

The Capital Market Authority's Rules for Foreign Investment in Securities

KNOW-HOW

On 27 March 2023 the Capital Market Authority (the "CMA") issued the Rules for Foreign Investment in Securities (the "Rules").

The Rules continue the trend of liberalising the conditions for foreign investment in shares listed on the Saudi Exchange ("Listed Shares") which started in 2015 when direct foreign investment was permitted for the first time. They also contain a helpful consolidation of the relevant regulations into one set of rules. The main changes are summarised below.

PREVIOUS POSITION

The different possible categories of foreign investment in Listed Shares were dealt with in three separate regulations:

- > Rules for Qualified Foreign Financial Institutions Investment in Listed Securities
- > Instructions for the Foreign Strategic Investors Ownership in Listed Companies
- > CMA Circular regarding permission for capital market institutions to enter into Swap Agreements

CHANGE

The requirements for each category of investment are now all set out in the Rules.

Qualified Foreign Investors (QFIs) permitted to invest directly in Listed Shares had to, amongst other requirements:

- > be a financial institution that has a legal personality and which is a bank, brokerage and securities firm, insurance company, government or government related entity, an investment fund (including pension or endowment funds) or any other financial institution;
- > (other than for governments and government related entities) have assets under management or custody of at least SAR 1.875 billion (US\$500 million);
- > if a bank, brokerage and securities firm or insurance company, be licensed or otherwise subject to regulatory oversight by a regulatory authority and incorporated in a jurisdiction that applies regulatory and monitoring standards equivalent to those of the CMA or acceptable to it; and
- > if an investment fund or a government or government related entity, be incorporated in a jurisdiction that applies regulatory and monitoring standards equivalent to those of the CMA or acceptable to it.

In a reduction in the qualifying conditions, a QFI just needs to have:

- > legal personality; and
- > assets under management or custody of at least SAR 1.875 billion, provided that this latter requirement would not apply to:
 - > pension funds;
 - > endowment funds;
 - > market makers' clients;
 - > government entities, central banks and wholly government-owned investment funds; or
 - > international organizations of which Saudi Arabia is a member and their affiliated institutions.

QFI applications were assessed for compliance by a CMA authorised capital market institution and qualifying applicants had to enter into an assessment agreement with the assessing capital market institution.

This requirement has been deleted and a QFI is only required to open an investment account with a capital market institution in accordance with the CMA's Investment Accounts Instructions.

Not currently relevant.

Permitted foreign investors in Listed Shares now also include foreign natural or legal persons who are a client of a capital market institution authorised by the CMA to conduct managing activity that acts as a discretionary portfolio manager for them.

The conditions for a non-resident foreign investor to invest indirectly in Listed Shares through a swap agreement with a capital market institution included:

- > a maximum duration for the swap agreement of four years; and
- > an obligation for the capital market institution to notify the CMA at least 10 working days prior to entering into the swap agreement.

These requirements have been removed.

For further information please speak to your usual Z&Co. contact.

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