

هيئة الأوراق المالية والسلع
SECURITIES & COMMODITIES AUTHORITY



A Guidebook to Rights of Securities Investors in the United Arab Emirates



1st Edition 2018

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Board Chairman's Message

Unquestionably, the consideration given by the United Arab Emirates to the securities markets stems from the conviction of our prudent leadership that the role of these markets is essential for the achievement of sustainable development. This standpoint is based on the function performed by the securities markets as a channel that mobilizes local savings and re-directs them towards productive areas. Furthermore, these markets play a key role in providing long-term finance for economic projects thanks to their effective potential to rationalize the use of resources and support economic development programs.

Experience has shown that the more active and resilient a financial market is, the more opportunities to achieve economic growth and prosperity. They are of paramount importance in motivating the private sector (both local and foreign) to invest due to their liquidity benefits, spreading of risk, and regular daily perception of the proceeds realized, all of which have required the development of appropriate economic legislation.

Consequently, the Securities and Commodities Authority (SCA), as the authority responsible for regulating and overseeing financial markets, has not saved any effort to pave the way to create the opportunities for the investment of savings and assets in securities and commodities in a manner to fully serve our national economy, guarantee the integrity and accuracy of transactions, and ensure proper supply - demand interaction in order to determine prices and protect investors by utilizing and activating all appropriate approaches and means to establish fair, proper dealing among the various investors, develop the necessary regulations, decisions and legislation in accordance with the best international practices. In this regard, it is worth noting that the protection umbrella provided by the SCA extends to cover the rights of all investors, whether they are shareholders in listed joint stock companies or investors of other classes.

In its endeavor to explore the best methods to protect investors' rights and stakeholders in the capital market, promote sound practices of traders; protect all market participants from illegal practices or such practices involving fraud, deception or manipulation. The SCA launched the 'National Project to Raise the Awareness of Investors in Financial Market' whose initiatives include this Guide, prepared as a helpful guideline for all investors to gain better understanding of their rights and obligations. This endeavor is based on a firm belief that investment in securities is a key pillar of the national economy, and that investors are the corner stone who must receive all the care and attention.

Finally, I hope that all investors have the opportunity to review this Guidebook, and that they will find in its contents all the essential information to be familiar with their rights and responsibilities to positively reflect on the performance of the financial market in the UAE.

Allah is the Benefactor of Success,

Eng. Sultan bin Saeed Al Mansoori
Minister of Economy & Board Chairman

CEO's Message

This Guidebook reviews the rights and obligations of investors based on the legislation in force in the UAE by discussing a set of focus areas, including Rights of Investors in Listed Companies, Rights of Other Investor Classes, Disclosures and Flow of Information as Rights of the Investor, in addition to a brief overview of the Role of the SCA in Safeguarding Investors' Rights.

Under this Guidebook, an investor in securities is defined as a natural or corporate person who invests his/its assets in securities which include shares, bonds and Sukuk issued by joint-stock companies and bonds and bills issued by the federal government, local governments or the public authorities and institutions in the UAE as well as investment units issued by Mutual Funds, certificates of deposit and any other local or foreign financial instruments approved for trading by the SCA Board of Directors

The Guidebook was prepared on the basis of several sources including the Securities and Commodities Authority Law No. (4) of 2000, the Commercial Companies Law promulgated by the Federal Law No. 2 of 2015 and the regulations and resolutions issued by the SCA, all of which guarantee remarkable protection for shareholders and all classes of investors, as well as ensuring them rights equal to the rights granted to their peers according to the best practices worldwide.

In this regard, I would like to point out that the basic rule on which all shareholders' rights are based is full equality of shares of the same class and equal protection for shareholders. There is no distinction between a share and another of the same class, nor between a shareholder and another. They are shares of equal value, and each shareholder enjoys the same protection and rights as the others, within the limits of his shares.

Moreover, the Securities and Commodities Authority (SCA) is well aware that protection of investors in the market is achieved through preventing unfair or illegal practices such as deception, fraud and manipulation, and focusing on disclosure, provision, analysis and making financial data available at the investor's disposal, as well as monitoring all entities supervised by the SCA

in order to enhance confidence in the financial market, maintain the market integrity, develop the methods of agencies and entities involved in trading of securities, develop the procedures to limit the risks associated with transactions of securities, obligate the service and financial brokerage companies to comply with the standards of professional conduct and provisions of the laws and regulations, and impose the penalties stipulated in the SCA's law on violators. At the same time, however, the SCA completely understands that there is no way to protect the investor from the same market conditions in terms of high or low prices, the impact of corporate profitability and future expectations without promoting and developing investment awareness.

In the light of the efforts exerted by the SCA to regulate and enhance the financial market and its stability and to improve the levels of disclosure therein, the SCA undoubtedly takes into consideration the promotion of investors' rights by issuing regulations and legislation, launching campaigns to raise awareness on investors' rights in the financial market and preparing digital, filmed and printed versions, consistent with its other objectives intended to promote the values of integrity, transparency and professionalism in the market.

Although the SCA has full confidence that the protection of investors' rights contributes to attracting more local and foreign investments, the investors, on the other hand, should seek specialized legal or financial advice when making investment decisions through the approved and reliable channels and sources. Probably, this was the reason behind the preparation of this Guidebook by the SCA to provide all information relating to the rights and obligations of investors in one source or reference.

We hope that this publication will achieve the desired goal and be a guide and reference for all classes of investors.

Dr. Obaid Saif Al-Zaabi
Chief Executive Officer

Introducing Securities Investors

Who is the securities investor?

A securities investor is a natural or corporate person who invests his assets in securities which include shares, bonds and Sukuk issued by the joint-stock companies and the bonds and bills issued by the federal government, local governments or the public authorities and institutions in the UAE as well as investment units issued by Mutual Funds, certificates of deposit and any other local or foreign financial instruments approved for trading by the SCA Board of Directors.

A shareholder in listed companies means every person who holds shares in a company listed on a securities market in the UAE, whether such person is a founder of the company, or has owned such shares after the incorporation thereof by any means of ownership (purchasing, assignment, or inheritance). Such companies are either public joint-stock companies which must, as a general rule, be listed on the securities market, or private joint-stock companies which may be listed on the market under a decision issued by the board of directors thereof.

Shareholders are distinguished from other investor classes by the fact that they have equity rights in joint-stock companies, being partners in the company. Shareholders have the right to determine the destiny of the company and they are treated equally as long as they hold shares of the same class. Whether their investment is a long-term investment because they like to maintain the shares and earn the dividends thereof; and may be take part in management thereof; or their investment is short-term aiming at speculation and making profits by buying and selling shares in the securities market, where in both cases a holder of a share for a long or short term is considered a shareholder as long as he holds such share and he is an investor in securities as well.

Accordingly, each shareholder is an investor, and not each investor is a shareholder. The term “**investor**”, in addition to the shareholders in joint-stock companies, includes the holders of bonds and Sukuk, investment

units issued by Mutual Funds, bills issued by the federal government, local governments or the joint-stock companies, certificates of deposit, rights issue, and any other financial instruments such as the securitization bonds and option rights, subject to approval by the SCA Board of Directors.

To recap, an investor in securities is any person who deals in securities or financial instruments approved by the Authority. Such instruments are either equity rights such as shares and investment units, or credit rights such as bonds, or derivatives and option rights such as bills, rights issue and securitization bonds.

The Securities and Commodities Authority aims at providing the opportunity to invest savings and assets in the securities and commodities to best serve the interests of the national economy and ensure the integrity and accuracy of the transactions, and ensure interaction between the supply and demand factors to determine the prices and protect the investors by establishing the principles of fair and sound trading among the various investors. Moreover, the protection provided by the Authority extends to cover the rights of all investors, whether they are shareholders in listed joint-stock companies, or from other classes of investors.

Therefore, this handbook is divided into the following four Focus Areas:

Focus Area I: Rights of Investors in Listed Companies

Focus Area II: Rights of Other Investor Classes

Focus Area III: Disclosures and Flow of Information as Rights of the Investor

Focus Area IV: Role of the SCA in Safeguarding Investors' Rights

Focus Area 1

Rights of Investors in Listed Companies

Focus Area 1

Rights of Investors in Listed Companies

The Commercial Companies Law promulgated by Federal Decree-Law No. 2 of 2015, and the regulations and decisions issued by the Authority provide the shareholders with special protection and rights that equal the rights granted to the shareholders in the best international practices.

The UAE legislator has incorporated the investor protection as one of the goals of the Commercial Companies Law which are set forth in Article (2) thereof, and one of the goals of the Authority set forth in Article (3) of the Federal Law No. 4 of 2000. Safeguarding of investors' rights is one of the cornerstones of the Commercial Companies Law and the Authority's establishing law and regulations.

The key rule on which all shareholders' rights are based is full equality among the shares of the same class¹, and equal protection for the shareholders with no discrimination between one shares and another of the same class or between one shareholder and another. Shares have equal value and each shareholder enjoys the same protection and rights like other shareholders, each within the limit of the shares he holds.

Ownership of shares in a joint-stock company grants the owner the following basic rights:

1. The shareholder is considered a partner in the company and a holder of a share in all its assets equaling the shares he holds therein. Further, the shareholder incurs any liabilities due upon the company within the limit of his share.

[1] Article 2/206 of the Commercial Companies Law states that the Cabinet may, based on a recommendation by the Chairman of the SCA, issue a resolution to determine other classes of shares and the conditions of issuing such shares, the rights and obligations arising therefrom and the regulating rules and procedures thereof. However, this provision has not been given effect to date. The shares listed on the UAE securities markets for each listed company have the same class and enjoy equal rights.

2. The right to receive, at his own expense, a copy of the Articles and Memorandum of Association of the company. The legislator obligates the company to make copies of its Articles and Memorandum of Association available on its website as well as any other documents and information as determined by the Authority.
3. The right to access the company's books and documents, as well as any documents or files in relation to a deal concluded by the company with a related party² under permission by the Board of Director or a resolution issued by the General Assembly, or in accordance with the Articles of Association of the company in this regard.
4. The right to attend the General Assembly meetings and discuss the agenda according to the deliberation system adopted by the General Assembly. Further, the shareholder has the right to vote on the resolutions.
5. The right to receive the dividends attached to his shares. The Articles of Association of the company may not contain anything that deprive any partner from profit or exempting him from loss, or giving him a right to receive a fixed interest on his share in the company.
6. The shareholders shall have priority right to subscribe to the shares of capital increase (Right Offering) in case the General Assembly decides to increase the capital. Such right is proportional to the percentage of shares held by each shareholder. A shareholder may financially benefit from the priority right by selling the same in the market within the period set to sell rights issue, which may not be less than 10 working days. Such period shall expire 5 working days prior to the expiry of the subscription period.
7. The right to sell his shares in the market at a fair price determined by pre-emption right supply and demand mechanism, taking into account the trading ban period for the founders of the company.

[2] Related Parties are the Chairman and other members of a company's board of directors, members of its senior executive management and employees working therein, and the companies where any of such persons holds at least %30 of their share capital as well as subsidiary, sister or allied companies.

8. The right to be nominated for the membership of the Board of Directors of the company and the right to elect the members of such board, subject to the conditions and rules set forth in the Law, regulations, and decisions issued by the Authority and the Articles of Association of the company.
9. The right to receive his share in the assets of the company upon liquidation thereof in proportion to his shares subject to the limitations and conditions set forth in the law and in the Articles of Association of the company.
10. The right to obtain information as regulated by the law and determined by the regulations issued by the Authority. The court may obligate the company to furnish the shareholder with specific information provided that disclosure of such information is not in conflict with the interests of the company.
11. The management of the company may not relinquish the shareholders' rights stipulated and enforced by the law or the Articles of Association. Any decision issued by the Board of Directors or the General Assembly of the company that would undermine the shareholder's rights which are derived from these provisions or increase the shareholder's obligations shall be null and void.

Those were the basic rights guaranteed by the law to the shareholder.

However, the legislator did not just state the above rights arbitrarily without elaboration or protection, but the legislator incorporated provisions in the Commercial Companies Law and the Regulations on Governance that guarantee the realization of such rights. Below are the most important legal provisions:

I. Protection of investors' rights by determining the nature of the share held by a partner and the method of valuation thereof:

1. To ensure equality, all shareholders must contribute with cash or in-kind shares. The capital of the company shall consist of shares in cash and/or in-kind shares of an estimated value. A partner's share may not be his good name or influence. However, the in-kind share(s) provided by a public person may be in the form of a franchise or usufruct right to use some public funds, such as a contract of management of a public utility or provision of a public service such as transport or health. These are the only items that may be provided as in-kind shares.
2. To ensure transparency and equality, and to prevent over valuation of the in-kind share, the law stipulates that the in-kind shares must be evaluated by one or more financial consultants who shall be selected by the Authority from among the consultants approved by the Authority, or from the authorities which have the technical and financial expertise related to the subject of evaluation and which are approved by the Authority, otherwise the valuation shall be deemed null and void. The valuation shall be made at the expense of the share provider. The Authority may discuss the valuation report and object thereto. The Authority may appoint another Evaluator if necessary at the expense of the company under incorporation. The valuation of the in-kind shares after the company's incorporation stage shall be subject to the same provisions.
3. In order to protect the investors' funds, and to prevent founders from receiving unfair benefits, the law obligated the Board of Directors to notify the Authority of the such transactions if the

company purchases assets, companies or establishments with a total value exceeding %20 of its capital before the General Assembly approves the accounts of the first fiscal year. The Authority may subject such assets, companies or establishments to valuation.

4. To achieve balance between the founders' freedom to subscribe in the company's shares within the limits of a certain maximum limit that prevents full control thereof, and a certain minimum limit that questions the quality of the project targeted by the new company, the legislator obligated the founders to subscribe with shares not less than %30 and not more than %70 of the issued capital of the company prior to the invitation for IPO for the remaining shares of the company. The founders may not subscribe in the shares offered in an IPO.
5. To prevent the company incorporation process from becoming a tool of deception and fraud, then the investors exiting from the company after selling their shares at prices that may be higher than the fair price which may be reached due to false promotion and propaganda campaigns about the assets and expectation of the company, the law prohibited the trading of cash or in-kind shares of the founders prior to the publication of the balance sheet and the profit and loss account for at least two financial years. The same provision shall apply to subscriptions made by the founders in the event of a capital increase issue prior to the expiry of the bar period. The SCA Board of Directors may issue a decision to extend the bar period provided it may not exceed three years. During the bar period, such shares may be mortgaged or transferred by sale by a founder to another founder, or by the heirs of a founder in the event of death to third parties or by the bankruptcy administrator of a founder to third parties or under a final court judgment.

II. Protecting the Shareholders' rights by monitoring the invitation for IPO:

No company other than a public joint-stock company may offer any securities in an IPO. In all cases, no company, entity, natural person or corporate person incorporated or registered inside the UAE or in the free zones or abroad may publish any announcement in the UAE, including the invitation for IPO in securities without the prior approval of the Authority as per the rules and conditions set forth in this regard.

The Prospectus for the shares of a public joint-stock company which is addressed to the public shall be signed by the Founders Committee, the consultants, and the parties involved in the incorporation procedures and their representatives; and they all shall be jointly liable for the validity of the information contained in the Prospectus.

Therefore, to avoid being a victim of fraud you are advised not to deal with any subscription invitations or offers which are not approved by the Authority, whatever the temptations are.

III. Investors' rights during the offering stage

Offering means the invitation for public subscription (IPO) in the issued shares of a public joint-stock company in the UAE. The Commercial Companies Law set forth the main provisions of IPO in shares. The decision issued by the SCA Board of Directors No. (11/R.M) of 2016 concerning the Regulations as to Issuing and Offering Shares of Public Joint-Stock Companies set forth the regulatory provisions and the procedures and controls of offering the shares of the public joint-stock companies in all conditions; whether at the time of incorporation of the company, conversion from another legal form to a public joint-stock company, or the increase of capital thereof.

The main reason for regulating the provisions and procedures of the offering is to protect small investors from falling into the trap of deceptive

announcement at this important point where it is difficult for them to find the facts about the financial positions and the feasibility studies, especially those of the companies under incorporation because they are not yet listed on a market that determines the share price according to the supply and demand mechanisms. At this point, dealing in these shares is only based on speculations or confidence in the entities which undertake the incorporation or announcements.

At this stage, the investors' rights can be summarized as follows:

1. Offering of the company's shares at the time of incorporation:

The Regulations only stipulates for a set of approvals and the subscription conditions and controls, namely:

- Obtaining the approval of the competent authority on the incorporation of a public joint-stock company.
- The subscription must be limited to qualified investor³, excluding the offering by banks, financial and insurance companies.
- In other words, subscription in the shares of banks, insurance and financial companies under incorporation may not be limited to the qualified investors.

[3] The description of qualified investor is met by two categories of investors:

1. The investor who is capable of managing his own investments by himself. The legislator determined and defined such investors in the following categories:
 - a. The federal government, local governments, and the government institutions and authorities, or the companies fully owned by any of them;
 - b. The international agencies and organizations;
 - c. A person licensed to practice a commercial activity, provided that investment is one of its purposes; and
 - d. A natural solvent person who declares that his annual income is not less than one million Dirhams, or that his net equity rights, except for his main domicile, equal five million Dirhams. This person shall also declare that he has adequate knowledge and expertise, whether on his own or by using a financial consultant, to evaluate the prospectus as well as the benefits and risks attached to or arising from the investment.
2. The investor represented by an investment manager licensed by the Authority

- The minimum limit of the subscription by a qualified investor must be 5 million Dirhams.
- The senior management of the company must have the required experience relevant to the activity of the company to manage its business.
- Appointment of the parties to the offering process and the Evaluator of the in-kind shares, if any. A listing consultant must also be appointed for two years commencing from the date of listing the issuer company on the market.
- Provision of a prospectus completed in accordance with the requirements set forth in the law and the Regulations as to offering⁴.
- Availability of working capital that is adequate for 12 months after the date of approving the prospectus by the Authority based on a feasibility study.

2. Offering of a company's shares in a conversion is subject to the following conditions:

Since the conversion into a public joint-stock company requires adherence to the incorporation procedures and prior approvals, the Regulations set the following conditions to offer the shares of a company that used to

[4] The prospectus shall contain the following data and information:

- a. The key risks related to the company, including its assets, liabilities, and financial position.
- b. The risks related to the investment in the shares, including the rights attached to the share.
- c. The general conditions of the offering, including an estimation of the expenses that might be incurred by the investor to subscribe in the shares.
- d. The reason and objectives of the offering and how the sums arising from the offering will be used.
- e. The governance controls and a report on the governance adopted by the company.
- f. The profit distribution policy and mechanism.
- g. Determining the parties to the offering process, and the assessor of the in-kind shares, if any. Indicate the conditions, details, and contract term of each.

have another legal form and then decided to convert into a public joint-stock company:

- A special resolution to be issued by the General Assembly of the company, or any other similar body, based on the form of the company, to convert into a public joint-stock company.
- Obtain the approval of the competent authority to incorporate a public joint-stock company.
- The value of the issued shares has been paid in full, or the shares of the partners have been paid in full.
- The company has announced its audited financial statements for two years preceding the offering date, and has updated its financial statements until no later than three months prior to the date of announcing the prospectus.
- The company has made net operating profits that can be divided to the shareholders or the partners through the activity it was incorporated for at an average not less than %10 of its capital in the two fiscal years preceding the approval to convert.
- The senior management of the company shall have sufficient qualifications and experience as required to manage its business.
- Appointment of an entity to receive the subscriptions.
- Provision of a prospectus completed in accordance with the provisions of the law and the Regulations as to offering.

3. Offering of a company's shares in a capital increase is subject to the following conditions:

The legislator regulated the rules of offering the shares of a joint-stock company to increase its capital as follows:

- A special resolution to be issued by the General Assembly of the company and the capital increase is approved by the Authority.
- The issued capital of the company is paid in full.
- Appointment of the parties to the offering process and the Evaluator of the in-kind shares, if any.
- Provision of a prospectus completed in accordance with the provisions of the law and the Regulations as to offering.

4. **Disclosing of the Prospectus:**

To ensure that any person wishing to subscribe is informed through the Prospectus and the required information to make his investment decision, and ensure that not only some persons take exclusive knowledge of such information, the legislator obligated the company wishing to offer its shares to take the following actions:

- Deposit the Prospectus with the Authority and ensure free availability thereof to the public within a period not less than 5 working days prior to the subscription, at the Head Office of the company and the entities that will receive the subscriptions, and not less than 15 days in the event of increasing the capital of the company.
- Publish the offering announcement no later than the working day following the date of depositing the Prospectus or the additional prospectus. The Prospectus shall be published in two daily local newspapers circulated in the UAE; one of them is in Arabic, at least 5 days prior to the commencement of subscription. The offering announcement shall observe the form approved by the Authority.
- The Prospectus shall contain all the necessary information that enables the investor to make his decision. In the event the company fails to disclose some important information to protect its interest or the interest of the investors, it shall indicate the same in the Prospectus, subject to the approval of the Authority, and shall state the justifications and reasons, and impact of non-disclosure of such information.
- Immediately disclose any material information omitted in the prospectus. Such information may be disclosed to certain persons who are not investors if necessary and subject to the approval of the Authority and provided that such persons maintain confidentiality.

- The financial consultant shall, within two days after the date of approving the Prospectus, provide the Authority with an electronic copy of the approved Prospectus to be published on its website. An electronic copy of the Prospectus shall be posted on the websites of the company and the entities that receive the subscription.

5. **Adopting the Book Building mechanism:**

In the Commercial Companies Law and in the Regulations as to Offering issued by the Authority, the legislator permitted the adoption of the Book Building mechanism at the time of offering the shares of a public joint-stock company under incorporation, or at the time of conversion or increase of capital⁵ thereof, upon obtaining the approval of the Authority.

- [5] Book Building of shares is the process by which the price of a security is determined upon its issuance or offering in an IPO. Book Building is conducted through a technical process whereby the financial consultant performs the following actions:
- Invite a number of qualified investors to hold a series of meetings to present a report on the operations and activity of the issuer company.
 - Receive the inputs of the qualified investors about their initial views on the value of the shares to be offered for subscription by the issuer company.
 - Cooperate with the issuer company to study and analyze the inputs of the qualified investors to make a decision about the details of the intended offer and the price range of the shares to be offered.
 - Cooperate with the issuer company to draft an initial prospectus specifying the price range of the shares. This prospectus shall be submitted to the Authority for approval in order to announce the offering. The announcement periods set out in clause (1) of Article (12) of the Regulations on Offering shall not apply.
 - Make offers to the investors about the shares intended to be offered by the issuer company.
 - Conduct informative and educational campaigns targeting the investors to introduce the Book Building of shares.

Applications to subscribe in the shares to be offered shall be received from the investors within the period set out in the prospectus. Applications for subscription may be received from the individual investors at the same time of receiving applications from the qualified investors. Applications for subscription may be received on two phases; the first phase is for the qualified investors (under an initial prospectus that specifies the price range of the shares). The first phase shall be followed with the second phase where applications shall be received from the individual investors. In this case, the share price shall be specified based of the results of the subscriptions of the qualified investors (under a final prospectus that contains a specific share price). The issuer company must announce this price before receiving applications from the individual investors so that their subscription is performed accordingly and as set out in the prospectus.

The financial investor shall record the views of the qualified investors in the register of subscription orders for the offered shares. The entities that receive the subscription shall receive the applications from the individual investors. The register of subscription orders shall be created through the subscription applications submitted by the qualified investors only.

In light of these steps, the company shall cooperate with the financial consultant to determine the share price in the final prospectus upon analyzing the data of the register of subscription orders for the offered shares and in accordance with the allocation mechanism set out in the prospectus. Allocation to the individual investors shall be conducted in accordance with the Companies Law and with the price agreed upon. The price specified for the individual investors may be reduced than the price specified for the qualified investors as set out in the final prospectus. Allocation for the qualified investors shall be conducted as determined by the company and in consistency with the prospectus.

The company shall be prohibited from stating or disclosing in any way its intention to issue or sell shares by the share Book Building procedures unless the Authority approves the application.

Adoption of the Book Building mechanism is subject to the following conditions:

- Offering a percentage of no be less than %20 of the total shares offered for subscription by individual investors and no less than %60 for qualified investors, excluding newly established companies for which subscription therein is limited to qualified investors.
- The unwritten portion of the shares offered for individual investors shall be allocated to the qualified investors within the limits of the applications submitted by qualified investors.
- Subscription which is based on the Book Building method is to be cancelled in case qualified investors fail to cover the minimum limit set forth for such investors (%60).
- A contract is to be made with a financial consultant to conduct and supervise the offering process and the IPO which is based on the Book Building method.

In the event of failure to complete the subscription in any of its phases, the Authority may reject any new application filed for the same purpose by the company.

6. Receiving complaints from the subscribers:

Grievance is a human right in general. Every person is entitled to complain to the concerned authority to eliminate any unfair situation. Generally, legislation issued by the Authority provided the investors with the right to complain. To emphasize the importance of the IPO phase and streamlined procedures thereof, the Regulations as to Offering obligates the company wishing to offer shares and conduct IPO to address the complaints filed by the subscribers in coordination with the entities that receive the subscription within five working days from the date of complaint, provided that the complaint is filed during the subscription period or within a period no later than one month after the subscription closing date.

7. Online subscription:

In order to make it easier for the investors to subscribe in the offered shares, and to catch up with the developments of the information and communication revolution, the legislator permitted online subscription, subject to the minimum rules set forth below:

- The entities that receive online subscription must have an integrated and secure electronic system that enables the verification of the identity of the subscribing client.
- Adoption of electronic measures that enable the investor to review the prospectus before completing the online subscription application. The displayed prospectus form shall be non-editable and the prospectus may not contain hyperlinks.
- The subscribing client must have a bank account.
- The systems of the aforesaid online subscription shall include detailed guidelines for the investors to be fully informed of their rights and duties.

8. Distribution of shares to the subscribers:

To finalize the subscription process, the legislator regulated the method of distributing the shares to the subscribers in a manner to ensure justice and equality and protect their rights, as follows:

- The shares shall be allocated to the subscribers within no later than five working days after the subscription closing date.
- The surplus sums paid by the individual subscribers and the proceeds arising therefrom for which no shares have been allocated shall be refunded within a period no later than five working days after allocating the shares to the subscribers.

- If the subscription exceeds the number of the shares offered, the shares may be distributed to the subscribers on pro rata basis relevant to their respective subscriptions or as determined in the prospectus, as approved by the Authority. The distribution shall be made using the nearest whole number.

IV. Protecting the shareholders' rights by controlling the management of the public joint-stock company:

The Board of Directors of the company is the executive authority which runs its affairs under the control of its General Assembly comprising all the shareholders. Therefore, the law was keen to rationalize this management and control the acts of the Directors to protect the shareholders' rights. The controls set forth by the law include:

1. The legislator emphasizes that a management team with diverse expertise should be in office. The Board of Directors of the company must include non-executive and independent members⁶ in addition to the executive members. The Articles of Association must define the executive, non-executive, and independent members so that the non-executive members, who must have practical experience and technical skills to serve the best interest of the company, shall have the majority. In all cases, when the non-executive members are selected, such member must be able to dedicate sufficient time and attention to the membership duties. Membership may not involve any conflict with the other interests of the member.
2. The Board of Directors shall have all the powers specified in the Articles of Association of the company, other than as mandated by the Law or the Articles of Association of the company to the General Assembly. However, the Board of Directors may not enter into loans for a period in excess of three years, sell the property of the company or the inventory, or mortgage movable and immovable property

[6] Executive Director is a member who assumes a position in the company and receives a monthly or an annual salary therefrom.

of the company, discharge the debtors of the company from their obligations, make compromise or agree on arbitration, unless such acts are authorized under the Articles of Association of the company or unless they fall by nature within the purposes of the company. In cases other than the above, such acts require a special resolution to be issued by the General Assembly.

3. The General Assembly shall elect the board members by way of cumulative voting⁷ using secret ballot. The woman quota in the Board of Directors⁸ must be observed.
4. The board member shall maintain the company's rights and exercise due diligence in his work. He shall do all acts which are consistent

Non-executive Director is a member who does not assume a position in the company and does not receive a salary therefrom. The remuneration paid to such member as a member of the Board of Directors is not considered a salary.

Independent Director is a member who has no relation with the company, or any of the senior management or auditor thereof, or the parent company, or a subsidiary, associated or sister companies thereof, that would give rise to a financial or moral benefit that may affect his decision. The independency of the Director in particular shall no longer exist in the cases set out in the Regulations on Governance which are related to diverse relationships which the legislator deems to compromise the independency of the member.

[7] Cumulative voting means that each shareholder shall have a number of votes equal to the number of shares held thereby so that the shareholder may vote for one candidate for membership of the Board of Directors or distribute his votes among candidates he prefers, provided that the number of votes for the preferred candidates does not exceed the number of votes held by the shareholder.

[9] The Regulations on Governance issued by the Authority provided women with positive discrimination stating that woman representation may not be less than %20 in the Board of Directors of the public joint-stock company. The company shall reveal the reasons of failure to achieve this quota.

The Regulations on Governance further stipulated that the Articles of Association of the company must determine the woman quota in the Board of Directors in the event female candidates are elected for membership during the period of nomination for membership of the Board of Directors and in the event they meet the membership conditions.

This means that the Articles of Association may determine a quota for women representation exceeding %20 of the Board of Directors members, however, this quota may not be decreased as stated in the Articles of Association.

In the event such quota is not achieved at the time of electing the Board of Directors, the reasons of such failure shall be disclosed so that they are verified by the Authority.

with the purposes of the company. The board member shall also act with honesty and devotion, taking into account the interests of the company and shareholders thereof, and shall exert the best efforts and abide by the provisions of the applicable laws, regulations and decisions, as well as the Articles of Association and the internal bylaws of the company.

Once he becomes a member of the board of directors, the board member shall inform the company about any work he directly or indirectly practices and constitutes a competition to the company, in addition to the names of the companies and public institutions where he works or serves as a board member, as well as other important obligations and the time dedicated thereto and any change which occurs thereto immediately. The board member shall dedicate sufficient time to perform his responsibilities, including preparing for the meetings of the board and committees thereof and attendance of the same.

V. Protection of the shareholders' rights by preventing conflict of interests and regulating related party transactions:

Bias to personal interests is the scourge of collective investment. Man by instinct leans to prefer his personal interests. Should the legislator fail to set clear limits, strict controls and decisive prohibitions on abusing the company's assets for personal interests, investment in companies through IPOs would have been a failure and loss. The UAE legislator gave due attention to these facts and set the controls that match the best international practices to protect the shareholders' assets from being used for personal considerations. These controls include:

1. No person may be appointed or elected as a member of the Board of Directors of the company unless he declares that he accepts the nomination in writing. Such declaration must include any work which he directly or indirectly involves in and constitutes a competition to the company, in addition to the names of the companies and the

public institutions where he works or serves as a board member.

2. Every board member of the company who has a common interest or a conflicting interest in a transaction referred to the Board of Directors for approval shall notify the Board of Directors of such interest and record his acknowledgement in the minutes of the board meeting. Such board member may not vote on the resolution concerning such transaction. If the board member fails to notify the Board, the company or any of its shareholders may apply to the competent court to annul the contract or to require the breaching board member to pay any profit or benefit he realized from such contract to the company.
3. Related parties are prohibited from utilizing the information in their possession by virtue of board membership or position to realize any interest for own account or for the account of third parties whatsoever as a result of trading in the securities of the company and any other transactions. No related party may have a direct or indirect interest with any party having deals intended to influence the rates of the securities issued by the company.
4. The company may not have deals with related parties with a value greater than %5 of the share capital of the company without the approval of the Board of Directors of the company; and the approval of the General Assembly of the company in cases exceeding the said percentage. Transactions shall be valued by an Evaluator approved by the Authority. The company shall maintain a register of the related parties showing the names of persons who are classified as related parties and their transactions in details, as well as the actions taken in this respect. The company shall also provide documents related to its transactions with related parties, and the nature, size, and details of such transactions and shall inform the shareholders thereof during the General Assembly. The details and conditions of transactions and the conflicts of interest in connection with related parties shall be stated in the annual financial statements which are presented to the General Assembly. Such statements shall be published on the websites of the market and the company.

5. In the event the company concludes any transactions with related parties, any shareholder who holds %5 and more of the company shares shall be entitled to request access to the books and documents of the company and any other files or documents related to such transactions. A shareholder shall have the right to file a case before the competent court concerning transactions with related parties to obligate the parties to the transaction to provide all the information, documents and files related to such transactions, whether they directly substantiate the facts stated in the lawsuit or are in connection therewith, or help revealing information that contributes to unveiling the true facts. If it is evident to the court that a transaction is unfair or involves a conflict of interest and causes damages to the remaining shareholders, the court shall order the cancellation of the transaction and obligate the related party to pay any profit or benefit it has made to the company in addition to compensation if it is proved that the company sustained damage.
6. No board member may, without the approval of the General Assembly of the company, which approval shall be renewed every year, participate in any business in competition with the company or trade for his own account or for the account of third parties in any part of the activity practiced by the company and may not disclose any information or details of the company, otherwise the company may demand him to pay compensation or to consider the profitable transactions made for his account as if they were made for the account of the company.
7. A joint-stock company may not provide any loans to any of its Directors, or execute guarantees or provide any collateral in connection with any loans granted to them. A loan shall be deemed to be granted to a Director in accordance with the provisions of the Law where such loan is granted to his spouse, minors or relatives up to the second kin.

No loan may be granted to a company where a Director or his spouse, minors or any relative thereof holds over %20 of the share capital of that company.

Any agreement in conflict with these provisions shall be null and void. In his report presented to the General Assembly of the company, the auditor shall indicate such loans and credits granted by the Directors and the level of compliance by the company with these provisions.

8. The Board of Directors shall set written rules concerning transactions of the Directors and employees of the company in the securities issued by the company, the parent company or a subsidiary or sister company thereof. The Board of Directors shall prepare a special and integrated register for all the insiders, including the persons who can be temporarily deemed insiders who have the right or access to the internal information of the company before publication thereof. The register shall also contain the previous and subsequent disclosures related to the insiders. A committee shall be formed to manage, follow up, and supervise the transactions and property of the insiders and maintain a register thereof and file regular statements and reports to the market.
9. Without prejudice to the rights of bona fide third party, any decision passed in contravention of the provisions of the law or the Memorandum or Articles of Association of the company, in favor of or against the interests of a certain class of shareholders or to bring a special benefit to related parties or others without consideration to the interest of the company shall be null and void.

Such nullity shall be decided by the competent court, upon a request filed by the concerned parties in accordance with the procedures and at the times prescribed in the law.

VI. Protection of Shareholders' rights by regulating the responsibility of the Directors of the Company

The golden rule is that responsibility comes with power. If the Board of Directors of the company has the power of management without being held accountable for its actions, such absolute power will be abused.

Therefore, the law made sure to expressly determine and stipulate the responsibility of the Directors of the company and the parties entitled to file a liability claim⁹.

The law regulates the liability provisions of the Board of Directors as follows:

1. The Directors shall be liable towards the company, the shareholders, and the third parties for all acts of fraud, misuse of power, and violation of the provisions of the law and the Articles of Association of the company and error in management. Every provision to the contrary shall be null and void. Liability shall apply to all the Directors if the error arises from a decision passed unanimously by them. However, in the event of decisions passed by majority, the Directors who object to such decisions shall not be held liable provided they state their objection in writing in the minutes of the meeting. Absence from a meeting at which a decision is passed shall not be deemed a reason to be relieved from liability unless it is proven that the absent Director was not aware of the decision or was not able to object thereto upon becoming aware thereof.

[9] The law did not stop at allowing the filing of a liability claim against the Board of Directors of the company under a resolution issued by the General Assembly, but further it allowed any shareholder to file this claim in two cases:

- If the claim is filed by one or more shareholders holding at least %5 of the capital of the company.
- Every shareholder may file the claim individually, regardless of the amount of his share, if he sustains direct personal damage from the acts of the Board of Directors of the company.

2. If one or more shareholders holding at least %5 of the shares of the company believe that the affairs of the company are or have been managed in a manner detrimental to the interests of all or any of the shareholders, or where the company intends to do, or abstain from doing, any act that may cause damage to a shareholder, such shareholder shall have the right to submit an application to the Authority together with the supporting documents to issue such relevant resolutions at its own discretion. If the Authority rejects the application or the application is not considered within 30 working days, the shareholder(s) may refer to the competent court within 10 days from the date of rejecting the application or the expiry of such period, as the case may be.

The Authority may refer to the competent court if the Authority believes that the affairs of the company are or have been managed in a manner detrimental to the interests of all or any of the shareholders, or where the company intends to do, or abstain from doing, any act that may cause damage to the shareholders.

The court may issue a judgment to annul the act or the omission to do the act, the subject matter of the application, or to continue to do any act that the company has abstained from doing.

3. The liability claim shall be filed against the Board of Directors of the company due to errors that may result in damage to all the shareholders, under a resolution issued by the General Assembly to appoint a representative of the company to file the claim in the name of the company.
4. Every shareholder may file the claim individually against the Board of Directors of the Company if not filed by the company, provided that the error may specifically cause damage to him as a shareholder; and that such shareholder must notify the company of his intention to file the claim. Every provision in the Articles of Association of the company to the contrary shall be null and void.

5. Any resolution passed by the General Assembly to relieve the Board of Directors shall not prevent the filing of the liability claim against the Directors due to errors committed by them during the performance of their duties. If the act giving rise to liability claim has been presented to and approved by the General Assembly, the liability claim shall be time barred (elapse) upon the expiry of one year from the date of such meeting. However, if the act attributed to the Directors is a criminal act, the claim shall not elapse until the public claim is time barred.
6. The General Assembly may remove all or any of the Directors, even if the Articles of Association of the company provides otherwise. In which case, the General Assembly shall elect new Directors instead of those removed and report the same to the Authority and the competent authority. The Authority and the competent authority shall also be notified of such election. If a Director is removed, he may not be re-nominated for the membership of the Board before the lapse of three years from the date of issuing of the removal decision.

VII.Shareholders' rights to attend the General Assembly Meetings:

The General Assembly (GA) is the higher authority of the company and it elects, monitors, and removes the Board of Directors of the company. Further, it has the power to issue the most critical resolutions including the dissolution and liquidation of the company. Therefore, the law made sure that each shareholder is truly represented and can participate therein to defend his rights and assets. Accordingly, the law regulated the attendance in the General Assembly as follows:

1. Subject to the approval of the Authority, the invitation to convene the General Assembly shall be sent to all shareholders by a notice published in two daily local newspapers, at least one of them is issued in Arabic, by registered letters or using the method of notification as determined by the Authority in this respect, at least 15 days prior to the scheduled date of the GA meeting. The notification of the invitation shall include the agenda. A copy of the papers of the invitation shall be sent to the Authority and the competent authority. If the invitation to hold the meeting of the General Assembly is notified prior to the date of the meeting within a period less than 15 days, the invitation to convene the General Assembly shall be valid subject to the approval of shareholders representing %95 of the share capital of the company.
2. The Board of Directors of the company shall invite the General Assembly to convene whenever it is requested by one or more shareholders holding shares representing at least %20 of the share capital, unless the Articles of Association of the company determines a smaller percentage, provided that the invitation to hold the General Assembly is addressed within 5 days from the date of the application. The General Assembly shall convene within at least 15 days, but not in excess of 30 days from the date of the invitation for the meeting. The application (request) shall be kept at the head office of the company and shall state the purpose of the meeting and the issues to be discussed. The applicant for the meeting shall provide a certificate from the financial market where the shares of the company are listed, confirming the prohibition of disposition of the shares held by the applicant on his demand until the meeting of the General Assembly is held. The Authority may invite the General Assembly to convene if the Board of Directors fails to do so.

3. Shareholders holding %5 of the share capital of the company may file an application to the Authority to list additional item(s) on the General Assembly's agenda within 5 working days from the date of sending the invitation by the company to hold the General Assembly. This right grants the shareholders the power to submit one or more items for discussion in the General Assembly meeting and such right is not restricted to the Board of Directors.
4. Every shareholder shall have the right to attend the General Assembly and shall have a number of votes equal to the number of his shares. Any shareholder that has the right to attend the General Assembly may delegate any person selected by such shareholder, other than a Director, under a special written proxy. A proxy of a number of shareholders may not hold in this capacity more than %5 of the share capital of the company. Shareholders who are minors or incompetent shall be represented by their legal representatives. A corporate person may delegate one of its representatives or those in charge of its management under a decision passed by its board of directors or any similar body to represent such corporate person in any General Assembly meeting of the company. In this case, the delegated person shall have the powers as determined under the delegation decision.
5. The shareholders shall record their names in a special register prepared for this purpose at the head office of the company prior to the scheduled time to hold the meeting of the General Assembly. Such register shall include the names of the shareholders, the number of shares represented by them and the names of the holders of such shares, and the instrument of proxy shall be provided. The shareholder shall be given a card to attend the meeting, in which the number of the shares held by such shareholder in person or by proxy shall be stated.

VIII. Shareholders' rights during the General Assembly meeting:

The general Assembly of the company assumes very important responsibilities¹⁰; therefore the shareholders are keen to attend its meetings and participate effectively and discuss the items of the agenda seriously to guarantee their rights and to realize the supervisory role of the General Assembly over the acts of the executive management.

Shareholders' rights during the General Assembly:

1. The General Assembly may not discuss any issues other than those listed on its agenda, unless serious issues that require consideration are revealed during the meeting where the General Assembly shall be entitled to discuss them.

If the Authority or a number of shareholders holding at least %10 of the share capital of the company request, before commencing the discussion of the agenda of the General Assembly, to add certain items

[10] In particular, the annual General Assembly of the company shall consider and decide on the following issues:

- To consider and approve the report prepared by the Board of Directors in respect of the activity and the financial position of the company during the year and the report prepared by the auditor and, if the company conducts its activity in accordance with the provisions of the Islamic Shariah, the report of the Internal Shariah Control Committee;
- The balance sheet and the account of profits and losses;
- To elect the Directors if necessary;
- To appoint the members of the Internal Shariah Control Committee if the company conducts its activity in accordance with the provisions of the Islamic Shariah;
- To appoint and determine the remuneration of the auditors;
- To consider the proposals of the Board of Directors concerning the distribution of profits, whether in cash or grant shares;
- To consider the proposals of the Board of Directors concerning the remuneration of the Directors and to determine such remuneration;
- To discharge the Directors or to dismiss the Directors and to file the liability claim against them, as the case may be; and
- To discharge the auditors or to dismiss the auditors and to file the liability claim against them, as the case may be.

Additionally, the General Assembly decides the crucial issues of the company, starting from amendment of its Articles of Association, and until the decision of dissolution, liquidation, or merger thereof, under a special resolution issued by a special majority.

on the agenda, the Board of Directors shall respond to such request, failing which the General Assembly shall have the right to resolve to discuss such issues.

2. Every shareholder attending the General Assembly shall be entitled to discuss the items listed on the agenda of the General Assembly and to address questions to the Directors and the auditor. The Directors and the auditor shall reply to the questions to the extent that may not cause damage to the interest of the company. A shareholder may appeal to the General Assembly if the shareholder deems that the reply to his question is insufficient. The resolution by the General Assembly shall be enforceable. Every provision in the Articles of Association of the company to the contrary shall be null and void.
3. Voting at the General Assembly shall be conducted by the method as determined in the Articles of Association of the company. However, voting may be by secret ballot if related to the election, removal or accountability of the Directors. The Directors may not participate in voting on the resolutions of the General Assembly for the discharge of the Directors from liability for their management or in connection with a special benefit of the Directors, a conflict of interest or a dispute between the Directors and the company, and in the event that a Director is representing a corporate person, the shares of such corporate person shall be excluded.
4. Minutes of meeting of the General Assembly shall be prepared to include the names of the shareholders present in person or those represented, the number of shares held by each, in person or by proxy, the votes held by each, the resolutions passed, the number of the votes for or against such resolutions and an adequate summary of the discussions at the meeting. The minutes of the meeting of the General Assembly shall be regularly recorded after each meeting in a special register, to be kept in accordance with the controls determined by a decision issued by the Authority. The minutes shall be signed by the Chairman and the secretary of the meeting, the vote collector and

the auditor. The persons who sign the minutes of meetings shall be responsible for the authenticity of their contents.

5. The resolutions of the General Assembly shall be passed by the majority of shares present at the meeting, or such higher majority as determined by the Articles of Association of the company.
6. The minutes of meetings of the General Assembly of the shareholders shall be kept at the head office of the company. Any shareholder may review such minutes free of charge within the applicable working hours. If the company rejects or fails to comply with the provisions of this article, the Authority may issue an order to review the contents of the minutes in respect of the discussions of the General Assemblies. The Authority may issue an order to the company to deliver the required copies to the person or persons who demand such copies.
7. On demand by the shareholders who hold a percentage of at least %5 of the shares of the company, the Authority may issue a decision to suspend the enforcement of the resolutions passed by the General Assembly of the company to the detriment of the shareholders or in favor of a certain class of shareholders or to bring a special benefit to the Directors or others whenever the grounds of the request are serious. A request to suspend the enforcement of the resolutions of the General Assembly shall not be acceptable upon the expiry of 3 working days from the date of such resolutions. The concerned parties shall file the claim before the competent court to annul such resolutions and notify the Authority with a copy thereof within 5 days from the date of the resolution suspending the enforcement of the resolutions of the General Assembly; otherwise the suspension shall be deemed null and void.

The court shall consider the claim to annul the resolutions of the General Assembly, and may order, as a matter of urgency, to suspend the enforcement of the resolution by the Authority on demand by the adversary until the conclusion of the merits of the claim.

IX. Shareholders' rights concerning the increase of the capital of the company:

1. The shareholders shall have **rights issue to subscribe to the new shares**. Any provision to the contrary in the Articles of Association of the company or the resolution to increase the share capital shall be null and void. A shareholder may sell the rights issue to another shareholder or to third parties with a material consideration. The Board of Directors of the Authority shall issue a decision regulating the conditions and procedures of selling the rights issue.

Excluded from applying the rights issue are the cases of entry of a strategic partner in the company, capitalization of cash debts in the company, and transferring of shares to the employees of the company as part of an employee incentive regime, and merger.

2. The new shares shall be distributed to the shareholders who submit applications for subscription to shares on pro rata basis to the shares held thereby, subject to the limit of the number of shares requested by them.
3. The company or any of its subsidiaries may not provide financial aid to any shareholder to enable the shareholder to hold any shares, bonds or Sukuk issued by the company. In particular, financial aid shall include provision of loans, gifts or donations, or provision of the assets of the company as security, or provision of a security or guarantee for the obligations of another person.

X. Protection of shareholders' rights by regulating the control over the company and regulating the shareholders' right to request inspection of the company:

Do you know that a shareholder may request an inspection of the company where he holds shares under specific conditions?

1. The general rule is that, the Ministry of Economy, the Authority and the competent authority, each in its jurisdiction, may monitor the joint-stock companies, inspect their operations and have access to their books or any documents or records kept at their branches and subsidiaries, in the UAE and abroad, or those kept with its auditors or other entities associated with the company subject of the inspection. They also may use, along with the inspection committee, one or more experts from the entities that have technical and financial expertise in relation to the subject matter of the inspection, to ensure that the company complies with the provisions of the law, the decisions issued in implementation thereof, and the Articles of Association of the company. The inspectors shall, at their own discretion, request any data and information from the Board of Directors, Chief Executive Officer, managers and/or auditors of the company. The Ministry, the Authority, or the competent authority, as the case may be, may request the dissolution of the company if it was incorporated or has exercised its activity in violation of the provisions of the Law.
2. On the other hand, the shareholders holding at least %10 of the share capital of the company may request the Ministry or the Authority, as the case may be, to order the inspection of the company in respect of serious breaches attributed to the Directors or the auditors upon performing their duties as provided by the provisions of the law or the Articles of Association of the company so long as the reasons to make the occurrence of such breaches highly probable. The request for inspection shall include such evidence that the applicants have such serious grounds to justify taking such procedures. The shareholders shall deposit and keep their shares deposited until their request is settled.

The Ministry or the Authority, as the case may be, and upon hearing the statements of the applicants and the members of the Board of Directors, or any similar body, and the auditors at a secret hearing, may order inspection of the operation, books or any papers or records

kept with another company associated with the company, the subject matter of inspection, or in the custody of its auditor, and may appoint one or more experts for such purpose at the applicants' expense.

3. Upon completion of the inspection, the inspectors shall provide a final report to the Minister in respect of private joint-stock companies and to the Chairman of the Authority in respect of public joint-stock companies. If the Ministry or the Authority, as the case may be, finds that there are breaches constituting a crime against the Directors or the auditors, it shall invite the General Assembly to convene. In such event, the meeting shall be chaired by the representative of the Ministry or the Authority, as the case may be, of a degree of an executive officer or any similar officer, to consider the removal of the Directors and filing the liability claim against them; or the dismissal of the auditors and filing the liability claim against them. The resolution by the General Assembly shall be valid if approved by the present majority upon exclusion of the share of the Director whose removal is under consideration. In the event of the Director that represents a corporate person, the share of such corporate person shall be excluded.

XI. Controls required to ensure that the shareholders exercise their rights

The Articles of Association and internal bylaws of the company must contain the procedures and controls required to ensure that all shareholders can exercise their rights, including:

1. Availability of all information that enables the shareholders to exercise their rights optimally without discrimination among the shareholders, including familiarity with the rules governing the General Assembly meetings and voting therein. Such information shall be complete and accurate and shall be presented and updated regularly and on timely basis. Such information includes details about the plans of the company prior to voting thereon in the meetings, or any other information.

2. Provide all shareholders with the opportunity to effectively participate in the deliberations of the General Assembly meetings and vote on its resolutions. The shareholders shall be entitled to discuss the items listed on the agenda of the General Assembly and to address questions to the Directors and the auditor. The Board of Directors or the auditor shall reply to the questions to the extent that may not cause damage to the interest of the company.
3. Avoid the setting of any limitations that might prevent using the right to vote. Exercising of the shareholder's right to vote must be facilitated.
4. Prevent the setting of any limitations on the free trading of the shares of the company in the market.
5. Appoint a qualified officer to assume all the tasks related to the management of investor relations. Such officer shall meet the conditions required to assume such position. A special webpage for investor relations should be created on the website of the company to be updated and maintained all the time in line with the international standards. Such webpage shall include the contact details of the investor relations department, such as the phone number and e-mail. The webpage shall also contain all the reports related to the financial results, whether archived or published, and the statements of the financial year which shall include the dates of publishing the financial results, the minutes of meetings of the General Assembly, and any other important events. The information and statements disclosed to the supervisory authorities, the markets or the public shall be published on the website of the company, including but not limited to:
 - a. The news, events, developments and the material events of the company.
 - b. The annual and interim financial statements and the Board of Directors' reports for several past years.
 - c. The governance report.
 - d. The ownership structure and ownership percentages.
 - e. Constantly updated general information on the official website about the company, activities, business strategy, visions, and future plans thereof.

- f. Information about the share price in terms of the closing price, opening price, the maximum and minimum price during the year, different values of the share and some of the financial indicators.
 - g. The option to ask about the dividends not received by the shareholder and the mechanism of receiving the dividends by the shareholders.
 - h. The contact information of the investor relations officer and the mechanism of submitting the opinions, comments and inquiries.
6. Form a committee consisting of employees from the top levels in the company in the event the company faces any crises, The committee is assigned to develop a plan to communicate with the investors and the media regarding the practical steps taken by the company to address the crisis. An official spokesperson shall be named to assume the said communication process in the name of the company.
 7. Publish preliminary presentations which indicate the financial position, strategies and future forecasts of the company, at least once a year. Such presentations shall be updated after every announcement of the financial results, quarterly or biannually.
 8. Set the measures required to provide the investor relations officer with all the data and information, including the decisions of the Board of Directors once they are passed, and the interim and annual financial statements once they are approved by the Board of Directors, to enable the investor relations officer to undertake his tasks specified in this article.
 9. The Board of Directors shall make the annual governance report available to all shareholders of the company prior to filing a request to the Authority to approve the convening of the General Assembly meeting.

Focus Area 2

Rights of Other Classes of Investors

Focus Area 2

Rights of Other Classes of Investors

Having introduced the shareholders' rights in the listed companies, the protection provided by the Securities & Commodities Authority (SCA) extends to cover all investors, whether investors in listed companies or other classes of investors, such as holders of bonds and Sukuk, holders of investment units, or other holders of financial instruments approved by the Authority;

These rights are established in the Commercial Companies Law or the regulations issued by the SCA to regulate the securities held by investors, such as the Regulations as to Debt Securities, Regulations as to Sukuk, Regulations as to Mutual Funds, Regulations as to Covered Warrants, and Regulations as to Issuing and Offering Shares of Public Joint-Stock Companies in relation to the rights issue as a financial derivative where investment may be placed. These rights can also be set forth in the agreement creating such securities, the relevant prospectus, or in its offering documents. In the event the Authority issues regulations for a certain security, such regulations determine the rights of the holders of such securities. The regulations might establish such rights directly or leave them to be established by the agreement that organize the issuance of the security, such as the offering documents of investment units or deposit certificates.

Below is a brief description of the investors' rights in the key securities issued and traded, other than shares; namely bonds, Sukuk and investment units.

I. Rights of Bond holders:

The Commercial Companies Law set forth general provisions to issue debt securities by joint-stock companies. These provisions include the general frameworks to organize the issuance of debt securities by the companies. The Commercial Companies Law authorized the Authority to issue regulations to include the detailed provisions of debt securities¹¹, including the issuance, offering and listing thereof. The Commercial Companies Law decided that:

[11] The Regulations define the debt securities as tradable financial instruments of equal value evidencing or creating indebtedness on the Issuer, whether secured or unsecured

1. A company may issue tradable debt securities, whether they are convertible or non-convertible to shares in the company, at equal value of each issue.
2. The securities may not be converted into shares, unless the issuance note so provides. If the conversion is decided, the holder of the security alone shall have the right to accept the conversion or to collect the nominal value of the security. The security holder shall opt whether to convert the security or collect its value. The company may not force the security holder to choose any of the two options.
3. Securities issued in connection with a single loan grant their holders equal rights.
4. The company may not advance or delay the date of payment of securities unless otherwise provided by the resolution that issued the securities and the prospectus.

However, the holders of securities may demand the payment of the value of their securities prior to their maturity date if the company is dissolved for reasons other than for merger. The company may also offer such payment to them subject to their approval. In either event, if the payment is made, the interests on the remaining period of the loan are not payable.

5. The rights of the holders of debt securities issued by the company and not offered for public subscription shall be determined in the agreement creating such debt securities. The agreement shall include the procedures required to hold the meetings for the securities holders and to form / appoint any committees. It shall also include the voting rights and all other matters related thereto, and the conditions for converting the securities into shares in the company, in case they are convertible.

On the other hand, the SCA regulated all the matters related to the issuance, offering and listing of debt securities under the Decision

of its Board of Directors No. 17 of 2014, whether such securities are issued by joint-stock companies or by other entities.

The Regulations as to Debt Securities issued by the Authority establish the rights of the holders of debt securities and mechanisms of protecting these rights, including:

- a. Securities may not be issued and offered through a rights issue unless the issue is approved by the Authority. The securities must be listed on the market so that they can be traded subject to the market controls and supervision, and in order to follow up the disclosures related thereto, and ensure the proper dealing therein.
- b. The issuance of debt securities may not conflict with the Issuer's constitutional documents. However, the Issuer's constitutional documents must not contain any restrictions which may prevent the Issuer from fulfilling the obligations and provisions concerning the issuance and listing of debt securities.
- c. As to the primary listing of debt securities issued by joint-stock companies¹², the Issuer must be incorporated in the State, outside a financial free zone so that the Issuer is subject to the jurisdiction of the Authority.
- d. Where the debt securities sought to be listed are secured debt securities, a Trustee must be appointed to represent the interests of the holders of such debt securities and such Trustee must have the right of access to any information relating to the assets. A Paying Agent shall be appointed in the State to be responsible for payment of the returns and redemption value of the securities. The Paying Agent may act as the representative of the holders of the securities.

[13] Primary listing means listing of the debt securities on the market for the first time in each issue.

- e. In the event the Issuer is a joint-stock company, an agreement must be signed with an independent representative who shall represent the debt securities holders and protect their rights and interests. The agreement shall include the right of the Representative of securities holders to obtain any information regarding the securities. The Trustee for secured debt securities may be the Representative of the securities holders.
- f. The Authority shall approve the dual listing of the debt securities issued by a foreign issuer or an issuer incorporated in a financial free zone upon completion of the data and documents set forth by the Regulations¹³.

A foreign issuer, or an issuer incorporated in a financial free zone, shall comply with the continuous disclosures as set forth in Articles (19) ,(18) and (20) of the Regulations as to Debt Securities in a manner to ensure transparency and to protect the investor in the local market.

- g. To protect the investors and maintain proper functioning in the market, the Authority may request the Issuer which has listed debt securities on the market to publish the information which the Authority deems appropriate at the issuer's expense, failing which the Authority may publish the information in question after giving the issuer the opportunity to state the reasons for failure to publish the information.
- h. The approval of the Authority must be obtained before publishing any document or announcement within the State in the name or on behalf of the Issuer which are intended to announce the acceptance of listing of any debt securities. This document or announcement must state clearly that the Authority has approved the publication thereof so that the investors do not fall for false announcements or data, while affirming that the Authority is not responsible for the veracity of data approved for publishing. However, reviewing of the

[13] Dual Listing means listing of the debt securities in more than one market where a foreign market or a financial free zone market is the primary market.

- data by the Authority makes it serious and establishes the responsibility of the signatory on the data in the event it is proved to be incorrect.
- i. The legislator enforces the Issuer to conduct a range of disclosures, especially in relation to the prospectus, and the audited financial reports of the Issuer, and the continuous disclosures of an incident, developments, or information which are not public knowledge and which may be expected to materially affect the price of the listed debt securities or volume of trading of the debt securities or the transactions conducted thereon in the market or the ability of the Issuer to meet its commitments, and other important matters set forth in Articles (18) and (19) of the Regulations as to Debt Securities. Such disclosures ensure the flow of information at the Authority, the market, and the holders of debt securities and those who wish to invest therein so that they make their investment decisions based on valid and fair foundations.

II. Rights of Sukuk Holders:

The Commercial Companies Law set forth general provisions for the issuance of Sukuk by joint-stock companies. These provisions are similar to the provisions regulating debt securities. However, the Commercial Companies Law allows the Authority to issue a decision to regulate the Sukuk and the rights of Sukuk holders¹⁴. Accordingly, the Authority has the opportunity to produce different regulations for debt securities and Sukuk based on the structural and legal configuration of each.

[14] Sukuk means tradable financial instruments of equal value which represent a share of ownership of an asset or a group of assets and are issued in accordance with Shariah.

If the security is an instrument evidencing indebtedness for its holder from the company and gives rise to an obligation to repay its value in addition to the interest on the due date, a Unit of Sukuk represents a share of ownership of an asset or a group of assets. A Unit of Sukuk is created from a relationship of funding and presenting of a credit to the company, however, a Unit of Sukuk is related to an asset and it is created as a right of ownership attached thereto. The holder of the Unit of Sukuk has the right to obtain its value and the return on the due date; otherwise the value of the Unit of Sukuk shall be obtained from the sale of utilizing of the asset attached to the Unit of Sukuk, which makes it compatible with the Islamic Shariah according to the jurists.

The Regulations as to Sukuk issued by virtue of the SCA Board of Directors' Decision No. 16 of 2014 contain further rights relating to the issuance and offering of Sukuk through public subscription and listing thereof on the market, including:

1. Retail Sukuk may not be issued in the State except through public subscription¹⁵, and they must be listed on the market.

This provision protects the investors who deal in retail Sukuk offered through public subscription so that trading thereof is subject to the market controls and monitoring; and to follow up the disclosures related thereto, and ensure proper transactions thereon.

As regards institutional Sukuk, the minimum value of each shall be AED 500000 or its equivalent in any foreign currency. Institutional Sukuk may not be offered through public subscription. However, they are only sold through a special offering to major investors who need less protection because they are professional investors who have the capability of safeguarding their rights.

2. An Obligor shall obtain the approval of the Authority prior to the issuance or listing of any Sukuk on the market. Such approval is a valuable safeguard for the investors to protect their rights by dealing in Sukuk whose listing on the market is approved by the regulatory authority which means that the SCA has already verified many aspects that may be missed by small investors and safeguard their rights which are established by the Regulations as to Sukuk.
3. In order to approve the issuance and listing of retail Sukuk in the market by the Authority, the Obligor's constitutional documents must not contain any restrictions which may prevent the Obligor to act in relation to the issuance and listing of Sukuk. The Obligor must be incorporated in the State and outside a financial free zone so that the Obligor be subject to the jurisdiction of the SCA.
4. The Obligor shall enter into a trust agreement which must include a confirmation of the Trustee's right to obtain any information regarding

[15] Retail Sukuk are Sukuk where the maximum value of each is AED 100000 and shall be offered through a public subscription.

these Sukuk as well as the Trustee's duties to protect the rights and interests of the Sukuk holders.

5. The Obligor shall appoint a bank licensed in the State to act as a Paying Agent in the State until the redemption of Sukuk.
6. To protect the investors and maintain proper functioning in the market, the legislator allows the Authority to require the Obligor who has listed Sukuk on the market to publish the information which the Authority sees appropriate at the Obligor's expense. Failing to do so, the Authority may publish the information in question after giving the Obligor the opportunity to state the reasons of failure to publish the information.
7. The approval of the Authority must be obtained before publishing any document or announcement within the State in the name or on behalf of the Obligor or the Issuer which are intended to announce the acceptance of listing of any Sukuk. Such document or announcement must contain a clear statement that the Authority has approved the publication thereof so that the investors do not be cheated by fabricated announcements, or published incorrect data, while confirming that the Authority is not responsible for the veracity of data approved for publishing. However, reviewing the data by the Authority makes it serious and establishes the responsibility of the signatory on the data in the event it is proved to be incorrect.
8. The legislator obligates the Obligor to conduct a range of disclosures, especially in relation to the prospectus, and the audited financial reports of the Obligor, and the continuous disclosures of incidents, developments or information which are not part of public knowledge and which may be expected to materially affect the price or volume of trading of the Sukuk or transactions made thereon in the market or the ability of the Obligor or the Issuer to meet their obligations, and other important matters set forth in Articles (17) and (18) of the Regulations as to Sukuk. Such disclosures ensure transparency and the streamlined flow of information to the Authority, the market, the holders of Sukuk and those who wish to invest therein so that they make their investment decisions based on valid and fair foundations.

III. The rights of Unitholders in Mutual Funds:

Mutual Funds represent a considerable portion in the sector of financial markets worldwide. Mutual Funds dominate the largest share of money investment in some countries. The UAE legislator gave much attention to this area; therefore, the Regulations as to Mutual Funds has been subject to many changes and amendments to keep pace with the international standards. The Regulations as to Mutual Funds contain enhanced legislative flexibility and diversity of structures of Mutual Funds, as well as transparency and disclosure in a manner to ensure that the investors in Mutual Fund units have adequate information and to protect their rights in transactions.

Since the Authority is the agency which regulates, issue licenses to or approves the formation of Mutual Funds, it is committed to protect the rights of dealers even if the Mutual Funds are not listed on the securities market. The Regulations contain provisions governing the formation and management of Mutual Funds, provision of services thereto, and the duties of the Custodian in order to provide control over this important type of investment and protect the investors in Mutual Fund units.

As regards foreign Mutual Funds, the legislator prohibits the promotion of any foreign fund within the State unless it is registered with the Authority and a contract is signed with a local promoter licensed in the State.

Protection provided by the Authority to the rights of investors in a public Mutual Fund of both types; open-ended and close-ended, is especially enhanced as it targets the investors who plan to subscribe in their units. Therefore, the legislator devoted special attention to Public Open-ended Mutual Funds, which are not listed on the market, and Close-ended Mutual Funds, which must be listed on the market. This can be illustrated as follows:

a. Public Open-ended Mutual Funds, not listed on the Market:

The Regulations as to Mutual Funds enforce the Management Company or Founders of a Public Open-ended Mutual Fund to prepare the Key Investor Information Document (KIID) in Arabic in a simplified format using the form prepared by the Authority, provided it shall include at least the following data:

1. Information and data on the Mutual Fund, type of its management, classes of its units and mechanism of unit redemption, and the Fund's licensing authority.
2. A summary of the objectives and investment policy of the Mutual Fund.
3. The fees and expenses which will be incurred by the unit holders, methods of their calculation and types of the Management Company's fees and their payment method.
4. The activities that will be outsourced to third parties.
5. A statement of the profits realized and potential risks of the Mutual Fund.
6. Information about the Umbrella Fund and its affiliated sub-funds and how to transfer from one sub-fund to another.
7. Information about the Feeder Fund and Master Funds.
8. Indication whether the Fund's investments are limited in other funds.
9. Indication whether all the Mutual Fund's investments are structured or secured.
10. The mechanism of obtaining any information relating to the Mutual Fund.

The Management Company or the Fund's Founders shall make the KIID available free of charge to the unit holders in an electronic or printed form, continuously or upon request; and keep it updated including the historical performance and potential performance of the Fund.

In the area of disclosure and availability of information, the legislator obligates the Management Company or Board of Directors of the Fund to:

1. Exert the due efforts to provide the existing and potential unit holders with adequate and accurate information to enable them make their investment decisions.
2. Make instant and regular disclosure in relation to listed Mutual Funds to the Authority, market and unit holders on all data, information or any material events that affected or would affect the Mutual Fund in accordance with the method of disclosure set forth in the Prospectus.

3. Disclose every act or disposal which would create a conflict of interest situation when investing the assets of the Fund and how to deal therewith; and avoid any act that would result in an unnecessary increase in the costs or the risks which the Fund is exposed to and endeavor to protect the interests of the Fund in each disposal or act.
4. Keep the documents, papers, records and accounting books related to the operations of the Fund for a period not less than 10 years and keep backup copies thereof for the same period and protect them against any causes of damage.

b. Public Close-ended Mutual Funds, listed on the Market:

The Regulations as to Mutual Funds contain the following provisions related to the Public Close-ended Mutual Funds:

1. The units of a Public Close-ended Mutual Fund shall be listed and traded in the market.
2. The units of the Public Close-ended Fund may not be redeemed unless in keeping with the date set forth in the Prospectus or upon the termination of the Fund.
3. The Fund's borrowing may not exceed %30 of its net asset value. It shall be prohibited to make cash lending. However, holding debt instruments shall not be considered as lending.

Since such Fund is listed on the securities market and its units are traded in the market, the legislator obligates the Management Company or the Fund's Board of Directors to invest the Fund's assets in accord with its investment nature, and within the range of investments set forth in the Regulations to control the scope of investing the Fund's assets so that the Management of the Fund would not hold absolute power of investment thereof and to protect the investors' assets in these units listed on the securities market, whose holders aspire for stricter control by the Authority and the market.

The Regulations set forth a special percentage to amend the investment policy of such Fund which requires the approval of the holders of at least %75 of the units.

Focus Area 3

Disclosures and flow of information as Rights of the Investor

Focus Area 3

**Disclosures and flow of information
as Rights of the Investor**

The investor's right does not end at the right of ownership and benefiting the profits of his shares or securities as stated above. The investor's rights extend to trading through selling and buying in the securities market.

Information is the fuel of markets where no valid investment can be achieved without adequate information. This rule is even more critical in the securities markets where the commodities being sold and purchased are simply securities representing ownership shares, or evidence of indebtedness, or derivatives therefrom. Therefore, adequate information about the financial position of the security issuer and familiarity with the material events of the issuer by everybody on an equal basis is very crucial in the movement of securities markets.

The role of the authorities supervising the securities markets is to ensure the flow of information to everyone equally and straightly through their legislation, except the information which is allowed to be confidential.

Therefore, the UAE legislator regulated the mandatory cases of securities pre-listing and post-listing disclosures, regular disclosures, disclosure of the important events and changes, and disclosure of ownership that exceeds a certain percentage. The legislation criminalizes insider trading based on information which has not become public knowledge. The legislation also criminalizes the release of such information to third parties prior to disclosure thereof to protect the investor's right to receive valid information equally with everyone in terms of the type and timing. In the area of securities market, the rule is that "Whoever knows first profits first, and then the rest are equal".

The entire legislative and supervisory system of transparency and disclosure aims at protecting the investor's right to receive accurate information on an equal footing with the others.

What are the cases that should be disclosed?

I. Pre-listing Disclosure:

1. When a public joint-stock company files an application to be listed on the market, the application shall be enclosed a range of data and information that would reveal the true position of the company so that the investors in the market deal on its shares based on comprehensive information. The members of the Board of Directors of the company shall be held accountable for the completeness and accuracy of the information submitted to the Authority and the market. Following is the required data:

a. A report from the company's Board of Directors that includes the following:

- A brief description of the company's incorporation, its objects, and its relationships with other companies, whether a parent company, subsidiary companies, sister companies or affiliate companies.
- A description of the securities previously issued by the company, along with a statement describing the securities which the company wishes to list.
- The Board of Directors' assessment, supported by financial figures of the company's performance and achievements compared with the plan made.
- A statement of the significant events that the company has experienced from its inception to the date of submitting the application for listing.
- Names of the members of the Board of Directors and the executive managers, along with a statement of the shares owned by each of them and their relatives to the first kin, whether the shares are owned in the company which applies for listing or in a mother, subsidiary, sister or affiliate company (if any), and the membership of any of them on the boards of directors of other public joint-stock companies.

- Names of those who own, or whose holdings with their minor children amount to (%5) or more of the shares of the company which applies for listing.
- The percentage of holdings in the company's capital of persons who are not nationals of the State.

b. A financial statement which includes the following:

- A report for the fiscal year preceding the date of submitting the application for listing, supported by reports from the Board of Directors as well as the company's auditor.
 - Interim financial statements covering the period from the end of the fiscal year preceding the date of submission of the application for listing to the end of the last quarter preceding the date of submission of the application. These statements shall be certified by the company's auditor.
2. The company whose securities are approved for listing on the Market by the Authority shall, ten days prior to the date of its listing on that Market, publish in two daily newspapers of wide circulation published in the Arabic language in the State, its annual and interim financial statements and a summary of the Board of Directors' report submitted for the purposes of listing.

II. Post-listing Disclosure

The post-listing stage is the continuous stage in the life of the company where the company or the entity whose securities were listed on the market goes through material events or various developments that might affect the prices of these securities. This is the most important phase in terms of the investors' right to continuously know all the developments in the company. Therefore, the legislator emphasizes the investor's right to be notified of the financial reports of the company on regular basis, and of the significant events

in the company upon occurrence. The legislator regulated many disclosures regarding such notification, including:

1. Notify the Authority and the Market management of any material developments affecting the prices of such securities upon occurrence, such as disasters, fires, mergers, the issuance of new securities, the discontinuance of a production line, voluntary liquidation or claims filed by or against the company that affect its financial position. The Board of Directors of the market shall have the right to publish any statement in respect of such events in the local newspapers and other media as it deems appropriate.
2. Publish any explanatory information which relates to the circumstances of the company or the entity whose securities are listed on the market and the activities thereof, when so requested, so as to secure the integrity of transactions and confidence by the investors. If any change occurs in a material fact that has previously been published in a press release, that party or company shall issue a newspaper announcement to reflect the current situation following that change. Such subsequent press release shall be issued in the same newspaper or newspapers that published the original release.
3. To establish balance between the investors' right to information, and the company's right to maintain the confidentiality of its contracts or transactions at a certain stage to protect the interests of its shareholders, the legislator stipulates that the party or company may not issue a press release regarding specific data or issues which are under negotiation, if its senior management has reasonable grounds to believe that disclosing such information will seriously be detrimental to its interests and there has not been, and there will not be, any dealing in its shares by members of its Board of Directors and executive managers and their relatives to the first kin on the basis of such information not disclosed to the public, provided that the company provides the Director of the Market with such information and data specifying the persons who are aware of such information, and requesting him to treat such information as confidential until the grounds

which gave rise to non-publication in accordance with this Article no longer exist. The Director of that Market may, in coordination with the Authority, comply with such request or compel the company to announce the information and data if the Market and the Authority consider that the publication of such information will not affect the interests of that company or if they have reasons to believe that the information and data which was deemed confidential by the company has been released.

4. To ensure serious monitoring of the disclosures, the legislator obligates the Market to monitor the listed companies' compliance to disclose significant issues and information and financial statements, the publication of the same, and the timing of such publication, and shall ascertain that the same are clear and reveal the facts which they express. After taking the necessary actions, the market shall refer any violations by listed companies to the Authority to decide on the matter.

The Board of Directors of the market shall issue the press releases required to ensure transparency of information and disclosure.

5. On the other hand, to emphasize the importance of disclosing the decisions of the Board of Directors of the company regarding the matters that would affect the share price and movement, and the monitoring of such decisions at their early stages in order to frustrate any insider trades that utilize such undisclosed information, the Regulations as to Disclosure obligates the parties or companies whose securities are listed on the market to inform the Authority and the market of the dates and times of the Board of Directors' meetings in which the issues that affect the price and movement of shares in the market will be discussed, such as cash distributions, bonus shares, increase or decrease of the company's capital, subdividing the nominal value of the share, or the company buys back its own shares, and the interim and annual financial statements, at least two working days before the date of the meeting.

The company shall provide the Authority and the market immediately upon the end of the Board meeting with the decisions and financial statements approved by the Board of Directors in that meeting regardless

of whether the day following the meeting is a working day or an official holiday. If the meeting is held during trading hours, trading in the shares of the company shall be suspended. In all cases, trading in the shares shall be suspended until the Authority and the market are provided with the decisions and financial statements produced at the meeting.

However, for legal considerations related to the monitoring of the Central Bank or the foreign regulator on the companies subject to either of them, the legislator exempted the companies that need the approval of the UAE Central Bank, or the regulator under which foreign companies are regulated from the obligation to immediately provide the Authority and the market with financial statements. However, such companies shall disclose the statements upon receiving the relevant approval.

6. Further, the legislator obligates the parties or companies whose securities are listed on the market to notify the Authority and the market of a group of important matters, including:
 - a. Details of the sale or purchase of key assets which affect the position of the company.
 - b. The company's Board of Directors' decision on the distribution of dividends to shareholders or the announcement of profits and losses, in order to obtain the approval of the market for the publication thereof.
 - c. The number of shares owned by members of the company's Board of Directors, within fifteen (15) days from the date of their appointment and also at the end of each fiscal year, and all trades carried out by members of the company's Board of Directors and its executive management.
 - d. The documents relating to amendments of the company's Articles of Association, as soon as approved; and any change relating to the company's management structure at the level of the Board of Directors and Executive Management.
 - e. Copies of all publications issued to the company's shareholders, as soon as they are issued.

7. To assert the shareholders' right to be notified of the financial reports on an equal footing, even if they are not fully audited, the legislator obligates the parties or companies whose securities are listed on the market to:
 - a. Notify both the Authority and the Market with a summary of final accounts (preliminary financial statements which are unaudited and un-reviewed) within forty-five days from the end of the financial year, signed by the Board of Directors or the person authorized to sign on its behalf.
 - b. Notify the Authority and the Market of , and provide them with the following reports, prior to or after the trading hours:
 - Interim financial reports (quarterly and semi-annual) which are reviewed, within forty-five days from the end of the specified time period, signed by the Board of Directors or the person authorized to sign on its behalf.
 - Audited annual financial reports within ninety days from the end of the financial year, signed by the Board of Directors or the person authorized to sign on its behalf.

III. Disclosure by natural or corporate persons of their ownership in listed companies:

The legislator does not settle for the disclosures made by the companies or parties whose securities are listed on the market, whether prior to listing or post disclosure, because a considerable portion of the information that affect the price of security may not be possessed by the issuer of such security on the right time, but it is in the possession of major investors. Therefore, the legislator compels such investors to disclose their ownership to protect the dealings of small investors, who are the most worthy of attention, as follows:

1. Every natural person, and his minor children, or corporate person, whose ownership added to it the ownership of an Associated Group amounts to any of the following percentages shall immediately¹⁶ notify the Market:
 - A percentage of (%5) or more of the shares of a company listed on the market.
 - A percentage of (%10) or more of the shares of a mother company, subsidiary, sister or affiliate company of a company listed on the market¹⁷.
 - Moreover, such natural person or corporate person shall disclose each change of (%1) above the disclosure requirements set forth above.

It is noted that this notification shall be made after a transaction is executed in the market. Accordingly, the purchase transaction is not obstructed.

2. Every natural person and his minor children or a corporate person, who intends to buy a proportion of the shares of a listed company that would result in owning together with its Associated Group (%30) or more of the shares of that company shall notify the Authority thereof before submitting the purchase order for execution in the market. The Authority may reject the order if the Authority, after consultation with the relevant market, believes that the transaction will be detrimental to the interests of that market or the national economy.

[16] Associated Group: Persons associated by means of an agreement or arrangement for the purpose of acquiring a controlling interest in a listed company. Such an associated group includes a natural person and his minor children and a corporate person owned or controlled by another person within this group.

[17] **Subsidiary Company** means a company which at least half of its capital owned by another company.

Sister Company means a company which is part of the same group as another company.

Affiliate Company means a company which is linked to another company by a contract of cooperation and coordination.

It is noted that the notification shall be made prior to the execution of the purchase, yet it is more than just a notification. This notification is considered an application to the Authority to approve the execution of the purchase transaction since it might be detrimental to the interests of that market or the national economy

3. Every natural or corporate person, or a Group of Associated persons or related parties, whose equity amounts to %50 and more or the capital of a public joint-stock company listed on the market and intend to increase their equity share shall submit an offer of acquisition to all the shareholders in that company in accordance with the controls, conditions, and measures determined by the Authority in this regard. The companies shall make sure that mutual ownership between two independent public joint-stock companies may not exceed (%10) of their respective capitals. The Authority shall set the governing controls for this purpose.

This case represents an acquisition of a listed company. In order to cater for small investors, the legislator compels the person whose equity amounts to (%50) of the company's shares and who wishes to increase its equity to submit an offer of mandatory acquisition to all shareholders. The offer shall be submitted in accordance with controls and procedures set by the Authority to protect the interests of small investors, which is consistent with the international practices.

Focus Area 4

**Role of the Authority
in Safeguarding the
Investors' Rights**

Focus Area 4

Role of the Authority in Safeguarding the Investors' Rights

The UAE legislation ensures outstanding protection for the securities investors. This legislation assigned the Securities & Commodities Authority with the greatest part of such protection which has been undertaken by the Authority since its establishment. Below are the mechanisms of applying such protection by the Authority:

I. The Authority's Regulatory Powers:

The Securities & Commodities Authority is the regulator of securities markets in the UAE, excluding the financial free zones. The Authority develops and applies the regulations and decisions which organize the functioning of the markets and dealing therein, and the securities subject of transaction.

The legislator drew up the Authority's objects and powers in the Federal Law No. 4 of 2000 where one of its key objects is to provide the opportunity to invest savings and funds in securities and commodities in the interest of the UAE economy and ensuring the integrity and accuracy of transactions and interaction of supply and demand to determine prices and protect investors by instilling the foundation of sound and fair dealing among the investors, raising investment awareness, and seeking to ensure financial and economic stability in the State.

To meet its objectives, the said law assigned the Authority to issue the regulations required for the market activities, including:

1. Propose the regulations for its functioning, the regulations as to the licensing and monitoring of the market, and the regulations as to approving the listing, delisting, or suspension of listing of any security or commodity from trading on the market. Such regulations are promulgated under a Cabinet's decision.

2. Develop the Regulations concerning the Functioning of the Market, Membership of the Market, Trading, Clearing, Settlements, Transfer of Ownership, and Custody of Securities, Brokers, Disclosure and Transparency, and Arbitration, in consultation and coordination with the markets licensed in the State.

The Commercial Companies Law entrusts the Authority with the power of issuing the regulations concerning the public joint-stock companies, including but not limited to, the Regulations as to Issuing and Offering Shares of Public Joint-Stock Companies, Book Building, Governance, Acquisition, Merger, Entry of a Strategic Partner, Conciliation in the Crimes related to the Public Joint-stock Companies, and the Regulations as to Mutual Funds.

Other roles assumed by the Authority include controlling the crimes and suspicious transactions and combating terrorism within its jurisdiction. The Federal Law No. 4 of 2002 concerning the Criminalization of Money Laundering, and the Federal Decree-Law No. 1 of 2004 on Combating Terrorism Crimes authorize the supervisory bodies to develop regulations concerning anti money-laundering and terrorism finance, each within the limits of its regulatory and supervisory role. This role is assumed by the Authority in the securities and commodities markets.

The Authority' regulatory role is not limited to the issuance of the said regulations, as the laws set the general framework of the regulatory authorities and define the body responsible for regulating a certain area. Afterwards, the body performs its regulatory role, whether under laws, or regulations and general decisions, or even under instructions and circulars, to regulate all issues subject to its regulation and monitoring, as long as it does not breach the frameworks set by the legislator, or breach the provisions of the law.

II. Regulating the mechanisms to protect the Investor Rights:

The Authority does not only issue the regulations stipulated in its Establishing Law or the Commercial Companies Law, but also issued many regulations and decisions required to exercise the activities in the securities markets, toward achieving its objects, and to protect the investors' rights.

The Regulations as to Governance, Disclosure and Transparency, Brokers, Book Building, and the Issuing and Offering Shares of Public Joint-Stock Companies aim at establishing and protecting the rights of shareholders and all investors. However, these regulations might not cover the protection aspects intended by the legislator, and as revealed in reality, and in line with the international practices. The Authority interacted with all these aspects and embarked on developing its regulations and the legislative and regulatory environment of the markets in accordance with the best international practices. Therefore, the Authority issued the Regulations as to the Market Maker, Liquidity Provider, Short Selling, Lending and Borrowing, Financial Solvency Criteria, Financial Consultations and Financial Analysis, Margin Trading, Online Trading, Central Clearing, Custodian, Rules for the Separation of Accounts with Brokers, Rules for Telephone Recording, Rules for Remote Trading, Rules for Trading on Foreign Markets, Immediate Disclosure of the decisions of the Boards of Directors of the listed companies, and Fit and Proper Criteria of the managers of the securities companies.

This variety of laws and regulatory decisions fall within the scope of the Authority's objects and aim at providing the investors with the best protection level, rationalizing the investment decision made by the investor, and flow of information to everyone based on an equal footing in terms of the type and timing, and protecting the investors from deception and rumors.

The strategic objective of the SCA is to produce a modern market matching the best securities markets worldwide while optimally protecting the shareholders' rights in the listed company and all other investors. The Authority seeks to attain such objective through its legislative and regulatory structure.

To this end, the legislation of the securities markets is based on the principle of exclusive regulation of financial services. In other words, the financial service business may not be exercised without a license from the regulatory body. The UAE legislation adopted the principle that applicable regulations prohibit the practice of any activity in the area of securities without a license or approval from the Authority.

On the other hand, the Authority monitors compliance by all parties: the markets, listed companies, financial service companies and dealers in the market, with the applicable laws, regulations and decisions. Such monitoring is conducted through the disclosures discussed above, and through inspection and observation. This can be illustrated as follows:

1. Licensing of Financial Services:

As stated above, the legislation of the advanced securities markets is based on the principle of exclusive regulation of the financial services. In other words, the financial services business may not be exercised without a license from the supervisory body. Such license is issued after meeting certain requirements appropriate to the nature of every activity and under certain controls to prevent the conflict of interests, and specific controls of the financial solvency and de-risking criteria. Such controls reduce haphazardness in the securities markets, whether in the listed securities or the financial service providers, such as the brokers, financial consultation and financial analysis companies, and investment management companies.

The UAE legislation adopted this principle. Article (25) of the SCA Establishing Law No. 4 of 2000 stipulates that dealing in the securities listed on the market shall be limited to the licensed brokers. However, the regulations issued by the Authority to regulate other financial services stipulate that no activity may be practiced in securities without a license or approval by the Authority. A couple of years after the establishment of the Authority, its legislative structure has been, or almost, completed with no room to provide services in the securities market without obtaining a license, consent or approval from the Authority. Activities in the securities field are no longer chaotic or random. Such accurate regulation and criminalization of activity practice without a license by the Authority in accordance with Article (43) of the SCA Establishing Law No. 4 of 2000 is the key safeguard and protection of investors' rights. The investor is no longer a victim of unqualified or unlicensed individuals or companies providing services in the securities market that jeopardize their rights and interests.

Fit & Proper Criteria

In addition to the aforesaid requirement to license all financial services, the Authority has made significant strides to protect this regulation. After establishing accurate requirements for the financial solvency criteria for the providers of financial services, and to reduce the risks, the Decision of the Authority's Chairman No. (34/R.T) of 2016 has set the regulatory controls of the financial activities and services, most importantly, the Fit and Proper Criteria, Financial Capacity, Integrity and Honesty, and Compliance.

The Fit and Proper Criteria are intended to determine the fitness and competence of the company applying for license or already licensed, as the case may be, and the relevant persons such as the Board members and partners of the company as well as its employees, both accredited or non-accredited, in order to evaluate their records as per the criteria stated in these Controls.

Financial Capacity is one of the important criteria to measure integrity in the financial transactions. It is evaluated by ensuring that the company or the relevant persons have not defaulted on their financial obligations; and this evaluation is made using clear evaluation bases specifically stated in the decision.

The Competence criterion measures the competence level of the company and the relevant persons. It is evaluated by considering the requirements for operation in the capital markets in the State, the minimum conditions needed to be met to license a company and evaluate the technical and technological systems thereof, or those conditions related to the relevant persons such as their educational and professional qualifications, past practical experience and gained skills based on clear evaluation bases specifically stated in the decision.

Honesty and Integrity is a personal criterion connected to the relevant persons since it is associated with the behavioral and ethical aspects. This criterion can be evaluated based on the extent of adherence to the professional ethics and conduct, observance of honesty, sincerity and integrity in the performance of duties and using the required professional diligence (due diligence), refrain from engaging in any business that conflicts with the interests of the company or the clients or that affects the functioning and order of the market, or involves illegal or unacceptable acts as per the professional standards or the

instructions of the company, maintaining the confidentiality of information and data related to the clients and job functions, practicing of the functions that are allowed to be combined after obtaining the Authority's approval, and without any conflict in interests and functions.

Compliance is a criterion related to the level of compliance and commitment by the company or the relevant persons with the applicable legislation. This criterion can be evaluated based on clear evaluation bases specifically stated in the decision.

2. Inspection and Observation:

The primary function of the SCA Board of Directors is to ensure the adoption of the regulations set forth in the law, and receive reports and complaints relevant to the activity of the market or to the brokers; and issue appropriate decisions on such complaints in accordance with the applicable law and the regulations.

As part of its supervisory role, the Authority has the power to inspect the joint-stock companies listed on the market, on its own initiative, or upon the request of one shareholder or more holding at least %10 of the capital as stated above.

The Authority further conducts regular and unscheduled inspections of the securities and commodities markets and all the licensed companies which operate in the securities and commodities markets, such as brokerage firms, financial consultation companies, Custodians, and investment management companies.

The Authority might conduct unscheduled inspection on its own initiative according to its plan, or based on its observation of the disclosures, information or financial reports which have been disclosed thereto. Unscheduled inspection may arise from a complaint filed by a dealer or a report filed by the other supervisory bodies which the Authority believes that it must be verified by inspection.

In both types of inspection, the Authority verifies compliance with the conditions based on which the license was issued to the companies to exercise their activities, such as maintaining the minimum capital, banking guarantee,

and employees. Inspection covers the financial and procedural aspects of these companies and proper performance of activity, and compliance with the disclosures, the accounts separation rules, and the financial solvency criteria, etc.

To complement the control and investigation requirements, the legislator allows the SCA Board of Directors to compel any person relevant with the securities activities, whether natural or corporate person, to conduct public and private disclosures, and present any data relevant with his activity. Toward performing its duties, the Board of Directors shall order conducting any investigation it deems necessary in compliance with the provisions of the law and its implementing regulations and decisions. Such power has a practical benefit in the supervisory aspects and completion of the information and data required for the investigation or the Authority pursuing its supervisory role.

Any investor shall have the right to file a complaint to the Authority against any corporate or natural person, as long as the complaint is about a matter related to the Authority's functions as assigned by the law. This right shall not require a special provision but it is a natural right practiced by the supervisory body within its jurisdiction. The Authority regulated the complaining procedures pursuant to the Authority's Chairman Decision No. (45/R.T) of 2016 concerning the Regulation as to Complaints Relating to Financial Markets Transactions. Further, the Authority regulated the right of any person to complain against a decision issued against him on a complaint or a violation as stated in the Authority's CEO's Decision No. (46/R.T) of 2016 concerning the Regulations as to Complaints Relating to Financial Markets Transactions.

The essence of all such supervisory tools is to control the market and protect the investors' rights. In the event the Authority finds that the licensed companies, or their personnel, or the listed companies have committed any violations, and upon investigating and proving such violations, the Authority may enforce one or more administrative penalties, including warning, financial penalty, and suspension of the activity and license. The Authority can also refer the incident to the competent Public Prosecution if has suspicions that the violation involves a crime in order to enforce a criminal penalty of imprisonment or financial penalty.



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