

Part II: How does Bahrain's Financial Regulatory Approach Compare with the Rest of the GCC?

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One body, in the form of the Central Bank of Bahrain (CBB), regulates both the conduct of financial services business in (or from within) Bahrain as well as the financial institutions that provide those services.

The CBB argues that this approach creates a consistent and coherent regulatory model that can be applied across the board and it also provides a straightforward and efficient regulatory framework for financial services firms operating in Bahrain.

However as the following summaries demonstrate, different regulatory approaches are possible. Often – leaving to one side the regulation of international financial centres – the regulation of capital markets is undertaken by a separate body on the grounds that the ongoing supervision of capital markets is generally distinct from the regulation of financial services. Indeed it could be argued that the CBB tacitly acknowledges this by virtue of the fact that the supervision of Bahrain's capital markets is undertaken by a dedicated unit within the CBB, namely the Capital Markets Supervision Directorate. Viewed in this light, one perfectly feasible conclusion is that the Bahrain's unitary approach is, in reality, not so different for the multi-agency approach taken by the other GCC countries.

Qatar

The financial regulators in Qatar, outside the Qatar Financial Centre (QFC), are mainly the Qatar Central Bank (QCB) and the Qatar Financial Markets Authority (QFMA) as the onshore regulators and the Qatar Financial Centre Regulatory Authority (QFCRA) in respect of the QFC, a separate financial free zone located in Qatar with its own civil and commercial laws and court system with no geographical boundaries.

The QCB is the primary regulator of financial institutions operating in Qatar, and the QCB Law No 13 of 2012 expanded the QCB's supervisory powers to cover the QFC financial institutions. Presently there is no practical impact of the expansion of the QCB powers on the QFC financial institutions and the QFC banks remain subject to the supervision of the QFCRA.

The Qatar Central Securities Depository (QCSD) was established by the QCB and Qatar Exchange (QE). The QCSD has assumed the duties relating to central clearing, depository and registry activities which were previously undertaken by the QE. The QCSD also provides related services, including registration, acceptance and transfer of government bonds and treasury bills (T-bills). The QCSD offers additional services including DvP, securities lending and borrowing settlement, management and follow-up of limits placed on non-Qatari shareholders, registration and authorisation of exchange-traded funds as well as services in connection with initial public offerings.

Qatar has executed an InterGovernmental Agreement (IGA) with the United States in relation to

compliance with the US Foreign Account Tax Compliance Act (FATCA). The QFC was first set up to offer domestic and international firms the opportunity to establish and provide a broad range of financial services related to banking, asset management and insurance businesses. In addition to its financial regulated activities QFC has expanded the scope of its permitted activities to include non-regulated activities that are not “financial services” in nature. The QFC offers its own legal, regulatory, tax and business infrastructure which allows 100 percent foreign ownership, unlimited repatriation of profits and charges a competitive rate of 10 percent corporate tax on locally-sourced profits. Since the QFC is not a separate geographical zone all entities in the QFC operate on a fully-onshore basis with the availability to access the local market and operate from over 50 locations all over Doha with no restrictions on the currency they can trade in.

Recently Qatar has issued strategic legislation in response to the speed of development in the economy and business. This includes the new Qatar Central Bank Law, the QFMA Law, the Real Estate Development Law and, the most recent, new Companies Law.

Kingdom of Saudi Arabia

Financial regulation in the Kingdom of Saudi Arabia (KSA) is primarily carried out by the Saudi Arabian Monetary Agency (SAMA - the Central Bank of KSA) and the Capital Market Authority (CMA).

SAMA is the regulatory authority for activities involving the banking and insurance industries while the CMA regulates licensed securities businesses (investment banks).

As well as dealing with the banking affairs of the KSA Government, SAMA performs a variety of important functions pursuant to a number of KSA laws and regulations. SAMA is tasked with promoting the growth of the financial system and ensuring its soundness and has a supervisory role over: commercial banks and money exchange dealers; co-operative insurance companies and other professions relating to the insurance sector; finance companies; and credit information companies. As a supplement to laws and regulations, SAMA issues industry circulars from time to time to KSA-licensed banks and insurance companies. These circulars act as formal directives that must be followed and the compliance department of SAMA is very active in reviewing operations of licensed institutions in KSA to ensure consistency and compliance with laws and directives.

Many of the industry standards promoted by SAMA follow international trends, so SAMA will continue to be very proactive in implementing policies and procedures to address matters such as the eradication of illegal financial transactions – particularly money laundering and terrorism financing.

Importantly, in 2004 SAMA also began supervising KSA’s only licensed credit bureau known as SIMAH, offering consumer and commercial credit information services to KSA members. In order to access credit information of potential clients (individual or corporate), the requesting entity must be a registered member of SIMAH.

Investment banks in KSA are licensed securities businesses (called Authorised Persons) and they may hold one or more of the following five security business licenses issued by the CMA: Arranging; Advising; Managing; Dealing; and/or Custody.

The CMA’s primary functions are to regulate and develop the KSA’s capital market by issuing 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, moreover, to protect the investors and dealers from illegal acts in the market.

In a similar manner to SAMA, the CMA also issues industry circulars from time to time to KS- licensed security businesses. These circulars act as formal directives that must be followed and the compliance

department of the CMA is very active in reviewing operations of licensed security businesses in KSA to ensure consistency and compliance with laws and directives.

As well as dealing in securities, investment banks are able to manage real estate investment funds and offer financial investment advisory services to clients.

In recent years the CMA has introduced initiatives relating to the KSA stock market (Tadawul) in an effort to allow foreign investment in KSA-listed equities. For example, in 2008 equity swaps were made available and in June 2015 the CMA rules that allowed qualified foreign investors to invest directly in Tadawul came into force.

United Arab Emirates

The regulatory landscape in the United Arab Emirates (UAE) consists of three principal bodies: the UAE Central Bank (Central Bank) and the Securities and Commodities Authority (SCA) as the onshore regulators and the Dubai International Financial Services Authority (DFSA) in respect of the Dubai International Financial Centre (DIFC), a separate financial free zone located in Dubai with its own civil and commercial laws and court system. The list of regulators will soon be expanded to include the Financial Services Regulatory Authority as regulator for the Abu Dhabi Global Market, a recently-launched financial free zone located in Abu Dhabi similar to the DIFC.

The Central Bank has devolved the securities and markets regulation to SCA as part of the UAE's efforts to develop a more sophisticated regulatory framework. The Central Bank now oversees banking and financial business. The SCA's oversight, which was once limited to publicly-listed companies and the two securities exchanges, now also oversees custody, securities brokerage, funds, financial consultancy, research, and since 2015 investment management activities. Both the Central Bank and the SCA have been active in reviewing, amending and implementing changes to their respective regulations.

The enactment of the new federal Anti Money-Laundering law, brings the UAE's position in line with international standards and expands the regulatory and enforcement powers of the Central Bank to impose administrative sanctions and restrict the powers of senior management. The UAE has also agreed with the United States to adopt Model 1B of the InterGovernmental Agreement (IGA) in relation to compliance with the US Foreign Account Tax Compliance Act (FATCA).

Having operated now for over 10 years and established critical mass, there have been recent and ongoing amendments to the DFSA's regulatory regime as the DIFC matures as a jurisdiction and also partly in response to market demand (such as the introduction of qualified investor funds and other amendments). The DFSA has also increasingly been proactive with enforcement actions including the imposition of hefty fines.

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