

COLLATERAL AND SECURITY REGULATIONS

QFZ
هيئة المناطق الحرة - قطر
Qatar Free Zones Authority



Introduction

This document is intended to provide an overview of the Collateral and Security Regulations. It does not replace the Regulations in any way, nor does it remove the need for an investor to seek its own professional advice if it considers this to be prudent.

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What does 'Qatar Free Zone' actually mean?

Law No. (34) of 2005, as amended by Decree-Law No. (21) of 2017 established the Free Zones Authority (the 'Authority') which in summary, is responsible for managing specific Free Zones within the State of Qatar.

The Free Zones are dedicated areas of land within the State of Qatar that have been identified as economic zones; these economic zones have been designed in a way that enables investors to benefit from economic incentives over and above those available to companies investing within the State of Qatar.

Currently, there are two (2) free zones:

- 1) Ras Bufontas – known as an 'Airport Free Zone and 4 km² in size; this particular zone is some 6 km away from Hamad International Airport, and is intended to provide for industries such as logistics, consumer products, light manufacturing, services, technology and applications, and pharmaceuticals.
- 2) Umm Alhoul – located near Hamad Port and 30 km² in size will primarily cater to maritime industries, polymers and plastics, advanced manufacturing, and logistics.

What activities are permitted in the Free Zones?

The Free Zones Authority (the 'Authority') has published a list of the activities it will allow investors to undertake within its zones; these are commonly known as the Schedule of Permitted Activities. Any potential investor is advised to check this published list to ascertain if its proposed activity is permitted within the Zones.

How does the Free Zones' legislation work in relation to the State's laws?

Article 4 prescribes that Security Interests only created under these Regulations may be deemed legal, valid, and binding in the Free Zone.

What is 'Security Interest'?

Any interest in Collateral which secures payment or performance of an obligation (whether present, future, actual, contingent, or prospective) is called Security Interest.

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What is a 'Collateral'?

Any asset and other personal property of an Entity (including, but not limited to, goods, chattels, cash, intellectual property, and Documents of Title) that is the subject to a Security Interest and includes Proceeds to which a Security Interest attaches.

What types of Security Interests can be created in the Free Zone by a Shareholder or the Free Zone Entity?

Article 5 prescribes the types of Security Interests that can be created under these Regulations by both the Shareholder and the Entity.

What are the conditions for a valid Security Interest?

An agreement to create a Security Interest will be effective according to its terms.

The following conditions must be met if the Security Interest is to be deemed valid:

- The Collateral to which the Security Interest is to attach must be clearly identifiable;
 - The Obligor must have an interest in or right to the Collateral, or the power to transfer the Collateral to the Secured Party; and
 - The Collateral that is the subject of the Security Interest is situated in, and is created or has arisen in the Free Zone.
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Can more than one Security Interest be created over the same Collateral?

Yes, one or more Security Interests may be created over the same Collateral.

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What are the conditions for a Security Agreement to be enforceable?

The Security Interest must:

1. be validly held according to the Collateral and Security Regulations;
 2. be attached to the Collateral; and
 3. be registered according to the Collateral and Security Regulations.
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What is 'attachment'?

A Security Interest attaches to Collateral when the collateral is clearly identified, and the Security Agreement has been signed by all parties.

Subject to any prescribed circumstances within the Regulations it will attach to the Collateral with effect from the date of the relevant Security Agreement.

Is it possible to remove movable Collateral from the Free Zone?

Yes, if the Obligor has received the consent of the Secured Party.

Is it mandatory to register Security Interests?

Yes. All Security Interests must be registered on the Security Register within 21 days of its creation. Failure to register will result in a daily fine imposed on the Obligor (the debtor) at a rate determined by the Authority.

Who can register a Security Interest?

Security Interest can be registered by the Obligor (the debtor) or Secured Party (lender/creditor) or their authorised representatives.

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How will a Security Interest be registered?

Secured Interests will be registered by submitting the prescribed form to the Authority accompanied by the payment of applicable fees.

How are Security Interests perfected?

Security Interests are perfected upon Registration.

What is the consequence of a Security Interest not being perfected?

If a Security Interest is not perfected, a buyer or lessee of the Collateral (in good faith and for valuable consideration) will take the Collateral free of the Security Interest.

What is priority and why is it important?

The priority of a secured party (lender/creditor) shows the party's right to payment in the event of default by an Obligor (a debtor).

In case of default, a Secured Party with a Security Interest in Collateral will have a claim of ownership in the Collateral. It can possess the collateral, sell it, and use the proceeds to satisfy the debt. The situations may become more problematic when multiple Secured Parties are claiming an interest in the Collateral. This is when the concept of priority is most important.

Priority shows the order of who has the highest claim to assets or the proceeds from the sale of those assets. A Secured Party with the highest priority in collateral will receive payment of her claim before any other creditors receive payment. Subordinate secured creditors will only receive payment once the highest priority secured creditor is paid in full. Once the highest priority creditor is paid, the next highest priority creditor is paid, and so on.

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How is priority determined?

1. A perfected Security Interest will take priority over an unperfected Security Interest
 2. Priority between registered Security Interests is determined by the date of first Registration
 3. Priority between unperfected Security Interests is determined by the order of attachment
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Is it possible to voluntarily subordinate a Security Interest?

Through an agreement, a Secured Party (lender/creditor) may subordinate its Security Interest to any other interest. The agreement must be in writing and signed by all parties.

Who can amend the registration records relating to a Security Interest?

The obligor (the debtor) and the secured party (lender/creditor) may amend jointly.

How can a Security Interest be discharged?

A Secured Party (lender/creditor) may apply to the Authority to discharge the Registration by giving notice. Satisfaction or payment of the relevant debt in part qualifies for the application of a discharge in terms of the Security Interest.

An application to discharge must be made to the Authority in the prescribed form and once the application accepted, the Authority will include a statement in the Security Register stating that, the Security Interest has been satisfied in whole or in part; and/or that the relevant Collateral has been released from the Security Interest.

When will a Security Interest be discharged?

A registered Security Interest will be discharged at the time it is recorded as discharged in the Security Register.

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What are the regulatory rights and remedies of the Secured Party in case of a default by the Obligor?

The Obligor may:

1. Take possession of the Collateral;
2. dispose of the Collateral; or
3. appoint a receiver and administrator.

What is the procedure for Secured Party to enforce its rights?

Secured Party (lender/creditor) must obtain an order from the competent Court and not less than 10 days before enforcing its rights must give written notice in the manner prescribed in Article 16(2).

If within ten (10) days of service of the notice, the Secured Party receives a notification from any other interested person objecting to the enforcement or a Secured Party claiming that it has a prior Security Interest, the Secured Party may not proceed with enforcement without further order of the competent Court.

In the case of a registered Security Interest, the Secured Party must give written notice to the Authority of the order it has received from a competent Court sanctioning enforcement (together with payment of the applicable fees).

Does the Authority keep a Register?

Yes, the Authority will maintain a Security Register as detailed in Article 17.

Are there any fees?

There is a Schedule of Fees that applies to Free Zones-related activities and a Free Zone Entity will be required to pay these non-refundable fees at the appropriate time.

Can sanctions be imposed?

There is a Schedule of Sanctions which the Authority can enforce for contraventions, should the need arise.

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