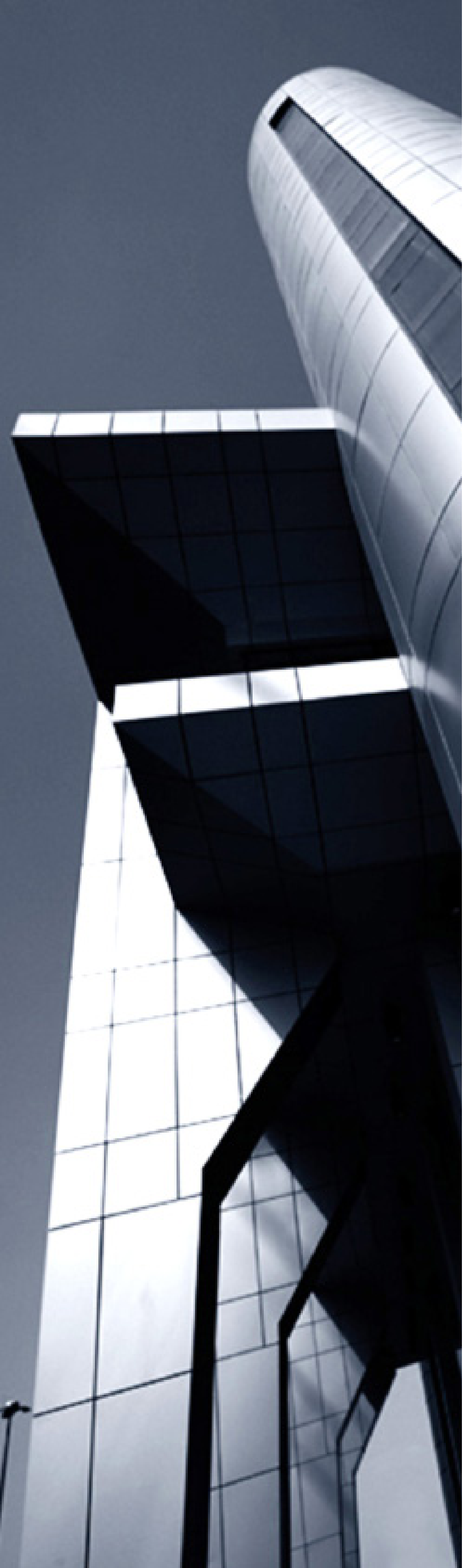

The Financial Academy

الأكاديمية المالية

Saudi Capital Market Rules and Regulations – Corporate Finance

Edition 1

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APPROVED WORKBOOK

Welcome to the Chartered Institute for Securities & Investment's Saudi Capital Market Rules and Regulations – Corporate Finance study material.

This workbook has been written to prepare you for the Chartered Institute for Securities & Investment's Saudi Capital Market Rules and Regulations – Corporate Finance examination.

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A learning map, which contains the full syllabus, appears at the end of this workbook. The syllabus can also be viewed on cisi.org and is also available by contacting the Customer Support Centre on +44 20 7645 0777. Please note that the examination is based upon the syllabus. Candidates are reminded to check the Candidate Update area details (cisi.org/candidateupdate) on a regular basis for updates as a result of industry change(s) that could affect their examination.

The questions contained in this workbook are designed as an aid to revision of different areas of the syllabus and to help you consolidate your learning chapter by chapter.

Workbook version: 1.1 (October 2022)

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Changes in industry practice, economic conditions, legislation/regulations, technology and various other factors mean that practitioners must ensure that their knowledge is up to date.

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Chapter One

The Rules on the Offer of Securities and Continuing Obligations

This syllabus area will provide approximately 10 of the 25 examination questions

1. Scope and Application

Learning Objective

1.1.1 Know the scope and application of the rules on the Offer of Securities and Continuing Obligations (Part 1, Articles 1, 3 and 6)

The **Capital Market Authority (CMA, or the Authority)** laid out its Rules on the Offer of Securities and Continuing Obligations in 2017, with the latest amendments being made in September 2021. These cover the following activities within the Kingdom:

- Issuing securities.
- Inviting the public to subscribe for securities.
- The direct or indirect marketing of securities.
- Any statement, **announcement** or communication that has the effect of **selling**, issuing or offering securities.

For the purposes of these rules, securities do not include units in investment funds, which are covered by separate Authority rules. Any reference to Article numbers in this section refers to the Rules on the Offer of Securities and Continuing Obligations.

1.1 Types of Offers of Securities

The Authority recognises four different types of **offer**:

- Exempt offers.
- **Private placement** offers.
- Public offers.
- Parallel market offers.

1.1.1 Exempt Offer

The Rules on the Offering of Securities and Continuing Obligations stipulate a number of rules and cases in which the offering is exempt from the requirements of these rules. These include, but are not limited to, whether the securities are issued by the Government of the Kingdom, whether the offer is for contractually-based securities of Institutional and Qualified clients, or whether the offeree is affiliated with the issuer (unless the offering is of a category listed on the Exchange).

The Authority requires notification relating to when an exempt offer is made. This allows it to keep records of exempt offers which helps it avoid a situation where a genuine exempt offer that has been offered to a narrow group of connected commercial investors morphs into a wider offering without complying with the additional regulatory requirements.

If the exempt offer is not complete at the time of the notification, the following information must be submitted:

- Number of existing offers.
- The expected date of completion.
- The issuer and offeror information.
- Related securities.

2. Private Placements

Learning Objective

1.2.1 Know the requirements for (Rules on the Offer of Securities and Continuing Obligations): types of private placement (Part 3, Article 8); limited offers (Part 3, Article 9); private placement requirements (Part 3, Article 10); information to investors and private placement advertisements (Part 3, Article 12)

A private placement offer is a funding round of securities which are sold through a private offering, mostly to a small number of chosen investors. It is an alternative to an initial public offering (IPO) for a company seeking to raise capital for expansion or other purposes. **Investors** under the categories of Institutional and Qualified clients (as per the latest draft of the ROSCO) can participate in private placement offerings.

Private placements have advantages and disadvantages over alternate security offers. One advantage of a private placement is its relatively few regulatory requirements and consequently lower costs. In addition, the securities offered by way of private placement are usually illiquid and subject to the secondary market restrictions.

Two types of private placement offer are recognised when:

- the subscription is restricted to investors under the categories of Institutional and Qualified clients
- the offer is a **limited offer**.

An investor under the categories of Institutional and Qualified clients (which are defined in detail in the Glossary of Defined Terms used in the Regulations) will generally fall into one of the following sub-categories:

a. The Government of the Kingdom or any supranational authority recognised by the Authority.
b. Companies fully owned by the Government or any Government entity, either directly or through a portfolio managed by a Capital Market Institution authorised to carry on managing business.
c. Any Legal Person acting for their own account and including any of the following:
    1. A company which owns, or is a member of a group which owns, net assets of more than SAR 50 million.
    2. An unincorporated body, partnership company or other organisation which has net assets of more than SAR 50 million.

3. A person acting in the capacity of director, officer or employee of a Legal Person and responsible for its securities activity, where that Legal Person falls within the definition of paragraph (c/1) or (c/2).

d. A company fully owned by a Legal Person who meets the criteria of paragraph (b) or (c).
e. An investment fund.
f. A counterparty.

Qualified clients include any of the following:

A. A Natural Person who meets at least one of the following criteria:
   1. Has carried out at least ten transactions per quarter over the last 12 months of a minimum total amount of SAR 40 million on securities markets.
   2. Has net assets not less than SAR 5 million.
   3. Works, or has worked, for at least three years in the financial sector in a professional position related to investment in securities.
   4. Holds a professional certificate in securities business and accredited by an internationally recognised entity.
   5. Holds the General Securities Qualification Certificate that is recognised by the Authority, and has an annual income that is not less than SAR 600,000 in the last two years.
   6. Being a client of a Capital Market Institution authorised by the Authority to conduct managing activities, provided that the following is fulfilled:
      a. The offer shall be made to the Capital Market Institution, and that all related communications be made by it.
      b. The Capital Market Institution has been appointed on terms which enable it to make investment decisions on the client's behalf without obtaining prior approval from the client.
   7. Registered persons of a Capital Market Institution if the offer is carried out by the Capital Market Institution itself.
B. A Legal Person which meets at least one of the following criteria:
   1. Any Legal Person acting for its own account and be any of the following:
      a. A company which owns, or which is a member of a group which owns, net assets of not less than SAR 10 million and not more than SAR 50 million.
      b. Any unincorporated body, partnership company or other organisation which has net assets of not less than SAR 10 million and not more than SAR 50 million.
      c. A person acting in the capacity of director, officer or employee of a Legal Person and responsible for its securities activity, where that Legal Person falls within the definition of paragraph (1/a) or (1/b).
   2. Clients of a Capital Market Institution authorised by the Authority to conduct managing activities, provided that the following is fulfilled:
      a. The offer shall be made to the Capital Market Institution, and that all related communications be made by it.
      b. The Capital Market Institution has been appointed on terms which enable it to make investment decisions on the client's behalf without obtaining prior approval from the client.
C. A company fully owned by a Natural Person who meets one of the criteria mentioned in paragraph (A) or a Legal Person who meets one of the criteria mentioned in paragraph (B).

Such backgrounds make them eligible for certain investment opportunities unavailable to other classes of investors, as such investors are capable of doing their own due diligence and of understanding financial and business matters to a greater degree than ordinary investors.

The precise parameters for limited offers detail the following:

a. An offer of securities is a limited offer if the subscription is limited to no more than 100 offerees (excluding investors under the categories of Institutional and Qualified clients) and the amount payable per offeree does not exceed SAR 200,000 or an equivalent amount.
b. Securities of the same class may not be offered as a limited offer more than once in a 12-month period ending with the date of the offer in question.

Private placement stipulates the requirements on the offeror, providing limited investor protection.

Any material change to the offering documents must be notified to the Authority after the submission of documents. The Authority has the right to reject any private placement offer, request additional information or to undertake any investigations it believes to be necessary for it to fulfil its regulatory role. After the offer has completed, the offeror or the Capital Market Institution must provide to the Authority, within ten days, a list of the categories of all persons who have acquired the securities and details of the total proceeds of the offer or where the offer is not completed, the offeror or the Capital Market Institution must provide the Authority, within ten days, with a notification in writing confirming that the offer has failed to complete. The offeror or the Capital Market Institution may extend the offering period, provided that such extension shall be notified to the Authority before the end date of the offer period.

All private placement offers must ensure that the information provided to investors and in private placement advertisements must fulfil the following requirements:

a. The offeror must ensure that investors are provided with sufficient information on the private placement to enable them to make an informed investment decision and that such information is complete, clear, correct and not misleading.
b. The private placement offering documents to be used in advertising the offer must contain a prominent statement. The private placement offer documents, used in the announcement by a Special Purposes Entity, shall contain a clear statement in the form.
c. No person may make or communicate a securities advertisement (as defined in the Securities Business Regulations) in respect of a private placement unless the securities advertisement complies with the applicable provisions of the Securities Business Regulations and the Capital Market Institutions' Regulations.

3. Secondary Market Restrictions

Learning Objective

1.3.1 Know the restriction and requirements on secondary market activity in respect of securities acquired pursuant to a private placement (Rules on the Offer of Securities and Continuing Obligations Part 3, Article 14)

Investors must comply with restrictions in terms of secondary market activities for securities that they purchase through a private placement. The same also applies to a subscriber (and all subsequent transferees) to a private placement offer who wishes to sell the securities they have purchased.

Any restrictions on selling fall away if the securities are subsequently **listed** on the Exchange, because the listing process will incorporate all the rules required for a public offer.

4. Public Offers

Learning Objective

1.4.1 Know the conditions of registrations and the public offer of shares (Rules on the Offer of Securities and Continuing Obligations Part 4, Chapter 3, Article 23)

1.4.2 Know the conditions of registrations and the public offer of: debt instruments (Part 4, Chapter 3, Article 24); convertible debt instruments (Part 4, chapter 3, Article 25)

1.4.3 Know the purpose and the contents of the prospectus (Rules on the Offer of Securities and Continuing Obligations Part 4, Chapter 4, Article 29)

A public offering is the sale of equity shares or similar financial instruments to the **public** typically in order to raise capital, accompanied by the admission to trading of the securities to a stock exchange or similar trading venue. This requires the registration and public offer of securities. The capital raised will typically be intended to cover working capital shortfalls or to fund business expansion. It is usually a pre-requisite for the issuing company to produce a **prospectus** or similar document explaining the terms and rights attached to the offered security, information on the company itself and its finances (except where an exemption is allowed).

Public offers of securities within the Kingdom must comply with the Authority Public Offer Rules. This applies to both domestic and foreign issuers.

The conditions for making a public offer of shares explain the need for the issuer to be a joint stock company, led by a suitably qualified and experienced management team, and have made financial statements for the last three years at least. It must have sufficient working capital to trade for the next 12 months as well.

Certain different requirements need to be met for debt and convertible debt instruments, which are set out in the relevant articles. These require the following:

- The issuance of debt instruments shall be the same as for a public offer of shares, with certain exceptions including the exclusion which relates to having sufficient working capital.
- Any debt **issuance programme** must be detailed in a single prospectus which covers the maximum value of debt instruments to be issued under a maximum of a 24-month programme (since approval).
- Even if the registration and offer of debt instruments do not meet the requirements of this Article, the Authority may authorise it (if the Authority sees that it is in the interest of informed investors).
- Convertible debt instruments may be registered and offered only if the **shares** into which they are convertible are already listed.
- A prospectus for convertible debt instruments, which would be converted into shares which are already listed on the **Exchange**, must be supplied.
- The Authority's approval of the **application for registration** and offer of a convertible **debt instrument** is regarded as approval of the issuance of the relevant share upon conversion.
- The issuer may not issue convertible debt instruments of the same class already issued unless such instruments have been registered and offered in accordance with the public offer provisions.

The Authority requires that the offer of securities must be fully underwritten by one or more Capital Market Institutions licensed to carry out underwriting, who in turn must comply with the financial adequacy requirements. This rule does not apply to:

1. capital increases to acquire a company or an asset
2. capital increases by way of capitalisation issues
3. capital increases by way of debt conversion
4. issuance of debt instruments, nor
5. issuance of convertible debt instruments.

An issuer seeking to register and offer its securities must submit an application to the Authority which contains the information required under these Rules on the Offer of Securities and Continuing Obligations, and must simultaneously submit to the Exchange, an **application for listing** of such securities in accordance with the provisions of the Listing Rules.

A comprehensive schedule of the documents must be submitted with the application.

It includes, but is not limited to, the appointment letter of legal and financial advisers, together with contact information of people who work on the offer and other details, together with various declarations of relevant senior management from the issuer.

The issuer, or the sponsor if the issuer is a **Special Purposes Entity (SPE)**, must submit to the Authority with its **application for registration and offer** electronic copies of the documents (it shall maintain original copies of such documents and submit it to the Authority at its request).

Following the approval of the application for registration and offer by the Authority and prior to the listing, the Authority requires the issuer, or the sponsor if the issuer is a SPE, to submit an electronic copy (and shall maintain the original copies for submission at the Authority's request) of the following documents:

1. a prospectus or the shareholders' circular (as applicable) in Arabic signed on every page by the representatives of the issuer who are appointed as authorised signatories
2. its updated commercial registration (as applicable), and the sponsor's commercial registration if the issuer is an SPE
3. the securities allocation model
4. the latest reviewed interim financial statements (where applicable)
5. all signed underwriting, sub-underwriting and distribution agreements entered into in connection with the offer and the lead manager agreement (as applicable), and
6. an updated and signed letter in the prescribed form regarding the content of the application.

The prospectus, as the core information document for investors, must contain all information which is necessary to enable an investor to make an assessment of the issuer.

These, in turn, ensure the investor has sufficient information on the issuer regarding their activities, assets and liabilities, financial position, management and prospects, its historic profits and losses and must include information in relation to the number and price of the securities and any obligations, rights, powers and privileges attaching to them. If the issuer is an SPE, the prospectus includes all information necessary to enable the investor to evaluate the activity, assets and liabilities of the SPE, in addition to the sponsor's assets, liabilities, financial position, management, expected opportunities, profits and losses. It also includes information on the number and price of securities and any obligations rights, powers and privileges associated with them.

A draft of the prospectus that is submitted to the Authority must be in the Arabic language. It must indicate in the margin the relevant paragraph provided from the rules.

A supplementary prospectus or circular will be required by the Authority if there is a material change between the prospectus being published and the offer closing.

There are certain exemptions from publishing a further prospectus once shares are listed on the Exchange. A prospectus is not required for the issue of further securities by an issuer whose securities are already listed where:

1. the securities to be issued would increase the securities of a class already listed by no more than 10% in any 12-month period. For the purpose of determining this percentage a series of issues in connection with a single transaction will be deemed a single issue, and a series of transactions that is regarded by the Authority as a single transaction will be deemed a single issue
2. shares issued as a result of capitalisation issue
3. an employee share scheme
4. shares issued as a result of the conversion of debt instruments that convert into shares already listed
5. shares issued as a result of capital increase by conversion of debt, provided that a shareholders' circular must be produced in accordance with the Rules on the Offer of Securities and Continuing Obligations

6. shares issued as a result of a capital increase that is made to acquire a company or purchase an asset provided that a shareholders' circular must be produced in accordance with the Rules on the Offer of Securities and Continuing Obligations, or
7. split of shares already issued.

5. Price Stabilisation of Public Offers

Learning Objective

1.5.1 Know the purpose of a price stabilisation mechanism and the types of transaction that are associated with it (Instructions on the Price Stabilisation Mechanism in Initial Public Offerings Part 2)

1.5.2 Know the definition of (Instructions on the Price Stabilisation Mechanism in Initial Public Offerings): an over-allotment (Part 2); a purchase option (Part 2); the price stabilisation period (Part 2)

1.5.3 Know the obligations of the price stabilisation manager (Instructions on the Price Stabilisation Mechanism in Initial Public Offerings Part 4) and relevant exemptions (Instructions on the price stabilisation mechanism in initial public offerings Part 5)

1.5.4 Know record-keeping requirements for price stabilisation transactions (Instructions on the Price Stabilisation Mechanism in Initial Public Offerings Part 6)

In an IPO, it is possible that the share price of the newly **listed company** will be very volatile for a period after the admission to **listing**. It is also possible for the issuer's price stabilisation manager to take action in the market to stabilise the company's share price, through supporting the price of new issues of securities for a limited period after the issue by buying the relevant securities in the secondary market or via the exercise of the purchase option. This is in the interest of those investors having subscribed or purchased those relevant securities and can contribute to greater confidence of investors and issuers in the financial markets. These are referred to as price stabilisation measures. However, actions of these kinds, if not closely controlled, can become market manipulation.

The Authority has, therefore, introduced rules covering price stabilisation measures. Price support activities carried out in accordance with the timing, disclosure and procedures of these rules are allowed. These are set out in the Instructions on the Price Stabilisation Mechanism in Initial Public Offerings, which can be viewed in the **Implementing Regulations** section of the Authority's website. The extracts below are from these instructions.

A price **stabilisation** mechanism is a mechanism that contributes to the price stabilisation of the newly listed shares on the Exchange by means of over allotment, and where all or any of the following transactions are conducted:

a. Borrowing a number of shares from lending-shareholders prior to the IPO, in an amount not exceeding the number resulted from the maximum limit allowed for over-allotment.
b. The short selling of shares during the offer period.

c. The over-allotment of shares not exceeding the limit set out in paragraph (a) above.
d. Purchasing of shares from the Exchange during the price stabilisation period or by a purchase option in order to close any position under paragraph (a) above.

Over-allotment is a process upon which a number of additional shares is allocated to the shares offered for subscription. Such shares are borrowed from the lending-shareholders and sold to the public during the IPO at the subscription price, in accordance with the over-allotment agreement. This provides extra liquidity in the event of excess demand at the IPO.

A purchase option is a contractual option whereby the price stabilisation manager is granted the right to buy an amount of shares not exceeding the amount of the shares included in the over-allotment at the subscription price in the initial offer period, during the price stabilisation period or after its end.

The price stabilisation period will not exceed 30 calendar days from the first day of listing and is the period of time for the price stabilisation mechanism as agreed between the price stabilisation manager and the issuer. By limiting the time under which a price stabilisation mechanism is available, the Authority can ensure that it is just used for initial post-IPO stabilisation rather than long-term market manipulation.

The maximum amount allowed for an over-allotment is 15% of the shares offered for subscription in the IPO. Again, this ensures the mechanism is used to alleviate initial problems while the market absorbs a new issue, rather than a long-term price support mechanism. If the issuer is going to conduct a price stabilisation mechanism, it must disclose the following in the prospectus:

1. The maximum number of additional shares to be over-allotted (per the Over-Allotment Agreement).
2. The price stabilisation period.
3. Any other restrictions imposed by the issuer or the underwriter on the price stabilisation manager.
4. The price stabilisation manager.

The price stabilisation period is completed once the entire over-allotted shares are purchased by the price stabilisation manager. The price stabilisation manager must be a Capital Market Institution by the Authority to carry out dealing activities as principal. The price stabilisation manager has a number of obligations. These include disclosing (before the trading session of the next day) information relating to the status of the over-allotted shares, and other details linked to the purchase option and the over-allotted shares.

There are strict requirements in relation to where and how the transactions are effected, and regular updates prior to the conclusion of the price stabilisation period, together with not exceeding the offer price, or 2% above the last trade price.

Price stabilisation is mentioned in the list of market behaviours. The price stabilisation manager must also establish and retain records of each transaction conducted (for no less than ten years) including the quantity and price of shares per transaction, the date and time of each transaction, and the details of the counter party or a statement explaining that the purchase has been executed through the Exchange.

6. Capital Alteration

Learning Objective

1.6.1 Know rules relating to (Rules on the Offer of Securities and Continuing Obligations): applications for capital increases (Article 53); rights issues (Article 54); capitalisation issues (Article 55); debt conversion (Article 56); the acquisition of a company or asset (Article 57)

There are various types of capital alteration:

- A **rights issue** – the relevant articles detail the conditions and requirements applicable to a rights issue, and that the issuer must provide details of the proceeds of any previous rights issues which must be compared with the disclosure made under the previous prospectus. They must also provide details of any qualifications made in the audited financial statements for the preceding financial year, and in the event of any deviation of 5% or more from the planned use of proceeds as set out in the relevant rights issue prospectus, the issuer must disclose each such case to the public.
- A **capitalisation issue** – this is an offer of further shares to existing shareholders, fully paid up out of the issuer's reserves, in proportion to existing shareholders holdings. Where an issuer wishes to increase its capital by way of a capitalisation issue it must submit to the Authority a letter of application that includes the minimum information.
- A capital increase by **debt conversion** – this is where an outstanding debt is satisfied through the issue of new shares.
- A capital increase through **acquisition** – this is where an asset or another company is acquired through the issue of new shares as consideration. They must submit to the Authority, a financial due diligence report, a valuation of the asset/company being acquired and a legal due diligence report. Then, the issuer must produce a circular for its shareholders stating the information required to enable the shareholders to make an informed vote at the extraordinary general assembly.

7. Capital Reduction

Learning Objective

1.7.1 Know rules relating to capital reduction (Article 58)

The rules within ROSCO describe the conditions and requirements applicable – this is where the capital of an issuer is reduced. An application must be submitted to the Authority providing the required documentation which includes information relating to the appointment of a financial advisor and a legal advisor (if applicable), an external auditor's report on the reasons for the capital reduction and the impact on the issuer's liabilities, the proposed method of capital reduction and its expected effect. In addition, the contents of a shareholders' circular contains the required information to enable shareholders to vote at the extraordinary general assembly meeting.

8. Continuing Obligations

Learning Objective

1.8.1 Know the regulations regarding (Rules on the Offer of Securities and Continuing Obligations): complete, clear, accurate and not misleading disclosures (Part 7, Chapter 1, Article 60); obligation to disclose material developments (Part 7, Chapter 1, Article 61)

1.8.2 Know the regulations regarding the disclosure of (Rules on the Offer of Securities and Continuing Obligations): specific events (Part 7, Chapter 1, Article 62); financial information (Part 7, Chapter 1, Article 63)

Once an issuer's securities are listed on the Exchange, it is vital that investors are kept fully aware of developments at the issuer. These are set out in the Exchange's Listing Rules and in the Rules on the Offer of Securities and Continuing Obligations.

The Rules on the Offer of Securities and Continuing Obligations mainly aim to regulate public offering, registration and admission of securities to listing on the Exchange, as well as a company's continuing obligations post-listing. Most of these rules provide protection to investors in the market and enhance ongoing disclosure obligations.

The Continuing Obligation Rules ensure that this happens. All disclosures made by an issuer must be complete, clear, accurate and not misleading. Taking the natural meaning of these words, this means any disclosure should:

- be comprehensive (complete)
- be easy to understand (clear)
- be free of error and balanced (accurate), and
- not disguise, omit, diminish or obscure important information (not misleading).

The issuer must comply with the Exchange **Listing Rules**. The Continuing Obligation Rules apply in full to those issuers whose securities are listed on the Main Market, and with certain relaxations for the issuers whose securities are listed on the Parallel Market.

If an issuer believes disclosure would be detrimental, and its omission not likely to mislead, they may apply to the Authority for a waiver or permission to delay.

In the strictest confidence, the issuer must request and explain to the Authority the reasons for such waiver or delay, and the Authority may approve or reject the request. Despite any approval, the Authority may at any time require the issuer to disclose any information in relation to the waiver or delay.

An issuer must determine the need to publish a disclosure to the public in response to rumours related to any material developments, and the Authority may require such publication to be made by the issuer as it sees appropriate.

An issuer must disclose to the Authority and the public without delay any material developments in its sphere of activity which are not public knowledge, and which may affect the assets and liabilities or financial position or the general course of business of the issuer or its subsidiaries and which may reasonably lead to movements in the price of the issuer's listed securities or significantly affect an issuer's ability to meet its commitments in respect of listed debt instruments.

The issuer must disclose any specific events regardless of the 'materiality' threshold noted above. In this case, the issuer must immediately and without delay disclose to the Authority and the public any specific developments.

This allows investors to make decisions on the pricing of securities on a rational basis.

The Authority also sets requirements for the timing of the release of financial information to ensure that investors are not relying on information that is old and, therefore, increasingly irrelevant. The annual financial statements and the first, second, and third interim financial statements of an issuer must be disclosed to the Authority and the public upon their approval and prior to their publication to shareholders or third parties. Interim financial statements are approved when they are:

- agreed by the board of directors, and
- signed by:
    - a **director** authorised by the board of directors
    - by the **Chief Executive Officer (CEO)**, and
    - the **Chief Financial Officer (CFO)**.

Annual financial statements are approved when they comply with any applicable requirements under the Companies Law and Corporate Governance Regulations. The issuer shall disclose its interim and annual financial statements through the electronic system specifically designated for such purpose by the Exchange.

The issuer must prepare its interim and annual financial statements in accordance with the accounting and auditing standards adopted by the Saudi Organization for Certified Public Accountants (SOCPA).

9. Dealing Restrictions

Learning Objective

1.9.1 Know dealing restrictions covering (Rules on the Offer of Securities and Continuing Obligations): substantial holders (Part 7, Chapter 2, Article 67); directors and senior executives (Part 7, Chapter 1, Article 68)

1.9.2 Know restrictions relating to share disposals (Rules on the Offer of Securities and Continuing Obligations Part 7, Chapter 1, Article 69)

Dealing notifications and restrictions specify the following:

a. Any person must notify the Exchange if such person becomes the owner of, or is interested in, 5% or more of any class of voting shares or convertible debt instruments of the issuer at the end of the third trading day following the execution of the transaction or the occurrence of the event which results such ownership or interest. The person's notification to the Authority shall also include a list of persons who have an interest in the shares or convertible debt instruments which they own or control.
b. The person must notify the Exchange in the event of any change to the list of persons including any event which requires the inclusion of a person to that list or the exclusion of any person who has been previously included in that list. Such notification must be made at the end of the third trading day following the occurrence of the relevant event.
c. In calculating the total number of shares or convertible debt instruments in which a person is interested, that person will be deemed to be interested in any shares or convertible debt instruments owned by or controlled by:
    1. a relative of that person
    2. a company controlled by that person, or
    3. any other persons with which that person has agreed to act in concert to acquire an interest in or exercise voting rights in the shares or in the convertible debt instruments of the issuer.

A similar situation applies with insiders, such as directors and senior managers. The directors, **senior executives** or audit committee members of the issuer and any of their associates may not deal in any securities (other than taking up entitlements under rights issues) of the issuer during the following periods:

1. During the 15 calendar days preceding the end of the financial quarter for issuers whose securities are quoted on the Main Market (or half year for issuers on the Parallel Market) and for both the Main Market and the Parallel Market, until the date of the disclosure of the reviewed interim financial statement of the issuer that is required to be disclosed pursuant to the Rules on the Offer of Securities and Continuing Obligations.
2. For issuers on both markets, during the 30 calendar days preceding the end of the financial year and until the date of disclosing the issuer's audited annual financial statements, or the interim financial statements for the fourth quarter if the issuer has disclosed them after reviewing them and fulfilling the requirements of the Rules on the Offer of Securities and Continuing Obligations.

The **substantial shareholders** in the issuer shown in the prospectus or **registration document** as owners of the issuer's shares must not dispose any of their shares during a period of six months from the date on which the issuer's shares trading, except where the issuer states a longer lock up period in the prospectus or registration document. If the registered owner specified in the prospectus or registration document is different to the beneficial owner, then the beneficial owner must undertake that the registered holder shall not dispose any of such shares for a period of six months from the date on which trading in the shares first commences on the Exchange. A person shall be treated as a beneficial owner of shares if they have the ultimate beneficial ownership or control of the shares, whether through a chain of companies or otherwise. This is extended to 12 months when listed on the Parallel Market. This prevents investors who have large investments in issuers that they may have acquired at a much lower price prior to the IPO from suddenly dumping large blocks of securities as soon as the shares are publicly traded, thus creating an unstable market.

10. Parallel Market Offering

10.1 Conditions for Issuers Seeking Approval

Learning Objective

1.10.1 Know the required conditions for issuers seeking approval to make a Parallel Market offer (Rules on the Offer of Securities and Continuing Obligations Part 8, Article 70)

The **Parallel Market** (also known as Nomu) provides a simplified process compared with the Main Market of the Exchange, and in return, there are more restrictions on what investors may participate in. This, therefore, provides a balance between investor protection and issuer flexibility. It also provides the first step into public markets from which issuers can later move up to the Main Market.

Its main characteristics are:

1. a market with lighter requirements, and
2. restricted to qualified investors.

Qualified Investors are defined by the Authority (as set out in the Glossary of Defined Terms used in the Regulations of the Authority). Some examples include Capital Market Institutions and their clients for whom they have discretion in investments, the Government of the Kingdom of Saudi Arabia, any government body, any supranational authority recognised by the Authority, government-owned companies and investment funds. There are also a number of criteria that need to be fulfilled by Natural Persons. For instance, having experience in the financial sector, holding the General Securities Qualification Certificate which is recognised by the Authority or having net assets that are not less than SAR 5 million.

The general requirements for a Parallel Market offer are similar to that of a public offer on the Main Market (as set out in the previous section), subject to the following variations:

- The busiuess needs to have only been operating for a minimum of one year rather than three.
- Audited financial statements are only required for a minimum of one year rather than three.
- No necessity to show 12 months working capital at the date of the offer.

This makes a Parallel Market offer more suited for a less sized, but faster growing company than the Main Market.

10.2 Continuing Obligations

Learning Objective

1.10.2 Know continuing obligations for issuers of securities listed on the Parallel Market (Rules on the Offer of Securities and Continuing Obligations Part 8, Article 89)

Issuers whose securities listed on the Parallel Market rather than the Main Market must comply with Continuing Obligation Rules set out above, subject to the following variations:

1. The issuer does not need to produce three quarterly interim financial statements, but instead produce half-yearly interim financial statements.
2. Information, set forth in the Corporate Governance Regulations, that is required to be included in the board of directors' report are indicative to issuers whose shares are listed on the Parallel Market.

End of Chapter Questions

Think of an answer for each question and refer to the appropriate section for confirmation.

1. What are the four types of offers of securities?
   Answer reference: Section 1.1

2. What is an exempt offer?
   Answer reference: Section 1.1.1

3. What are the requirements for private placement offers?
   Answer reference: Section 2

4. What are the conditions for a public offer of shares?
   Answer reference: Section 4

5. What is the purpose, and what are the contents of a prospectus?
   Answer reference: Section 4

6. What must be disclosed in the prospectus when conducting a price stabilisation mechanism?
   Answer reference: Section 5

7. What is the purpose of a price stabilisation mechanism?
   Answer reference: Section 5

8. What is the main mechanism used for price stabilisation?
   Answer reference: Section 5

9. What are types of capital alterations?
   Answer reference: Section 6

10. What are the aims of the Offer of Securities and Continuing Obligations Rules?
    Answer reference: Section 8

11. What are the main differences in requirements between Nomu and the Main Market?
    Answer reference: Section 10

12. What are the conditions for making a Parallel Market offer?
    Answer reference: Section 10

2

Chapter Two

Special Purposes Entities

This syllabus area will provide approximately 4 of the 25 examination questions

1. New Financing Transactions for Special Purposes Entities

Learning Objective

2.1.1 Know rules relating to the approval of new financing transactions by the Authority (Article 38)

The Rules on the Offer of Securities and Continuing Obligations set out the requirements for Authority approval of a new SPE financing through the issue of a new class or series of debt instruments. It should be remembered that these requirements are in addition to the normal provisions of either a private placement or public offer depending on what type of offer is made. The Authority requires all debt instruments to be issued within 24 months and the issue to commence within 12 months of approval. No issue can take place prior to receiving this approval. Furthermore, the SPE or the sponsor must not offer or hold themselves out as (nor allow any third party to offer or hold themselves out as) offering debt instruments unless approval has been received.

When seeking approval from the Authority for a new financing transaction, the sponsor must provide a signed pricing annex for each segment of the issuance programme, and a confirmation letter from the sponsor to the Authority confirming the debt instruments have been offered.

The documents must include details of the issuance, including terms and conditions of the issue, final allocation, amounts paid, the maturity and redemption rates (if any) and their price details.

2. Establishing and Activities of The Special Purposes Entities (SPEs)

In December 2017, the Capital Market Authority's (the Authority's) Board issued a resolution approving the Rules for Special Purposes Entities and Special Purposes Entities bylaws. These rules entered into force starting from 1 April 2018. A full copy of the rules can be viewed on the Authority's website.

The Authority Listed Companies and Investment Products Deputy, Sukuk and Debt Instruments Issuance is regulating the licensing of Special Purposes Entities (SPEs) in addition to the supervision of the sector of SPEs in regard to registration, offering for debt instruments and investment units, as well as monitoring any associated activities.

What are SPEs?

An SPE is an entity established and licensed from the Authority under the Rules for Special Purposes Entities for debt instruments and investment units, and shall have legal personality and financial autonomy, and it shall cease to exist with the end of the purpose for which it was established in accordance with the Rules and Regulations issued by the Authority.

Main Purposes of Establishing an SPE

The main purposes of establishing an SPE include the following:

- Financing through an alternative source other than loans from banks and financial institutions by issuance of debt instruments through an SPE.
- Assigning the issuance of debt instruments to an entity which shall cease to exist with the end of the purpose for which it was established for.
- Protecting the rights of investors in an SPE from bankruptcy of related parties such as the sponsor in the event of issuing debt instruments or the investment fund manager in the event of issuing investment units.

Types of Debt Instruments Issued by the SPEs

- **Asset-backed debt instruments** – means a debt instrument issued by an SPE under whose terms:
  - The entitlement of holders of the debt instrument to a return is wholly dependent on the returns generated by the SPE's assets.
  - The sponsor is not obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay any amounts.
- **Asset-linked recourse debt instruments** – means a debt instrument issued by an SPE under whose terms:
  - The entitlement of holders of the debt instrument to a return is defined by the ratio of the returns generated by the SPE's assets.
  - The sponsor is obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay all amounts due on the debt instrument.
- **Debt-based recourse debt instruments** – means a debt instrument issued by a special purposes entity under whose terms:
  - The entitlement of holders of the debt instrument to a return is not determined by the returns generated by the special purposes entity's assets.
  - The sponsor is obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay all amounts due on the debt instrument.
  - Par value to be paid to the holders of the debt instrument at or before the maturity of the security.

2.1 Requirements Relating to Sponsors

Learning Objective

2.2.1 Know the requirements related to sponsors of Special Purposes Entities issuing debt instruments (Chapter 4)

An SPE that has issued, or intends to issue debt instruments, and all of its financing transactions, shall be sponsored by a single sponsor. The sponsor will be a legal entity or Saudi joint stock company, also the sponsor may be a Saudi limited liability company if it is through a private placement.

The sponsor cannot have any claim or interest on the assets of the SPE. The sponsor must comply with detailed notification requirements. The Authority can call on the sponsor of the SPE to provide it with any information it believes necessary to compliance with the Rules.

2.2 Requirements Trustee of a Special Purposes Entity

Learning Objective

2.2.2 Know the requirements for trustees (Chapter 5)

A trustee of an SPE is not deemed to be the owner of the SPE. Unless the Authority's approval is obtained, the trustee may not dispose of the shares of the SPE, or carry out any structural changes to the entity. The trustee of the SPE, or any of its affiliates cannot have any interest in or claims against the assets of the SPE (unless fully and fairly disclosed in the documentation of the SPE). The sponsor may not be the trustee in the event that the sponsor is the beneficiary of the SPE. The trustee must be a Capital Market Institution licensed to carry on custody business in the event that it takes custody of the assets of the SPE and if the SPE issues asset-backed debt instruments or asset-linked recourse debt instruments. The registered address of the SPE may not be transferred to any other place without the written consent of the trustee.

The trustee is responsible for the appointment of the board of directors and their remuneration. The trustee appoints the custodian who is responsible for taking custody and the associated administration of the real estate and securities owned by the SPE. The trustee is also responsible for appointing the auditor. The sponsor may change the trustee in the event it fails to carry out its responsibilities per the Rules or obligations towards the sponsor or the SPE.

2.3 Requirements for Custodians

Learning Objective

2.2.3 Know the requirements related to custodians (Chapter 7)

In respect of the issuance of asset-linked recourse debt instruments and asset-backed debt instruments, the trustee of the special purposes entity must appoint a custodian to be responsible for taking custody of real estate assets and securities owned by the SPE (if any) and for safeguarding and taking all administrative measures in relation to such real estate assets and securities. The custodian must be a Capital Market Institution duly authorised to carry on the activity of a custodian.

They must safeguard and take the necessary administrative and record-keeping measures and has no right of any encumbrance over the securities of the SPE, any right of set off, or claim to any amounts deposited unless this is clearly documented in the prospectus or offering memorandum. The SPE must provide the custodian with all necessary data. The custodian must abide by the notification requirements detailed in the rules. It must retain records (including any financial transactions relating to the SPE) of its compliance with the rules for ten years. The Authority may replace a custodian if they do not believe it is adequately fulfilling its duties, significant other events determined by the Authority or if the custodian ceases to carry on its business, or if its authorisation is suspended or cancelled.

2.4 Auditing Measures and Procedures

Learning Objective

2.2.4 Know auditing measures and accounting procedures for Special Purposes Entities (Chapter 8)

The SPE by-laws must provide provisions for the appointment of an auditor registered with the Authority in accordance with the Rules for Registering Auditors of Entities Subject to the Authority's Supervision. Also, the auditor shall be responsible for reviewing the financial statements, and must at any time have access to the SPE's books, records and other documents. It must be provided with any information and clarifications as it may deem necessary to obtain in order to verify the assets and liabilities of the SPE. The directors shall prepare a report on the preceding financial year that includes the information referred to appointment of an auditor.

The directors must within (three) months of the end of every financial year prepare the annual financial statements of the SPE, in accordance with the accounting standards approved by the Saudi Organization for Certified Public Accountants, and audited by an auditor in accordance with the auditing standards approved by the Saudi Organization for Certified Public Accountants, and have it signed by one of the directors.

2.5 Monitoring Procedures and Systems

Learning Objective

2.2.5 Know notification and record-keeping requirements for special purposes entities (Articles 36 & 42)

The Rules for Special Purposes Entities detail the supervision measures and procedures relevant to SPEs. The SPE must comply with the notification requirements of the Rules. It must also ensure all information it provides to the Authority in relation to its functions are complete, clear, accurate and not misleading.

Also, it must maintain records and information, for (ten) years at least. It must also make its books and records available to the Authority immediately upon request in order to implement the relevant laws and regulations.

There are three categories of timing relating to notifiable events, 'seven days before the event', 'immediate', and 'within seven days'.

'Insolvency' is deemed to have occurred if the party is unable to pay their debts as they fall due, if they become **insolvent** under relevant insolvency laws, or upon the commencement of a case or procedure seeking liquidation, administration, **restructuring** and related settlement of debt issues which requires the appointment of a receiver, liquidator or similar official in any jurisdiction.

End of Chapter Questions

Think of an answer for each question and refer to the appropriate section for confirmation.

1. What time period are debt instruments required to be issued within?
   Answer reference: Section 1

2. What are Special Purposes Entities (SPEs)?
   Answer reference: Section 2

3. What are the main purposes for establishing an SPE?
   Answer reference: Section Section 2

4. What are the main rules relating to establishing and licensing purposes for establishing an SPE?
   Answer reference: Section 2

5. What are the types of debt instruments issued by SPEs?
   Answer reference: Section 2

6. What are the requirements for trustees of SPEs?
   Answer reference: Section 2.2

7. What are the auditing measures and accounting procedures for SPEs?
   Answer reference: Section 2.4

Chapter Three

Merger and Acquisition Regulations

This syllabus area will provide approximately 4 of the 25 examination questions

1. General Provisions

Learning Objective

3.1.1 Know the goal of the Merger and Acquisition Regulations in relation to: the types of transaction to which this applies (Part 1, Article 2, b); how relevant information should be handled (Part 1, Article 3, b, e, & i) (Part 1, Article 4); directors' responsibilities (Part 1, Article 3, h, j, l, m, o); compliance with competition law (Part 1, Article 5)

1.1 Introduction to Mergers and Acquisitions (M&A)

The Capital Market Authority (the Authority) introduced The **Merger and Acquisition Regulations** in 2007, with the latest amendment in 2018. These are implementing regulations of the Capital Market Law. A full copy of the text can be viewed on the Authority's website. Any references to the regulations refer to The Merger and Acquisition Regulations.

1.1.1 What are M&A?

Mergers and acquisitions (often referred to as 'M&A') are, alongside the fundraising and listing elements detailed in the last two chapters, one of the fundamental types of capital market transactions.

- **Merger** – a transaction involving an offeree company listed on the Exchange and resulting in any of the following:
  1. the absorption of that offeree company by another company listed on the exchange
  2. the absorption of that offeree company by a company that is not listed on the exchange, or
  3. a merger through forming a new legal entity.
- **Acquisition/Takeover** – the acquisition of control of a company listed on the Exchange (typically, the purchase of a smaller firm by a larger one).
- **Reverse takeover** – an arrangement where a listed company makes an offer of new shares in itself to the shareholders of an unlisted company in exchange for their shares and these new shares will represent more than 50% of the listed company voting shares after the acquisition.

1.1.2 When do the M&A Regulations Apply?

The Merger and Acquisition Regulations apply in the following situations:

> *'any purchase or sale of shares with voting rights of listed companies, which would or does result in an ownership or control of a person, individually or collectively by acting in concert, of over ten percent (10%) or more of the relevant offeree company'.*

Furthermore, they apply to the following persons:

1. any person who deals on the Exchange, including (without limitation) issuers, shareholders, Capital Market Institutions, and any person involved directly or indirectly in participating or giving an advice on any transaction regulated by these Regulations

2. directors of companies which are subject to these Regulations, and
3. any person who seeks the acquisition of, or increase its shares in, any company subject to this Regulation.

As well as the Regulations, M&A transactions often involve aspects of the Listing Rules, The Rules on the Offer of Securities and Continuing Obligations ('ROSCO') and the Kingdom's Companies Law.

All approvals required under the Regulations must be submitted including approval required under the provisions of the competition system (if applicable).

1.1.3 The Responsibilities of Directors

In accordance with the principles of equality of information and treatment, the directors of any company subject to the Regulations have the following responsibilities (Article 3):

- **Sufficient information** – the board of directors of the **offeree company** in case of an offer must give sufficient information, time and advice to the shareholders to reach a properly informed decision. No relevant information should be withheld from them.
- **No frustrating action** – if a legitimate offer is imminent, the board must not take any action that could cause the rejection of the offer, or preventing shareholders from the opportunity of making decision on it.
- **Act in the best interests of its shareholders** – the board of an offeree company must always act in the best interests of its shareholders.
- **Act in the capacity as directors** – the directors of the offeree company must always act in their capacity as directors and without any regard to their own (or their related parties) shareholdings. They must consider the shareholders' interests as a whole, together with employees and creditors.
- **No conflict of interest** – a director must not vote at a board or committee meeting or in the general assembly on a decision concerning an offer to which the Regulation applies including conflicts of interest for the mentioned director or any of their relatives. A conflict of interest would arise in the following cases:
  - the director has, directly or indirectly, an interest related to the offer or the potential offer
  - the director is a shareholder in the offeror and at the same time they are a director of the offeree company board, or vice versa, or
  - the director is a director of the offeror board and at the same time they are a board member of, or a manager in, the offeree company, or vice versa. A person who is a relative or an affiliate of a director shall be treated as an interest of the director.

1.1.4 The Handling of Information

Similarly, in accordance with the principles of equality of information and treatment, the Authority requires the following rules to be followed by any company subject to the Regulations in relation to the handling of information:

- **Information must not mislead** – parties involved in mergers and acquisitions must take care that information made available does not mislead shareholders or the Exchange.
- **Equality of information** – neither an offeror, nor the offeree company, nor any of their respective advisors may furnish information to some shareholders which is not readily made available to all shareholders.

- This principle does not apply to the following:
  - the furnishing of information in confidence by the offeree company to a bona fide potential offeror or vice versa in the context of an offer, or
  - the furnishing of information in confidence by the selling shareholder and/or offeree company to an offeror in the context of a private buy and sell transaction.
- **Confidentiality** – all persons who have access to confidential information, especially price-sensitive information shall treat it as such, limit any chance of a leak, and only provide it to those parties that need it, and who are made aware of its confidential nature.

The Regulations require the appointment of independent financial and legal advisers who must be licensed or authorised.

2. Acquisitions

Learning Objective

3.2.1 Know the rules that govern private transactions (Mergers and Acquisition Regulations Part 2, chapter 1)

The Regulations reference the rules of private transactions. A **private transaction** is defined as:

> *'Transactions involving the purchase and/or sale of shares carrying **voting rights** in any company listed on the Exchange, negotiated between the offeror and selling shareholder(s) of the offeree company without making an offer or involving the other shareholders'.*

Key rules for private transactions are summarised below:

- **Advisers** – the selling shareholder and the offeror may each appoint an independent financial and legal adviser.
- **Approaching an offeree board** – the selling shareholder and the offeror may inform the board of the offeree or its advisers of a potential private transaction in order to request price sensitive/ confidential information. The offeree is deemed informed of a potential private transaction upon its board being formally notified regarding the same.
- **Disclosure of information** – after the offeree board is formally notified about a potential private transaction, the offeree may on a strictly confidential basis share confidential/price sensitive information with a bona fide offeror to assist its due diligence over the offeree.
- **Announcement** – the offeror and the selling shareholder must announce a private transaction if:
  - definitive agreements are entered into between the offeror and the selling shareholder, or
  - the offeree is the subject of rumours and speculations, or where there is an untoward price movement since the start of the negotiations between the selling shareholder and the offeror, of 10% or more within a single day or 20% or more of the lowest share price since the start of the negotiations between the selling shareholder and the offeror, and there are reasonable grounds for concluding that it is the potential private transaction which has led to the situation.

- **Non-completion** – if the private transaction is not completed, the offeror who has obtained confidential/price-sensitive information concerning the offeree may not deal in the offeree's securities for six months from the date of announcing the non-completion of the private transaction or stopping discussions and negotiations.

3. Rules of Offers

Learning Objective

3.3.1 Know the rules regarding making an approach (Part 2, Chapter 2, Article 16)

3.3.2 Know the rules for announcing an offer (Part 2, Chapter 2, Article 17)

3.3.3 Know the rules of offers regarding independent advice (Part 2, Chapter 2, Article 18)

3.3.4 Know the rules of offers regarding: prohibited and restricted dealings (Part 2, Chapter 2, Article 19)

3.3.5 Know the rules of offers regarding purchases resulting in an obligation to offer minimum payments (Part 2, Chapter 2, Article 20)

3.3.6 Know the rules of offers regarding the consequences of certain dealings (Part 2, Chapter 2, Article 21)

3.3.7 Know the rules of offers regarding the disclosure of dealings during the offer period, indemnity and other arrangements (Part 2, Chapter 2, Article 22)

3.3.8 Know the rules regarding mandatory offers (Part 2, Chapter 2, Article 23)

3.3.9 Know the rules regarding restrictions on shares representing 40% of the voting rights (Part 2, Chapter 2, Article 24)

3.3.10 Know the rules regarding partial offers (Part 2, Chapter 2, Article 25)

3.3.11 Know the rules regarding the acceptance condition (Part 2, Chapter 2, Article 27)

The largest element of the Regulations deals with tender offers (often referred to, and described in, the Regulations simply as 'offers') made by the offeror to all holders of voting shares of the offeree.

The key provisions dealing with offers are summarised below.

- **Approaching the offeree** – an offer must be submitted to the board of directors of the offeree company or its advisors, before or up to the submission time of the offeree's shareholders.
- **Mandatory announcement** – a public announcement is required to be made promptly in the following circumstances:
  - when an offeror has a firm intention to make an offer, this is notified to the board of the offeree, irrespective of the latter's attitude to the offer
  - upon an acquisition of shares by a person which gives rise to an obligation to make a mandatory offer under the Regulations

    - when a person (individually or acting in concert with the others) owns 40% of the offeree's voting shares
    - when (before a bid approach has been made) the offeree is the subject of rumours and speculations or where there is an untoward price movement in the offeree's shares of 10% or more within a single day and there are reasonable grounds for concluding that it is the potential offeror's actions which have led to the situation
    - when (following a bid approach) the offeree is the subject of offer related rumours and speculations, or where there is an untoward price movement in the offeree's shares of 20% or more of the lowest share price since the time of the approach or a price movement of 10% or more in a single day
    - when negotiations or discussions regarding an acquisition relating to 30% or more of voting shares of the offeree, or
    - the board of the offeree is seeking one or more potential offerors.

- **Responsibility for making public announcement** – before the board of the offeree is approached, the responsibility for making an announcement rests with the offeror only.

  Following an approach to the board of the offeree which may or may not lead to an offer, the primary responsibility for making an announcement will rest with the board of the offeree.
- **Announcement of a firm intention to make an offer** – the offeror should make an announcement of a firm intention to make an offer only when it has every reason to believe that it can and will continue to be able to implement the offer.

  When there has been an announcement of a firm intention to make an offer, the offeror must, except with the consent of the Authority, proceed with the offer unless the offer is subject to the prior fulfilment of a specific condition which has been made public and which has not been met.
- **Statement of intention not to make an offer** – if the offeror makes a statement that it does not intend to make an offer, the offeror (and persons acting in concert) will be bound by that statement for a period of six months unless there is a material change of circumstances related to the statement or there has occurred an event which the offeror specified in its statement as an event which would enable it to be set aside.
- **Independent advice** – the board of the offeror and the board of the offeree must obtain competent, independent advice from independent financial advisors and inform their respective shareholders of the substances of such advice.
- **Restrictions on dealings by the offeror** – during the **offer period**, the offeror, or any person acting on their behalf, must not sell any securities of the offeree without obtaining the Authority's prior approval, and in any case, it may not sell with a price less than the offer price.
- **Irrevocable commitments** – the offeror's financial advisor must inform the Authority before any offeree shareholder or offeror shareholder, where offeror shareholder consent is required, is contacted with a view to seeking an irrevocable commitment to accept/approve or refrain from accepting/approving an offer.
- **Minimum level of payment –** if, during the period from the announcement of firm intention to make an offer until the end of the offer period, an offeror, or any person acting in concert with the offeror, purchases shares at more than the offer price, or otherwise acquires any other interest in shares giving it control of the voting rights of such shares, it must increase its offer to not less than the highest price paid for the shares so acquired during that period.
- **Mandatory offer**
    - Where a person acquires (individually or collectively with persons acting in concert) 50% or more of the voting shares of the target through a restricted purchase, or a restricted offer, the Board of the Authority may, in exercise of its discretionary powers under the Capital Market Law, require such person to purchase the shares of the same class of the offeree it does not own (a 'mandatory offer').

- **Restrictions on the control of shares representing 40% of the voting rights** – if a person (or a group of persons acting in concert) has acquired 40% or more of any class of voting shares, it may not dispose of those shares during the following six-month period without the Authority's approval and in accordance with any conditions specified by the Authority. Public disclosure obligations on the acquirer and the offeree apply in this situation. Such disclosure includes details of any structural changes to the company, the most significant rights and obligations on the buyer, the offeree board's opinion on the person and any concert party regarding their plans for the company activity, employees and shareholders and any resulting financial impact.
- **Partial offer** – the offeror may, subject to obtaining the Authority's prior approval, make a partial offer (ie, an offer to every shareholder holding shares in the offeree, in order to acquire an equity in the offeree).
- **The acceptance condition** – any announcement must state whether the offer has reached the required acceptance level to announce unconditional acceptances. Any condition must be for more than 50% of the voting rights.

4. Mergers

Learning Objective

3.4.1 Know the types and provisions regarding mergers (Mergers and Acquisition Regulations Part 3)

The Regulations permit an Exchange-listed company to implement a merger using the following structures:

- **Absorption by another listed company (merging company)**
  - A securities exchange offer to purchase all of the merged company's shares must be made by the merging company, and new shares in the merging company must be issued to the shareholders of the merged company.
  - Upon the completion of the merger transaction, all assets and liabilities of the merged company are transferred to the merging company, which will continue to exist and remain listed while the merged company will cease to exist, and its shares will be delisted.
- **Absorption by an unlisted company**
  - A securities exchange offer must be made by an unlisted company to the shareholders of the merged company.
  - Upon the completion of the merger transaction, all assets and liabilities of the merged company are transferred to the merging company, which will continue to exist while the merged company will cease to exist, and its shares will be delisted.
- **Forming a new legal entity:**
  - A securities exchange offer must be made by a newly-formed entity (into which the merged company and the other merged company will merge) to the shareholders of the merged company and the other merged company.
  - Upon the completion of the merger transaction, the assets and liabilities of the merged company and the merging company are transferred to the newly formed legal entity and they will cease to exist, and their shares will be delisted.
  - Should the newly formed legal entity wish to list its shares on the Exchange, a new application must be submitted to the Authority.

The implementation and closing of a merger transaction will be subject to the Companies Law requirement to obtain shareholder approval at an extraordinary general assembly of the offeror and the offeree by a 75% majority of the shares represented at the meeting. It requires the following approvals for it to come into force:

1. The offer related to a merger transaction shall not be declared unconditional as to acceptances unless the offeror has acquired or agreed to acquire (either pursuant to the offer or otherwise) shares carrying over 50% of the voting rights attributable to any class of shares of the offeree company.
2. Notwithstanding the implementation and closing of a merger transaction is not permitted until the passing of resolutions of the extraordinary general assembly of shareholders of the offeror and the offeree company, in accordance with the provisions of the Companies Law.

The elements of the Regulations applicable to offers also apply in full to mergers.

4.1 Reverse Mergers/Takeovers

A reverse takeover is an arrangement where a listed company makes an offer of new shares in itself to the shareholders of an unlisted company in exchange for their shares and these new shares will represent more than 50% of the listed company's voting shares after the acquisition.

Where an Exchange-listed company engages in a reverse merger/takeover, in addition to the relevant provisions above in relation to acquisitions or mergers, it must comply with Part 9 of ROSCO.

End of Chapter Questions

Think of an answer for each question and refer to the appropriate section for confirmation.

1. What is the difference between a merger and an acquisition?
   Answer reference: Section 1.1.1

2. What are the responsibilities of directors of company's subject to the Merger and Acquisition Regulations?
   Answer reference: Section 1.1.3

3. What are private transactions and what are the rules that govern them?
   Answer reference: Section 2

4. What are the conditions for the implementation and closing of a merger transaction?
   Answer reference: Section 4

Chapter Four

Corporate Governance Regulations

This syllabus area will provide approximately 7 of the 25 examination questions

1. Rights of Shareholders

Learning Objective

4.1.1 Know the general rights of shareholders in relation to (Corporate Governance Regulations): fair treatment (Part 2, Chapter 1, Article 4); rights related to shares (Part 2, Chapter 1, Article 5); access to information (Part 2, Chapter 1, Article 6); communication (Part 2, Chapter 1, Article 7); electing Board members (Part 2, Chapter 1, Article 8

4.1.2 Know the rules governing general assemblies of listed companies (Corporate Governance Regulations Part 2, chapter 2, Articles 10, 11, 12, 13,14, and 15)

1.1 Introduction to Corporate Governance

Corporate governance is defined as:

> *'rules to lead and guide the company that includes mechanisms to regulate the various relationships between the board, executive directors, shareholders and stakeholders, by establishing rules and procedures to facilitate the decision making process and add transparency and credibility to it with the objective of protecting the rights of shareholders and stakeholders and achieving fairness, competitiveness and transparency on the Exchange and the business environment'.*

Corporate governance involves rules, procedures and best practice to ensure the protection of shareholders' rights as well as the rights of stakeholders.

The Capital Market Authority (Authority) issued the **Corporate Governance Regulations** in 2006. The Corporate Governance Regulations are based on the principles of equality of treatment and information. References in this chapter refer to the Corporate Governance Regulations. The Corporate Governance Regulations outline the following objectives:

1. Enhancing the role of the company's shareholders and facilitating the exercise of their rights.
2. Stating the competencies and responsibilities of the board and the executive management.
3. Enhancing the role of the board and the committees and developing their capabilities to enhance the company's decision-making mechanisms.
4. Achieving transparency, impartiality and equity in the Exchange, its transactions, and the business environment and enhance disclosure therein.
5. Providing effective and balanced tools to deal with conflicts of interest.
6. Enhancing accountability and control mechanisms for the company's employees.
7. Establishing the general framework for dealing with stakeholders and protecting their rights.
8. Supporting the effectiveness of the system for overseeing companies and the tools thereof.
9. Raising the awareness of companies in respect of the concept of professional conduct and encouraging them to adopt and develop such concept in accordance with their nature.

1.2 The Rights of Shareholders

The Corporate Governance Regulations have comprehensive provisions on shareholders' rights. These rights *inter alia* include:

- **Fair and equal treatment among shareholders** – these require the board to treat shareholders fairly and not to discriminate among shareholders who own the same class of shares or frustrate their rights and the company shall specify in its internal policies the procedures that are necessary to guarantee that all shareholders exercise their rights.
- **Information on board nominees** – the right to see on the Exchange's website (as well as on the company's own website), any information regarding the nominees for the membership of the board. This must include the nominees' experience, qualifications, skills and their previous and current jobs and memberships.
- Rights relating to the meeting of the general assembly. Such meetings must be chaired and provide shareholders the opportunity to effectively participate and vote in the meetings of the general assembly, discuss matters listed in the agenda of the general assembly and raise relevant questions, and be granted access to the minutes of the general assembly meeting. The company must announce the results of a general assembly meeting immediately following its conclusion.
- **All rights related to shares shall be guaranteed to the shareholder**, and particularly the following:
  1. To obtain their portion of the net profits which are to be distributed in cash or through the issuance of shares.
  2. To obtain their share of the company's assets upon liquidation.
  3. To attend the general or special shareholders' assemblies, take part in their deliberations and vote on their decisions.
  4. To dispose of their shares in accordance with the provisions of the Companies Law, the Capital Market Law and their implementing regulations.
  5. To enquire and request viewing the books and documents of the company, including the data and information related to the activities of the company and its operational and investment strategy without prejudice to the interests of the company or breach of the Companies Law and the Capital Market Law and their Implementing Regulations.
  6. To monitor the performance of the company and the activities of the board.
  7. To hold board members accountable, to file liability lawsuits against them and appeal for nullification of the resolutions of the general and special shareholders' assemblies in accordance with the conditions and restrictions provided in the Companies Law and the bylaws of the company.
  8. Preemptive rights to subscribe for new shares issued in exchange for cash unless otherwise specified in the company's bylaws or when the extraordinary general assembly suspends the preemptive rights per the Companies Law.
  9. To record their name in the company's shareholders' register.
  10. To request to view a copy of the company's articles of association and bylaws unless the company publishes them on its website.
  11. To nominate and elect the board members.
- **Shareholder's right to access information**
  a. The board shall make available to the shareholder complete, clear, accurate and non-misleading information to enable them to properly exercise their rights. Such information shall be provided at the proper times and shall be updated regularly.

b. The method used to provide information to the shareholders shall be clear and detailed and shall include a list of the company's information that the shareholders may obtain. This information shall be made available to all shareholders of the same class.
c. The company shall use the most effective methods in communicating with shareholders and shall not discriminate among shareholders in respect of providing information.

- **Communication with shareholders:**
  a. The board shall ensure communication between the company and the shareholders based on the common understanding of the strategic objectives and interests of the company.
  b. The chairman of the board and the CEO shall inform the remaining board members of the opinions of the shareholders and discuss these opinions with them.
  c. No shareholder may intervene in the operations of the board or the work of the executive management of the company unless they are a member of its board or its management team; or unless their intervention is through the ordinary general assembly according to its powers or within the limits and situations permitted by the board.
- **Shareholders' assembly and its management**
  a. The ordinary general assembly shall convene in accordance with the situations and circumstances stated in the Companies Law and the Implementing Regulations and the company's bylaws.
  b. The ordinary general assembly shall convene at least once per year within the six months following the end of the company's financial year.
  c. The general and special shareholders' assemblies shall convene upon an invitation from the board in accordance with the situations stated in the Companies Law and Its Implementing Regulations and the company's bylaws. The board shall invite the ordinary general assembly to convene upon the request of the external auditor, the audit committee or a number of shareholders holding shares equal to at least (5%) of the share capital of the company. The external auditor may invite the assembly to convene if the board does not invite the assembly within thirty days from the date of the external auditor's request.
  d. The date, place and agenda of the general assembly shall be announced at least twenty one days prior to the date thereof; the invitation shall be published on the website of the Exchange, the company's website and in a daily newspaper distributed in the province where the company's head office is located. The company may invite the general and special shareholders' assemblies to convene using methods of contemporary technologies.
  e. The company may amend the agenda of the general assembly within a period between publishing the announcement referred to and the date of convening the general assembly meeting, provided that the company shall announce it.
  f. Shareholders shall be granted the opportunity to effectively participate and vote in the general assembly meetings. The meetings of the general assemblies of shareholders may be convened and shareholders may participate in their deliberations and vote on their resolutions using methods of contemporary technologies pursuant to the Regulatory Rules and Procedures issued pursuant to the Companies Law related to listed joint stock companies.
  g. The board shall work on facilitating the participation of the largest number of shareholders in the meetings of the general assembly, including choosing the appropriate place and time of such meeting.
  h. The company shall ensure recording the details of the shareholders who desire to attend at the company's head office prior to the specified time for convening the assembly, unless the company's bylaw state other means.

- **Shareholders' Assembly and its agenda**
  a. When preparing the general assembly's agenda, the board shall take into consideration the matters that the shareholders wish to list. Shareholders holding no less than (5%) of the company's shares are entitled to add one or more items to the agenda upon its preparation.
  b. The board shall separate each of the matters listed in the agenda of the general assembly meeting as an independent item, and not combine significantly different matters under one item, and not combine the businesses and contracts in which board members have a direct or indirect interest under one item, for the purpose of obtaining the shareholders' vote for the item as a whole.
  c. The shareholders shall be allowed (through the websites of the company and Exchange when the invitation for the convention of the general assembly is published), to obtain the information related to the items of the general assembly's agenda, the reports of the board and the external auditor, the financial statements and the audit committee's report in order to enable them to make an informed decision in this regard. The company shall update this information in case the general assembly's agenda was amended.
  d. The Authority may add any items it deems appropriate to the agenda of the general assembly.

2. The Board and Internal Controls

Learning Objective

4.2.1 Know the regulations regarding (Corporate Governance Regulations): the formation of the Board (Part 3, Chapter 1); the responsibilities and correct competencies of the Board (Part 3, Chapter 2)

4.2.2 Know examples of conflicts of interest (Corporate Governance Regulations Part 3, Chapter 6)

4.2.3 Know how the Board should manage conflicts of interest (Corporate Governance Regulations Part 3, Chapter 6)

The Corporate Governance Regulations contain detailed rules and principles governing the board of directors such as the role of the chairman, independent directors and the secretary of the board as well as the appointment, board formation, conditions of membership, responsibilities, termination, distribution of competencies and duties, and auditing.

The following shall be taken into consideration when composing the board:

1. The number of its members shall be suitable for the size and nature of the company's activities.
2. The majority of the board members shall be of non-executive directors (NEDs).
3. The number of independent directors shall not be less than two members or one third of the board members (whichever is greater).

The company's bylaws shall specify the number of the board members, provided that such number shall not be less than three and not more than eleven. The general assembly shall elect the board members for the term stated in the company's bylaws, provided that such term shall not exceed three years. Board members may be re-elected, unless otherwise provided for in the company's bylaws.

A board member shall not be a member of the boards of directors of more than five listed joint stock companies at the same time.

The company shall notify the Authority of the names of the board members and provide a description of their membership.

The Corporate Governance Regulations require a member of the board to be professionally capable, have the prerequisite knowledge, experience, independence and skill which will empower them to perform their functions effectively. It further states that a member of the board should have the ability to lead and guide (requiring both technical and administrative competence to take prompt decisions), have the appropriate qualifications, professional and personal skills, training and practical experience. Moreover, a knowledge of management, economics, accounting, law or governance is required, as well as possessing financial knowledge and be physically fit to undertake the assigned functions. The Regulations bring in aspects of character, requiring the members of the board to act with:

- truthfulness
- honesty
- loyalty, and
- care.

The company's bylaws shall specify the manner by which membership of the Board may be terminated. It relates to the termination of a board director. At all times, the ordinary general assembly can dismiss one or all board directors even if the company's bylaws provide for otherwise, without prejudice to the dismissed member's right for compensation if the dismissal was for an unacceptable reason or at inappropriate time. The general assembly may also, as per a recommendation of the board, terminate the membership of the member who missed three consecutive meetings without a legitimate excuse. Upon the termination of the membership of a board member by any termination method, the company shall promptly notify the Authority and the Exchange, and shall specify the reasons for such termination, and if a board director resigns and has comments on the performance of the company, they shall submit a written statement to the chairman of the board and such statement shall be presented to the board members.

The independence of board members is a core aspect of corporate governance, to ensure the company is not run for minority interests. Independent board members are non-executive members of the board who enjoy complete independence in their position and decisions. The following negate the independence requirements for an independent director:

1. If they hold 5% or more of the shares of the company or any other company within its group; or is a relative of someone who owns such percentage.
2. If they are a representative of a Legal Person who holds 5% or more of the shares of the company or any company within its group.
3. If they are a relative of any member of the board of the company, or any other company within the company's group.
4. If they are a relative of any senior executive of the company, or of any other company within the company's group.
5. If they are a board member of any company within the group of the company for which they are nominated to be a board member

6. If they are an employee or used to be an employee, during the preceding two years, of the company, of any party dealing with the company or any company within its group, such as external auditors or main suppliers; or if they have, during the preceding two years, held a controlling interest in any such parties.
7. If they have a direct or indirect interest in the businesses and contracts executed for the company's account.
8. If the member of the board receives financial consideration from the company in addition to the remuneration for their membership of the board or any of its committees exceeding SAR 200,000 or 50% of their remuneration for the last year of the membership of the board or any of its committees, whichever is less.
9. If they are engaged in a business where they compete with the company, or conduct business in any of the company's activities.
10. If they have served for more than nine years, consecutively or inconsecutively, as a board member of the company.

The board is required to annually assess the level of each member's independence and make sure that there are no connections or situations that may affect their independence. The appointment of a person as a CEO is prohibited during the first year following the end of their service as the chairman of the board.

It is forbidden to hold simultaneously the position of chairman of the board and any other executive position in the company such as managing director, CEO, or general manager, even if the company's bylaws provide for the contrary.

The board maintains responsibility for the company business even if it delegates some powers to committees, individuals or others.

The chairman plays a critical role in establishing constructive relationships between:

- shareholders and the board
- the executive and non-executive and independent directors, and
- the executive management and the board.

The general duties that the Corporate Governance Regulations set down for all board members can be found in Article 30. It should be remembered that these are specific to their position as directors as opposed to any executive functions that may be set out in an employment contract or related in any way to their shareholding. These duties include aspects linked to:

- strategy and performance management
- compliance, control and risk
- monitoring the executive management and the extent to which it achieves the company's objectives
- allocate sufficient time to carry out responsibilities, to prepare for, and participate in, the meetings of the board of directors and its committees effectively
- keep confidential information secret, and
- be an open, honest, diligent and responsible member of the board who acts in good faith.

Being a director involves fiduciary responsibilities, ie, responsibilities for the interests of others (in this case the shareholders of the company) above any self-interest. The board shall develop an explicit and written policy to deal with actual and potential conflicts of interest situations which may affect the performance of board members, the executive management or any other employees of the company when dealing with the company or other stakeholders. This policy shall include the following in particular:

1. Informing board members, substantial shareholders, senior executives and other employees of the company of the importance of avoiding situations that may lead to a conflict between their interests and the interests of the company, and dealing with them in accordance with the provisions of the Companies Law and its Implementing Regulations.
2. Providing examples of conflicts of interest situations that are relevant to the nature of the company's activity.
3. Clear procedures for disclosing conflicts of interest in the activities that may lead to such conflicts and obtaining authorisation or the requisite approval.
4. The obligation to constantly disclose situations that may lead to conflicts of interest or upon the occurrence of such conflicts.
5. The obligation to abstain from voting or taking part in decision-making when there is a conflict of interest.
6. Clear procedures when the company contracts or enters into a transaction with a related party. This shall include notifying the Authority and the public without any delay of that contract or transaction if it is equal to, or exceeds, 1% of the company's total revenues according to the last annual audited financial statements.
7. Set the procedures to be taken by the board when such policy violation is discovered.

Every listed company will have a company secretary, that is appointed by a board resolution, it could be among its members or a third party, whose competencies and remuneration shall be specified by a board resolution, unless the company's bylaws include provisions in connection therewith. The company secretary is responsible for the administration of the board and the company as a legal entity. They can either be a director or work exclusively as the company secretary. This role is not a managerial one relating to the business activities of the company.

The company secretary will have a suitable background in law, accountancy or business administration. The role and requirements of the company secretary include the coordination of board meetings, and the production and management of relevant documentation and reports. Documentation of the board meetings and preparing the minutes which shall include the discussions carried during such meetings, and recording the decisions of the board and voting results, providing the board members with the meeting's agenda ensuring that the board members comply with the procedures approved by the board.

3. Company Committees

Learning Objective

4.3.1 Know the purpose of a company's committees (Corporate Governance Regulations Part 4)

4.3.2 Know which committees are: mandatory (Part 4); non-mandatory (Part 4)

4.3.3 Know the reporting lines, structure and degree of independence of the (Corporate Governance Regulations): Audit Committee (Part 4, Chapter 2); Remuneration Committee (Part 4, Chapter 3); Nomination Committee (Part 4, v 4)

Company committees are formed by the board to deal with specific subjects and are a key element of corporate governance. They report to the board, but the board retains ultimate responsibility – the board cannot derogate their responsibility for the company's affairs. While the membership of company committees normally consists of non-executive directors (NEDs), the Corporate Governance Regulations allow for shareholders or others to be members of the remuneration and nomination committees, the chairmen of committees mentioned in this paragraph must be independent directors. Appointments to company committees need to be notified to the Authority in the same way as appointments to the board. No member of the board or the executive management (with the exception of the company secretary) who is not a member of that specific company committee may attend the committee meeting unless invited.

For the purposes of the Corporate Governance Regulations, the three committees listed below are mandatory for Exchange-listed companies, although a board can add other committees (which would be non-mandatory):

- **Audit Committee** – the regulations regarding audit committee are a fundamental element of corporate governance relating to the provision of accurate and non-misleading financial information to the company's shareholders. In terms of a reporting line, they have an oversight role, sitting between the company's executive management who produces and maintains the company's financial records and the external auditor that reviews and audits that financial information and ensures that it is compliant with the various statutory and regulatory requirements. They are required to meet at least four times a year. It sets out the requirement that an audit committee should be formed by a general assembly resolution. The regulation provides further information on the structure of the audit committee noting that it should be chaired by an independent director, and that the members should:
  - number between three and five
  - include at least one independent director
  - include at least one member who is specialised in finance and accounting
  - not have worked in the company's executive management, finance department or at its external auditor in the last two years
  - not be an executive director, and
  - not be the chairman of the board.

The audit committee must have the competencies, powers and responsibilities to effectively scrutinise the financial reports, internal audit, external auditors, and ensuring compliance with the relevant regulations, instructions and policies. This means that they must have at least one member specialised in finance and accounting. They must provide mechanisms for employees to be able to provide confidentially their remarks in respect of any inaccuracies in financial or other reports to the audit committee.

If a conflict arises between the recommendations of the audit committee and the board resolutions, or if the board refuses to put the audit committee's recommendations into action, the board's report must include the audit committee's recommendations and justifications, and the board's own reasons for not following such recommendations. Furthermore, the audit committee can request for a general assembly if its activities have been impeded by the board (or if the company has suffered significant losses and damages).

A general assembly:

'shall upon a recommendation of the board, issue a business regulation for the audit committee which shall include the rules and procedures for the activities and duties of the committee, the rules for selecting its members, the means of their nomination, the term of their membership, their remunerations, and the mechanism of appointing temporary members in case a seat in the committee becomes vacant'.

It is key that there should be no conflict between the audit committee and the board, and that the audit committee should have full access to all the required information.

The other mandatory committees include:

- **Remuneration Committee** – has responsibility for preparing clear policies for the remuneration of the board, executive management and the members of company committees, and presenting such policy to the board in preparation for approval by the general assembly. The formation and terms of the remuneration committee is also approved at a general assembly. The membership requirements for the remuneration committee are very similar to that of the audit committee (executive directors cannot be members, and it must contain at least one independent director; there is an exception in that a non-executive chairman can be a member. The remuneration committee must meet at least once a year and whenever necessary.
- **Nomination Committee** – responsible for, but not limited to:
  - suggesting clear policies and standards for membership of the board and executive management, taking into account the nomination shall not include any person convicted of a crime involving moral turpitude or dishonesty
  - annually reviewing the skills and expertise required of the board members and the executive management
  - annually ensuring the independence of independent directors, and
  - for the appointment of potential members of the board, executive management and company committees.

A company may combine remuneration and nomination committees into one committee named remuneration and nomination committee provided that the committee convenes at least once every six months. The membership requirements are the same as for the remuneration committee, and similarly must meet at least once a year.

4. Internal Controls

Learning Objective

4.4.1 Know requirements relating to the establishment and operation of an internal control system (Part 5)

The expectations for the board are set out to establish and maintain sufficient internal controls to ensure company activities are done properly – including maintaining proper records. This includes the creation of an internal audit unit or department which assesses and monitors the implementation of the internal control system, and verifies that the company and its employees comply with applicable laws, regulations and instructions, and the company's policies and procedures. Such a department or unit must operate to a comprehensive audit plan approved by the audit committee which is updated and reviewed annually. The report produced by internal audit regarding its activities must be prepared quarterly to the board and audit committee, in accordance with a scope specified by the board, and must include its assessment, opinion and recommendations, and a description of the procedures taken by a department to address the findings of the previous report. The scope should cover:

1. Procedures for monitoring and overseeing the financial affairs, investments and risk management.
2. Assessing the development of risk factors threatening the company and the existing systems, in order to confront radical or unexpected changes in the Exchange.
3. An assessment of the performance of the board and the senior management with respect to the implementation of internal control systems, including specifying the number of times the board has been informed of control issues (including risk management) and a description of the method followed to address such issues.
4. Failures or weaknesses in the implementation of internal control, or emergency situations that have affected or may affect the company's financial performance, and the measures taken by the company to address such failures (particularly the issues disclosed in the company's annual reports and its financial statements).
5. The extent to which the company has complied with the internal controls when determining and managing risks.
6. Information describing the company's risk management operations.

The department shall also prepare a general report which compares its actual activities compared to the approved plan.

Separate departments must be established for the purpose of assessing and management risk and for internal auditing. The company is allowed to utilise external entities to perform the duties and competencies, but cannot abrogate responsibility.

5. Professional & Ethical Standards

Learning Objective

4.5.1 Know (Corporate Governance Regulations): the factors that the Board shall incorporate in their Professional Conduct Policy (Part 8, Article 86); the purpose and objectives of the Social Responsibility Policy (Part 8, Article 87 and Article 88)

The board shall establish a policy for professional conduct and ethical values at the company, in order to ensure all board of directors and employees act in a professional and ethical manner.

A board member shall particularly take the following into consideration:

1. Perform their duties with loyalty and care, and shall, at all times, prioritise the company's interests over their own interests.
2. Represent all shareholders to achieve the best interests of the company and its shareholders.
3. Promote compliance with all relevant laws, regulations and instructions.
4. Not abuse the board or executive management member position for their own or others benefit.
5. Use company assets and resources only to achieve the company's purposes and objectives, and not to achieve personal interests.
6. Not allow improper access to company information.

The guidance for Exchange-listed companies is to establish policies for social responsibilities for the communities in which they operate and social initiatives to make a positive contribution to their social and economic condition. These are likely to gain greater importance as time passes, particularly since the Board must establish a programme that tracks key indicators relating to achieving this, together with the need to raise awareness and knowledge amongst its employees and community, and producing reports on the subject.

6. Disclosure and Transparency

Learning Objective

4.6.1 Know the factors that the board should consider in order to implement effective disclosure policies and procedures (Corporate Governance Regulations Part 9, Article 89)

4.6.2 Know how disclosure and transparency requirements are implemented via (Corporate Governance Regulations): the board's report (Part 9, Article 90); the Audit Committee (Part 9, Article 91); disclosures by the board (Part 9, Article 92); disclosure of remunerations (Part 9, Article 93)

The board shall set forth in writing the policies, procedures and supervisory rules related to disclosure pursuant to the disclosure requirements provided for in the Companies Law and the Capital Market Law, as the case may be, and their Implementing Regulations, taking into consideration the following:

1. Such policies shall include proper disclosure methods that enable the shareholders and other stakeholders to access the financial and non-financial information pertaining to the company's performance and information in respect of ownership of shares, and to obtain a comprehensive view of the company's position.
2. Disclosure to shareholders and investors shall be made without discrimination in a clear, correct and non-misleading fashion, and in a timely, regular and accurate manner in order to enable shareholders and other stakeholders to exercise their rights to the fullest extent.

The Regulations include specific requirements for reports to be published alongside the annual audited accounts. These reports are for:

- **The Board Report** – this is a comprehensive report and covers the performance and operation of the company during the last fiscal year and includes all factors that affect the company's business. It must include the adherence (and non-adherence) to provisions in the Corporate Governance Regulations, and the details, composition, competencies, remuneration and attendance record of the board and its committee members.
- **The Audit Committee Report** – this report must include the audit committee's recommendations and opinion on the adequacy of the internal and financial control systems and risk management systems of the company. The board shall make available sufficient copies of the audit committee's report at the company's head office, and publish them on the websites of the company and the Exchange when sending out the invitation to convene the general assembly, thus enabling shareholders to get a copy thereof. The summary of it must be read at the general assembly.
- **Board and Company Committee Membership** – the report must provide the names, qualifications and experience of the board and its committee membership, composition and classification. This includes a brief description of the competencies and duties of the committees.
- **Board Remuneration** – the Board must provide an accurate, transparent and detailed disclosure in the board report concerning remuneration granted to board members and executive management, directly or indirectly, without any omission or misleading information, and whether these were in cash or some other form.

7. Record-Keeping Requirements

Learning Objective

4.7.1 Know the requirements for document retention (Corporate Governance Regulations Part 11, Article 96)

A company shall retain all minutes, documents, reports and other papers in the company's head office for at least ten years (or until the conclusion of any filed or threatened to be filed lawsuit). This includes the board report and the audit committee report.

End of Chapter Questions

Think of an answer for each question and refer to the appropriate section for confirmation.

1. What is corporate governance?
   Answer reference: Section 1.1

2. State five rights that shareholders have.
   Answer reference: Section 1.2

3. What are the regulations regarding the formation of the board?
   Answer reference: Section 2

4. What are the three types of committees that are mandatory for an Exchange-listed company?
   Answer reference: Section 3

5. What is the purpose of a professional conduct policy?
   Answer reference: Section 5

Glossary

Acting in Concert

Means, at the sole discretion of the Authority, actively co-operating, pursuant to an agreement (whether binding or non-binding) or an understanding (whether formal or informal) between persons, to be controllers (whether directly or indirectly, excluding indirect ownership of shares through swap agreements or through an investment fund whose unit owner have no discretion in its investment decisions) of a company, through the acquisition by any of them (through direct or indirect ownership) of voting shares in that company. Moreover, 'concert parties' shall be construed accordingly.

Without prejudice to the general application of this definition, the following persons, shall be presumed to be acting in concert with other persons of the same class unless the contrary is established, including but not be limited to:

1. Members of the same group.
2. A person's relatives.
3. Person(s) who provided financial assistance to the offeror or offeree or members of the group with such person (other than a bank in the ordinary course of business) in order to purchase shares that carry voting rights or convertible debt instruments.

Application for Listing

Means in the Rules on the Offer of Securities and Continuing Obligations, any application submitted to the Exchange to list securities of any type.

Application for Registration and Offer

The registration of securities with the Authority, or where the context permits, the application to the Authority for registration and offer of securities.

Asset-Backed Debt Instrument

Means a debt instrument issued by a Special Purposes Entity (SPE) under whose terms:

a. the entitlement of holders of the debt instrument to a return is wholly dependent on the returns generated by the special purposes entity's assets, and
b. the sponsor is not obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay any amounts due on the debt instrument.

Asset-Linked Recourse Debt Instrument

Means a debt instrument issued by an SPE under whose terms:

a. The entitlement of holders of the debt instrument to a return is defined by a percentage of the returns generated by the SPE's assets.
b. The sponsor is obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay all amounts due on the debt instrument.

Associate

1. In relation to the senior executives or a director or to a substantial shareholder who is an individual any of the following:
    a. That individual's spouse or minor children (together 'the individual's family').
    b. Any company in whose equity shares the individual or any member or members (taken together) of the individual's family or the individual and any such member or members (taken together) are directly or indirectly interested so that they are able:
        - to exercise or control the exercise of 30% or more of the votes at the general meeting on all, or substantially all, matters, or

- to appoint or remove directors holding a majority of voting rights at board meetings on all, or the majority of, matters.

2. In relation to a substantial shareholder which is a company:
   a. Any other company which is its subsidiary or parent or fellow subsidiary of the parent.
   b. Any company whose directors are accustomed to act in accordance with the substantial shareholder's directions or instructions.
   c. Any company in the capital of which the substantial shareholder, and any other company under (a) or (b) taken together, are directly or indirectly interested so that they are able:
      - to exercise or control the exercise of 30% or more of the votes at the general meeting on all, or substantially all, matters, or
      - to appoint or remove directors holding a majority of voting rights at Board meetings on all, or substantially all, matters.

Authorised Person

A Capital Markets Institution.

Capitalisation Issue

An offer of further shares to existing shareholders, fully paid up out of the issuer's reserves, in proportion to existing shareholders' holdings.

Capital Market Institution

A person authorised by the Authority to carry out securities business.

Capital Market Law

The Capital Market Law issued by Royal Decree Number M/30 dated 2/6/1424H.

Chief Executive Officer (CEO)

The chief executive officer, being any individual who heads the operations of any person and includes the managing director, the chief executive, the president of the company or equivalent.

Chief Financial Officer (CFO)

Any Natural Person who manages the financial affairs of any person, whether under the name of chief financial officer or finance manager or equivalent.

Client

A person for whom a Capital Market Institution executes securities transactions.

Corporate Governance Regulations

Corporate Governance Regulations issued by the Board of the Authority.

Custodian

A person who is authorised under the Capital Market Institutions' Regulations to conduct the securities activity of custody.

Customer

In the Authorised Persons Regulations, means a client who is not a counterparty, whether it is an individual or a juristic person.

Debt-Based Recourse Debt Instrument

Means a debt instrument issued by an SPE under whose terms:

a. The entitlement of holders of the debt instrument to a return is not based on the returns generated by the SPE's assets.
b. The sponsor is obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay all amounts due on the debt instrument.
c. Repayment of the nominal value of the debt instrument is to be made to the holders of the debt instrument at or before the maturity of such debt instrument.

Debt Instrument

Tradeable instrument creating or acknowledging indebtedness issued by companies, the government, public institutions or public organisations, but excluding:

1. An instrument creating or acknowledging indebtedness for the consideration payable under a contract for the supply of goods or services, or for money borrowed to defray the consideration payable under a contract for the supply of goods or services.
2. A cheque, a bill of exchange, a banker's draft or a letter of credit.
3. A banknote, a statement showing a balance on a bank account, or a lease contract or any other evidence of disposition of property.
4. A contract of insurance.

Director

In relation to a joint stock company, it includes a member of the board of directors and in relation to any other company includes any manager or other senior executive who makes and implements the company's strategic decisions.

Exchange

The Saudi Stock Exchange Company (Tadawul) or the Saudi Stock Exchange including where the context permits any committee, sub-committee, employee, officer, affiliate or agent to whom any function of the Exchange may for the time being be delegated, and 'on Exchange' means any activity taking place through or by the facilities provided by the Exchange.

Exchange Rules

The regulations, rules, procedures and instructions proposed by the Board of Directors of the Exchange and approved by the Board of the Authority.

Finance Company

A company licensed to engage in finance activities in accordance with the Laws of the Kingdom.

Financing Transaction

Means the transaction under which a special purposes entity raises finance by the issue of debt instruments, including the acquisition, transfer or other use of assets required to generate amounts due under the terms of those debt instruments, and the issue of the debt instruments itself.

Foreign Regulator

In relation to a foreign credit rating agency, its principal regulator in the jurisdiction of its incorporation and/or establishment.

Fund's Terms and Conditions

The contracts containing those disclosures and provisions required under the Investment Funds Regulations and the Real Estate Investment Funds Regulations, signed between the fund manager and the unitholder.

Implementing Regulations

Any regulations, rules, instructions, procedures and orders issued by the Authority relating to the implementation of the Capital Market Law.

Insolvency

Actual insolvency, or the commencement of any proceedings in respect of insolvency, liquidation or a voluntary arrangement under the Bankruptcy Regulations, or the commencement of any equivalent procedures in the Kingdom or in any other jurisdiction outside the Kingdom.

Insolvent

A person to whom an insolvency event has occurred.

Institution

1. Any company which owns, or which is a member of a group which owns, net assets of not less than SAR 10 million.
2. Any unincorporated body, partnership or other organisation which has net assets of not less than SAR 10 million.

3. A person acting in the capacity of director, officer or employee of a Legal Person and responsible for its securities activity, where that legal person falls within the definition of paragraphs (1) or (2).

Investment Fund

A collective investment scheme (CIS) aimed at providing investors therein with an opportunity to participate collectively in the profits of the scheme which is managed by a fund manager for specified fees.

Issuance Programme

A programme under which a single prospectus under the Rules on the Offer of Securities and Continuing Obligations is produced pursuant to which a number of debt instruments or convertible debt instruments may be issued in the future, as stated in the prospectus.

Issuer

A person issuing or intending to issue securities.

Limited Offer

Has the meaning specified in Article 9 of the Rules on Offers of Securities and Continuing Obligations.

Listed

In relation to any type of securities, means the securities admitted to listing on the Exchange.

Listed Company

Any company with securities of any kind listed on the Exchange.

Listing

Listing securities on the Exchange either on the Main Market or on the Parallel Market, or, where the context permits, the application for listing.

Listing Rules

The Listing Rules proposed by the Board of the Exchange and approved by the Board of the Authority.

Local Bank

An institution that has received a license to engage in banking business in accordance with the Laws of the Kingdom.

Main Market

The market of Exchange where securities, that have been registered and offered pursuant to Part 4 of the Rules on the Offer of Securities and Continuing Obligations, are traded.

Merger

A transaction, however, its nature, involving an offeree company listed on the exchange and resulting in any of the following:

1. The absorption of that offeree company by another company listed on the Exchange.
2. The absorption of that offeree company by a company that is not listed on the Exchange.
3. The formation of a new legal entity by merging two companies or more (including the offeree company).

Merger and Acquisition Regulations

The Merger and Acquisition Regulations issued by the Board of the Capital Market Authority.

Offer

Means in the Merger & Acquisition Regulations, a general tender offer, other than the offers provided by the offeree company itself, that is subject to the Merger & Acquisition Regulations, made to all holders of the shares carrying voting rights in the offeree company for any of the following purposes:

1. purchase shares carrying voting rights in the offeree company, or
2. to effect a merger of the offeree company.

Any reference in the Merger & Acquisition Regulations to the term ‘offer’ or ‘potential offer’ shall be construed as the following:

1. a merger or potential merger
2. an offer or partial offer for takeover, or a potential offer or partial offer for takeover, or
3. partial offer or potential partial offer, not intended for takeover.

Offer Document

The offer document that the offeror is required to prepare and publish in relation to an offer, in accordance with Article 38 of the Merger & Acquisition Regulations.

Offeree Company

Meaning in the Merger & Acquisition Regulations, a company listed on the Exchange (or unlisted company in the case of reversed takeover) in respect of which a takeover offer has been made.

Offeror

Means in the Rules on the Offer of Securities and Continuing Obligations, a person who makes an offer or invites a person to make an offer which, if accepted, would give rise to the issue or sale of securities by him or by another person with whom he has made arrangements for the issue or sale of the securities; and in the Merger & Acquisition Regulations, a person who makes or intends to make a takeover offer that is subject to the Merger & Acquisition Regulations.

Offer Period

The period from announcing a confirmed intention to provide an offer until the offer becomes unconditional as to acceptance, or until the extraordinary general assembly issues a decision to the offeror, as the case may be, and the offeree company in case of acquisition by an offer to exchange securities against the total shares of the offeree company.

Order

In relation to an order from a client:

1. An order to a Capital Market Institution from a client to execute a transaction as agent.
2. Any other order to a Capital Market Institution from a client to execute a transaction in circumstances giving rise to similar duties as those arising from an order to execute a transaction as agent.

‘Order’ shall include any decision by a Capital Market Institution to execute a transaction in exercise of discretion for a client, an investment fund that it manages or for the purpose of aggregating orders for its clients in accordance with the Market Conduct Regulations. The definition of order shall not include any requests for purchasing a new security issue.

Ordinary Course of Business

A usual activity that is normal to the day to day operations of the business. Occasional or infrequent activities do not constitute an ordinary course of business.

Parallel Market

The market of Exchange where shares, that have been registered and offered pursuant to Part 8 of the Rules on the Offer of Securities and Continuing Obligations, are traded.

Partial Offer

An offer (except for offers made by the same offeree company) subject to the Merger & Acquisition Regulations, made to all holders of the shares carrying voting rights in the offeree company to purchase a certain percentage of shares in the offeree company.

Person

Any Natural or Legal Person recognised as such under the laws of the Kingdom.

Private Placement

For the purpose of the Rules on the Offer of Securities and Continuing Obligations, means an offer of securities which falls within one of the categories of offers listed in Article 8 of the Rules on the Offer of Securities and Continuing Obligations; and for the purposes of the Investment Fund Regulations, means:

1. for private funds, the offer of units in accordance with paragraph (a) of Article 80 of the Investment Fund Regulations, and
2. for foreign funds, the offer of units in accordance with paragraph (a) of Article 98 of the Investment Fund Regulations.

Private Transaction

Transaction involving the purchase and/or sale of shares carrying voting rights in any company listed on the Exchange, negotiated between the offeror and selling shareholder(s) of the offeree company without making an offer or involving the other shareholders or directors of the offeree company.

Professional Investor

Any Natural Person who fulfils at least one of the following criteria:

1. Has carried out at least ten transactions per quarter over the last 12 months of a minimum total amount of SAR 40 million on the securities markets.
2. Their net assets are not less than SAR 5 million.
3. Works, or has worked for, at least three years in the financial sector in a professional position which requires knowledge of securities investment.
4. Holds professional certificate that is related to securities business and accredited by an internationally recognised entity.
5. Holds the General Securities Qualification Certificate that is recognised by the Authority, and has an annual income that is not less than SAR 600,000 in the two most recent years.

Prospectus

The document required to offer securities in the Main Market or in the Parallel Market in accordance with the Capital Market Law and the Rules on the Offer of Securities and Continuing Obligations.

Public

Means in the Rules on the Offer of Securities and Continuing Obligations, the Instructions on the Price Stabilisation Mechanism In Initial Public Offerings and the Instructions on Issuing Depositary Receipts Out of the Kingdom, persons other than the following:

1. affiliates of the issuer
2. substantial shareholders of the issuer
3. directors and senior executives of the issuer
4. directors and senior executives of affiliates of the issuer
5. directors and senior executives of substantial shareholders of the issuer
6. any relative of persons described at (1), (2), (3), (4) or (5) above
7. any company controlled by any persons described at (1), (2), (3), (4), (5) or (6) above, or
8. persons acting in concert, with a collective shareholding of (5%) or more of the class of shares to be listed.

Qualified Client

Means any of the following:

a. A Natural Person who meets at least one of the following criteria:
    1. Has carried out at least ten transactions per quarter over the last 12 months of a minimum total amount of SAR 40 million on the securities markets.
    2. Their net assets are not less than SAR 5 million.
    3. Works, or has worked for, at least three years in the financial sector in a professional position related to investment in securities.

4. Holds a professional certificate in securities business and accredited by an internationally recognised entity.
5. Holds the General Securities Qualification Certificate that is recognised by the Authority, and has an annual income that is not less than SAR 600,000 in the last two years.
6. Being a client of a Capital Market Institution authorised by the Authority to conduct managing activities, provided that the following is fulfilled:
   a. The offer shall be made to the Capital Market Institution and that all related communications be made by it.
   b. The Capital Market Institution has been appointed on terms which enable it to make investment decisions on the client's behalf without obtaining prior approval from the client.
7. Registered persons of a Capital Market Institution if the offer is carried out by the Capital Market Institution itself.

b. A Legal Person, which meets at least one of the following criteria:
   1. Any Legal Person acting for its own account and be any of the following:
      a. Company which owns, or which is a member of a group which owns, net assets of not less than SAR 10 million and not more than SAR 50 million.
      b. Any unincorporated body, partnership company or other organisation which has net assets of not less than SAR 10 million and not more than SAR 50 million.
      c. A person acting in the capacity of director, officer or employee of a Legal Person and responsible for its securities activity, where that Legal Person falls within the definition of paragraph (1/a) or (1/b).
   2. Clients of a Capital Market Institution authorised by the Authority to conduct managing activities, provided that the following is fulfilled:
      a. The offer shall be made to the Capital Market Institution, and that all related communications be made by it.
      b. The Capital Market Institution has been appointed on terms which enable it to make investment decisions on the client's behalf without obtaining prior approval from the client.

c. A company fully owned by a Natural Person who meets one of the criteria mentioned in paragraph (A) or a Legal Person who meets one of the criteria mentioned in paragraph (B).

Qualified Investor

Means in Part 8 of the Rules on the Offer of Securities and Continuing Obligations, Articles 46 and 47 of the Investment Funds Regulations and Article 45 of the Real Estate Investment Funds Regulations, any of the following:

1. Capital Market Institutions acting for their own account.
2. Clients of a Capital Market Institution by the Authority to conduct managing activities provided that this Capital Market Institution has been appointed as an investment manager on terms which enable it to make decisions concerning the acceptance of an offer and investment in the Parallel Market on the client's behalf without obtaining prior approval from the client.
3. The Government of the Kingdom, any government body, any supranational authority recognised by the Authority or the Exchange, and any other stock exchange recognised by the Authority or the Securities Depository Center.
4. Government-owned companies, either directly or through a portfolio managed by a Capital Market Institution authorised to carry out managing activities.
5. Companies and funds established in a member state of the Cooperation Council for the Arab States of the Gulf.

6. Investment funds.
7. Non-resident foreigners permitted to invest in the parallel market and who meet the requirements stipulated in the Guidance Note for the investment of Non-Resident Foreigners in the Parallel Market.
8. Qualified foreign financial institutions.
9. Any other Legal Persons allowed to open an investment account in the Kingdom and an account at the Depositary Center.
10. Natural Persons allowed to open an investment account in the Kingdom and an account at the Depositary Center, and fulfil any of the following criteria:
    a. Has conducted transactions in security markets of not less than SAR 40 million in total, and not less than ten transactions in each quarter during the last 12 months.
    b. Their net assets are not less than SAR 5 million.
    c. Works, or has worked for, at least three years in the financial sector.
    d. Holds the General Securities Qualification Certificate which is recognised by the Authority.
    e. Holds a professional certificate that is related to securities business and accredited by an internationally recognised entity.
11. Any other persons prescribed by the Authority.

Reconciliation

The identification and explanation of individual items of difference between two sets of records but does not include the processing of necessary adjustments.

Registration Document

The document required for the registration of shares with the Authority for direct listing on the Parallel Market pursuant to the Rules on the Offer of Securities and Continuing Obligations.

Related Party

In the Rules on the Offer of Securities and Continuing Obligations, it means:

1. affiliates of the issuer
2. substantial shareholders of the issuer
3. directors and senior executives of the issuer
4. directors and senior executives of affiliates of the issuer
5. directors and senior executives of substantial shareholders of the issuer
6. any relatives of persons described at (1), (2), (3), (4) or (5) above
7. any company controlled by any person described at (1), (2), (3), (4), (5) or (6) above.

In the Merger & Acquisition Regulations, means a person who, in relation to each of the offeror (or any of its affiliates) and the offeree company (or any of its affiliates), satisfies one or more of the following conditions:

1. any person who has provided financial assistance (other than a bank in the ordinary course of business) to the offeror or the offeree company
2. the board members of the offeror or the offeree company (or any of their subsidiaries)
3. a person owning 20% of the offeror and the offeree (whether individually or by acting in concert with other(s))
4. a substantial shareholder with the offeror who in the same time is a board member in offeree company, or vice versa.

Relative

In the Merger & Acquisition Regulations, means a husband, wife, children and parents.

Restructuring

A material merger or reorganisation, including a material restructuring as described in paragraph (6) of Article 23 of the Rules on the Offer of Securities and Continuing Obligations.

Reverse Takeover

An arrangement where a listed company makes an offer of new shares in itself to the shareholders of an unlisted company in exchange for their shares and theses new shares will represent more than 50% of the listed company voting shares after the acquisition.

Rights issue

An offer of additional shares to existing shareholders which enables those shareholders to subscribe in proportion to their existing holdings.

Securities

Means any of the following:

1. shares
2. debt instruments
3. warrants
4. certificates
5. units
6. options
7. futures
8. contracts for differences
9. long-term insurance contracts, and
10. any right to, or interest in, anything which is specified by any of the paragraphs (1) through (9) above.

Sells or Selling

In relation to a security, includes selling the security for consideration, surrendering, assigning or converting rights under a security or assuming a corresponding liability.

Senior Executives

Any Natural Person to whom the governing body of the firm, or a member of the governing body of the firm, has given responsibility, either alone or jointly with others, for management and supervision and either reports to:

1. the governing body directly
2. a member of the governing body, or
3. the CEO.

Share

Share of any company wherever incorporated. The definition of 'share' includes every instrument having the characteristics of equity.

Shareholder Circular

Means in the Rules on the Offer of Securities and Continuing Obligations the document required in the context of certain capital alterations of an issuer to enable the shareholders to make an informed vote at the relevant general assembly.

Sophisticated Investor

For the purposes of the Rules on the Offer of Securities and Continuing Obligations, has the meaning specified in Article 9 of the Rules on the Offer of Securities and Continuing Obligations issued pursuant to the Authority's Board Resolution no. (3-123-2017) dated 09/04/1439 H. corresponding to 27/12/2017 G. and amended by the Authority's Board Resolution no. (1-104-2019) dated 01/02/1441 H. corresponding to 30/09/2019 G.; and for the purposes of the Investment Funds Regulations and the Capital Market Institutions Regulations, has the meaning specified in paragraph (b) of Article 74 of the Investment Funds Regulations issued pursuant to the Authority's Board Resolution No. (1-219-2006) dated 03/12/1427 H. corresponding to 24/12/2006 G. and amended by the Authority's Board Resolution No. (1-61-2016) dated 16/08/1437H. corresponding to 23/05/2016 G.

Special Purposes Entity (SPE)

An entity established and licensed to issue debt instruments under the Rules for Special Purposes Entities.

Sponsor

The person responsible for sponsoring the special purposes entity in accordance with the Rules for Special Purposes Entities (SPEs).

Substantial Shareholder

A person holding (5%) or more of the class of shares of the issuer.

Takeover

The acquisition of control of a company listed on the Exchange.

Takeover Offer

An offer (other than by the offeree company itself) made to the holders of the securities of the offeree company which has as its objective the acquisition of control of the offeree company.

Traded

Traded on the Exchange.

Unconditional as to Acceptances

In the Merger & Acquisition Regulations, that the offer is no longer conditional upon receipt by the offeror of acceptances from the shareholders of the offeree company.

Voting Rights

All the voting rights attributable to the shares of a company which are exercisable at a general meeting.

Multiple Choice Questions

The following additional questions are for learning and revision purposes. Whilst they are based on the syllabus, they do not necessarily replicate actual examination standard questions and are included to test your knowledge and understanding of the relevant sections of the workbook.

1. Under the Mergers and Acquisitions Regulations, if a person obtains or controls 40% or more of any class of voting shares as part of an acquisition process, which of the following statements is TRUE?

   A. The person may dispose of the shares during the following six months with Authority approval and adhere to public disclosure obligations

   B. The person may dispose of the shares at any time without Authority approval as long as they adhere to public disclosure obligations

   C. The person may dispose of the shares during the following six months without Authority approval as long as any financial losses are disclosed

   D. The person may dispose of the shares at any time without Authority approval as long as any financial impacts are publicly reported

2. Which of the following is recognised by the Authority as a private placement offer?

   A. An offer which is open ended

   B. An offer which is closed ended

   C. An offer to investors under the categories of Institutional and Qualified clients

   D. An offer which is exempt

3. The terms of which type of debt instrument issued by a Special Purposes Entity (SPE) does not oblige the sponsor to pay any amount to the holders of the instrument?

   A. Asset-backed debt instrument

   B. Asset-linked debt instrument

   C. Debt-based recourse debt instrument

   D. Asset-based recourse debt instrument

4. The Authority recognises four different types of offers. These are exempt offers, private placement offers, parallel market offers and which other?

   A. Public offers

   B. State or semi-state offers

   C. Institutional offers

   D. Open offers

5. Which party has record-keeping responsibilities for securities issued by a Special Purposes Entity?

   A. Agent
   B. Sponsor
   C. Custodian
   D. Trustee

6. Regulatory restrictions on secondary market activities for securities purchased through a private placement apply:

   A. only to transactions above the threshold value
   B. only to transactions below the threshold value
   C. only in relation to the first transferee
   D. to all subsequent transferees

7. There are a number of mandatory committees which are required by a company under the Corporate Governance Regulations. Which of the following is NOT a mandatory committee?

   A. Nomination Committee
   B. Operational Risk Committee
   C. Remuneration Committee
   D. Audit Committee

8. Under Companies Law, a merger transaction may only be closed by obtaining which of the following?

   A. A 75% majority shareholder approval at an extraordinary general assembly of the offeror and the offeree
   B. A 75% majority shareholder approval at an annual general assembly of the offeror
   C. A 50% majority shareholder approval at an annual general assembly of the offeror
   D. A 50% majority shareholder approval at an extraordinary general assembly of the offeror and the offeree

9. All disclosures made by an issuer under the Rules on the Offer of Securities and Continuing Obligations must be:

   A. fair, clear and not misleading
   B. complete, clear, accurate and not misleading
   C. complete, timely, clear and not misleading
   D. comprehensive, complete, and clear

10. What is the MAXIMUM amount payable per offeree to qualify as a limited offer for a private placement offer?

    A. SAR 200,000
    B. SAR 1 million
    C. SAR 2 million
    D. SAR 100,000

11. Which of the following is TRUE in relation to the trustee of a Special Purposes Entity (SPE)?

    A. The trustree can dispose of the shares of the SPE without Authority approval
    B. The trustee is responsible for the appointment of the board of directors
    C. The trustee is deemed the owner of the SPE
    D. The trustee may make structural changes to the entity without Authority approval

12. Where the capital of an issuer is reduced, the issuer must provide what information to the Authority?

    A. A shareholders' circular containing details of how shareholders are able to vote at the extraordinary assembly
    B. A chairman's detailed report analysing any material impact on shareholders with a holding of more than 3% of the company
    C. An indemnity insuring all shareholders against any financial loss as a direct result of the capital reduction
    D. An impact analysis of any closely held shares owned by the Board or their families

13. Which of the following restrictions on dealings are placed on the offeror during an offer period?

    A. They may not receive any independent advice
    B. They must not sell any securities of the offeree without prior approval of the Authority
    C. They may not discuss how the terms of the offer were formulated with any third party
    D. They may not purchase any securities of the offeree

14. Which of the following forms of capital alteration requires an extraordinary general assembly?

    A. Acquisition
    B. Capitalisation issue
    C. Debt conversion
    D. Rights issue

15. Under what circumstances may a sponsor of a Special Purposes Entity (SPE) be a Saudi ltd liability company?

    A. If the sponsor also acts as the custodian of the SPE
    B. If the SPE has issued, or intends to issue, debt-based or asset-linked recourse debt instruments through a private placement
    C. If the SPE holds the underlying assets of an asset-linked debt instrument
    D. If the SPE is owned by a Foreign Financial Institution

16. The Authority has set requirements for issuers making a public offer. Which of the following is NOT a requirement?

    A. Issuers must be led by a suitably qualified and experienced management team
    B. Issuers must have three years of audited financial statements
    C. Issuers must be a joint stock company
    D. Issuers must have sufficient working capital for three years from the date of the prospectus

17. Directors, senior managers and employees have a fiduciary responsibility to avoid conflicts of interest. Which of the following would be a breach of this responsibility?

    A. A director reporting to the compliance officer that they have been offered a gift
    B. A director voting at an ordinary general assembly (OGA) on a matter in which they have a conflicting material interest
    C. Appointing a company secretary who is also a director of the company
    D. Implementing a clear written conflicts policy

18. The Corporate Governance Regulations place expectations around the character of board members with the requirement to act with truthfulness, honesty, loyalty and:

    A. timeliness
    B. experience
    C. care
    D. devotion

19. To ensure investor protection in an asset-linked Special Purposes Entity (SPE), which of the following is TRUE?

    A. The proceeds from a debt issuance must be allocated equally
    B. The SPE must appoint a custodian
    C. The sponsor and the custodian must be the same person
    D. The sponsor may exercise voting rights to avoid conflicts

20. During an IPO, what is the MAXIMUM period during which a price stabilisation mechanism may be implemented?
    A. 1 calendar month
    B. 30 business days
    C. 30 calendar days
    D. 28 calendar days

21. Which of the following statements is TRUE in relation to a director's responsibilities during a merger and acquisition process?
    A. A director of the offeree company must have a material interest in the offer or potential offer
    B. A director of the offeror company must also sit on the board of the offeree company
    C. The directors of the offeror company must provide sufficient information to their shareholders
    D. The directors of the offeree company must provide sufficient information to their shareholders

22. Internal audit must report to the Board with respect to the company's internal control system AT LEAST every:
    A. month
    B. quarter
    C. year
    D. five years

23. A company must retain a copy of its board report for AT LEAST:
    A. one year
    B. three years
    C. five years
    D. ten years

24. Under the Corporate Governance Regulations, a company's audit committee should be chaired by:
    A. a non-executive director
    B. the head of compliance
    C. an independent director
    D. the chief executive

25. Which of the following is an advantage for issuers listed on the Parallel Market?

A. Audited financial statements required for one year

B. No restrictions on investor participation

C. Heavier regulatory requirements

D. Must demonstrate appropriate management expertise

Answer References

1. A Chapter 3, Section 3

Restrictions on the control of shares representing 40% of the voting rights – if a person (or a group of persons acting in concert) has acquired 40% or more of any class of voting shares, they may not dispose of those shares during the following six-month period without the Authority's approval and in accordance with any conditions specified by the Authority. Public disclosure obligations on the acquirer and the offeree apply in this situation. Such disclosure includes details of any structural changes to the company, the most significant rights and obligations on the buyer, the offeree Board's opinion on the person and any concert party regarding their plans for the company activity, employees and shareholders and any resulting financial impact.

2. C Chapter 1, Section 2

A private placement offer is somewhat of a half-way between an exempt offer and a public offer, in terms of both level of protection and cost. Two types of private placement offer are recognised when:

- the subscription is restricted to investors under the categories of Institutional and Qualified clients
- the offer is a limited offer.

3. A Chapter 2, Section 2

Various types of debt instruments are issued by the SPE, the primary ones of which are as follows:

- **Asset-backed debt instruments** – a debt instrument issued by an SPE under whose terms:
  - The entitlement of holders of the debt instrument to a return is wholly dependent on the returns generated by the SPE's assets.
  - The sponsor is not obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay any amounts.
- **Asset-linked recourse debt instruments** – a debt instrument issued by an SPE under whose terms:
  - The entitlement of holders of the debt instrument to a return is defined by the ratio of the returns generated by the SPE's assets.
  - The sponsor is obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay all amounts due on the debt instrument.
- **Debt-based recourse debt instruments** – a debt instrument issued by an SPE under whose terms:
  - The entitlement of holders of the debt instrument to a return is not determined by the returns generated by the SPE's assets.
  - The sponsor is obliged to the holders of the debt instrument (whether by guarantee or otherwise) to pay all amounts due on the debt instrument.
  - Par value to be paid to the holders of the debt instrument at or before the maturity of the security.

4. A Chapter 1, Section 1.1

The Authority recognises four different types of offer:

- exempt offers
- private placement offers
- public offers, and
- parallel market offers.

5. C Chapter 2, Section 2.3

In respect of the issuance of asset-linked recourse debt instruments and asset-backed debt instruments, the trustee of the Special Purposes Entity (SPE) must appoint a custodian to be responsible for taking custody of real estate assets and securities owned by the SPE (if any) and for safeguarding and taking all administrative measures in relation to such real estate assets and securities. The custodian must be a Capital Market Institution duly authorised to carry on the activity of a custodian.

6. D Chapter 1, Section 3

Investors must comply with restrictions in terms of secondary market activities for securities that they purchase through a private placement. The same also applies to a subscriber (and all subsequent transferees) to a private placement offer who wishes to sell the securities they have purchased.

7. B Chapter 4, Section 3

The other mandatory committees include:

- Remuneration committee.
- Nomination committee.

8. A Chapter 3, Section 4

The implementation and closing of a merger transaction will be subject to the Companies Law requirement to obtain shareholder approval at an extraordinary general assembly of the offeror and the offeree by a 75% majority of the shares represented at the meeting. It requires the following approvals for it to come into force:

1. The offer related to a merger transaction shall not be declared unconditional as to acceptances unless the offeror has acquired or agreed to acquire (either pursuant to the offer or otherwise) shares carrying over 50% of the voting rights attributable to any class of shares of the offeree company.
2. Notwithstanding the implementation and closing of a merger, transaction is not permitted until the passing of resolutions of the extraordinary general assembly of shareholders of the offeror and the offeree company, in accordance with the provisions of the Companies Law.

9. B Chapter 1, Section 8

The Continuing Obligation Rules ensure that this happens. All disclosures made by an issuer must be complete, clear, accurate and not misleading. Taking the natural meaning of these words, this means any disclosure should:

- be comprehensive (complete)
- be easy to understand (clear)
- be free of error and balanced (accurate), and
- not disguise, omit, diminish or obscure important information (not misleading).

10. A Chapter 1, Section 2

Limited offers detail the precise parameters:

a. An offer of securities is a limited offer if the subscription is limited to no more than 100 offerees (excluding investors under the categories of Institutional and Qualified clients) and the amount payable per offeree does not exceed SAR 200,000 or an equivalent amount.
b. Securities of the same class may not be offered as a limited offer more than once in a 12-month period ending with the date of the offer in question.

11. B Chapter 2, Section 2.2

The trustee is responsible for the appointment of the board of directors and their remuneration.

12. A Chapter 1, Section 7

The rules within ROSCO describe the conditions and requirements applicable – this is where the capital of an issuer is reduced. An application must be submitted to the Authority providing the required documentation which includes information relating to the appointment of a financial advisor and a legal advisor (if applicable), an external auditor's report on the reasons for the capital reduction, the impact on the issuer's liabilities, the proposed method of capital reduction and its expected effect. In addition, the contents of a shareholders' circular contains the required information to enable shareholders to vote at the extraordinary assembly meeting.

13. B Chapter 3, Section 3

Restrictions on dealings by the offeror – during the offer period, the offeror, or any person acting on their behalf, must not sell any securities of the offeree without obtaining the Authority's prior approval, and in any case, they may not sell with a price less than the offer price.

14. A Chapter 1, Section 6

A capital increase through **acquisition** – this is where an asset or another company is acquired through the issue of new shares as consideration. They must submit to the Authority, a financial due diligence report, a valuation of the asset/company being acquired and a legal due diligence report. Then, the issuer must produce a circular for its shareholders stating the information required to enable the shareholders to make an informed vote at the extraordinary general assembly.

15. B Chapter 2, Section 2.1

If it has issued or intends to issue debt-based or asset-linked recourse debt instruments, the sponsor may be a Saudi ltd liability company.

16. D Chapter 1, Section 4

The conditions for making a public offer of shares explain the need for the issuer to be a joint stock company, led by a suitably qualified and experienced management team, and have made financial statements for the last three years at least. It must have sufficient working capital to trade for the next 12 months as well.

17. B Chapter 4, Section 2

The board shall develop an explicit written policy to deal with actual and potential conflicts of interest situations which may affect the performance of board members, the executive management or any other employees of the company when dealing with the company or other stakeholders. This policy shall include the following in particular:

1. Informing board members, substantial shareholders, senior executives and other employees of the company of the importance of avoiding situations that may lead to a conflict between their interests and the interests of the company, and dealing with them in accordance with the provisions of the Companies Law and its Implementing Regulations.
2. Providing examples of conflicts of interest situations that are relevant to the nature of the company's activity.
3. Clear procedures for disclosing conflicts of interest in the activities that may lead to such conflicts and obtaining authorisation or the requisite approval.
4. The obligation to constantly disclose situations that may lead to conflicts of interest or upon the occurrence of such conflicts.
5. The obligation to abstain from voting or taking part in decision-making when there is a conflict of interest.
6. Clear procedures when the company contracts or enters into a transaction with a related party, this shall include notifying the Authority and the public without any delay of that contract or transaction if it is equal to, or exceeds, 1% of the company's total revenues according to the last annual audited financial statements.
7. Set the procedures to be taken by the board when such policy violation is discovered.

18. C Chapter 4, Section 2

The Regulations bring in aspects of character, requiring the members of the board to act with:

- truthfulness
- honesty
- loyalty, and
- care.

19. B Chapter 2, Section 2.3

In respect of the issuance of asset-linked recourse debt instruments and asset-backed debt instruments, the trustee of the SPE must appoint a custodian to be responsible for taking custody of real estate assets and securities owned by the SPE (if any) and for safeguarding and taking all administrative measures in relation to such real estate assets and securities.

20. C Chapter 1, Section 5

The price stabilisation period will not exceed 30 calendar days from the first day of listing and is the period of time for the price stabilisation mechanism as agreed between the price stabilisation manager and the issuer. By limiting the time under which a price stabilisation mechanism is available, the Authority can ensure that it is just used for initial post-IPO stabilisation rather than long-term market manipulation.

21. D Chapter 3, Section 1.1.3

Sufficient information – the board of directors of the offeree company in case of an offer must give sufficient information, time and advice to the shareholders to reach a properly informed decision. No relevant information should be withheld from them.

22. B Chapter 4, Section 4

The report produced by internal audit regarding its activities must be prepared quarterly to the board and audit committee, in accordance with a scope specified by the board, and must include its assessment, opinion and recommendations, and a description of the procedures taken by a department to address the findings of the previous report.

23. D Chapter 4, Section 7

A company shall retain all minutes, documents, reports and other papers required to be maintained, in the company's head office for at least ten years (or until the conclusion of any filed or threatened to be filed lawsuit). This also includes the board report and the audit committee report.

24. C Chapter 4, Section 3

The Regulations provide further information on the structure of the audit committee noting that it should be chaired by an independent director.

25. A Chapter 1, Section 10

The Parallel Market (also known as Nomu) provides a simplified process compared with the Main Market of the Exchange, and in return, there are more restrictions on what investors may participate in. This, therefore, provides a balance between investor protection and issuer flexibility. It also provides the first step into public markets from which issuers can later move up to the Main Market.

Its main characteristics are:

1. a market with lighter requirements, and
2. restricted to qualified investors.

The general requirements for a Parallel Market offer are similar to that of a public offer on the Main Market (as set out in the previous section), subject to the following variations:

- the business needs to have only been operating for a minimum of one year rather than three
- audited financial statements are only required for a minimum of one year rather than three, and
- no necessity to show 12 months working capital at the date of the offer.

Syllabus Learning Map

Syllabus Unit/ Element		Chapter/ Section

Element 1	**Rules on the Offer of Securities and Continuing Obligations**	**Chapter 1**
1.1	**Scope and Application** On completion the candidate should:	
1.1.1	know the scope and application of the rules on the Offer of Securities and Continuing Obligations (Part 1, Articles 1, 3 and 6)	1
1.2	**Private Placements** On completion the candidate should:	
1.2.1	know the requirements for: • types of private placement (Part 3, Article 8) • limited offers (Part 3, Article 9) • private placement requirements (Part 3, Article 10) • information to investors and private placement advertisements (Part 3, Article 12)	2
1.3	**Secondary Market Restrictions** On completion the candidate should:	
1.3.1	know the restriction and requirements on secondary market activity in respect of securities acquired pursuant to a private placement (Part 3, Article 14)	3
1.4	**Public Offers** On completion the candidate should:	
1.4.1	know the conditions of registrations and the public offer of shares (Part 4, chapter 3, Article 23)	4
1.4.2	know the conditions of registrations and the public offer of: • debt instruments (Part 4, Chapter 3, Article 24) • convertible debt instruments (Part 4, Chapter 3, Article 25)	4
1.4.3	know the purpose and the contents of the prospectus (Part 4, Chapter 4, Article 29)	4
1.5	**Instructions on the Price Stabilisation Mechanism in Initial Public Offerings** On completion the candidate should:	
1.5.1	know the purpose of a price stabilisation mechanism and the types of transaction that are associated with it (Part 2)	5
1.5.2	know the definition of: • an over-allotment (Part 2) • a purchase option (Part 2) • the price stabilisation period (Part 2)	5
1.5.3	know the obligations of the price stabilisation manager (Part 4) and relevant exemptions (Part 5)	5
1.5.4	know record-keeping requirements for price stabilisation transactions (Part 6)	5

Syllabus Unit/ Element		Chapter/ Section
1.6	**Capital Alteration** On completion the candidate should:	
1.6.1	know rules relating to: • applications for capital increases (Article 53) • rights issues (Article 54) • capitalisation issues (Article 55) • debt conversion (Article 56) • the acquisition of a company or asset (Article 57)	6
1.7	**Capital Reduction** On completion the candidate should:	
1.7.1	know rules relating to capital reduction (Article 58)	7
1.8	**Continuing Obligations** On completion the candidate should:	
1.8.1	know the regulations regarding: • complete, clear, accurate and not misleading disclosures (Part 7, chapter 1, Article 60) • obligation to disclose material developments (Part 7, chapter 1, Article 61)	8
1.8.2	know the regulations regarding the disclosure of: • specific events (Part 7, chapter 1, Article 62) • financial information (Part 7, chapter 1, Article 63)	8
1.9	**Dealing Restrictions** On completion the candidate should:	
1.9.1	know dealing restrictions covering: • substantial holders (Part 7, chapter 2, Article 67) • directors and senior executives (Part 7, chapter 1, Article 68)	9
1.9.2	know restrictions relating to share disposals (Part 7, chapter 1, Article 69)	9
1.10	**Parallel Market** On completion the candidate should:	
1.10.1	know the required conditions for issuers seeking approval to make a Parallel Market offer (Part 8, Article 70)	10
1.10.2	know continuing obligations for issuers of securities listed on the Parallel Market (Part 8, Article 89)	10

Element 2	**Special Purposes Entities**	**Chapter 2**
2.1	**New Financing Transactions for Special Purposes Entities** On completion the candidate should:	
2.1.1	know rules relating to the approval of new financing transactions by the Authority (Article 38)	1

Syllabus Unit/ Element		Chapter/ Section
2.2	**The Rules for Special Purposes Entities** On completion the candidate should:	
2.2.1	know the requirements related to sponsors of Special Purposes Entities issuing debt instruments (Chapter 4)	2.1
2.2.2	know the requirements for trustees of Special Purposes Entities (Chapter 5)	2.2
2.2.3	know the requirements related to custodians (Chapter 7)	2.3
2.2.4	know auditing measures and accounting procedures for Special Purposes Entities (Chapter 8)	2.4
2.2.5	know notification and record-keeping requirements for investment funds that take the form of a Special Purposes Entities (Articles 36 & 42)	2.5
Element 3	**Merger and Acquisition Regulations**	**Chapter 3**
3.1	**General Provisions** On completion, the candidate should:	
3.1.1	know the goal of the Merger and Acquisition Regulations in relation to: • the types of transaction to which this applies (Part 1, Article 2, b) • how relevant information should be handled (Part 1, Article 3, b, e, & i) (Part 1, Article 4) • directors' responsibilities (Part 1, Article 3, h, j, l, m, o) • compliance with competition law (Part 1, Article 5)	1
3.2	**Acquisitions** On completion, the candidate should:	
3.2.1	know the rules that govern private transactions (Part 2, chapter 1)	2
3.3	**Rules of Offers** On completion, the candidate should:	
3.3.1	know the rules regarding making an approach (Part 2, Chapter 2, Article 16)	3
3.3.2	know the rules for announcing an offer (Part 2, Chapter 2, Article 17)	3
3.3.3	know the rules of offers regarding independent advice (Part 2, Chapter 2, Article 18)	3
3.3.4	know the rules of offers regarding prohibited and restricted dealings (Part 2, Chapter 2, Article 19)	3
3.3.5	know the rules of offers regarding purchases resulting in an obligation to offer minimum payments (Part 2, Chapter 2, Article 20)	3
3.3.6	know the rules of offers regarding the consequences of certain dealings (Part 2, Chapter 2, Article 21)	3
3.3.7	know the rules of offers regarding the disclosure of dealings during the offer period, indemnity and other arrangements (Part 2, Chapter 2, Article 22)	3

Syllabus Unit/ Element		Chapter/ Section
3.3.8	know the rules regarding mandatory offers (Part 2, Chapter 2, Article 23)	3
3.3.9	know the rules regarding restrictions on shares representing 40% of the voting rights (Part 2, Chapter 2, Article 24)	3
3.3.10	know the rules regarding partial offers (Part 2, Chapter 2, Article 25)	3
3.3.11	know the rules regarding the acceptance condition (Part 2, Chapter 2, Article 27)	3
3.4	**Mergers** On completion, the candidate should:	
3.4.1	know the types and provisions regarding mergers (Part 3)	4
Element 4	**Corporate Governance Regulations**	**Chapter 4**
4.1	**Rights of Shareholders** On completion, the candidate should:	
4.1.1	know the general rights of shareholders in relation to: • fair treatment (Part 2, Chapter 1, Article 4) • rights related to shares (Part 2, Chapter 1, Article 5) • access to information (Part 2, Chapter 1, Article 6) • communication (Part 2, Chapter 1, Article 7) • electing board members (Part 2, Chapter 1, Article 8)	1
4.1.2	know the rules governing general assemblies of listed companies (Part 2, chapter 2, Articles 10, 11, 12, 13, 14 and 15)	1
4.2	**The Board of Directors (The Board)** On completion, the candidate should:	
4.2.1	know the regulations regarding: • the formation of the board (Part 3, Chapter 1) • the responsibilities and correct competencies of the board (Part 3, Chapter 2)	2
4.2.2	know examples of conflicts of interest (Part 3, Chapter 6)	2
4.2.3	know how the board should manage conflicts of interest (Part 3, Chapter 6)	2
4.3	**Committees** On completion, the candidate should:	
4.3.1	know the purpose of a company's committees (Part 4)	3
4.3.2	know which committees are: • mandatory • non-mandatory	3
4.3.3	know the reporting lines, structure and degree of independence of the: • Audit Committee (Part 4, Chapter 2) • Remuneration Committee (Part 4, Chapter 3) • Nomination Committee (Part 4, Chapter 4)	3

Syllabus Unit/ Element		Chapter/ Section
4.4	**Internal Control** On completion, the candidate should:	
4.4.1	know requirements relating to the establishment and operation of an internal control system (Part 5)	4
4.5	**Professional and Ethical Standards** On completion, the candidate should:	
4.5.1	know: • the factors that the Board shall incorporate in their Professional Conduct Policy (Part 8, Article 86) • the purpose and objectives of the Social Responsibility Policy (Part 8, Article 87 & Article 88)	5
4.6	**Disclosure and Transparency** On completion, the candidate should:	
4.6.1	know the factors that the Board should consider in order to implement effective disclosure policies and procedures (Part 9, Article 89)	6
4.6.2	know how disclosure and transparency requirements are implemented via: • The Board's report (Part 9, Article 90) • The Audit Committee (Part 9, Article 91) • Disclosures by the Board (Part 9, Article 92) • Disclosure of remunerations (Part 9, Article 93)	6
4.7	**Record-Keeping Requirements** On completion, the candidate should:	
4.7.1	know the requirements for document retention (Part 11, Article 96)	7

Examination Specification

Each examination paper is constructed from a specification that determines the weightings that will be given to each element. The specification is given below.

It is important to note that the numbers quoted may vary slightly from examination to examination as there is some flexibility to ensure that each examination has a consistent level of difficulty. However, the number of questions tested in each element should not change by more than plus or minus 2.

Element Number	Element	Questions
1	Rules on the Offer of Securities and Continuing Obligations	10
2	Special Purposes Entities	4
3	Merger and Acquisition Regulations	4
4	Corporate Governance Regulations	7
Total		**25**

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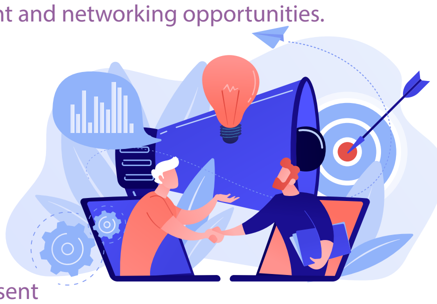

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