

KINGDOM OF SAUDI ARABIA

Capital Market Authority

**Rules for Qualified Foreign Financial Institutions Investment in Listed
Securities**

**English Translation of the Official Arabic Text
Issued by the Board of the Capital Market Authority
Pursuant to its Resolution Number 1-42-2015
Dated 15/7/1436H Corresponding to 4/5/2015G
Based on the Capital Market Law
issued by Royal Decree No. M/30 dated 2/6/1424H**

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of the Capital Market Authority Number 1-3-2018
Dated 22/4/1439H Corresponding to 9/1/2018G**

Arabic is the official language of the Capital Market Authority

**Important Notice: The current version of these Rules, as may be amended, can be found at the
Authority website: www.cma.org.sa**

TABLE OF CONTENTS

Part 1 : GENERAL PROVISIONS

- Article 1: Preliminary
- Article 2: Definitions
- Article 3: Waivers
- Article 4: Right to appeal

Part 2 : APPLICATIONS FOR QULIFICATION

- Chapter One: Qualification conditions
 - Article 5: Qualification
 - Article 6: The qualification conditions

- Chapter Two: Qualification procedures
 - Article 7: Application for Qualification
 - Article 8: Accuracy of information and documents submitted to the assessing authorized person
- Chapter Three: Determination of applications
 - Article 9: Determination by the assessing authorised person
 - Article 10 : QFI assessment agreements
 - Article 11 : Record Keeping
- Chapter Four: Further requirements following qualification
 - Article 12 : Commencement of trading
 - Annex 2.1 Information and documents for Qualification check

Part 3 : CONTINIOUNG OBLIGATIONS

- Article 13: Compliance with laws and regulations
- Article 14: Investment limits
- Article 15: Authorised persons and foreign portfolio managers engaged with the QFI, and authorisation requirements
- Article 16: Disclosure requirements
- Annex 3.1 Information and documents to be disclosed by QFIs to assessing authorized persons

Part 4 : AUTHORISED PERSONS OBLIGATIONS

- Article 17: Obligations of authorised persons and their eligibility
- Article 18: Monitoring of QFIs
- Article 19: Powers of the Authority in relation to authorised persons engaged with QFIs

Part 5 : POWERS OF THE AUTHORITY IN RELATION TO QFIs

- Article 20: Powers of the Authority in relation to QFIs

Part 6 : CLOSING PROVISIONS

- Article 21 : Publication and entry into force

PART 1: GENERAL PROVISIONS

Article 1: Preliminary

- a. The purpose of these Rules is to set out the procedures, requirements and conditions for qualifying foreign investors to invest in listed securities, and to specify their obligations and the obligations of authorised persons in this regard.
- b. These Rules shall be read in conjunction with and in addition to the Capital Market Law and its Implementing Regulations, including, the Rules of Offering Securities and Continuing Obligations, the Market Conduct Regulations, the Authorised Persons Regulations, the Merger and Acquisition Regulations and the Anti-Money Laundering and Counter-Terrorist Financing Rules.
- c. Without prejudice to paragraph (e) of Article (15) of these Rules, these Rules shall not apply to Citizens of the Cooperation Council for the Arab States of the Gulf.
- d. Qualified foreign investors (“QFIs”) are entitled to exercise all rights related to listed securities owned by them, including trading in rights issues.

Article 2: Definitions

- a. Any reference to the “Capital Market Law” in these Rules shall mean the Capital Market Law issued by Royal Decree No. M/30 dated 2/6/1424H.
- b. Subject to paragraph (c) of this Article, expressions and terms in these Rules have the meaning which they bear in the Capital Market Law and the Glossary of defined terms used in the Regulations and Rules of the Capital Market Authority, unless the contrary intention appears.
- c. For the purpose of implementing these Rules, the following expressions and terms shall have the meaning they bear as follows unless the contrary intention appears:
 - **QFI assessment agreement**: an agreement between the assessing authorised person and the QFI meeting the requirements set out in Article (10) of these Rules.
 - **Bank**: a financial institution that has a legal personality which engages in banking business.
 - **Assessing authorised person**: an authorised person who has agreed with an applicant to assess its application for registration as a QFI, or an authorised person who has executed a QFI assessment agreement with a QFI.
 - **Insurance company**: a financial institution that has a legal personality which engages in insurance business.
 - **Brokerage and securities firm**: a financial institution that has a legal personality which engages in securities business, including portfolio managers.
 - **Investment fund**: means any of the following legal persons:
 - 1) a pension fund in which its main objective is to collect fees or periodic contributions from participants or for their interest, for the purpose of compensating them according to a specific mechanism.
 - 2) Endowment fund with a principal purpose of making grants to organizations, institutions, or individuals for scientific, educational, cultural purposes, including

- university endowments fund.
- 3) a collective investment scheme aimed at providing investors therein with an opportunity to participate collectively in the profits of the scheme.
- **Authorisation requirement:** authorisation requirement stated in Article (5) of the Securities Business Regulations.
 - **Foreign portfolio manager:** a foreign financial institution that has a legal personality which manages the assets of clients, that meets the requirements stated in sub paragraph (a/2) of Article (6) of these Rules, which engages or intend to engage with the QFI or the applicant for the purpose of investing on its behalf in listed securities.
 - **Qualified foreign investor:** a qualified foreign investor in accordance with these Rules to invest in listed securities.
 - **Applicant:** a foreign investor that submits an application for qualification to an assessing authorised person.
 - **Citizens of the Cooperation Council for the Arab States of the Gulf:** natural persons who hold the citizenship of one of the Cooperation Council for the Arab States of the Gulf countries, or legal persons that (i) capital of which is majority owned by citizens or governments of the Cooperation Council for the Arab States of the Gulf; and (ii) holding the citizenship of one of the Cooperation Council for the Arab States of the Gulf countries, in accordance with the definition set out in the resolution of the Supreme Council of the Cooperation Council for the Arab States of the Gulf in its 15th session approved by the Council of Ministers Resolution number (16) dated 20/01/1418H.
 - **Government related entities:** central banks, and investment funds -including sovereign funds and funds which take the form of pension and endowments funds- fully owned (directly or indirectly) by a government entity.

Article 3: Waivers

The Authority may waive a provision of these Rules in whole or in part as it applies to an applicant, a QFI or an authorised person either on an application from any of the aforementioned persons or on the Authority's own initiative.

Article 4: Right to appeal

Any person subject to these Rules may appeal to the Committee in respect of any decision or action that the Authority takes under these Rules.

PART 2: APPLICATIONS FOR QUALIFICATION

Chapter One: Qualification conditions

Article 5: Qualification

An applicant may not be qualified as a QFI unless it meets each of the conditions prescribed by Article (6) of these Rules.

Article 6: The qualification conditions

a. Type of the financial institution

- 1) The applicant must be a financial institution that has a legal personality which falls within one of the following types:
 - a) Banks;
 - b) Brokerage and securities firms;
 - c) Insurance companies.
 - d) Government and government related entities.
 - e) Investment funds.
 - f) Any other financial institution considered eligible by the Authority.
- 2) The financial institutions referred to in sub-paragraphs a (1), b (1), c (1) of paragraph (a) of this Article must be licensed or otherwise subject to regulatory oversight by a regulatory authority and incorporated in a jurisdiction that applies regulatory and monitoring standards equivalent to those of the Authority or acceptable to it.
- 3) The financial institutions referred to in sub-paragraphs d (1) and e (1) of paragraph (a) of this Article must be incorporated in a jurisdiction that applies regulatory and monitoring standards equivalent to those of the Authority or acceptable to it.
- 4) For the purposes of this Article, the Authority may, at its absolute discretion, determine whether the regulatory and monitoring standards are equivalent to those of the Authority or acceptable to it, and the Authority shall provide authorised persons duly authorised to conduct custody or dealing activities with a list of jurisdictions that applies regulatory and monitoring standards equivalent to those of the Authority or acceptable to it, and any update occurs to that list.
- 5) The affiliates of a QFI or a foreign portfolio manager who meets the requirements stated in paragraph (b) of this Article, and the managed funds by them, shall be considered as a qualified foreign investor without applying for a separate application conditioned by meeting paragraph (a) of this article.

b. Size of the financial institution

- 1) With the exception of sub paragraph d (1) of paragraph (a) of this Article, the applicant must have assets under management or custody of SAR 1,875,000,000 one billion eight hundred and seventy five million Saudi Riyals (or an equivalent amount) or more. And the Authority may reduce these assets.
- 2) For the purposes of these Rules, assets under management include:

- a) Assets owned by the applicant or its group for the purpose of investment; and in relation to the financial institution referred to in sub paragraph e (1) of paragraph (a) of this Article, including assets owned by the foreign portfolio manager or its group, for the purpose of investment.
- b) Assets managed by the applicant or its group for the account of another person or persons, and in relation to the financial institution referred to in sub paragraph e (1) of paragraph (a) of this Article, including assets owned by the foreign portfolio manager or its group, for the account of another person or persons.

Chapter Two: Qualification procedures

Article 7: Application for Qualification

- a. An application for qualification must be made to an assessing authorised person accompanied by the information and documents needed to prove the fulfillment of qualification conditions, as the assessing authorised person can use the guidance list provided in Annex 2.1 paragraph (1) of these Rules or other documents proving the fulfillment of qualification conditions.
- b. The assessing authorised person must assess the application in accordance with the criteria and procedures set out in Chapter Three of this Part.

Article 8: Accuracy of information and documents submitted to the assessing authorised person

All information and documents submitted by the applicant to the assessing authorised person must be complete, clear, accurate and not misleading.

Chapter Three: Determination of applications

Article 9: Determination by the assessing authorised person

- a. The assessing authorised person must not accept the application until after conducting the following:
 - 1) Ensuring that the application complies with the requirements prescribed by these Rules; and
 - 2) Ensuring that the applicant meets the applicable qualification conditions prescribed by these Rules.
- b. The assessing authorised person must provide the foreign investor with a written notice of its determination upon his request. Where the assessing authorised person has rejected the application, the notice shall include a statement of the reasons for its determination. And if the assessing authorised person has accepted the application, it shall submit to the foreign investor a written declaration with a minimum of the following:
 - 1. Confirming that the applicant meets the qualification conditions stated in these Rules.
 - 2. Confirming that the assessing authorised person has conducted all of the customer due diligence checks required by the Capital Market Law and its Implementing Regulations, including preparing (“KYC”) form, as required by the Anti-Money Laundering and Counter-Terrorist Financing Rules issued by the Board of the Capital Market Authority.
 - 3. The assessing authorised person declaring that the draft form of Qualified Foreign Investor Assessment Agreement meets the minimum requirements specified by Article (10) of these Rules.

- c. The assessing authorised person must accept the QFI as a client in accordance with the Authorised Persons Regulations

Article 10: QFI assessment agreement

- a. An assessing authorised person must agree with the applicant on a draft form of QFI assessment agreement meeting the minimum requirements specified in this Article.
- b. A QFI assessment agreement must include the following minimum requirements:
 - 1) A representation by the applicant that it meets the qualification conditions stated in these Rules.
 - 2) Disclosure of any suspension or revocation by a regulatory authority of any licence or permission in any jurisdiction or the imposition by a regulatory authority of any restriction or condition upon any such licence or permission, If no suspension or revocation by a regulatory authority of any licence or permission currently imposed on the applicant, a declaration by the applicant to this effect.
 - 3) An undertaking by the applicant to provide the assessing authorised person with all information and documents required under these Rules;
 - 4) An undertaking by the applicant to notify the assessing authorised person within a reasonable period of time not exceeding 30 days of any event or circumstance requiring such notification under these Rules;
 - 5) A confirmation by the applicant of its consent that the assessing authorised person may disclose to the Authority or the Exchange information or documents which the assessing authorised person receives under these Rules or the Capital Market Law and its Implementing Regulations, and that such information may also be disclosed to other government agencies of the Kingdom in accordance with the relevant laws; and
 - 6) An undertaking by the applicant to abide by the Capital Market Law and its Implementing Regulations and the rules of the Exchange and other relevant laws.
- c. All requirements specified in paragraph (b) of this Article must be in such form as the Authority may require.

Article 11: Record Keeping

The assessing authorised person must retain, and make available to the Authority on request, the information and documentation proving the fulfillment of qualification conditions under these Rules, in accordance with Article (16) of the Authorised Persons Regulations.

Chapter Four: Further requirements following qualification

Article 12: Commencement of trading

A QFI may not invest in any listed securities unless it:

- 1) Holds a client account;
- 2) Holds an account with the Depository Center; and
- 3) Has satisfied any other conditions as may be imposed by the Authority.

Annex 2.1 Information and documents for Qualification check

1. Guidance list for information and documents for applicant's qualification check:

The assessing authorised person can use the guidance list provided below or other information and documents proofing the fulfillment of qualification conditions:

- a. Details of the applicant's legal form and jurisdiction of establishment or foreign portfolio managers (if applicable).
- b. A list of the QFI's affiliates or foreign portfolio managers that meets the requirements stated in paragraph (b) of Article (6) and their managed funds intends to qualify.
- c. In relation to the financial institution referred to in sub paragraphs a (1), b (1), c (1) of paragraph (a) of Article (6), Evidence of the applicant's regulatory status.
- d. A copy of the most recent annual report and consolidated accounts of the applicant or its group or the foreign portfolio managers (if applicable).
- e. Disclosure of any suspension or revocation by a regulatory authority of any licence or permission in any jurisdiction or the imposition by a regulatory authority of any restriction or condition upon any such licence or permission, If no suspension or revocation by a regulatory authority of any licence or permission currently imposed on the applicant, a declaration by the applicant to this effect.
- f. Financial statements prepared and accredited by the applicant's or its group auditors in accordance with accounting standards prescribed by the relevant authorities in the applicant's jurisdiction of establishment.
- g. Such other documents or other evidence as may be sufficient to satisfy each of the qualification conditions under these Rules.

2. Information and documents to be provided by applicants under this Rules:

- a. A QFI assessment agreement must include the requirements of Article (10) of these Rules.
- b. Where an applicant intends to engage with foreign portfolio managers to invest in listed securities, it must provide a list with all foreign portfolio managers intends to engage with.

PART 3: CONTINUING OBLIGATIONS

Article 13: Compliance with laws and regulations

A QFI must at all times comply with the applicable provisions stated in the Capital Market Law and its Implementing Regulations, as well as the rules and the regulations of the Exchange and other relevant laws.

Article 14: Investment limits

- a. Investments of QFIs shall be subject to the following limitations:
 - 1) Each QFI, may not own 10% or more of the shares of any issuer whose shares are listed or convertible debt instrument of the issuer.
 - 2) The maximum proportion of the shares of any issuer whose shares are listed or convertible debt instrument of the issuer that may be owned by all foreign investors (in all categories, whether residents or non-residents) in aggregate is 49%.
 - 3) Other legislative limitations on foreign ownership in joint stock companies.
 - 4) The limitations set forth in the articles of association or by-laws of the listed companies or any instructions issued by the supervisory or regulatory authorities to which these companies are subject.
- b. The Exchange shall publish on its website, as determined by the Authority in this regard, the following information:
 - 1) A statistic reflecting the ownership percentages specified in sub-paragraph a (2) of this Article.
 - 2) The limitations specified in sub-paragraphs a (3) and a (4) of this Article, according to the information received by the Exchange from listed companies in this regard.

Article 15: Authorised persons and foreign portfolio managers engaged with the QFI, and authorisation requirements:

- a. A QFI must have, for as long as it remains as a QFI, an assessing authorised person engaged by it.
- b. For the purposes of these Rules, a QFI has engaged an assessing authorised person if it has executed a QFI assessment agreement with the assessing authorised person and that agreement remains valid and in force.
- c. A QFI's qualification shall not be revoked by reason of the lapse or termination by either party of a QFI assessment agreement, provided that the QFI engages a replacement assessing authorised person within 30 days. The replacement assessing authorised person shall without delay notify the Authority in writing of its appointment.
- d. If a QFI fails to engage a replacement assessing authorised person within the period prescribed by paragraph (c) of this Article, it must notify the Authority of this fact without delay., whereupon the Authority may either grant an extension or revoke the QFI's qualification.
- e. A QFI may engage with authorised persons, or foreign portfolio managers, or foreign custodians, or foreign advisors, for the purpose of investing in listed securities.
- f. A QFI is excluded from the authorisation requirement for carrying on dealing activity, when dealing as principal in listed securities.

- g. A QFI and a foreign portfolio manager are excluded from the authorisation requirement for carrying on managing activity, when managing listed securities belonging to a QFI.
- h. A foreign custodian is excluded from the authorisation requirement for carrying on custody activity, when safeguarding listed securities belonging to a QFI.
- i. A foreign advisor is excluded from the authorisation requirement for carrying on advising activity, when providing advice to a QFI.

Article 16: Disclosure requirements

- a. Subject to paragraph (b) of this Article, a QFI must within a reasonable period of time not exceeding 30 days notify the assessing authorised person engaged by it if any of the notifiable events set out in Annex 3.1 of these Rules occurs.
- b. Where a notifiable event set out in Annex 3.1 of these Rules has occurred and the QFI reasonably believes that disclosure of the event to an assessing authorised person in accordance with paragraph (a) of this Article would materially prejudice the operations and businesses of the QFI or a third party, the QFI may make a notification to the Authority in substitution for the notification required under paragraph (a) of this Article.
- c. The QFI must provide without delay to the Authority any information, documents or written explanation as it may request.
- d. All information and documents disclosed and notifications made to the assessing authorised person or to the Authority under this Article must be complete, clear, accurate and not misleading.

Annex 3.1 Information and documents to be disclosed by QFIs to assessing authorised persons

Notifiable events

- a. The QFI must notify the assessing authorised person in the event in which the QFI engages with a new foreign portfolio manager for the purpose of investing in listed securities.
- b. The QFI becoming aware that it no longer meets or will no longer meet the qualification conditions stated in these Rules, excluded from that any decline in the assets under management for market conditions or funds redemption reasons, and any decline for the these reasons will not be considered a violation of the qualification conditions under these Rules.

PART 4: AUTHORISED PERSONS OBLIGATIONS

Article 17: Obligations of authorised persons and their eligibility

- a. An authorised person must not consider any applications for qualification in accordance with these Rules or engage with a QFI as an assessing authorised person unless such person is duly authorised to conduct custody or dealing activities.
- b. An authorised person must not accept a QFI as a client for the purpose of investing in listed securities unless it is satisfied that the QFI is qualified in accordance with these Rules.
- c. An authorised person that was a party of a QFI assessment agreement must notify the Authority immediately upon the laps or termination of such agreement.
- d. An authorised person must at all times comply with the applicable provisions stated in the Capital Market Law and its Implementing Regulations, as well as the rules and the regulations of the Exchange and other relevant laws.
- e. The Authority may impose any conditions and/or limitations that it sees fit on authorised persons in relation to their dealings with QFIs.

Article 18: Monitoring of QFIs

- a. If an assessing authorised person finds at any time that a QFI by which it is engaged no longer meets the applicable qualification conditions stated in these Rules or has breached any of its obligations under these Rules, the assessing authorised person must report such findings to the Authority in writing without delay.
- b. An assessing authorised person must report to the Authority in writing immediately after being aware of any of the following events in relation to each QFI by which it is engaged:
 - 1) The QFI must notify the assessing authorised person in the event in which the QFI engages with a new foreign portfolio manager for the purpose of investing in listed securities.
 - 2) The QFI becoming aware that it no longer meets or will no longer meet the qualification conditions stated in these Rules, excluded from that any decline in the assets under management for market conditions or funds redemption reasons, and any decline for these reasons will not be considered a violation of the qualification conditions under these Rules.

Article 19: Powers of the Authority in relation to authorised persons engaged with QFIs

- a. The Authority may at any time by issuing a written notice prohibit an authorised person from engaging with QFIs.
- b. The Authority may require an authorised person to provide the Authority without delay any information, documents or written explanation relating to the authorised person dealings with QFIs.
- c. The Authority may require an authorised person, or its representative, to attend before the Authority to answer questions and explain any aspect of its dealings with QFIs.
- d. If the Authority considers that circumstances amounting to an emergency requires it do so, it may assume any assessing authorised person's rights against a QFI upon sending written notice of such fact from the Authority to the relevant QFI and the assessing authorised person.

PART 5: POWERS OF THE AUTHORITY IN RELATION TO QFIs

Article 20: Powers of the Authority in relation to QFIs

- a. If the Authority considers that any of the events specified in paragraph (d) of this Article has occurred in relation to a QFI, or is likely to occur, the Authority may:
 - 1) require the QFI to provide such information, documents and/or written explanation as the Authority requires in respect of the matters giving rise to its consideration;
 - 2) require the QFI or its representative, to attend before the Authority to answer questions and explain any matter the Authority considers relevant;
 - 3) carry out any enquiries that it considers appropriate;
 - 4) take any steps to verify any information furnished by the QFI, including by communicating with overseas regulatory authorities;
 - 5) suspend the QFI's qualification or prohibit the QFI;
 - 6) cancel the QFI's qualification,;
 - 7) exercise any of its other powers under the Capital Market Law.
- b. Suspension or cancellation of qualification under sub-paragraphs (5), (6) of paragraph (a) of this Article shall be effective immediately upon sending a written notice of such fact from the Authority to the QFI or the relevant assessing authorised person.
- c. The Authority may publish the identity of any institution whose qualification has been suspended or revoked.
- d. The events referred to in paragraph (a) of this Article include the following:
 - 1) The QFI no longer meets the conditions, obligations or requirements stated in these Rules;
 - 2) An insolvency event has occurred in relation to the QFI;
 - 3) The QFI has breached any of its obligations under the Capital Market Law and its Implementing Regulations and/or any other laws of the Kingdom;
 - 4) The QFI has obtained its qualification on the basis of incomplete, unclear, inaccurate or misleading information;
 - 5) The QFI has been the subject of any material legal or regulatory sanction in any jurisdiction;
 - 6) Any restructuring of the QFI; and
 - 7) Any other event that the Authority believes necessitates its intervention in order to protect investors or safeguard the functioning of the capital market within the Kingdom.

- e. Following revocation or suspension of qualification, the investor in question may not purchase any listed securities.
- f. Following revocation or suspension of qualification, the investor in question may not dispose of securities held in its account with the Depository Center without the prior consent of the Authority.

PART 6: CLOSING PROVISIONS

Article 21: Publication and entry into force

These Rules shall become effective in accordance to its approval resolution.