

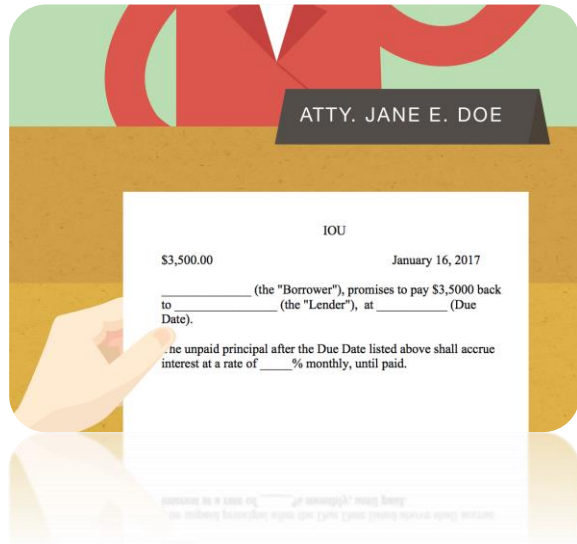


Chapter 4 – Markets

14 Questions



The Central Depository



Enables the seller of securities to deposit the securities agreed to be sold

Transfers the securities to the buyer when it is certain that the cash to settle the transaction is flowing from buyer to seller

Functions of the Central Depository Centre:

- **Opening accounts** for the investors to deposit their securities.
- Keeping a register of all transactions in securities listed on the market.
- Any transaction in listed securities not registered is deemed to be **'null and void'**.
- Keeping the documents and records which **prove the ownership of the securities** of each investor and registering any pledges or liens on their ownership



Obligations of The Depository Centre

Setting the **rules and procedures** for the members of the depository – the members are predominantly the brokers on the market.

Enabling the **investors to have access** to their accounts that detail their ownership of securities; enable **all entities listed on the market (and their registrars)** to access the register of securities holders.

Reviewing and updating the **internal auditing system** and the **risk management operational guide**.

Developing a **Professional Code of Conduct** for staff, organising and monitoring any **personal transactions of members of staff** in the market.

No member of the Depository Centre's board of directors or executive management **is permitted** to be a partner/member of the board of directors, management board, executive management, employee, or a representative of another entity licensed by SCA.

Immediately **notifying SCA** if any members of its board of directors serves as a member of the board of any public joint-stock company; or of any other potential conflict of interest.



Continued

- **Not removing** the internal auditor without a decision of the board of directors or the relevant director.
- In the event of a removal, SCA and internal auditor must be notified **at least 30 days** in advance.
- Providing SCA with the following reports:
 - reviewed quarterly reports **within 45 days** of the end of the quarter,
 - an audited annual financial report **within three months** of the end of the fiscal year,
 - a periodical and updated report on the equity percentages of the shareholders **who hold more than 5%** of the capital of the Depository Centre.



Obligations of The Depository Centre

Continued

- Obtaining the prior approval of SCA before taking any of the following actions:
 - amending the **Memorandum** or **articles of association** of the company, or selling a share to a strategic partner
 - **adding, removing, or amending** an activity to the trade licence
 - **increasing or decreasing** the capital of the company
 - effecting any **mergers or acquisitions**
 - changing the **partners or founders** or amending of their equity percentages
- **Maintaining** all books and records, documents and financial and technical statements **throughout the licence term.**
- Exercising the licensed business with due diligence as per the provisions of the law, preventing conflict of interests and **illegal exploitation of the business**, directly or indirectly.



Obligations of The Depository Centre

Continued

- Immediately notifying SCA of the following:
 - **any cases or procedures** that result in considering a Depository Member in default of its obligations
 - **any material changes** or developments, **or any deficit** that affects its financial position
 - **any change** in the information or data provided when the application for license was submitted
 - **any change** to the members of the board of directors
 - **any lien or pledge** on its assets, and **any lawsuits** to which the Depository Centre is a party, and **any judgments** issued on such lawsuits which would influence the Depository Centre's financial position
 - **any violations** committed by its approved employees of laws, regulations, by-laws or decisions of SCA and/or the market.



Obligations of The Depository Centre

General Provisions
- according to
Articles 11 and 12 of
SCA's Decision No.
19:

Article 11 requires **the market to provide** the Depository Centre with **all the data and information** required to exercise its business.

The records of the Depository Centre are **legal evidence** of ownership of securities – giving the holder **the right to vote, receive dividends** and **any bonus shares**.

For **cash dividends**, the issuing company must deposit them in the bank account of the Depository Centre, which must then be deposited to the shareholders.

Article 12 requires the issuer of securities, **within one week** of the listing on the market being approved, to deliver an up-to-date copy of its register of shareholders to the Depository Centre.

Thereafter, the issuer should **update the register** whenever it is necessary and provide the Depository Centre with such update.

The Depository Centre must, **within one week** from the approval of the listing of any security on the market, install a terminal device for the registrar of the listing entity.



Issuing and Offering Shares in Public Joint-Stock Companies

Regulations – Newly Incorporated Companies

- **Legal approval** to incorporate as a public joint-stock company.
- Unless the company is a bank, a finance corporation or an insurance company, the subscribers to the shares must be '**qualified investors**'.
 - A qualified investor is broadly an investor that is suitably experienced in investments and the related risk and meets certain minimum wealth requirements.
- A minimum subscription of **5 million dirhams**.
- The company's senior management must have the **adequate qualifications and expertise**.
- The appointment of advisers, including a listing adviser to ensure the company meets the requirements for listing for a period of **two years** from the listing date.
- The publication of a prospectus setting out the **details, terms and conditions** of the offering.
- Sufficient working capital for a period of **12 months**.
- **NOTE: Shares may be priced using a book building process.**



Regulations – Existing Companies Offering Shares After Conversion

- A **special resolution** to convert the company into a public joint-stock company.
- **Legal approval** to incorporate as a public joint-stock company.
- The shares already issued **must have been paid in full**.
- The company must have released its audited financial statements for **two fiscal years** preceding the request to offer shares and provide up-to-date financial statements **within three months** prior to the publication of the prospectus.
- The company must have achieved a net operating profit of **at least 10%** of its capital during the previous **two financial years** preceding the approval of its conversion.
- The senior management of the company must have the **adequate qualifications and expertise**.
- A **subscription receiving body** – a firm tasked with receiving the subscription funds – must have been appointed.
- A **prospectus** must be prepared.
- **NOTE: Shares may be priced using a book building process.**



Regulations – Capital Increases

- **For an existing public-stock company:**
 - A **special resolution** from the company and SCA approval of the capital increase.
 - The company's existing issued capital **must have been paid in full**.
 - The appointment of the **appropriate parties** to the offering, that might include an appraiser of any in-kind contributions.
 - A **prospectus** must be prepared.
- **For the issuing company:**
 - Increasing the **authorised capital** (after securing SCA's approval).
 - Increasing the capital **up to the authorised capital previously approved** by the shareholders.
 - Increasing the issued capital through a **special resolution** in the absence of any authorised capital (resolution must take place **within a year**).
 - Increasing the issued share capital through a program of a series of offerings deemed as a single offering **within a period of two years**.



Regulations – Capital Increases

- **Share Premium/Discount:**
 - The following may be done **under a special resolution and after obtaining SCA's approval:**
 - Add **share premium** to the nominal value of the share – calculated based on the average market value of the share during the six months preceding the date of issue.
 - The company may deduct a **maximum percentage of 25%** of the calculated share premium.
 - **Share discounts** are offered only in cases accepted by the Cabinet. The discount shall be calculated according to the mechanism established by the company & approved by SCA
- **Rights offering:**
 - The rights issue must be announced **at least 20 business days** before the start date of subscription
 - The **amount and percentage** of the capital increase.
 - The **exercise price** of the rights issue.
 - The start and end dates for the **trading of the rights.**
 - The start and end dates for the **subscription to the shares** of the capital increase.



Regulations – Capital Increases

- **Rights offering:**
 - The shareholders registered at the end of the day which precedes the start date of subscription by **ten days** will be entitled to subscribe to the rights issue.
 - These holders of rights may sell or use the rights to subscribe and the trading period for the rights will **not be less than ten business days**.
 - The holders of the rights are those **registered at the end of the clearing and settlement period** for the trading of such rights and the rights are registered with the clearinghouse in the names of their holders, separate from the original shares.
 - The **rights are traded separately** from the original shares and the listing of the rights will end on the expiry of the rights trading period.



Buy Backs

- **At least two financial years** must have elapsed since the company has been listed
- The company must have issued **two audited balance sheets** approved by its General Assembly.
- **At least one year** must have elapsed since the last selling transaction of shares previously bought back, if any.
- The buyback must have been approved by **special resolution of the General Assembly** of the company.
- The board of directors may reduce the share capital of the company if the bought back shares are not sold **within the period laid down** by SCA.
- Any buyback **may not exceed 10%** of the issued and paid-up share capital
- The company cannot execute a buyback transaction **within six months** of the last issuance of any securities in a public offer.
- Any buyback must be made on the basis of **approval from SCA**.
- SCA will issue its decision on the application **within 15 working days** of the date of submitting the complete application.



Buy Backs

- The company must announce the buyback transaction in **two widely circulated local daily newspapers, at least one in Arabic language, at least 14 days before the date of the actual buyback.**
- The buyback transaction must then be executed **within one year** of obtaining the approval of SCA.
- The company must not buyback its own shares **within 15 days before and three days after** the disclosure of its financial statements or any other material information that may affect the share price upward or downward.
- The company **must not execute** any sale transaction while performing the announced buyback transactions
- The bought-back shares **must not be sold until one year has elapsed** after obtaining SCA's approval of the buyback transaction.
- The bought-back shares **must be sold within two years** of the date of the last buyback transaction, otherwise the bought-back shares will be written off.
- The company **must not issue any new shares** arising from a public offer, **or any convertible debt instruments** before the completion of the sale transaction of the bought-back shares.



Quarterly reports should be provided to SCA within

- A. 15 days of the end of the quarter.
- B. 20 days of the end of the quarter.
- C. 30 days of the end of the quarter.
- D. 45 days of the end of the quarter.

EXAM FOCUS



Troubled Public Joint-Stock Companies

Troubled PJSC

Transferring
between first and
second categories of
listing

- To be classified as a first category listed company requires:
- 1) The company shares' listing is not suspended for **six months or more**.
 - 2) The company **did not incur accumulated losses of 50% or more** of the capital according to the last audited annual financial statements.
- The market will transfer the listing of a company's shares from the first to the second category or vice versa **once a year** after the company provides the market with its audited financial statements as at the end of its fiscal year.
- The market **may choose not to transfer** the listing of the company shares from the second to the first category **following SCA's approval**.



Troubled Public Joint-Stock Companies

The shares of a company suspended from listing for six months or more **can be re-traded on being transferred** from the first category to the second category.

The transferred shares are placed on a **screen** dedicated to the trading of the shares of companies classified within the second category.

The announcement of trading or re-trading will include the **watch list requirements, the company's current status, financial position.**

It will also include the **risks associated with investing** in the company and **any other details** the market deems necessary to protect investors.



Troubled Public Joint-Stock Companies

The Watch List

- Includes a list of the companies that have **been transferred from the first to the second category.**
- A joint committee established by SCA monitors companies placed on the watch list initially for a **one-year period, extendable to three years.**
- If a company being monitored is **not recommended to be transferred** to the first category, the committee will make one of two recommendations:
 - **to keep the company** listed within the second category, or
 - **to cancel** the listing of the company's shares.
- Companies placed on the watch list must provide the committee with an **action plan** for regularising their status.
- The plan must be approved by the board of the company and by **an entity with financial and technical expertise** approved by SCA.
- Details of the implementation and success of the plan must then be disclosed to the committee **every three months or on request.**



Delisting of Shares:

- The following procedures will be taken to delist shares:
 - SCA will notify the company of its shares delisting **within a period of 30 days** of the date of decision being made and issued.
 - The concerned market will post an announcement on its website of the decision to delist the shares of the company **within 30 days of the decision**, including the fact that transferring the company's shares after the delisting will be done away from the market's systems (**'over-the-counter'**).



Conciliation

Conciliation Procedure

Conciliation is where SCA can decide that the offender should pay the prescribed amount for such offences **without** initiating a criminal prosecution.

The offences include a **breach of governance rules, a breach of the requirements to invite shareholders to the annual general assembly, a refusal to co-operate with auditors** and many others.

The **starting point for conciliation** is that the violator applies for conciliation to SCA before a criminal case is referred to the court.

A committee at SCA considers and decides on the conciliation application **within 15 working days** of the date of receipt of the completed application.

The Public Prosecution will be **notified** of the committee decision regarding the conciliation application if there was a **prior request** to initiate a criminal case.

If the committee **approves the conciliation application** and the violator pays the prescribed amount, no criminal case will be initiated.

If the **conciliation application is rejected** or the violator fails to pay the prescribed amount **within the specified period** detailed in the decision, SCA may proceed with the procedures to initiate a criminal case.



Article 1 of SCA
Decision No. 17 of
2014 gives a
definition of a
qualified investor.

Qualified Investors:

- A **qualified investor** is a natural or legal person and includes the following:
 - A **corporate person** that meets any of the following conditions:
 - The **federal government, local governments and governmental entities, institutions and authorities**, or the companies fully owned by any of them.
 - **Foreign governments, its entities, institutions and authorities** or companies fully owned by any of them.
 - **International bodies** and organisations.
 - Entities **licensed by SCA** or by a similar regulatory authority.



Article 1 of SCA
Decision No. 17 of
2014 gives a
definition of a
qualified investor.

Qualified Investors:

- A **qualified investor** is a natural or legal person and includes the following:
 - A corporate person who, at the date of its last financial statements, **at least two** of the following requirements:
 - its total budget of **AED 75 million**
 - has net annual return of **AED 150 million**
 - has funds or paid-up capital of **AED 7 million.**
 - A natural person accredited by the **Authority.**
 - A **natural person** who meets the following conditions:
 - net equity, except for the person's main house, is valued at **AED 4 million**
 - annual income is **at least 1 million Dirhams**
 - have **adequate knowledge and experience** in investments.



Application - The application submitted by an issuer to SCA must include the following:

A draft **prospectus**.

Statements confirming the disclosure in the prospectus, signed by the issuer.

A **resolution** of the issuer's **general assembly/board of directors** approving the issuance of the securities.

The most recent **audited financial statements** of the issuer.

For securities guaranteed by another company, the most recent **audited financial statements of the guarantor**.

For securities guaranteed by the government, the **guarantee document** along with a copy of the **law, regulation, resolution** or document must be submitted.

Payment of the fees.

Any other **documents, requirements, conditions or controls** specified by SCA.



Listing Conditions – Issuer

Issuing debt securities **must not conflict** with the issuer's constitutional documents and those documents must not contain any restrictions.

For a **joint-stock company** issuing debt securities into the primary market, the issuer must be **incorporated in the State** and **outside a financial free zone**.

- The following conditions need to be satisfied for a primary listing of debt securities:
 - A **joint-stock company** must obtain the approval of its general assembly.
 - **SCA's approval** on the submitted prospectus.
 - For **convertible debt securities**, the prospectus must include the terms & procedure of conversion.
 - The issuance of securities must follow an **issuance programme** approved by SCA.
 - Appointing a **paying agent** in the State.
 - A **joint-stock company** must sign an agreement with an **independent representative** to represent the debt securities holders and protect their rights and interests.



Listing Conditions – Debt Securities

- The listing conditions for debt securities are:
 - To comply with the provisions of the **Commercial Companies Law** and with the **issuer's constitutional documents**.
 - The aggregate value of all debt securities to be listed must be **at least AED 10 million** or the equivalent in a foreign currency (**unless otherwise decided by SCA**).
 - Where the debt securities to be listed are secured, a **trustee** must be appointed to represent the interests of the holders
 - The trustee must have the **right of access to any information** relating to the assets.



Continuing Obligations

Continuing obligations for listed debt securities include:

- **Immediately announcing** through relevant means for any:
 - **issuance of any block of shares** or new program by the issuer
 - change in the **terms and conditions** of the debt securities
 - **redemption or cancellation** of the debt securities
 - **appointment or replacement** of the trustee or paying agent as applicable
 - **event of default** concerning the conditions of issuing and listing debt securities
 - event requiring the **immediate notification** of the trustee by virtue of the trust agreement.
- A copy of **all correspondence between issuer and holders** of the debt securities must be sent to SCA and the market, as well as **any other information** regarding the meetings of holders of debt securities at the time of their issue.



Continuing Obligations

Continuing obligations for listed debt securities include:

- Notifying SCA and the market of any:
 - decision **to not pay any interest payment** on the issuer's debt securities
 - **proposal to issue new securities**, and any guarantee or warranty that relates to this new issuance
 - **amendments to the issuer's constitutional documents**
 - **proposed changes** to the structure of the issuer's capital
 - decision **to change the nature of the issuer's activities**
 - **change to the composition** of the issuer's board of directors or its managers



Continuing Obligations

Continuing obligations for listed debt securities include:

- Notifying SCA and the market of the following:
 - the **termination** of any period which cause the winding-up of **the issuer**, its **holding company** or any of its **subsidiaries**
 - the entry into possession of or the sale by any mortgagee of a portion of the issuer's assets which in aggregate value represents an amount **more than 10%** of the book value of such assets
 - the making of any judgment, or order by any court of competent jurisdiction, which in aggregate value represents an amount **more than 10%** of the book value of such assets
 - passing of any law, decree or government decision by any competent entity to **wind up or dissolve the issuer**



Continuing Obligations

Continuing obligations for listed debt securities include:

- Any **purchase, redemption or cancellation** by the issuer of its debt securities or Sukuk must be disclosed to SCA and the market
 - The announcement should include the amount of relevant **debt securities or Sukuk outstanding** after such operations.
- For debt securities trading **outside the market**, the issuer must immediately disclose any information that may **materially affect** the following:
 - the **price and value** of the debt securities
 - the **investor's decision to invest** in the debt securities or otherwise.



Continuing Obligations

For a foreign issuer and an issuer incorporated in a financial free zone:

- Notify SCA of a **conflict** between the provisions of SCA's regulations and those of a foreign market or a financial free zone market.
- Provide SCA and the market all information and documents notified to, or documents **filed with the relevant foreign market** or financial free zone market.
- Immediately notify SCA and the market of any change in any **law, legislation or regulation** in the **state of the foreign issuer** or at the financial free zone.
- Inform SCA immediately if its debt securities **cease to be listed**, or if the issuer is subject to **disciplinary action** by the foreign market.
- Send SCA its **annual financial statements & interim financial reports** filed with the foreign market or the financial free zone market.



Suspension and Cancellations

SCA reserves the right to suspend the listing and trading of debt securities if:

exceptional circumstances arise, if an event occurs that may **threaten the maintenance** of an orderly market.

SCA may also suspend or cancel, if it is **necessary for the protection** of investors,

it sees a **violation** of the debt securities holders' right,

the issuer **fails to comply** with the provisions of SCA's regulations,

the specified **listing fees or fines are unpaid**.

SCA may also cancel if:

a decision is made to **dissolve or wind up the issuer**

the suspension of listing continues for **more than six months**

the relevant debt securities are completely **redeemed**



Suspension and Cancellations

The issuer may **voluntarily cancel** the listing of its debt securities by submitting a request to SCA and the following conditions are met:

The issuer obtains the **approval of its general assembly/board of directors/relevant body.**

Notifying the relevant debt securities holders, SCA and the market in writing **at least 90 days in advance.**



Suspension and Cancellations

Temporary Cancellation

- A temporary suspension of trading may be **requested by an issuer** upon the occurrence of a **material event** that requires immediate disclosure.

Trading in Suspended Securities

- Trading in suspended or cancelled debt securities is **prohibited**
- Neither SCA nor the market will be **responsible** for indemnifying any person or entity **for any loss** which occurs as a result of the suspension or cancellation of debt securities.



The aggregate value of all debt securities to be listed must be

- A. at least AED 7 million.
- B. at least AED 10 million.
- C. at least AED 15 million.
- D. at least AED 20 million.

EXAM FOCUS



Offering Islamic Securities

The following is required to issue Islamic securities:

The **names, qualifications, expertise and remuneration** of the members of the Shariah Supervisory Committee.

Mechanism for **organising membership and functions** of the Shariah Supervisory Committee.

All details of the **Islamic security and the issuer.**

Mechanism for **re-allocating the resources** (if the Islamic security/issuer is no longer Shariah compliant).

Decision No. 20 of 2018 applies to issuers of Islamic securities



Offering Islamic Securities

The following is required to issue Islamic securities:

The **mechanisms of disclosure** and how they are applied.

Methods of **resolution of disputes** relating to the Islamic security or the issuer.

The **Shariah controls** governing the trading of the Islamic security and the necessary action when violated.

Mechanism for addressing **conflict of interests** among the members of the Shariah Supervisory Committee.

Decision No. 20 of 2018 applies to issuers of Islamic securities



In addition, a **foreign issuer** wishing to offer Islamic securities within the UAE must provide SCA with the following statements:

A **statement of any conflict** between the laws applicable in the country of issue and those in the UAE.

A statement of **any differences in taxation** on the Islamic security.

A statement of **any conflict between IFRS** and the standards of the Accounting and Auditing Organization for Islamic Financial Institutions (**AAOIFI**).



Decision No. 16 of 2014 concerns Sukuk issued in the UAE (excluding government Sukuk).

The application to issue Sukuk must include:

- a draft **prospectus**
- statements **confirming the disclosure** in the prospectus, signed by the obligor
- a **resolution** of the obligor's general assembly/board of directors/relevant body approving the issuance and listing of the Sukuk **and if they are convertible**
- the most recent audited financial statements of the **obligor**
- For Sukuk guaranteed by another company, the most recent audited financial statements of the **guarantor**
- for Sukuk guaranteed by the government, the **guarantee document** along with a copy of the **law, regulation, resolution** or document must be submitted.
- **payment of the fees** specified by SCA, and
- any **other documents, requirements, conditions or controls** specified by SCA.



Listing Conditions – Companies

Corporate obligors' constitutional documents **must not contain any restrictions** which prevent acting as an obligor in respect of the issuance and listing of Sukuk.

Where the primary listing will be for retail Sukuk, the obligor **must be incorporated** in the UAE and outside of a financial free zone.

- To obtain approval for the issuance and primary listing of Sukuk in the market, the obligor must:
 - Prepare and submit a **prospectus**.
 - If the Sukuk are **convertible**, the prospectus must include details the **conversion procedure**.
 - The **issuance** of the Sukuk may follow a Sukuk issuance programme to be approved by SCA.
 - Enter into a **trust agreement** – which includes the trustee's right to obtain any information regarding the Sukuk and the trustee's obligations to protect the rights and interests of Sukuk holders.
 - Appoint one of the licensed banks in the UAE to act as a **paying agent** in the UAE.



Listing Conditions – Islamic Bonds

- Listed Sukuk must be approved by the **Shariah Committee at the obligor**.
- If not applicable, the Sukuk must be approved by a **Shariah Committee approved by the arranger**.
- Unless SCA decides otherwise, the total nominal value of Sukuk to be issued and listed must **be at least AED 10 million** or its equivalent in any foreign currency.

Advertisements

- Except for government entities, any advertisement which is to be issued in the UAE and which is to be issued by or on behalf of an obligor or an issuer of Sukuk admitted to listing **must be authorised by SCA** before publication.



Continuing Obligations

Continuing obligations for primary listing of Sukuk:

- Immediately notify SCA and the market of **any new information** which may be expected to materially affect market activity.
- The obligor must publish such new developments on its website in the **Arabic and English** languages (after getting **SCA's approval**).
- Continuously maintain a **paying agent** in the UAE until the Sukuk are finally **redeemed**.
- The obligor must notify SCA and the market if **paying agent changes**.
- Provide SCA with **all information** it deems necessary for **protection of investors** and any other information that it may request.
- Submit to SCA and the market the **audited annual financial statements within 180 days** of the end of the fiscal year.



Continuing obligations for primary listing of Sukuk:

- Pay the **specified annual fees**.
- Inform SCA and the market of any of the following events as soon as they come to the attention of the obligor and publish the details:
 - the **presentation of any winding-up petition**, or the **appointment of a provisional liquidator** in respect of the issuer, the obligor, the obligor's holding company or any of its subsidiaries
 - the **passing of any resolution** by the issuer, the obligor, the obligor's holding company or any of its major subsidiaries that it will be wound up or dissolved
 - the **termination or suspension of activities** for any period which may cause the winding up of the issuer, the obligor, the obligor's holding company or any of its subsidiaries.



Continuing Obligations

Continuing obligations for retail Sukuk (in addition to those previously mentioned):

- Immediately announcing any of the following:
 - **issuance of any block of shares** or new program by the obligor
 - **changes in the terms and conditions** of the retail Sukuk
 - **redemption or cancellation** of the retail Sukuk
 - **appointment or replacement** of the **trustee or paying agent**
 - **event of default** concerning conditions of issuing the retail Sukuk
 - event **requiring the immediate notification** of the trustee by virtue of the trust agreement.
- A copy of **all correspondence between issuer and holders** of the Sukuk must be sent to SCA and the market, as well as **any other information** regarding the meetings of holders of Sukuk at the time of their issue.



Continuing Obligations

Continuing obligations for retail Sukuk (in addition to those previously mentioned):

- Notifying SCA and the market in the event of any:
 - decision **to not pay any profit** for any of obligor's retail Sukuk
 - proposal to **issue new securities** by the obligor, and any guarantee or warranty which relates to this new issuance
 - **amendments** to the obligor's constitutional documents which may materially affect the retail Sukuk holders
 - **proposed changes** to the structure of the obligor's share capital which may materially affect the retail Sukuk holders
 - decision to **change the nature** of the obligor's activities if such change may materially affect the retail Sukuk holders
 - **change to the composition** of the obligor's **board of directors**



Continuing Obligations

Continuing obligations for retail Sukuk (in addition to those previously mentioned):

- Notifying SCA and the market in the event of the following:
 - the **termination of any period** which causes the **winding up** of the issuer, obligor, obligor's holding company or any of its subsidiaries
 - taking a possession or the sale by any mortgagee of a portion of the issuer or obligor's assets which in aggregate value represents an amount **more than 10%** of the book value of such assets
 - the issuance of any judgment, which in aggregate value represents an amount **more than 10%** of the book value of such assets
 - passing of any **law, decree or government decision** by any competent party to **wind up or dissolve** the issuer or the obligor.



Continuing Obligations

Continuing obligations for retail Sukuk (in addition to those previously mentioned):

- Any **purchase, redemption or cancellation** by the issuer of its debt securities or Sukuk must be disclosed to SCA and the market
 - The announcement should include the amount of relevant **debt securities or Sukuk outstanding** after such operations.
- For retail Sukuk trading **outside the market**, the issuer must immediately disclose any information that may **materially affect** the following:
 - the **price and value** of the debt securities
 - the **investor's decision to invest** in the debt securities or otherwise.
- The **suspension and cancellation** procedures for Sukuk are similar to those of debt securities previously mentioned.



SCA may cancel the listing of securities if the suspension period exceeds

- A. Six months.
- B. Three months.
- C. One year.
- D. Ten months.

EXAM FOCUS



Decision No. 22 of 2018 includes regulations related to derivatives.

- The decision mainly concerns **exchange-traded derivatives** which could be based on local securities or indexes, or foreign securities.
- The listing and trading of exchange-traded derivatives must be in accordance with the rules **issued by the market** and approved by SCA.
- The market is obliged to **continuously disclose and update** details regarding the underlying securities of the exchange-traded derivatives traded on that market.
- It should also refrain from **deregistering any underlying securities**, in case there are pending unsettled exchange-traded derivatives in the market based on those underlying securities.



In relation to its **exchange-traded derivatives** the market is also required to:

specify the number of **structured financial derivatives** in series of contracts

specify the **underlying securities**, the **month of contract** settlement, month of contracting, and the **effective date of the contract**.

specify the **initial margin**

announce the **working days, trading hours, opening and closing times**

settle all transactions through the **central counterparty (CCP)**.

set the rules and conditions for **listing and trading**



What is 'cryptocurrency'?

The first part of the word, '**crypto**', means '**hidden**' or '**secret**'.

The second part of the word, '**currency**,' tells us they were designed as a type of **electronic cash**.

They exist electronically and use a **peer-to-peer system**.

There is **no central bank** or government to manage the system or step in if something goes wrong.

Decision No. 23 of 2020 includes crypto assets activities regulations.

SCA defines cryptocurrency as:

*'A record within an electronic network or distribution database functioning as a **medium for exchange, storage of value, unit of account, representation of ownership, economic rights, or right of access or utility of any kind**, when capable of being transferred electronically from one holder to another through the operation of computer software or an algorithm governing its use.'*



Types of Crypto Assets

Security Token

- A **security token** is a crypto asset that takes a form similar to a **share or a bond**.
- It may make the holder of the token a part **owner of a venture** and provide an entitlement to **share in future profits** or
- give the holder **the right to be repaid** a specific sum of money (like a bond).

Commodity Token

- A **commodity token** is a crypto asset that is not a security token.
- Some commodity tokens are regulated by SCA, referred to as **regulated commodity tokens**, others are not.



All offer documentation in respect of crypto assets **offered or promoted in the UAE must:**

be **clear, fair, accurate** and **not misleading**

not contain any **incorrect statement** or **omit any statement** necessary to prevent the data contained in the offer documentation being misleading.



Offering of Crypto Assets

The offering person must ensure that:

- all **rights and features** of the crypto assets described in the offer documentation are properly recorded
- **necessary measures** are adopted to prevent any **misuse of the collected funds** until the crypto assets are issued
- investors are provided with **reasonably regular information**
- in circumstances where the obligation stipulated in the offer funded by the offering is not met, a **notification** will be sent to those who have accepted offer, together with an explanation of the matter
- those who have **accepted the offer** are promptly notified in advance of **material changes** in the nature of the relevant software
- the offer document discloses if the crypto asset **does not provide a right** for holders to a claim against an **offering person** in respect of a default in the performance of benefits provided to holders of the crypto assets



Any person promoting or offering crypto assets in the UAE **must take reasonable steps** to:

monitor the developments in the **nature, transferability and technology** underpinning such crypto assets and,

notify SCA if a crypto asset **changes to, or from,** being a regulated **commodity token or security token.**



Offering of Security Tokens

Security tokens may only be **offered for subscription** or issued in UAE by an offering person **incorporated in the UAE** or in a **financial free zone** in UAE. The following is also required:

Submitting the **offer documentation** to SCA where the offering is limited to **qualified investors**.

Prior approval of SCA if the offering includes persons **other than qualified investors**.

- In order **to obtain SCA's approval** for the offering of security tokens, the offering person must:
 - identify the **security** based on which the **security token will be classified**
 - provide SCA with copies of the **required offer documentation**
 - provide SCA with details of its **technology development, external audits** and **senior employees**
 - submit **any other application documentation** in accordance with the regulation.



Offering of Security Tokens

SCA will:

- request the offering person to maintain the **final register of ownership** of the security tokens
- request the offering person not to issue **physical certificates** in respect of the securities related to security tokens **unless otherwise** prescribed in the constitutional documents of the offering person or the terms of issuance
- request the offering person **not to conduct transfers of the security tokens** by way of a written document.
- SCA reserves the right to subject the security tokens to **restrictions** on trading for such period as it feels necessary.



Which of the following statements is TRUE

- A. A commodity token is a crypto asset that takes a form similar to a share or a bond.
- B. A security token is a crypto asset that takes a form similar to a share or a bond.
- C. There is no difference between a security token and a commodity token.
- D. All commodity tokens are regulated.

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Listing on a Crypto Exchange

- A **crypto asset exchange** is essentially a platform or facility for the **trading, conversion and/or exchange** of crypto assets.
- Crypto assets **cannot be listed** and made available for trading on a crypto asset exchange licensed by SCA unless either:
 - the **offer documentation** for the **crypto asset** has been submitted to SCA where the offering is **limited to qualified investors**
 - **prior approval** of SCA for the offering of the crypto asset has been obtained if the offering includes persons **other than qualified investors**.
- If **commodity tokens** are listed and made available for trading, they are immediately categorised as **regulated commodity tokens**.



In addition to the offer documentation, to **obtain SCA's approval** for listing a crypto asset and making it available for trading on a **crypto asset exchange**, the offering person must also:

appoint a **'crypto asset custodian'** for the crypto assets, **unless SCA decides** that custody arrangements in respect of the relevant crypto asset are **not required** based on a justified request by the offering person

disclose to investors **all fees and commissions** related to listing of the crypto assets on the crypto asset exchange.

A crypto asset **may be listed** and available for trading on **more than a single crypto asset exchange** licensed by SCA in the UAE.



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

A statement must be issued clarifying **when the crypto assets will be issued** to the subscribers **if the funds are kept with the offering person**

The statement must include details of arrangements for keeping the funds with an **incorporated institution** and,

the **rights that the subscribers** have in relation to the issuance of **future crypto assets** and the extent at which these rights represent crypto assets.

Details of all **material technological risks** relevant to the investment.

Clarifying the **related milestones or dependencies** behind the development of the crypto assets and the **implications for investors** as a result of **failure** to reach such milestones, including any refund arrangements.



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

A statement clarifying the **computer software and protocols** used for operation of the crypto assets, and the extent of **engagement of third-party software developers** or providers and any rights of the offering person against them.

The statement should clarify **implications for investors** in respect of possible **future changes to the software, protocols, functionality and operations** of the crypto assets and the rights of investors.

The statement must include all **material features** of the computer software.

Any instances where such holders may be **deprived of their rights** due to the **operation of the software** must be clearly demonstrated. If the software is based on an **open-source**, a link to the source code repository or equivalent should be provided.



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

Details of the **time schedule** for achievement of **stated goals** of any relevant project and incentives for people managing the relevant project.

Financial information of the **offering person** or the relevant business to which the crypto assets relate for the last three fiscal years before offering.

Details of the **applicable custody arrangements** for the crypto assets and the ability of, and **procedures** required for, **investors to access, hold, transfer and control the crypto assets**.

Details of how cryptographic keys are generated and stored in respect of the crypto assets or investor responsibility for arranging this, **procedures with respect to fraudulent transfers, lost keys, and other material items**.



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

Details of **technology or software requirements** that investors must manage and/or operate in order to exercise their rights in respect of the crypto assets.

Specific notice clarifying whether investors participating in the relevant crypto asset offering have the **right to have their contribution and a description of the refund mechanism.**

Details of **any disaster recovery, back-up and/or insurance/guarantee arrangements** applicable in the event of a failure, or confirmation if no such arrangements are in place.

Details of the **intellectual property** in respect of the relevant project, including **software, any patent, copyright and/or trademark ownership**, and identification of whether the intellectual property is issued on an **open-source basis.**



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

Details of **existing business operations of the team** involved in the project to identify a personal record over the **last five years** and any **competing or related projects**.

The offering **person's identity, headquarters of business** and if the **offering entity is different from the offering person,**

(1) the identities of the **principal management** or key contributors who participate in the governance and management of the crypto asset, and

(2) the **headquarters of business of the offering entity** and address where the offering entity can be notified with legal process.



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

Details of **prior obligations of investors** in respect of the relevant project.

Details of **any fees, incentives, or other compensations** to be paid to **management, officials, or developers of the crypto asset, or contributors to its development or in respect of any exchange, fundraising platform or trading venue of any nature.**

An explanation of **liability and risk** allocation between the **offering person and the service provider** for issues relating to the software

Disclosure of **risks** related to any possible **disruption or termination** of the relationship between the offering person and the service provider.



Disclosure Requirements for Crypto Assets

The following apply to crypto assets when they are offered to investors, and when the crypto assets are approved for listing on a crypto asset exchange:

Details of the **outstanding token provision**, any **token burning schemes** or other measures that could result in a **contraction of token supply**, and **token release and reserve requirements**,

including a breakdown of **tokens held by different classes** or groups of investors and basis for any tokens to be **retained by management**, along with the **rationale, basis and process** for release of additional tokens.

An explanation of **third-party audits** in relation to the software developed for the relevant project and related security procedures.

The **offer documentation** must also include a **'key investor information'** section, written in a concise manner and in non-technical language, that highlights the **essential characteristics** of the crypto assets.



Disclosure Requirements for Security Tokens

In addition to the offer documentation required for the offering and issuing of crypto assets detailed above, further disclosure is required for crypto assets offered in the UAE that are security tokens:

Describing how the relevant crypto asset represents a **legal right to interests** in the relevant security and **any rights or interests of any other party** in respect of the security, or underlying assets, represented by that crypto asset.

Describing how an investor **may exercise its rights** in respect of the investment (or underlying security) in the event of a **failure or insolvency** of any operator of **software or technology**.

Detailing the **type of security** represented by, or created by, the security token.



Disclosure Requirements for Commodity Tokens

In addition to the offer documentation required and detailed in section above, all regulated commodity tokens offered or issued in the UAE must include the following info:

Crypto assets are **not considered securities** under the laws applicable in the UAE and are not afforded any protections under such laws.

Crypto assets are **not legal tender** in any state and are **not backed by any government**.

Prospective purchasers of the offered crypto assets should conduct their **own due diligence** and consult a **certified financial adviser**.

The nature of crypto assets may lead to an **increased risk of fraud or cybercrimes**.



Disclosure Requirements for Commodity Tokens

In addition to the offer documentation required and detailed in section above, all regulated commodity tokens offered or issued in the UAE must include the following info:

Transactions related to crypto assets may be **irreversible**, and, accordingly, **losses may not be recoverable**.

The **volatility and unpredictability** of the price of the crypto asset may result in significant loss over a short period.

Investors must accept that they **may have no recourse** if purported rights or benefits of the crypto assets are not received, or other investors in the market become **unwilling to exchange a fiat currency** (such as the Dirham or US Dollar) for such crypto asset.



Which of the following statements is FALSE

- A. Crypto assets are not considered securities under the laws applicable in the UAE.
- B. Crypto assets are not legal tender in any state.
- C. The nature of crypto assets may lead to an increased risk of fraud or cybercrimes.
- D. Crypto assets are effective in decreasing risk of fraud or cybercrimes.

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Regulatory Requirements:

- Create a **separate account** or portfolio for each client.
- Keep crypto assets belonging to the client **separate** from the crypto asset custodian's own assets.
- Hold amounts of crypto assets equal to the **aggregate** amounts to which the crypto asset custodian is obligated to all clients, in each case in the form of the **same crypto asset**.
- **Not transfer, hypothecate, grant a security interest in or a lien over, loan to a third party, or otherwise allow adverse claims to arise in**, crypto assets belonging to client.
- Only transfer crypto assets out of a client's account upon the client's **express instruction**, unless the **client consents** the custodian to exercise its own initiative or discretion.



Regulatory Requirements:

- Store **cryptographic keys**, equivalent electronic data comprising **user rights** in respect of crypto assets or **user access log-ins, outside** of a network subject to online attack.
- Ensure that **no single individual person** within its custody **can authorise** actions in respect of the crypto assets of associated fiat currencies held for clients.
- Create and maintain **a log of all movements** of crypto assets and related fiat currencies held in custody, changes in respect of related cryptographic keys.
- Set **policies and procedures** that provide actions to be taken by the crypto asset custodian, **to mitigate losses** caused to clients.
- **Not aggregate ownerships** of crypto assets between clients.



Regulatory Requirements:

- Adopt procedures that **identify and prevent** the execution of multiple instructions in respect of the same transaction approved by its client.
- **Avoid conflicts of interests** between its functions as a crypto asset custodian and any other activities it, or its related party, conducts.
- The crypto asset custodian **must enter into a signed written agreement** with all holders of crypto assets in its custody that specifies the above duties.



Fundraising Requirements

Unless it is restricted to the **more knowledgeable and capable qualified investors**, raising funds in the UAE to subscribe to an offer of crypto assets has to meet certain requirements.

The fundraising must be conducted by a person holding a **license issued by SCA**.

No client can be permitted to invest **more than AED 350,000**, or its equivalent.

The crypto assets that may be accepted shall be those that are **subject to controls over money laundering and terrorism financing crimes**.

The person licensed to fundraise must comply with the **disclosure requirements**

The fundraising person **may not conduct any trading or exchange of the issued crypto assets**, unless approved to do so by SCA.





License

- SCA will only grant a **license to operate a crypto fundraising platform** in the UAE if the following conditions are met:
 - The applicant for a licence is a **legal person** in **one of the following forms**:
 - **an exchange licensed** by SCA in the UAE
 - a company incorporated according to the **Commercial Companies Law**
 - a **person authorised** to operate a crypto asset exchange.
 - Policies and procedures consistent with the **technological standards** of the regulations.
 - Any **additional conditions, requirements or directions** specified by SCA to meet the public interest and its objectives.





License

- The operator of the crypto fundraising platform must apply the appropriate controls against **money laundering and terrorism financing crimes**.
- The crypto fundraising platform may not hold crypto assets or money or conduct any activities in respect of which a **licence as a custodian or a crypto asset custodian is required**, without obtaining the appropriate licence.
- If the operator of a crypto fundraising platform seeks to conduct financial services **activities other than fundraising**, such activities shall be identified in its licensing application.



License Requirements:

- Provide the **necessary technological systems and controls**
- Provide **effective market surveillance programs**, which are subject to regular review and development.
- Establish **appropriate controls** to combat **money laundering and terrorism financing crimes**.
- Provide users with a **risk statement** prepared in line with **the disclosure requirements** detailed earlier in relation to the crypto assets.
- **Restrict** those permitted to trade on the crypto asset exchange to the following:
 - persons able to demonstrate a record of **regularly investing** or having **appropriate and adequate knowledge** and expertise required to invest
 - persons who only aim to **acquire or sell crypto assets solely in relation to exercising the relevant utility** provided by the crypto assets.



License Requirements:

- The exchange's operator must establish the **necessary rules, controls and procedures** to operate the crypto asset exchange, such as:
 - **fair, transparent and objective** rules for accessing the services provided by the crypto asset exchange
 - **permitted order types**
 - **prohibited acts and procedures** to ensure compliance
 - available **dispute settlement mechanisms**
 - procedures to ensure **fair and orderly trading**
 - disclosing the **commissions and fees** for trading on the crypto asset exchange
 - adopting mechanisms to ensure the **resilience, integrity and reliability** of critical systems, including a **disaster recovery or back-up arrangements** in place



Crypto Assets Listings

To list a crypto asset on a crypto asset exchange, a **listing application** must be submitted to SCA, accompanied by the following information and data:

initial and on-going criteria for selection of the crypto asset for listing and trading on its platform

the **type and details** of the relevant distributed ledger technology and/or protocol used

any **fees or other compensation** paid by the issuer, promoter, or sponsor of the crypto asset or any third party to the crypto asset exchange operator in exchange for such listing

any **hacking vulnerabilities** of the technology underlying the crypto assets,

the **traceability of the crypto assets** and the ability to apply the controls over **combating money laundering and terrorism financing crimes.**



Related Financial Activities

No financial activities may be conducted in the UAE in respect of security tokens and regulated commodity tokens **without obtaining a license** or approval from SCA.

The person applying for the license **must identify the financial activities** related to regulated commodity tokens that it intends to conduct in the UAE.

Brokerage activity in relation to the crypto asset is **not limited** to the brokerage activities conducted by the members of the exchange.

The provision of **exchange services into, or from, fiat currency and other crypto assets and receipt for transmission and transmission of crypto assets** are also considered as brokerage activities.

A licensed person responsible for maintaining the record of ownership of crypto assets **must consult with SCA.**



A person **seeking to obtain a license or approval from SCA** to practise financial activities in the UAE in relation to security tokens and regulated commodity tokens must meet the following:

Consider the **suitability** of the crypto asset for the investor when they are not a qualified investor.

Provide the necessary technical staff to practise the activities in relation to the crypto assets according to directions prescribed by SCA.

Comply with the **technical requirements**

If the licensed person is **required to provide an insurance, a bank guarantee or other such financial guarantees**, SCA may request additional financial resources to be retained.



The maximum a client can invest in a fundraising round for crypto assets is

- A. AED 250,000.
- B. AED 300,000.
- C. AED 350,000.
- D. AED 450,000.

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Qualified Investors

A qualified investor is essentially a **natural or legal person** who is sufficiently knowledgeable to manage its own investments.

For **individuals** to meet this requirement, three conditions must be satisfied:

- **Net equity**, excluding the main residence, amounting to **4 million UAE dirhams**.
- Annual income **at least 1 million UAE dirhams**.
- The individual declares that he has **adequate knowledge and experience** in investments to be practised and its risks, or he is represented by **an entity licensed by SCA**, in a manner that does not conflict with the terms of its licence.



Specifically, if the operations of **an offering person** in respect of crypto assets include arranging for **issuance and subscription** of crypto assets following a subscription of funds by investors, **controls must be adopted** to avoid the issuance of crypto assets at prices determined by the offering person at his own discretion.



Financial Crime Controls

To **combat money laundering and the financing of terrorism**, certain additional controls are required of firms involved in crypto assets:

Adopt **tracing measures** in respect of all **crypto assets brokered, exchanged and/or transferred** into portfolios

Not allow the use of crypto assets that do not permit to adopt such tracing measures in order to fund accounts or make transactions.

Treat clients as **high risk**, for the purposes of **client due diligence**.

Obtain sufficient contact information regarding their clients and **suspend or terminate** the account of any client who provides **incomplete or suspicious** contact information.

Conduct all deposits and withdrawals of funds for a client's account only through a **designated bank account** opened in the **name of the client**.



Financial Crime Controls

To **combat money laundering and the financing of terrorism**, certain additional controls are required of firms involved in crypto assets:

Establish and maintain **adequate and effective regulations** and measures to monitor transactions related to crypto assets.

Update business risk assessments and compliance frameworks, considering directions and recommendations issued by the Financial Action Task Force (**FATF**).

Regularly review the effectiveness of regulations and measures to combat money laundering and terrorism financing crimes.

If a licensed person **outsources** the work of compliance to a third-party service provider, the licensed person must conduct **adequate due diligence in selecting the service provider**.



Licensed persons must ensure the following:

- Provide SCA **real-time information** related to ownership and trading in the crypto assets. This can be **outsourced** to a third party.
- Adopt the **best international standards** regarding **cyber security, data protection, software development and oversight and encryption**.
- Develop systems and software to carry out **regular internal and external tests**.
- Provide SCA with **all audits and reviews** conducted by a third party.
- Adopt **cyber security** measures and notify SCA of any **material breaches** of cyber security or data loss.
- Appoint a **technology officer** with sufficient skills and experience and to provide SCA with reports where required.



Requests for Data and Information

- SCA **can request any additional clarifications, information, documents or data**, which it deems necessary for the purposes of control and investigation.

Complaints and Grievances

- SCA has **jurisdiction** to consider any complaints or grievances related to the provisions of the regulations on crypto assets.



Administrative Measures

A violation of the regulations relating to crypto assets could see SCA take **any** of the following administrative measures:

- **Suspend** any offering, issuance or subscription.
- **Terminate** the investors' subscriptions and oblige the concerned authorities to return the amounts paid by the subscribers and their revenues.
- **Suspend** the operation of any technology in respect of crypto assets and require:
 - **adopting alternative means** for managing the relevant securities
 - **returning the subscription funds** to investors in commodity tokens.
- **Block the operation** of any website in the UAE by communicating with the relevant governmental authorities.





Penalties

- SCA may impose **any** of the following penalties on the firm:
 - **address a notice**
 - impose a **financial penalty**
 - **suspend** the licensed person from practising the activity for a period not exceeding a year
 - **cancel** the relevant licence or approval.



Fundraising Requirements

Individuals, members of the board, the CEO or employees approved by the accredited person, can also face penalties from SCA. SCA may:

issue a notice

suspend the individual from practising the work for a period **not exceeding two months**

cancel the approval issued for the appointment or accreditation.



SCA can choose to **publish** the names of violators of the crypto asset regulations, including **details of their violations** and any **penalties imposed**.



The annual income for a qualified investor must be at least

- A. AED 1 million.
- B. AED 750,000.
- C. AED 1.5 million.
- D. AED 3 million.

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