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Offering of Hong Kong Domiciled Funds in Saudi Arabia

I. Overview of asset and wealth management industry in Saudi Arabia

Market landscape

1. Saudi Arabia, officially the Kingdom of Saudi Arabia, is a country in West Asia and the Middle East. It is the largest country in the Arabian Peninsula and the fifth largest country in Asia by area.
2. The Capital Market Authority (“**CMA**”) is the regulatory body responsible for overseeing and regulating the capital markets in Saudi Arabia. The CMA is a government organization applying full financial, legal, and administrative independence, and has direct links with the Prime Minister.
3. The functions of the CMA are to regulate and develop the Saudi Arabian capital markets by issuing required rules and regulations for implementing the provisions of the Capital Market Law. The basic objectives are to create an appropriate investment environment, boost confidence, and reinforce transparency and disclosure standards in all listed companies, and to protect the investors and dealers from illegal acts in the market.
4. The two broad categories of funds offered in Saudi Arabia are public funds and private funds (domestic and foreign). The investors in Saudi Arabia are mostly institutional clients.

Regulatory regime for funds in Saudi Arabia

5. As of 31 Dec 2023, there were 1,285 investment funds in Saudi Arabia (including 291 public funds and 994 private funds).
6. Public funds in the country include equity funds, bond /debt, money market, real estate, fund of funds, balanced, index funds, closed-ended investment traded fund, feeder fund, capital protected, endowment, commodity, multi-asset, real estate investment traded funds and ETF.
7. Set out below are some key features of the regulatory regime for domestic funds:
 - (a) A public fund shall be established in contractual form and supervised by a fund board appointed by the fund manager. Any appointment to the fund board or any subsequent change in its composition is subject to the CMA's approval. Any person seeking authority to offer units in an investment fund by way of a public offer must obtain the CMA's approval.

- (b) A private fund shall be established in contractual form. Any person seeking authorisation to offer units in an investment fund by way of a private placement must submit a notification with relevant supporting documents to the CMA at least 15 days prior to the proposed date of an offer. At the request of the applicant, the CMA shall issue a notice stating it has no objection to offering units in the private fund.
8. To establish and manage private and public funds in Saudi Arabia, the fund manager must be a capital market institution incorporated in Saudi Arabia and licensed to carry out (i) the activity of managing investments and operating funds or (ii) the activity of managing investments¹.
 9. The fund manager may appoint a sub-manager operating in a jurisdiction other than Saudi Arabia (the “**Foreign Sub-manager**”) to manage foreign investments of the fund. However, the sub-manager shall be established, authorised and supervised in a jurisdiction that employs regulatory standards and requirements at least equivalent to those of the CMA, and must be delegated pursuant to a contract in writing. The CMA has the discretion to assess whether the jurisdiction in which any fund sub-manager operates has regulatory standards and requirements at least equivalent to those of the CMA². The Foreign Sub-manager does not need to obtain a licence from the CMA.
 10. Hong Kong is regarded by the CMA as a jurisdiction that employs regulatory standards and requirements equivalent to those of the CMA. As such, a fund manager of domestic funds may appoint a Hong Kong fund manager as the sub-manager to manage the foreign investments of the domestic funds.

II. Offering of foreign funds in Saudi Arabia

What are the requirements for foreign funds (eg, Hong Kong funds) to be offered in Saudi Arabia?

11. No person may offer units in a foreign fund in Saudi Arabia unless the offer is made through a distributor and the offering of units shall be a private placement in accordance with the requirements set out in Article 99 of the CMA’s Investment Funds Regulations (“**Regulations**”).
12. Foreign funds (both public and private) can be offered in Saudi Arabia only through a distributor and by a private placement to investors under the

¹ For the fund manager without the license to carry out operating funds activity, it must appoint a capital market institution licensed to carry out managing investments and operating funds activity to operate the investment funds under its management.

² Please refer to paragraph (d) of Article 17 of the Investment Funds Regulations.

categories of institutional³ and qualified clients⁴; and to investors under the category of retail clients⁵ if the maximum amount payable per offeree is not more than Saudi Riyals 200,000 (about USD 53,000) or an equivalent amount. However, distributors may not advertise or communicate securities advertisements and promotional materials of a foreign fund unless the securities advertisement is sent solely to persons to whom a private placement of a foreign fund may lawfully be made in accordance with Part 6 of the Regulations. Also, the securities advertisement must satisfy the relevant requirements of the Securities Business Regulations and the Capital Market Institutions Regulations.

13. The distributor must be a capital market institution licensed to carry out dealing activity or the activity of managing investments and operating funds.
14. A foreign fund manager must be authorised in a jurisdiction that employs regulatory standards and requirements at least equivalent to those of the CMA. Also, the CMA has the discretion to assess whether the jurisdiction has regulatory standards and requirements at least equivalent to those of the CMA.
15. No units may be offered in a foreign fund unless the distributor:
 - (a) notifies the CMA in writing in accordance with the relevant format at least 15 days prior to the proposed date of the offer;
 - (b) submits to the CMA a declaration in accordance with the relevant terms set out in the Regulations;

³ For the purposes of the Regulations, “institutional client” refers to any of (a) the Saudi government or its recognized supranational authority; (b) fully owned companies by Saudi government or government entity, either directly or through a portfolio managed by a capital market institution authorised to carry on managing business; (c) any legal person acting for its own account and be any of the following: (1) a company which owns, or is a member of a group which owns, net assets of more than 50 million Saudi Riyals (about USD 13.3 million), (2) an unincorporated body, partnership company or other organisation which has net assets of more than 50 million Saudi riyals (about USD 13.3 million), (3) a person acting in the capacity of director, officer or employee of a legal person and responsible for its securities activity, where that legal person falls within the definition of paragraph (c)(1) or (c)(2); (d) a fully owned company of the aforesaid (b) or (c); (e) an investment fund; and (f) a counterparty.

⁴ For the purposes of the Regulations, “qualified client” refers to any of (a) a natural person meeting at least one of the specified criteria (concerning areas such as the person’s investment experience, net assets (not less than Saudi Riyals 5 million (about USD 1.3 million)), working experience or professional qualifications, etc.); (b) a legal person meeting at least one of the specified criteria (concerning areas such as the entity’s net assets (not less than Saudi Riyals 10 million (about USD 2.7 million) and not more than Saudi Riyals 50 million (about USD 13 million)), etc); or (c) a fully owned company of the aforesaid (a) or (b).

⁵ For the purposes of the Regulations, “retail client” is defined as “any client who is not a qualified client or an institutional client”.

For more details on the above terms please see [CMA's glossary](#).

- (c) submits to the CMA copies of any offering documents to be used in advertising the offer;
 - (d) conducts a due diligence check of the foreign fund and its manager before the distribution of that fund's units, and provides the CMA with it upon request within five days from the date of request;
 - (e) pays such registration fees as the CMA may prescribe; and
 - (f) provides any another information that the CMA requires.
16. The foreign fund and its manager do not require any approval from the CMA. However, the CMA will review the notification made by the distributor and take necessary actions if the CMA determines the proposed offer of units may not be commensurate with the distributor's ability or may result in a breach of the Capital Market Law or its implementing regulations⁶.
17. Hong Kong is regarded by the CMA as a jurisdiction that employs regulatory standards and requirements equivalent to those of the CMA. As such, Hong Kong funds (including ETFs), both public and private, may be offered in Saudi Arabia provided that the above requirements are met. The offering of Hong Kong domiciled ETFs under this route does not require any listing on the Saudi Exchange ("Tadawul").

Can Hong Kong fund managers cross-list their Hong Kong domiciled ETFs in Saudi Arabia?

Master-feeder structure

18. The CMA may consider, on a case-by-case basis, accepting the cross-listing of Hong Kong domiciled ETFs on Tadawul under a master-feeder structure. That is, a Hong Kong fund manager of a Hong Kong domiciled master ETF can partner with a CMA-licensed fund manager for the latter to form a local feeder ETF for listing on Tadawul.
19. The CMA's approval and listing approval from Tadawul are required for the local feeder ETF. The CMA-licensed fund manager of the local feeder ETF must carry out its obligations in the best interests of the unitholders in accordance with the provision of the Regulations and conduct all due diligence on the Hong Kong domiciled ETF and its fund manager.

III. Other information sources

20. You may also find further helpful information at:
- <https://cma.org.sa/en/RulesRegulations/Pages/default.aspx> to reference applicable laws and regulations.

⁶ For details, please refer to paragraphs (b) and (c) of Article 99 of the Regulations.



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