

# The Saudi Stock exchange how do you list your business ?

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On 22 January 2012, the Board of the Capital Market Authority ("CMA") of the KSA passed a resolution to amend the CMA Listing Rules of 4 October 2004 ("New Listing Rules").

The New Listing Rules provide legal framework for the listing process on the Saudi Stock Exchange/Tadawul ("SSE"), sets out conditions for registration and admission to listing, capital increase and reduction requirements for listed companies as well as continuing obligations of listed companies.

The only issuer to date to have listed its shares on the SSE under the New Listing Rules is Najran Cement Company that offered 85 million shares representing 50% of its share capital, at SAR 10 per share, for subscription (offer period closed on 22 April 2012). The offer was oversubscribed by 306.11%. The subscription proceeds that the offer attracted amounted to SAR 2.6 billion.

Saudi Airlines Catering Company also proposes to list 30% of its share capital. The offer will close on 24 June 2012, upon finalization of the book-building process.

This article summarises the key requirements that companies considering applying for registration and admission to listing on the SSE ("Listing") must meet under the New Listing Rules.

## **LISTING CONDITIONS<sup>1</sup>**

### 1. KSA Issuer – Primary Listing

#### a. Relating to the Issuer

Under the New Listing Rules, the issuers are subject to the following conditions:

- **Listing Vehicle:** The issuer must be a KSA joint stock company.
- **Operations:** On an application for Listing, the issuer must have been carrying on, either by itself or through one or more of its subsidiaries, a main activity for at least three financial years under substantially the same management.
- **Financial Track Record:** On an application for Listing, an issuer must have published its audited financial statements covering at least the previous three financial years, prepared in accordance with the accounting standards issued by Saudi Organization for Certified Public Accountants. The period covered by the most recent audited financial statements must have ended no more than six (6) months prior to the date of approval of the prospectus.
- **Restructuring Halt:** On an application for Listing, where the issuer has undergone restructuring or has been subject to an alteration in capital using external financing (including through any shareholder current account), the issuer shall not be eligible to apply for registration and admission to listing until one financial year has elapsed since the date of completion of the restructuring/ alteration in capital.
- **Management:** The senior executives of the issuer must have an appropriate expertise and experience for the management of the issuer's business.
- **Working Capital Adequacy:** An issuer must have, on its own or with its subsidiaries, a sufficient working capital for the 12 months immediately following the date of the publication of the prospectus.
- **Interim Financials:** The issuer must provide the CMA with reviewed interim financial statements if such statements were issued during the application period.

It is worth noting, an application for Listing may be accepted if it does not meet these requirements if the CMA is satisfied that the Listing will be in the interest of investors and that the investors have received the necessary information to arrive at an informed judgment/decision concerning the issuer and the securities that are the subject of the application.

## b. Relating to Shares

The shares, to qualify for Listing, must:

- comply with KSA law and be duly authorised according to the requirements of the issuer's articles of association or other constitutional documents;
- be freely transferable and tradable<sup>2</sup>; and
- be registered and settled centrally through the Depository Centre of the SSE.

- Liquidity: There must be at least 200 public shareholders and at least 30% of the class of shares that are the subject of the listing application must be owned by the public, at all times<sup>3</sup>.
- All Shares in One Class: Where none of the shares of a particular class are listed, the application for Listing must relate to all shares of that class issued or proposed to be issued.
- Market Value: Except where shares of the same class are already listed, at the date of Listing the expected aggregate market value of all shares to be listed must be at least SAR 100 million<sup>4</sup>.

## 2. Non- KSA Issuer – Secondary Listing

Last but not least, a foreign issuer whose securities are listed in another regulated exchange may also apply for Listing. The non-KSA issuer must be a non-KSA company that has its shares listed on an exchange in another jurisdiction. The CMA may admit the securities to listing provided that, in its opinion, the listing rules applicable in the foreign issuer's jurisdiction of listing are at least equivalent to the New Listing Rules.

The CMA decision to approve or reject Listing application by a non-KSA issuer is absolutely discretionary.

### **THINGS TO KEEP IN MIND**

In addition to the requirements set out above, the following aspects of listing companies on the SSE are worth keeping in mind:

#### 1. Ownership Restriction

In general, shares in KSA issuers listed on the SSE can be offered to GCC nationals and KSA residents who are not KSA nationals (both natural and legal persons). Non-KSA residents can invest in the SSE under swap arrangements whereby a KSA authorized person<sup>5</sup> appears as a registered owner of the shares and the non-KSA resident derives economic benefit from the said investment. No voting rights are able to be exercised in respect of shares subject to a swap arrangement.

The CMA has a right, however, to restrict an offer to KSA nationals, only.

Apart from the general ownership restriction, KSA law restricts investment by non-KSA nationals (natural and legal persons) in companies conducting certain business activities<sup>6</sup>, e.g. oil exploration, drilling and production, manufacturing of military equipment, devices, uniforms and civilian explosives, real estate investment in Mekkah and Madina, real estate brokerage, recruitment and employment services, certain printing and publishing and media services.

If a company involved in any of these activities lists its shares on the SSE, the shares will be offered for subscription to KSA nationals only.

#### 2. Sell Down

The KSA law allows that Listing on the SSE happens by way of a capital increase or a combination of a capital increase and a sell down of shares by the founding shareholders (conditions apply).

### 3. Book-Building

The price at which the SSE shares are offered is a result of a book-building process.

The book-building, being an internationally preferable method of generating, capturing, and recording investor demand for shares in the context of public offerings, has been well established in the KSA.

Although the price range is set by the CMA in conjunction with an advise from the financial advisors (whereas in Western markets there is no regulatory involvement in the valuation/ price discovery process), the KSA book-building model has proved to work well.

### **CLOSING REMARKS**

The Listing requirements set out under the New Listing Rules appear clear and flexible.

Although still largely untested due to their recent enactment, the New Listing Rules seems to be moving closer to world's best practice.

We are yet to see which direction the New Listing Rules will develop in, under direction of the CMA and the SSE.

As demand for Najran Cement Company shares indicates, there remains an appetite for shares in KSA companies, notwithstanding the volatility seen in global equity markets in 2012. It is commonly believed that KSA nationals are cautious to enter into world equity markets due to the global financial crisis and losses previously suffered. As a result of this and their own booming economy, KSA nationals are more attracted to investing in their own share market.

In any event, enactment of the New Listing Rules can be seen as the CMA's intention to respond to the expectations of investors in challenging times for markets. This will certainly let the SSE- listed companies as well as investors in their stock collect the fruits, before we know.

As Archie Randolph Ammons (1926 - 2001) once said:

"I must stress here the point that I appreciate clarity, order, meaning, structure, rationality: they are necessary to whatever provisional stability we have, and they can be the agents of gradual and successful change."

### **Footnote:**

Part 3, Articles 11-17 of the New Listing Rules.

2 - Any restriction on transferability must be approved by the CMA and all investors must be provided with appropriate information to enable dealings in such securities to take place on an open and fair basis.

3 - The CMA may permit a lower percentage or a lower number of shareholders if it considers that it is appropriate in view of the number of shares under the same class and its distribution to the public.

4 - The CMA may admit shares of a lower value if it is satisfied that there will be a sufficiently liquid market for the shares concerned.

5 - Licensed by the CMA to conduct a securities business.

6 - Known as the "Negative List" issued by the Supreme Economic Council pursuant to Article 3 of the Foreign Investment Law 2000.