

The Financial Consultation and Financial Analysis License

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March 2013

Financial consultation is one of the most prevalent types of consulting throughout the world because the services that it provides are of particular interest to individuals as well as businesses.

Financial consultants provide a wide range of services to businesses ranging from small companies through to large global corporations. Globally, part of the financial consultants' primary services include budgeting, debt management, fundraising, and even in the role of financial advisor to companies' employees. Financial consultants are especially important during the planning stages, often helping the business develop the right strategy and a business plan. The financial consultant is also a crucial component in pitching the business plan to prospective investors.

In the UAE historically, the UAE Central Bank has regulated the activity of financial consultation as part of the financial investment business. Most of the licensed financial consultants are also regulated as investment companies under the Central Bank Board of Directors regulation number 164/8/94. As of December 2008, UAE Security & Commodity Authority ("SCA") issued regulation no. 48/R of 2008 to regulate the activity of Financial Consultation and Financial Analysis (the "Regulation"). As of that date, the UAE Central Bank stopped issuing new licenses or renewing the current licenses for the activity. The transfer of the responsibility to SCA was pursuant to the memorandum of understanding signed by and between the UAE Central Bank and SCA, which specifically determines responsibility of each party in relation to legislation, licensing, supervision and inspection on activities concerned with the financial services sector – the aim being to enhance, where it control on risks that may be encountered by the sector.

Since 2008, SCA has granted many companies the Financial Consultation and Financial Analysis licenses and until now, SCA continue to receive applications to license such activity. We aim in this article, to outline the basic requirements and procedures to obtain the Financial Consultation and Financial Analysis license.

The Scope of Business, the Capital and Legal Form:

As defined by the Regulation, Financial Consultation means the opinions and recommendations based on economic and financial research, studies and analysis concerning the feasibility studies and determining the anticipated current or future values of the securities, commodities, commodity contracts and companies to be provided to clients or published to the public in any of the various means of publication and communication.

Similarly, Financial Analysis means the scientific systematic processing of data in connection with the position and performance of the companies in the past and at present, and future forecasts of the results of their business, the securities, commodities, commodity contracts, price trends and the trading volumes for the purpose of obtaining information used to take decision at the time of providing a financial consultation;

The capital of the UAE formed company to undertake Financial Consultation and Financial Analysis should not be less than one million Dirhams.

The legal persons that are permitted to apply for the license are:

1. A judicial person established in the UAE that has one of the forms as set forth in Federal Law No. 8 of 1984 pertaining to Commercial Companies, and at least 51% of its share capital is held by natural or juristic persons who are UAE nationals or GCC nationals, subject to the principle of reciprocal treatment; or
2. A branch of a foreign company licensed by similar regulatory authority in their own country that may practice the business of financial consultation and financial analysis, provided that such companies should have at least five years of experience and that they satisfy certain other conditions.

It is important to point out that a branch of a foreign company that seeks to obtain the license of Financial Consultation and Financial Analysis is required at the licensing stage with the local licensing authority in the respective Emirate to appoint a local agent. This was not the case for the financial institutions that are granted a branch license by the UAE Central Bank. The UAE Central Bank, through an arrangement with the licensing authority, used to play the role of the local agent and thus such branches were not required to appoint a local agent.

Further, UAE companies operating in the field of securities such as brokerage companies may obtain an additional license from SCA to practice the business of Financial Consultation and Financial Analysis in the UAE in addition to their other activities in accordance with the criteria set by SCA from time to time.

The Application and Required Documents by SCA

SCA has a set application form that should be filled in Arabic and submitted along with the required documents. The information includes name of applicant, type of the applicant's company, date of incorporation, place of incorporation, the registration number, the capital, the names of the shareholders, the regulator at the home country in the case of branch of a foreign company, date of registration, the directors and so on.

The required documents are:

1. A valid copy of the Commercial License and the Certificate of Membership with the Chamber of Commerce;
2. The Memorandum and Articles of Association of the Applicant in Arabic indicating the objects of the Applicant which shall include the activity of financial consultation and financial analysis;
3. The license issued by the foreign regulator for the branch of a foreign company confirming that the foreign company is licensed to undertake the activity of financial consultancy and financial analysis.
4. A statement indicating that the company has a minimum of five-year experience in the field of financial consultancy and financial analysis for the foreign company to open a branch.
5. Evidence proving the internal control and periodic audit in a manner guaranteeing the proper application of the Law and the rules and decisions issued by SCA.
6. A statement showing that the firm operating in the securities industry is committed to a full separation, administratively, systemically and technically, between the licensed activities in order to avert any conflicts of interest.
7. A copy of the title-deed or lease contract for the premises in which the activity will be practiced.
8. An approved copy of the financial statements if the company is already existent, for the last three years or at least as from the date of incorporation.
9. A statement naming the General Manager or Chief Executive Officer, Financial Analysts, officials in charge of internal audit and control and officials providing financial consultancy and financial analysis services along with a statement of job description for each.
10. Resume and certificates of work experience for all employees who will work for the applicant in providing the financial consultancy and financial analysis services, and the person in charge of the internal audit and control (and the declaration form).

11. The Academic qualifications and work experiences of the General Manager or Chief Executive Officer and Financial Analysts.
12. A passport copy of the General Manager or Chief Executive Officer and Financial Analysts.
13. Agreement form for the transaction to be concluded with the client.
14. A statement indicating whether the Applicant or any of (its subsidiaries/ sister companies/ allied companies) has been subject to any adjudications, disciplinary or punitive measures by any regulatory bodies or markets.
15. A statement indicating the method of archiving and storing documents and studies and naming the person in charge thereof.
16. A statement indicating the following:-
 - Whether the Financial Analyst conducts research that is to be widely published or not.
 - The targeted clients and the means of communication used for conducting Financial Analyst's research in the UAE.

Whether the Financial Analyst will appear before the public information authorities on behalf of the Applicant.

17. Signing a declaration to state that the submitted information and documents are true and complete and undertake to comply with the applicable laws and regulations.

If any of the above documents are issued from outside the UAE, it should be duly legalized and authenticated.

The Staff Qualifications and Requirements

The licensed companies must provide the administrative and technical personnel needed to exercise the activity. Such personnel must include a General Manager or Chief Executive Officer assisted by an adequate number of certified Financial Analysts, researchers and technicians according to the following conditions:

The General Manager or Chief Executive Officer and certified Financial Analysts, researchers and technicians appointed by the licensed firm must be:-

A.Natural person(s).

B.Fully competent.

C.Be of good conduct and behavior and never been sentenced by a freedom restraining penalty in any crime against honor or honesty, unless rehabilitated.

D.Has never been declared bankrupt by a final court ruling, unless rehabilitated.

E.Such person must be entirely dedicated to work on full time basis. This condition applies only to the General Manager or Chief Executive Officer if and when the firm is licensed to practice only the financial consultancy and financial analysis activity.

F.The Academic qualifications and work experience for the General Manager or Chief Executive Officer and financial analyst must be as follows:

i.The General Manager or Chief Executive Officer: must hold a university degree or an accredited professional certificate and a minimum of five years of experience in the economic or financial field.

ii.The Financial Analyst: must hold a university degree or an accredited professional certificate and a minimum of three years of experience in the financial analysis field.

G.Financial Analyst must also pass the prescribed tests in accordance with the rules set by SCA.

The licensed company must appoint an internal auditor also, and such auditor should be duly qualified and have at least three years experience in the field of internal auditing. From our experience with SCA, they typically accept a dedicated internal auditor and are also comfortable with outsourcing this responsibility with certain conditions.

Licensing with Local Authorities

Licensing largely depends on the legal form of the UAE company, but in general, the application would start by obtaining SCA initial approval and then completing the registration with the relevant Department of Economic Development until the issuance of the commercial license and thereafter, return to SCA to complete the staff and other regulatory requirements until the issuance of SCA license.