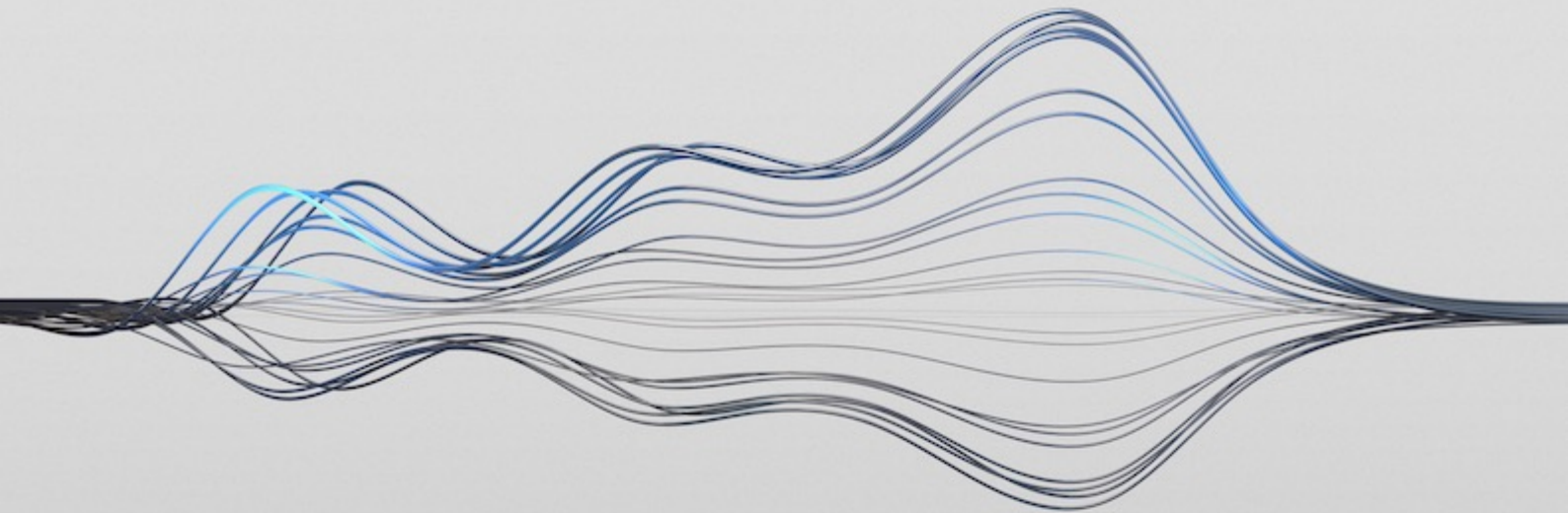


QATAR

# Global Guide to Directors' Duties





# Qatar

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## Corporate entities

What type of company is typically used in group structures?

Companies may be formed and registered in the State of Qatar (Qatar or the State), the Qatar Financial Centre (a business and financial centre located onshore in Qatar with its own laws, regulations and courts) or in a Qatar free zone. This guide focuses on companies incorporated in the State and licensed by the Qatar Ministry of Commerce and Industry.

In the State, the most common type of company used in group structures is a limited liability company (LLC).

## Types of director

What is a "director"?

There is no complete definition of the term "director" in the Qatar Companies Law. The law essentially regards someone who manages the affairs of a company on behalf of its shareholders as a director. In most cases, the terms "director" and "manager" are used interchangeably.

What are the different types of director?

The Qatar Companies Law does not distinguish between types of directors or managers. It is nevertheless possible to define, to an extent, different types in the memorandum of association of the LLC. This may include a designation of the managing director, for instance. The particular nature of the managing directors authority would be defined in the memorandum of association. Regardless of which type of director is appointed, a manager must also be appointed for an LLC. A director and manager may be the same person holding both roles.

The LLC's main business licence, the commercial registration (akin to a certificate of incorporation) will have to include the names of the managers and alongside the names of the managers it must state if the manager has full and absolute authority for the management of the business or authority to conduct the administrative and immigration affairs of the LLC, as the case may be.

## Eligibility

Who can be a director?

A director must be a natural person who is at least 18 years old. There are no nationality or residency restrictions, however individuals from certain countries may be subject to additional security checks or denied a visa. A foreign expatriate director must hold a valid Qatar work and residence permit.

### **Minimum / maximum number of directors**

There is no minimum or maximum number of directors that may be appointed. The LLC's memorandum of association may, however, specify a minimum or maximum in this regard. A LLC must have at least one manager who is named on the main business licence, the commercial registration issued by the Qatar Ministry of Commerce and Industry.

## **Appointment and removal**

### **How are directors appointed?**

Directors may be appointed by way of a resolution of the shareholders of the LLC. The names of the directors should be added to the main business licence of the LLC.

The name of the director may also be listed in the memorandum of association of the LLC, however, this is not mandatory. To do this, the memorandum of association must be notarised by the Qatar Ministry of Justice notary in Qatar. The person signing the memorandum of association before the notary must produce at the time of signing their applicable authorising instrument (such as a power of attorney or resolution) in order to sign the memorandum of association before the Qatar Ministry of Justice notary. Documents originating from outside of Qatar must be notarised, legalised at the Ministry of Foreign Affairs in the country of issue, legalised at the Qatar Embassy in the country of issue and legalised at the Qatar Ministry of Foreign Affairs in Qatar.

### **How are directors removed?**

Directors may be removed by way of a resolution of the shareholders. Where the name of the director is listed on the business licence, the commercial registration issued by the Ministry of Commerce and Industry and the memorandum of association, an amendment to remove the name of the director is necessary. The same conditions will apply as with appointing directors with regard to signatories evidencing their authority to sign on these documents.

## **Board / management structure**

### **Typical management structure**

The boards of LLCs are unitary structures made up of all the company's directors. Each director has the same obligations and accountability to the company pursuant to the LLCs memorandum of association. The roles and responsibilities of directors are largely set out in the LLC's memorandum of association, but directors will typically be responsible for the management and operations of the company and for ensuring that the company meets its statutory obligations.

### **How are decisions made by directors?**

The manner in which directors can make decisions is set out in the LLC's memorandum of association (subject to adherence to Qatar's Companies Law). In LLCs, the memorandum of association can provide directors with flexibility to determine between themselves how decisions are made – whether by physical meeting, telephone or a written resolution. Other than single director LLCs, the minimum quorum for board meetings is set out in the memorandum of association. Unless the memorandum of association stipulates otherwise, voting at board meetings may be on a simple majority basis. When decisions are made in writing, the unanimous agreement of all directors is usually required, although the memorandum of association may specify otherwise.

### **Authority and powers**

The authorities and powers of directors are predominantly set out in an LLC's memorandum of association and are determined by the shareholders. Where this is not defined in a memorandum of association, the common approach is to issue powers of attorney to directors to enable them to represent the company. These powers of attorney are typically notarised.

## Delegation

The ability for a director to delegate their authorities is determined by what is permitted pursuant to the memorandum of association of the LLC or what is set out in a power of attorney authorising the delegation.

## Duties and obligations of directors

### What are the key general duties of directors?

The duties of a director in a LLC include:

- General company obligations, such as the preparation and filing of accounts.
- Acting honestly and in the LLC's best interests.
- Acting in manner which is compatible with the LLC's constitution and objectives.
- Exercising a degree of care in the discharge of management responsibilities.
- Acting within the powers granted.
- Disclosure of any conflicts of interest.
- Compliance with statutory restrictions, including relating to loan arrangements.
- Compliance with statutory requirements in the case of insolvency.

### What are directors' other key obligations?

Other obligations may include matters which are assigned to directors in the memorandum of association of an LLC and may vary according to how responsibility of managing the LLC is apportioned by the shareholders. They may include general company obligations such as maintaining records or calling annual general meetings.

### Transactions with the company

A director should be expressly authorised in an LLC's memorandum of association or by way of a power of attorney in order to transact in the name of an LLC. In most cases, such authority is scrutinised in Qatar depending on the nature of the transaction. Merely holding the position of director is not always sufficient in and of itself to permit a director to bind an LLC.

## Liabilities of directors

### Breach of general duties

In certain circumstances directors may face liabilities where they have acted unlawfully, including:

- Errors and omissions in the management of the company.
- Disclosing corporate secrets.
- Participating in a competing business.
- Fraud and embezzlement, misuse of power, violation of the Qatar Companies Law.
- Act carried out in the course of their duties which causes harm to another person.
- Exceeding authority.
- Unlawful competition.
- Issuing a cheque with insufficient funds.

- Certain violations under the Qatar Commercial Law such as deliberately giving a bankruptcy judge false data, selling goods at less than their regular price with the purpose of delaying the company's declaration of bankruptcy and engaging in transactions in defrauding creditors.

Depending on the nature of the unlawful act, action can be taken against a director for breach of legislation (including the Qatar Companies Law, Civil Code, Penal Code, Commercial Code or Bankruptcy Law) or breach of the LLC's memorandum of association.

### Liabilities on insolvency

Under the Qatari companies law, there is a risk that directors/managers may be personally liable for losses incurred as a result of any failure to call a meeting of the shareholders within 30 days of losses reaching half of the issued capital.

In a bankruptcy context, if it is established that the LLC has insufficient assets to pay at least 20% of its debts, the court may order some or all of the directors/managers jointly and severally to pay all or some of the company's debts. A defence is available if it can be established that they exercised reasonable diligence in managing the company's affairs.

### Other key risks

See [Breach of general duties](#) and [Liabilities on insolvency](#).

## Protection against liability

### How can directors be protected from liability?

In the context of a LLC, the shareholder's must release the directors from their liability for the preceding financial year during the annual general meeting.

Although not common, directors may request an indemnity from the LLC and require that the LLC takes out professional indemnity insurance that covers that negligent acts committed by a director.

### What practical steps can directors take to avoid liability?

To mitigate the risks of any liability, directors should:

- Act in accordance with the LLC's constitution.
- Avoid conflicts of interest and to the extent this is not possible, to declare conflicts of interests.
- Refrain from participating in any work that is in competition with the activities carried out by the LLC unless with the approval of the shareholders.
- Refrain from using information they obtain through their role as a director for their own benefit or for the benefit of their family members.
- Refrain from disclosing information about the company where the veracity of that information is questionable.
- Convene a general assembly where the losses of the LLC reach half of its issued share capital.
- Refrain from signing cheques on behalf of the LLC where there is a possibility that funds on account may not be sufficient.

## Key contacts



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