



# Securities and IPO: Middle East

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## Initial Public Offerings

An initial public offering or an 'IPO' is a process by which a company offers its shares, for the first time, to the public by virtue of drafting and publishing a prospectus on the company and carrying out a public subscription of its shares, after submitting required documentation to the relevant governmental authorities and obtaining their approvals in relation thereto. In simpler words, an IPO allows the shares of a company to be owned by the public for the first time.

In the UAE, the laws and regulations only allow for Public Joint Stock Companies (PJSC) to offer their shares to the public. This means that the company will either incorporate as a PJSC or will undergo the process of conversion in order to offer its shares.

While the IPO market in the UAE has seen slower growth, it is important to remember that IPOs are a fairly new concept and investors are still trying to gauge the market. It is however, pertinent to note that this sector is expected to show great promise in the coming years. Even though the investments were slow, they came from diverse fields and industries.

## Regulatory Framework

The key regulators in the UAE in respect of the IPO process are the Securities and Commodities Authority (SCA) and the Department of Economic Development (DED).

Further depending on the nature of the company's business, the company may be required to obtain the approval of other relevant governmental authorities or regulators such as the Central Bank or the Insurance Authority in the UAE. After obtaining all such relevant approvals and licenses as may be required from the Regulatory bodies, the companies then, in accordance with the DFM or ADX, are allowed to offer their shares to the public.

## Laws

- I. The Companies Law (Federal Law Number 8 of 1984 concerning Commercial Companies) – this governs UAE companies in general, including PJSCs
- II. The SCA Law (Federal Law Number 4 of 2000)
- III. The Listing Resolution (Council of Ministers' Decision Number 12 of 2000 concerning the Regulations as to the Listing of Securities and Commodities)
- IV. The Disclosure Resolution (Council of Ministers' Decision Number 3/R of 2000 concerning the Regulations as to Disclosure and Transparency)
- V. The ADX Rules (There are no separate listing rules for the DFM: any issuer seeking to list on the DFM need only comply with the listing requirements set out in the Listing Resolution)

- VI. The Central Bank Resolution (the UAE central Bank Board of Directors' Resolution No. 164/8/94 regarding the Regulation for Investment Companies and Banking, Financial and Investment Consultation Establishment or Companies).

## Eligibility for IPO

Not all companies are eligible to offer their shares and other rights to the public in the UAE. In order to do so the regulatory requirements are as follows:

As stated above, an issuer must first be licensed by the regulatory authority (SCA) and thereafter submit an application to the relevant market for the same.

Under Article 4 of the Listing Resolution, only the following securities can be listed on the Markets:

- I. Securities in PJSCs incorporated in the UAE, or whose head office is located in the UAE;
- II. Securities of foreign companies approved for listing by the board of directors of the SCA;
- III. Bonds and debt instruments which the SCA Board resolves to list; or
- IV. Any other securities approved for listing by the SCA Board.

Under Article 6 of the above mentioned Listing Resolution, the conditions for listing PJSC's incorporated in the UAE are mentioned.

Depending on whether conditions in Article 6 are met or not, varying categories of classifications are given to the issuer. For example, the conditions for obtaining a first category classification includes the following:

- I. The issuer must be registered with the UAE Ministry of Economy & Commerce
- II. The issuer must have been incorporated for (and have audited accounts for) a period of not less than two years
- III. The issuer's paid-up capital must not be less than AED25 million or 35 percent of the subscribed share capital, whichever is higher
- IV. The shareholders' equity must not be less than the paid-up capital at the time of applying for listing
- V. The issuer must publish its balance sheet and financial results in two daily Arabic language
- VI. Newspapers before its securities can be admitted to trading on a Market.

A second category classification is provided for when one or more of the above mentioned categories are not satisfied and as companies either fulfill or breach either one of these conditions, the companies are moved from one category to another.

The board of directors of the Market has discretionary authority to exempt a company from some of its eligibility requirements or from submitting certain documents. Furthermore, the Market may decline a listing application without giving any reason.

It is pertinent to note that foreign companies that wish to list on either of the Markets must comply with the eligibility requirements including Council of Ministers' Decision No. 7/R, 2002:

- I. The issuer must comply with all provisions in the law of the country of its incorporation

- II. The issuer must be in the form of a public joint stock company or equivalent
- III. The issuer must be listed in the market of its home country (and the market should be subject to the supervision of a body or authority exercising competencies similar to the competencies of the SCA)
- IV. The issuer must have been incorporated for (and have audited accounts for) a period of not less than two years
- V. The issued share capital of the issuer must not be less than the equivalent of AED40 million (around US\$10.9 million) and must be issued to not less than 100 shareholders
- VI. During the two years preceding the date of submission of the application for listing, the issuer's net assets must have been in excess of 20 per cent of its paid-up capital, or it had realised net profits distributable to the shareholders averaging not less than 5 per cent of the paid-up capital

- VII. The issuer must publish its balance sheets and financial results in two daily Arabic language newspapers before its securities can be admitted to trading on a Market
- VIII. The issuer must appoint a representative in the UAE to register the securities, distribute profits and receive and issue reports and documents connected with the business of the company
- IX. The issuer must comply with any additional conditions that the Board may from time to time prescribe.

The SCA's Board and the board of directors of the Market may, in certain circumstances, exempt a foreign company wishing to list its securities on one of the Markets from any of the conditions and requirements listed above. Furthermore, the Market may decline a listing application without assigning any reason.

#### **Steps involved in the IPO Process:**

##### **Conversion of the Company into a PJSC**

The first step is to convert the company into a PJSC if it isn't one already. The following steps may be undertaken for the same:





- I. The nominal value of the issued securities must be fully paid-up
- II. A period of not less than two financial years must have expired since the incorporation of the Private JSC
- III. For both of the two years preceding the application for conversion, the company must have achieved net profits for distribution which exceed 10 per cent of the value of the issuer's capital
- IV. At least three quarters of shareholders must vote in favor of the conversion at an extraordinary general meeting
- V. The SCA must approve the conversion (its approval will be published in the Official Gazette)

Thereafter the IPO process may be divided into six steps:

- i. initial approvals
- ii. pre-subscription period
- iii. public subscription/public offering
- iv. Incorporation announcement
- v. Registration before the competent authorities and the SCA
- vi. listing of the company on UAE financial markets

#### I. Initial Approvals

In this stage, generally the newly established PJSC's are required to get special approval from the board of directors of SCA for incorporation if that is not already completed. Thereafter the SCA determines whether or not requirements such as the company having sufficient working capital for the next twelve months and that the offered shares are limited to qualified institutional investors and high-net-worth individuals for amounts that are no less than AED 5 million.

The founders committee of the new company (to be established) must refer to the Department of Economic Development ("DED") to obtain initial approval to establish the company as a public joint stock company in accordance with the provisions of Article (113) of the Companies Law.

After obtaining the approval of the DED, the founders committee must apply for the preliminary approval of SCA for the establishment of the public joint stock company, accompanied by all the necessary documents; namely, the memorandum of association ("MoA"),

articles of association ("AoA"), an economic feasibility study for the venture, the SCA application form requesting incorporation of a public joint stock company, a draft prospectus, a subscription application form, and evidence of payment in respect of subscription.

The founder's committee then makes any changes as required by the SCA within 15 working days of the date of the notification.

As can be understood, quite often these initial approvals are what take up a substantial amount of time and are an integral part of the process. The SCA then sends a copy of the finished documents to the DED within a period of ten days.

Thereafter in a joint meeting held between the SCA and the DED within ten days of the submitting of the documents by the SCA to the DED. Finally, after another review, the incorporation application is reviewed and the DED then decide to issue a decision to license the incorporation of the company.

#### II. Pre-subscription Period

At this stage, the founder's committee simply attests the MoA and AoA before the notary public.

#### III. Public Subscription and Offering

Here, the subscription process begins. The founder's committee commence the same in accordance with the template provided by the SCA. This must be completed within 15 days of the issuance of the decision to allow incorporation.

It is laid down by the Law of the UAE that the founders must subscribe to a minimum of 30% but not exceeding a maximum of 70% of the issued capital. Furthermore, the subscription is kept open for no longer than thirty days and no less than ten days.



The SCA and the DED however, may allow for an extension to the same by an additional ten days, bringing the total to forty days. This however is subject to their discretion.

#### IV. Incorporation Announcement

After the subscription of shares the company must announce an invitation to the subscribers to attend the general assembly meeting, which needs to be held within a period of fifteen days from the date of the subscription closure. The SCA even prescribes certain matters that need to be discussed in this initial meeting.

Within ten days from the date of the constitutive general assembly, the founders will submit an application to SCA, for issue of the incorporation certificate, and will enclose the documents stipulated under Article 133 of the Companies Law. The SCA thereafter issues an incorporation certificate within five working days.

The abovementioned steps show the ease of working and investing in the UAE. The ease as well as the well laid out regulations coupled with the competency of the regulatory bodies, all make the UAE extremely lucrative for companies and investors alike.

#### V. Registration Before the Competent Authorities and the SCA

The Board of Directors of the company thereafter complete the registration procedures before the DED. This is completed in anticipation of the listing, which as mentioned above, is completed within ten days from the date of issuance of the incorporation certificate.

The DED then registers the company before the registrar and within the next five working days the company's trade license is issued.

Once the trade license is issued by the DED the Board of Directors once again come into play to provide the Articles of Association, the Memorandum of Association and the company license, all within five working days from the date of the issuance of the company's trade license, to the company registrar in order to register the company in the companies' register.

#### VI. Listing of the Company on UAE Financial Markets

Once the company has been registered before the commercial registrar, the Board of Directors must within fifteen working days, list the shares of the company, on any of the Financial Markets, whether that is DFM or ADX.

Thereafter the companies must request a listing with the chosen financial market in accordance with the listing regulations adopted by the SCA and any other such specifications as may be laid out by the particular financial market on which the shares will be listed.

#### General Eligibility Requirements

The FSRA lays down some general eligibility requirements under Chapter 2 (2.3) of the market rules in order to qualify as a listed entity under the ADGM:

- I. **Incorporation** – an Applicant must be duly incorporated or validly established according to the relevant laws under which it is constituted
- II. **Audited financial statements**- the applicant must file audited accounts as follows:
  - i. The accounts must cover a prior period of 3 years or any other period as required by the regulator.
  - ii. The accounts must contain audited accounts of the applicant's subsidiary undertakings
  - iii. The standards should be in accordance with the IFRS or any other such standard acceptable by the Regulator



- iv. The audit must be reported by auditors according to the International Auditing and Assurance Standard Board (IAASB) or any other such acceptable standard.

The Regulator has the authority to waive off the above mentioned (b) provisions if the Regulator is satisfied with the information provided by the issuer and such information is sufficient for the issuer to be listed in the official list.

**III. Working Capital** - The Applicant must show sufficient working capital, as considered satisfactory by the Regulator and must be willing to introduce additional working capital if required to do so.

**IV. General Suitability** – the Regulator may consider the following to deem an applicant suitable:

- i. The applicant's connection with controlling shareholders
- ii. If the Regulator is of the opinion that the Applicant is able to comply with obligations
- iii. That the Applicant does not pose a risk to the ADGM financial System, with regards to integrity and reputation of the financial system

- iv. Any other such requirements deemed necessary by the Regulator

**V. Management and expertise** – the applicant must possess the necessary expertise and experience to conduct business operations

**VI.** In order to be admitted to the Official List an applicant must be:

- i. Authorized according to requirements
- ii. Have statutory consent
- iii. Be freely transferable

**VII.** The aggregate market value at the time of listing must be; \$10 Million for shares, \$2 Million for debentures

**VIII.** The applicant's securities must be eligible for electronic settlement and arrangements must be made for clearing and settlements according to the requirements of the Regulator

### Listing Application Process

The Applicant shall apply to the Regulator in the following manner:

**I.** The Applicant is required to submit in the final form all documents as prescribed by the Regulator.

The documentation required are as follows:

- i. The completed application form

- ii. The approved Prospectus and an approved supplementary Prospectus, is required

**iii.** A written confirmation of the number of shares to be allotted in the offer

**iv.** In case a Prospectus has not been produced, an announcement of the number and type of securities being offered

The above forms should be presented before the Regulator by 12:00 noon 48 hours before the application is to be considered

Further, the documents to be provided on the day of the application to be considered by 9:00 am in the final form are as follows:

- i. A completed shareholder statement
- ii. A complete pricing statement

The documents should be duly signed by an authorized officer of the applicant or a sponsor, if any.

Furthermore, the Applicant must provide the following, if required to do so by the Regulator and must retain copies of the same for 6 years after admission to the official list

- i. The applicant's constitution as at the date of admission
- ii. Any definitive document of title
- iii. Any letter, report, valuation or other document in connection to the shares being issued
- iv. Any agreements to acquire assets, business or securities in consideration or relation to the listed company's shares being issued
- v. Any interim financial statement which were made prior to the admission
- vi. Copies of board resolutions allotting or issuing shares

**II.** Fees must be duly paid at the time of admission of the completed application form



- III. Any additional documents or explanations as required by the Regulator
- IV. A verification of information as may be specified by the Regulator

### Prospectus Requirements

Chapter 4 of the Market Rules deals with Offer of Securities, Rule 4.5 specifically deals with the structure and content of the Prospectus.

The term 'Prospectus Offer' is used with reference to a person or persons who are seeking to have securities admitted for trading on a recognized investment exchange or making an offer of securities to the public.

A person making a Prospectus offer can structure their documents in two ways, namely, multiple documents or a single document:

- I. In case a Prospectus offer is made as multiple documents it must comprise:
  - i. *A summary*
  - ii. *A registration statement*
  - iii. *A securities note*
- II. A single document shall contain all of the above mentioned information, as in the case of a multiple document structure.

The person producing the Prospectus must ensure that it contains the following:

- I. Statements and information as required by Rule 4.5.2, which entails that the Prospectus must contain clear and concise information. As per the aforementioned Rule, the summary must be read as an introduction to the Prospectus and any decision made with regards to investment must be based on the Prospectus as a whole.  
Further, in case the Summary is false, misleading, deceptive, and inaccurate or fails to form a cohesive link with the Prospectus a civil liability may arise on the basis of the Summary.
- II. All information relating to the issuer as required to be mentioned in the Registration Statement according to Application 1 A1.1, that entails the following:
  - i. General information, i.e., the full legal name of the issuer, the full commercial name of the issuer and the legal form of the issuer.
  - ii. It must also include; the country of incorporation, if domiciled outside the country of jurisdiction of incorporation the legislation under which the issuer operates, the place of registration and the registration number, the date of incorporation, the length of time the issuer has remained incorporated and the end date of incorporation, if the issuer has a fixed date.

- iii. The address and telephone number of the registered office.
- iv. If the Securities are asset backed Securities, a statement whether the Issuer has been established as a special purpose vehicle or entity for the purpose of issuing asset backed Securities.
- v. Investment information
- vi. Actual and proposed business activities, factors affecting income/operations, risk factors and production and sales trends.
- vii. Constitution and organizational structure
- viii. Any and all such information as mentioned in App1 A1.1 related to shares/ securities.

- III. In case of offer of securities to the public, requirements of the application form under Rule 4.5.5

A person making an offer for securities from the ADGM must adhere to the following requirements:

- I. He is required to notify the Regulator at the time of filing of the Prospectus of any non- ADGM jurisdiction to which the offer is to be made
- II. Compliance with initial and on- going obligations of the particular jurisdiction

The Prospectus will only be approved by the Regulator if he is satisfied that the Prospectus meets all the requirements as per the FSMR and Market Rules, the Board of Undertakings whose securities are to be offered has system and controls that facilitate on- going compliance.

A person intending to make a Prospectus Offer, must for the purpose of Section 61(1) of the FSMR submit the following to the Regulator:

- I. A complete Application along with the prescribed fee;
- II. A Prospectus that meets the requirements of Rule 4.5 of the Market Rules;





- III. A statement showing that all the information required and relevant as per Application 1 of the Market Rules have been included and the same has been submitted to the Regulator;
- IV. If any information has been referenced from a document not included in the Prospectus, a copy of that referenced document must also be submitted;
- V. Contact information of any two individuals who are well versed with the contents of the Prospectus and can answer queries regarding the same during business hours; and
- VI. Any other such information that may be required by the Regulator.

The Applicant must submit to the Regulator the abovementioned documents at least 20 business days prior to the intended date of expected approval of the Prospectus, in case an Applicant has not made any previous Prospectus Offer.

In any other case the Applicant can submit all such documents 10 business days prior to the expected approval. However, in case of Supplementary Prospectus, the documents are to be submitted as soon as reasonably possible.

A Prospectus does not stand approved unless the Regulator has issued a notice regarding the same to the Applicant. A person intending to seek Approval of the Regulator regarding the Prospectus may submit a draft for Preliminary review.

### Publication of the Prospectus

Once approved, the Prospectus must be made available to the public as soon as reasonably practicable. An approved Prospectus is deemed to be made available to the public when it is published;

- I. In the printed form, free of charge at the registered office of either the person making the offer, any person authorized to act as a selling agent or any relevant recognized body on which securities are to be traded.

- II. In the electronic form, on the website of any of the persons mentioned above.

### Listing Application Process

The Applicant shall apply to the Regulator in the following manner:

- I. The Applicant is required to submit in the final form all documents as prescribed by the Regulator.  
The documentation required are as follows:
  - i. The completed application form
  - ii. The approved prospectus and an approved supplementary prospectus, is required
  - iii. A written confirmation of the number of shares to be allotted in the offer
  - iv. In case a prospectus has not been produced, an announcement of the number and type of securities being offered

The above forms should be presented before the Regulator by 12:00 noon, 48 hours before the application is to be considered

Further, the documents to be provided on the day of the application to be considered by 9:00 am in the final form are as follows:

- I. A completed shareholder statement
  - II. A complete pricing statement
- The documents should be duly signed by an authorized officer of the applicant or a sponsor, if any.
- I. Fees must be duly paid at the time of admission of the completed application form
  - II. Any additional documents or explanations as required by the Regulator
  - III. A verification of information as may be specified by the Regulator

### Application Requirements

As mentioned above, a license is a key requirement in the UAE and only those licensed by the SCA can make an offer on securities. An applicant for a license must be a corporate person with paid capital of at least 30 million UAE dirhams (or the equivalent) meeting any of the following criteria:

- I. a company established in UAE with at least 51 per cent UAE ownership or the nationality of one of the Gulf Cooperation Council (GCC) states. One of its purposes must be to practice market making;



- II. a company established in the UAE and licensed by the SCA to operate in the field of securities, in which case the applicant shall be subject to the controls issued by the SCA concerning the prevention of conflicts between activities; or
- III. a commercial bank or investment company licensed by the UAE Central Bank, or a branch of a foreign bank, provided that the parent bank is licensed to practice this activity, and subject to obtaining the approval of the UAE Central Bank in any of these cases.
- IV. Any investor is permitted to lend securities owned by that investor, but the borrowing of securities, unless otherwise approved by the SCA, is permissible only when carried out by a licensed market maker practicing market making or by the clearing department of an exchange in the case of a failure to deliver sold securities on the settlement date.

### Required Documentation

The documents required for an IPO are far more comprehensive than that of a rights issue in cases of securities and therefore, it is often seen that instead of an IPO, this is the preferred route taken. The following are the documents required:

- I. Prospectus of the issuer.
- II. Public announcement (mini prospectus).
- III. Special resolution by the general assembly of the issuer or board resolution in the case of issuing new shares within the limits of the authorized share capital.
- IV. Listing file of newly issued shares.
- V. Subscription forms

### Prospectus Information

The prospectus is a significantly important document during the issue of rights, allowing necessary information to be made available whilst also fulfilling certain necessary regulatory and legal obligations created by the governing bodies. The requirements of what must be included in a prospectus differ for the DFM and the ADX from those required by NASDAQ.

The following are the requirements for the DFM and ADX:

- I. Method of sale for the offer shares in a public subscription
- II. Names of the participants in the offering
- III. Financial and other operational and financial information
- IV. Forward-looking statements of the company

- V. Subscription terms and conditions
- VI. Key information relating to the issuer
- VII. Summary of the financial disclosures of the company
- VIII. The audited financial statements of the company
- IX. The memorandum and articles of association of the issuer

The NASDAQ however, being governed by the DFSA Rule Book Market Rules, requires that its prospectus be drawn up either as

- I. A single document containing a summary of all the information required to be included in the registration statement and securities note.
- II. Three separate documents which consist of a:
  - i. *registration statement;*
  - ii. *securities note; and*
  - iii. *summary*

The aforementioned are specifications that need to be followed, as a general rule however, it is required that a prospectus be one that is easy to comprehend and analyze, and contains all such documents as required by the law, all information necessary to be made available on the issuer and securities, all necessary licenses and include relevant application forms in the case of securities.

### Exemptions

#### DFM and ADX

No exemptions are provided for these markets.

#### NASDAQ Dubai

The DIFC Markets Rules Module provides certain exemptions from the prospectus requirement for exempt offers and exempt securities. The following exempt offers do not require a prospectus:

- i. Offers made to institutional professional clients.
- ii. Offers made to not more than 50 offerees in any 12-month period.



- iii. An offer where the consideration to be paid is USD100,000 or more.
- iv. An offer where the object is a share exchange with previously issued shares.
- v. Offers complying with other specific exemptions.

Certain securities are also exempt from requiring a prospectus. These are the following exempt securities that do not require the same:

- i. Shares representing, over a 12-month period, less than 10% of the number of shares of the same class already admitted to trading on the exchange.
- ii. Securities offered for a takeover by means of an exchange offer, provided that a document containing information that is regarded by the DFSA as equivalent to that of a prospectus is made available.
- iii. Securities offered, allotted or to be allotted in connection with a rights issue.

### Stabilization of the Markets

Stabilization and price regulation of the market is an integral part of any regulatory body in order to make the securities offered favorable and their prices lucrative to prospective buyers of the rights and to ensure the prevention of market abuse. Without market stabilization, the price of rights issued may either be too low, too high or fluctuate within the system too often, creating an unfavorable system for the issuer, the investors as well as the market. The SCA actively monitors any disruptors and violators under Article 36 of the Law that states "market manipulation, or the furnishing of false information, statements or data, that affects the market value of securities and an investor's decision to invest is prohibited." There do not however, exist separate statutory guidelines for the same in relation to the DFM and the ADX.

The DFSA, unlike the SCA, has issued regulations under Article 54 of the Markets Law of 2012 regarding market misconduct, stating any conduct that affects the DIFC market or the users of the DIFC market will be treated as market misconduct and thereby will be subject to penalties.

### Continuing Obligations

The framework behind continuing obligations is that issuers are not only subject to regulation at the time of the offer being made but also after the same is completed in order to ensure that there isn't market abuse at any given time. Non-compliance can result in both reputational damage to the market and issuer, substantial fines, public censure, or suspension of listings for failing to act on time. Continuing obligations allow the market to uphold a reputation of one that is constantly monitoring the system and also one that is protective of the rights and duties of the parties involved.

There exist various continuing obligations that the SCA sets out for listed companies on onshore exchanges which include disclosure, transparency, reporting and corporate governance rules. Another important aspect of these continuing obligations is that they apply to all listed entities, whether they are a local or foreign entity.

### Penalties with Regards to Any Breach of the Aforementioned Obligations

The penalties for the breach of any continuing obligations vary depending on the severity of the breach and consist of both imprisonment as well as a fine. The imprisonment ranges anywhere between three months to three years and the fine ranges anywhere between AED 100,000 to AED 1 Million, and the calculation of the penalty will be dependent on the severity of the breach in the case of the DFM and the ADX.

The DSFA however may impose the following penalties as set out in Article 90(2) of Regulatory Law 2004:

- I. Fines of an amount that the DFSA considers appropriate.
- II. Censure.
- III. Orders to compensate third parties.
- IV. Account of profits or unjust enrichment arising from the breach.
- V. Orders to cease and desist a particular action or to take a particular action.
- VI. Prohibitions on a particular infringing person holding a particular office.

### De-listing

The SCA is very proactive in its dealings and can at any time, if it finds any misconduct or non-compliance, can de-list a company from the Market.



### DFM and ADX

The SCA can cancel any listing of securities if the following circumstances arise:

- i. The issuer ceases the activities it had undertaken
- ii. The main activity that was undertaken is going through a fundamental change
- iii. Liquidation resolutions have been passed against the issuer
- iv. The listing of the securities remains suspended for, or beyond a period of, six months
- v. The loss of the licensed legal entity as it existed due to reasons such as mergers, etc.

### NASDAQ

NASDAQ following similar reasons as the DFM and ADX, can de-list securities from the official list for the following reasons:

- i. The listed entity no longer satisfies one or more of its continuing obligations for listing
- ii. The securities have been suspended from the official list for more than six months
- iii. It is necessary because the securities have been subject to a merger, takeover or reverse takeover

- iv. The listing is a secondary listing and the securities have been cancelled on their primary listing or are no longer admitted to trading for such primary listing
- v. The securities have been redeemed or cease to exist for any other reason

### Suspensions

A suspension is different from a de-listing off the market, in that it is more temporary in nature and can be reversed. It may arise due to a smaller breach or due to an issue that can be resolved, or a situation that can be amended.

### DFM and ADX

The SCA can suspend a certain listing of shares for the following reasons:

- i. The issuer does not comply with a listing requirement.
- ii. The net value of the shareholders' equity in the company falls below 50% of the issuer's capital.
- iii. The market value of the securities falls below 60% of the nominal value of the securities, or the market value suddenly rises.
- iv. The issuer submits an application showing due cause for the suspension of the listing of its securities.

### NASDAQ

NASDAQ can suspend securities from listing because it is in the interests of the DIFC, including the interests of investors, potential investors or the DIFC capital markets.

### Securities Regulations

Federal Law No. 4 of 2000 established the law concerning the Emirates Securities & Commodities Authority and Market, otherwise known as the Securities and Commodities Authority (SCA). Prior to the establishing of the SCA in 2000, the regulation of securities trading and transactions involving investment products was the domain of the UAE Central Bank. Today under the Federal Scheme, both the SCA and the Central Bank together act as regulators.

There exist three principal equity markets in the UAE:

- i. *The Dubai Financial Market,*
- ii. *Abu Dhabi Securities Exchange and*
- iii. *NASDAQ Dubai*

These exist along with DIFC and the ADGM.

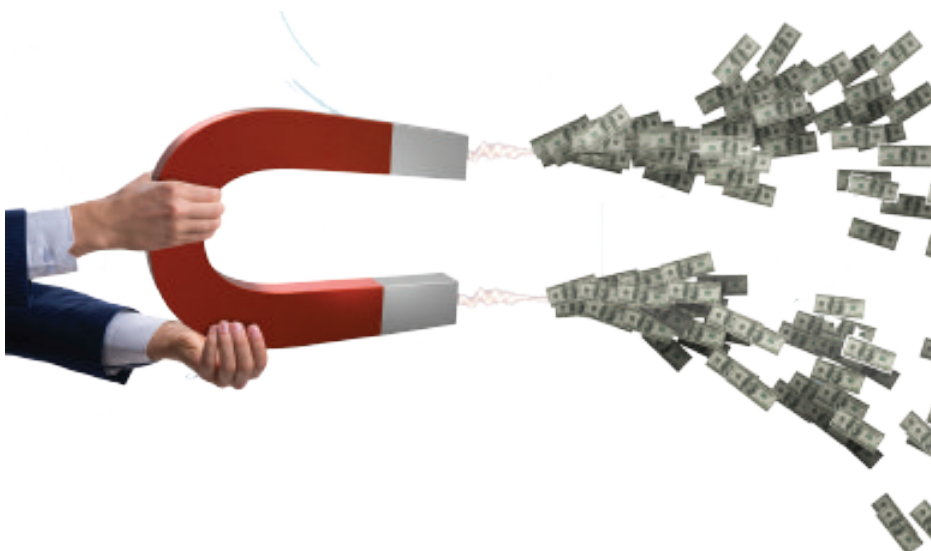
The Dubai Financial Market (DFM) and Abu Dhabi Securities Exchange (ADX) are primarily concerned with listing of UAE companies incorporated in the mainland and are regulated by the Securities and Commodities Authority, whereas NASDAQ Dubai is regulated by the Dubai Financial Services Authority (DFSA).

#### I. DFM

The DFM was established in 2000 by Resolution No. 14 of 2000 of the UAE Ministry of Economy and commenced operations on 26 March 2000 and regulated by the SCA.

#### II. Abu Dhabi Securities Exchange

The ADX was established in 2000 as an autonomous legal entity with independent finance and management powers, and with the necessary supervisory and executive powers to exercise its roles and responsibilities. The ADX is also regulated by the SCA.





### III. NASDAQ Dubai

NASDAQ Dubai is situated within the DIFC, an onshore capital market which opened for business in 2004. The DIFC is a designated financial free zone and the laws there are more certain and clear and largely based on English Common Law.

#### Legal Framework

In terms of the laws that established the abovementioned markets and the regulations and resolutions which govern admission to listing and ongoing disclosure obligations for the Markets, the following laws are applicable:

- I. The Companies Law (Federal Law No. 8 of 1984 concerning Commercial Companies) – this governs UAE companies in general, including PJSCs
- II. The SCA Law (Federal Law No. 4 of 2000)
- III. The Listing Resolution (Council of Ministers' Decision No. 12 of 2000 concerning the Regulations as to the Listing of Securities and Commodities)
- IV. The Disclosure Resolution (Council of Ministers' Decision No. 3/R of 2000 concerning the Regulations as to Disclosure and Transparency)
- V. The ADX Rules (There are no separate listing rules for the DFM: any issuer seeking to list on the DFM need only comply with the listing requirements set out in the Listing Resolution)
- VI. The Central Bank Resolution (the UAE Central Bank Board of Directors' Resolution No. 164/8/94 regarding the Regulation for Investment Companies and Banking, Financial and Investment Consultation Establishment or Companies)

#### Regulatory Oversight

Currently there does not exist a specific securities law in the UAE which regulates the offer and sale of securities by an issuer to the public.

However, the promotion and sale of both domestic and foreign securities in the UAE is regulated by the SCA and the Central Bank pursuant to a suite of regulations and in accordance with the Laws, Resolutions and Decisions promulgated in the furtherance of this endeavor.

#### Equity Offerings

Equity Offerings is raising funds by offering ownership in a corporation through the issuing of rights. The following are considered the main requirements for offers on securities in the UAE.

#### An Overview of the Key Requirements in the UAE regarding Securities

- I. The sale of any securities within the UAE is prohibited unless approved by the Central Bank. Anyone whether that is an underwriter, broker or dealer, who makes an offer of securities in the UAE has to obtain a license from the Central Bank first; and only corporate entities established under the Companies Law or natural persons, being UAE nationals as per the general restrictions on persons doing business under the UAE Commercial Code are entitled to apply for a license as stated by the Central Bank.
- II. While there are restrictions in foreign ownership, limited to 49% of any company, there exist exceptions thereby permitting Gulf Cooperation Council (GCC) citizens to own 100 per cent of the securities of a UAE company, however this is not the general norm.
- III. With regards to Dual or Secondary Listing, the Law under Article 2 of the Dual Listing Law prohibits UAE companies with securities listed on either Market from listing their securities on any free zone market or any market or exchange outside the UAE without obtaining the prior consent of the SCA whereas a Free Zone Company is prohibited from listing their securities on one of the markets without the SCA's approval.

- IV. The practice of market making requires a license from the SCA. Market making is defined by the law as the activity of providing continuous prices for the purchase and sale of certain securities to increase the liquidity of securities in accordance with market-maker regulations.

#### DFM and ADX

The Commercial Companies Law (CCL) and recently enacted decrees set out the general legal prerequisites for going public and the issuer must be one that is a Public Joint Stock Company (PJSC).

#### NASDAQ

An applicant who wishes to list its shares on NASDAQ must submit:

- i. An application to the DFSA for admission of the company's securities to the Official List of Securities.
- ii. An application to NASDAQ for admission of the company's securities to trading on the exchange.

In addition, the DFSA requires the applicant to:

- i. Be duly incorporated or otherwise validly established according to the relevant laws of its place of incorporation and be operating in conformity with its constitution.
- ii. Have published or filed three audited accounts.
- iii. Satisfy the DFSA requirement that it, and any subsidiaries, have sufficient working capital available for its present requirements, together with one year's worth of working capital.



## ABU DHABI GLOBAL MARKET

The Abu Dhabi Global Market (ADGM) is a financial free zone with its own rules and regulations, it is advantageous for issuers both, regionally and globally. It allows issuers to raise capital in an efficient manner along with benefits such as, serving as an investor base wherein an issuer can connect to worldwide investors, it provides an excellent pipeline for raising capital regionally as well as globally, and it further provides ease of business by providing numerous digital platforms, unparalleled infrastructure, be it medical, architectural, legal and so on.

The Financial Securities Regulation Authority (FSRA) operates a world class listing authority responsible for admissions of securities and the Prospectus.

### The Offering of Foreign Securities into The United Arab Emirates

As an alternative to listing on the Markets and conducting an IPO (which requires lengthier documentation, more approvals and thereby incurs more cost) in the UAE, a foreign company may instead look at the option of offering its securities to persons located in the UAE. As stated above, no entity may conduct marketing or otherwise any other activities in this regard unless it is licensed by the relevant authorities.

However, while the aforementioned provisions are available as concrete law, there seems to be some ambiguity in relation to what conduct would be treated as an offer being conducted outside the UAE. The Central Bank Resolution also does not distinguish between retail and institutional offers.

Earlier the general consensus was that there are accepted categories of conduct that would not attract the scrutiny or penalties of the Central Bank. Even then, however, it was pertinent to note that these were not express provisions allowing the same.

It was presumed that the regulations and the reach of the Central Bank only apply to the general solicitation or offers of securities to the public at large and that the Central Bank would not exercise supervisory control over foreign entities in relation to the marketing of foreign financial products within the UAE, provided the activity is conducted discretely to a limited number of investors.

While the Central Bank had earlier informally advised that it would not be actively monitoring low key investments, the 2017 Amendments have indicated that there may not be the availability of the previously relied on safe harbors, as the law has become more definite, and therefore it is advised that all documentation, to the extent practicable be executed outside of the UAE.

The 2017 Regulations prohibit the promotion of financial products unless the promoter is licensed by the SCA or one of eight specific exemptions available under the Regulations and also clearly state that any person is prohibited from introducing a person located onshore in the UAE to either an SCA-licensed entity or an entity licensed by a foreign regulator similar to the SCA, unless the introduction is approved by the SCA or one of the exemptions under the Regulations.

While many activities were earlier conducted under the assurance of an Offering Safe Harbor, the 2017 regulations suggest that the same are no longer to be relied upon. Although the aforementioned may be deemed to dishearten the public and companies at large, it must not be construed as such. The removal of ambiguity from the law is in fact necessary as it fills a legislative gap, and provides greater certainty for the UAE financial services industry and foreign stakeholders.





## Securities and Assets

Securities is a financial instrument that is negotiable and holds some type of monetary value. It is equivalent to an ownership position in a corporation through stock. Securities can be categorized into three types:

### I. Equities

### II. Debts

### III. Derivatives

#### I. Equities

An equity security is one where you hold shares of capital stock, making you a shareholder in the company. These shares pay out dividends and such shareholders are usually not entitled to regular payments. The dividends are dependent on how the company is performing, and in the case of bankruptcy, you are entitled to residual interest after all the obligations have been fulfilled to its creditors. On the bright side, some control in the company via voting rights is available.

Various types of Equities Shares can be defined as Debentures, Bonds, Deposits, Notes, or Commercial Paper.

#### II. Debts

A debt security is one where money is borrowed by the company and must be repaid with interest as per various factors.

These include government and corporate bonds, certificates of deposit, and collateral securities. They are issued for a fixed period, which can be redeemed in the end by the issuer. These securities can be secured or unsecured, dependent on the type.

There are various types of Debt shares such as Corporate Bonds, Money Market Instruments, Euro Debt Securities, Government Bonds, etc.

#### Derivatives

As per financial terminology, Derivatives refer to those contracts that are dependent upon the performance of an underlying entity. This entity could be of any kind, be it assets, index, or interest rate, referred to commonly as underlying. While there are various purposes of derivatives, insuring against price differences of various entities is what it is primarily used for. Two parties specify certain preset conditions upon the dates, estimated prices, underlying variables, etc., and agree upon paying the other a certain amount in case of the events not being in favor of the party in loss.

The various types of derivatives can be classified as forwards, futures, options, swaps, collateralized debt obligations and contract for differences (CFDs).

Securities are defined in Volume 6, Glossary of Terms of CBB handbook as shares or bonds issued by shareholding companies, government debt instruments and the following financial instruments:

- i. Shares in companies and other securities equivalent to shares in companies or other entities, and depositary receipts in respect of shares;
- ii. Bonds or other forms of debt, including depositary receipts in respect of such securities;
- iii. Warrants;
- iv. Units, rights or interests (however described) of the participants in a collective investment scheme;
- v. 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);
- vi. Options, futures and any other derivative contract relating to commodities that can be physically settled;
- vii. Units to Real Estate Investment Trusts (REITs);
- viii. Index tracking products including 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.

### Establishment and Regulations

The Bahrain Bourse (also known as the Bahrain Stock Exchange; BSE) facilitates as a major stock market index that tracks the workings of share holding companies listed with it. The Bahrain Stock exchange also provides a ground for traders to conduct their business on the ground. Financial Institutions Law 2006, known commonly as the 2006 Law, established the Central Bank of Bahrain as the regulatory authority of BSE.

Bahrain Bourse is the market formed and governed by

- I. Decree Number 4 of 1987, later replaced and replaced by
- II. The Law Number 57 of 2009, and
- III. Decree Number 60 of 2010.
- IV. CBB Law 2006
- V. CBB Disclosures Standards Book
- VI. CBB Resolution Number 17 of 2012
- VII. CBB Rulebook Volume 6
- VIII. CBB Rulebook Volume 7

These laws govern a set of Rules and Regulations such as:

- I. Internal Regulation
- II. Money Laundering Regulations
- III. Trading Rules and Procedures
- IV. Clearing, Settlement, Central Depository and Registry Rules
- V. Clearing, Settlement, Central Depository and Procedures
- VI. Market Rules
- VII. Bahrain Investment Market Rules
- VIII. Listing Rules

In 2010, Bahrain Bourse was established as a shareholding company to replace BSE, as per Law Number 57.

### Authority

Central Bank of Bahrain is the sole regulatory authority in terms of supervising the market. The CBB was established by the Financial Institutions law 2006 as a regulatory authority responsible for overseeing the main market and the secondary market. Volume 6 of the CBB Rulebook entails all required regulations in relation to the capital markets.

### Listing Requirements

In terms of an IPO, there are various listing requirements a company needs to adhere by before authorization for listing is provided. These are

- I. Appointment of Advisors
- II. Appointment of Auditors
- III. Appointment of PR Agent
- IV. Appointment of Legal Counsel
- V. Appointment of Investment Bank
- VI. Conduct Financial Due Diligence
- VII. Review financial assets of the company

VII. IPO coverage supervision

VIII. Legal Due diligence

IX. Disclosures of the Board of Directors and Management's shareholding in the company and exposure of crucial personal dealings

X. Board of meetings and any major resolutions to be disclosed

### Securities as defined by Law

Article 80 of Securities under the 2006 Laws lays down what would define an entity as a Company/Financial Firm that's trading in Securities. These activities, without limited to a single one, are:

- I. Promoting and underwriting securities or financing investments therein.
- II. Participating in incorporating of securities companies or increasing the capitals thereof.
- III. Forming and managing securities portfolios and investment funds.
- IV. Depositing, clearance and settlement of securities.
- V. Brokering in securities transactions.





- VI. Providing advisory services related to securities.
- VII. Any other activities as approved by the Central Bank.

### Prospectus

The Prospectus is defined in the Glossary in Volume 6 as 'An offering document that sets forth the plan for a proposed business enterprise or the facts concerning an existing one that an investor needs to make an informed decision. A prospectus needs to be offered for every offer of securities. OFS-5.2 to OFS-5.10 states in detail of what is further required in a Prospectus, as mentioned below:

- I. Full name and registration number of the issuer;
- II. Type and amount of securities;
- III. Date of the offering document;
- IV. Date of expiry of validity of the prospectus
- V. Logo and full name of each advisor;
- VI. Logo and full name of the lead manager and co-managers;
- VII. Logo and name of the underwriter, if any;
- VIII. Face or par value of the securities;
- IX. Offer price;
- X. Premium (if applicable);
- XI. Placement fee or charge (if applicable);
- XII. Minimum subscription limit (if applicable);
- XIII. Maximum subscription limit (if applicable);
- XIV. Eligible subscribers (general classification by nationality or region); and
- XV. Standard disclaimer statement, written in capital letters and box framed, stating

**"THE CENTRAL BANK OF BAHRAIN AND [NAME OF THE LICENSED EXCHANGE] ASSUME NO RESPONSIBILITY FOR THE ACCURACY AND COMPLETENESS OF THE STATEMENTS AND INFORMATION CONTAINED IN THIS DOCUMENT AND EXPRESSLY DISCLAIM ANY LIABILITY WHATSOEVER FOR ANY LOSS HOWSOEVER ARISING FROM RELIANCE UPON THE WHOLE OR ANY PART OF THE CONTENTS OF THIS DOCUMENT."**

OFS 5.3 till 5.10 mentions other requirements needed to be complied with in regards to filing of the Prospectus. It is mandated as per CBB that a Prospectus must be drawn up for every offer of Securities in the market.

The Prospectus is required to be drafted in layman's language and not to be made too complicated. Apart from this, as stated above, while having to publish the Offering Document in the Newspapers, it has to be done in one Arabic and one English language national daily newspaper. These regulations are specified as per Volume 6 of the CBB Module.

### Application Requirements

OFS 4.1.2 provides for the accordance of the application to be submitted to the CBB for Approval. It must be submitted under cover of a letter signed by two authorized signatories by the Board of Directors of the issuer, along with:

- I. A copy of the issuer's Board of Directors proposal in respect of the issue to its General Assembly;
- II. A copy of the General Assembly resolution through which the issuing and offering of securities is approved;
- III. A copy of the duly signed Board of Directors' responsibility statement, signed by all directors in the standard statement stipulated by this Module

- IV. A copy of the duly signed declaration by the lead manager, based on a due diligence exercise of all relevant conditions, facts and arrangements, as appropriate
- V. A copy of the duly signed declaration by the legal advisor for the offer, based on a due diligence exercise of all relevant legal conditions, facts and arrangements, as appropriate
- VI. A final ratified Memorandum and Articles of Association, or relevant constitutional documents for existing issuers, or a draft copy thereof for issuers under formation;
- VII. A draft of the offering document prepared in line with the CBB requirements as stipulated under this Module;
- VIII. A copy of all arrangements, contracts and/or letters signed with the issuer and or lead manager with all appointed advisors;
- IX. Duly completed term sheet on the offering, as stipulated by the CBB from time to time in this Module;
- X. The expected offering timetable;
- XI. A bona fide copy of either the issuer's external auditor unqualified report on the annual audited financial statements, or interim period reviewed financial statements prepared by the issuer's external auditor;



**XII.** copy of the audited financial statements, including the balance sheet, income statement, cash flow statement and change in shareholders' fund, for the period required under this Module for each type of offer, and the interim period reviewed financial statements for the period required under this Module;

**XIII.** A copy of the duly signed report prepared by an independent accountant on any estimates, projections of the financial statements, or future operating results of the issuer, if applicable;

**XIV.** A copy of at least two independent valuer's reports if the proposed offering of securities is guaranteed, is made up of physical assets or property or backed by any assets, property, or any form of collateral;

**XV.** A copy of all documents available for inspection by the potential subscribers and/or allottees;

**XVI.** Information on the legal structure of the company and company registration;

**XVII.** A draft of the summary prospectus to be published in two daily local newspapers, one in Arabic and the other in English, at least 5 days before the start of the offering period;

**XVIII.** If the offer is subject to the listing requirements, the issuer or lead manager must provide information on the listing arrangements and information on the designated listing agent if different from the lead manager;

**XIX.** If, in addition to listing on a licensed exchange, the offer will be listed on an exchange outside the Kingdom of Bahrain, a copy of the approval of the relevant regulator within that jurisdiction;

**XX.** If the offer will be made in countries other than the Kingdom of Bahrain, a copy of such other country's regulatory approval for such offer;

**XXI.** If the securities under the proposed offer are already listed on an exchange, details of the current listing requirements and performance of the securities;

**XXII.** If the securities under the proposed offer have been placed through private placement prior to the date of submission of application, full details about such placement;

**XXIII.** Draft or proof print of any application form to subscribe or purchase the securities;

**XXIV.** A copy of the draft or any temporary document of title proposed to be issued; and

**XXV.** For initial public offerings, initial offer for sale of securities and foreign listings, the issuer is required to provide the CBB with a draft of agreements or contracts related to the depositing of securities and registration arrangements.

There are time periods within which these documents need to be submitted.

### Time Period

The application has to be submitted with the required information, documentation, and fees at least 30 days prior to the commencement of the offering period. The applicant then has to make representation to the CBB within 30 calendar days of the receipt to clarify any grounds set out in the notification. After receiving the representation, the CBB will provide its final decision in another 30 days.

### Underwriting

Underwriting service refers to the act of guaranteeing payment in case of damage and financial loss that occurs from the guarantee by financial institutions. This guarantee help gauge the financial reputation an investment firm would show. It is required that full details of the underwriter and the underwriting arrangement is to be mentioned in the Prospectus. Underwriter must not be a related party; and must directly or through an authorized market maker, establish a price stabilization mechanism for the securities for a period of at least six months starting from the first day of trading on a licensed exchange. The CBB may require a longer period of price stabilization where it considers it necessary.



A company is also required to submit his MOA or AOA as per regulations of Commercial Companies Law of Bahrain established as per Decree Law Number 21 of 2001.

### Foreign Offers

Foreign offers that are marketed within Bahrain is subject to filing requirement as per the Module. Any offering document for Foreign Private Placement also requires to have the following statement to be included to be able to be in circulation in Bahrain.

*"In relation to investors in the Kingdom of Bahrain, securities issued in connection with this prospectus and related offering documents must be in registered form and must only be marketed to existing account holders and accredited investors as defined by the CBB in the Kingdom of Bahrain where such investors make a minimum investment of at least US\$ 100,000, or any equivalent amount in other currency or such other amount as the CBB may determine.*

*This offer does not constitute an offer of securities in the Kingdom of Bahrain in terms of Article (81) of the Central Bank and Financial Institutions Law 2006 (decree Law No. 64 of 2006). This prospectus and related offering documents have not been and will not be registered as a prospectus with the Central Bank of Bahrain (CBB).*

*Accordingly, no securities may be offered, sold or made the subject of an invitation for subscription or purchase nor will this prospectus or any other related document or material be used in connection with any offer, sale or invitation to subscribe or purchase securities, whether directly or indirectly, to persons in the Kingdom of Bahrain, other than as marketing to accredited investors for an offer outside Bahrain.*

*The CBB has not reviewed, approved or registered the prospectus or related offering documents and it has not in any way considered the merits of the securities to be marketed for investment, whether in or outside the Kingdom of Bahrain. Therefore, the CBB assumes no responsibility for the accuracy and completeness of the statements and information contained in this document and expressly disclaims any liability whatsoever for any loss howsoever arising from reliance upon the whole or any part of the content of this document.*

*No offer of securities will be made to the public in the Kingdom of Bahrain and this prospectus must be read by the addressee only and must not be issued, passed to, or made available to the public generally."*

### Cross Border Practice

Cross Border practice may be conducted if it is not Collective Investment Undertakings (the CIUs) or Reverse solicited or it is under the definition of tolerated practices, as per CBB.

Issuer is required to keep the Exchange and holders of its listed Debt Securities informed as soon as reasonably practicable of any information relating to its business (including information on any major new developments in the group's sphere of activity which is not public knowledge) which necessary to enable them and the public to appraise the position of the business and is necessary to avoid the establishment of a false market in its listed Debt Securities.

If it can be reasonably expected to significantly affect its ability to meet its commitments.

Issuer also needs to ensure if his Debt Securities are also listed on other exchanges, information released to any of such other exchanges is released to the Bahrain Stock Exchange at the same time as it is released to the other markets.

This regulation is subject to Article 160 of the Commercial Law and further ongoing obligations are mentioned in Volume 8 of the Rulebook.

### Malpractice

Bahrain Regulations provide for a general overview on the prevention of malpractices, like insider trading and more. Appointed advisors are subject to confidentiality requirements which must be explicitly stated in the respective agreements, contracts and/or letters.

All advisors must abide by the rules relating to the Prohibition of Market Abuse and Manipulation contained in Module MAM of Volume 6, as well as the relevant rules of the licensed exchange regarding the prevention of insider trading, in their capacity as a temporary insider.







## Introduction

Kuwait established Capital Market Authority in February 2010 as a regulatory body of the various transactions that takes place in the market. In 2015, the body enacted a set of laws in relation to the market place conduct.

## Capital Market Authority Law

This is the law that governs the regulations, procedures, sale, and offer in relation to the aforementioned securities, in Kuwait.

The law was enacted in 2015 as Decree Number 72 by the Kuwaiti Parliament. Kuwait CMA Laws is considered to be one of the most complex and diverse set of regulations to be adopted by Kuwait in its recent years.

The CMA is in charge of various activities such as

- I. Regulating Securities activities
- II. Growing capital markets and diversifying by introduction of investment instruments in accordance with international practice
- III. Ensuring compliance in regards to the established rules and regulations

## Securities

As per Law Number 7 of 2010, Regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities, Security is defined as, "Any instrument - in any legal form - that evidences ownership of a share in a financial transaction and that is negotiable pursuant to a license from the Authority, such as:

- I. Shares issued or proposed to be issued in the capital of a company
- II. Any instrument that creates or acknowledges a debt issued or to be issued by a company
- III. Loans; bonds; Sukuk; and other instruments that can be converted to shares in the capital of a company
- IV. All public debt instruments that are tradable and issued by the various government entities or public institutions and authorities
- V. Any right, option, or derivative relating to Securities
- VI. Units in a collective investment Scheme
- VII. Any paper or instrument considered by the Authority as a Security for the purposes of implementing this Law and the Bylaws"

Any activity that falls under the aforementioned categories shall be termed as Securities. For companies to establish trading through securities, there are various obligations that are required to be fulfilled. Securities licensing has to be obtained in order for a Company to be authorized to issue securities. For the purposes of issuing securities, Kuwaiti entities like shareholding companies, must secure the Authority's approval for such issuance. The issuance approval process is necessary whether the issuance of the securities is direct or indirect.

Bonds may be issued by shareholding companies directly, or indirectly through a special purpose vehicle that is established either onshore or offshore.

## Listing Requirements

For a company to be listed with the Kuwaiti stock Exchange, there are various regulations to be followed. Module 12 of the Bylaws deal exclusively with the requirements and rules of listing. Proceeding the listing application submission, a company has to provide all documents and information required along with the payment of fees for the Exchange and Authority. A company shall

- I. Legal form of the company shall be a shareholding company
- II. Company shares shall be tradeable with no restrictions on trading
- III. Appoint Auditor from the Auditor's registry for one financial year for a period of no more than 4 consecutive years
- IV. Disclosure of periodic Financial Statements within 45 days from the end date of period for which the statement is prepared.
- V. Disclosure of audited annual financial statements
- VI. Request for approval of Prospectus

It is to be noted that the Authority may request for additional supporting documents in regards to the application and the company is required to provide for the same.



Refusal or failure to do so could result in de-listing; if already listed, or listing application not being accepted.

### Licensing

Article 63, Chapter 5 of the CMA handbook states that a person cannot operate without a license in the market for activities such as:

- I. Securities Broker,
- II. Investment Advisor,
- III. Investment Controller,
- IV. Investment Portfolio Manager,
- V. Collective Investment Scheme Manager,
- VI. Any person who conducts or participates in any other activity that is deemed by the Authority to be an activity in Securities to be regulated in accordance with the purposes of the Law,

And a few other activities. Whereas, a company may be granted license to perform multiple activities aforementioned, provided they fulfill the required criteria and submit the Private Placement Memorandum (PPM).

### Prospectus

A Private Placement Memorandum, or a Prospectus is a document which helps a company attract professional clients to subscribe onto its platform. This is a crucial document as depending on the prospectus this specific category of clients would subscribe to the Company's capital. As such, CMA requires the person or entity to submit its PPM in accordance with Article 5-11 of the Securities bylaws. The article provides for the Prospectus to include:

- I. Issuer's details such as name, address, and date of incorporation.
- II. Sales Agent's name and address, if the Issuer is not the Sale Agent.
- III. Subscription Agent's name and address, if any.
- IV. Subscription period.
- V. Subscription minimum, if any.
- VI. Kinds of investors eligible for subscription.

- VI. Details of the intended use of the proceeds of the issue.
- VII. Statement that the Prospectus has been prepared in accordance with the Law and these Bylaws and approved by the Authority.
- VIII. Statement of the Central Bank's approval for the issue by Units Subject to the Supervision of the Central Bank.
- IX. Statement that the Authority shall not be a party to any claim of damages arising from an approved Prospectus.
- X. The prospectus shall not exclude any important information issued and the information provided is factual in nature. This is to be confirmed by the Issuer, Obligor, or the Subscription Agent and any information in relation to these entities that might be relevant, are made aware of, to the investors.
- XI. Statement, either of Board of Directors or on behalf of individual board members stating that all information stated in the Prospectus is accurate and complete.
- XII. Certification from legal advisors of Issuers and Obligors on the legitimacy and compliance of the Prospectus and other relevant documents with the legal requirements of the Authority.

- XIII. A note explicitly stating "We recommend that you seek advice of an appropriately qualified Licensed Person regarding the contents of this Prospectus before deciding to take part in the subscription."
- XIV. Transaction carried out or to be carried out by related parties to be stated in brief.
- XV. Details of the offered securities as stated:
  - i. Number and class of the Securities offered
  - ii. Statement of the rights arising from Securities, depending on the type of Security (Shares, Preferred shares, Bonds, Sukuk, etc. as mentioned in Article 5-9)
  - iii. Brief description of any restrictions on Trading of the Securities being offered and any future measures concerning thereof
  - iv. Purpose of such Securities being issued.
- XVI. A few information concerning the Issuer shall be mentioned in the Prospectus such as
  - i. Number and Detail of ant Securities previously issued by the Issuer



- ii. Audited and approved financial statements of the 3 years immediately preceding the application of Prospectus. If the last audition was conducted 9 months prior to the application, then an updated financial statement by an Auditor is to be provided.

XVII. Any information on claims, judicial actions, or arbitration procedures to be taken against the Issuer or any of its Subsidiary Companies in relation to the financial position, regardless of the status as to whether it is considered, suspended, or alleged.

Aforementioned set of details and documents needs to be submitted to the Authority before the company is able to issue Prospectus to the Public.

These documents are applicable for all types of Securities. Certain securities such as shares have various rights affiliated with them to be enjoyed depending on the type, which is stated in Article 5-9 of the Module:

In the case of ordinary Shares, the rights arising shall be:

- I. Voting rights
- II. Profitability (short-term) of shares
- III. In case of liquidation, Rights
- IV. In the event that the Subscription is not covered, pertaining Rights granted

Whereas in the issuance of Preferred Shares:

- I. Profit distribution, with provisions determining distribution of Dividends
- II. Restriction on payment of Dividends for Shares
- III. Voting rights
- IV. Profits and liquidation proceed rights
- V. Terms and Conditions for conversion of Preferred Shares into ordinary shares, and redeeming the convertible shares
- VI. Ability to exercise rights before and after conversion of shares

Whereas in the issuance of Sukuk, offering bonds, and any other debt instruments

- I. Payable Returns
- II. Date of Payment
- III. Redemption Payment
- IV. Provisions of formation and operation of Bondholders and Sukukholders Association
- V. Events that would lead to acceleration of this particular set of securities
- VI. Terms and Conditions for conversion to ordinary shares
- VII. Rights incase the Issuer or Obligor's financial status results in bankruptcy, liquidation, or being wound up.

The process for a license application of any Securities Activity is lengthy and would take 3 months or upwards to be granted. The documents required to be submitted for the application is specified in Article 1-5 of CMAs executive bylaws. These documents are stated as mentioned below:

- I. Name and address and the commercial register number of the license,
- II. Regulatory business plan containing certain details,
- III. Statement of the Securities Activity for which the application is in regards to,
- IV. Information about the issued and paid up capital of the company to which the application is in regards to,
- V. A statement of the shareholders whose ownership has reached above a specified percentage of the company to which the license application relates.
- VI. A copy of the Company Contract to which the license application relates and any amendments to the same,
- VII. Nomination for applicants for Registered Positions and Employment Positions in accordance with the Fit and Proper Rules in Appendix 5 of this Module.
- VIII. Sufficient information of any Effective Control over the company to which the license application relates.
- IX. Any agreements or undertakings with external entities.
- X. The audited financial statements for the last three years prior to the date of application, along with forecasts of its expected financial position for three years after business commencement.
- XI. Approval of the Central Bank should the applicant be one of the Units Subject to the Supervision of the Central Bank.
- XII. A legal opinion from an external legal advisor of the company on any lawsuits of material influence on the legal position of the company.



- XIII. Declarations signed by the founders of the company to the effect that no verdict of bankruptcy, penalty on a crime of breach of honor or trust, or being convicted of a crime/ felony involving a breach of honor or trust or a freedom restricting penalty in any of the crimes stipulated in the law of the Authority or any other law over the five year period preceding the license application unless he or they have been discharged.
- XIV. A declaration by the license applicant stating that the information contained in the application and enclosed documents is accurate and complete in addition to any other declarations required by the Authority.
- XV. Proof of payment of fees for the processing of the application.
- XVI. Any request by the applicant for the disapplication of legal or regulatory requirements and the justification for such a request.
- XVII. Any other information or documents that may be specified by the Authority.

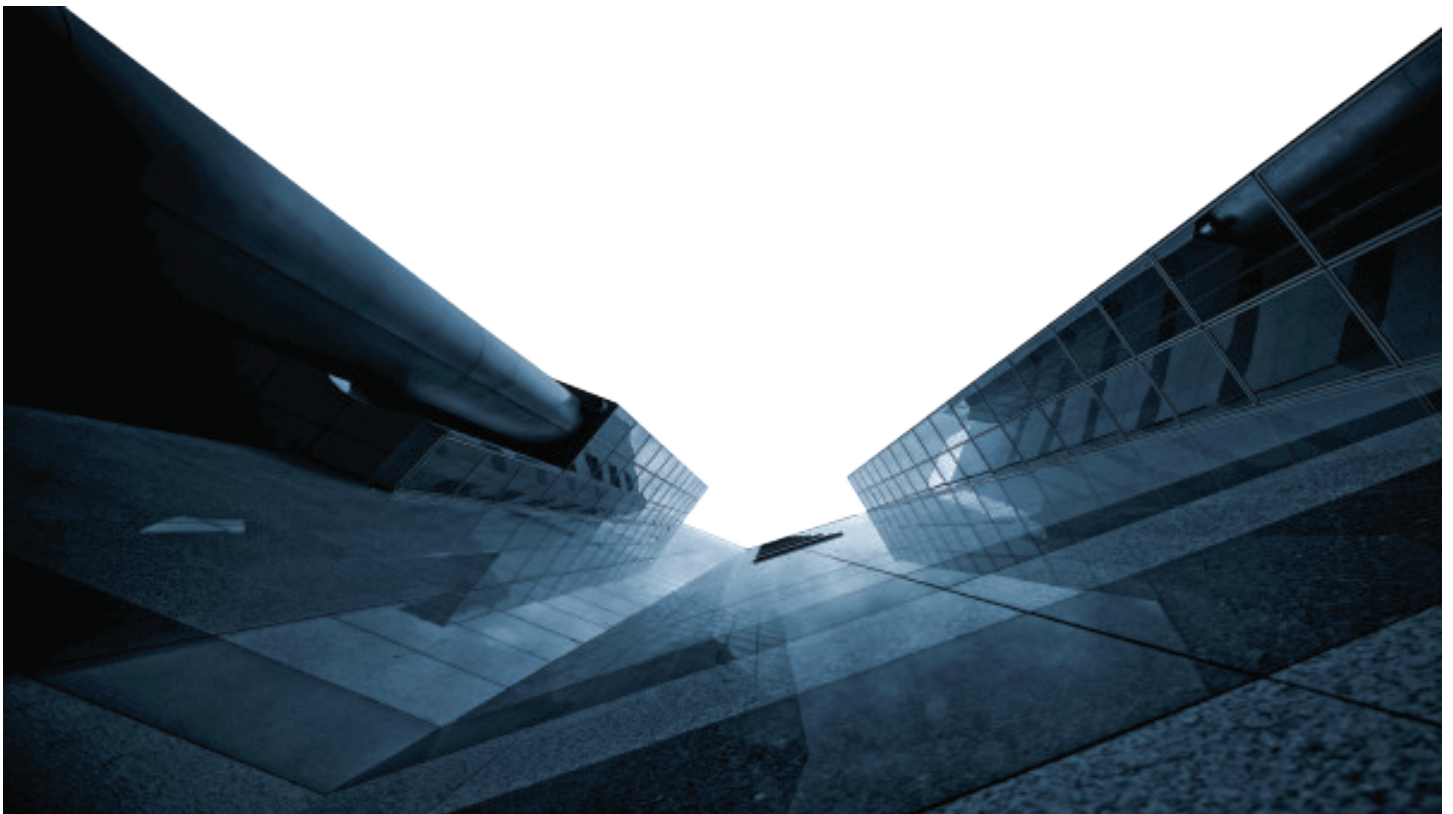
The license applicant could be asked to submit further documents covered under Article 1-7 including but not limited to, sufficiency of resources for practice, admin experience, technical resources, etc. If the applicant does not meet the allotted deadline to submit the extra documents and cannot provide a legitimate reason in not doing so, then the application would deem to be withdrawn.

#### **Reverse Solicitation**

Reverse solicitation is also commonly known as Passive Marketing. This is the act where an investor who has not had any previous contact with an investment manager, contacts an agent to make a potential investment in the fund. Article 63 of the CMA law prohibits the act of offering and selling of foreign securities in Kuwait unless it is done through a 'licensed person', invalidating the practice of Reverse Solicitation. The categories of such licensed entities permitted activities are mentioned above under Licensing.

The practice of reverse solicitation used to be very common in the Kuwaiti market earlier. A foreign company now may conduct its marketing provided it is through an agent, or registered as per aforementioned criteria. But a foreign entity is prohibited from conducting any activities with the Kuwait Markets unless it is through licensed persons. Article 93 under Chapter 9 explicitly states that foreign securities may not be issued for Public or Private Placement unless licensed by the authority.

It is required of the licensed person to be the one initiating contact with the investor. Provided that this is the circumstance, the company does not need to obtain a license or submit PPMs. These regulations are not applicable to any entity that has their operations, branches, employees, or other form of logistics located in Kuwait, as they are eligible for marketing their securities without having an investor establish contact first, provided they have obtained their license as per stated regulations.







## Introduction

Qatar Exchange Company was established in 2009, in pursuant to a joint venture agreement and replacing the Doha Securities Market for the purpose of Securities regulation. The exchange is monitored by Qatar Financial Market Authority (QFMA) and provides a ground for trading various securities for companies in the form of IPOs and other forms of financial instruments as applicable. The Qatar Financial Centre (QFC) is also a business and financial center which provides legal and business structure for financial related services. The QFMA regulates various aspects such as

- I. Regulate, control, and supervise financial markets
- II. Regulate the dealing of the securities activities with fairness, competitiveness, and transparency
- III. Raise public awareness of securities activities and promote in securities investment and development
- IV. Monitor the investors dealing rules governing activities related to trading of securities and other types
- V. Implement disclosure policy
- VI. Prevent conflict of interests and insider trading
- VII. Combat causes and crimes in relation to the markets

VIII. Communication and information exchange with foreign financial markets and regional and international regulators

## Regulations

The QFMA was established as per Law Number 33 of 2005, amended by Decree Law Number 14 of 2007. This law is more commonly known as Qatar Financial Market Law (QFMAL). Governmental bonds can only be issued by the Qatar Central Bank (QCB), as per the law. The regulations in all are:

- I. QFMA Law
- II. QFMA Regulations
- III. Offering and Listing Rulebook
- IV. Commercial Companies Law (CCL)

## Securities

Securities is defined in Law number 8 of 2012 of QFMA as

- I. Shares and bonds of Qatari shareholding companies
- II. Bonds, sukuk, and bills issued by the government or any Qatari Authority or public institution
- III. Any other securities such as non-Qatari securities licensed by authorities
- IV. Derivatives, commodities, and other investment instruments licensed by authority

## Equity Offerings

An equity offering refers to the process of allowing plausible investors to purchase a portion of the company through the acquisition of shares. By offering equity to the public, a company is able to increase its capital and create a higher value profile for itself. But, in order to be able to list a security on the Qatar Stock Exchange, the following conditions need to be met:

- I. Company must be a joint stock company registered with the Ministry of Business and Trade.
- II. Whole class of ordinary shares must be listed.
- III. An audited record of the issuer's financial statement for the last three years must be presented.
- IV. All the financial statements presented must follow the International Accounting Standards (IAS) and the International Financial Reporting Standards (IFRS).
- V. Profitability is not necessary to prove.
- VI. A minimum subscribed capital of QR 40 million is required.
- VII. The QFMA Rules require an issuer to float a minimum of 40% and a maximum of 80%.
- VIII. Require a minimum 100 shareholders
- IX. At least 50% paid up share capital (Articles 37 and 38 of the DSM Regulations)



- X. The issuer must publish a prospectus that has been approved by the QFMA.
- XI. No working capital statement needs to be provided by the issuer.
- XII. Non-Qatari companies are expected to either list their securities on the home exchange or be represented by a majority of the shareholders (based on nationality)
- XIII. The report must be available in both Arabic and English.
- XIV. The issuer must ensure that they comply to all the rules and regulations established by the QFMA and the QE (Qatar Exchange).
- XV. The issuing company must hire an underwriter and a lawyer prior to the application process.

#### Retail and Institutional Offer

While Qatar does not provide specifically for retail and institutional offers, the only term mentioned in the laws are specific investors. Even with specific investors, it is to be noted that no definition as such of what qualifies for a specific investor is provided for within the laws. The only definition in terms of issuer is provided for as Foreign and Local issuer.

#### Listing Requirements

There are a brief set of requirements in terms of a company to be listed for IPO. As per the regulations, a company can only list on the QSE if the entity has at least

- I. A subscribed set of share capitals of 40 Million Qatari Riyals
- II. 30 Shareholders
- III. 50 Percent of paid up share capital

The company is also required to prepare a comprehensive and adequate prospectus containing disclosure of all information in relation to the interest of investors as determined by the QFMA. It is also required that the company fully settle its previously issued capital provided that the equities shall not be less than the paid up capital according to the latest audited financial statements. Lastly, and approval from the QFMA is required before initiating the listing process.

#### Application

The issuer is required to submit various documents in line for application processing. Some of the mentioned documents are:

- I. Copy of issuer's memorandum and articles of association;
- II. Name of the issuer's directors, with specimen signatures for authorized persons who are allowed to sign on behalf of the issuer;
- III. A financial statement that has been audited by an independent auditor;
- IV. Particulars of existing shareholders;
- V. Undertaking by the issuer stating that it will observe and comply with all regulations and laws applicable to the financial markets;
- VI. Undertaking stating that the issuer will provide Qatar's Exchange with instructions in relation to any matter on price affects in relation to securities.
- VII. Commercial Registration Document
- VIII. Listing Agreement and Application

#### Prospectus

The Qatar laws in relation to issuing of IPOs do not specify what necessarily is to be mentioned in the Prospectus. A vague mention of "all particulars and information capable of assisting investors to make their investment decision" is stated as per the laws. In practice, the Prospectus would generally include:

- 1. Announcement
- 2. Names and details of auditors hired by the issuer
- 3. Selected Financial Statements
- 4. All risk factor associated with the issuer
- 5. Details about the issuer like their legal name, date of establishment, registered office, a brief summary of the group and position of the issuer, list of affiliated companies and any new events in relation to the issuer
- 6. Main investments of the issuer
- 7. Summary of activities
- 8. Property and equipment of the issuer
- 9. Operational and financial review through the description provided in the financial statements
- 10. Capital resources
- 11. Projections and forecasts of profits
- 12. Research and development
- 13. Information on the general market trend
- 14. Information related to the BoD and the senior management
- 15. Bonuses and Benefits
- 16. Employees
- 17. Main Shareholders
- 18. Transactions of Related Parties
- 19. Audited financial statements
- 20. Policy of Stock dividend



21. Legal and Arbitration Procedures
22. Any material changes in the issuer
23. Share capital information
24. Constitutional documents
25. Summary of main contracts
26. Operating Capital
27. Capitalization and Indebtedness
28. Use of revenue
29. Approved securities to be offered
30. Offering terms and conditions
31. Registration and arrangements for trading
32. Sale of Approved securities by their holders
33. Issuance expenditures
34. Capital distribution
35. Taxes
36. Transfer policies
37. Statement of Experts

Qualified investors are exempted as per the QFMA Regulations from submitting a Prospectus as required by other entities.

### Approvals

It is mandatory that regulatory approval is granted in order for issuer to be admitted to trade in Qatar Exchange. The QFMA usually issues its decision regarding the application within 90 days of submission.

### Secondary Markets

Recently, Qatar has established a Secondary Market for the purpose of trading for companies with a share capital lesser than 40 Million QR. This is known as Alternative Market, and is monitored by the Alternative Market Regulations. The regulations state the requirements to be met for a company to be listed in the market. These are:

- I. Share Capital should be at least 5 Million QR;
- II. Must be operational for at least 1 year prior to listing;
- III. Number of shareholders should not be less than 20; and
- IV. At least 75 percent of its capital is invested into commercial activities in relation to its mentioned objective.

### Marketing

QCB needs to provide approval in the event of marketing of securities to take place. The QCB's approval being mandatory, an entity needs to submit certain documents in relation to marketing application approval.

The application form along with other relevant documents such as marketing materials and approved Prospectus is to be submitted to the QCB.

It is to be noted that this application is to be submitted at least 3 weeks prior to the intended marketing period. If there are no objections raised by the authority within 3 weeks of application submission, then the company may move forward with marketing its securities.

### Continuing Obligations

The QFMA and the Qatar Exchange both equally stress on the importance of continued obligation even after trading has commenced. The requirements to maintain continued obligations are as follows:

- I. All material information that affect the price of the security must be disclosed.
- II. Time and venue of AGM and EGM must be informed.
- III. Any dates of Board of Directors meetings with regard to the discussion of the semi-annual and annual financial results must be disclosed at least 15 days prior to meeting.
- IV. Any decision relating to the rights of securities holders.
- V. Any new details of existing or future law-suits which can have a material effect on business.
- VI. Must notify the Exchange of all major new developments and any inside information.
- VII. The following represent key periodic disclosure requirements:
  - i. Quarterly reports must be reported within 30 days of end of relevant period.
  - ii. Semi-annual reports must be reported reported within 45 days of end of relevant period.
  - iii. Any audited annual reports within 90 days of end of relevant period.
- VIII. All above disclosures must be notified on QE website, issuer website and two local newspapers one of which shall be in the English language.
- IX. All disclosures must be in Arabic and English.



- X. The information disclosed in periodic reports should be fairly presented in a clear and concise manner.
- XI. All information made available to one market should be made available promptly to all markets in which the issuer is listed.

### Exemptions

In pursuant of Article 28 of the QFMA Offering and Listing Rulebook of Securities, the requirement to prepare and publish a prospectus is not required for those issuers who meet the following conditions:

- I. Offering was made by the current owners of the Securities or to less than 100 persons in Qatar.
- II. The offered Securities represented, over 12 months, less than 10% of the number of securities of the same approved category.
- III. The Securities were offered in accordance with an acquisition process through a public exchange offer.
- IV. The available document includes information similar to a Prospectus

- V. The Securities were offered and allocated exclusively for current or past managers or employees and the Securities were of the same class as those accepted for dealing in the same market.

### Foreign Securities

QFMA provides for provisions of foreign issuer's listings as well as per Article 20 of its regulations. If the Issuer is located in the country wherein the Securities are listed or a majority of owners reside, then this may fall under the ambiguity of foreign issuers.

It is required that the foreign listed issuer comply with all regulations in relation to the residing state. The foreign issuer is required to submit its application to the QFMA in Arabic. If the issuer has securities listed on a foreign stock exchange, the issuer is required to inform the market as per.

If the issuer has met certain requirements existing under the foreign market or are exempt from certain QFMA related regulations in its markets, then the QFMA may exempt the entity from having to comply with the said regulations.

### Requirements

- I. All requirements as required for incorporation in the company's already established market.
- II. Issued capital to be fully paid
- III. Company's shareholder's equity shall not be less than the paid up capital as per the latest audited financial statements.
- IV. MOA and AOA shall provide for the issuance of shares for public offering.
- V. Subscribed capital shall not be less than 40,000,000 QR
- VI. Paid up value of nominal value shall not be less than 50% if the application is for listing
- VII. Issuer should have been in operation for the last 3 years at least
- VIII. Audited financial statements for each year since incorporation to be provided
- IX. No overdue Debts

While most countries in the Middle East region do not provide provisions or are in the initial stages of providing provisions in relation to Foreign Issuers, Qatar has provided a comprehensive guide in that regard.







## Introduction

The Egyptian Stock Exchange (EGX) is the registered securities exchange that handles all of the stocks to be traded in Egypt. EGX comprises of two exchanges:

- I. **Cairo Stock Exchange**
- II. **Alexandria Stock Exchange**

A merger in 2007 of the two exchanges resulted in the birth of EGX. The Egypt Government established The Egyptian Financial Supervisory Authority (EFSA), replacing

- I. The Capital Market Authority (CMA),
- II. The Insurance Supervisory Authority; and
- III. The Mortgage Finance Authority.

In 2017, the EFSA was reestablished as the Financial Regulatory Authority (FRA). The FRA is responsible for all financial transactions excluding banking related transactions, and markets. All financial transactions in relation to banking related transactions and markets are regulated by the Central Bank of Egypt.

The FRA had also formed a consulting committee made up of industry experts to aid in the capital market development strategy. The government of Egypt is in the process of making new financial instruments available to investors, which include commodities exchange, sukuk, short-selling and secondary bond markets by the beginning of next year.

## Legal Framework

Securities and IPO trading is regulated by a myriad of laws and legislations in the country. For a company to establish any form of IPO, it is imperative that the below mentioned regulations are complied with.

### Laws Applicable

- I. The CM Law (Capital Markets Law No. 95 of 1992 and its Executive Regulations) which regulates the EGX and includes certain eligibility criteria and disclosure obligations in relation to the contents of the offer document
- II. The Listing Rules (Decree of the CMA's Board of Directors No. 30, which concerns itself with the listing and de-listing of securities on the EGX and all ongoing obligations once listed.
- III. The Companies Law, specifically Company Law No. 159 of 1981 and its Executive Regulations which regulates incorporation and management of all entities incorporated in Egypt.

### IPO Registration Requirements

Due to the extensive nature of IPO process worldwide, it is important to approach the regulators as early on as possible to ensure a smooth process with as little obstacles as possible. This also provides the company with further time to provide for any clarifications required by the Authority, if needed.

- I. Licenses from the regulatory body are compulsory. Underwriters need to be licensed by the EFSA under its rules and regulations.
- II. A minimum issued capital of LE 1,000,000 is required for a company to enter the IPO process, along with the authorized capital to be less than five times the issued capital.
- III. According to the CMA Laws, the founders must obtain a minimum of fifty percent of the shares available.
- IV. Furthermore, Egyptian law recognizes a difference between retail and institutional offers and this makes it a market that allows for more specific action to be taken by the parties to market their commodities as such.
- V. A company is required to inform the Authorities in regards to initiation of issuing of securities, and can start within 3 weeks of informing, provided no objections have been raised by the Authority.
- VI. Semi-annual activity Report and Progress Report to be provided.
- VIII. Offering of shares shall be unconditional and immediate with no deference to a term.
- IX. The main difference between a retail offer and an institutional offer is that a retail offer will require a prospectus to be prepared and approved by the EFSA, whereas an institutional offer will not.



- X. It is required that the corporate entity appoint:
- i. Investment bankers/Licensed Underwriters
  - ii. Solicitors
  - iii. Auditors
  - iv. Financial Advisors

Since registering for IPO is a complicated process, it is advisable to appoint aforementioned professionals as they will help you smooth out the process of registering. Underwriters set the price for IPO offering and hence is a crucial aspect of the process.

### Retail Offer

A retail offer, as with most jurisdictions, is a public offer of securities. The main practical difference between a retail offer and an institutional offer is that a retail offer will require a prospectus to be prepared and approved by the EFSA whereas an institutional offer will not. The documents required in the case of a Public Offering:

- I. A public subscription approved by EFSA
- II. A Prospectus
- III. The shareholders' resolution with special majority
- IV. Fair value report issued by the financial adviser

### Prospectus

The Prospectus at incorporation have to disclose various details as specified for in the CML. These are:

1. Name, Legal form of the Company.
2. Purpose and Duration of the Company.
3. Date of the initial contract.
4. Date of beginning and end of fiscal year.
5. Issued and paid up capital
6. Characteristics of the shares being offered, advantages, and the terms of offer.
7. Nominal value of the share, number and type, traits, and rights related to them with respect to profit distribution or in the event of liquidation.

8. Founder's names and capital subscribed by each with payment, if any.
9. Period within which founders are required to submit an application for the incorporation of the company.
10. If only part of the capital is being offered for public subscription, how the remaining capital shall be subscribed.
11. Subscription commencement date, entity at which the subscription is to be made, and the date the subscription ends.
12. Serial Number and Date of certification of the prospectus given by the Authority
13. Amount to be paid at the time of subscription
14. Plan in regards to use of proceeds of shares, sales, and expected results
15. Business history of the company
16. Names of Board Members, Directors, and Responsible Officers and their experience
17. Name and Ownership percentage of each shareholder of nominal shares if they own more than five percent of the company's shares
18. Approximate statements in detail on expenses on items of foundation which the company is expected to bear from the inception to the date of incorporation

19. Statement on contracts and their contents which the founders had concluded during the five years preceding subscription if they intend to transfer to the company after its foundation. If the subject matter of the contract is purchase of an outstanding establishment in cash, a summary of the auditor's report on such establishment to be included
20. Name and Addresses of the company's auditors
21. A brief of audited financial statements of the last 3 years or for the period from the date of company's incorporation whichever is lesser, prepared in accordance with the disclosure rules.
22. Date of beginning and end of fiscal year
23. Method of net profit distribution
24. In the event of excess applications, how shares shall be allotted
25. Refund criteria and period of subscription by the receiving entity
26. A statement mentioning that *"The authority's approval is not concerned with the commercial merit of the business nor the project's ability to achieve specific results"*. This statement is so that the Authority shall not be held liable in the event of a security not performing as expected.



This Prospectus is required to be filed with and certified by the Authority and published in two popular daily morning papers, of which at least one should be an Arabic newspaper. As an extremely crucial document, a company cannot introduce IPO or start the process without the establishment of a Prospectus.

### Institutional Offer

An institutional offer, in comparison, is targeted at certain types of persons who are usually deemed to be 'qualified investors' for the purposes of the regulations. Qualified investors must either satisfy certain financial criteria or have adequate experience of securities markets. It is also known as a Private Offer. A private offering doesn't require the issuance of a subscription prospectus as required by an IPO. An information memorandum is submitted and its contents are less detailed when compared to an IPO prospectus.

The following are the requirements for being classified as a qualified investor:

Natural persons will be treated as qualified investors if they satisfy at least one of the following criteria:

- I. Assets of no less than 2,000,000 Egyptian pounds (around US\$350,000)
- II. An annual income of no less than 500,000 Egyptian pounds (around US\$90,000)

- III. Bank certificates of deposit with a total value of no less than 500,000 Egyptian pounds
- IV. Current investments in securities at the time of the offer with a total value of at least
- V. 2,000,000 Egyptian pounds (around US\$350,000) in two different Egyptian joint stock companies other than the subject issuer.

A company will be treated as a qualified investor if at least one of the following criteria is satisfied:

- I. The company has equity of no less than 10,000,000 Egyptian Pounds
- II. The company has assets with a total book value of no less than 20,000,000 Egyptian Pounds
- III. The company has current investments in securities of joint stock companies (other than the subject issuer) of no less than 5,000,000 Egyptian Pounds
- IV. The company is licensed to practice in securities activities including underwriting offers. Corporate qualified investors must submit a board resolution to the regulator setting out the names of the individuals who are authorized to make investment decisions together with details of their authorization limits.

### Listing Rules

After the completion of the IPO procedures, the Company is required to adhere to the Listing rules of EGX. To be listed on the Official list, the Company is required to have:

- I. At least 2 million Shares
- II. At least 100 shareholders
- III. An issued Capital of at least 20 Million EGP
- IV. Primary and Secondary Share Offering amounting to not less than 10% of total issued shares
- V. 5% or more of the company shares to be free floating percentage
- VI. Net Profit, excluding taxes for the previous fiscal year shall not be less than 5% of the paid in capital
- VII. Shares deposited with the Central Depository System
- VIII. An accredited Auditor as per EFSA
- IX. If it is issued by the Government and offered to the public.

If a company's shareholders reduced below 200 for more than three months during the fiscal year consecutively or separately, the shares shall be considered to be de-listed and transferred to non-official list of the stock exchange.

Non-official list or secondary listing, is one where shares that do not meet the aforementioned criteria shall be listed. It is to be noted that foreign securities also fall under the non-official list.

In addition, listing is managed by EGX and it is the responsibility of the listing committee to look after the revision, verification and approvals of the applications for listing according to the rules of CMA law, if the public offering is issued in the primary market only, the shares are issued by the company either through establishment or through the increasing of capital.

A company may not offer securities in more than one place of exchange, unless it is with the Cairo and Alexandria Stock Exchange. In this case, the securities listed shall be on both with a single listing fee which shall be divided between both these exchanges.



## Continuing Obligations

The Egyptian corporate governance is slowly progressing. Earlier, Egypt did possess an all-encompassing code for corporate governance, however, the Egyptian Code of Corporate Governance was published in the year 2011, the third edition of which was released in the year 2016. The Code serves as a guide for carrying out the best practices in the fields of governance, transparency and management.

Main areas of obligations applicable to listed companies:

### I. Periodic disclosures

The company is required to provide the Financial Regulatory Authority with bi annual reports that consist of activities such as their business result and any such information that may provide the FRA with idea of the company's financial standing. The EXG requires disclosures regarding the company's plan to increase their issued capital and the steps that they may take to achieve that result.

The FRA also expects to be notified with copies of financial statements and auditor's report, a month prior to convening of the general assembly of the company

The company is also expected to provide the FRA with a publication of the summary of the financial statements and auditors reports through either the FRA website, a widespread newspaper (in Arabic), on the trading screens at EGX or on the company's website.

Quarterly financial statements are to be published on the EGX website for at least three days.

Provide the FRA and EGX with a quarterly disclosure report that consists of the shareholding structure and the status of any changes in the treasury shares within the 10 days of the end of each quarter.

The following is also to be disclosed to the FRA and EGX:

- i.* Minutes of the extraordinary and general meetings
- ii.* Summary of the board resolution involving key changes/ events
- iii.* Provide the EGX with the ratified minutes of the board within two business days along with material amendments in the data

### II. Episodic disclosures

The EGX must be informed of the following before the commencement of the relevant trading session:

- i.* Any changes or amendments to the disclosures that already been provided in the listing application
- ii.* Decisions relating to the distribution of dividends prior to the offering session
- iii.* Changes in the shareholders percentage whether it is relating to the fall or increase in such percentage below or above 5%, this disclosure consists of direct ownership of shareholders with the affiliated parties, foreign deposit certificates showing indirect ownership of 25% or more.

- iv.* Any purchase or sale of 3% of the shares of the company's securities. This would be in relation to direct ownership, foreign deposit certificates and affiliated parties
- v.* Any other changes that have taken place regarding the information provided along with the listing application or annual board report including, changes in the AOA, changes in the company's auditor, chairman, members or board members, registered addresses or contact information, changes in the shareholding structure 5% or more, and changes in the shareholdings of the company in other companies that amounts to 10% or more.
- vi.* The company must also disclose any court decisions that may affect the company's financial position, shareholders, issuance of any court decisions that may lead to the imprisonment of any board member or upper management of the company
- vii.* The company must disclose the distribution of dividends as decided in the resolution at least 15 days prior to the distribution of the such dividends



Material disclosures would also include the following:

- I. Issuance of bonds, pledges to bonds or guarantees
- II. Redemption or cancellation of company shares
- III. Proposed changes in the financial or shareholding structure exceeding 5%
- IV. Any transaction exceeding 5% of the revenue in the latest financial year
- V. Dividend distribution or bonus distribution decisions
- VI. in the par value of shares
- VII. Claims of judicial nature against the company regarding activities of the board or members or any judicial decisions of the company's activities exceeding 2% of ownership rights
- VIII. Any litigation claims filed against the board or any member of the upper management

### Securities

While the Law has provided for procedure of various types of securities, it is pertinent to note that the CML does not explicitly define securities. Securities that are listed in the market which are not equity shares are also required to be compliant as per CMA Law and Regulations. The CML provides for laws in regards to companies that are solely involved in securities related transactions. These companies are defined under Article 27 of Chapter 3. Any company involved with activities such as:

- I. Promotion and underwriting of securities
- II. Participation in establishing companies which issue securities, or sharing in capital increase
- III. Venture Capital
- IV. Clearance and settlement
- V. Formation and management of portfolios and investment funds
- VI. Brokerage in Securities

It is to be noted that a JSC or company limited by shares have the authority to apply in partaking in the aforementioned activities.

Hence, these activities could be termed as the definition for Security Activities.

For the practice of any of the aforementioned activities, it is required by the company to obtain approval from the Authority, and shall not practice any such activity until the approval has been provided.

### Prospectus

It is imperative that a company trading solely in securities should also establish a Prospectus for trading purpose. Article 44 of the Executive Regulations provide for the information required to be included in the document. These are:

- I. Business history of the company.
- II. Names of the board members, directors and responsible officers and their experiences.
- III. Name and ownership percentage of each shareholder of nominal shares who owns more than five percent of the company's shares.
- IV. A brief of audited financial statements of the last three years, or for the period from the date of company incorporation whichever is less; Number and date of the company registration in the Commercial Register
- V. Statement regarding mortgages and incorporeal rights on all assets
- VI. Date of the general assembly meeting in which the legal ground and issuance of security was approved
- VII. Type of security being offered and expected return
- VIII. Calculation method of such expected returns
- IX. Date of Approval of public offering of such securities and serial numbers given
- X. Securities issuing and redemption conditions

- XI. Assurance and guarantees offered to the Security holders by the company
- X. Net asset value of the company as specified by the Auditor and calculated on the basis of the last balance sheet as approved by the general assembly
- XI. Budget estimates summary during maturity period of the security.

### Foreign Securities

Secondary listing is available to foreign companies on the satisfaction of certain conditions, including that the:

- I. Securities are listed in another exchange subject to the supervision of a regulatory body that has the same authority as the FRA. The only exception provided for this condition is if a foreign company lists itself in the secondary market in Egypt, despite not being listed in any other exchange, provided the following two conditions are satisfied:
  - i. at least 50% of its equity rights, assets and revenues are generated from affiliated Egyptian companies; and
  - ii. the consolidated financial statements of the two financial years preceding the date of the request to be listed have been audited in accordance with the Egyptian Accounting Standards by an auditor registered with the Financial Regulatory Authority.
- II. Securities are in Egyptian pounds or in another foreign currency that can be converted into Egyptian pounds.
- III. Company is required to have a legal representative in Egypt.

Dual Primary listing of foreign securities are allowed provided they are in compliant with the aforementioned listing regulations. The foreign exchange that the security is traded with should be under the supervision of a regulatory authority similar to that of EFSA.





## Introduction

The Banking Control Commission (BCC) was established in 1967 in Lebanon by the Central Bank of Lebanon (BDL) to administrate banking and control of the Central Bank. The BDL regulated banking as well as the financial market. It is to be noted that although the Capital Market was regulated by the BDL, this was only in relation to approving new financial instruments, which would then further be regulated by the BCC. In 2015, the Central Bank established the Capital Market Authority (CMA) to provide for a proper regulatory framework in terms of trading in Securities. The functions of CMA include regulating and supervising the work of licensed stock exchanges and setting general regulatory framework for listing financial instruments.

The Beirut Stock Exchange (BSE) was established in 1920 and is one of the oldest markets in the Middle East. Since then, BSE has seen various changes due to political turmoil, regime changes, and reforms. The BSE is the sole formal exchange market in Lebanon and hence all securities related transactions are to be done through this market.

There are various markets in lieu of modernization of the market and adopting a new trading system. This can be broadly categorized as

- I. The Official Market
- II. The Secondary Market
- III. Over The Counter Market

### Official Market

The official market is where primary listing of securities and related transactions take place. Listing Requirements

To be listed in the official market, BSE rules provide for criterion under Article 106. These are

- I. Minimum capital has to be more than US\$ 3 Million equivalent to Lebanese Pounds;
- II. The incorporation period of the company should have been for at least 3 years prior;
- III. At least 25 percent of the company's capital is required to be floated to the public on its first day of quoting; and
- IV. The aforementioned percentage of capital has to be held by 50 people or more.

### Secondary Market

If a newly established company that do not meet the requirements to trade in the Official market, the trading then takes place with the Secondary market.

#### Listing Requirements

To be listed in the Secondary Market as per Article 111 of the BSE rules, a company has to:

- I. Have a minimum capital of US\$1 Million equivalent to Lebanese Pounds;

- II. 25 percent or more capital to be floated on first day of quoting; and
- III. At least 50 shareholders required to acquire the issuer's floated capital.

### Over the Counter

Over the counter market is for those securities that are being traded without being listed on the exchange.

#### Listing Requirements

Since over the counter market is not the primary or secondary market, the requirements are not as much. A minimum capital of 100,000 US\$ equivalent in Lebanese pounds is the only requirement to be listed in this market.

### Legislations

The laws and regulations which govern the listing requirements are stated across various regulations. These are:

- I. The BSE Legislative Decree Number 120
- II. The BSE Bylaws Decree Number 7667
- III. The Code Decree Number 304 of 1942

### Application Procedure

In terms of listing in the Official or Secondary market, a company is required to file various documents in relation to its application. The company should:

- I. File the Application form in accordance with BSE Committee Rules.
- II. File a certified copy of the registration application at the Commercial Register

- III. File a certified copy of the incorporation certificate of the company at the Commercial Register
- IV. File a certified copy of the Company's by-laws and all their amendments which should have provision in regards to pricing of the issuer's securities at the Exchange
- V. A recent circular note registered at the Commercial Register
- VI. Certified copy of the minutes of General meetings and Board of meetings for the last 3 years in case of the official market listing, or for the period since the date of incorporation until date of submission of application in the case of the issuer being setup for less than 3 years and in the listing of secondary markets
- VII. Detailed statement in relation to the nature, kind, and value of the securities being applied for
- VIII. Copies of all balance sheets, profit and loss accounts, inventories and consolidated final accounts in the event issuer has subsidiaries
- IX. Copy of reports of the Board of Directors and the auditors for the last 3 years, or for the period it has been setup if said period is less than 3 years

- X. General statement describing the issuer's activities and markets
- XI. General statement about issuer's subsidiaries, proportion of the capital owned by the issuer and their main activities
- XII. Letter stating the applicant's commitment to abide by Article 91 of the BSE rules

In practice, the Committee takes two weeks from submission of application to process listing.

#### Application form

The Committee rules provide for what is required to be mentioned in the application form for admission in detail. It is pertinent that the company mention all these details to avoid rejection by the BSE for the purpose of Public Securities Trading. This information is:

- I. Description of the issuer's business, its activities prior indicating the issuer's factory addresses and its real assets;
- II. Description of any ongoing contract or project under execution at the date of filing the application which is not included in the normal course of issuer's activities;
- III. Legal proceedings which may be pending proceedings and whatever the claims made by the real properties involved where the company or any of its branches are a party;

- IV. Information related to the Company management such as details of the Chairman, General Manager, Assistant General Manager, Members of the Board, and all the managers signing separately on behalf of the company for the management of the company;
- V. Issuer capital distribution amongst categories of shares;
- VI. Rights in relation to the shares (rights to profits and the conditions to assignment of shares, if they are registered shares, other rights or privileges on the listed shares, amount paid and distributed for each share and total amount paid related to each of the distribution and non-distribution of accumulated profits);
- VII. Capital increase through subscription in cash of the issuer and reason for such increase;
- VIII. Capital increase of the issuer resulting from increase in kind;
- IX. Description of moveable and fixed assets which constitute capital increase, and valuation of such assessment;
- X. Information concerning each shareholder holding 10 percent or more of the voting rights in the issuing company within any category;
- XI. Detailed statement in the form of list or chart showing the book value at the date of the application, accounting value and the current market value of the investments in moveable and fixed assets pertaining to other companies apart from those owned in majority by the issuer;
- XII. Property rights and securities which constitute the fixed assets owned by the issuer or any of its branches, and the guarantees granted by the issuer to any other third party;
- XIII. Information on subsidiaries of the applicant
- XIV. Information about the mother company;





- XV. Information regarding issuance of bonds for the last ten years;
- XVI. Other stock exchanges and financial market rejecting a listing application by the issuer;
- XVII. Information in detail in regards to transactions of issuer's financial instruments in any stock exchange or financial market during the last 6 months or at least during the period of time in which the transactions concerning those instruments took place;
- XVIII. Date of the end of fiscal year;
- XIX. Identity of the auditors;
- XX. Identity of the legal advisors;
- XXI. Date of the last general meeting of the shareholders; and
- XXII. Identification of the broker submitting the application.

### Securities and Activities

Although offering of IPO falls under the ambit of Securities, the scope of Securities is much wider than just that of an IPO offering. Security Activities are defined in Article 2103 of Part B of Licensing and Registration Regulation. As such, any activities mentioned below shall fall under the ambit of Securities Activities

### Dealing

- I. deals in or trades a security as principal or as agent

- II. selling, buying, or taking an order to sell or buy, a security
- III. market maker or liquidity provider
- IV. managing subscriptions for, distributing or underwriting securities.

### Advising

- I. advises another person on investing or dealing in any type of security
- II. advises on exercising any right conferred by a security
- III. corporate finance advisor
- IV. includes advising on: investments, dealing in securities, corporate finance matters, mergers and acquisitions.

### Arranging

- I. arranges transactions in relation to securities business
- II. introduces persons to transactions in securities
- III. acts to put together a transaction in a security
- IV. includes arranging corporate finance deals, mergers & acquisitions deals, securities offerings, public or private placements
- V. arranges for a third party to provide custody services. Note: Arranging does not include Dealing (executing trades).

### Managing

- I. manages a security or a portfolio of securities for another person on a discretionary basis
- II. includes management of collective investment schemes (Additional requirements apply under the CIS Regulation.)
- III. Approved distribution agent for a foreign collective investment scheme.

### Custody

- I. safeguards assets for another person including securities
- II. includes client custody services, and administering rights, benefits and actions relating to a security
- III. includes acting as a custodian for a collective investment scheme. (Additional requirements apply under the CIS Regulation.)

If the activity to be conducted by the company falls under the ambit of any of the abovementioned activities, then such activity may be defined as a security activity. Any person that engages in carrying on business or commercial activity, holds itself out as willing and able to engage in that activity, or solicits other persons to engage in transactions based on these activities shall be considered as conducting Securities business.



## Local Agent License

The local agent/ broker is required to be licensed by Banque Du Liban in order to trade. The various requirements in terms of licensing are

To be a registered person, an applicant must file various information as required by the Regulations. This may be done through soft copy, unless a requirement for signature is in place, then it shall be submitted as both soft and hard copy. The application should entail the following details:

- I. Full name
- II. Address (home)
- III. Address (office)
- IV. Email address
- V. Telephone (office)
- VI. Date of birth
- VII. Place of birth
- VIII. Citizenship
- IX. Country of residence
- X. Position with applicant
- XI. Person that position reports to in the approved institution
- XII. Main responsibilities of position
- XIII. Registrable functions for which applicant seeks approval of the Authority as a registered person
- XIV. Proposed start date
- XV. Qualifications
- XVI. Any other employment or position held, the name of company or body that you are a director, officer, or employee of
- XVII. Previous application, if made, status
- XVIII. Up to date CV with complete

## history

Along with the aforementioned requirements, a minimum capital of 2 Million BDL in case of a financial institution, and 1 Billion BDL for brokerage firms is to be shown for approval of application.

## Ongoing Obligations

Once registered for trading in securities, a company is required to keep up various obligations to stay listed at the market. Failing to keep up with the ongoing obligations can result in not just delisting, but also a penalty amounting to 2 LP per 1000 LP of its capital.

- I. Article 91 of the BSE rules list ongoing obligations of the issuer as;
- II. Submission of all minutes of meetings with ordinary, extraordinary shareholders, and board of directors before the Commercial Register within two weeks of registration;
- III. Notify the changes that would affect issuer's activities or financial situation;
- IV. Annual Publishing in the BSE Bulletin of the Company's audited and consolidated financial accounts within 6 months as of closing of its accounts;
- V. Publish the result of issuer's rules every 6 months;
- VI. Any changes relating to the business, general management, board of directors, auditors, or number of voting rights of the Company is to be informed to the BSE.

## Foreign Securities

Foreign companies that would like to list their securities through the Beirut Stock Exchange are required to go through the same application procedure as that of a locally listed company. Alternatively, foreign companies may establish a Lebanese subsidiary, hire a local agent or be listed in a recognized market jurisdiction compliant with the regulations of a competent authority.







## The Market

The Muscat Securities Market (MSM) was established in 1988 as a public institution with its legal entity based in Muscat. It aims at developing methods and measures related to dealing with securities, raising awareness about the market paving the way for economic development in the country.

MSM allows trading in joint stock companies, government bonds, corporate bonds, investment funds and financial instruments approved by MSM.

In order to adapt the growing international market, the Capital Market Law (CML) undertook the task of restructuring the MSM with the aim of enhancing control and regulation of market activities, protecting investors in turn creating an environment that attracts investment.

## Legal Framework

### Legislative and Regulatory

Two separate entities have been created by the CML in order to overlook and regulate all market activities, namely:

- I. CMA- the CMA is a regulatory authority incorporated to overlook and organize issuance of trade securities in Oman.
- II. MSM- the MSM on the other hand, functions independently of the CMA, however, being subject its supervision thereof.

The laws and regulations established in order to govern admissions to listing and ongoing disclosure obligations in the Market include:

- I. The CML- the CML is responsible for the creation of CMA, it also includes a myriad of provisions and regulations ranging from public offerings of securities in Oman, settlement of transactions to dissemination of public information, investment funds and so on.

The CML was further amended in November 2014 by way of Royal Decree No. 59 of 2014 to include provisions for violations of CML with increased penalties for the following:

- i. False statements or announcement that could potentially misguide investors
- ii. Carrying out activities in the market without a license
- iii. Insider trading/ disclosing confidential market information
- iv. Making unrealistic demands for securities/ creating circumstances that make potential investors believe that prices of securities may fluctuate
- v. Furnishing false or inaccurate information in the prospectus of a joint stock company

- II. The Executive Regulation of CML (ER 1/ 2009)- aims at implementing the CML and consolidating directives that regulate the capital market sector
- III. The Listing Rules contained in ER 1/ 2009
- IV. Royal Decree No. 82/ 1998 – established the Muscat Depository and Securities Registration Company (MDSRC)
- V. The Commercial Company Law (CCL) – this law applies to all commercial companies that operate within the limits of the Sultanate of Oman, be it a general or limited partnership, joint stock companies, joint ventures, limited liability companies, one person companies and holding companies.

### Regulatory Oversight

After the repeal of the Ministerial Decision No. 4/ 2001, the sole power for regulation of MSM was vested in the CMA withdrawing powers from the Central Government to formulate laws in consultation with the CMA.

As regards to public joint stock companies the provisions of CCL, CML and ER 1/2009 apply, whereas the CCL alone applies to private joint stock companies and limited liability companies.

### Retail Offer and Institutional Offer

Defined broadly, a retail offer caters to investors in their individual capacity, these investors are non-professional and invest in shares through brokerage firms for their own personal accounts,

on the other hand, an institutional offer cater to giants in the share market namely, insurance companies, investment banks, hedge funds etc.

The law of Oman distinguishes between retail and institutional offers on the basis of target investors. The retail is open to the public at large, allowing them to subscribe to the shares of a joint stock company adhering to the conditions set out in the company prospectus, as per the CMA, whereas an institutional offer, invites only certain categories of people to subscribe to the shares of a joint stock company.

It is interesting to note that, though an institutional offer can be availed by a certain category of people, that category is not expressly defined unlike other jurisdictions, however, the issuer may identify investors subject to approval from the CMA (ER 1/2009)

Regardless of whether the offer is retail or institutional, a prospectus must be issued, in accordance with the requirements of the CMA.

### Eligibility for IPO

#### Regulatory Requirements

There are three markets within MSM wherein the issuer can list securities being offered, based on their characteristics, these securities must meet the requirements laid down in Royal Decree No. 80/98 & ER 1/ 2009 in order to be eligible.

The three markets and their requirements are listed below as per Royal Decree No. 80/98 &

#### I. The Regular Market:

With reference to the Royal Decree No. 80/98, the listing of shares must be subject to the following terms and conditions:

- i.* The paid up capital should not be less than RO 5 million
- ii.* Shareholders' equity should not be less than 120% of the paid up capital

- iii.* Ratio of free float shares or units is 40% of the paid up share capital as minimum
- iv.* The company has achieved net profit during the last two years at 5% of the paid up capital
- v.* The number of days during which the shares or units are traded is not less than 122 trading days and annual turnover of the share or unit is not less than 10% during the year
- vi.* Traded value shall not be less than 10% of the paid up capital during the year
- vii.* Shall have issued financial statements for two consecutive years
- viii.* Shall have been listed in the parallel market for at least one year

Further with reference to the ER 1/2009 the following criteria should be met:

- i.* The issuer's paid up capital is not less than RO 2 million
- ii.* Shareholders' equity in the joint stock company is not less than the paid up capital
- iii.* The issuer has earned net profit in the last two years

- iv.* The issuer's securities must have been traded for at least 30 trading days in any given year and the securities' annual turnover should be at least 5% of the total issued share capital

#### II. Parallel Market:

With reference to the Royal Decree No. 80/98, investment funds can be listed in the following cases:

- i.* Public joint stock companies and investment funds listed for the first time
- ii.* Public joint stock companies and investment funds who failed to satisfy the requirements of the Regular Market

Further, the ER 1/ 2009 lists companies only if they are eligible under the following circumstances:

- i.* If a company is a newly established joint stock company
- ii.* The shareholders' equity in the joint stock company is not less than 50% of the paid up share capital
- iii.* The public joint stock company has not satisfied the requirements of the Regular Market



### III. Third Market:

With reference to the Royal Decree No. 80/98, investment funds can be listed in the following cases:

- i. Closed joint stock companies
- ii. Investment funds offered in private placement

Further, the ER 1/ 2009 lists companies if they are eligible under the following circumstances:

- i. If the entity is a private joint stock company
- ii. The shareholders' equity of the private joint stock company is less than 50% of the paid up share capital
- iii. If the entity is not eligible to be listed under the Regular Market

#### Additional Requirements by the CMA:

The abovementioned requirements are mandatory as per the CML and ER 1/ 2009 and are not subject to waiver by the CMA.

- I. Appointment of an underwriter by the issuer approved by the CMA
- II. Appointment of an issue manager by the issuer, having a proper license issued by the CMA
- III. A public joint stock company is required to obtain the approval of the CMA to issue securities. The documents required must be submitted along with the application by way of a public subscription, which must also include the following:
  - i. The Prospectus & offering notice (in Arabic)
  - ii. An economic feasibility study prepared by a professional advisor of the concerned project
  - iii. Copies of agreements between the issuer with the underwriter and issue manager & copies of the agreement between the issue manager and collecting banks.

### Foreign Ownership and Sector Specific Restrictions

The CMA's prior approval is not mandatory to be obtained in order for a foreign investor to own securities of a listed company in Oman. However, there are certain regulations and restrictions imposed on foreign ownership of certain companies, as follows:

- I. Foreign shareholding, ie, those that are Non- Omani or Non- GCC nationals. These shareholdings in a listed company must not exceed 70% of the issue share capital of the issuer. This restriction, however, is not applicable to those companies that are enumerated under the Oman Free Trade Agreement. Under this Agreement US persons are permitted to own up to 100% of the issue share capital of Omani Companies.
- II. Restrictions that apply to the Articles of Association (AoA) of a Joint stock company listed in the MSM - the AoA may specify limitations or prohibitions with regards to the shareholdings restricted to GCC shareholders only

III. **Government** - owned joint stock companies are barred from offering their shares to foreign investors

IV. As per the Banking Royal Decree 114/2000 the approval of the CBO is mandatory for transfer of any securities, in cases when the issuer is a bank or an establishment engaged in banking business

As per recent amendments, with reference to Royal Decree Number 50/ 2019, Oman's Ministry of Commerce and Industry (MOCI) has brought about a new Foreign Capital Investment Law (FCIL), the FCIL aims to achieve the following objectives:

- I. To create an attractive investment environment in Oman
- II. To ensure stability of foreign investment
- III. To encourage business flow
- IV. To facilitate economic development

The recent amendments have opened up the Omani economy to foreign citizens, investors and companies giving them the opportunity to own up to 100% of their businesses in mainland Oman along with the introduction of Oman Freezones.





However, certain activities are still reserved for Oman nationals and some still require a local Omani partner with a minority shareholding. Dual/ Secondary Listings

The MSM is permitted to enter into cross-listing agreements with other stock exchanges keeping adhering to the conditions that are applicable in that regard.

Licensed brokers outside Oman and the GCC can also purchase and sell Omani listed companies.

### IPO Process

The Initial Public Offering (IPO) process allows privately owned businesses to open up to the public by offering its securities in the Stock Market viz. the Muscat Securities Exchange.

At the early stages of IPO, the issuer is required to first, take the approval of the Promotes and the Board of Directors for their decision to go for an IPO once the approval is taken, appointment appropriate advisors that include, lawyers, accountants, underwriters, issue managers and collecting banks.

The privately owned company is then required to carry out legal due diligence of the company along with preparation of a feasibility report, a projected financial statement and are required to carry out a valuation of assets of the company.

Once the aforementioned reports are prepared, a prospectus is drafted, following which, the issuer may go ahead and file the same with the capital market authority and the Muscat Securities Market, Oman.

A detailed enumeration of the IPO process is given below.

### Regulatory Approvals

Any joint stock company is permitted to issue securities through public subscription provided the prior approval of the CMA is obtained.

If the issuer has converted itself into a public joint stock company, it must within one month from the registration as a public joint stock company submit the following to the CMA:

- I. A certificate for commercial registration
- II. List of authorized signatories
- III. Copies of the MOA, AOA and Prospectus
- IV. An attested copy of the minutes of the constitutive general meeting
- V. Any additional documentation as required by the CMA

The process typically takes about six months to be completed.

### Documentation

As mentioned above, the issuer must file a prospectus in order to issue its securities by way of public registration. This shall be done through the issue manager and must be approved by the CMA.

The following structure shall be adhered to while preparing a Prospectus:

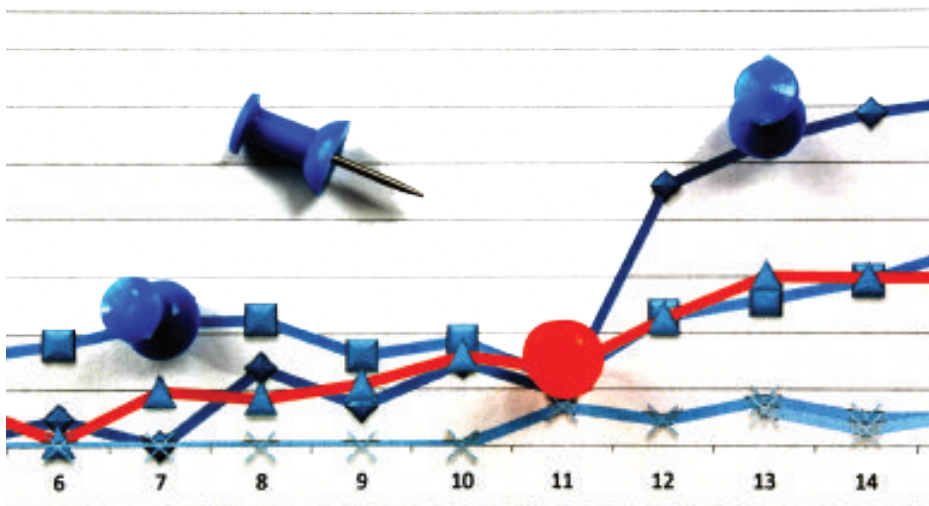
- I. Language- Arabic, however, the same may be translated in English for the sake of convenience. In case of a dispute the Arabic version shall be referred to, as approved by the CMA
- II. It must contain the financial statements of at least two years, which must be in accordance with the International Financial Reporting Standards (IFRS)
- III. It must contain all the necessary and material information that would facilitate an investor to make a decision regarding investment. In case the issuer fails to include material information a reasonable justification for the same is to be provided in the Prospectus.
- IV. The responsibility over the accuracy of the document lies on the issuer and issue manager equally

The following must expressly be set out in the Prospectus:

- I. Business description of the issuer
- II. Date of incorporation of the company
- III. Capital of the company ( number of securities and nominal value)
- IV. Majority shareholder of the company (holders of more than 5% of the issue share capital)
- V. Offer period along with terms and conditions of the offer
- VI. Details of collecting banks
- VII. Payment method and issue expenses, if any
- VIII. Internet address/ address where the prospectus can be obtained
- IX. Any other information deemed necessary by the CMA

### Liabilities:

The CCL contains penalties that are applicable to the Prospectus, it has the authority to hold any such person liable of any misinformation or fraudulent information provided therein.





Any information disclosed or omitted within the Prospectus that is false comes under the ambit of the CCL. Any breach of provisions shall be punishable with fine or imprisonment. Additionally, any loss or damage caused to the subscribers due to negligence of the collecting banks or issue manager shall be punishable under the provisions of the CCL. Enclosed along with the Prospectus, the following documents must also be provided:

- I. A draft of the subscription application
- II. The MOA, AOA and any amendments thereof
- III. Certificate provided by the bank(s) showing founders' contribution
- IV. Economic feasibility report, project or work plans and expansion plans, if any.
- V. Agreements between the underwriters and issuer
- VI. Agreements between the collecting banks and issuer
- VII. Any other documents

### Marketing

As mentioned earlier, all important documents shall be in the Arabic language, translation permitted.

The offer notice must be published in 2 daily newspapers (one of which shall be an Arabic daily newspaper) subject to approval of the prospectus by the CMA. Any such marketing campaigns cannot be carried out without the prior approval of the CMA.

It is important to note that, all advertisements and promotional material must contain information regarding the risks involved with investment.

### Clearing and Settlement

The MDSRC is linked with the MSM through an electronic system, implying that all transactions are paperless and there are no certificates. The MDSRC is the sole service provider in Oman for the registration of and transfer of ownership of securities and also acts as a depository of ownership of documents.

## Ongoing Compliance

### Corporate Governance

Oman's Capital Market's Authority published a new code, namely, Code of Corporate Governance for Publicly Held Joint Stock Companies in July 2015 that replaced the old Code of Corporate Governance for Public Listed Companies of 2010. The new code aims at amending various rules in the old code and aims to expand the role of the Board in relation to corporate governance.

The new code lays down that, all board members be non- executive directors as opposed to what was mentioned in the old code that required only a majority to be non- executive directors.

The new code also describes the role, responsibility and skills of the Chairman and Secretary in much greater detail.

The new code will have a direct effect on all listed companies of the MSM, reviewing their governance structures and scrutinizing the composition of their Board of Directors and Professional Code of Conduct.

Material information must be disclosed by written announcement (in Arabic) in a timely manner before the next trading session along with sending the same to the MSM. It is imperative to do so since, such information affects the investment decision of the participants.

An unaudited interim financial statement is required to be prepared at the end of the quarter for the first, second and third quarter of every financial year and the same is to be disclosed (in Arabic and English) upon approval by the board of directors within 30 days of the end the quarter. 45 days are allotted to those issuers who are required to prepare a consolidated financial statement from the end of the relevant quarter for disclosure of the previous quarter's financial statements.

Issuers are also required to prepare audited financial statements not less than 2 weeks before the annual general meeting. Enclosed therewith, the issuers must also attach:



- I. Auditors' reports on the audited financial statements and corporate governance report
- II. The corporate governance report
- III. Directors' report
- IV. Management discussions and analysis report

#### Restrictions on individual shareholders

An individual holding 10% or more of the issue share capital of a company, independently or together with his minor children is required to notify the CMA of his holding, as per the CML. Such an individual shall also inform the CMA of any transaction that may lead to an increase in that percentage once the transaction has taken place.

It is imperative to note that, minor children, grandparents, spouses, parents etc., among others cannot hold 25% or more shares of a joint stock company offered for public subscription without the assent of the Executive President of the CMA or his delegate. Any securities acquired in contravention of this provision shall be considered null and void.

In case the requirements of the issuer or issuer's listing are not as per the CMA, the CMA has the authority to either move the issuer to the Regular, Parallel or Third Market or temporarily suspend the listing in case of speculations around price fluctuations of securities.

#### Takeovers

Takeovers are regulated by the CMA, since there is no specific legislation that governs takeovers in Oman. The CCL provides a detailed procedure for mergers by acquisition.

The terms of merger are to be approved by an extraordinary general meeting following which the assets of the target are transferred to the dominant company which results in liquidation of the target. Once the target is liquidated the creditors thereof are permitted to file for claims within 6 months of the merger.

#### Foreign Securities

The CML (Royal Decree 80/98) and the ER 1/2009 govern marketing and sale of foreign securities within Oman. Article 139 of the Royal Decree 80/98 imposes certain restrictions on the offering and marketing foreign securities in Oman, as per Article 139 of the decree the companies licensed to market non- Omani securities shall observe the following:

- I. The marketing and sale of foreign securities or non- Omani securities must be undertaken by a locally registered company registered with the CMA.
- II. The license of the agent/ broker should expressly include marketing of foreign securities as one of its permitted activities before any marketing activity is undertaken
- III. Marketing and advice shall be limited to regulated securities
- IV. Marketing shall be limited to experienced and financially solvent investors
- V. Companies are not permitted to use the media to promote securities
- VI. A statement of the number and value of the securities marketed along with the details of the issuer are to be submitted to the CMA every 6 months, within 7 days of the end of a term
- VII. Initial investment of any investor shall not be less than RO 5,000
- VIII. A detailed register of investors is to be maintained along with their documents and statements for the same
- IX. The company shall not use any such means to conceal any material information fraudulently in order to promote securities

A foreign company can offer for subscription its securities to individual investors, private high net worth individuals, banks, financial institutions sophisticated family offices etc. as an alternative to conducting an IPO in Oman. The securities shall be offered to only certain individuals to avoid being considered a retail offer.

This type of investment does not have a limit of potential target investors and must be marketed in a way that no announcements are made and cold calling is avoided.





## Introduction

The platform for capital markets was founded as early as the 1930s. However, they were only regulated after 1984 through the introduction of the Ministerial Committee, Tadawul and the Capital Market Authority (CMA). These established frameworks ensure fairness and efficient operation in the market.

In Saudi Arabia, offers made by companies are treated in two different ways depending on the whether it is a retail offer or an institutional offer. A retail offer is also considered as a public offer and a public offer is one that fails to meet the requirements for a private placement. In certain occasions, the Capital Markets Authority (CMA) may treat an offer as a private placement irrespective of its lack of meeting the requirements. In this scenario, the CMA will request that certain additional conditions be met. The requirements for private placements include:

- I. making an offer through an authorized person who is licensed to carry out the necessary tasks,
- II. the offeror informs the appropriate Authority in accordance with Annex 1 or 2, 10 days prior to the offer with the following documents:
  - i. A declaration from the offeror set out in Annex 3 of the Listing Rules

- ii. A declaration from an authorized person whom the offer is made through, in Annex 4 of the Listing Rules
  - iii. Copies of any offering documents to be used in advertising the offer
- III. If any material change occurs after the submission of the offering documents and before the start of the offer, the offeror must immediately notify the Authority prior to the start of the offer. In certain cases, the Authority may require to re-file the offering documents which may restart the notice period.
- IV. If after receiving the private placement notification, the Authority deems that the offer of securities is not in the best interests of the market, the following actions may take place:
  - i. Carry out enquiries to assess and receive explanation on any matters that are relevant to the private placement offering
  - ii. Require the appropriate individuals to provide additional information in a manner that it helps assess if the information is accurate.
- V. If after receiving a private placement notification, the Authority believes that the private placement is not in the best interests of the investors and the market and may result in a breach of the Capital Market Law,

the Authority may give the offeror an opportunity to be heard, issue a notification to the offeror that the offer is not to be made or publish a notice prohibiting the offer, sale or transfer of securities.

- VI. After the offer is completed, the offeror is required to collect and provide the Authority with a list of all categories of individuals who have acquired the securities and details of the total proceeds of the offer.
- VII. When the offer is not completed by the proposed offer end date as mentioned in the private placement notification, the authorized person must submit a notification in writing to the Authority within 10 days mentioning failure to complete the offer.
- VIII. In the case of offer of debt instruments issuance program, the offeror must provide the Authority with the necessary details of the total proceeds and the issuance terms and condition within ten days after the completion of the offering of each issuance.

The process of issuing an IPO in Saudi Arabia is built on the procedure of book building. The process of book building is the time frame when the appointed financial advisor registers bids from participating entities in a pursuit to determine the appropriate offering price.



However, the final decision of issuing the shares to the public depends on the discretion of the Capital Market Authority (CMA) who may approve or reject the application without a reason.

### Regulatory Oversight

The key regulatory authority for overseeing the operations of the exchange in Saudi Arabia is the Capital Market Authority (CMA). They ensure the compliance of the Capital Market Law through issuing new rules and regulations. They oversee most of the listings in the Saudi market except for the exceptional cases that have a greater impact on the economy in which they organize with the Saudi Arabian Monetary Agency (SAMA). Even so, CMA plays an essential role in maintaining transparency, fairness, accountability and greater efficient operation of the market.

### Legislative and Regulatory framework

The existence and the functioning of the exchange in Saudi Arabia is heavily dependent on the rules and regulations formulated by the Capital Market Authority (CMA). In addition to the CMA's framework, several other regulatory frameworks are in place that oversee the processes and requirements for listing and disclosure. These frameworks are mentioned below:

- I. Capital Market Law (Royal Decree No M/ 30 dated 2/ 6/ 1424H corresponding to 31/ 7/ 2003G)
- II. Listing Rules (CMA board resolution number 3-11-2004 dated 20/ 08/ 1425H corresponding to 4/ 10/ 2004G, as amended)
- III. Market Conduct Regulations (CMA board resolution number 1-11-2004 dated 20/ 08/ 1425H corresponding to 4/ 10/ 2004G)
- IV. Offers of Securities Regulations (CMA board resolution number 2-11-2004 dated 20/ 08/ 1425H corresponding to 4/ 10/ 2004G, as amended by CMA board resolution number 1-28-2008 dated 17/ 8/ 1429H corresponding to 18/ 8/ 2008G)

- V. Merger and Acquisition Regulations (CMA board resolution number 1-50-2007 dated 21/ 9/ 1428H corresponding to 31/ 10/ 2007G)
- VI. Companies Law (Royal Decree dated 22/ 3/ 1385H)
- VII. Corporate Governance Regulations (CMA board resolution number 1-212-2006 dated 21/ 10/ 1427H corresponding to 12/ 11/ 2006G, as amended)
- VIII. Internal Regulations by the Capital Markets Authority (CMA)

### Two Types of Offers

In Saudi Arabia, there are two types of offers involved which is a retail offer and an institutional offer. A retail offer is a public offer which does not meet the requirements for a private placement. This is governed by the Offers of Securities Regulations mentioned in the previous section. The public offer can only be offered to sophisticated investors and a maximum of 60 offerees that are not sophisticated investors. Also, a minimum subscription amount of 1,000,000 KSA Riyals must be met.

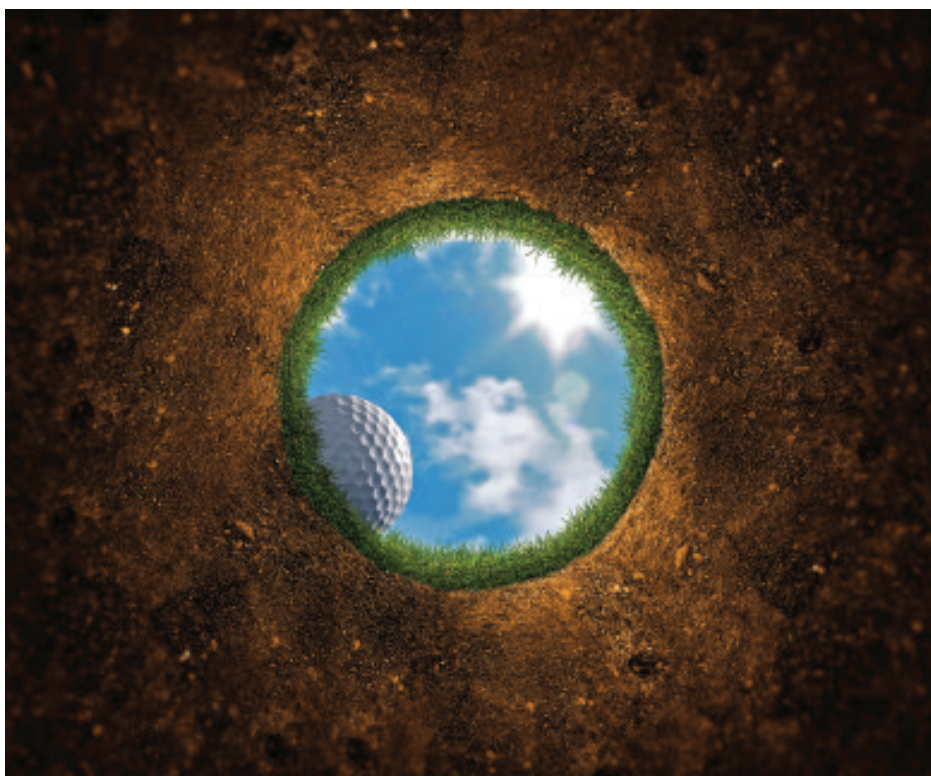
In addition, it is imperative that the offeror of a retail offer ensure absolute compliance with the requirements mentioned in the Listing Rules. These requirements are not applicable for debt instruments issued by the Saudi Arabian Kingdom, shares which have been offered in the Parallel Market, shares which are being transferred to the main market and any other case approved by the Authority. The issuer would also be required to file a prospectus with CMA for approval.

The key difference between the two offers can be narrowed to the nature of the offeree. For instance, retail offers can be offered to retail investors and be publicly distributed. However, institutional offers are focused primarily on sophisticated investors and the marketing endeavors used are to attract the target investors.

### Supporting Documents

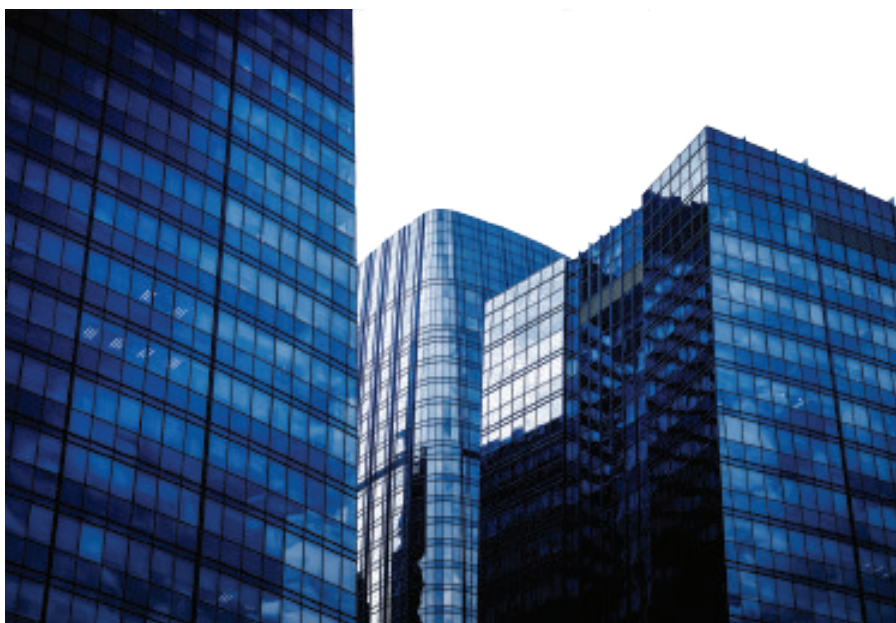
The issuer must ensure to submit a certified copy of the following documents as part of their application:

1. Letter of appointment of financial advisor
2. Letter of appointment of legal advisor





3. Authorization letters of representatives of the issuer empowering them to sign the prospectus
  4. A working party list that contains contact details of individuals involved with the application at the issuer
  5. A list consisting of names and civil registry numbers of directors and their relatives, senior executives and their relatives and shareholders
  6. A formal letter of application for registration and offer which has been signed by the representative of the issuer that contains applicable information as required by Annex 6 of CML Rules
  7. A declaration by the issuer
  8. A declaration and undertaking signed by the director and proposed directors of the issuer in the form set out in Annex 8
  9. Approvals required by the relevant governmental agencies
  10. Evidence of the issuer obtaining the required approvals to offer its securities to the public
  11. A draft prospectus in Arabic
  12. Issuer's certificate of commercial registration and, where applicable those of its subsidiaries
  13. Issuer's articles of association and bylaws and all amendments to date
  14. The board of director's report and audited annual financial statements of the issuer for the three financial years immediately following the submission of the application;
  15. The most recent interim financial statements
  16. A report by an external auditor on the working capital of the issuer for the 12-month period following the date of the publication of the prospectus
  17. The legal due diligence report issued by the legal advisor regarding the application
  18. The financial due diligence report regarding the application
  19. A presentation detailing the structure of the issuer and its subsidiaries, along with a detailed description of the most recent restructuring of the issuer
  20. A market study detailing the latest relevant industry information and market trends
  21. Letters of consent from all the advisors on the use of their names, logos and statements in the prospectus
  22. Copy of the subscription application forms
  23. A letter from the financial advisor and the issuer setting out the disclosure requirements
  24. A letter from the issuer's financial advisor in the form set out in Annex 16 of these Rules
  25. A letter from the issuer's legal advisor in the form set out in Annex 17 of these Rules
  26. In the case of debt instruments or convertible debt instruments, a copy of the debenture agreement or any other document constituting or securing such instruments must be included
  26. The issuer's internal governance regulations including the policies for conflict of interests, standards and procedures for board membership and the charters for the audit committee and the nomination and remuneration committee
  27. A valuation report
  28. All underwriting commitment letters
  29. Details of the team working on the application for registration and offer
  30. An electronic copy of all the above-mentioned documents
  31. Any other documentation that may be required by the Authority.
- Once the approval of the application for registration and offer has been received from the Authority and prior to the listing, the issuer must submit an original copy of the following documents to the Authority:
- i. A prospectus in Arabic signed on every page by the representatives of the issuer who are appointed as authorized signatories
  - II. Updated commercial registration
  - III. Five copies of the published prospectus in Arabic



- I. Five copies of the English translation of the prospectus
- II. The securities allocation model;
- III. The most recently reviewed interim financial statements
- IV. All signed underwriting, sub-underwriting and distribution agreements entered into in connection with the offer
- V. An updated and signed letter that contains the applicable information as required by Annex 6 of these Rules
- VI. An electronic copy of all of the above-mentioned documents

Upon receiving the approval of the application for registration and offer from the Authority, and after completing the offering of each tranche of a debt issuance program but prior to the listing, the following requirements must be fulfilled:

- I. The issuer must submit an original copy of the following documents to the Authority:
  - i. The pricing supplement for each tranche under the program, signed by the authorized representative of the issuer which must be submitted in writing to the Authority as soon as the issuer submits it to the Exchange for consideration under the Listing Rules.

- ii. The issuer's written confirmation to the Authority that the debt instruments in question have been offered.

- II. The issuer must notify the Authority in writing regarding the final allocation of the debt instruments offered as well as the total amount paid compared to the total value offered under the prospectus
- II. The pricing supplement of each tranche under the program must include details in respect of the issue, maturity and redemption dates
- III. The pricing supplement must provide the terms and conditions of an issue, in addition to those set out in the prospectus related to the debt instrument issuance program.

The issuer must be careful to preserve copies of all documents required for a period not less than ten years from the completion of the offer. In the event of a litigation or on-going investigations, the issuer must preserve copies of all documents until the end of that litigation, claim or on-going investigation.

### The Prospectus

The prospectus is one of the key documents in the process of filing for an IPO.

It must contain all information that will enable an investor to make a fair judgement of the issuer such as the company's activities, assets and liabilities, financial position, management and prospects of the issuer and of its profit and losses and must include all information in relation to the number and price of securities, obligations, rights, powers and privileges attached to the issuer.

It must include the following documents:

- I. Annex 9 which sets out the minimum information that must be included in a prospectus for shares.
- II. Annex 10 which sets out the minimum information that must be included in a prospectus for a rights issue.
- III. Annex 11 which sets out the minimum information that must be included in a prospectus for debt instruments where the issuer does not have securities listed on the Exchange.
- IV. Annex 12 which sets out the minimum information which must be included in a prospectus for debt instruments where that issuer has securities currently listed on the Exchange and continues to have them listed throughout the offer and listing process.
- V. A prospectus for the offering of convertible debt instruments must contain the combined minimum information set out in Annex 12 and the relevant information set out in Annex 10
- VI. The draft of the prospectus that is submitted to the Authority must be in the Arabic.

The draft of the prospectus submitted to the Authority must be annotated in the margin to indicate where the information required by the applicable paragraphs of these Rules has been included and any changes from any previous drafts must be clearly marked. Each draft prospectus must indicate the draft number and date of submission on its cover page.



## Eligibility for IPO

There are two key requirements to be able to list a company's security on the Saudi Arabian Exchange which includes absolute compliance with the Listing Rules and the company that chooses to be listed must be a joint stock company that has been incorporated in Saudi Arabia. This limits foreign corporations that are not incorporated in Saudi Arabia from listing their securities on the market.

Other requirements that needs to be met in order for a company to list their securities are as follows:

- I. Must include audited accounts of trading history that spans for three years prior to the listing.
- II. The company must be managed by the same management team for the period provided.
- III. There must be sufficiently liquid and open markets for the securities to be issued.
- IV. They must possess a minimum of 200 public shareholders and have at least 30% of the issued share capital in the hands of the public.
- V. The accumulated market value must equal a threshold of SAR 100 million.

The CMA is known to waive certain requirements for companies if they feel that the requirements can be met in the future and the welfare of the investors are not at risk.

## Restriction of Foreign Ownership and Secondary Listings

The Capital Market Authority (CMA) has restricted participation of foreigners in the public offers. This can be viewed as a limited restriction as foreigners may still participate by either becoming founding shareholders or through an authorized personnel. The authorized individual will hold the title to the shares while, the economic remunerations will be directed to the foreigner. This will be conducted in virtue of the Swap Agreement.

The CMA also enforces a lock-in period for six months on any shareholders who have a direct or an indirect controlling interest in the company which issues the securities. As per the CMA, an individual can be considered as an owner if they own, individually or including relatives and associates, a minimum of 5% voting securities from any class.

The CMA also differentiates between a newly incorporated joint stock company and a joint stock company that is already in existence. The founding shareholders in an existing joint stock company have the liberty to dispose their securities in just after 6 months of trading while, founding shareholders of a newly formed joint stock company will be restricted from disposing their securities until three years, from the day of trading, have passed.

In addition, the CMA prohibits secondary listings in any jurisdiction. In simpler terms, it means that Saudi Arabian companies listed in Saudi Arabia will not be listed in any jurisdiction and no foreign companies will be allowed to join a listing in the Saudi Arabian Exchange.

## Steps Involved in the IPO Process

### Regulatory Approvals

Before the application for the IPO listing is submitted, the Capital Markets Authority (CMA) requires the issuer to appoint lawyers, financial advisers and accountants. As discussed above, it is imperative to fulfill the requirements presented in the Listing Rules and receive an approval from the CMA in order to be permitted to trade on the market. The Listing Rules requires issuers to appoint a financial advisor which needs to be met in order to trade on the exchange.

The role of the financial advisor includes:

- I. Ensure that the issuer has met all the requirements necessary to be accepted for listing their securities on the market.
- II. Must provide the CMA with any clarifications or additional information required to complete the process and assess that the Capital Market Law and the Listing Rules have been complied with.
- III. Assists the CMA to produce a timetable for the listing which includes deadlines by which all necessary documents need to be submitted.





After the appropriate advisors have been appointed, the following process will take place:

- I. Listing application will be submitted along with a prospectus which is aligned to the requirements stated in Annex 4 of the Listing Rules which includes:
  - i. The nominal value of the issuer's listed share capital before and after the capital increase.
  - ii. The number of shares issued before and after the capital increase.
  - iii. The proposed method for the capital increase.
  - iv. The timetable for the completion of the capital increase.
  - v. The procedure to be followed for the completion of the capital increase.
  - vi. The ratio of shares to be issued as a result of the issue to the number of shares issued prior to the capital increase.
  - vii. The value of the reserves to be utilized in the capital increase (if any).
  - viii. The nature of the reserves to be utilized in the capital increase (if any).
  - ix. The nominal value of the debt instruments or convertible debt instruments (if any).
  - x. The details on share fraction treatment (if any).
- i. A copy of the shareholder circular or prospectus (as applicable).
- ii. The date of the audited annual financial statements from which the value of the reserves to be utilized was taken and a certified copy of such statements.
- iii. A statement on the approval from the relevant regulatory authorities as well as a copy of this approval (where applicable).
- iv. An electronic copy of all documents provided pursuant to this Annex.
- II. When CMA receives the draft, they will review and send it back with initial comments.
- III. The issuer has the opportunity to make amendments as required as per the comments and submit the draft for review again.
- IV. The CMA will provide the final comments on the prospectus. This process takes approximately 45 days.
- V. Once approval of the prospectus is received from the CMA, the listing date will be set. It is important to make the prospectus available to the public 14 days prior to the listing. The CMA will specify on their website that the prospectus will be available at the issuer's head office.

It is important to understand that an issuer's application for listing may be rejected by the CMA if they believe that listing the securities is not in the best interest of the public.

### Documentation

As discussed above, one of the key documents in the process of listing is the prospectus. An approval of the prospectus is required to proceed for listing. The prospectus provides an investor with information regarding the company's assets and liabilities, financial position, assessment of activities, management and prospects of the issuer and its financial statements. It is necessary for the prospectus to also include the obligations, rights, powers and privileges which entails the securities offered.

Like the Listing Rules, the Capital Market Law also requires the inclusion of certain information within the prospectus. They are as follows:

- I. An acceptable description of the issuer, the management and the nature of the business
- II. An acceptable description of the securities that are being offered
- III. A transparent financial statement that shows the issuer's financial position
- IV. A formal application letter
- V. A signed declaration by the issuer that reinforces that due care has been taken by the issuer to comply with all conditions at hand.
- VI. A declaration and undertaking signed by all directors and proposed directors of the issuer
- VII. All underwriting, sub-underwriting and distribution agreements
- VIII. A certified copy of the issuer's commercial registration certificate
- IX. A certified copy of the issuer's by-laws and amendments
- X. An audited annual report
- XI. Any available interim financial statements





XII. A certified copy of every material report, letter, valuation, statement of adjustments, contract, expert statement, resolution or other documents mentioned in the prospectus.

XIII. Any other documents required by CMA

### Marketing

The methods of marketing in Saudi Arabia depends on the regulations put forward by the Capital Markets Authority (CMA). For a retail offer, the Listing Rules will be used as reference for marketing. While for institutional offer, the rules in the Offers of Securities Regulations will be applied. In instances where both retail offer and institutional offer are in question, an approval from the CMA will be required before the marketing of securities can begin. Upon approval from the CMA, the CMA will appoint an authorized person to handle the marketing of the issuer's securities.

### Clearing and Settlement

In Saudi Arabia, the process of deposit, transfer, settlement, clearing and registration of ownership of securities is carried out by the Securities Depository Centre. They are the sole body in charge of carrying out the abovementioned processes. This is operated by Tadawul. The overall time for this process is approximately 24 hours. Certain brokers pay the clients immediately after accounting for their fees.

The Securities Depository Centre helps in registering certificates of ownership to avoid claims from third parties and protect the investors. The certified securities will help prove ownership. However, securities that are certified cannot be traded on the exchange unless they are changed to uncertified securities and registered with the Securities Depository Centre.

### Ongoing Compliance

The process of ongoing compliance is governed by the Corporate Governance Regulations which serve as a non-binding guide for the purpose of corporate governance for companies that are listed. Certain provisions within this guide are not compulsory while, most of the provisions need to be adhered to like the establishment of an audit team and to appoint a non-executive independent director to the board. In the event of non-compliance to the provisions, the company that is listed must submit a justification report to the CMA containing valid reasons that justify the non-compliance. CMA will also have the discretion to impose fines if mandatory provisions are not adhered.

Regulatory frameworks like the Listing Rules and the Capital Markets Authority (CMA) have founded provisions for issuers that state the compliance obligations expected from the issuer. These are as follows:

- I. Must include disclosure of any type of information that would have an effect on the investments of shareholders or potential shareholders

- II. Must notify CMA and the public in the event of any major developments take place. Please understand that these are information that are not public knowledge. All information consisting major developments must be relayed two hours prior the first trading period. Major developments may include:

- i. Purchase of major long-term assets
- ii. Incurring of substantial debts or losses
- iii. Changes in the composition of the board or senior management
- iv. Significant legal proceedings between issuer and connected persons

- III. Must inform CMA and the public of any material developments that may affect the price of the issuer's securities
- IV. Any changes made in relation to statements in the prospectus must be notified to the CMA and the public. Issuer must also arrange a press release to disclose the information regarding the change.



- V. An issuer must provide the CMA with necessary financial information on an ongoing basis. This may include information like interim and annual accounts that needs to be filed with the CMA and published on the company's website.
- VI. Must notify any changes related to the capital of the issuer which may consist of declaration of dividends, plausible changes to the capital structure, decisions to call, repurchase or redeem any securities and any changes in rights with relation to the listed securities.
- VII. Changes in the issuer's by-laws
- VIII. A petition for winding-up of the listed company, commencement of bankruptcy procedure or an appointment of a liquidator.

#### **Restrictions on Individual Shareholders**

As per the prospectus, any individual or shareholder who possesses a controlling interest in the issuer must not get rid of their securities till after six months have passed from the day trading begins. However, if the individuals or shareholders belong to a newly incorporated company, they are restricted from disposing their assets till three years have passed from the commencement of trading. A controlling interest is assumed as an individual who, directly or indirectly, owns 5% or more of a class of voting rights in the listed company.

Any individual who increases their shareholding through 5% of the issued shares must inform the issuer and the CMA of the change.

#### **Suspension of listing**

In the event of a violation of the Capital Market Law, the Capital Market Authority (CMA) has the right to bring a legal action before the Committee for the Resolution of Securities Dispute to seek an order for adequate sanction for the violation committed. The CMA also has the right to suspend trading in the Exchange for one day. If there is belief that the trading of the listed security needs to be suspended for more than a day, the CMA will coordinate with the Minister of Finance who will authorize the extension.

In addition to the violation, CMA may suspend a listing at any given time based on the following circumstances:

- I. CMA considers that the suspension is in the best interests of the market
- II. The issuer fails to comply with the Listing Rules.
- III. The amount of securities traded by the issuer does not meet the minimum requirement of the Listing Rules.
- IV. CMA believes that the issuer does not have sufficient assets to carry on trading.

#### **Takeovers**

The Merger and Acquisition Regulations applies to listed companies that want to purchase, make an offer, certain percentage of securities, a takeover offer or a reverse takeover offer for a listed company.

When a person acquires 30% or more of a voting rights, then the Merger and Acquisition Regulations gives the power to the shareholder to extend an offer to any class of equity shareholders or voting non-equity shareholders of the offeree company.

Moreover, an individual along with his parties can increase ownership through 50% or more voting rights. In this scenario, the Capital Markets Board can, if they deem is in the benefit of the investors and the market, have within 60 days the right to order the necessary individual to purchase the remaining securities within that class.

In addition, it is important to understand that the offer document issued in relation to the takeover must be approved by the CMA. Upon the approval, the CMA will provide a timetable for any takeover.

#### **Foreign Securities in Saudi Arabia**

Foreign securities will not be publicly offered in Saudi Arabia. If an overseas company would like to offer securities, they can offer their securities to certain investors on a private placement basis as per the notification of the market activity in Saudi Arabia.

#### **I. Securities in Saudi Arabia**

The market for securities is mainly governed by the Capital Market Law (CML) which was introduced and established following the Royal Decree Number (M/30) dated 2/6/1424H – 31/7/2003 to ensure an efficient and transparent operation of the securities market. The regulations of the Capital Markets Authority (CMA) ensure that the operations of all issuers are in the best interests of the investors and the safety of the market.



Prior to the introduction of the Capital Market Law, the securities market was operated solely by the commercial banks in Saudi Arabia and was supervised by the Central Bank and the banking regulator, the Saudi Arabian Monetary Agency (SAMA) and several smaller regulatory frameworks. However, the advent of the Capital Market Law marked the beginning of a more concrete and efficient regulatory body to oversee the operations of the securities market.

The securities in Saudi Arabia are traded on the Saudi Stock Market which is also known as Tadawul. Tadawul has been established as the sole authorized body to conduct trading in the Kingdom of Saudi Arabia. Tadawul was founded by the Council of Ministers on 19th March, 2007 in accordance with Article 20 of the Capital Market Law by establishing Tadawul as a joint stock company. This marked the beginning of the Saudi Stock Exchange. They are in charge of listing and trading securities, depositing, settling, clearing, transferring and registering the ownership. The capacity of power of Tadawul is explicitly stated in the Capital Market Law (Royal Decree Number (M/30)) which governs its every activity.

### Legal framework

The legal framework that governs the securities market in Saudi Arabia with relation to its offer, listing, trading and disclosure requirements for the above-mentioned exchange is as follows:

1. Capital Market Law (Royal Decree No M/ 30 dated 2/ 6/ 1424H corresponding to 31/ 7/ 2003G)
2. Listing Rules (CMA board resolution number 3-11-2004 dated 20/ 08/ 1425H corresponding to 4/ 10/ 2004G, as amended)
3. Market Conduct Regulations (CMA board resolution number 1-11-2004 dated 20/ 08/ 1425H corresponding to 4/ 10/ 2004G)
4. Offers of Securities Regulations (CMA board resolution number 3-123-2017 dated 9/ 4/ 1439H corresponding to 27 December 2017)
5. Merger and Acquisition Regulations (CMA board resolution number 1-50-2007 dated 21/ 9/ 1428H corresponding to 31/ 10/ 2007G)
6. Companies Law (Royal Decree dated 22/ 3/ 1385H)
7. Corporate Governance Regulations (CMA board resolution number 1-212-2006 dated 21/ 10/ 1427H corresponding to 12/ 11/ 2006G, as amended)
8. Internal Regulations by the Capital Markets Authority (CMA)
9. Parallel Market Listing Rules (CMA Board Resolution number 3-151-2016 dated 22/3/1438H corresponding to 21/12/2016)
10. Authorized Persons Regulations (CMA Board Resolution number 1-83-2005 dated 21/05/1426H corresponding to 28/06/2005 as amended)
11. Corporate Governance Regulations (CMA Board Resolution number 8-16-2017 dated 16/5/1438H corresponding to 13/02/2017 as amended)
12. Securities Business Regulations
13. Rules for Qualified Foreign Financial Institutions Investment in Listed Securities
15. Rules for Special Purposes Entities
16. Investment Funds Regulations
17. Real Estate Investment Traded Funds Instructions
18. Merger and Acquisition Regulations;
19. Resolution of Securities Disputes Proceedings Regulations;
20. Prudential Rules;
21. Corporate Governance Regulations;
22. Market Conduct Regulations;





23. Procedures and Instructions related to Listed Companies with Accumulated Losses reaching 20% or more of their share capital;
24. Regulatory Rules and Procedures issued pursuant to the Companies Law relating to Listed Joint Stock Companies;
25. Investment Accounts Instructions;
26. Guidance Note for the investment of Non-Resident Foreigners in the Parallel Market;
27. Instructions of Book Building Process and Allocation Method in IPOs;
28. Instructions for the Foreign Strategic investors Ownership in Listed Companies;
29. Closed-ended Traded Investment Funds Instructions;
30. Real Estate Investment Fund Regulation;
31. Credit Rating Agencies Regulations; and
32. Guidance Note to the Regulatory Rules and Procedures (issued under the Companies Law relating to Listed Joint Stock Companies).

### Regulatory Oversight

The entire regulatory oversight for the securities exchange is conducted by the Capital Market Authority (CMA) along with several other regulatory frameworks.

The CMA has already established several provisions in place to ensure adequate compliance and create an obligation to adhere to the rules in relation to offer, listing, trading, depositing, clearing, transferring and settling. The CMA has persevered to maintain a stringent operation in order to ensure the safety and welfare of the investors and the market. In order to do so, the CMA enforces strict penalties for non-compliance to the set rules and regulations.

### Equity Offerings and Requirements for Making an Application

Equity offering is the process of inviting investors to purchase ownership through acquiring shares of the listed company. In the Kingdom of Saudi Arabia, when a company comes forward to offer their securities or equity, it means that the following requirements have been met:

- I. The company offering the equity must be joint stock company.
- II. The company must be in operation in Saudi Arabia for three financial years and must be able to prove through audited financial statements. These financial statements must be organized in accordance with the accounting standards by Saudi Organization of Certified Public Accountants (SOCPA) and be compatible with its set requirements.

- III. The company must arrange a prospectus
- IV. The senior managements of the listing company must have adequate experience and knowledge of the company's operations.
- V. There should not have been a material restructuring of the listing company which may affect the price of the proposed company's shares.
- VI. The listing company must possess sufficient working capital to carry on its operations for the next 12 months post the publication of the issuer's prospectus.
- VII. The company must submit any interim financial statements that are produced during the application period.

The above requirements apply for all companies that want to offer their securities in the main market under Tadawul. Tadawul also has a Parallel market called Nomu which offers a lighter application requirement but, is restricted to only Qualified Investors. According to Nomu, Qualified Investors consist of the following persons:

- I. Authorized individuals who can act on their own account.
- II. Clients of an authorized individual who are responsible for managing activities
- III. Any governmental body recognized by the CMA or the Exchange.
- IV. Companies directly or indirectly owned by the government.
- V. Companies and funds established within a member state of the Corporation Council.
- VI. Investment funds
- VII. Non-resident foreigners who meet the requirement
- VIII. Qualified foreign financial institutions
- IX. Any legal person who is allowed to open an investment account in Saudi Arabia.
- X. Natural persons who are allowed to open an investment account in Saudi Arabia.



The requirements for offering securities within the Nomu market are as follows:

- I. The company must be joint stock company
- II. The minimum market capital must be SR 10 million.
- III. The issuing company must float either 30% or SR 30 million, whichever is less.
- IV. Must present a minimum 1 year operational and financial performance.
- V. The company must appoint a financial advisor. The need for appointing a legal advisor is left to the company's discretion.
- VI. The issuing company must present an annual audited financial statement.
- VII. The company must disclose any material information.
- VIII. There is no requirement to prove profitability.
- IX. There is a requirement of at least 50 public shareholders at the time of listing.

#### Required Documentation

The application for registering and offering securities must be submitted to both the Capital Market Authority (CMA) and Tadawul along with all the supporting documents which are mentioned in the previous section. Some of the documents that needs to be submitted include the audited financial statements for the last three financial year, legal and financial due diligence report, letters from the legal advisor and the accountant, undertaking by the directors and proposed directors, a draft prospectus and other documents as required by the CMA and Tadawul.

#### The Prospectus

This is one of the main documents that is required to be submitted along with the formal application. The prospectus must contain all information that will help an investor make a fair judgement of the issuer such as the company's activities, assets and liabilities, financial position,

management and prospects of the issuer and of its profit and losses and must include all information in relation to the number and price of securities, obligations, rights, powers and privileges attached to the issuer. The content of the prospectus for shares must include the following:

1. Cover page that includes information such as the issuer's name, incorporation date and commercial registration number; capital and number of shares; a summary of the offer including share class and rights; substantial shareholders; target investors; offer period and conditions; shares that have been listed prior to the particular offer by the issuer; a statement that the issuer has submitted the application for registration and offer of securities; a statement referring to the "Important Notice" and the "Risk Factors", respectively before making an investment decision; and the ensuing declaration:

"This prospectus includes information provided as part of the application for registration and offer of securities in compliance with the Rules on the Offer of Securities and Continuing Obligations of the Capital Market Authority of the Kingdom of Saudi Arabia (the "Authority") and the application for listing of securities in compliance with the Listing Rules of the Saudi Stock Exchange. The directors, whose names appear on page [ ], collectively and individually accept full responsibility for the accuracy of the information contained in this prospectus and confirm, having made all reasonable enquiries, that to the best of their knowledge and belief, there are no other facts the omission of which would make any statement herein misleading. The Authority and the Exchange do not take any responsibility for the contents of this prospectus, do not make any representation as to its accuracy or completeness, and expressly disclaim any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this prospectus."



2. Important notice which highlights the purpose and the nature of information provided in the prospectus.
  3. Corporate Directory with information of all representatives including financial advisor, legal advisor, external auditor, the underwriter and receiving entities.
  4. Offer summary containing all information about the issuer and securities being offered.
  5. Key dates and subscription procedure.
  6. Summary of basic information regarding the description of the issuer; their mission and strategy; key strengths and competitive advantages; and an overview of the market.
  7. Summary of financial information
  8. Table of contents
  9. Terms and definitions
  10. Risk factors relating to the issuer, the market and the security being offered.
  11. Market and industry information
  12. Issuer's background and nature of business
  13. Ownership and Organizational Structure
  14. Financial information and management discussion and analysis
  15. Dividend policy
  16. Use of proceeds and future projects
  17. Statements by experts
  18. Declarations
  19. Legal Information
  20. Underwriter
  22. Expenses
  23. Waivers
  24. Information concerning the shares and terms and conditions of the offer
  25. Subscription Declarations
  26. Documents available for inspection and an external auditor's report
- It must include the following documents:
27. Annex 9 which sets out the minimum information that must be included in a prospectus for shares.
  28. Annex 10 which sets out the minimum information that must be included in a prospectus for a rights issue.
  29. Annex 11 which sets out the minimum information that must be included in a prospectus for debt instruments where the issuer does not have securities listed on the Exchange.
  30. Annex 12 which sets out the minimum information which must be included in a prospectus for debt instruments where that issuer has securities currently listed on the Exchange and continues to have them listed throughout the offer and listing process.

31. A prospectus for the offering of convertible debt instruments must contain the combined minimum information set out in Annex 12 and the relevant information set out in Annex 10

32. The draft of the prospectus that is submitted to the Authority must be in the Arabic. The draft of the prospectus submitted to the Authority must be annotated in the margin to indicate where the information required by the applicable paragraphs of these Rules has been included and any changes from any previous drafts must be clearly marked. Each draft prospectus must indicate the draft number and date of submission on its cover page.

### **Stabilization of the Market**

The stability of the securities market is essential to safeguard the rights of the investors and the efficient operation of the market. It also helps maintain the faith of the investors in the regulatory framework and its ability to protect them. In Saudi Arabia, the governing framework is the Capital Market Authority that coordinates with other regulatory bodies to list, supervise trading and to suspend or delist securities that would likely affect the stability of the financial market. It should be noted that any activity which the Authority deems to be acting in contrary to the welfare or interests of the investors, it will reject or delist.

### **Continuing Obligations**

The responsibility to maintain compliance to the rules and regulations provided by the Capital Market Authority and other regulatory framework continues even after the commencement of trading. The regulatory bodies monitor the issuers to ensure that obligations are being met and non-compliance does not occur with relation to any provisions or disclosure requirements. In the event of non-compliance, the CMA will impose penalties, issue suspensions and in severe cases, they listing will be removed entirely from the exchange.





In its effort to maintain stability, ensuring compliance will better enable the Authority to remove issuers who cause market abuse. This creates a more transparent, efficient, fairer and accountable market. For this purpose, CMA requires the listed companies to disclose adequate information and adhere to the Listing Rules. If the listing company fails to do so, it needs to provide the CMA with a written justification for non-compliance. The need to continue obligations is the responsibility of all individuals who are listed on the exchange.

### Penalties

The Capital Market Authority requires the continued compliance from companies that are listed on the exchange and requires disclosure of information as is required by the Authority. If companies fail to comply with the requirements or break any provisions set by the Authority, the CMA will impose penalties as they deem is adequate for the situation. A penalty will also be imposed if the listed company acts in contrary to the statement in their prospectus. Some types of penalties imposed by the Authority include:

- I. A warning
- II. Order the issuer to rectify the error, reimburse affected parties or transfer the ill-gotten gains to the CMA.
- III. Suspension
- IV. Ban the advisor or individual who committed the wrongdoing
- V. Enforce a fine that may range from SR 10,000 to SR 100,000
- VI. Sentence jail time up to 5 years.

### De-listing

If the CMA believes that the operations of a listed security can prove to be harmful to the welfare of the investors and the stability of the market, they will de-list an issuer from the Exchange. CMA has the power to only suspend the activities of the issuer for a limited time but, if they have justifiable reason to prove that an issuer is harmful, the CMA will coordinate with the Minister of Finance and remove the issuer from the Exchange.

### Suspension

This is usually enforced by the Capital Market Authority (CMA) who finds that a listed company has not complied with the requirements set forth in its provisions or Listing Rules. It may enforce the suspension if it believes that the issuer's operations can cause harm to the investors and the stability of the market. Some reasons for suspension include:

- I. In accordance with Article 38 of the Listing Rules, the issuer can request for a halt of trading if anything material has occurred during trading hours that would need to be reported.
- II. Non-compliance by failing to disclose its interim or annual financial statements
- III. An adverse opinion by an auditor on the financial statement
- IV. A resolution issued by the general assembly of the issuer reducing issuer's capital
- V. Fails to pay fees in a prompt manner
- VI. The Authority believes that the issuer does not have sufficient level of operations or assets to continue trading

- VII. The Authority believes that the issuer is no longer suitable to warrant the continued listing of its securities

All the above conditions are applied by both the Capital Market Authority and Tadawul.

### Offering of Foreign Securities

For a long time, foreign individuals and entities were not allowed to list or trade directly in the Saudi Stock Market but, the Capital Market Authority has recently published a draft that entails details regarding a Second Market Listing Rules and allowing foreign persons to be considered as a Qualified Investor. Additionally, Tadawul announced that Tadawul will be allowing foreign companies to list their securities upon approval from the CMA including provisions for foreign listing has been included.

Foreign companies will be scrutinized and held accountable under the same provisions used by locally listed firms and the foreign companies shares will be traded in Saudi Riyals. All compliance requirements set by the CMA for locally listed companies like disclosure and governance requirements will be applied to foreign companies as well. In addition, Tadawul has begun formulating new provisions and requirements in conjunction with the CMA requirements and have also signed agreements with Abu Dhabi Securities Exchange and the Bahrain Clear to welcome this new era of modernization.



**Dubai Office**

Advocates and Legal Consultants,  
Office 1904, Level 19, Boulevard Plaza,  
Opposite Burj Khalifa,  
Dubai, United Arab Emirates.  
Tel: +971 4 368 9727  
Fax: +971 4 369 5126

**ADGM Office**

3517, Al Maqam Tower,  
Abu Dhabi Global Markets Square,  
Abu Dhabi, United Arab Emirates.  
Tel: +971 2 644 4330  
Fax: +971 2 644 4919

**Fujairah Office**

Creative Tower,  
Creative City - Media Free Zone,  
Fujairah.  
Tel: +971 7 204 2180  
Fax: +971 7 204 2181

**Abu Dhabi Office**

Advocates and Legal Consultants,  
23 A, Level 23, Tamouh Towers,  
Marina Square, Reem Island,  
Abu Dhabi, United Arab Emirates.  
Tel: +971 2 644 4330  
Fax: +971 2 644 4919

**Sharjah Office**

48-1F, Next to Abu Dhabi Islamic Bank,  
Near Hamriyah Free Zone Headquarters,  
Hamriyah,  
Sharjah, United Arab Emirates.  
Tel: +971 6 513 4270  
Fax: +971 6 526 4027

**Qatar**

Level 22, Tornado Tower,  
West Bay, Doha,  
Qatar.  
PO Box - 27774  
Tel: +974 4 429 4827

**Bahrain**

Advocates and Legal Consultants,  
Level 22, West Tower,  
Bahrain Financial Harbour,  
King Faisal Highway,  
Manama.  
Tel: +973 1750 3045

**World Wide Offices**

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