of the CBB to supervise and regulate external trading members or proprietary trading members in respect of market conduct or to require the provision of any information or records and the CBB reserves its right to compel an external trading member or proprietary trading member to comply with CBB rules and regulations at any stage should it deem it necessary.

**MIR-2.2.12** The applications to be a licensed member must include evidence that:

- (a) Any trading conducted will be provided in an orderly, transparent and fair manner;
- (b) The licensed member will be subject to regulation by the CBB and the business rules of the SRO;
- (c) The licensed member has taken adequate measures to prudently manage any risks associated with its business and operations;



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- (d) The licensed member, in discharging its obligations, will not act contrary to the interests of the investing public, or to the requirements of the CBB;
- (e) The licensed member will enforce compliance by its employees or representatives with the business rules of the SRO, as the case may be;
- (f) The licensed member makes satisfactory provisions for an orderly, transparent and fair conduct of its business, the adherence to rules and the supervision of its employees or representatives; and
- (g) The licensed member has sufficient financial, human, and technical resources to undertake regulated activities in a fair, orderly, transparent manner and meet contingencies or disaster criteria.

**MIR-2.2.12A** External trading members and proprietary trading members must provide the details in Paragraph MIR-2.2.12 to the licensed exchange as part of its membership application.

MIR-2.2.12B A licensed member may apply to amend its licensing category by application to the CBB's Licensing and Policy Directorate by providing only the amended or additional information relevant to the change in regulated activities it intends to undertake.

MIR-2.2.13 The CBB will review the application and duly advise the applicant in writing when it has:

- (a) Granted the application without conditions;
- (b) Granted the application subject to conditions specified by the CBB; or
- (c) Refused the application, stating the grounds in which the application has been refused and the process for appealing against that decision, unless the licensed exchange and/or licensed clearing house refuses to grant its approval, as the case may be.

MIR-2.2.14 The CBB may, within 30 days from the date of submission, require an applicant to furnish it with amendments or such additional information or documents as the CBB considers necessary in relation to the application.



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## MIR-2.2 Application for License (continued)

- MIR-2.2.15 The CBB may refuse to accept any application if:
- It is not completed in accordance with this Module;
  - It is not accompanied by the relevant fee;
  - The licensed exchange and/or licensed clearing house refuse to grant the applicant membership, as the case may be.
- MIR-2.2.16 Where strict compliance with any form is not possible, the CBB may in its sole discretion, and upon request from the applicant to this effect, allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the CBB thinks fit.
- MIR-2.2.17 The applicant may, at any time before a decision has been made about the application, withdraw his application or make amendments to any errors therein or in the supporting documents.

### *Licensing of Members*

- MIR-2.2.18 The CBB shall decide on the application within 60 days from the date of receiving the application, complete with all the required information and documents.
- MIR-2.2.19 The CBB may grant an in principle confirmation which does not amount to a license nor commit the CBB to issuing a license within 30 days from the date of the application, following which the applicant may take steps for employment of personnel to the company at his own risk.
- MIR-2.2.20 The member shall not undertake any regulated activities before the CBB grants the license to the applicant.
- MIR-2.2.21 The CBB may license a person as a licensed member, subject to such conditions or restrictions as the CBB may think fit to impose by notice in writing, including conditions or restrictions relating to:
- The regulated activities that the person may undertake;
  - The securities or futures contracts or any other products or instruments that a member may undertake; and
  - The class or group of investors and location.
- MIR-2.2.22 The CBB may, at any time, in consultation with the licensed exchange and/or licensed clearing house by notice in writing to the person, vary any condition or restriction or impose such further condition or restriction as it may think fit.



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## MIR-2.2 Application for License (continued)

**MIR-2.2.23** A licensed member shall, for the duration of the license, satisfy all conditions and restrictions that may be imposed on it.

**MIR-2.2.24** Where the CBB rejects an application, the decision and any appeal by the applicant shall be governed by Article 46 of the CBB Law.



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**MIR-2.3 Exempted Broker-Dealer and Exempted Clearing Member**

[This Section was deleted in April 2013]



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#### **MIR-2.4 Power of CBB to Revoke Exemption**

[This Section was deleted in April 2013].



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## MIR-2.5 Criteria for Granting License

- MIR-2.5.1 The CBB may license a person as a member if:
- (a) The CBB is satisfied that the undertaking of regulated activities by the person will:
    - 1. Develop the capital market and enhance confidence therein;
    - 2. Develop the securities businesses or services and enhance the market liquidity; and
    - 3. Protect the interests of investors or users of the SRO (licensed exchange and/or licensed clearing house) and enhance Bahrain's credibility as an international financial centre; and
  - (b) The CBB is satisfied that the person, having applied to be a member under this Module, is able to comply with the obligations and requirements imposed on such member.
- MIR-2.5.2 The CBB may have regard to the following matters in determining whether a member has satisfied the criteria referred to in paragraph MIR-2.5.1 (a) or (b):
- (a) The size and structure, or proposed size and structure, of the regulated activities to be undertaken by the applicant;
  - (b) The nature of the regulated activities undertaking, or to be undertaken, by the applicant;
  - (c) The nature of the securities, futures contracts, products or instruments that the applicant will be involved in;
  - (d) The nature of the investors, clients or participants, or proposed investors, clients or participants, who may use regulated activities or services undertaken by the applicant;
  - (e) Whether the applicant has been licensed by the CBB or any other regulator;
  - (f) That the rules and by-laws of an applicant are in conformity with such conditions as may be prescribed with a view to ensure fair conduct of business and to protect investors;
  - (g) That the applicant is willing to comply with any other conditions which the CBB, having regard to the nature of the securities, futures contracts, products or instruments dealt with by it, may impose;
  - (h) The proposed securities businesses or services comply with up-to-date securities industry standards;
  - (i) The persons who may be affected in the event that the applicant runs into difficulties;
  - (j) Where the head office or principal place of business of the applicant is outside Bahrain, whether the applicant in the country or territory in which the head office or principal place of business of the applicant is situated, is subject to requirements and supervision comparable to those in Bahrain;



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## MIR-2.5 Criteria for Granting License (continued)

- (k) The interests of the public;
- (l) Any other circumstances that the CBB may consider relevant;
- (m) Whether the applicant is satisfied or will satisfy the SRO's (licensed exchange and/or clearing house) business rules and related requirements.

MIR-2.5.3 The applicant must additionally be able to demonstrate to the CBB and the CBB must be satisfied that it has:

- (a) The financial resources, the management and human resources with appropriate experience necessary for undertaking regulated activities;
- (b) Made arrangements for the proper supervision of all transactions effected through the SRO, so as to ensure compliance with the rules of the SRO;
- (c) Taken sufficient steps to maintain security and back-up procedures to ensure the integrity of the records of transactions effected through the SRO;
- (d) Insurance, a guarantee, or compensation fund, or other warranty plans placed by the SRO in respect of providing compensation, subject to the business rules of the SRO, to its clients; and
- (e) Made provisions, to the satisfaction of the CBB, for the clearing and settlement of transactions effected through a licensed clearing house and for the management of trade and settlement risk.

MIR-2.5.4 [This Paragraph was deleted in July 2014.]

MIR-2.5.5 [This Paragraph was deleted in July 2014.]





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## **MIR-2.6 Surrender of License or Cessation of Activities or Services**

MIR-2.6.1 Without prejudice to the CBB Law, a member which intends to cease to undertake its regulated activities may apply to the CBB to surrender its approval as a member.

MIR-2.6.2 The CBB, after considering the requirement of the CBB Law Articles 108, 109 & 110, may, subject to paragraph MIR-2.6.1, cancel the license if it is satisfied that the member referred to in paragraph MIR-2.6.1 has ceased undertaking its regulated activities and that there are no pending obligations of the member or securities, contracts, products or instruments traded, cleared or settled.

**MIR-2.6.3** The licensed member shall publish a notice of its intention to cease to provide its regulated activities in an SRO and in 2 daily newspapers, one in Arabic and the other in English, in Bahrain at least 30 days before ceasing its operations.

MIR-2.6.4 Any objections received from the SRO, investors or clients of the member shall be considered by the CBB prior to issuing its consent for the surrender of license or cessation of business of the related member.

MIR-2.6.5 The notice referred to in rule MIR-2.6.3 shall be subject to the approval of the CBB and shall be published at least 30 days prior to the cessation taking effect, after obtaining clearance from the relevant SRO, as the case may be.



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## MIR-2.7 Cancellation or Amendment of License

- MIR-2.7.1 Without prejudice to the CBB Law Articles 108, 109 & 110, the CBB may cancel any license of a person as a licensed member, if:
- There exists criteria under section MIR-2.5 that the member does not meet and on which grounds the CBB would refuse an application;
  - The member does not commence its regulated activities within 6 months from the date on which it was granted the license;
  - The member ceases to undertake its regulated activities;
  - The member contravenes:
    - .Any CBB Law, rules or regulations;
    - Any condition or restriction applicable in respect of its license;
    - Any direction issued to it by the CBB;
    - Any provision in this Module; or
    - Any provision or requirements of the business rules and requirements of an SRO.
  - The licensed member undertaking regulated activities in a manner that is in the opinion of the CBB contrary to the market integrity and the interests of the public or clients;
  - Any information or document that is submitted to the CBB that the member knows is false or misleading; and
  - Any false or misleading information or document knowingly or willingly disseminated by the member to the market or its clients.
- MIR-2.7.2 The CBB may not, subject to paragraph MIR-2.7.3, cancel any license that was granted to a member without giving the opportunity to be heard.
- MIR-2.7.3 The CBB may cancel a license that was granted to a member on any of the following grounds without giving an opportunity to be heard if:
- The member is in the course of being wound up or otherwise dissolved, whether in Bahrain or elsewhere;
  - A receiver, a receiver and manager, or an equivalent person has been appointed, whether in Bahrain or elsewhere, in relation to or in respect of any property of the member;
  - The member has been convicted, whether in Bahrain or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly; and
  - The implementation of a decision or an appeal of a disciplinary committee resolution, whether in Bahrain or elsewhere, for the cancellation of membership of the member.



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## MIR-2.7 Cancellation or Amendment of License (continued)

MIR-2.7.4 For the purposes of paragraph MIR-2.7.1 (c), a member shall be deemed to have ceased its regulated activities if:

- (a) It has ceased its regulated activities for more than 30 days, unless it has obtained the prior approval of the CBB, or SRO to do so; or
- (b) It has ceased to undertake the regulated activities under a direction issued by the CBB, or SRO.

MIR-2.7.5 In accordance with the CBB Law Articles 108, 109 & 110, any cancellation of a license of a member referred to in paragraph MIR-2.7.1 shall not operate so as to:

- (a) Avoid or affect any agreement, transaction or arrangement entered into a market contract undertaken by the member, whether the agreement, transaction or arrangement was entered into before or after the revocation of the license; or
- (b) Affect any right, obligation or liability arising under such market contracts, agreements, transactions or arrangements.

MIR-2.7.6 Where the CBB cancels or amends a license of a member, notification to the member and an appeal against such a decision shall be governed by Article 48 of the CBB Law.



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## MIR-2.8 Annual Fees Payable by a Licensed Member

**MIR-2.8.1** Every member must pay to the CBB an annual fee on the 1<sup>st</sup> December of the preceding year for which the fee is due, as prescribed or specified by the CBB from time-to-time.

**MIR-2.8.1A** The following fees are currently prescribed:

Licensed <u>discount broker</u> ( <i>fixed</i> )	BD200
Licensed broker ( <i>fixed</i> )	BD300
Licensed broker-dealer ( <i>fixed</i> )	BD2,000
Licensed clearing member ( <i>fixed</i> )	BD5,000

MIR-2.8.2 Where a license is cancelled (whether at the initiative of the firm or the CBB), no refund is paid for any months remaining in the calendar year in question, should a fee have been paid for that year.



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**MIR-2.9 Publication of the Decision to Grant, Cancel or Amend a License**

**MIR-2.9.1**

The CBB shall publish its decision to grant, cancel or amend a license in the Official Gazette as well as in 2 local newspapers, one published in Arabic and the other in English in Bahrain, and such decision shall also be disseminated to the relevant SRO.



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<b>CHAPTER</b>	<b>MIR-2 Licensing</b>

## MIR-2.10 Place of Business

**MIR-2.10.1** All licensed members must have a designated place of business in Bahrain. A licensed member may not, without prior written approval of the CBB:

- (a) Open a new place of business in Bahrain;
- (b) Close or change an existing place of business in Bahrain; or
- (c) Open a new place of business in a foreign jurisdiction.

**MIR-2.10.2** The CBB may restrict its approval stipulated in rule MIR-2.10.1, subject to any other conditions, as it may deem necessary.



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## MIR-3.1 Authorisation of Approved Persons

**MIR-3.1.1** Members must obtain the CBB's prior written approval for any person wishing to undertake a controlled function in a member and be registered with the SRO, as the case may be, prior to their appointment.

**MIR-3.1.2** Controlled functions are those functions occupied by board members and persons in executive positions and include:

- (a) Director;
- (b) Chief Executive or General Manager;
- (c) Registered representative;
- (d) Head of function;
- (e) Compliance Officer; and
- (f) Money Laundering Reporting Officer (MLRO).

**MIR-3.1.3** The licensed member must maintain adequate segregation of responsibilities in their staffing arrangements, to protect against the misuse of systems or errors. Such segregation should ensure that no single individual has control over all stages of a securities or futures contracts transaction. The segregation of responsibilities must also ensure avoidance of any conflict of interest and maintain a Chinese Wall between the front office functions and the back office functions. Therefore, controlled functions (a), (b), (c) and (d) shall not be combined with other functions.

MIR-3.1.4 All persons wishing to undertake any of the controlled functions shall be subject to the fit and proper requirements.

MIR-3.1.5 The CBB may, on being provided sufficient evidence of a member's risk management system and internal controls commensurate with its scale of operations and business plan, exempt a Category 1 or Category 2 member from any of the requirements of rules MIR-3.1.2 and MIR-3.1.3.

**MIR-3.1.6** In accordance with Subparagraph MIR-3.1.2(e), every member must appoint a Compliance Officer. The Compliance Officer is responsible for discharging the legal and regulatory obligations of such member.



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<b>CHAPTER</b>	<b>MIR-3 Authorisation</b>

### **MIR-3.1 Authorisation of Approved Persons (continued)**

MIR-3.1.7 In accordance with Paragraph MIR-3.1.6:

- (a) The Compliance Officer should be competent and knowledgeable regarding the CBB Law, rules and regulations, as well as the business rules of the SRO and the various applicable Volume 6 Modules;
- (b) The Compliance Officer shall:
  - (i) Monitor the transactions undertaken by the member, its representatives, or participants;
  - (ii) Identify disorderly transactions or conduct that may involve market abuse or disruption;
  - (iii) Identify and monitor transactions undertaken by insiders dealing through or with the member;
  - (iv) Identify any breach of CBB Law, rules and regulations; and
  - (v) Identify any breach of the rules of the SRO.

#### **MIR-3.1.8**

The Compliance Officer shall on the identification of any breach referred to in Paragraph MIR-3.1.7 (b), report such breach to the CBB without delay for the investigation and prosecution of market abuse and shall provide full assistance to the latter in investigating and prosecuting market abuse occurring on or through the member.





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## **MIR-3.2 Basis for Approval**

MIR-3.2.1 As part of the licensing approval process, applicants must demonstrate in their business plan (together with any supporting documentation) what risks their business would be subject to and how they would manage those risks. Applicants may also be asked to provide an independent assessment of the appropriateness of their systems and controls to the CBB.

**MIR-3.2.2** The Chief Executive Officer or General Manager, Registered Representative, Compliance Officer and Money Laundering Reporting Officer must be resident in Bahrain.



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### MIR-3.3 Fit and Proper

#### MIR-3.3.1

Members seeking an approved person authorisation for an individual, must satisfy the CBB that the individual concerned is 'fit and proper' to undertake the controlled function in question.

#### MIR-3.3.1A

Each applicant applying for approved person status and those individuals occupying approved person positions must comply with the following conditions:

- (a) Has not previously been convicted of any felony or crime that relates to his/her honesty and/or integrity unless he/she has subsequently been restored to good standing;
- (b) Has not been the subject of any adverse finding in a civil action by any court or competent jurisdiction, relating to fraud;
- (c) Has not been adjudged bankrupt by a court unless a period of 10 years has passed, during which the person has been able to meet all his/her obligations and has achieved economic accomplishments;
- (d) Has not been disqualified by a court, regulator or other competent body, as a director or as a manager of a corporation;
- (e) Has not failed to satisfy a judgement debt under a court order resulting from a business relationship;
- (f) Must have personal integrity, good conduct and reputation;
- (g) Has appropriate professional and other qualifications for the controlled function in question; and
- (h) Has sufficient experience to perform the duties of the controlled function.

#### MIR-3.3.1B

In assessing the conditions prescribed in Rule MIR-3.3.1A, the CBB will take into account the criteria contained in Paragraph MAE-3.3.1C. The CBB reviews each application on a case-by-case basis, taking into account all relevant circumstances. A person may be considered 'fit and proper' to undertake one type of controlled function but not another, depending on the function's job size and required levels of experience and expertise. Similarly, a person approved to undertake a controlled function in one member may not be considered to have sufficient expertise and experience to undertake nominally the same controlled function but in a much bigger member.



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### MIR-3.3 Fit and Proper (continued)

**MIR-3.3.1C** In assessing a person's fitness and propriety, the CBB will also consider previous professional and personal conduct (in Bahrain or elsewhere) including, but not limited to, the following:

- (a) The propriety of a person's conduct, whether or not such conduct resulted in a criminal offence being committed, the contravention of a law or regulation, or the institution of legal or disciplinary proceedings;
- (b) A conviction or finding of guilt in respect of any offence, other than a minor traffic offence, by any court or competent jurisdiction;
- (c) Any adverse finding in a civil action by any court or competent jurisdiction, relating to misfeasance or other misconduct in connection with the formation or management of a corporation or partnership;
- (d) Whether the person, or any body corporate, partnership or unincorporated institution to which the applicant has, or has been associated with as a director, controller, manager or company secretary been the subject of any disciplinary proceeding, investigation or fines by any government authority, regulatory agency or professional body or association;
- (e) The contravention of any financial services legislation;
- (f) Whether the person has ever been refused a license, authorisation, registration or other authority;
- (g) Dismissal or a request to resign from any office or employment;
- (h) Whether the person has been a Director, partner or manager of a corporation or partnership which has gone into liquidation or administration or where one or more partners have been declared bankrupt whilst the person was connected with that partnership;
- (i) The extent to which the person has been truthful and open with supervisors; and
- (j) Whether the person has ever entered into any arrangement with creditors in relation to the inability to pay due debts.

**MIR-3.3.1 D** With respect to Paragraph MIR-3.3.1C, the CBB will take into account the length of time since any such event occurred, as well as the seriousness of the matter in question.

**MIR-3.3.2** Approved persons undertaking a controlled function must act prudently, and with honesty, integrity, care, skill and due diligence in the performance of their duties. They must avoid any conflict of interest arising whilst undertaking a controlled function and shall be subject, among all accepted market conducts, to the insider trading rules.



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### **MIR-3.3 Fit and Proper (continued)**

MIR-3.3.3 In determining where there may be a conflict of interest arising, factors that may be considered will include whether:

- (a) A person has breached any fiduciary obligations to the member or terms of employment;
- (b) A person has undertaken actions that would be difficult to defend, when looked at objectively, as being in the interest of the licensed member and its clients; and
- (c) A person has failed to declare a personal interest that has a material impact in terms of the person's relationship with the member in general, and interest in holding any listed securities or futures contracts in particular.

MIR-3.3.4 [This Paragraph was deleted in April 2016.]



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## MIR-3.4 Approved Persons

MIR-3.4.1 [This Paragraph was deleted in April 2016.]

### *Prior Approval Requirements and Process*

MIR-3.4.2 An application for approval for a person occupying a controlled function under Paragraph MIR-3.1.2 must be made by submitting to the CBB a duly completed Form 3 (Application for Approved Person Status) and Curriculum Vitae after verifying that the information in the Form 3, including previous experience is accurate. Form 3 is available under Volume 6 Part B Authorisation Forms MIR Forms of the CBB Rulebook.

MIR-3.4.3 When the request for approved person status forms part of a license application, it must be marked for the attention of the Director, Licensing and Policy Directorate. When the submission to undertake a controlled function is in relation to an existing member, except if dealing with a MLRO, it must be marked for the attention of the Director, Capital Markets Supervision Directorate. In case of the MLRO, Form 3 must be marked for the attention of the Director, Compliance Directorate.

MIR-3.4.3A When submitting the Forms 3, members must ensure that the Form 3 is:

- Submitted to the CBB with a covering letter signed by an authorised representative of the member, seeking CBB approval;
- Submitted in original form;
- Submitted with a certified copy of the applicant's passport, original or certified copies of educational and professional qualification certificates (and translation if not in Arabic or English) and the Curriculum Vitae; and
- Signed by an authorised representative of the member and all pages stamped with the member's seal.

MIR-3.4.4 Members seeking to appoint Board Directors must seek CBB approval for all the candidates to be put forward for election/approval at a shareholders' meeting, in advance of the agenda being issued to shareholders. CBB approval of the candidates does not in any way limit shareholders' rights to refuse those put forward for election/approval.



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## MIR-3.4 Approved Persons (continued)

### *Assessment of Application*

MIR-3.4.4A The CBB shall review and assess the application for approved person status to ensure that it satisfies all the conditions required in Paragraph MIR-3.3.1A and the criteria outlined in Paragraph MIR-3.3.1C.

MIR-3.4.4B For purposes of Paragraph MIR-3.4.4A, members should give the CBB a reasonable amount of notice in order for an application to be reviewed. The CBB shall respond within 15 business days from the date of meeting all required conditions and regulatory requirements, including but not limited to, receiving the application complete with all the required information and documents, as well as verifying references.

MIR-3.4.5 The CBB reserves the right to refuse an application for approved person status if it does not satisfy the conditions provided for in Paragraph MIR-3.3.1A and the criteria outlined in Paragraph MIR-3.3.1C. A notice of such refusal is issued by registered mail to the member concerned, setting out the basis for the decision.

### *Appeal Process*

MIR-3.4.6 Members or the nominated approved persons may, within 30 calendar days of the notification, appeal against the CBB's decision to refuse the application for approved person status. The CBB shall decide on the appeal and notify the member of its decision within 30 calendar days from submitting the appeal.

MIR-3.4.7 Where notification of the CBB's decision to grant a person approved person status is not issued within 15 business days from the date of meeting all required conditions and regulatory requirements, including but not limited to, receiving the application complete with all the required information and documents, members or the nominated approved persons may appeal to the Executive Director, Financial Institutions Supervision of the CBB provided that the appeal is justified with supporting documents. The CBB shall decide on the appeal and notify the member of its decision within 30 calendar days from the date of submitting the appeal.



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## MIR-3.4 Approved Persons (continued)

MIR-3.4.8 A member shall as soon as practicable, give written notice to the CBB, licensed exchange and/or licensed clearing house, as the case may be, of the resignation or removal of its chairman, chief executive officer, director or person referred to in the notice issued by the CBB under paragraph MIR-3.4.2.

MIR-3.4.9 The member shall provide for the composition and duties of the board of directors or any committee of a member after obtaining CBB approval.

MIR-3.4.10 In this section “committee” includes any committee of directors, audit committee, insider’s committee, executive committee, or any committee established by the board for discharging its function.

### ***Notification Requirements and Process***

MIR-3.4.11 **The member must immediately notify the CBB when an approved person ceases to hold a controlled function together with an explanation as to the reasons why. In such cases, their approved person status is automatically withdrawn by the CBB.**

MIR-3.4.12 **Members must immediately notify the CBB in case of any material change to the information provided in a Form 3 submitted for an approved person**



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## MIR-3.5 Amendment of Authorisation

**MIR-3.5.1** A licensed member must seek prior CBB approval before an approved person may move from one controlled function to another within the same member.

MIR-3.5.2 In such instances, a new application should be completed and submitted to the CBB. Note that a person may be considered 'fit and proper' for one controlled function, but not for another, if for instance the new role requires a different set of skills and experience. Where an approved person is moving to a controlled function in another member, the first member should notify the CBB of that person's departure, and the new member should submit a request for approval under section MIR-3.1.





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## MIR-3.6 Cancellation of Authorisation and Power of CBB to Remove Approved Person

- MIR-3.6.1 Where the CBB is satisfied that an approved person:
- (a) Has wilfully contravened or wilfully caused that member to contravene the CBB Law, rules and regulations;
    1. The business rules of an SRO; or
    2. Where applicable, the listing rules, trading rules, and clearing, settlement and depository rules of an SRO, as the case may;
  - (b) Has without reasonable excuse, failed to ensure compliance by the member, or a person associated with that member with:
    1. The CBB Law rules and regulations;
    2. The business rules of the SRO, or
    3. Where applicable, the listing rules, trading rules, and clearing, settlement and depository rules of the SRO;
  - (c) Has failed to discharge the duties or functions of his office or employment;
  - (d) Is an undischarged bankrupt, whether in Bahrain or elsewhere;
  - (e) Has been convicted whether in Bahrain or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly;
- the CBB may if it thinks it is necessary in the interests of or for the protection of investors, by notice in writing direct that a member remove the officer from his office or employment, and that member shall comply with such notice.
- MIR-3.6.2 Without prejudice to any other matter that the CBB may consider relevant, the CBB may in determining whether an officer of a member has failed to discharge the duties or functions of his office or employment for the purposes of paragraph MIR-3.6.1 (c), have regard to such criteria as the CBB may prescribe or specify in directions issued by notice in writing, after consultation with the licensed exchange and/or licensed clearing house, as the case may be.
- MIR-3.6.3 Subject to paragraph MIR-3.6.4, the CBB shall not direct a member to remove an officer from his office or employment without giving the member an opportunity to be heard.
- MIR-3.6.4 The CBB may direct a member to remove an officer from his office or employment under paragraph MIR-3.6.1 on any of the following grounds, without giving the member or that particular person an opportunity to be heard:
- (a) The officer is an undischarged bankrupt whether in Bahrain or elsewhere;
  - (b) The officer has been convicted whether in Bahrain or elsewhere, of an offence:
    1. Involving fraud or dishonesty, or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and
    2. Punishable with imprisonment for a term of 3 months or more.



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## **MIR-3.7 Criteria to Determine Failure to Discharge Duties or Functions by Approved Persons**

MIR-3.7.1 The CBB may, in determining whether approved persons have taken reasonable steps to discharge their duties, have regard to whether or not the approved person:

- (a) Ensured the proper functioning of the member;
- (b) Ensured the compliance of the member with any relevant laws or regulations of any jurisdiction in which it is incorporated, or in which it provides its regulated activities;
- (c) Set out and ensured compliance with written policies on all operational areas of the member, including its financial policies, accounting and internal controls, internal auditing and compliance with all laws and rules governing the operations of the member in general, and rules of protection of its clients assets in particular;
- (d) Identified, monitored and addressed the risks associated with the business of the member;
- (e) Ensured that the regulated activities of the member were subject to adequate internal audit;
- (f) Oversaw the financial undertakings or exposure of the member to risks of any nature by setting out proper delegation limits and risk management controls; and
- (g) Ensured:
  1. That the member maintained written records of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and provided relevant procedures; and
  2. That every report, return or statement submitted by the member to the CBB was complete and accurate.



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## MIR-4.1 General Obligations

### MIR-4.1.1

A member shall, in respect of every regulated activity it undertakes:

- (a) Ensure that the regulated activities are undertaken in a fair, orderly and transparent manner;
- (b) Manage any risks associated with its business and operations prudently;
- (c) Not act contrary to the interests of its clients and the public investors;
- (d) Comply with the business rules of an SRO and, where appropriate, listing rules and clearing, settlement, depository rules of the licensed exchange and/or licensed clearing house, as the case may be, that make satisfactory provision for:
  1. A fair, orderly and transparent market in securities and futures contracts that are traded through the licensed exchange and/or licensed clearing house; and
  2. The proper internal regulation and controls, and the supervision of its employees and/or representatives;
- (e) Maintain proper arrangements to enforce compliance with the business rules of an SRO, listing rules, and/or clearing, settlement and central depository rules of the licensed exchange and/or licensed clearing house, as the case may be;
- (f) Have sufficient financial and human resources and back-up systems:
  1. To maintain a fair, orderly and transparent market;
  2. To establish and maintain proper segregation between the controlled functions;
  3. To meet the requirement for handling, managing and maintaining the clients' assets safely and properly;
  4. To meet contingencies or disasters; and
  5. To provide adequate security arrangements;
- (g) Ensure that it appoints or employs fit and proper persons as approved persons to perform any controlled function;
- (h) Use or arrange to use a well-designed Business Continuity Plan and Disaster Recovery Procedure;
- (i) Ensure that all its employees or representatives are provided with the required education, qualifications and experience and they fully understand the rules and regulations of the CBB, and relevant SROs;



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**MIR-4 General Obligations (continued)**

- (j) Ensure that its clients receive fair treatment without any unjustifiable favour or discrimination for each class of clients;
- (k) Ensure that there is sufficient and appropriate records, books and systems in place to record all transactions traded, cleared and settled through its system and maintain an audit trail; and
- (l) Have an operating manual and internal policies.



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## MIR-4.2 Notification Requirements

### MIR-4.2.1

A licensed member shall, as soon as practicable after the occurrence of any of the following circumstances, notify the CBB of the circumstance:

- (a) Any material change to the information in its application under rule MIR-2.2.10;
- (b) The carrying on of any business other than:
  1. The business of undertaking a regulated activity;
  2. A business incidental to undertaking a regulated activity;
- (c) The acquisition of a substantial shareholding in a corporation which does not carry on:
  1. The business of undertaking a regulated activity, whether in Bahrain or elsewhere;
  2. A business incidental to undertaking a regulated activity, whether in Bahrain or elsewhere;
  3. Such business or class of businesses as the CBB may allow;
- (d) It becoming aware of a financial irregularity or other matter which in its opinion:
  1. May affect its ability to discharge its financial obligations towards its clients; or
  2. May affect the ability to meet its financial obligations to an SRO, as the case may be;
  3. May affect its ability to meet the minimum working capital requirement;
- (e) Where it reprimands, suspends, dismisses or otherwise takes disciplinary action against any persons performing controlled functions or where such persons are subject to an order or petition of bankruptcy or criminal prosecution;
- (f) Any civil or criminal legal proceeding taken against the member or any person performing a controlled function, whether in Bahrain or elsewhere;
- (g) Any disciplinary action against the member or any person performing a controlled function taken by any regulatory body, whether in Bahrain or elsewhere, other than the CBB;
- (h) Any significant change to the regulatory requirements imposed on the member by any regulatory body other than the CBB, whether in Bahrain or elsewhere;



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## MIR-4.2 Notification Requirements (continued)

- (i) Any arrangements or involvement related to take-overs, mergers or acquisitions;
- (j) Involvement or possible involvement of any of its clients in insider transactions or dealings;
- (k) Failure of any of its clients to comply with the disclosure standards requirements and adhering to the ownership rules in particular;
- (l) A failure to adhere to the trading days, hours or sessions and settlement period of an SRO, as the case may be;
- (m) Any other matter that is required to be notified, that the CBB or SRO may specify by notice in writing.

MIR-4.2.2 The CBB may, at any time after receiving a notification referred to in rule MIR-4.2.1 and after providing the licensed member with an opportunity to be heard, issue directions to the relevant SRO, and/or such member:

- (a) Where the notification relates to a matter referred to in rule MIR-4.2.1 (b):
  1. To cease carrying on the first-mentioned business referred to in rule MIR-4.2.1 (b); or
  2. To carry on such business referred to in rule MIR-4.2.1 (b) subject to such conditions or restrictions as the CBB may impose; or
- (b) Where the notification relates to a matter referred to in rule MIR-4.2.1 (c):
  1. To dispose of the shareholding referred to in rule MIR-4.2.1 (c); or
  2. To exercise its rights relating to such shareholding subject to such conditions or restrictions as the CBB may impose;

and the member shall comply with such directions.

### MIR-4.2.3

Where a circumstance referred to in rule MIR-4.2.1 has occurred, the member shall, in addition to the notification required under rule MIR-4.2.1, within 5 calendar days of the occurrence of the circumstance or such longer period as the CBB may permit, submit a report to the CBB of the circumstances relating to the occurrence, the remedial actions taken or required to be taken at the time of the occurrence, and the subsequent follow-up actions that the member has taken or intends to take, whether as per CBB or SRO requirements.

MIR-4.2.4 A member shall, within a reasonable period of time prior to entering into negotiations to provide trading, or clearing arrangement with the person establishing or operating an overseas market or clearing facility, notify the CBB of such intent to enter into negotiations.



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### MIR-4.3 Mind and Management

**MIR-4.3.1** **Members with their Registered Office in Bahrain must maintain their Head Office in the Kingdom.**

MIR-4.3.2 In assessing the location of a member's Head Office, the CBB will take into account the residency of its persons performing controlled functions. The CBB may require the majority of key decision-makers in executive management to be resident in Bahrain.

MIR-4.3.3 An exempt member (broker-dealer and/or clearing member) must maintain a local presence and representation appropriate to the nature and scale of its activities acceptable to the CBB.



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#### MIR-4.4 Financial Resources, Initial Paid-up Capital and Capital Adequacy Requirements

##### MIR-4.4.1

In order to maintain market integrity and meet all risks associated with its business, the SRO is responsible for establishing the minimum required initial paid-up capital, ongoing capital adequacy requirements and other financial resources of its members, which requirements shall be a part of their rulebook and which is approved by the CBB.

##### MIR-4.4.2

The member must at all times maintain a level of financial resources and capital adequacy required by the SRO, adequate for the level of business undertaken, or proposed to be undertaken.

##### MIR-4.4.3

The SRO, as a part of its responsibility and accountability to manage all types of risks associated with its market, including the counterparty risk, must assume full responsibility for monitoring and adherence of its members to the capital adequacy requirements and shall also be responsible for reporting any significant developments or actions taken in this regard to the CBB, whether such developments or actions relate to the whole market or to a particular member.

##### MIR-4.4.4

The SRO shall put in place a clearing and settlement system that promptly isolates the problem of a failing member by addressing its open proprietary positions and positions its holders on behalf of customers, or otherwise protects customers funds and assets from a member's default under the CBB Law, rules and regulations.

##### MIR-4.4.5

The SRO must have a mechanism in place that is intended to monitor and evaluate continuously the risk of open positions or credit exposures that are sufficiently large to expose a risk to the market or to the clearing and settlement systems.

##### MIR-4.4.6

The SRO shall use or design the clearing and settlement of securities systems to ensure that they are fair, effective and efficient and that they reduce systemic risk, large exposures risk, default risk and any other market disruption.





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## MIR-4.5 Systems and Controls

**MIR-4.5.1** The business rulebook of an SRO shall provide sufficient provision and requirements that cover the minimum requirements for maintaining systems and controls that each member is required to meet.

**MIR-4.5.2** The members must maintain systems and controls that are, in the opinion of the CBB, adequate for the scale and complexity of their activities.

**MIR-4.5.3** The members must maintain adequate segregation of responsibilities in their staffing arrangements, to protect against the misuse of systems or errors. Such segregation should ensure that no single individual has control over all stages of a transaction.

**MIR-4.5.4** The members must maintain systems and controls that are, in the opinion of the CBB, adequate to address the risks of money laundering and financial crime occurring in the member.

**MIR-4.5.5** As part of the licensing approval process, applicants must demonstrate in their business plan (together with any supporting documentation) what risks their business would be subject to and how they would manage those risks. Applicants may also be asked to provide an independent assessment of the appropriateness of their systems and controls to the CBB.



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## MIR-4.6 Obligation to Maintain Proper Records

### MIR-4.6.1

The member must maintain comprehensive books of accounts and other records, which must be available for inspection within Bahrain by the CBB, or persons appointed by the CBB, at any time. Members must comply with the minimum record keeping requirements contained in the rulebook of the SRO and must comply with IAS (and relevant AAOIFI) standards.

### MIR-4.6.2

Every member shall ensure that all relevant books and other information, as may be required by the CBB and/or SRO for the purposes of this Module, be kept for a minimum of 10 years.

### MIR-4.6.3

The members must prepare their financial statements and accounts in accordance with the international accounts standards committee requirements and IFRS for the whole financial year, as well as for the interim financial statements, which are required to be audited by an external independent auditor in accordance with the international auditing standards.

### MIR-4.6.4

The members must prepare and submit quarterly prudential returns to be reviewed by the member's external auditor before being submitted to the CBB.

### MIR-4.6.5

The members are required to submit the quarterly prudential returns (QPR) in the due timeframe. The members may apply in writing to the CBB for exemption from the requirements that the QPR be reviewed by the member's external auditor. This exemption would normally only be given where the member has established a track record of accurate and timely reporting, and there were no other supervisory issues of concern.

### MIR-4.6.6

The CBB may, without prejudice to Articles 37, 38, 89, 92, 94 and 95 of the CBB Law make regulations or issue circulars, directives, or notices in writing in respect of all or any of the matters, including the establishment and maintenance of such books for the handling of money or other assets of the member, for their clients.



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## MIR-4.7 Segregation and Handling of Clients' Assets

**MIR-4.7.1** For the purpose of this Module, “clients assets” means securities, money and other assets received or retained by, or deposited with a member in the course of its business for which it is liable to account to its client, and any securities, money or other assets accruing therefrom.

MIR-4.7.2 The client assets are held or controlled by a member on behalf of a client if they are:

- Directly held by the member;
- Held in an account in the name of the member;
- Held by a person, or in an account in the name of a person, controlled by the member; or
- Held in an account with another person, controlled by the member.

MIR-4.7.3 The CBB would consider a person to be controlled by a member if that person is inclined to act in accordance with the instructions of such members.

MIR-4.7.4 The CBB would consider an account to be controlled by a member if that account is operated in accordance with the instructions of such members.

### *Segregation of Client Assets*

**MIR-4.7.5** The member, or any person acting on its behalf, shall maintain sufficient systems and procedures in respect of the handling of securities, money or other assets, including but not limited to the requirement of maintaining books and records, segregation of the clients' securities, money and assets and the risk management and internal controls systems to address this requirement.

**MIR-4.7.6** A licensed member must hold client assets separate from its own at all times. The licensed member must, in connection with any clients' securities and funds received in the course of their business, establish and maintain separate client accounts, segregated from those used for their own accounts.

**MIR-4.7.7** A member may only use a client's assets for its own account, and/or for the account of any of its other clients if:

- That client has given his express consent in writing;
- The use of the client assets is restricted to the terms and conditions stipulated on the agreement agreed and signed by it; and



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## MIR-4.7 Segregation and Handling of Clients' Assets (continued)

- (c) The agreement in which that client's consent is requested by the member gives clear information to him on:
- (i) The rights, obligations and responsibilities of the member and/or of the clients for whose account the member has been allowed to use the client's assets, with respect to the use of such assets;
  - (ii) The risks involved; and
  - (iii) Where a licensed broker-dealer is eligible to be appointed as a market maker, such member discloses to its client the existence of the market making agreement entered into between the licensed member and the licensed exchange and written consent is obtained from the client stating his awareness of the market making arrangement between the member and the licensed exchange and that he has fully understood the potential risk and conflict of interest associated with such activities.

- MIR-4.7.7A The general eligibility criteria for market makers include:
- (a) A licensed exchange shall formulate its own objective eligibility criteria for licensed members to be appointed as market maker. The criteria should include but not limited to capital adequacy, net worth, infrastructure, trading experience, business continuity arrangement, risk management policy/procedure, minimum volume of business and person to be engaged in market making activities as principal;
  - (b) The licensed exchanges would prescribe the capital adequacy requirement for market makers which should be commensurate with the number of securities market maker proposes to make market and the type of security;
  - (c) A licensed exchange may lay down additional criteria also for market makers as risk containment measures;
  - (d) The licensed members desirous of acting as market maker for a particular security shall apply to the licensed exchange for registration as a market maker;
  - (e) If the licensed exchange is satisfied that the licensed member is eligible to carryout market making activities, the licensed exchange shall appoint such licensed members as market maker and enter into an agreement with the market maker specifying the date and time of commencement of its term as market maker;



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#### MIR-4.7 Segregation and Handling of Clients' Assets (continued)

- (f) A market maker agreement should include the following terms and conditions:
- (i) Rights and obligations of the market maker;
  - (ii) Duration of the Market Making Agreement;
  - (iii) Conditions under which Market Making Agreement may be terminated;
  - (iv) Time window during trading hours that the Market Maker shall be obliged to ensure presence on the order book;
  - (v) The maximum spread between the bid and offer price that market maker may maintain for the Designated Product;
  - (vi) Minimum, maximum and normal order size with agreed specifications; and
  - (vii) Minimum liquidity for each Designated Product; and
- (g) All applicable terms and conditions including directives and or instructions issued by CBB from time to time shall be applicable to licensed member appointed as market maker.

##### MIR-4.7.8

A member should communicate to its clients in writing, at a minimum, the information regarding client assets held. This information must be reported after the initial transaction date not later than the required date stipulated in the designated clearing, settlement and central depository system.

##### MIR-4.7.9

The member may maintain and hold the clients assets under the following agreements or arrangements:

- (a) Non discretionary securities account;
- (b) Discretionary accounts and portfolios;
- (c) Margin trading arrangements;
- (d) Depository and custody accounts;
- (e) Bank accounts related to the securities transactions (if applicable);
- (f) Securities lending and borrowing arrangements;
- (g) For the purpose of collateral arrangements;
- (h) Under specific mandates and arrangements approved by the CBB and SRO.

All the abovementioned arrangements shall be entered into by and in a duly signed agreement between the member and its clients.

#### *Client Money*

##### MIR-4.7.10

The member must hold client money in a separate client bank account designated for the purpose of settlement of the client's transaction.

- MIR-4.7.11 A client bank account is an account maintained by the Settlement Bank or other designated licensed bank holding client money of one or more clients in a bank account designated as such, in accordance with the terms of agreement with the client/clients.



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## MIR-4.7 Segregation and Handling of Clients' Assets (continued)

**MIR-4.7.12** Client bank accounts may only be opened with banks licensed by the CBB to do business in Bahrain, after being subject to due diligence by the member.

MIR-4.7.13 For the purpose of rule MIR-4.7.12 when undertaking due diligence, the member should take reasonable steps to establish that the bank is appropriate considering, among other factors, the following:

- (a) Whether it is acceptable to the SRO;
- (b) Whether it is a duly licensed bank in good regulatory standing;
- (c) The capital adequacy of the bank;
- (d) The amount of client money to be placed, as a proportion of the bank's capital and deposits; and
- (e) The credit rating of the bank, if available.

**MIR-4.7.14** If a member holds or controls client assets which are not subject to the client asset provisions in an arrangement with a market counterparty, it must disclose to that market counterparty in writing that:

- (a) The protections conferred by the client asset protection rules do not apply to such client money;
- (b) As a consequence of (a), such client assets may be mixed with money belonging to the member, and may be used by the member in the course of the clearing and settling of the clients' securities transaction; and
- (c) In the event of insolvency, winding up of the member or other distribution event stipulated by the laws, rules and regulations, the clients assets shall not be considered as a part of the member's assets.

### *Transfer of Money to Eligible Third Parties*

**MIR-4.7.15** The member may only pay, or permit to be paid, clients money into an account of a person who is a counterparty of the securities transaction, in accordance with the applicable clearing, settlement and central depository rules.

**MIR-4.7.16** The member must not hold money other than client money in a client bank account unless it is:

- (a) A minimum sum required to open the account or to keep it open;
- (b) Money temporarily held in the account in accordance with the mixed remittance requirements; or
- (c) Interest credited to the account which exceeds the amount due to clients as interest and which has not yet been withdrawn by the client or the member.



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## MIR-4.7 Segregation and Handling of Clients' Assets (continued)

**MIE-4.7.17** If a member receives a mixed remittance (that is part client money and part other money), it must:

- Pay the full sum into a client bank account; and
- Pay the money that is not client money out of the client bank account within the same business day or otherwise as per provision of the agreement under rule MIR-4.7.7 (b).

### *Reconciliation*

**MIR-4.7.18** A member must ensure that a system is implemented to perform reconciliations of both client securities account and client bank accounts after each transaction is executed for the benefit of that particular client. In addition, these reconciliations must be carried out on a regular basis, sufficient to ensure the accuracy of its records at least once a month on the last business day of each calendar month.

**MIR-4.7.19** A member must perform the reconciliations required under rule MIR-4.7.18 within 10 calendar days from the end of each month.

**MIR-4.7.20** In respect of reconciliation, the member must ensure that unresolved differences, shortfalls and excess balances are investigated and, where applicable, corrective action is taken as soon as is practicable. In such cases, the member must confirm such corrective action to the related clients and other counterparty's broker-dealers (if required).

### *Record-keeping*

**MIR-4.7.21** Members must ensure that proper records, sufficient to show and explain the member's transactions and commitments in respect of its client assets are kept. These records must be retained for a period of a minimum of 10 years after they were made, unless otherwise required by law.

### *Auditor Reports*

**MIR-4.7.22** Members that hold or control client assets must arrange for their external auditor to report on the members' compliance with the requirements related to the holding and segregation of the client's assets requirements.



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## MIR-4.7 Segregation and Handling of Clients' Assets (continued)

**MIR-4.7.23** The report must be submitted to the CBB immediately whenever such report contains serious deficiencies and on a regular basis within 60 calendar days of the member's financial year end.

### *Client Agreements and Statements*

**MIE-4.7.24** Before the member undertakes any regulated activities or services mentioned under paragraph MIR-1.1.2 they must notify the client as to the appropriate terms and conditions which apply to each service or arrangement and sign the prescribed agreement(s). The agreement must cover, at a minimum, the following matters, wherever applicable:

1. Representations and warranties by the client;
2. Acknowledgements by the client;
3. Clients' orders and instructions;
4. Settlement and clearing services;
5. Commission and charges;
6. Information and advice;
7. Undertaking of the client;
8. Member's responsibilities;
9. The right to object to withdrawal or transfer of securities;
10. Correspondence and confirmation;
11. Terms and termination;
12. Joint liability;
13. Force Majeure;
14. Severability;
15. Notices: client; member;
16. Amendment of the agreement; and
17. Law and jurisdiction.

**MIR-4.7.25** The specimen of the abovementioned agreement shall be provided in the business rules of the SRO, as the case may be. The specimen shall contain the minimum requirements and information.





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## MIR-4.8 Final Accounts and Auditing

**MIR-4.8.1** Every member shall appoint one or more qualified and experienced external auditors for its accounts for every financial year. Prior written approval by the CBB will be required before appointing an auditor.

MIR-4.8.2 In accordance with Article 61(b) of the CBB Law, if a member fails to appoint an auditor within four months from the beginning of the financial year, the CBB shall appoint such auditor.

**MIR-4.8.3** The member shall pay the fees of the auditor regardless of the manner in which such auditor is appointed.

**MIR-4.8.4** An auditor shall not be the chairman or a director in the member's board or a managing director, agent, representative or taking up any administrative work therein, or supervising its accounts, or a next of kin to someone who is responsible for the administration or accounts of a member, or having an extraordinary interest in a member as the SRO and/or CBB may determine.

MIR-4.8.5 If any of the circumstances referred to in rule MIR-4.8.4 occurs after the appointment of the auditor, the member must appoint another auditor.

**MIR-4.8.6** The member shall provide the external auditor with all information and assistance necessary for carrying out his duties.

MIR-4.8.7 The duties of the auditor shall include the preparation of a report on the final accounts. The report shall contain a statement on whether the member's accounts are correct and reflect the actual state of affairs of the member according to the auditing standards prescribed by the SRO and CBB, and whether the member has provided the auditor with all required information and clarifications.

MIR-4.8.8 The final audited accounts shall be presented to the general meeting of the member together with the auditor's report. A copy of these documents shall be sent to the CBB at least 15 days before the date of the general meeting.

MIR-4.8.9 [This Paragraph was deleted in July 2014.]



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**MIR-4.8 Final Accounts and Auditing (continued)**

**MIR-4.8.10**

Every member must, within 3 months following every financial year, send to the CBB its final audited accounts for all the transactions carried out until year end, as well as any other financial statements required by the SRO and CBB. The CBB requires the publication of the final audited accounts in Bahrain in 2 local daily newspapers, one in Arabic and the other in English.

MIR-4.8.11

The final accounts shall be prepared in accordance with the IFRS, or where the member is an Islamic institution the final accounts shall be prepared in accordance with the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) Standards and shall be certified by the member's external auditors.



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## MIR-4.9 Obligation to Submit Periodic Reports

### MIR-4.9.1

A licensed member shall submit to the CBB and SRO:

- (a) Within 3 months after the end of its financial year or such longer period as the CBB may permit, a copy of its:
  1. Annual report and directors' report; and
  2. Auditors' report;
- (b) Within 45 days after the end of each of the first 3 quarters of its financial year or such longer period as the CBB may permit, or the preceding quarter, in such form as may be approved by the CBB, a copy of its:
  1. Profit and loss accounts;
  2. Balance sheet;
  3. Cash flow statement; and
  4. Change in shareholders equity;
- (c) Within 3 months after the end of its financial year or such longer period as the CBB may permit, a report on how the member has discharged its responsibilities under the CBB Law and regulations and the rules of the SRO during that financial year;
- (d) Such other report as the CBB may require for the proper administration of this Module, at such time or on such periodic basis as may be required by the CBB.

### MIR-4.9.2

The auditors' report referred to in rule MIR-4.9.1 (a) shall unless otherwise provided to the CBB by way of a management letter, include the findings and recommendations of the auditors, if any, on the internal controls and risk management of the member; and

- (a) Any provision of this Module;
- (b) Any direction issued by an SRO and/or CBB under this Module; or
- (c) Any other relevant laws or regulations.

### MIR-4.9.3

Licensed members are required to complete online non-financial information related to their institution by accessing the CBB's institutional information system (IIS). Licensees must update the required information at least on a quarterly basis or when a significant change occurs in the non-financial information included in the IIS. If no information has changed during the quarter, the licensee must still access the IIS quarterly and confirm the information contained in the IIS. Licensees must ensure that they access the IIS within 20 calendar days from the end of the related quarter and either confirm or update the information contained in the IIS.

### MIR-4.9.4

Licensees failing to comply with the requirements of Paragraph MIR-4.9.3 or reporting inaccurate information are subject to financial penalties or other enforcement actions.



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## MIR-4.10 Additional Powers of the CBB in Respect of Auditors

MIR-4.10.1 If an auditor of a licensed member in the course of the performance of his duties becomes aware of:

- (a) Any matter which in his opinion, adversely affects or may adversely affect the financial position of the licensed member to a material extent;
- (b) Any matter which in his opinion, constitutes or may constitute a breach of the CBB Law, rules and regulations, or an offence involving fraud or dishonesty; or
- (c) Any irregularity that has or may have a material effect upon the accounts of the licensed member, including any irregularity that affects or jeopardises or may affect or jeopardise, the assets and money of clients, then the auditor shall immediately send to the CBB and licensed exchange and/or licensed clearing house a written report of the matter or the irregularity.

**MIR-4.10.2** An auditor of a licensed member shall not be, in the absence of malice on his part, liable to any action for defamation at the suit of any person in respect of any statement made in his report under paragraph MIR-4.10.1.

**MIR-4.10.3** Rule MIR-4.10.2 shall not restrict or affect any right, privilege or immunity that the auditor of a licensed member may have as a defendant in an action for defamation.

MIR-4.10.4 The CBB may impose all or any of the following duties on an auditor of a licensed member:

- (a) A duty to submit such additional information and reports in relation to his audit as the CBB considers necessary;
- (b) A duty to enlarge, extend or alter the scope of his audit of the business and affairs of the licensed member;
- (c) A duty to carry out any other examination or establish any procedure in any particular case;
- (d) A duty to submit a report on any matter arising out of his audit, examination or establishment of procedure referred to in MIR-4.10.4 (b) or (c), and the auditor shall carry out such duties.

MIR-4.10.5 The licensed member shall remunerate the auditor in respect of the discharge by him of all or any of the duties referred to in paragraph MIR-4.10.4.



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## MIR-4.11 Obligation to Assist CBB

MIR-4.11.1 A member shall provide such assistance to the CBB and/or SRO that is required for the performance of the functions and duties of the CBB, including the furnishing of such returns and the provisions of:

- (a) Such books and information:
  1. Relating to the business of the licensed member; or
  2. In respect of such dealings in securities or trading in futures contracts, products or other instruments; and
- (b) Such other information as the CBB may require for the proper administration of this Module in general, and for the investigation and enforcement purposes in particular;
- (c) Any information related to the handling and segregation of the clients assets.

MIR -4.11.2 The CBB may at its discretion:

- (a) Call for the provision of additional information about the affairs of the member;
- (b) Carry out inspections of the office of the licensed member and inspect the books of accounts and other relevant books of the licensed member; and
- (c) Appoint one or more examiner or investigator to inquire into the affairs of the licensed member.



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## MIR-4.12 Obligation to Maintain Confidentiality

**MIR-4.12.1** Subject to rule MIR-4.12.2, a member and its officers, employees and representatives shall maintain, and aid in maintaining, the confidentiality of all clients or investors information that:

- (a) Comes to the knowledge of the member, or any of its officers, employees or representatives; and
- (b) Is in possession of the member, or any of its officers, employees or representatives.

**MIR-4.12.2** Rule MIR-4.12.1 shall not apply to:

- (a) The disclosure of investors or users information for such purposes, or in such circumstances as an SRO and/or CBB may prescribe;
- (b) Any disclosure of investors or users information which is authorised by the CBB to be disclosed or furnished; or
- (c) The disclosure of investors or users information pursuant to any requirement imposed under any law or order of court in Bahrain.

MIR-4.12.3 For the avoidance of doubt, nothing in this section shall be construed as preventing a member from entering into a written agreement with an investor or user which obliges the member to maintain a higher degree of confidentiality than that specified in this section.

### *Exceptions to Obligation to Maintain Confidentiality*

MIR-4.12.4 Without prejudice to the requirements of Article 117 of the CBB Law, the obligation to maintain confidentiality shall not apply to the disclosure of investor or client information by a member, or its officers, employees or representatives for the following purposes or in the following circumstances:

- (a) The disclosure of investor or client information is necessary for the making of a complaint or report under any law for an offence alleged or suspected to have been committed under such law;
- (b) The disclosure of investor or client information is permitted for such purpose specified in writing by the investor or client or, where the investor or client is deceased, by his appointed personal representative;
- (c) The disclosure of investor or client information is necessary for the execution by the member of a transaction in any securities or futures contracts or clearing or settlement of a transaction, and such disclosure is made only to another user which is:
  - 1. A licensed exchange and/or licensed clearing house through which the transaction is traded or cleared or settled; or
  - 2. A counterparty licensed member through which that transaction is executed, cleared or settled;



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## MIR-4.12 Obligation to Maintain Confidentiality (continued)

- (d) The disclosure of investor or client information is necessary:
1. In any disciplinary proceedings of the SRO, or securities regulator, provided that reasonable steps are taken to ensure that client information disclosed to any third person is used strictly for the purpose for which the client information is disclosed; or
  2. For the publication, in any form or manner, of the disciplinary proceedings and the outcome thereof;
- (e) The client information disclosed is already in the public domain;
- (f) The disclosure of client information is made in connection with:
1. The outsourcing or proposed outsourcing of any service or activity of the member to a third party;
  2. The engagement or potential engagement of a third party by the member to create, install or maintain back-up or internal control systems of the member; or
  3. The appointment or engagement of an auditor, lawyer, consultant or other professional by the member under a contract for service;
- (g) The disclosure of client information is necessary in:
1. An application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased client; or
  2. The administration of the estate of a deceased client, including such disclosure as may be required for this purpose by the relevant authority;
- (h) The disclosure of client information is made in connection with:
1. In the case where the client is an individual, the bankruptcy of a client; or
  2. In the case where the client is a body corporate, the winding up or receivership of a client; or
- (i) The disclosure of client information is made to an issuer for the purpose of the issuer's regulatory submission.

### MIR-4.12.5

Where client information is disclosed under paragraph MIR-4.12.4 (f), the member shall:

- (a) Maintain a record of the circumstances relating to the disclosure of client information referred to in paragraph MIR-4.12.4 (f); and the particulars of:
1. In the case of the disclosure of information under paragraph MIR-4.12.4 (f), the outsourcing of the function of the member;
  2. In the case of the disclosure of information under paragraph MIR-4.12.4 (f), the engagement of the third party; and
  3. In the case of the disclosure of information under paragraph MIR-4.12.4 (f), the appointment or engagement of the auditor, lawyer, consultant or other professional and make that record available for inspection by the SRO and/or CBB;



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- (b) Disclose the client information only insofar as this is necessary for the relevant purpose; and
- (c) Take reasonable steps to ensure that the client information disclosed is used by the entitled person to whom the disclosure is made strictly for the relevant purpose, and that the client information is not disclosed by that entitled person to any other person except with the consent of the SRO and/or CBB.

MIR-4.12.6 Where disclosure of client information is permitted to be made for any purpose or in any circumstance under paragraph MIR-4.12.4 to a body corporate, the client information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

MIR-4.12.7 In paragraph MIR-4.12.6, “relevant purpose” means:

- (a) In the case of the disclosure of information under paragraph MIR-4.12.4 (f) (1), facilitating the outsourcing of the function of the member;
- (b) In the case of the disclosure of information under paragraph MIR-4.12.4 (f) (2), facilitating the engagement of the third party; and
- (c) In the case of the disclosure of information under paragraph MIR-4.12.4 (f) (3), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.





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## MIR-4.13 Confirmation Requirements and Provision of Information to Clients

**MIR-4.13.1** A member shall confirm to its clients or participants the execution of a transaction, as well as the clearing, settlement and depository of securities in the manner and time prescribed by the rules of the SRO, (including the trading rules, and the clearing, settlement and depository rules of the licensed exchange and/or the licensed clearing house), as the case may be.

**MIR-4.13.2** A member shall provide its clients or participants with the periodic and ad hoc statements in the manner and time prescribed by the rules of the SRO, as the case may be.

**MIR-4.13.3** A member shall:

- (a) Make available upon request by; or
- (b) Publish in a manner that is accessible to, any investor who accesses or uses, or potential investor who may access or use, any system or services undertaken or provided by that member:
  1. All regulated activities or services of the member;
  2. All products available on the regulated activities undertaken by the member;
  3. Applicable fees and charges;
  4. Applicable margin requirements; and
  5. Any arrangement that may be in place to compensate an investor who suffers pecuniary loss as a result of these regulated activities or insolvency of the member.



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#### MIR-4.14 Transmission and Storage of Transactions and Client Information

**MIR-4.14.1** A member shall take or arrange to take all reasonable measures to maintain the integrity and security of the transmission and storage of client information related to the client's orders and transactions undertaken by it, in accordance with the rules of the SRO.

##### *Records of Telephone Conversations and Electronic Communications*

**MIR-4.14.2** In addition to meeting the book-keeping and record-keeping requirements as per the applicable laws, rules and regulations, all members of SROs must maintain records of telephone conversations and electronic communications, including facsimile, email and other instant messaging devices relating to their activities in the securities market, as required by the CBB's rules, regulations and directives, including but not limited to the following activities:

- (a) Receiving client orders;
- (b) Executing client orders;
- (c) Arranging for client orders to be executed;
- (d) Carrying out transactions on behalf of the member of an SRO, or another person in the member of an SRO group, and which are part of the member of an SRO's trading activities, or the trading activities of another person in the member of an SRO group;
- (e) Executing orders that result from decisions by the member of an SRO to deal on behalf of its client;
- (f) Placing orders with other entities for execution that result from decisions by the member of an SRO to deal on behalf of its client.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-4 Business Standards and Ongoing Obligations</b>

## MIR-4.15 Business Continuity Plan

**MIR-4.15.1** A member, in accordance with the rules of the SRO, shall maintain by itself or through arrangements with the SRO, at all times a plan of action (referred to in this Module as a Business Continuity Plan) setting out the procedures and establishing the systems necessary to restore fair, orderly and transparent operations of any regulated activities it provides or undertakes, in the event of any disruption to its operations.

MIR-4.15.2 A member shall review the procedures and internal systems referred to in rule MIR-4.15.1 on such regular basis as may be specified in the Business Continuity Plan and the rules of the SRO.

MIR-4.15.3 A member shall immediately notify the SRO of any activation of its Business Continuity Plan and of any action taken or intended to be taken to restore fair, orderly and transparent operations it undertakes.

MIR-4.15.4 A member shall, within 14 days or such longer period as the CBB may permit, inform the SRO and/or CBB of any material change to the Business Continuity Plan, and shall submit at the request of the CBB, a copy of the new plan to the CBB.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
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## MIR-4.16 Outsourcing

- MIR-4.16.1 A member shall not outsource any function related to any regulated activities without prior approval of the CBB, and/or SRO.
- MIR-4.16.2 The CBB would normally not grant its approval related to the outsourcing application, when such outsourcing application is related to controlled functions, or core business of such licensed member.
- MIR-4.16.3 The member seeking to outsource functions related to any undertaking of regulated activities should have the following in place:
- (a) Comprehensive policy to guide the assessment of whether and how these functions or services can be appropriately outsourced;
  - (b) The management shall have the responsibility for the outsourcing policy and related overall responsibility for outsourced functions or services undertaken under that policy;
  - (c) The member retains the ultimate responsibility for the functions or services that are outsourced;
  - (d) The member must obtain the approval of the respective SRO and notify the CBB before committing to an outsourcing arrangement;
  - (e) The member must maintain and regularly review contingency plans to enable him to set-up alternative arrangements should the outsourcing provider fail;
  - (f) The member must nominate an officer of senior management with day-to-day responsibility for handling the relationship with the outsourcing provider and ensuring that relevant risks are addressed;
  - (g) All the outsourcing contracts must be legally enforceable;
  - (h) A notice period of at least three months shall be required from the outsourcing party to terminate the contract;
  - (i) On termination, all data pertaining to the member and its clients shall be returned by the outsource provider to the member; and
  - (j) For the entire duration of the outsourcing contact, this shall be subject to the confidentiality requirements in general, and information related to the clients or users in particular.



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#### **MIR-4.17 Compliance Officer**

[This Section was deleted in April 2013 as requirements are now found under Paragraphs MIR-3.1.6 and MIR-3.1.7.]



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<b>CHAPTER</b>	<b>MIR-4 Business Standards and Ongoing Obligations</b>

## **MIR-4.18 Non-Compliance with Business Rules, Listing Rules, Clearing and Settlement Rules not to Substantially Affect the Rights of Persons**

MIR-4.18.1 Any failure by a member to comply with:

- (a) The CBB Law, rules and regulations;
- (b) This Module; and
- (c) The rules of the SRO;

in relation to a matter shall not prevent the matter from being treated, for the purposes of this Module, as done in accordance with the business rules, listing rules, trading rules, or clearing, settlement and depository rules, so long as the failure does not substantially affect the rights of the person entitled to require compliance with such rules.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-5 Substantial Shareholding in a Licensed Member</b>

## MIR-5.1 Control of Substantial Shareholding in a Licensed Member

### MIR-5.1.1

No person shall enter into any agreement to acquire shares in a licensed member by virtue of which he would, if the agreement had been carried out, become a substantial shareholder of the licensed member without first obtaining the approval of the CBB, to enter into the agreement.

#### MIR-5.1.2

In rule MIR-5.1.1 “substantial shareholder” means a person who alone or together with his associates:

- (a) Holds not less than 5% of the shares in the licensed member; or
- (b) Is in a position to control not less than 5% of the votes in the licensed member.

### MIR-5.1.3

In this section:

- (a) A person holds a share if:
  - 1. He is deemed to have an interest in that share in terms of the CBB Law, rules and regulations; or
  - 2. He otherwise has a legal or a beneficial interest in that share, except such interest as is to be disregarded in the terms of the CBB Law, rules and regulations;
- (b) A reference to the control of a percentage of the votes in a licensed member shall be construed as a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the licensed member; and
- (c) An associate of another person means in respect of individuals, a direct family member and in the case of a company, means the company is bound to follow the directives of the substantial shareholder, or the company in which the substantial shareholder has 20% of the votes of that company.

#### MIR-5.1.4

The CBB may grant its approval referred to in rule MIR-5.1.1, subject to such conditions or restrictions as the CBB may think fit.



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<b>CHAPTER</b>	<b>MIR-5 Substantial Shareholding in a Licensed Member</b>

## MIR-5.2 Application and Criteria for Approval to Acquire Substantial Shareholding

MIR-5.2.1 Any person applying for approval under rule MIR-5.1.1 shall submit to the CBB a written application that sets out:

- (a) The name of the applicant;
- (b) In the case where the applicant is a company:
  1. Its place of incorporation;
  2. Its substantial shareholders;
  3. Its directors and chief executive officer; and
  4. Its principal business.
- (c) In the case where the applicant is a natural person:
  1. His nationality;
  2. His principal occupation; and
  3. His directorships;
- (d) All the companies in Bahrain or elsewhere, which the applicant has a substantial shareholding;
- (e) The percentage of shareholding and voting power that the applicant has in the licensed member and/or in any other licensed members;
- (f) The percentage of shareholding and voting power the applicant is seeking to have in the licensed member;
- (g) The reasons for making the application;
- (h) The mode and structure, as appropriate, under which the increase in shareholding would be carried out;
- (i) Whether the applicant will seek representation on the board of directors of the licensed member; and
- (j) Any other information that may facilitate the determination of the CBB as to whether the applicant is a fit and proper person for the purposes of paragraph MIR-5.2.3 (a).

MIR-5.2.2 The CBB may require the applicant to furnish it with such information or documents as the CBB considers necessary in relation to the application and the applicant shall furnish such additional information or documents as required by the CBB.

MIR-5.2.3 The CBB may approve an application made under Paragraph MIR-5.2.1 if the CBB is satisfied that:

- (a) The applicant is a fit and proper person to be a substantial shareholder;
- (b) Having regard to the applicant's likely influence, the licensed member will or will continue to conduct its business prudently and in compliance with the provisions of the CBB Law, rules and regulations, and this Module; and
- (c) It would not be contrary to the interests of the public and market integrity to do so.





<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-5 Substantial Shareholding in a Licensed Member</b>

## **MIR-5.2 Application and Criteria for Approval to Acquire Substantial Shareholding (continued)**

MIR-5.2.4 The CBB may, for the purposes of securing compliance with rule MIR-5.1.1 or paragraph MIR-5.2.2, or any condition or restriction imposed under rule MIR-5.2.5, by notice in writing direct the transfer or disposal of all or any of the shares of a licensed member in which a substantial shareholder of the licensed member has an interest. The licensed exchange and/or licensed clearing house shall be notified of such extent.

### **MIR-5.2.5**

Until a person to whom a direction has been issued under paragraph MIR-5.2.4 transfers or disposes of the shares which are subject to the direction and notwithstanding anything to the contrary in the Memorandum and Articles of Association or other constituent documents of the licensed member:

- (a) No voting rights shall be exercisable in respect of the shares which are the subject of the direction;
- (b) The licensed member shall not offer or issue any shares (whether by way of rights, bonus share, dividend or otherwise) in respect of the shares which are the subject of the direction; and
- (c) Except in liquidation of the licensed member shall not make any payment (whether by way of cash dividend, dividend in kind or otherwise) in respect of the shares which are the subject of the direction.

MIR-5.2.6 Any issue of shares by a licensed member in contravention of rule MIR-5.2.5 (b) shall be deemed to be null and void, and a person to whom a direction has been issued under paragraph MIR-5.2.4 shall immediately return those shares to the licensed member, upon which the licensed member shall return to the person any payment received from him in respect of those shares.

MIR-5.2.7 Any payment made by a licensed member in contravention of rule MIR-5.2.5 (c) shall be deemed to be null and void, and a person to whom a direction has been issued under paragraph MIR-5.2.4 shall immediately return the payment he has received to the licensed member.

MIR-5.2.8 The CBB may exempt:

- (a) Any person or class of persons; or
- (b) Any class or description of shares or interests in shares;

from the requirement under paragraphs MIR-5.2.1 or MIR-5.2.2, subject to such conditions or restrictions as may be imposed by the CBB in general, and where shares of the licensed member are being listed in particular.



MODULE	MIR: Market Intermediaries and Representatives
CHAPTER	MIR-6 Control of a Licensed Member

## MIR-6.1 Control of a Licensed Member

### MIR-6.1.1

The CBB must be notified in any of the following cases:

- (a) If effective control over a licensed member takes place indirectly, whether by way of inheritance or otherwise;
- (b) Gaining control directly as a result of any action leading to it;
- (c) The intention to take any of the actions that would lead to control.

The controller or the person intending to take control over the member, and the member itself, if it is aware of such case, should notify the CBB as per rule MIR-6.1.3.

### MIR-6.1.2

For the purposes of rule MIR-6.1.1, “control” means the right to appoint the majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements, or in any other manner.

### MIR-6.1.3

Notice of control shall contain a request for the CBB’s approval for taking control over a licensed member or taking any action that may lead to control by submitting Form 2 and shall also contain such particulars and information and be accompanied by such documents as the CBB may specify. In the cases referred to in items (a) and (b) of rule MIR-6.1.1, the notice shall be made within 15 days from the date of control. In the case referred to in item (c) of rule MIR-6.1.1, the notice shall be made before taking any of the actions that would lead to control.

### MIR-6.1.4

The CBB must, within 60 days from the date of receipt of the notice referred to above, notify the controller or the person intending to take control over a licensed member of its approval of control, any of the actions which would lead to control, or the refusal thereof as the CBB may determine at its own discretion, after consultation with the SRO.

### MIR-6.1.5

The CBB may impose any restrictions that it considers necessary to be observed in case of its approval of control, or any of the actions that would lead to control.

### MIR-6.1.6

If the period specified in rule MIR-6.1.4 lapses without a decision being taken on the application seeking approval of control, or any intended actions that would lead to control, the application shall be considered as accepted, unless the SRO refuses such application within the specified period.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-6 Control of a Licensed Member</b>

## MIR-6.1 Control of a Licensed Member (continued)

MIR-6.1.7 The controller or the person intending to take control over a licensed member, may within 30 days of the notification, lodge a grievance against the CBB's decision to refuse the control or any conditions imposed in respect of such control.

**MIR-6.1.8** The CBB shall decide on the grievance and notify the person intending to take control over the licensed member of its decision within 30 days from the date of submitting the grievance.

MIR-6.1.9 An appeal against a decision on control may be submitted within 30 days from the date when the concerned person was aware of such decision.

MIR-6.1.10 The CBB may refuse to give approval to control if it will affect the market integrity and interests of the investors or clients, or if the CBB decides, according to its own discretion that it would be inappropriate to control a licensed member according to the criteria set by the CBB.

MIR-6.1.11 Any person who acquires control or shares in breach of the provisions of this Module shall carry out any instructions issued to him by the CBB to transfer such control or shares, or refrain from exercising control or voting rights according to the procedures prescribed in such instructions.

MIR-6.1.12 The CBB may seek a court order to take appropriate precautionary measures or sell such shares if the person(s) fails to carry out the order referred to above. The value of the shares sold shall be paid to the party who has rights therein after the deduction of expenses.

**MIR-6.1.13** A licensed member shall not perform any of the following without prior written approval of the CBB:

- (a) Merge, amalgamate or enter into a partnership with any person in Bahrain or elsewhere, except in the ordinary course of business;
- (b) Transfer all or a major part of its assets or liabilities in Bahrain or elsewhere, without prejudice to the provisions of Chapter 6 (Articles 66, 67 & 68) of the CBB Law;
- (c) Make any modification to its issued or paid-up share capital;
- (d) Modify its Memorandum and Articles of Association;
- (e) Engage in major acquisition or investment operations as determined by the CBB.



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## **MIR-6.1 Control of a Licensed Member**

MIR-6.1.14 The CBB, in granting any approval under rule MIR-6.1.13, may impose such conditions as it considers appropriate.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-6 Control of a Licensed Member</b>

## MIR-7.1 Business Transfer

**MIR-7.1.1** A licensed member shall not transfer all or any part of its business related to regulated activities to others, without prior approval from the CBB.

MIR-7.1.2 A licensed member who desires to transfer all or any part of its business referred to in rule MIR-7.1.1, shall make an application to the CBB in Form 5 (Approval for Business Transfer), as well as to the licensed exchange and/or licensed clearing house, as the case may be.

MIR-7.1.3 A Transfer of Business application referred to under paragraph MIR-7.1.2, shall be published in the Official Gazette and also in 2 daily newspapers, one in Arabic and one in English in Bahrain. The publication should include a call to the SRO, or any concerned parties to submit any objections to the CBB within 60 days from the date of publication.

MIR-7.1.4 The CBB shall consider the objections referred to in paragraph MIR-7.1.3 before taking any action on the application for transfer.

**MIR-7.1.5** The following shall apply in order to approve a business transfer application:

- (a) The business, subject of transfer, shall not be prohibited by the CBB;
- (b) The Transfer of Business shall not cause damage to the interests of the member's users and clients;
- (c) The transferee must be licensed to carry out the business in the place to which it is to be transferred;
- (d) The transferee company should fulfil all the eligibility criteria laid down in this Module; and
- (e) The CBB must be satisfied that the Transfer of Business is appropriate under relevant regulations issued in this respect.

**MIR-7.1.6** The CBB shall give its approval to a Transfer of Business if the application satisfies the requirements set in rule MIR-7.1.5. Such approval may be given subject to any conditions deemed appropriate by the CBB.

MIR-7.1.7 The decision of the CBB on a Transfer of Business shall be published in the Official Gazette as well as in 2 daily newspapers, one in Arabic and one in English in Bahrain. The decision shall be effective from the date set therein.

MIR-7.1.8 An applicant whose application has been turned down or who faces restrictions regarding the transfer of his business may appeal to a competent court within 30 days from the date of publishing of such decision on the Official Gazette.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-8 Listing of a Licensed Member</b>

## **MIR-8.1 Listing of a Licensed Member**

MIR-8.1.1 The shares of a licensed member shall not be listed for quotation on a licensed exchange in Bahrain or elsewhere, without the CBB's prior approval.

The CBB may not grant its approval where such listing may:

- (a) Create possible conflicts of interest that may arise from such listing; and
- (b) When such listing may not ensure market integrity.



<b>MODULE</b>	<b>MIR: Market Intermediaries and Representatives</b>
<b>CHAPTER</b>	<b>MIR-9 Emergency Powers of the CBB</b>

## MIR-9.1 Emergency Powers of the CBB

MIR-9.1.1 Where the CBB has reason to believe that an emergency exists, or thinks that it is necessary or expedient in the interests of the public or a section of the public or for the protection of investors, the CBB may direct by notice in writing a licensed member to take such action as it considers necessary to maintain or restore a fair, transparent and efficient market related to the trading, clearing, settlement and depositing of any securities or futures contracts, or any class of securities or futures contracts that are undertaken by any licensed member.

MIR-9.1.2 Without prejudice to paragraph MIR-9.1.1, the actions with the CBB may direct a licensed member to take include:

- (a) Terminating or suspending any function, or services related to the regulated activities undertaken by any member;
- (b) Ordering the liquidation of all positions or part thereof, or the reduction of such positions related to such member;
- (c) Set margin levels for transactions traded, cleared, or settled, or to be traded, cleared, or settled by or through such member to cater for the emergency;
- (d) Altering conditions of delivery of transaction cleared or settled, or to be cleared or settled through or by that member;
- (e) Fixing the settlement price at which transactions undertaken by such member are to be liquidated;
- (f) Requiring margins or additional margins for transactions traded, cleared, or settled, or to be traded, cleared, or settled through or by such member;
- (g) Modifying or suspending any transaction made by or through such member;
- (h) Requiring any member to act in a specified manner in relation to trading, clearing, settlement and depositing securities or futures contracts, or any class of securities or futures contracts.

MIR-9.1.3 In this section “emergency” means any threatened or actual market manipulation or disruption, and includes:

- (a) Any act of any government affecting a securities or commodity market;
- (b) Any major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such securities or commodity;  
or
- (c) Any undesirable situation or practice which in the opinion of the CBB, constitutes an emergency;
- (d) Any threatened or actual market manipulation or disruption.

MIR-9.1.4 The CBB may modify any action taken by a licensed exchange, licensed clearing house and/or licensed member under Paragraph MIR-9.1.2, including the setting aside of that action.