



Kuwait Capital Markets Authority Rules and Regulations

Edition 2, December 2024

This workbook relates to syllabus
version 2.0 and will cover exams from
11 December 2024 to 10 December 2026



Welcome to the Kuwait Capital Markets Authority Rules and Regulations study material created by the Chartered Institute for Securities & Investment.

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20 Fenchurch Street, London EC3M 3BY, United Kingdom

Tel: +44 20 7645 0600

Email: customersupport@cisi.org

Fax: +44 20 7645 0601

www.cisi.org/qualifications

Author:

Dr Natalie Schoon Chartered MCSI

Reviewer:

Capital Markets Authority - State of Kuwait

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Workbook version: 2.0 December 2024

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Changes in industry practice, economic conditions, legislation/regulations, technology and various other factors mean that practitioners must ensure that their knowledge is up to date.

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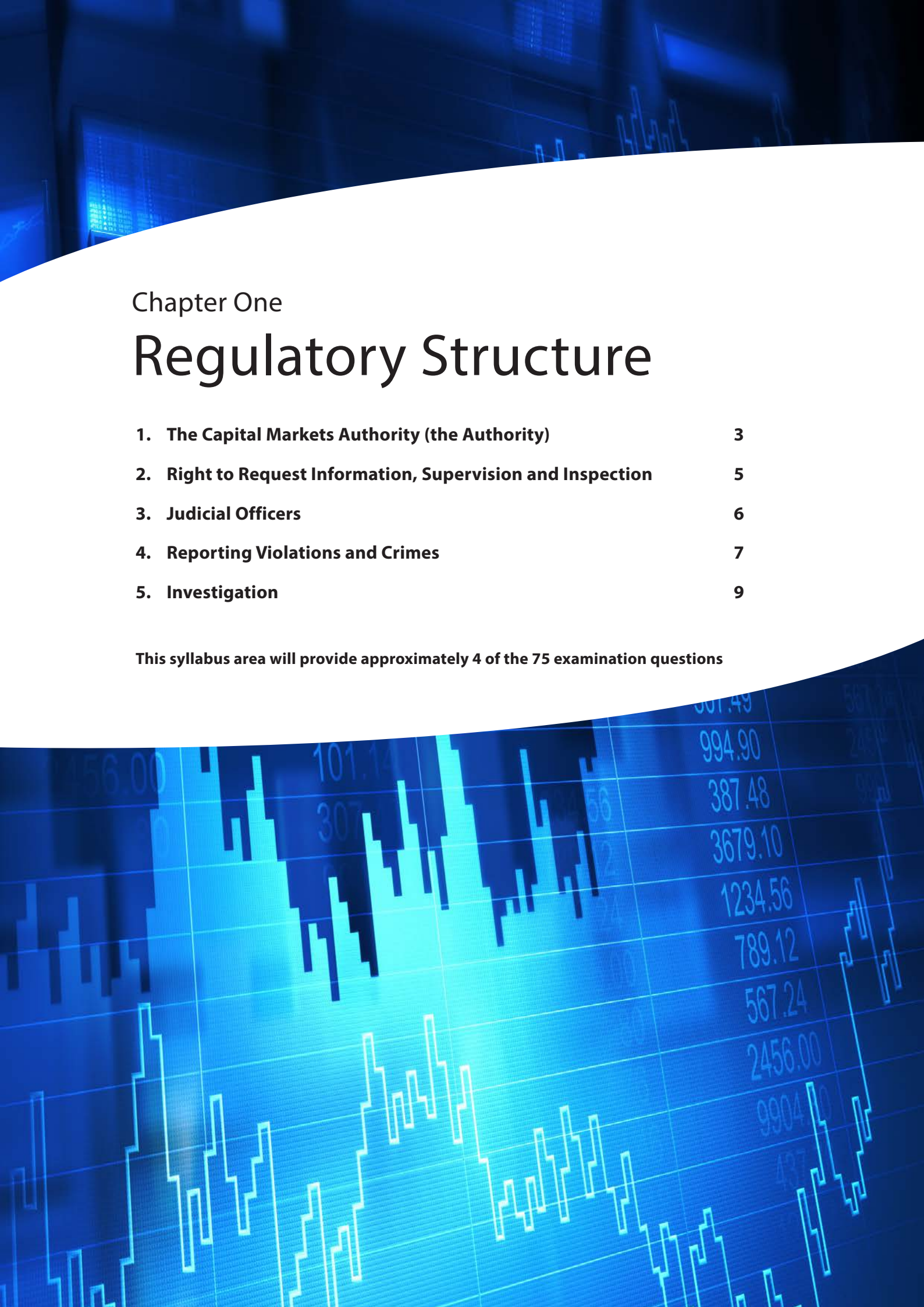
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It is estimated that this manual will require approximately 80 hours of study time.



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Chapter One

Regulatory Structure

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This syllabus area will provide approximately 4 of the 75 examination questions





1. The Capital Markets Authority (the Authority)

The Capital Markets Authority of Kuwait is a corporate entity which is independent financially and administratively. It is supervised by the **Competent Minister**. The **Authority** has the right to litigate, conclude contracts, own real estate and movable assets and to conduct all legal acts in order to achieve its objectives.

Throughout this workbook, the Capital Markets Authority shall be referred to as the Authority.

Learning Objective

- 1.1.1 Know the aims of the Authority
- 1.1.2 Know the scope of the Authority's activities

1.1 Aims of the Authority

The Authority aims to achieve the following seven objectives:

1. **Regulate securities activities** in a fair, transparent and efficient manner.
2. **Grow the capital markets** and diversify and develop investment instruments thereof in accordance with best international practice.
3. **Enhance investor protection.**
4. **Reduce systemic risks** arising from securities activities.
5. **Impose requirements of full disclosure** in order to achieve fairness and transparency and to prevent conflicts of interests and the use of **inside information**.
6. **Ensure compliance** with the rules and regulations related to securities activities.
7. **Enhance public awareness** of securities activities and of the benefits, risks and obligations arising from investments in securities and to encourage their development.

1.2 Scope of the Authority's Objectives

As specified in Law 7, the Authority is responsible for undertaking all the work necessary to achieve its objectives, in particular to:

1. File civil, commercial and administrative lawsuits related to the application of the provisions of the Law, regulations, instructions and rules issued by virtue of the Law, or others relevant to the Authority.
2. Receive complaints on **violations** and crimes, perform the administrative investigation of these violations and crimes and, if necessary, refer them to the **Disciplinary Board**.
3. Carry out all the procedures that may lead to uncovering crimes. Incidents related to entities engaged in securities activities that are suspected to be an offense under the rules and regulations of the Authority will be referred to public prosecution.
4. Conduct inspections and supervise **dealing in securities** and the activities of the **Licensed Persons**.
5. Purchase, acquire and dispose of any kind of property, and initiate all forms of associated legal action.
6. Print and publish materials related to securities activities.
7. Impose fees corresponding to the services provided and collect fines within the framework of the Authority's Law. The Authority shall perform all the necessary procedures which enable it to perform its duties and achieve its objectives as set out in the Law.
8. Set up rules to regulate dealing in securities and the transfer of ownership. Such dealings shall not be subject to the provisions of Articles (508), (992) and (1053) of the Civil Law and Articles (231), (232), (233) and (237) of the Commerce Law. The Authority shall also set up rules to regulate the settlement of securities, without being limited to the provisions provided for in Section 3 of the Law of Pledings and the **Executive Bylaws of the Companies Law**.
9. Issue rules to regulate special purpose vehicle (SPV) companies that issue securities without being limited to the provisions provided for in the **Companies Law**.
10. If it so decides, to establish, or contribute to establishing an educational or training institution related to the field of securities markets, such a body being a corporate entity which is subject to the Authority's sole supervision, and which shall be regulated in accordance with rules and bylaws issued by the Authority.

2. Right to Request Information, Supervision and Inspection

Learning Objective

- 1.2.1 Know the Authority's right to request information and commission special reports
- 1.2.2 Know the Authority's activities in relation to supervision and inspection

2.1 Right to Request Information

The Authority may request any information and documents related to securities activities or trading in securities from any:

- **person**
- regulatory authority, or
- governmental entity.

The information requested must be in consideration with its objectives. When requesting the information, the Authority must determine the required time for the receipt of the information. The Authority may appoint an auditor to prepare a special report on a particular subject related to a Licensed Person's activity. Alternatively, the Authority may require a Licensed Person to appoint the **auditor** for this purpose. The auditor has to be on the Authority's list of registered auditors. The auditor's fees and expenses will be paid by the Licensed Person. It is the responsibility of the Licensed Person to provide the auditor with all required documents, information and assistance, and to pay the auditor's fees and expenses. The auditor will provide a copy of the report to the Authority.

2.2 Supervision

All licensed and **registered persons** are subject to supervision and inspection by the Authority and need to follow the Authority's instructions. All dealings in securities are subject to supervision and inspection by the Authority, irrespective of which person undertakes the dealing. This means that it does not matter what type of person deals in securities; the transaction itself will be subject to supervision and inspection by the Authority.

2.3 Inspection

Periodically, the Authority performs an inspection to ensure they comply with the provisions of the laws, bylaws, and applicable policies and procedures. The Authority will give prior notice before undertaking a periodic inspection. The Authority may perform an inspection without prior notice in order to achieve its objectives stated in the Law, the bylaws, or to investigate complaints and reports submitted to it.

Once the inspection is completed, the Authority may do the following:

1. **Collect all initial observations** and discuss them with the person under inspection.
2. **Prepare an initial report** to be sent to the person under inspection. The person can provide feedback and comments within ten **business days** from the date of receipt.
3. **Review the person's feedback and comments** and discuss the findings with the person under inspection. The Authority will set a time limit for the person under inspection to take any corrective actions.
4. **Prepare a final report** of the results of the inspection including all observations. The Authority may take appropriate disciplinary procedures in relation to any violations found.

3. Judicial Officers

Learning Objective

- 1.3.1 Know the role of the Judicial Officer

3.1 Powers of the Judicial Officer

Judicial Officers are appointed on the recommendation of the **Board of Commissioners** of the Authority, and by decision of the competent minister. Judicial Officers have the power to verify the evidence of crimes committed in violation of the Law and the decisions made for its enforcement.

Judicial Officers have the following powers:

1. **Receive written and verbal notices and complaints** from individuals and companies and to verify them, as well as investigating acts to determine crimes committed in violations of the law.
2. **Visit the relevant premises** and carry out inspections to investigate and discover whether a crime has been committed or not, and to collect evidence and proof of a crime. This could be in response to a **report** from a known or anonymous source. In addition, Judicial Officers may review any license concerned.
3. **Practice the powers of the judicial police** in the event a crime is observed when performing a periodical inspection.
4. **Request all information** they deem necessary for their work; review all records, books, documents and statements. They have the right to call witnesses to hear their testimonies, and to record their personal information. They also may call experts for their technical opinions on technical aspects.
5. **Hold documents and papers** that they consider as evidence that the inspected entity has committed a crime.

Any officials of entities being inspected will provide Judicial Officers with the statements and documents requested by them.

3.2 Judicial Officer Report

All work undertaken by the Judicial Officer is to be officially reported to document all procedures as follows:

- visits on location
- documents examined
- **violators** investigated
- calling witnesses
- hearing of testimonies, and
- documenting non-compliance or incidents of non-completion.

The day, date, hour, place of issuing the report, name of the report's executor, signature as well as the witnesses' signatures and the summary of the relevant facts of a crime will be reported. The Judicial Officer report will be submitted to the competent body within the Authority, for them to take the necessary actions.

3.3 Obstruction of the Judicial Officer

Persons may not refuse to provide documents or information to the Judicial Officer on the basis of confidentiality of such information or documents, or on the basis of their superior's instructions not to disclose them.

Persons may not prevent, or induce or assist any other person to prevent Judicial Officers from doing their duty in any way. This includes damaging documents, refusing to provide documents or information, giving false or misleading information, or refusing to provide any assistance.

In the event Judicial Officers are prevented from doing their duty, they will document the obstruction in an official report and record the identity of the person who obstructs their work. A report of the incident shall be submitted to the public prosecutor summarising it in accordance with the provisions of Article (127) of the Law.

4. Reporting Violations and Crimes

Learning Objective

- 1.4.1 Know the conditions for the submission for reporting suspected crimes or violations
- 1.4.2 Know the protections available to whistleblowers

A **whistleblower** is a person who exposes any kind of information or activity or practice that is deemed illegal under the Law and executive bylaws. Whistleblowers are given special protection to ensure that the fact that they have reported crimes or violations does not have a detrimental effect on their position, or can be used against them.

4.1 Reporting Suspected Crimes or Violations

Any report of a crime or violation needs to be based on credible evidence that provides reasonable grounds for a whistleblower to report the incident. Reports without documentary or other evidence to justify the incident will not be considered.

The report is subject to the following conditions:

1. Written and signed, with the whistleblower stating their capacity, the date of submission, address, contact details and phone numbers. The whistleblower may attend to the Authority in person and report verbally providing a competent officer who will provide a report.
2. Include sufficient explanation of facts of the reported crimes and violations, including:
 - time
 - location
 - source
 - how the violation occurred
 - how the whistleblower discovered the incident
 - names of the reported person or persons and their capacities, and
 - any supporting information or evidence.
3. Include supporting documents and papers.
4. Explanation from the whistleblower regarding their relationship to the reported person(s) and a statement as to whether they have previously submitted any complaint against such a person to any other entity, as well as the result.

4.2 Protection for Whistleblowers

The Authority may protect a whistleblower by concealing their identity and identifying them only with special codes. The original identity of the whistleblower will be recorded by the Authority in confidential records which will only be revealed following a decision by the Authority or a **competent court**. The Authority may adopt any other measures or procedures it considers necessary to provide protection to a whistleblower or witness.

It is not permissible to take action against whistleblowers in their workplace that may result in:

- alteration of their legal or administrative position
- reduction of their rights
- deprivation
- defamation, or
- any other harm resulting from their part in revealing an alleged crime or violation.

Any person taking any of the above actions against a whistleblower, as a direct result of them reporting an alleged crime, will be subject to a disciplinary investigation.

Whistleblowers may not be charged with criminal, civil or disciplinary charges as long as they were acting in good faith and believed it was appropriate to report the alleged violation regardless of the result of the report.

The Authority has the right to refer to the whistleblower if he submitted false or misleading information in his report by purpose.

The Authority may reward the reporter if he submitted a report that was complete in format, contained serious information and incidents, and ended in the issuance of a financial **penalty** against the violator, according to the system established by the board of commissioners.

5. Investigation

Learning Objective

1.5.1 Know the rules governing an investigation into suspected crimes or violations

The Authority must notify the person under investigation at least seven business days before the start of the investigation, requesting the person to appear before the Authority on the date set for commencement of the investigation. Notices need to be given on official business days between 7am and 7pm.

At a minimum, the notice needs to include the following information:

1. day, month, year and time
2. full name of the notified person including their profession or occupation, residency and place of work (in the event the current residency or place of work are unknown, the last residency or place of work in Kuwait shall be used instead)
3. names of concerned parties
4. subject of the notice, a summary of the violation and its basis in law
5. number of the violation, and
6. data and place of the session to be held.

The Authority has the right to obtain data such as phone and fax numbers, email accounts and the address of the notified party from any source. Anyone submitting a complaint, litigants or their **representatives** shall take all due efforts to complete the service of notice.

The notification may be given by fax or email through the Authority's system, or via any other electronic system designated for this purpose in accordance with the approved mechanisms.

Notices are considered to be complete and legally effective once:

1. **Email** – as of the date it is sent from the Authority's email system and the report of transmittal is received.
2. **Fax** – as of the date and time recorded on the report confirming completion of transmission.

The time and date of receiving the judicial notice is determined as follows:

1. **Email** – date and time of transmission from the electronic information system of the Authority.
2. **Fax** – date and time of the transmission report.

The notice will be sent to the residence of the notified party or their chosen domicile. It will be maintained by the Authority in the original format (ie, emails will be kept electronically, faxes on paper).

5.1 Powers of the Legal Department of the Authority

The administrative investigation of the violation will be undertaken by the Authority's legal department. The investigator will have the right to:

1. **request any data**, documents or papers from any government organisation or any organisation related to the Authority
2. **hear the testimony** of any witness
3. **call on whomever** they deem necessary to testify during the investigation
4. **visit the premises** of, and inspect any register or information at, any **government body** or any entity of relevance to the activities of the Authority.

Persons need to provide the Authority with the data and information required for completing the investigation in a timely manner and without delay.

5.2 Right of Defence During Investigation

Persons who are subject to an investigation have the full right to defend themselves and to appoint an attorney to defend them.

5.3 Referring a Person to the Disciplinary Board

In the event the investigation concludes there is evidence of a violation, the Authority may refer the violator to the Disciplinary Board, in accordance with the following rules and procedures:

1. the managing director of the Authority issues the decision of referral to the Disciplinary Board including the documentary evidence and relevant investigation reports
2. the Disciplinary Board issues its decision about the violation
3. the board and all relevant parties are notified about the decision within 7 business days.

The Authority may issue a warning to a violator to cease committing the violation and not to repeat this in future. In addition, the Authority may subject the violator to additional supervision.

In the event an investigation is considered to be unjustified, the investigated person shall be notified with the decision thereof and may obtain a certificate stating this from the Authority.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. List the seven objectives of the Authority.

Answer reference: Section 1.1

2. List the responsibilities of the Authority.

Answer reference: Section 1.2

3. From whom may the Authority request information related to securities and/or the trading in them?

Answer reference: Section 2.1

4. Who is subject to supervision and inspection by the Authority?

Answer reference: Section 2.2

5. List the powers of the Judicial Officer.

Answer reference: Section 3.1

6. Describe the protection for whistleblowers.

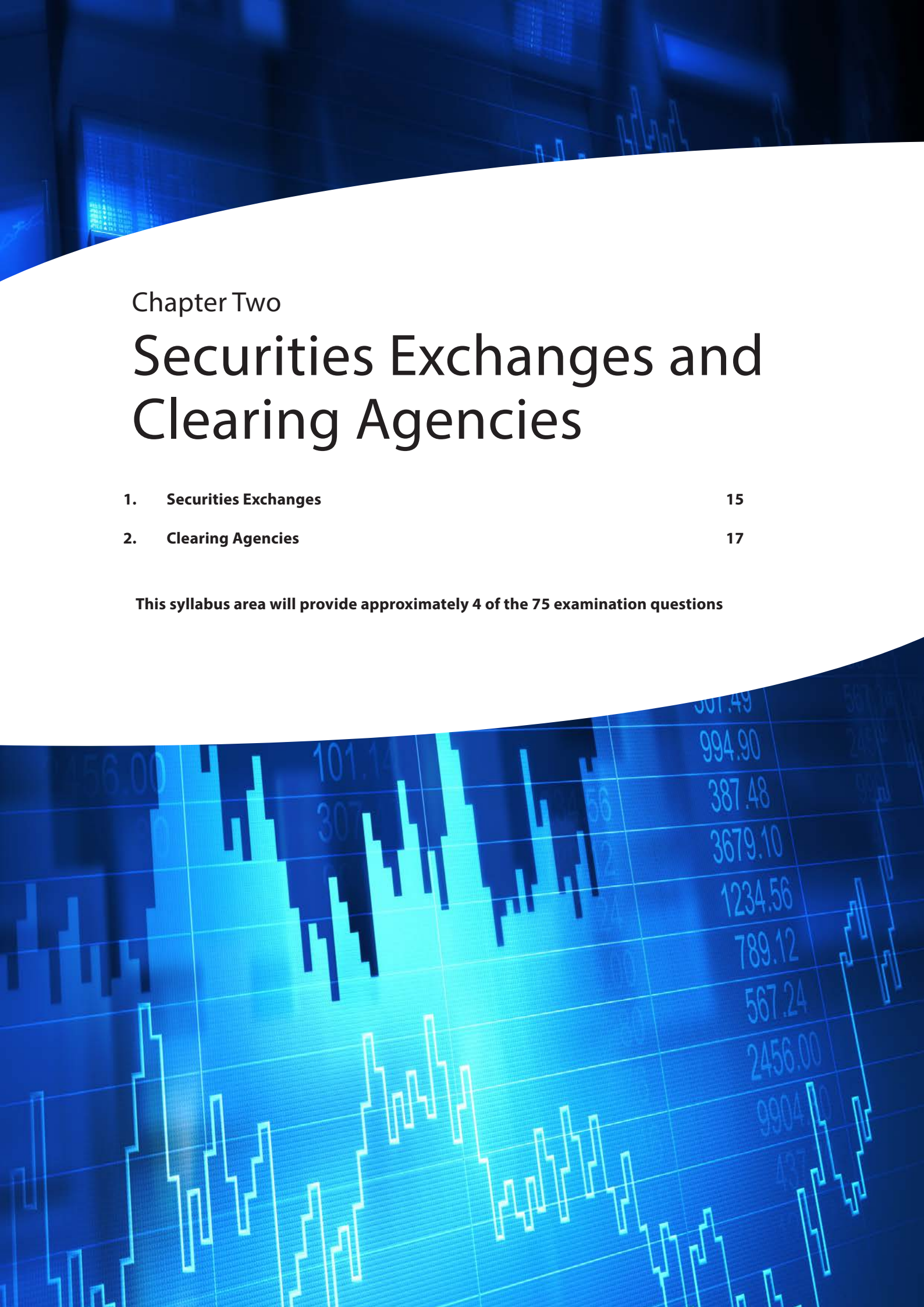
Answer reference: Section 4.2

7. List the powers of the legal department of the Authority.

Answer reference: Section 5.1

8. Under what circumstances may a person be referred to the Disciplinary Board?

Answer reference: Section 5.3

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Chapter Two

Securities Exchanges and Clearing Agencies

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This syllabus area will provide approximately 4 of the 75 examination questions



1. Securities Exchanges

Learning Objective

- 2.1.1 Know the obligations a securities exchange must fulfil
- 2.1.2 Know the type of matters that a securities exchange must immediately inform the authority about
- 2.1.3 Know the authority may: intervene in times of crisis; cancel an exchange's license

1.1 Obligations of a Securities Exchange

The Authority's rules and regulations specify a number of obligations a Securities Exchange (**Exchange**) needs to meet, which are defined as follows:

1. Establish policies and procedures to ensure fairness, transparency and efficiency in trading in listed securities.
2. Ensure management maintains proper awareness of the risks associated with its business and operations.
3. Establish policies and procedures to identify and manage any conflicts of interest between the Exchange and its members, or among shareholders or management.
4. Provide and operate its services in accordance with applicable laws and regulations.
5. Ensure it organizes its operations, standards of practice and its members' behaviour in accordance with the rules, policies and procedures of the Exchange.
6. Establish preventive measures to ensure the sound management of the technical operation of its systems, including the establishment of effective contingency arrangements to cope with the risks of system disruptions.



7. Provide services in accordance with the most advanced techniques, applications and automated systems in line with the international standards approved and set by the Authority.
8. Maintain sufficient financial resources to facilitate the performance of its business in a regulated form.
9. Maintain the confidentiality of all information under its custody with respect to its members, **issuers** and clients. It is not permissible to disclose such information except to the Authority, or by its order or by a judicial order. Policies and procedures shall be in place to protect the information systems.
10. Follow the Authority's instructions.

1.2 Informing the Authority

The Exchange must immediately inform the Authority of the following:

- one of its members cannot comply with any of the rules or the financial resources regulations of the Exchange
- financial irregularities or any other situations that indicate inappropriateness of a member or their inability to fulfil their obligations, or
- disciplinary actions taken against any member, operator, or subordinate.

1.3 Crisis Intervention

The Authority has wide powers to ensure fairness, transparency and efficiency of the market. These powers are specifically aimed at events that have a severe impact on the market including disasters, crises and other disturbances, or events in which several **traders** give misleading information. In these cases, the Authority may take any of the following actions:

1. suspend trading at an Exchange or the trading of any listed **security** for a limited period
2. cancel trading for a specific period or cancel transactions related to specific **shares**
3. issue decisions to dissolve all or part of an account balance or reductions thereof
4. amend trading days and hours, or
5. amend or suspend any of the exchange's rules.

1.4 Cancellation of an Exchange License

There are a number of instances in which the Authority can cancel the license of an Exchange. The cancellation has to be in writing and can be issued in the following cases:

1. the company is no longer able to meet any of the conditions required to qualify for a license
2. operations of the Exchange have been suspended for more than five working days
3. closure of the Exchange
4. the Exchange does not abide by the Authority's instructions despite being notified accordingly
5. the Exchange does not provide the Authority with the information requested or if the information is misleading or inaccurate.

The decision and the underlying reasons will be published by the Authority in the official gazette.

2. Clearing Agencies

Learning Objective

- 2.2.1 Know the activities undertaken by licensed clearing agencies
- 2.2.2 Know the obligations a clearing agency must abide by
- 2.2.3 Know the type of matters that a clearing agency must immediately inform the authority about
- 2.2.4 Know the authority may: intervene in times of crisis; cancel a clearing agency's license

2.1 Activities Undertaken by a Clearing Agency

The Authority may license a **clearing agency** to undertake one or more of the following activities or services:

1. providing one or more services related to settlement or clearing of securities in relation to payment and/or delivery
2. the safekeeping of securities within a **central securities depository** for keeping and transferring ownership or registry of related transactions including sale, purchase, transfer of ownership, pledge, distribution of profits and other transactions, or
3. any other services set by the Authority.

2.2 Obligations of a Clearing Agency

A clearing agency has the following obligations:

1. arrange fair and effective clearing and settlement of commercial securities transactions
2. manage risks associated with its activity and operate at the highest levels of professionalism
3. prioritize the public interest and that of those who deal with the company above the company's own interests
4. manage its services according to the related rules approved by the Authority
5. maintain confidentiality of all information and data, with the exception of data that is required by the Authority or the judicial authorities, and
6. apply the most advanced technology and automated systems in line with the international standards adopted by the Authority or as requested or decided by the Authority.

2.3 Informing the Authority

As part of its obligations and the conditions of its license, a clearing agency needs to inform the Authority as soon as possible when any of its counterparties become unable to abide by any of the rules applicable to clearing, settlement and depository operations. In addition, the Authority needs to be informed as soon as possible in the event of its financial position, or its ability to meet the obligations of any of its counterparties, becoming unstable or is showing signs of instability.

The notification to the Authority needs to set out the relevant information such as:

- name of the counterparty
- trading number
- identification number
- statement of the net amount of money due, or that there is no due balance, and
- statement of the name and number of the purchased or sold securities as well as the procedure held in that concern.

A copy of the notification will be sent to the Exchange and the counterparty.

2.4 Crisis Intervention

In the event of any disaster, crisis or disturbance which may result in a serious impact on the market, the Authority may issue instructions to amend or suspend any of the clearing agency's rules.

If a clearing agency fails to comply with the Authority's resolutions or instructions issued under its powers, the Authority may take any procedure deemed necessary to maintain the fair settlement and efficiency of the commercial transactions of securities or any category thereof.

2.5 Cancellation of a Clearing Agency License

There are a number of instances in which the Authority can cancel the license of a clearing agency. The cancellation has to be in writing and can be issued if the clearing agency:

1. is no longer able to meet any of the conditions required to qualify for a license
2. ceases to undertake the duties assigned to it or for which it is licensed
3. is liquidated
4. does not fulfil any obligations required under the law
5. does not provide the Authority with the information requested or if the information is misleading or inaccurate
6. makes amendments to its objectives in its Memorandum, or Articles of Association without obtaining prior approval from the Authority
7. requests the cancellation of its license.

The decision and the underlying reasons will be published by the Authority in the official gazette.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. List the obligations of a Securities Exchange.

Answer reference: Section 1.1

2. List the cases where the Securities Exchange must promptly notify the Authority.

Answer reference: Section 1.2

3. List the actions that can be taken by the Authority in the event that a crisis occurs in relation to a Securities Exchange.

Answer reference: Section 1.3

4. In what cases may a Securities Exchange license be cancelled?

Answer reference: Section 1.4

5. List the activities undertaken by a licensed clearing agency.

Answer reference: Section 2.1

6. List the obligations of a clearing agency.

Answer reference: Section 2.2

7. List the cases where a clearing agency must promptly notify the Authority.

Answer reference: Section 2.3

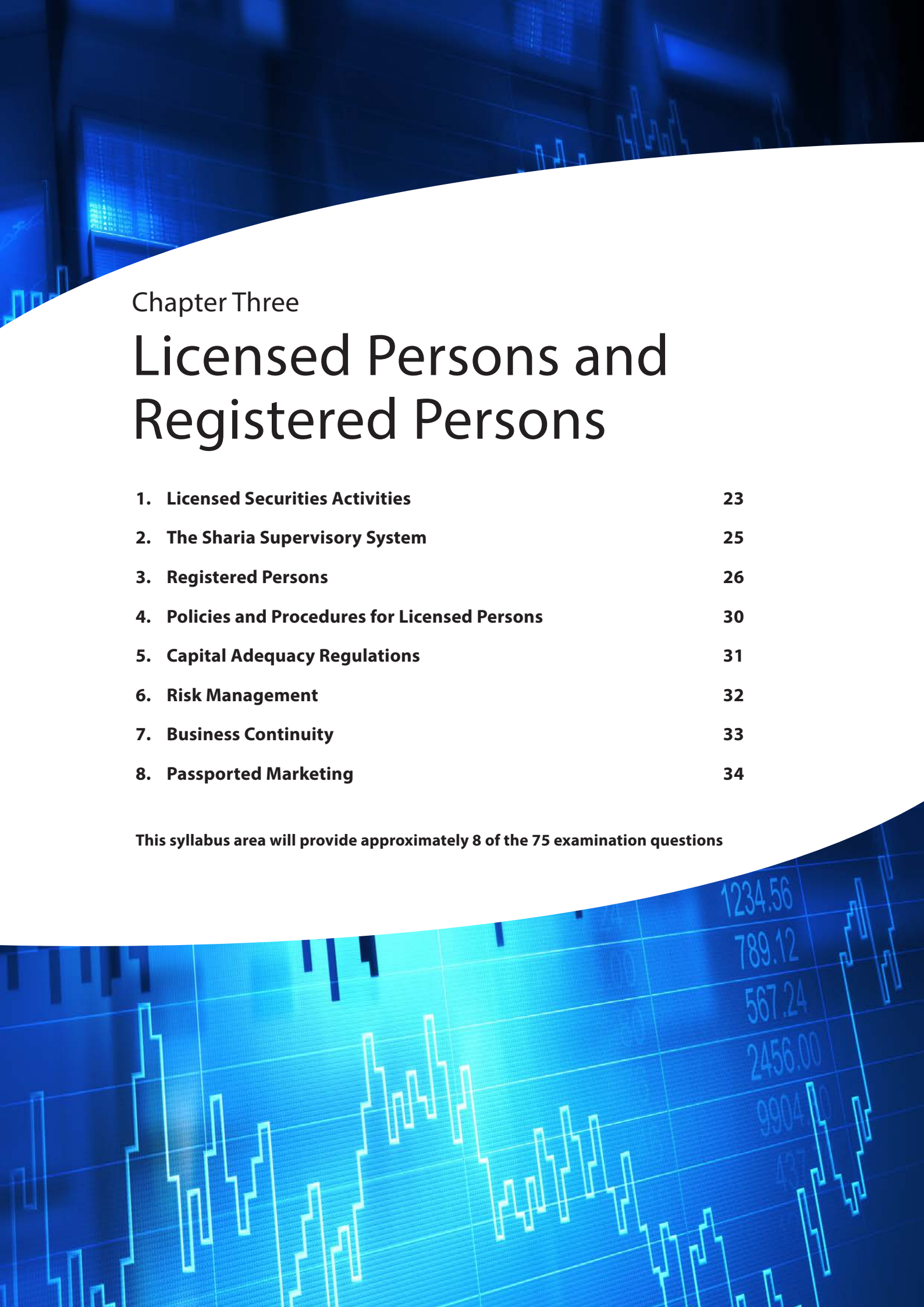
8. List the actions that can be taken by the Authority in the event that a crisis occurs in relation to a clearing agency.

Answer reference: Section 2.4

9. List the reasons for cancellation of a clearing agency license.

Answer reference: Section 2.5



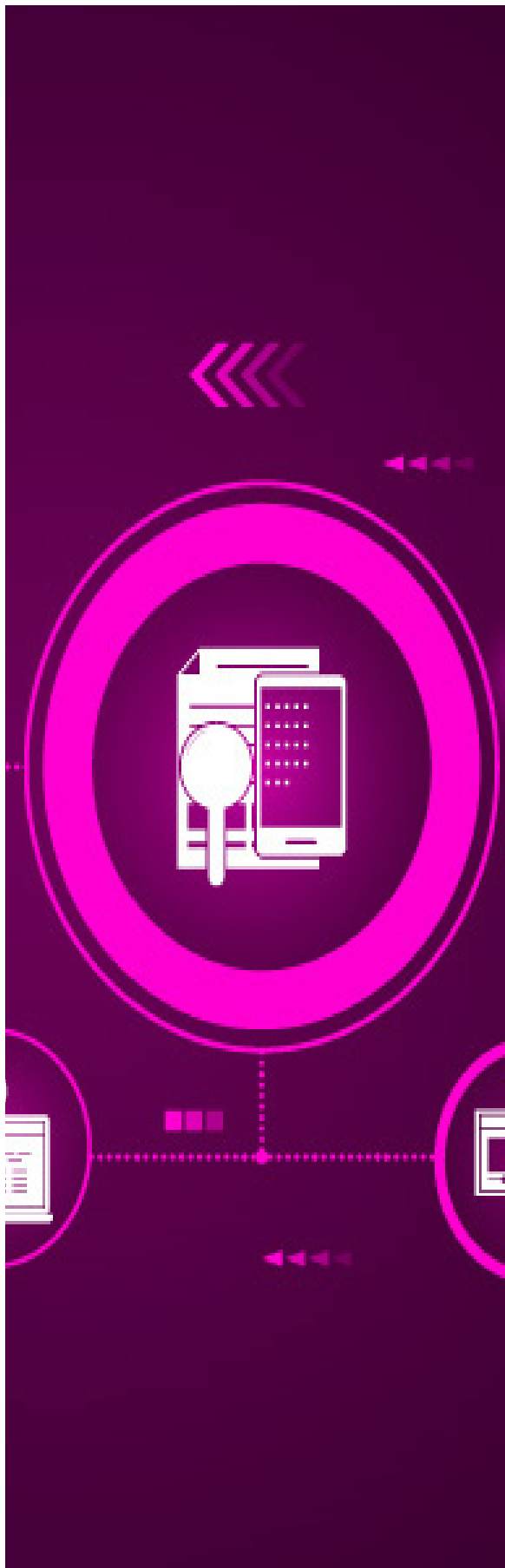
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Chapter Three

Licensed Persons and Registered Persons

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This syllabus area will provide approximately 8 of the 75 examination questions



1. Licensed Securities Activities

Learning Objective

- 3.1.1 Understand which security activities require a license from the authority
- 3.1.2 Know the actions related to the license that a licensed person can take
- 3.1.3 Understand the circumstances under which the authority may revoke or restrict the license of a licensed person

In order for a person to be permitted to undertake certain securities activities in the State of Kuwait, they need to apply for a license with the Authority.

The activities for which a license is required are:

1. **Security Exchange** – a market licensed by the Authority and designated for matching bid and ask offers for securities which follows specific trading procedures and performs the functions usually performed at securities markets.
2. **Clearing agency** – any entity that conducts settlement and clearing operations of securities, and one which provides the central custody of securities, and one which provides other related services.
3. **Investment portfolio manager** – a person who manages the **investment portfolio** of a **client**, which may include cash, securities, or other assets owned by the client, in accordance with the rules set by the Authority. The investment portfolio can be a custody portfolio, or managed by a portfolio manager, or managed by the client.
4. **Collective investment scheme (CIS) manager** – a person who manages entities that employs investors' money in various investment instruments.
5. **Investment adviser** – the Authority shall establish a **financial analysts' register**. Persons included on this register may issue



- publications and research which does not include any recommendations related to purchase or sale of **funds** and assets. Only persons licensed as **Investment Advisers** are authorised to make recommendations for the purchase and sale of funds and assets related to securities investments.
6. **Subscription agent** – a person who offers or sells securities for the benefit of an issuer or **ally**, or obtains securities from an issuer or ally for the purpose of re-marketing the same or managing their issuance.
 7. **Custodian** – a corporate entity licensed by the Authority to hold in custody clients' funds and clients' assets including those constituting a CIS in accordance with the provisions of the CMA Law and its Executive Bylaws.
 8. **Market maker** – a person who ensures the availability of supply and demand for one or more securities according to such controls as may be issued or approved by the Authority.
 9. **Securities broker registered in the Securities Exchange** – a corporate entity who purchases and sells securities for the account of a third party against a commission and is registered in the Securities Exchange.
 10. **Securities broker not registered in the Securities Exchange** – a corporate entity who purchases and sells securities for the account of a third party against a commission and is not registered in the Securities Exchange.
 11. **Investment controller** – a corporate entity licensed to carry out the activity of controlling and supervising CISs.
 12. **Credit rating agency** – a corporate entity licensed to carry out the activity of credit rating or the activity of rating credit information.
 13. **Valuation of assets** – a corporate entity licensed by the Authority to carry out the activity of valuation of assets and shares in kind, provided that one of its partners is an Auditor registered on the Authority's register. It must abide by the provisions of the Companies Law and its executive bylaws.
 14. **Qualified securities broker registered with an Exchange** – a corporate entity who purchases and sells securities for the account of a third party against a commission and is qualified and registered in the Securities Exchange.
 15. Any other activities which the Authority may specify.

The Authority may approve or decline the license or approve with restrictions.

Once granted, a license to carry on securities activities remains valid for a term of three years from the date on which it is granted. A licensed person intending to renew its license for another three years must apply to the Authority for a license renewal.

A licensed person may temporarily suspend practicing securities activities by notifying the Authority with the intended date of suspension and reasons behind it at least three months before the actual date of suspension and complying with the procedures specified by the Authority.

A licensed person may also apply to the Authority for a termination of their license, whether for all or some of the licensed securities activities, and the Authority will inform the applicant of its determination of the license termination application. In the event of rejection, the determination will be justified.

For existing Licensed Persons, the Authority may, under certain circumstances, suspend, revoke, or restrict the activity given that there is evidence that the licensed person has:

1. committed a major fault, given misleading information, or omitted to mention a material fact when applying for a license, or omitted to mention any other information that should be submitted to the Authority
2. failed to meet the standards applied under the Law or any other subsequent system or bylaws issued accordingly
3. violated any provision, rule, regulation or bylaws issued under this Law, or under any law related to its activity, or a securities law, or rule or bylaws of another country, and
4. been negligent in monitoring one of their affiliates (subordinates) by failing to prevent him from acting in a way which might be a violation of the provisions of this Law or Bylaws.

2. The Sharia Supervisory System

Learning Objective

3.2.1 Know how Licensed Persons operate in accordance with Sharia

Licensed persons holding themselves out to operate in accordance with the provisions of Islamic Sharia need to comply with all provisions associated with their licensed activity as well as the specific requirements related to Sharia. The Sharia requirements are not applicable to **units** subject to the supervision of the Central Bank of Kuwait.

Entities licensed to operate in accordance with Islamic Sharia need to meet the following conditions:

1. comply with the conditions and regulations, and all Sharia provisions approved by the Authority
2. have a code of ethics in accordance with the provisions and principles of the Sharia
3. ensure internal regulations, contracts, agreements, forms, products, and instruments are in accordance with the provisions of Sharia.

The articles and memorandum of association of these persons needs to specifically state that they operate their activities in accordance with Sharia. In addition, Sharia supervision and auditing needs to be incorporated in the internal processes and procedures to ensure professional and effective performance in accordance with the international criteria approved by the Authority. The Sharia audit system of the Licensed Person needs to consist of an **Internal Sharia Audit Unit** and an **External Sharia Auditing Office**. The Licensed Person may appoint a **Sharia Supervisory Board** to perform certain duties prescribed in the Authority's Executive Bylaws. The tasks of the Internal Sharia Auditing Unit, External Sharia Auditing Office, and Sharia Supervisory Board may not be combined.

The Internal Sharia Auditing Unit is an administrative unit reporting to the Audit Committee and is competent to supervise the commercial and financial transactions to ensure compliance with the Sharia decisions and criteria as well as the Authority's relevant decisions.

The **Sharia Audit Officer** is responsible for the Internal Sharia Auditing Unit. The Licensed Person may appoint an external entity to perform some tasks of the Sharia Audit Officer to an External Sharia Auditing Office registered with the Authority. The Internal Sharia Auditing Unit is responsible for the verification of the application of Sharia by reviewing randomly selected cases of diverse daily transactions. In addition, they are responsible for ensuring that the departments comply with the **Sharia standards** and the related decisions of the Authority, which may include periodical appointments and field visits to locations or organisations that the Licensed Person deals with, as necessary. The Internal Sharia Auditing Unit shall submit periodical reports to the Auditing Committee of the Board of Directors which shall be subjected to periodical reviews and audits.

3. Registered Persons

Learning Objective

- 3.3.1 Understand what registered employment positions are required to be registered with the authority
- 3.3.2 Know the restrictions on registered positions and registered employment positions
- 3.3.3 Know the fit and proper rules

Registered persons are defined as any person who holds or performs registered positions and **registered employment positions** for a licensed person; auditors registered with the Authority; and External Sharia Auditing Offices registered with the Authority.

With the exception of registered positions, the registration of Registered Persons is valid for a period of three years from the date of registration in their respective register with the Authority.

3.1 Restrictions on Registered Positions and Registered Employment Positions

The position of **Member of a Board of Directors** of a licensed person is considered a registered position.

Licensed persons need to appoint employees who are natural persons to fulfil the following registered employment positions:

1. **Chief Executive Officer (CEO)** – a person appointed by the company's Board of Directors from amongst the members of the Board or others, (directly under the Board of Directors), in charge of managing all executive works relating to the company's main activities, in accordance with the responsibilities and authorities granted to him. This includes the general manager of a limited liability company.
2. **Senior Executive** – persons occupying **executive positions** related to the **core activities** of a **financial or banking institution** and are directly subordinate to the CEO in accordance with the organizational structure adopted by the institution, such as a representative or an assistant to the CEO, and performing important and essential work relating to securities activities carried out by the licensed person.

3. **Financial Manager** – a person in charge of supervising accounting and financial procedures at a Licensed Person.
4. **Risk Management Officer** – a person responsible for determining, evaluating and classifying risks in proportion to a Licensed Person's strategic goals, in addition to controlling the risk control systems and monitoring the licensed person's ability to face risks, and updating the Licensed Person's register regularly and consistently.
5. **Internal Audit Officer** – a person in charge of independently evaluating and inspecting a Licensed Person's internal operational systems as well as determining and analyzing risks of potential operations in the Licensed Person, in accordance with the professional rules and standards of internal audit and providing recommendations and reports to the senior management and the Auditing Committee or Board of Directors.
6. **Sharia Audit Officer** – for persons licensed to operate in accordance with Sharia principles – a person in charge of supervision of the business and finances of a Licensed Person to ensure its compatibility with the provisions of Islamic Sharia and related resolutions and standards issued by the Authority.
7. **Compliance Officer** – a senior executive officer and employee in charge of ensuring the Licensed Person's compliance with all laws and legislations issued by the relevant regulatory authorities, and its compliance with the rules specified by the Exchange, clearing agencies and clients' contracts. The officer is also in charge of preparing and executing plans related to the position of compatibility and compliance to ensure that the regulatory requirements of a Licensed Person are met and its contractual obligations are also met, in addition to other legal requirements of relevance. They shall be in charge of executing the requirements of the Anti-Money Laundering and Combating Terrorism Financing Law.
8. **Representative of Securities Activities** – employees of a Licensed Person who undertake one or more securities activities for the benefit of a Licensed Person and to serve their clients. Representative of securities activities includes the following:
 - a. Representative of a securities broker registered in a Securities Exchange
 - b. Representative of a securities broker not registered in a Securities Exchange
 - c. Representative of an investment adviser
 - d. Representative of a CIS
 - e. Representative of a custodian
 - f. Representative of an investment controller
 - g. Representative of a subscription agent
 - h. Representative of a credit-rating agency
 - i. Representative of a market maker
 - j. Representative of a valuation of assets
 - k. Representative of a qualified **securities broker registered with an exchange.**
 - l. **Representative of an Investment Portfolio manager – (Managed by the client personally and custody)**
 - m. **Representative of an Investment Portfolio manager – (Managed by the Licensed Person in favour of clients)**
 - n. **Representative of a CIS Manager – (Operations Officer)**
9. **Senior Investment Adviser.**
10. **Senior Asset Valuator.**
11. **Any other employment positions** that the Authority deems are registered employment positions.

For persons licensed to practice the activity of an Investment Adviser, Valuation of Assets, or both without any other securities activities, the team leader who undertakes the duties of an Investment Adviser or Valuation of Assets shall be registered in the position of Senior Investment Adviser or Senior **Asset Valuator**, depending on the authorised activity they are licensed to undertake. The representatives will be registered by the Licensed Person according to the services it intends to offer. The Chief Executive Officer and the Senior Executive are not required to have experience in a financial or banking institution if they have at least seven years of experience working in a company whose main activity is in the area of consulting of asset valuation.

Registered positions and employment positions may only be undertaken by registered persons, and registered persons may only be employed by one Licensed Person. Persons registered in registered employment positions need to reside in the State of Kuwait.

It is the responsibility of the Licensed Person to register any individuals employed in registered employment positions with the Authority. The fit and proper rules (see section 3.2 below) determine the applicable registration procedure to be followed and need to be complied with by all candidates for registered and employment positions.

Generally speaking, an individual may be registered for more than one registered employment position, except for the functions in the first category. The registered employment positions are as follows:

1. Internal Audit Officer, Sharia Auditing Officer, Compliance Officer, Risk Management Officer and Financial Manager. These functions may not be performed jointly or in combination with any other Registered Employment Positions.
2. Representative of Market Maker and a representative of Investment Portfolio Manager – (managed by the Client personally and custody) or a representative of Investment Portfolio Manager – (managed by the Licensed Person in favour of Clients) or a representative of a CIS Manager or a representative of a CIS Manager – (Operations Officer).
3. Representative of a Qualified Securities Broker registered with an Exchange and a representative of Investment Portfolio Manager – (managed by the Client personally and custody) or a representative of Investment Portfolio Manager – (managed by the Licensed Person in favour of Clients) or a representative of a **CIS Manager** or a representative of a CIS Manager – (Operations Officer).
4. Representative of an Investment Portfolio Manager – (managed by the Client personally and custody) or a representative of Investment Portfolio Manager – (managed by the Licensed Person in favour of Clients) and the position of Members of the Board of Directors of other Licensed Persons.
5. All Registered Employment Positions, except for the position of the Chief Executive Officer, and the position of Member of the Board of Directors of the same Licensed Person.

With the exception of the position of Chief Executive Officer (CEO), Senior Executive, Financial Manager, Compliance Officer, and Representative of Securities Activities, Licensed Persons may outsource the registered employment positions as per the requirements and conditions stipulated in the Authority's executive bylaws.

If a person is licensed to practice the activity of Investment Adviser, Asset Valuation or both without any other Securities Activities, the following registered employment positions may be outsourced:

- Financial Manager
- Risk Management Officer

- Internal Audit Officer
- Compliance Officer.

The Licensed Person will notify the Authority within five business days of a registered person leaving their position. Vacant registered employment positions need to be filled within a period of six months. The exception to this rule is the vacancy of the CEO position which will need to be filled within a period of one year, during which period one of the members of the Board of Directors or one of the registered senior executives will undertake the duties of the CEO. The Authority will need to be informed within five business days of this situation taking effect.

The registration of a registered person may be cancelled by the Authority on the request of the registered person or on the request of the Licensed Person, in the event of termination of the registered position or the registered employment position. The Authority may either exempt or impose additional conditions on a Licensed Person in relation to registration of persons depending on the type of activity to be licensed.

3.2 Fit and Proper Rules

All Licensed Persons and their registered positions and registered employment positions are subject to the fit and proper rules. Special purpose vehicle (SPV) companies that issue securities are exempt from this requirement. Fit and proper rules can be divided into three categories:

- competence and capability
- honesty and integrity, and
- financial soundness.

3.2.1 Competence and Capability

The competence and capability assessment considers qualification and experience, and specifically assesses:

1. academic qualifications in relation to the position
2. appropriate professional experience in a related field
3. technical, leadership, and administrative abilities that allow the person to be independent in judgement, make appropriate decisions and understand all technical requirements and recent updates related to their responsibilities
4. ability to achieve all assigned tasks and responsibilities as well as working to achieve the organization's goal, and
5. awareness of all technical updates and professional and administrative developments.

The Authority may undertake all necessary steps to verify the technical and professional abilities that qualify a **candidate** for registered employment positions, including setting the necessary rules and conditions and passing qualification exams set by the Authority and the possibility of holding an interview for the candidate if deemed necessary.



3.2.2 Honesty and Integrity

Any candidate for a registered position and registered employment position needs to submit a declaration to the Authority stating that they have:

1. not been convicted of a crime involving a breach of honour or **trust** related to money laundering, terrorist financing or crimes related to corruption
2. a good reputation and manner, and
3. not been dismissed from their position by a disciplinary decision from a **regulatory body** or by a final judiciary judgement.

The Authority may take all necessary steps to verify that the candidate fulfils these conditions both inside and outside Kuwait.

3.2.3 Financial Soundness

A candidate may not have been declared bankrupt unless they have settled and no arrest order or warrant to pay their debt is outstanding against him. The Authority may consider the circumstances of exoneration of an individual in the event the exoneration has occurred within the past three years.

4. Policies and Procedures for Licensed Persons

Learning Objective

3.4.1 Know the minimum criteria a manual of policies and procedures should include

In order to ensure any Licensed Person undertakes their activities in an appropriate and structured way, and to comply with the laws and bylaws, the Authority prescribes a minimum level of policies and procedures a Licensed Person needs to have in place which needs to cover at least the following:

1. Well defined organizational structure including explicit limitation of authorities, capacity and responsibilities of the Board of Directors, executive management, and supporting positions. The organisation structure needs to specifically define the administrative levels and capacities in relation to approval of entering into transactions, expense payments, financial costs, and any procedures to ratify operations and transactions.
2. Monitoring systems and internal control programmes.
3. Human resources, training and development.
4. Adherence to the fit and proper requirements for Licensed Persons.
5. Conflicts of interest.
6. Separation of activities in a manner that ensures that information does not leak between the activities. An exception is made for the activities of investment portfolio management and the establishment and management of CISs.
7. Handling clients' complaints.
8. Risk management.
9. Anti-money laundering (AML) and combating the financing of terrorism.

10. Compliance.
11. Standards of professional conduct.
12. Implementation and management of the operations of the licensed activities, including the associated documentation.
13. Emergency plans and ensuring business continuity.
14. Protection of whistleblowers in relation to unlawful practices of the Licensed Person.
15. Sharia supervision for persons licensed to operate in accordance with the provisions of Islamic Sharia.
16. Policies and procedures of capital adequacy regulations.
17. Any other policies and procedures as required by the Authority.

The manual of policies and procedures needs to be provided to the Authority, who may request amendments to be made to ensure compliance with the laws and regulations. The Authority may, at any time, require additional policies and procedures to be added.

5. Capital Adequacy Regulations

Learning Objective

- 3.5.1 Know the regulatory capital adequacy requirements for licensed persons: scope; exempt licensed persons; types of eligible regulatory capital, types of Risk Based Capital Requirements

The CMA's Capital Adequacy regulations for licensed persons apply to all locally incorporated entities that are licensed by the CMA and operate in the State of Kuwait. The regulations need to be applied on a consolidated level, meeting capital requirements at group level.

Capital adequacy needs to be reported to the CMA on a quarterly basis containing quantitative and qualitative requirements within:

- 45 days of the end of the quarterly financial reporting period, and
- 90 days from the end of the annual financial reporting period.

The annual capital adequacy report has to be reviewed by a registered auditor registered with the CMA.

Licensed persons undertaking any of the following activities are exempt from the risk based capital requirements and the submission of quarterly capital adequacy reporting:

- asset valuation
- investment advisor
- credit rating agencies, and
- investment controller.

Licensed persons must ensure that, at all times, their actual Eligible Regulatory Capital, is in excess of their Risk Based Capital Requirement on an ongoing basis.

Eligible regulatory capital is the sum of the following types of capital:

1. Common Equity Tier 1 ('CET 1') capital – common shares, share premium, retained earnings, and accumulated other comprehensive income and other disclosed reserves.
2. Additional Tier 1 ('AT1') capital – instruments issued by the licensed person and associated share premium.
3. Tier 2 ('T2') capital – instruments issued by the licensed person that do not meet the requirements for AT1 capital and associated share premiums.
4. Capital instruments issued by consolidated subsidiaries of the licensed person, and held by third parties (ie, minority interest).
5. Regulatory adjustments applied in the calculation of CET1 capital.

Risk Based Capital Requirement is the sum of Risk Based Capital Charges calculated for each of the following:

- a. Market Risk.
- b. Operational Risk.
- c. Investment Risk.
- d. Credit Risk.
- e. Counterparty Credit Risk.
- f. Securities Underwriting Risk.
- g. Securities Financing Transactions.
- h. Risk charge for Assets Under Management.
- i. Other Exposures.
- j. Financial Market Infrastructure.
- k. Capital Requirements for Islamic Financing and Investment Instruments.

6. Risk Management

6.1 Types of Risks

Learning Objective

- 3.6.1 Know what risk management systems are designed to achieve, and how responsibilities for the management and reporting of risks are managed

6.1.1 Risk Management Systems

Risk management systems are an essential part of the strategic management of a Licensed Person and need to enable him to determine, analyse, assess, and evaluate their risks and subsequently manage them. The Licensed Person needs to have the mechanisms in place to follow up on the risks and to report them appropriately to protect and add value to the institution and other parties concerned.

These risk management systems may include environmental, social and governance **sustainability** factors through supporting the objectives of the establishment in the following way:

1. Presenting a business framework to support the implementation of current and upcoming activities.
2. Developing methods for decision-making, planning, and setting priorities via comprehensive and organized consideration of the activities of the organization, relevant developments and the positive and negative aspects of any potential projects.
3. Contributing to the effective use and appropriation of the capital and resources available to the organization.
4. Reducing excessive volatility in secondary trading.
5. Maintaining and developing assets and reputation of the organisation.
6. Developing and supporting manpower and informational resources of the organisation.
7. Maximizing the efficiency of the organisation.

As part of the risk management system, the Licensed Person needs to have the appropriate policies and procedures in place detailing the methods by which they manage their credit, market, liquidity, and operational risk they may be exposed to in various circumstances. The policies and procedures need to include a method of rating the risk the Licensed Person is exposed to. All policies and procedures related to risk management need to be approved by the Board of Directors which is responsible for ensuring that all risks are identified, rated, and managed appropriately. The Board of Directors is further responsible for the continuous monitoring of the processes.

On a six-monthly basis, the risk management officer reports on risk-related issues to the Board of Directors, a copy of which is provided to the Authority. It is the responsibility of the Board of Directors to inform the Authority of a breach in the risk management system including the steps that will be followed to remedy the issue.

7. Business Continuity

Learning Objective

3.7.1 Know the business continuity requirements for Licensed Persons

Appropriate precautions have to be put in place to ensure a licensed person's ability to maintain its operations, in particular maintaining sufficient capital to run their business and fulfil their legal obligations in the event of an unexpected suspension of their business. These precautions need to take into consideration the nature, volume, and diversity of the business. They need to be documented in what is generally referred to as a business continuity plan (BCP). On a regular basis, the BCP needs to be updated and tested to ensure its effectiveness and continued relevance to the latest developments in the field of activity of the Licensed Person. The BCP must include in particular the following:

1. Identifying the internal unit or individual responsible for the BCP and for the internal communications of it to other domestic and international entities in the event of an unexpected suspension of the Licensed Person's operations.
2. Setting priorities in the event of suspended operations.

3. The plans for ensuring the continuing availability of appropriate human, technical, and financial resources.
4. Documented means of internal and external communication in the event of suspended operations.
5. The plans for maintaining the continuity of operation for the technical systems, maintaining and safeguarding assets and records, and for the retrieval of any necessary information upon the occurrence of any unexpected suspension of its operations.

The Authority may, at any time, impose additional requirements, or request specific reports to ensure the Licensed Person has the ability to continue their business. Of particular interest is whether the Licensed Person holds sufficient capital in a manner commensurate with the nature and volume of the securities activities they carry out.

All related records need to be maintained for a period of five years after they have been removed or amended.

8. Passported Marketing

Learning Objective

3.8.1 Know the required obligations for passported marketing

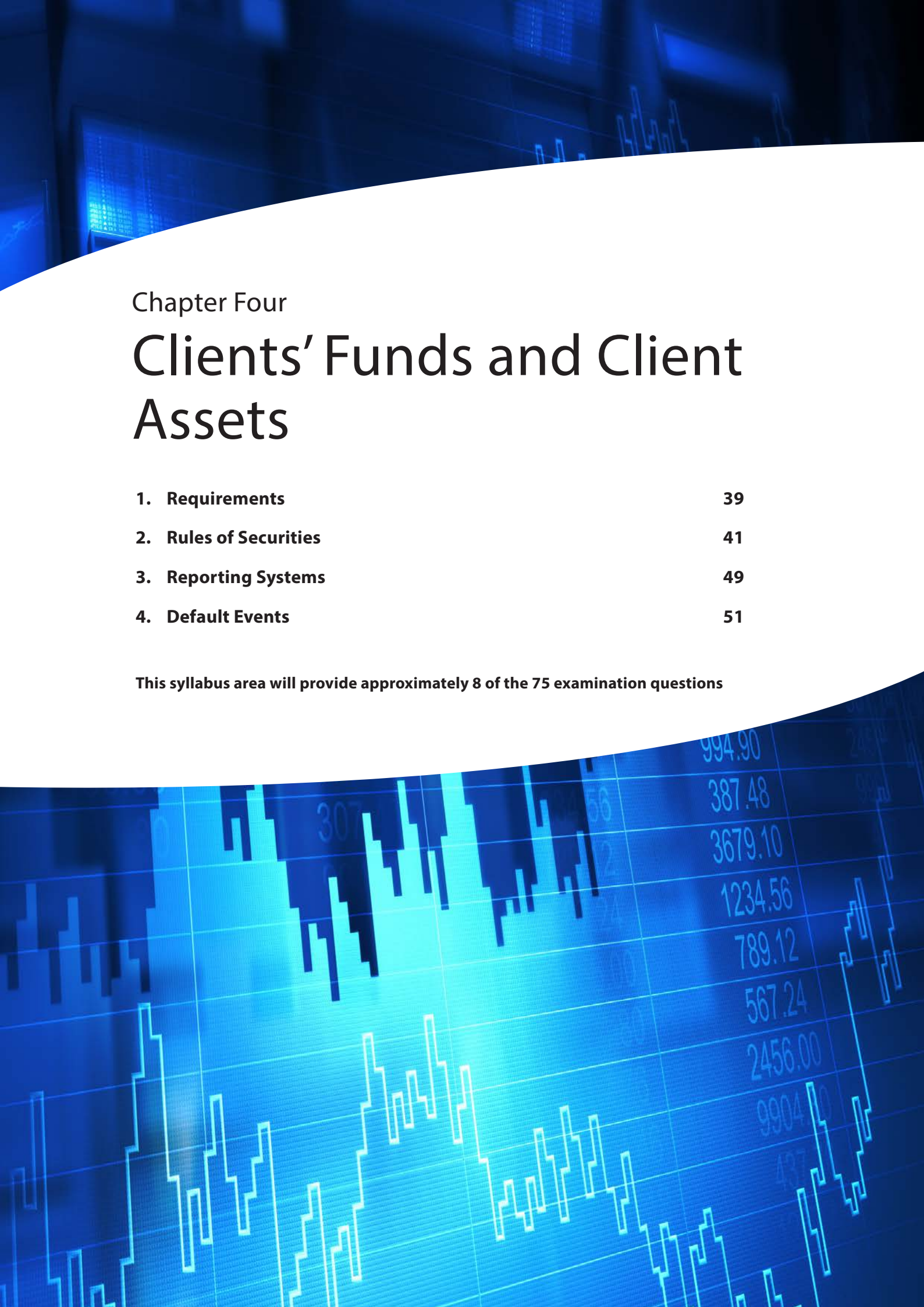
Marketing of the **passporting of financial products** within the GCC countries may only start once the person or entity responsible for the marketing can meet the following criteria:

- Have the human, technical and financial capacities and capabilities sufficient to carry out their obligations.
- Exercise the **care of a prudent person** and assume responsibility for any default, professional negligence of fraud and to indemnify any person who suffers damage as a result of their actions provided that the Authority shall be notified by the relevant parties within ten working days of the occurrence of any case stipulated in this clause.
- Promptly correct any failure to meet their obligations.
- Take all necessary measures to resolve complaints and grievances by clients.
- Promptly notify the Authority and clients of material events or **material information** that may endanger the interests of clients' assets.
- Provide evidence of ownership in the investment in the financial product to clients.
- Prepare and keep records of clients.
- Provide the authority with any data they request.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. **List the activities for which a license is required from the Authority.**
Answer reference: Section 1
2. **Who is responsible for the Internal Sharia Auditing Unit?**
Answer reference: Section 2
3. **List the conditions that need to be met by entities licensed to operate in accordance with Sharia.**
Answer reference: Section 2
4. **List the registered employment positions.**
Answer reference: Section 3.1
5. **List the categories of fit and proper rules.**
Answer reference: Section 3.2
6. **List the minimum policies and procedures that need to be covered by the Licensed Person.**
Answer reference: Section 4
7. **How long do records pertaining to the business continuity plan (BCP) need to be maintained?**
Answer reference: Section 7

The background of the page features a blue-toned image of financial data. At the top, there are blurred computer monitors displaying various charts and data. The bottom half of the page is dominated by a large, detailed financial candlestick chart with white and blue bars, overlaid with a grid. To the right of the chart, a list of numerical values is displayed in a light blue font, including 994.90, 387.48, 3679.10, 1234.56, 789.12, 567.24, 2456.00, and 9904.10.

Chapter Four

Clients' Funds and Client Assets

1. Requirements	39
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3. Reporting Systems	49
4. Default Events	51

This syllabus area will provide approximately 8 of the 75 examination questions





The definitions and general provisions related to client funds and assets apply to all Licensed Persons who manage or maintain clients' assets and funds and in particular:

- investment portfolio managers
- CIS managers
- custodians
- clearing agencies, and
- qualified securities brokers registered with an exchange.

The securities investment portfolio rules stated in sections 2, 3, and 4 of this chapter solely apply to investment portfolio managers.

1. Requirements

Learning Objective

- 4.1.1 Know organizational and record-keeping requirements relating to: client funds and client assets; registers, accounts and reconciliations
- 4.1.2 Know the correct procedure for the segregation of client funds, its transfer to other entities, and deposit conditions with third parties

1.1 Organizational and Record-Keeping Requirements

Client funds and client assets need to be held and maintained by the Licensed Person so that they may only be used for their assigned purposes. The Licensed Person may not use the funds or assets, or the rights arising therefrom, for their own account or for the account of any other client or third party. All arrangements for holding and maintaining client funds and assets will be recorded in the automated and supervisory systems of the Licensed Person that are adequate to maintain accurate records and to manage operations effectively.

Transactions and orders executed by the Licensed Person for their own account need to be clearly separated from transactions and orders executed on behalf of clients. In addition, the Licensed Person needs to ensure the client is the **interested person** in all their fund-related transactions concerning deposits, withdrawals and money transfers. All such transactions shall be issued by and received from the client's named account.

Licensed Persons need to keep records and accounts enabling them to distinguish assets and funds held for each client or for their own account. Client assets and client funds are recorded in a separate account in the name of the client.

Regular reconciliations will be undertaken between the internal accounts and:

- records with the bank accounts in which client funds are held, and
- records of any third-party holding client funds and assets in respect of securities activities.

In the event that any difference or discrepancy arises as a result of a reconciliation concerning clients' records and accounts with the Licensed Person, this must be resolved at the end of the **business day** on which the reconciliation is performed, and not exceeding three business days after the day on which the discrepancy arose.

When any discrepancy arises as a result of a reconciliation between a Licensed Person's internal records and with a client's account at a bank where client funds are held, or with the records of any third party which holds the **client's funds**, the Licensed Person must correct the discrepancy immediately. If the Licensed Person is unable to correct the discrepancy and there is a shortage in the client's account, then the Licensed Person must pay the difference from his own funds. The Licensed Person must inform the Authority immediately in such an event. Creditors of the Licensed Person cannot have recourse on a Licensed Person's client assets or client funds.

With the exception of persons licensed to practice the activity of CIS Manager, Licensed Persons must appoint a registered auditor with authority to ensure compliance with the rules stipulated on annual basis, and the appointed auditors must submit an annual report to the Authority in this regard.

1.2 Segregation of Client Funds and their Transfer to Other Entities Agencies

Client funds need to be placed in a separate and independent account opened with a **local bank** immediately upon receipt. Exception to this rule is when the settlement of a client's transaction takes place in a foreign market, in which case, the transaction shall be settled in accordance with the relevant settlement procedures.

The Licensed Person shall take prudent care in the selection, appointment and periodic review of the bank where client funds are deposited, ensuring the client's accounts are segregated from the accounts of the Licensed Person's accounts. Clients' funds may be placed in one or more banking accounts.

Client funds may be transferred to third parties such as clearing agencies to fulfil a client's obligations arising from securities transactions. The transfers are limited to the transaction amount. It is the

responsibility of the Licensed Person to ensure that an entity receiving clients' funds keeps these funds in an independent and separate account designated for the Licensed Person's clients.

1.3 Deposit of Assets and Conditions for Depositing with Third-Parties

A Licensed Person may deposit client assets held by it on behalf of his clients into an account(s) opened with a third party who is licensed by the Authority or by an equivalent foreign **regulatory entity**, to hold clients' assets. A Licensed Person must take care of a prudent person while selecting this person and considering in particular the legal requirements and market practices, financial status and reputation, as well as dangers of depositing assets at one entity.

A Licensed Person must ensure segregation between his clients' assets deposited with a third party and any other assets belonging to the clients of such person by maintaining separate accounts with the person where the clients' assets are held. In case of depositing clients' assets at another custodian, the Licensed Person must prepare a periodic report on that entity, in respect of following up on the custody and possession of such assets.

2. Rules of Securities

Learning Objective

- 4.2.1 Know the definition, goals, components and types of securities investment portfolios
- 4.2.2 Know what information a Licensed Person must obtain before providing services to a client
- 4.2.3 Know how Licensed Persons comply with their duty of care obligations
- 4.2.4 Understand the duty of honesty and what a Licensed Person should and should not do
- 4.2.5 Know the particular content that investment portfolio agreements must include
- 4.2.6 Know the relevant operational requirements and controls: executing client transactions; fees and commissions; controls and internal auditing

2.1 Securities Investment Portfolios' Definition, Goals, Components and Types

2.1.1 Definition of an Investment Portfolio

An investment portfolio is one of the main investment tools which consist of various securities that differ in type or revenue or maturity term, and which is managed, safe-guarded, or held by a person licensed by the Authority. The purpose of an investment portfolio is often for trading and investment in local and foreign markets, as well as achieving the highest possible revenue for clients under acceptable levels of risks.

An investment portfolio must be owned by one client, excluding the following:

- inheritance cases, and even distributing shares to heirs
- public corporate entities who manage or act with the funds of others in accordance with the laws of their establishment.

Investment portfolios are managed by the Licensed Person or the client personally, subject to the client's investment goals and level and degree of risks accepted by the client. Thus, the method of managing investment portfolios by the Licensed Person may take any of the following forms:

1. Investment portfolio managed by the Licensed Person for the client

Components of this portfolio are managed and investment resolutions are taken by the Licensed Person in accordance with the client's investment desires and aims, which are agreed with the Licensed Person based on set or non-set scale investment policy:

- a. **Set scale (restricted) investment policy** – the client determines goals and risk level as well as the desired investment tools for example: securities type, risks degree, economic activity sector and targeted markets. The Licensed Person manages the investment portfolio in accordance with the client's goals.
- b. **Non-set scale (absolute) policy** – the client determines goals and risks level without identifying the portfolio investment policy. The Licensed Person identifies and manages the portfolio with full investment powers pursuant to the client's policies and goals.

2. Investment portfolio managed by the client personally

The client identifies goals, risk levels and portfolio investment policy. He personally manages and varies investments as per his trends and investment vision. The Licensed Person's role is limited to executing client's orders and instructions, pursuing investments and providing him with all investment portfolio-related services.

3. Custody Investment Portfolio

This type serves the client's desire to maintain securities at average or long term through safeguarding with the Licensed Person. The client sets a fixed policy to maintain investment portfolio components. The role of the Licensed Person is limited to pursuing the client's portfolio components and provision with all investment portfolio relevant services, especially using portfolio's components for safeguarding and long-term investment in order to, possibly, prevent using components thereof in other purposes.

2.1.2 Investment Portfolio Goals and Purposes

The main objective of establishing an investment portfolio is meeting the client's needs, which aim mostly to achieve profits with the least possible risk through long, medium or short-term securities investment. This is done by following wise and comprehensive investment policy which is considered an apparent framework of the Licensed Person investment philosophy and goals. Establishing an investment portfolio may have multiple purposes. In light of the client's goals, security type is selected to best suit these goals. Below are examples of the most important goals and purposes of an investment portfolio:

1. Achieving constant growth in the money invested in securities and improving the market value of the investment portfolio.
2. Maintaining client capital, as this is considered a basic necessity for the client's continuous investment in the stock market.
3. Achieving additional profits through distributions given by the invested company.
4. Reducing securities investment risks through diversifying the investment portfolio.
5. Influencing the company's resolutions through voting in shareholders' general assemblies. The greater the number of the shares increases the client's (shareholder's) power in the company, and subsequently he has more ability to interfere in any resolution contradicting his interests.
6. Providing another source for liquid money when needed, through investment in high liquidity securities which can be sold and purchased at all times.

The client's investment goals and policies must be clear and accurately defined.

2.1.3 Investment Portfolio Components and Establishment Method

Investment portfolios mainly consist of securities, in addition to client's cash money assigned for investment. Thus, portfolio components are characterized by movement and change according to the type and goals of every client, and risk acceptance degree. The combination and category of securities, especially shares, **bonds**, **sukuk**, units in CISs, and other tools vary from one portfolio to another. In addition, investment portfolio securities vary in type, value, and revenue and maturity period.

Investment portfolio establishment is governed by important controls and factors such as available capital, expected revenue, portfolio relevant risks and variety. These factors must be put into consideration by those who want to establish investment portfolios to achieve investments goals. Below are the controls to be considered while establishing an investment portfolio:

1. **Financial or capital controls**

The Licensed Person must identify the client's financial status, depending on money available in the portfolio to finance his financial portfolio. This money may be resulting from facilities and loans obtained by the client whether portfolio components are the guarantee or not.

2. **Variety controls**

If the investment portfolio is managed by the Licensed Person, it is necessary while selecting securities, to apply variation principles, subject to one or more of the following controls:

- variation between entities issuing the securities
- variation of security type (eg, **preferred shares**/normal shares, **sukuk**, companies/governmental bonds, variable interest bonds/fixed interest bonds, units in CISs)

- variation of risk degree accompanied to each security
- variation between economic sectors
- variation according to maturity period
- variation according to securities realized revenue
- variation between listed and non-listed securities
- variation between following markets:
 - immediate or cash markets, future markets, and **financial derivatives** markets
 - local and foreign markets.

2.1.4 Investment Portfolio Types

Due to the spread and branching of financial and investment markets and the variation of the available tools and different securities, there are many types of investment portfolios due to various components, goals, and accompanied risks.

Below are examples of the most important types of investment portfolios managed by the Licensed Person:

1. regular revenue portfolio – income
2. profit portfolios – growth
3. profit and revenue portfolios – mixed
4. conservative portfolios
5. high risk portfolios.

2.2 Client Information

Prior to providing any services to a client, a Licensed Person needs to ensure obtaining full and correct information enabling himself to identify the client and determine their investment goals.

The following information needs to be obtained by the Licensed Person:

1. detailed personal information (eg, name, date of birth, nationality, address or workplace, name of any agent or legal representative, corporate body, nationality and head office)
2. whether the client is a member of a Board of Directors; or of the executive or **insiders** of a **listed company**
3. financial status and consistency with investment purposes
4. ability to take risk (low, medium, high)
5. experience and its relevance to various investment areas, activity levels in various stocks and dependency on investment advisers
6. compliance with all requirements and controls of money laundering and counterterrorism financing, both prior to the start of the relationship and on a continuing basis including the constant auditing of transactions to ensure they are consistent with the level of the client's knowledge, information, financial resources, and the source of funds
7. for corporate clients, the Licensed Person needs to ensure the client's main activities as outlined in their articles and memorandum of association include dealing in securities
8. review and update the client information continuously at least annually as well as on specific events, such as the expiry of a civil ID, passport, or commercial license as appropriate.

Moreover, it is not the responsibility of the Licensed Person to assess the validity of the information the client has provided, and they may provide services to the client on the basis of this information unless they have any reason to believe it is invalid or inaccurate.

In the event the information is insufficient, the Licensed Person will notify the client that they will suspend services unless the information is provided within three business days of the notification. If the information is not provided on time, the services will be suspended.

The Licensed Person is exempted from gathering the information in points 4 and 5 for **qualified professional clients** and items 3, 4, and 5 for **professional clients** by nature. (See chapter 5 for the definition of **professional client by nature** and qualified professional clients.)

2.3 Duty of Care

A Licensed Person has a duty of care towards their clients and works in their benefit. Client investments need to be managed by the Licensed Persons and may not be delegated to anyone else. Providing the client approves in writing, specialized companies may be appointed to manage the client's investments outside Kuwait in accordance with the rules and regulations in the foreign markets providing the Authority's laws and bylaws are not violated.

The Licensed Person needs to establish one primary investment portfolio for each client per investment portfolio category. In order to be able to strictly control the components of each portfolio and to procure its effective and appropriate management, sub-portfolios may be established.

The client will be enabled to exercise all rights arising from the securities their own such as the rights to take any action on securities, voting, and nominations and appointments to the Board. The Licensed Person may exercise these rights on behalf of the client on their specific written instruction which could be either via special authorization or agreed in the contract. The Licensed Person shall not execute an order from a client if this would incur a penalty from a regulatory body, or in the event the client's activities are suspended by an investigatory authority or judicial entity (see section 3.3 below for more detail), or where there is a condition in the agreement between the client and the Licensed Person and other person(s) which restricts the client's right of exercising all or part of his rights arising from ownership of the securities.

The Licensed Person may provide clients with subscription forms for shares in newly established companies, but if awarded, the securities certificates must be issued in the name of the individual subscriber.

The Licensed Person is responsible for any mistake that he (or his employees) may make in the execution of clients' transactions and orders, and will take all necessary actions to recover the same. Any gross negligence, bad intentions, or deliberate violations of duties in managing client investments shall not be waived.

Ownership documents in the name of the client or in the name of the Licensed Person themselves need to be kept safe at all times.

2.4 Duty of Honesty

The Licensed Person must, at all times, act with good faith and in the best interests of their clients. They shall take the care of a prudent person and be honest in all their transactions. They achieve this by complying with the following:

1. Use clients' funds and assets solely for the purposes stated in the signed contract and act within the limits of their authorization.
2. Do not provide false or exaggerated data or information about existing or potential investments in order to direct clients to take decisions serving the Licensed Person's own interests.
3. Do not guarantee any losses from securities transactions unless it is in line with the nature of the transaction.
4. Do not promise profits or gains from any investment, or promote investments by making such promises.
5. Do not use clients' investment portfolios for any other purpose or for their own benefit. This specifically applies to any type of financing whether in the form of giving loans or credit facilities or using an investment portfolio as collateral for loans or credit facilities for the benefit of the Licensed Person.
6. Do not make any unnecessary purchases and sales using a client account for the purpose of fees and commissions.
7. Do not enter into any transaction on behalf of a client that may have any of the following consequences:
 - influencing prices of securities
 - creating a false impression of the value of the security or the level of interest in it
 - setting an artificial price of a security.
8. Do not execute a client's order if:
 - it would incur a penalty set by a regulatory body
 - the client has been suspended by an investigatory authority or judicial entity
 - there is reason to believe the order may entail:
 - improper and misleading practices for the purpose of securities manipulation
 - insider trading, or
 - not abiding by applicable securities-related laws and rules, particularly clearing and settlement rules applicable to the Exchange and the clearing agency.

Items 6 and 7 above do not apply to investment portfolios managed by the client.

2.5 Investment Portfolio Agreements

The management of investment portfolios is subject to a written agreement that needs to specify the type of portfolio, goals, purpose, and relevant controls. For portfolios managed by the Licensed Person, the agreement needs to also specify the applicable investment policy. In this case, the client needs to provide the Licensed Person with written consent for every change in the policy.

The agreement also needs to include the limits of authorization given to the Licensed Person which indicate the extent of the power and authorization of the Licensed Person in managing the investment portfolio as appropriate the form of the portfolio (managed by licensed person, managed by the client, custody). The agreement also needs to state order transmissions and confirmations mechanism, whether it will be done in writing, via recorded phone calls, or by email.

The agreement needs to specify whether the contract is intended for a specific period or indefinitely and the notice period that the parties need to observe to terminate the contract. Limited time contracts may be terminated prior to the expiry date providing that it is in a timely fashion and with an appropriate reason. The contract may not be terminated by the Licensed Person without due cause prior to the expiry date. The client will need to be notified of the termination with sufficient notice to enable them to take appropriate action to protect their rights.

The agreement further needs to include:

1. The way in which a client will be notified of completed transactions and the frequency of results reports agreed with the client.
2. Reports to be provided to the client including frequency and method of presentation.
3. Delivery method for investment assets to the client immediately and without delay on request of the client, in the event the agreement is not renewed, or on termination.
4. Whether the client is a member of a Board of Directors of a listed company, holds an executive position, or is an insider with inside information. The client will immediately notify the Licensed Person of any changes.
5. Policy for keeping accounting records and relevant supporting documentation.
6. Delivery method of reports, notices and other communications: written to be delivered by courier or mail; through fax or email; or any other modern communication mechanism.
7. The agreement may include whether the parties agree to the option of arbitration in accordance with the Authority's **arbitration rules** in the event of any dispute arising concerning the contract.
8. That the Licensed Person and the client shall abide by the laws and regulations, in particular the Authority's law and its Executive Bylaws.

2.6 Operational Requirements and Controls

When executing transactions for a client, the Licensed Person is bound by the agreement. In addition, the Licensed Person needs to secure the client's interest when transmitting their orders to other entities for execution. Orders from different clients for securities traded on an exchange may not be combined into one transaction but need to be executed separately. Orders for non-listed securities from different clients may be combined providing all clients concerned are informed accordingly. This does not apply to investment portfolios managed by the Licensed Person.

Without prejudice to any advice and guidance duties of the Licensed Person, client orders need to be executed without any (in)direct interference in the client's decision. In the execution of transactions, the Licensed Person needs to follow the tools and mechanisms approved by the Exchange. A client order shall not be executed unless there are sufficient funds (purchase) or securities (sale) in the client's account. Under no circumstances is the Licensed Person allowed to use one client's funds or assets for the benefit of another client. All documents related to sale and purchase transactions on behalf of a client will be kept safely.

2.6.1 Fees and Commissions

Fees and commissions charged by the Licensed Person for managing an investment portfolio need to be reasonable and consistent with the nature of the services provided. No fees may be charged for the establishment of an investment portfolio. The Licensed Person needs to inform the client of the method of calculating commissions and fees for all services including any incentive bonus (if any) determined on the basis of profits achieved, and how these fees and commissions shall be paid.

2.6.2 Controls and Internal Auditing

Additional controls and internal audit restrictions apply to investment portfolios due to the confidentiality and privacy of these portfolios as well as the fact that the Licensed Person has direct access to the client's accounts. The physical location at which investment portfolios are managed shall be secured and equipped with effective monitoring tools. Access to these locations needs to be restricted to a limited number of employees who each shall be certified by the executive management of the Licensed Person. These employees will be the only ones authorized to deal with the accounts of the Licensed Person and the clients.

The Licensed Person needs to ensure complete separation between the managerial entities that manage the investment portfolios owned by it and those owned by the client. Complete separation should be done by providing different employees for the investment portfolios managed by the licensed person and those managed by clients.

In the event of death or inheritance, and until a determination of the heirs is issued, the Licensed Person shall freeze the client's account unless the portfolio management contract specifies otherwise.

Once the Licensed Person has obtained a copy of the determination of the heirs, the restrictions on the client's account may be removed and the following steps can be taken:

- Commence the formal procedures to transfer the contents of the Client's account to its beneficiaries according to the determination of the heirs, within a period not exceeding three months.
- If the parties entitled to the deceased Client's portfolio request to liquidate the contents of the Investment Portfolio (sale only) – complete all formal and legal requirements, and obtain the approval of all the heirs to liquidate the portfolio's contents. If there are no objection from any of the heirs, liquidate within a period not exceeding one month. The Client's portfolio shall be permanently closed after that period.

In all cases, these steps shall comply with the regulations of the relevant foreign markets regarding Investment Portfolios of Securities that include securities in the foreign markets.

3. Reporting Systems

Learning Objective

4.3.1 Know the Licensed Person's reporting obligation to: clients; the Authority

3.1 Clients' Reports

A Licensed Person needs to have a comprehensive reporting system in place to provide clients with clear and accurate information on the status of their investment portfolio and completed transactions. The reporting system needs to be able to provide periodic (at least monthly) reports detailing the composition of the assets of the portfolio and value of the investment portfolio including, at a minimum:

- a. investment portfolio number
- b. reporting date
- c. cash balances available for the client
- d. securities included in the investment portfolio
- e. total value on the reporting date
- f. realized and unrealized profits/losses for the year to date
- g. mortgage details including the person or entity to which the portfolio is mortgaged and the rank of the mortgage
- h. total fees and commissions for the period broken down by type (purchase and sales transactions, management of the portfolio, or other services)
- i. description of each security in the investment portfolio:
 - name
 - exchange the security is listed on
 - average purchase cost
 - market value of the security listed on the Exchange
 - value in purchase currency and, complying with international accounting standards in determining and evaluating the security, value as per exchange rate
 - security weight to total investment portfolio
- j. statement of movements within the investment portfolio for the period.

The following notices concerning any matters related to securities in the investment portfolio owned by the client are produced by the reporting system:

- a. dates of companies' general assembly meetings and of other meetings of securities holders
- b. declarations of general assemblies, of any profits or revenues distribution whether in cash or bonus shares or physical assets or other rights
- c. receipt of any profits and revenues distributions in cash or bonus shares or physical assets or other rights by the Licensed Person, providing the profits receipt period shall not exceed ten business days as of distribution commencement
- d. resolutions taken by boards of companies, and related to any amendments in the capital of the issuer, limited to the authorized capital or converting securities to shares in company capital

- e. subscription or capital increase, **acquisition offer** or **merger**, liquidation, or changing a security issuer company's objectives or name or in the event of suspension thereof or withdrawal from the exchange
- f. resolutions issued by regulatory bodies against the companies.

These notices shall be provided to the client immediately upon the occurrence of the events specified.

3.2 Authority's Reports

Quarterly reports will be provided to the Authority, within a period not exceeding ten working days from the end of each quarter, covering all securities investment portfolios for which the Licensed Person is responsible, whether managed by the client, the Licensed Person, or held in custody. The following reports need to be prepared:

1. Securities investment portfolios established or closed by the Licensed Person during the quarter.
2. Securities investment portfolios managed by the Licensed Person, the client, or held in custody, and the value of each. For each portfolio, it needs to be determined whether it is owned by a natural or corporate person, and the authorizations issued by clients to other persons on these portfolios, during the quarter.
3. Trading by members of the Board of Directors and employees of the Licensed Person on securities investment portfolios held with the Licensed Person, during the quarter.
4. Trading by investment portfolios of clients on securities issued by the Licensed Person, its **parent company**, subsidiaries or associate companies, during the quarter.
5. Trading by investment portfolios of foreign (non-Kuwaiti) clients on listed securities, during the quarter.

In addition, a Licensed Person needs to immediately inform the Authority of the following:

- a. Any change or development which genuinely affects the Licensed Person's performance of their duties in managing investment portfolios.
- b. Refraining from executing transactions for a client pursuant to point 8 in section 3.3 above.
- c. Any problem or fault in the internal control system of the Licensed Person.
- d. A report indicating the name of the entity authorized to manage investment portfolios. This report shall define in detail the managerial entity which manages each client's investment portfolio and any company portfolios. This is in addition to immediately informing the Authority of any change in the identity of the entity authorised to manage any investment portfolio.
- e. A copy of the investment portfolio's management manual and its policies for managing investment portfolios as approved by the Licensed Person's board members as well as any amendments to this manual.

4. Default Events

Learning Objective

- 4.4.1 Know the meaning and actions to be taken when a: primary default event occurs; secondary default event occurs

Default events are defined as an occurrence of a factual or legal emergency event for the Licensed Person that may lead to the inability to continue performing business, or meeting obligations, or losing its administrative capacity, thereby jeopardizing the safety of clients' funds and assets in the possession of the Licensed Person.

Default events are divided into two parts:

1. primary default event, and
2. secondary default event.

4.1 Primary Defaults

A primary default event occurs in the following events:

1. Disorder of the financial status of a Licensed Person, including accumulated losses reaching 75% of the capital, the inability to fulfil an obligation on the due date, material doubt expressed by the auditor regarding the ability to continue objectives, or any other cases the Authority deems to affect the ability of the licensed person to continue its business.
2. Disorder of the administrative status of a Licensed Person, including sudden **group** resignation by members of the Board of Directors or executive management, annual general assembly meeting not being held for more than one year from the last scheduled date, not forming the Board of Directors for more than six months from the date of vacancy, issuance of a decision by any regulatory body to isolate the majority of members of the Board of Directors, and any other case the Authority deems to affect the ability of the licensed person to continue its business.
3. In case of appointing a receiver or administrator, or the attachment of execution over its assets by at least 50%.

In the event a primary default occurs, the Licensed Person must immediately notify the Authority. In case of non-compliance by the Licensed Person, the Authority will announce that the Licensed Person is in primary default event after examining and assessing the disorder of the financial or administrative status or both. The Authority may suspend the Licensed Persons transactions, as it deems necessary.

When the Licensed Person is in primary default event due to disorder of financial or administrative status (events 1 and 2 above), a work plan to resolve this disorder must be submitted to the Authority within ten business days from the date of the Authority's notice or announcement. If the Authority approves the plan, the Licensed Person must immediately implement it and provide the Authority of periodical reports regarding the implementation results. Once the Licensed Person has completed executing the plan, the Authority will immediately announce the end of the primary default event.

In case any of the following occurs:

- the Authority rejects the plan submitted by the Licensed Person
- the Licensed Person fails to implement the plan within the specified period, or
- a primary default event occurs due to the appointment of a receiver or administrator, or the attachment of execution over its assets by at least 50% of such assets (event 3 above).

The Licensed Person needs to take prompt actions to deliver client funds and assets to them or any party relevant to holding, managing or safekeeping them, taking into consideration the contracts and agreements relating to such funds and assets within six months. The Authority may also require other actions or procedures to resolve any primary default event.

4.2 Secondary Defaults

A secondary default event occurs in the following events:

1. Disorder of the financial or administrative status of a third party who holds funds of a Licensed Person.
2. In case of appointing a receiver or administrator, or whole attachment of any of its assets, or partial attachment of at least 50% of its assets.

In the event a secondary default event occurs, all client assets must be pooled and deposited in an independent account with a local bank or the Licensed Person's client accounts. The funds need to be treated as follows:

1. Except in the event it results in a subsequent breach of the Licensed Person's obligations, each client shall separately bear any shortfall in client funds shall be borne by all clients pro-rated to their entitlements.
2. The Licensed Person's accounts and register are to be amended to reflect the total shortfall and each client's share thereof.

The Authority may require other actions or procedures to be implemented to resolve secondary default events.

A Licensed Person shall not transfer client funds to a defaulted party after a secondary default event has occurred, except for instances in which the client has specifically instructed the Licensed Person to do so, to settle a commitment for the client towards the defaulted party. In all other instances, the remaining funds should be returned to the client's account immediately, or transferred to another person's account as instructed by the client.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. **Which regular reconciliations need to be undertaken against internal accounts?**

Answer reference: Section 1.1

2. **How do client funds need to be segregated?**

Answer reference: Section 1.2

3. **List the information a Licensed Person needs to obtain at the start of a client relationship.**

Answer reference: Section 2.2

4. **Describe the duty of honesty of a Licensed Person.**

Answer reference: Section 2.4

5. **Describe the content of an investment portfolio agreement.**

Answer reference: Section 2.5

6. **When must the quarterly reports for securities investment portfolios be provided to the Authority?**

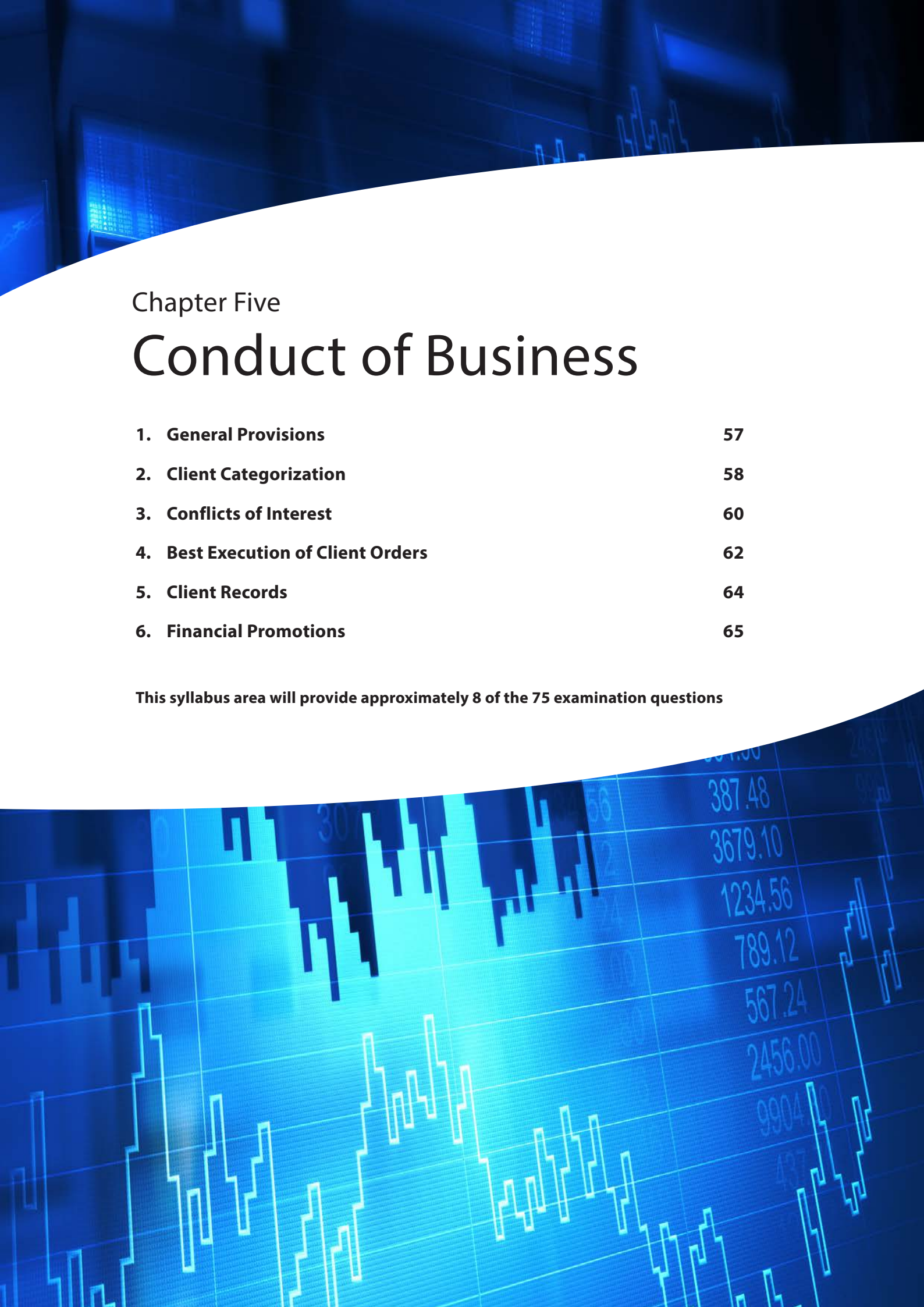
Answer reference: Section 3.2

7. **When does a primary default occur?**

Answer reference: Section 4.1

8. **Describe a secondary default.**

Answer reference: Section 4.2

The background of the page features a blue-toned image of financial data. It includes several line charts with fluctuating lines, some in white and others in light blue, overlaid on a grid. There are also numerical values scattered throughout, such as 387.48, 3679.10, 1234.56, 789.12, 567.24, 2456.00, 9904.10, and 437.10. The overall aesthetic is that of a modern financial or data visualization interface.

Chapter Five

Conduct of Business

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This syllabus area will provide approximately 8 of the 75 examination questions





1. General Provisions

Learning Objective

- 5.1.1 Know the rules relating to: provide a client with conditions of service; benefits; sharing the loss; confidentiality of information

Before providing any services to a client, the Licensed Person and the client need to enter into an agreement which specifically describes the profile of the Licensed Person, the services they provide, the conditions of these services, and the mutual obligations of the parties.

The conditions of services agreement provides an overview of the proposed investment strategies, including guidelines and precautions regarding the risk of specific investments or investment strategies (as applicable). The information needs to include sufficient information for the client to be able to understand the nature of the service and its risks.

In addition, the agreement needs to stipulate the procedure that has to be followed in the event of an error occurring while executing a client order, the resolution mechanism, and the responsible person. This procedure applies whether the error is committed by the Licensed Person, its employees or a third party.

The department entrusted with making decisions on behalf of the client, as well as the related expenses, fees and charges (including the calculation method), need to be stipulated in the agreement.

The Licensed Person has the right to collect commissions, charges and fees from the client in relation to the services provided. Beyond this, the Licensed Person shall not receive any fees, commissions, or non-monetary benefits or gifts except for the following:

1. Fees, commissions, or non-monetary benefits that are not intended to encourage them to provide a better service for their clients (eg, symbolic gifts).
2. Monetary charges or cost incurred for providing services to the client (eg, cost of safekeeping, commissions of settlement and clearing and fees). These charges or costs should not conflict in its nature with the duties of the Licensed Person to act honestly, fairly and professionally in a way that fulfils the interests of its clients.

The above prohibition also applies to employees of the Licensed Person.

The Licensed Person should not offer to share any losses with the client prior to providing any services. Only joint investment agreements provide for the sharing of benefits and losses of investment.

The Licensed Person, in the course of practicing securities activities, shall adopt policies and procedures for maintaining confidentiality of available information or inside information; more specifically, taking all actions to ensure data and information related to its clients and their investments remain confidential except for the following:

1. Disclosure requirements in accordance with the applicable law and especially, the Authority's law and its executive bylaws.
2. If clients approve such disclosure.
3. Disclosure based on judicial orders and judgments or investigation Authorities.

2. Client Categorization

Learning Objective

- 5.2.1 Know the relevant criteria for categorizing a client as a: professional client by nature; qualified professional client
- 5.2.2 Know what information must be provided to retail and professional clients)

2.1 Client Categorization Criteria

Clients are categorized as either retail or professional clients. Professional clients are further divided into professional clients by nature and qualified professional clients.

A client is a professional client by nature if they fall within each of the following categories:

1. Government, public entity, **central bank** or international institution (eg, World Bank or International Monetary Fund (IMF)).
2. Licensed Persons and other financial institutions subject to regulation and supervision by regulatory.
3. Companies with a minimum paid-up capital of KD 1 million or equivalent.

The Licensed Person may categorize a professional client by nature as a **retail client** providing this is agreed between the Licensed Person and the client in writing.

A client is a qualified professional client if they:

1. have carried out securities transactions of significant size averaging at least KD 250,000 per quarter over the previous two years, or
2. hold funds and assets with the Licensed Person of no less than KD 100,000, or
3. work or have worked in the financial sector for at least one year in a **professional position** which requires knowledge of the transactions or services envisaged to be undertaken by the client.

It is the responsibility of the Licensed Person to take due care in ensuring the criteria are met.

If a qualified professional client no longer fulfils the conditions that made him eligible for this categorization, the Licensed Person re-categorize the client as retail client and notify that client of his new categorization, that shall not affect actions and transactions implemented under his original categorization.

2.2 Information to be Provided to Retail and Professional Clients

Retail clients need to be provided with the following information:

1. The name, address and contact details of the Licensed Person.
2. The language in which the client may communicate with the Licensed Person and receive information and documents.
3. The methods of communication to be used between the Licensed Person and the client.
4. A statement indicating if the Licensed Person works with the client in its capacity as an agent of an entity, the name of such an entity and its contact details.
5. The nature and timing of the reports on the performance of the services to be provided by the Licensed Person to the client.
6. A summary of the conflicts of interest policy used by the Licensed Person, and any other additional details requested by the client in this regard.

In the event the Licensed Person provides safekeeping or managing of funds or assets for a retail client, it must provide these clients, in particular, with the following information:

1. Whether the client's funds and assets may be deposited with third party on behalf of the Licensed Person.
2. The limits of liability of the Licensed Person for any omission of the third party.
3. Whether client's funds and assets may be held in an **omnibus account** by a third party, if applicable to such investment, and a prominent warning to the client of the resulting risks.
4. Whether the client's funds and assets may be held with a third party to be separately identifiable from the funds and assets of that third party or of the Licensed Person.
5. The Licensed Person shall notify the client with the competent courts and the applicable law in case of any dispute in relation to assets or funds of the client outside the State of Kuwait.
6. A summary of the steps which the Licensed Person takes to ensure the protection of the **client's assets** or funds, including reference to any relevant investor compensation program applied by the Licensed Person.



Retail clients must be notified of any rights of the Licensed Person or a third party in relation to their ability to seize client funds and assets deposited with them.

The Licensed Person must, prior to entering into any securities financing transaction, inform retail clients in writing of all the obligations and responsibilities of the Licensed Person including any terms and conditions of the transaction and risks involved.

Professional clients must be notified with the competent courts and the applicable law in case of any dispute in relation to assets or funds of the client outside the State of Kuwait, as well as any rights of the Licensed Person or a third party in relation to their ability to seize client funds and assets deposited with them.

3. Conflicts of Interest

Learning Objective

- 5.3.1 Understand conflicts of interest
- 5.3.2 Know the policies, procedures and measures that Licensed Persons should adopt to manage conflicts of interest
- 5.3.3 Know how Licensed Persons manage the requirements relating to personal transactions of employees

3.1 Conflicts of Interest

It is the responsibility of the Licensed Person to take all appropriate steps to limit the occurrence of any conflicts of interest between:

- client and Licensed Person (including managers, employees, agents or any other persons directly linked to them or indirectly by **effective control**), and
- client and another client.

Examples of conflicts of interest are as follows:

1. Making a financial gain (or avoiding a financial loss) at the expense of the client.
2. Carrying on the same business as the client.
3. Receiving a (non-) monetary inducement from a third party in relation to a service to be provided to the client which is not directly associated with defined fees, commissions and expenses related to the services provided to the client.
4. Giving preferential treatment to securities issued by the Licensed Person, its subsidiary, parent, or related companies; and in all cases, the client's approval must be obtained before being involved in a transaction related to such securities.
5. Arranging transactions with the knowledge or capability of knowing that the Licensed Person is one of the involved parties in the transaction.

A Licensed Person must keep and regularly update a record of the kinds of service or activity carried out by him or on behalf of that Licensed Person in which a conflict of interest has arisen resulting in harm to the interests of one or more clients.

The Licensed Person has to take all appropriate steps to limit the occurrence of any conflict of interest. In the event the precautionary steps taken by a Licensed Person are not sufficient to prevent harm to the interests of a client, the Licensed Person needs to disclose sufficient information regarding the potential conflict of interest to the client in writing before undertaking business for the client. When a conflict of interest arises, the Licensed Person may still enter into a transaction providing they disclose all details related to the conflict of interest and the persons involved, and the client subsequently approves the transaction.

Policies and procedures need to be in place to limit the occurrence of conflicts of interest which must be suitable for the nature and size of the Licensed Person's business. Where the Licensed Person is a member of a group of companies, they also need to consider any potential conflicts of interest that may result from the structure of the group and the business activities of other members of the group. The conflicts of interest policy must include:

1. identifying the circumstances which constitute a conflict of interest resulting in potential harm to the interest of one or more clients, and
2. procedures to be followed and steps to be taken to manage conflicts of interest.

A Licensed Person may impose information barriers known as 'Chinese walls' in order to limit cases of conflicts of interest; and for this purpose, it may oblige its employees or agents performing some securities activities to withhold the information held from any other employee or person working in favour of the Licensed Person in other activities.

3.2 Personal Transactions

A Licensed Person must establish adequate arrangements aimed to limit cases of conflicts of interest between members of the Board of Directors, its clients, employees or agents, or making use of the confidential information of those clients, in particular, the following cases:

1. Enter into securities transactions in which one of the Licensed Person's clients is a party.
2. Enter into securities transactions through using confidential information related to clients.
3. Provide inappropriate advice or recommendations to the client in order to perform a process or to enter into a securities transaction with the purpose of attaining a benefit for any of the Licensed Person's employees or agents.
4. Disclose any confidential information obtained by one of the Licensed Person's employees or agents, to another person with the purpose of entering into securities transactions in which one of the Licensed Person's clients is a party, or provide inappropriate advice or recommendation to another person in order to enter into such a transaction.

Provided the Investment Portfolio's manager's policies and procedures manual includes provisions and procedures related to conflict of interests, the Investment Portfolio Manager will receive their due fees from their employees for the management of the portfolios owned by employees.

All employees need to be made aware of these restrictions and the related policies. Employees need to immediately inform the compliance officer of any transactions undertaken by themselves, their **relatives** or any subsidiary companies owned by themselves or any of their relatives.

A record will be maintained of all disclosed transactions. When referring any of their activities to a third party, the Licensed Person is responsible for ensuring the third party periodically maintains this record. It is the responsibility of the compliance officer to establish appropriate measures for the monitoring of personal dealings of employees in order to comply with the Authority's law and its executive bylaws.

Employees of Licensed Persons that act as securities brokers registered at an Exchange, or investment portfolio managers, or qualified securities brokers registered at an Exchange, may only buy or sell securities or establish investment portfolios through the Licensed Person, with the exception of services not provided by the Licensed Person.

4. Best Execution of Client Orders

Learning Objective

5.4.1 Know how Licensed Persons fulfil best execution requirements

When executing a client's orders, a Licensed Person must take due care to achieve the best possible result for its clients, taking into account the execution factors and in consideration of the following criteria:

1. Nature and needs of the client.
2. Client categorization (retail or professional).
3. Characteristics of the order.
4. Characteristics of the related securities, including type and nature.
5. Characteristics of the execution venues to which the order can be directed.
6. Priority of order execution is according to the order in which they were received.
7. Price and size of transaction.
8. Likelihood of execution and settlement.

Points (1) to (4) above do not apply in the event the Licensed Person executes a transaction on the express order of a client.

Any orders or instructions issued by a client will be executed as such by the Licensed Person, without prejudice to the restrictions set out in the Authority's law and its executive bylaws. For orders executed on behalf of a retail client, the best possible result is determined by the total consideration which is represented by the price after all costs related to execution including expenses, fees, and commissions.

In the event the order can be executed via more than one venue, it is the responsibility of the Licensed Person to compare the venues considering fees and other expenses and determine which venue is most appropriate. The Licensed Person may not receive any commissions which will lead them to unjustifiably choose one execution venue over another.

Policies and procedures need to be in place to enable the Licensed Person to provide clients with the best possible service, in particular related to the execution of orders and instructions from clients. The order execution policy must include up-to-date information related to different execution venues and the factors affecting the choice of venue. Any information required regarding policies and procedures surrounding order execution will be provided to clients.

Best execution policies and procedures will be reviewed periodically and in the event of any material change. The review will include an evaluation of the policies and the extent to which they are complied with.

Any time a Licensed Person purchases or sells a security on behalf of a client, a notification of the transaction must be sent to the client, unless the client waives such notification. This notification needs to include the following information:

1. account number
2. name of Licensed Person
3. name of client
4. date order was received
5. date and time of order execution
6. type of deal (purchase or sale)
7. name of security
8. volume, price, commission, net value, and total price
9. method of execution (written order, phone call or electronic mail), and
10. currency of the transaction.

Notifications need to be sent on the day the transaction is executed. Policies and procedures need to be in place to ensure prompt and expeditious execution of client orders. In addition, orders executed on behalf of clients need to be promptly and accurately specified and recorded. A Licensed Person may not make use of information related to client orders and must ensure they prevent the use of such information by their employees or agents.

5. Client Records

Learning Objective

- 5.5.1 Know the record-keeping requirements for Licensed Persons
- 5.5.2 Know the requirements for recording and maintaining telephone conversations and electronic communications
- 5.5.3 Know the minimum period that records, telephone conversations and correspondence must be kept by a Licensed Person

5.1 Record-Keeping Requirements

A Licensed Person must prepare and maintain accurate records for each executed deal. Records need to be kept up to date and sufficient to be able to demonstrate compliance with the Authority's executive bylaws.

A Licensed Person must prepare and maintain accurate records for the clients' accounts, provided that:

1. they clearly indicate, at all times, the assets and liabilities of each client and liabilities of all clients collectively
2. they include the necessary information to enable the Licensed Person to prepare a statement of the assets and liabilities of each client and details of the deals executed for his account
3. they determine all client's funds and assets for which the Licensed Person is responsible whether under his control or under the control of another person.

The records need to include the following:

1. Details of all securities orders per client, whether they are modified, cancelled, executed, or not executed.
2. Details of all purchase and sale transactions of securities undertaken by a Licensed Person for a client account or for their own account.
3. Records of income and expenses related to each client indicating their nature.
4. Details of all received amounts and expenses related to clients' funds and assets.
5. A record of the client's funds and assets.

The Authority may, at any time, establish any additional guidance related to the nature and extent of information that must be recorded and maintained.

5.2 Recording and Maintaining Telephone Conversations and Electronic Communications

A Licensed Person must take the necessary steps to record and maintain telephone conversations and electronic communications related to the Licensed Person's activities, made with, sent from or received on equipment provided by the Licensed Person to an employee or agent, or the use of which by an

employee or agent has been permitted by the Licensed Person, to enable that employee or agent to carry out any of the following activities:

1. Receive clients' orders.
2. Execute clients' orders whether on the basis of the client's instructions or on the basis of the Licensed Person's decision to enter into a deal on behalf of the client.
3. Transmit clients' orders to other entities for execution whether on the basis of the client's instructions or on the basis of the Licensed Person's decision to enter into a deal on behalf of the client.
4. Execute transactions on behalf of the Licensed Person or any other person in the Licensed Person's group.

Other than the activities mentioned above, it is the responsibility of the Licensed Person to prevent employees or agents from making, sending, or receiving relevant telephone conversations and electronic communications on the equipment.

In the event a Licensed Person was unable to record a telephone conversation due to unforeseen circumstances, they may accept the client's instructions in writing.

When receiving a telephone call from a client, the employee of a Licensed Person must introduce themselves to the client, confirm the client's identity, and determine the type of instruction (new, modification, cancellation) as well as the name of the security, volume, price, order period and date.

All records including reports, telephone conversations, correspondence and related documents need to be maintained for at least five years from the date the record was created or until the settlement of a dispute between the Licensed Person and the client or a third party. The records need to be available for review on request during this period, and will remain subject to inspection and audit at all times by the Authority or anyone appointed for this purpose.

6. Financial Promotions

Learning Objective

5.6.1 Know how Licensed Persons fulfil financial promotion requirements

Financial promotions or invitations to encourage someone to invest in a specific security may only be issued by a Licensed Person, or if the content of the promotion is approved by a Licensed Person.

It is the responsibility of the Licensed Person to ensure financial promotions are clear and do not contain false, misleading or deceptive statements. In addition, financial promotions must include a statement in clearly legible font indicating they were prepared solely for promotional purposes. Once a financial promotion no longer complies with the provisions of the Authority's executive bylaws, it must be withdrawn via the same means as it was issued.

A financial promotion must include the following information:

1. Name of the Licensed Person who issued the promotion or approved its content.
2. Accurate information regarding the benefits and risks of the investment.
3. Sufficient information on the investment.
4. Undertaking that the Licensed Person does not disguise, diminish or obscure important items from the investment subject of the promotion.
5. Any additional information required by the Authority.

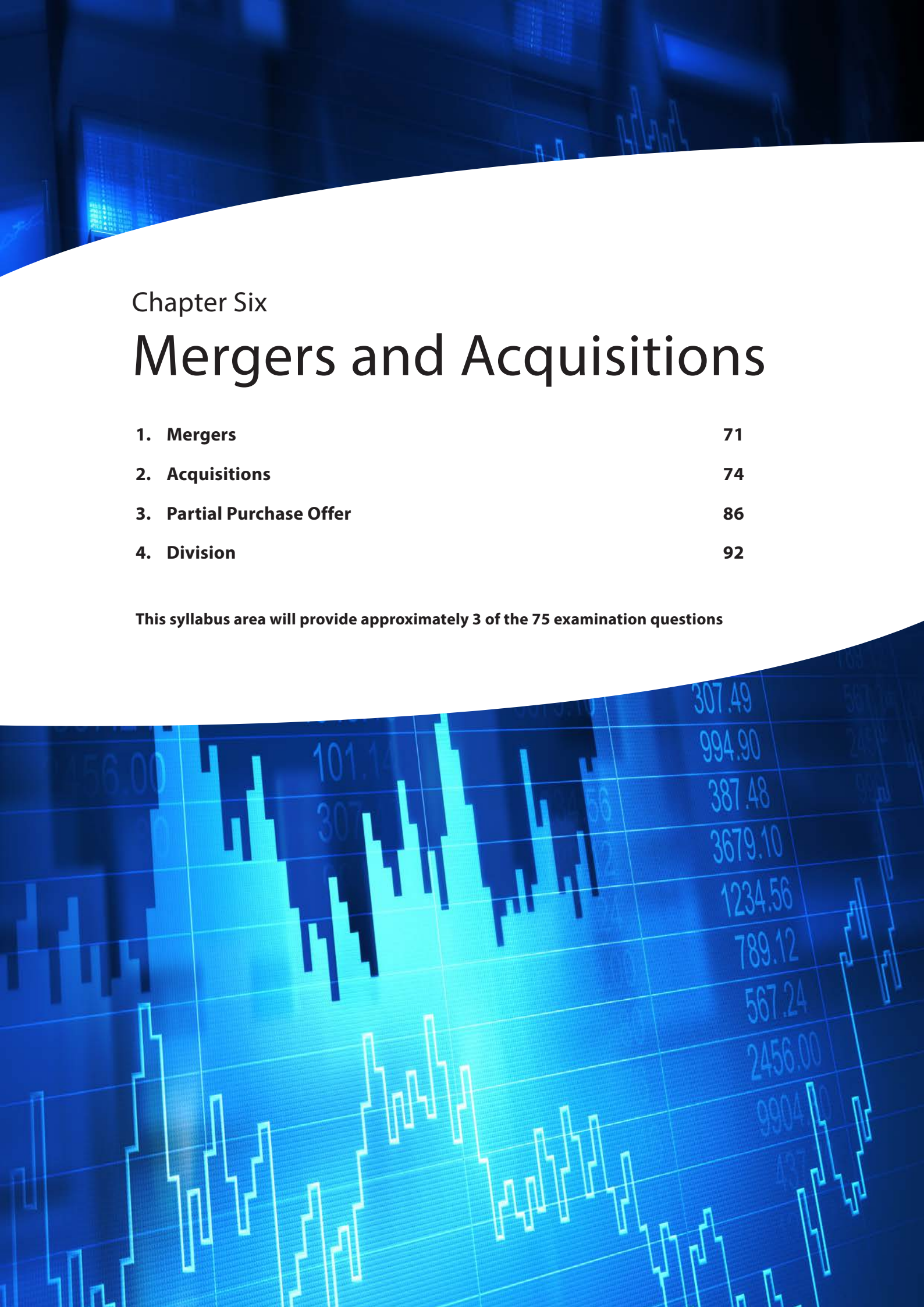
With regard to any indications or past or expected future performance related to an investment, a clear warning must be included stating that past performance is not a reliable indicator of future results.

A Licensed Person must maintain an adequate record of any financial promotion it communicates or approves.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

- 1. What are the types of fees and commissions the Licensed Person is entitled to?**
Answer reference: Section 1
- 2. What are the requirements for a client to qualify as a professional client?**
Answer reference: Section 2.1
- 3. What are the two types of professional client?**
Answer reference: Section 2.1
- 4. What information needs to be provided to retail clients?**
Answer reference: Section 2.2
- 5. Between which parties can a conflict of interest occur?**
Answer reference: Section 3.1
- 6. List the transactions that are particularly sensitive to personal transactions.**
Answer reference: Section 3.2
- 7. What are the considerations for best execution of client orders?**
Answer reference: Section 4
- 8. What is the minimum length of time to retain telephone conversations and electronic communications?**
Answer reference: Section 5.2
- 9. List the information that needs to be included in financial promotions.**
Answer reference: Section 6

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Chapter Six

Mergers and Acquisitions

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2. Acquisitions	74
3. Partial Purchase Offer	86
4. Division	92

This syllabus area will provide approximately 3 of the 75 examination questions



1. Mergers

Learning Objective

- 6.1.1 Know the rules and provisions in relation to mergers

Companies may merge with other companies of the same, or a different legal nature in one of the following ways:

1. **Merger by Amalgamation** – resolution of one or more companies (the merged companies) and the transfer of their financial assets and liabilities into an existing company (the **merging company**).
2. **Merger by Consolidation** – resolution of two or more companies and the formation of a **new company** into which the merged companies' financial assets and liabilities are transferred.
3. **Merger by Division and amalgamation** – division of a company's financial assets and liabilities into two or more parts and the transfer of each part into an existing company (the merging company).

In this respect, a **merged company** is a company that is resolved to be incorporated into another company, and a merging company which is a newly formed company after a merger.

A member of a Board of Directors of a company involved in a merger who has an interest in the merger may not vote in the meetings of the Board of Directors, subcommittees, or general assembly of the company. An interest is interpreted as a holding of 5% or more of the shares with voting rights in the general assembly meetings.

Any indirect interest or an interest in alliance with others shall be disclosed in accordance with the disclosure and transparency requirements in the bylaws.

All companies involved in a merger need to disclose the following stages:

1. Reaching an **initial agreement**.
2. Obtaining approval on the **draft merger contract** from the Authority.
3. Acceptance of the merger by the general assembly of each of the companies.
4. **Official announcement** of the merger resolution.

In the event of one of the merging companies being a member of an Exchange, the disclosures shall be announced on the Exchange as well as the website of each of the companies. If all companies involved are unlisted, the disclosures need to be announced on each of their websites.

In addition, the approval of the draft merger contract by the Authority will be announced in at least two daily newspapers.

1.1 Draft Merger Contract

Draft merger contracts need to be submitted to the Authority for approval. Approval of the Central Bank is required for the **Units Subject to the Supervision of the Central Bank**. The draft merger contract may not be published or circulated to shareholders or partners before these approvals have been obtained. Once approved, each shareholder or partner will have the right to a copy.

The draft merger contract needs to include the following information:

1. Adequate information about the merged companies and all parties involved.
2. Details of the shares of the companies involved in the merger and any associated rights or restrictions.
3. Reasons and purposes of the merger.
4. Conditions of the merger as agreed between the parties.
5. Information about the investment adviser responsible for the evaluation of assets and liabilities.
6. Date of the valuation.
7. Initial report of the values of the assets and liabilities of the merged companies based on the assets' fair value.
8. Compensation to be paid to partners or shareholders of the merging company or the new company and how the compensation was determined.
9. Timeframe of the merger.
10. Breakdown of the procedures to be performed to finalize the merger.
11. Details of effective control any of the companies involved in the merger has in any other company.
12. Any other information requested by the Authority.

The draft merger contract needs to be accompanied by a full report issued by the investment adviser responsible for the evaluation of assets and liabilities including an asset valuation report. In addition, an initial evaluation of assets and liabilities needs to be included together with the determination of shareholders' and partners' rights after the merger; audited financial statements for the past three years for each of the companies involved in the merger; and, in the event a new company is to be formed as the result of a merger, the procedures to be followed to achieve this.

1.2 A Person with an Effective Control

For mergers that involve a party with effective control of the merging and/or merged companies before the merger is executed, the draft merger contract needs to specifically state the following:

1. Name of the persons with effective control as well as any subsidiaries they are **acting in concert** with.
2. The current ownership of the persons with effective control.
3. Whether the persons with effective control are employed by, or a member of the Board of Directors of, any of the companies involved in the merger.
4. The opinion of the members of the Board of Directors regarding the merger and whether this is fair and reasonable for other shareholders other than the party with effective control. They have to state they have formed this opinion independently without input from a person with effective control.
5. Any reservations made by members of the Board of Directors need to be included.

1.3 Conditions for Appointing an Investment Adviser

The investment adviser, needs to be independent and may not be a **stakeholder**. They need to be licensed by the Authority and may not transact in the shares, subscribe to a share issue, or transact in any financial derivatives of the shares of any of the companies involved for their own account. Investment advisers who create and maintain a Chinese wall as per the CMA's guidelines, separating the licensed activities may trade in the shares of the companies involved.

1.4 Conditions for Appointing a Person Responsible for Asset Valuation

A Person responsible for the valuation of the assets of the companies involved in the Merger shall be independent, not a Stakeholder, and licensed by the Authority. They may not subscribe to, or purchase, shares or stakes in any of such companies or transact in the financial derivatives of such shares for their own account.

1.5 Documents Available for Review

Companies involved in a merger need to make the following information available for review:

1. Draft merger contract and all attachments.
2. Resolutions of the Boards of Directors of the merged companies related to the merger.
3. **Company contract** of the companies involved and any other similar documents.
4. Audited financial statements for the three years preceding the merger, for the companies involved in the merger.
5. Reports, letters, assessments or any other document referred to in the draft merger contract.
6. Any document establishing an irrevocable obligation to accept the merger.
7. Documentation of the financial arrangements for the financing of the merger, if applicable.
8. Any other documents requested by the Authority.

These documents need to be made available to shareholders for review at the headquarters of the companies involved in the merger at least ten days prior to the general assembly of the companies dealing with the merger.

For a merging company listed on an Exchange, their **treasury shares** may be used as part of the shares to be issued in favour of the shareholders of the merged company providing the Authority and an extraordinary general assembly of the merging company have approved it. An independent clause to this effect will be included in the agenda of the extraordinary general assembly of the merging company.

Authority for the Protection of Competition

In the event the merger leads to an increase in **control** of the **relevant market** value, all merging companies need to comply with the **protection of competition laws** and the associated executive bylaws.

Trading in Shares of Listed Companies

If one of the parties involved in a merger is a listed company, both parties need to accept that the continuing trading of the shares of the company currently listed will be in accordance with the applicable rules.

If the proposed merger is withdrawn, the companies involved in it will be prohibited from undertaking any other merger for six months after the date of the announcement of the withdrawal.

Any contracts of financial derivatives traded on the Exchange need to include provisions regulating the rights of the contracting parties in the event of a merger.

2. Acquisitions

Learning Objective

6.2.1 Know the rules and provisions in relation to acquisitions

Any person may, at any time, submit a **voluntary acquisition offer** providing they meet the provisions represented in the remainder of this section.

The **offeror** (person making the offer) needs to treat all shareholders within each category of shares of the **offeree** company (the company subject to the offer) equally. The offer needs to be submitted directly to the shareholders of the offeree with the provision that each shareholder will have the choice to either sell their shares to the offeror or retain them.

The **offer period** is the period from the date that the acquisition offer is disclosed to the execution of the acquisition. During this period, or while an offer is under consideration, the offeror, the offeree company and any of their advisers may not submit information to some shareholders without making it available for the rest of the shareholders. An offeror needs to obtain approval from the Central Bank before submitting an acquisition offer to any Unit Subject to the Supervision of the Central Bank.

2.1 Investment Advisers

The investment advisers of any **related party** will need to be independent and need to be licensed by the Authority. They may not be a stakeholder in any of the parties unless they create and maintain a Chinese wall between the various licensed activities (see chapter 5).

If the offeror is listed on the Exchange, both the offeror and the offeree need to obtain independent advice on the offer from an investment adviser. The advice needs to be made available to the shareholders or partners of both companies.

2.2 Responsibilities and Restrictions

The Board of Directors of the offeree company must provide their shareholders with adequate information and recommendations to enable the shareholders to reach an informed decision on whether to approve or reject the offer, and they must avoid any conflict of interest when making any recommendation to the company's shareholders with regard to any acquisition offer.

In the event the offer would result in (an increase of) control of relevant market value, the offeror needs to comply with the protection of competition law and the associated executive bylaws.

With the exception of transactions undertaken by the offeror, any insider in possession of inside information may not transact in the shares of the offeror or offeree company, their subsidiaries or any person they are acting in concert with. This prohibition also includes dealing in the shares of the offeror company or its subsidiaries or with whom they are acting in concert if any of these parties is a listed company on the Exchange. In addition, an insider who is in possession of inside information related to any offer may not make a recommendation to any other person concerning dealing in related shares, and an insider may not reveal the inside information.

During the trading session, the Exchange shall immediately suspend the shares of the offeree company from trading for one hour upon the occurrence of one of the following cases:

1. Disclosure of the initial agreement on the acquisition offer.
2. Disclosure of the desire to acquire ownership of more than 30% of the securities of a listed company.
3. Disclosure of the person obligated to submit a **mandatory acquisition offer**.
4. Any other cases defined by the Authority.

During the offer period, the offeror, any of their subsidiaries and anyone they are acting in concert with may not sell any shares in the offeree company without the prior permission of the Authority.

If the offeror purchases shares at a price higher than the offer price, the offeror shall increase the value of the bid to the highest price paid during the offer period, and shall disclose immediately the following:

1. the offer has been modified
2. the number of shares purchased, and
3. the price paid for the shares purchased.

Investment adviser(s) of the offeree company, their subsidiaries, or any persons with whom they are acting in concert or group members may not:

- subscribe for or purchase shares, or transact in financial derivatives associated with the shares of the offeree for their own account, or
- encourage any person to transact in, or to abstain from transacting in, securities related to the offeree.

During the offer period or while primary negotiations are ongoing, the offeree may not undertake any of the following without express permission from the shareholders via a general assembly or in the event the company had committed to them prior to the start of the offer period:

1. Issue new shares within the limits of authorised share capital, or issue or grant **option contracts** on such shares.
2. Issue any securities convertible to shares.
3. Dispose of any assets of significant value.
4. Enter into contracts that are beyond their normal business.
5. Adopt any procedures that would result in the refusal of the offer or constrain the shareholders' choice in relation to the offer.
6. Impose significant obligations on the company beyond those required for the finance and practice of their normal operations.

2.3 Conflicts of Interest

In order to prevent conflicts of interest, any (in)direct interests of members of the Board of Directors in the offeree need to be disclosed. Members of the Board of Directors of any of the parties with an interest in the acquisition offer may not vote in meetings of the Board of Directors, its subcommittees, or the general assembly. In this context an interest is interpreted as a participation in excess of 5% in the offeree company. Also, any indirect interest or in alliance with others needs to be disclosed.

2.4 Persons with Effective Control

In the event one or more persons have effective control over the offeror and/or offeree, the **offer document** needs to include the following:

1. The name of any of these persons with effective control and their subsidiaries or persons with whom they are acting in concert.
2. A statement of the existing ownership of the person with effective control in each party of the acquisition, the number of shares, and whether they have an option to purchase shares.

3. A statement of whether the person with effective control holds a position of employment or serves on the Board of Directors.
4. An opinion from the members of a Board of Directors of the offeree company concerning the acquisition offer and whether it is fair and reasonable for the rest of the shareholders other than the party with effective control, and the fact that the Members of a Board of Directors have developed this opinion without any role by such person.
5. Any reservations made by the members of the Board of Directors concerning the acquisition offer, if any.

2.5 Acquisition Offer Rules

When an acquisition offer is made, the offeror and offeree need to disclose the following information:

1. whether an initial agreement has been concluded
2. whether the person is committed to submit a mandatory acquisition offer
3. date the offeree is notified of a serious intention to submit an unconditional offer
4. date of approval of the offer document by the Authority
5. recommendations of the Board of Directors concerning the offer
6. completion of the **collection period** and the percentage of shares collected
7. completion of all procedures for execution of the offer, and
8. any other disclosures required by the Authority.

2.5.1 Procedures for Primary Disclosure of a Voluntary Acquisition Offer

The Authority needs to be notified prior to the disclosure of an initial agreement. The disclosure shall include the name(s) of the offeror and offeree and should not include information that is listed in the offer document including, but not restricted to, price, timeline, **acquisition manager**, and sources of finance.

2.5.2 Procedures for Disclosing a Mandatory Acquisition Offer

A person who is obligated to submit a mandatory acquisition immediately needs to disclose their obligation to submit an acquisition offer document, even if not all information is yet available. If the person fails to disclose within 30 days commencing the date of the notification of the resolution by the Authority, the Authority shall initiate legal procedures regarding the Person's violation of the provisions of the Mandatory Acquisition Offer.

This resolution needs to include the name of the person obligated to submit the offer; whether it is a natural person or a corporate; the name of the offeree; the requirement to complete a mandatory acquisition offer within 30 days; and a reminder of the penalties for violation of the provisions of the law.

2.6 Publication and Modification of Offer Documents

An offer document needs to include the following information:

1. adequate information about the offeror and offeree
2. details of the offeree's shares and any related rights or obligations



3. total amount of the submitted offer
4. description of how the offer is being financed; the sources of financing; and the name of the main lenders or persons arranging financing
5. details of the required documents and procedures for acceptance of the offer
6. statement of any conditions or restrictions to which the offer is subject, and any related procedures
7. future plans of the Offeree company
8. timeline of the acquisition offer
9. ownership of shares and any controlling share of the offeror in the offeree company
10. ownership of shares and any controlling shares of the offeror for **non-cash voluntary acquisition offers**
11. ownership of shares and any controlling shares of the offeror in the offeree including interests held by the members of the Board of Directors of the offeror, ownership of or control by a subsidiary or close acting in concert with (including name and share of ownership), or ownership of shares or a controlling stake by persons who are committed to accept the offer irrevocably before publishing the offer document, including their names
12. any other information required by the Authority.

The offer document will include a statement clarifying whether there is an agreement, arrangement or procedure between the offeror, their subsidiaries or any person with whom they are acting in concert, and any of the members of the board of the offeree or its shareholders. The details of such an arrangement (if any) will be attached to the offer document. The offer document will include a statement clarifying whether the shares that are meant to be acquired under the offer shall be transferred to any other persons or not. The details of such an arrangement (if any) will be attached to the offer document.

In the event the offer includes the issuance of unlisted securities as payment of the offer value, the offer documents need to include a valuation of such securities undertaken by an investment adviser listed by the Authority. For offers including the issuance of securities and where the offeror is an unlisted company, the offer document needs to include adequate financial information on the offeror. This includes financial statements for the three years preceding the offer audited by auditors registered with the Authority.

2.6.1 Approval and Publication of an Offer Document

The offer document may only be published once the offeror has obtained approval from the Authority. The Authority will issue its approval within ten business days from the date it has received all relevant documents, data and other information required.

The Authority may withhold approval in the following events:

1. The offer does not comply with the provisions of the law and bylaws.
2. The offer is not accompanied by the required fees.
3. The offeror fails to submit the data required under the law and bylaws.
4. Missing or incorrect information that could affect the decision of shareholders is detected.

Once approved, the offeror or their representative will publish the offer document in accordance with the timetable approved by the Authority. The acquisition offeror will disclose the Authority's approval of the offer document on an Exchange and announce it on the websites of the offeror and the offeree as well as in at least two daily newspapers.

2.6.2 Recommendations from the Board of Directors of an Offeree

Within seven business days of the receipt of the offer document, the Board of Directors of the offeree company will submit its response to its shareholders and the Authority. The response will include its opinion and recommendations to shareholders as well as the opinion of an investment adviser, and the recommendation to the shareholders related to the offer shall be announced on the website of the offeror company and of the offeree company as well as in a minimum of two daily newspapers.

2.6.3 Documents Available for Review

The offeror and offeree will make the following documents available for review:

1. offer document and attachments
2. recommendation of the Board of Directors of the offeree
3. company contracts and other similar documents of the offeror and the offeree company
4. audited financial statements of the offeror and offeree for the three years preceding the acquisition offer, if any
5. any report, letter, evaluation or other document that was presented or referred to in the offer document
6. any document that serves as evidence for an irrevocable commitment to accept the offer
7. documentation of the financial arrangements regarding financing the offer if such arrangements were set out in the offer document, and
8. any other documents required by the Authority.

The offer document will specify where the documents shall be available for review.

2.6.4 Modification of an Acquisition Offer

The offeror may submit a request for modification of an offer document within five business days at most of the closing of the collection period of the offeree's shares. Modifications may be made to the conditions of the execution process mentioned in the offer document, providing they are in favour of the shareholders of the offeree company. The first step in the process is for the offeror to submit a written request to the Authority including the reasons for the modification and attaching the modified offer document. Procedures for executing the Acquisition Offer process shall be suspended for ten business days, during which the Authority shall issue its decision concerning the modified offer document. The modified offer document may be published once approved by the Authority.

Once the Authority has approved the modified offer document, the acquisition manager restarts the collection process to allow for the shares of those shareholders willing to participate in the acquisition to be collected. The re-opening of the collection process shall be announced in accordance with the mechanism of announcement. The acquisition manager will immediately release any shares to participants in the collection process prior to its suspension as well as to those declining their participation in the acquisition after the modification.

In the event the Authority rejects the modified offer document, the offeror shall complete the procedures of the acquisition process as outlined in the **original offer document** from the day after the Authority's announcement.

2.6.5 Extending Shares' Collection Period

An acquisition offeror may submit to the Authority a request to extend the collection period of an acquisition offer in accordance with the following conditions:

1. Before the publication of the acquisition offer document, with a justification and a modified timetable.
2. Up to five business days prior to the end of the collection of the shares of the offeree company provided the following procedures are followed:
 - a. The offeror shall submit to the Authority a request setting out the reasons for its request to extend the collection period; provided that the modified timetable of the acquisition offer document be attached.
 - b. The Authority shall notify the offeror of its decision concerning the extension of the collection period for those wishing to participate in the acquisition offer.
 - c. In the event that the Authority's approves, the acquisition offeror shall announce the extension of the collection period and publish the updated timetable by using the mechanism of announcement.
 - d. In the event that the Authority's rejects the extension request, the offeror shall follow the original timetable.

2.7 Mandatory Acquisitions

When a person (in)directly acquires more than 30% of the securities admitted to trading for a listed company they shall submit an offer to purchase all remaining shares within 30 days from the date they acquired 30%. These provisions apply to the person or any of its subsidiaries or persons with whom they are acting in concert.

There are a number of exceptions to this rule, such as in the following cases:

1. The acquisition is considered to be in the interest of the public and the remaining shareholders. Such an exemption shall be issued by the Authority in writing and include the reason for the exemption.
2. When a company increases its capital and some shareholders refrain from subscribing.
3. Debt restructure.
4. Inheritance, will, or court judgement, in such case, the person shall comply within no more than two years from the increase.
5. Privatization of a listed company, but only during the privatization period.
6. Returning and cancellation of Treasury shares.
7. Transfer of shares between the Person's subsidiaries that form a single Group, provided the percentage remains within the investment Group of the Person's subsidiaries. Ownership transfer shall be executed pursuant to provisions set forth in the Exchange's rules.
8. Merger.
9. Execution of shares in fulfilment of a debt or as a result of settling debts.

10. Obtaining the percentage without any control over the board of directors, and without practicing the voting rights arising out of such percentage; provided that it shall be recorded in the shareholders' register of the issuer company. This exemption will not be granted if the owner exercises their voting rights or controls the Board of Directors. It is the responsibility of the clearing agency to notify the Authority once voting rates associated with such a percentage are exercised.
11. Guaranteed underwriting by one of the financial institutions.
12. Transfer of shares between relatives (parents upwards and children downwards in the bloodline).
13. In the event of objection by one of the regulatory bodies on which any of the parties of acquisition are subject to.
14. Undertaking activities of a market maker providing that it is not used to vote in the general assembly, to authorize a third party to vote, to appoint members of the Board of Directors, or to affect company resolutions.
15. Securing the public interest and the interests of shareholders by government bodies providing that any voting rights in excess of 30% are not exercised and this is recorded in the shareholders register of the issuer. This exemption will not be granted if the owner exercises their voting rights related to the proportion of shares exceeding 30%. It is the responsibility of the clearing agency to immediately notify the Authority in this event.
16. The execution of a **partial purchase offer**.
17. Other cases as provided by rules and regulations issued by the Authority.

The Authority shall issue a written and reasoned decision on the exemption of offering the mandatory acquisition offer according to the exemption cases provided above and based on an application submitted by the person.

The mandatory acquisition offer will be a cash offer equivalent to the highest of the following for six months prior to the date of the disclosure of the mandatory acquisition offer:

1. weighted average of the daily price on the Exchange as calculated by the Exchange, or
2. the highest price paid by the offeror, their subsidiaries, or any person they are acting in concert with.

In the event cash distributions are approved for the offeree's shareholders, and their maturity is during the offer period, such distributions shall be deducted from the highest price of the two prices mentioned in the two items above.

In the event a Person who is obligated to submit a Mandatory Acquisition Offer fails to comply with the provisions, or fails to submit a Mandatory Acquisition Offer Document within a maximum of 90 days of the date of disclosing the obligation to the provisions of the Mandatory Acquisition Offer, the submitted Mandatory Acquisition Offer shall be a cash offer equivalent to the highest of the following prices:

1. The **weighted average of the daily list price** in the Exchange of the Offeree company over the six months preceding the issuance date of the Authority's resolution requiring him to submit a Mandatory Acquisition Offer; and this price shall be calculated by the Exchange, or
2. The **highest price paid** by the Offeror, or any Person whether a subsidiary or a person with whom they are acting in concert with, during the six months preceding the issuance date of the Authority's resolution requiring him to submit a Mandatory Acquisition Offer, or
3. The **highest share price paid** within the period from the issuance date of the Authority's resolution requiring the person obligated to submit a Mandatory Acquisition Offer until the date of disclosing the obligation to submit a Mandatory Acquisition Offer Document.

Any cash distributions approved to be paid to the Offeree's shareholders, payable during the Offer Period, shall be deducted from the highest price mentioned above.

2.8 Sales and Purchases by a Controller

A **controller** is a person with a controlling interest in the company exceeding 30% of the **traded shares** of a company listed on the Exchange. They may purchase or sell shares of the company without having to submit an acquisition offer, subject to a number of restrictions. The controller will need to complete and submit a form (concerning the sales or purchases permitted for the controllers of a listed company in the Exchange) to the Authority prior to the execution of their transaction.

On a semi-annual basis, the controller may vary their ownership by (+/-) 2% if their ownership is 30–50%, and (+/-) if their ownership is 50–100%. The level of ownership is calculated as at the start of each semi-annual period, which are defined as from 1 January to 30 June, and then from 1 July to 31 December of each year.

A controller who owns more than 50% of the shares and who has previously submitted an acquisition offer may increase their ownership by any percentage. The percentage ownership also includes any shares held by subsidiaries and persons acting in concert. Controllers will be entitled to execute their transactions directly on the exchange, but will need to disclose the percentage of shares bought or sold; their subsidiaries and persons they are acting in concert with; and the remaining percentage they are entitled to buy or sell within six months.

In the event the controller exceeds the permitted percentage of purchase, or in the event their ownership decreases below 30% and a subsequent purchase increases their share to more than 30%, they need to submit a mandatory acquisition offer.

The Controller shall be obligated to fill out the form, and submit it to the Authority in the event it intends to exceed the permitted percentage of sale, provided that this process does not lead to the reduction of the Controller's ownership to become less than 30% of the company subject to Control. However, if the controller intends to reduce their ownership to below 30%, they need to complete and submit the form concerning permitted transactions by the controller to the Authority prior to execution of the transaction. Their intent will be announced at the Exchange.

2.9 Additional Provisions for Voluntary Acquisitions

The offeror will need to notify the Authority of any initial agreement concerning an acquisition offer of a listed company before disclosure in an Exchange. The notification needs to be accompanied by an acknowledgment to pursue this offer, and a statement from the offeror that it has taken all necessary procedures in order to proceed with the acquisition process. In the event of withdrawal for reasons unacceptable to the Authority, the offeror shall be responsible for any damages that may occur to any Person as a result of such withdrawal and the Authority may require the offeror to submit any other guarantees to ensure the offeror's commitment.

It is not permitted to withdraw from a voluntary acquisition offer after disclosing the initial agreement in the Exchange except when approved by the Authority under the following instances:

1. Occurrence of an event of fundamental importance after the disclosure of the initial agreement.
2. Violation of any of the terms and conditions required to complete the transaction.
3. Failure to collect the intended percentage of shares as stated in the offer document.
4. Any other case defined by the Authority.

In the event an offeror withdraws an acquisition offer, he shall be prohibited from submitting any acquisition offer to the concerned company within the six months subsequent to the Authority's approval of withdrawal.

In the event that the Authority approves a withdrawal from a voluntary acquisition offer during the collection period of the offeree company's shares, the acquisition manager shall immediately release the shares of those participating in the acquisition offer.

All persons shall be bound by the provisions of voluntary acquisition offer and shall follow the appropriate procedures.

2.10 Other Types of Acquisitions

2.10.1 Non-Cash Voluntary Acquisitions

A non-cash voluntary offer is an offer to acquire, or solicitation to procure, the acquisition of shares of one or more classes of a listed company except for those shares already owned by the offeror, its subsidiaries, or those acting in concert with it. The offer can be in exchange of shares issued by the offeror company or a combination of cash and shares. In the event shares that are part of the offer are, or will be, listed on an Exchange, a new **prospectus** will be prepared.

If the offer consists solely of shares to be issued, the offeror needs to submit an undertaking to their shareholders who, together with their subsidiaries and persons acting in concert, own at least 20% of the outstanding shares not to sell their shares for at least 12 months from the date of the execution of the acquisition offer.

2.10.2 Competitive Acquisitions

A competitive acquisition occurs in the event one or more parties have submitted a **competitive acquisition offer** other than the **original acquisition offer**. It is a voluntary offer submitted to compete with the original acquisition offer. The **competitive offer period** is the period from the disclosure of the competitive offer until a decision has been issued by the general assembly of the offeree. A competitive offer needs to include a material addition or fundamental modification of the terms of the original acquisition offer.

A competitive acquisition offer may be submitted after the publication of the original acquisition offer, but prior to five business days before the end of the collection period of the original offer. Proceedings of the original acquisition offer will be suspended for ten business days following the submission of the competitive acquisition offer. During this period, the Authority will issue a resolution on the competitive acquisition offer. In the event the Authority approves the competitive acquisition offer, the proceedings of the original offer will remain suspended until the ordinary general assembly of the offeree issues their resolution regarding the offer to be accepted. The original acquisition manager shall release all

shares collected prior to the suspension of the proceedings. If the Authority rejects the competitive acquisition offer, the suspension of the original acquisition proceedings shall be lifted and proceedings will continue.

The competitive acquisition offer is subject to the same disclosure requirements as the original acquisition offer (see section 2 above) and announcements.

The offeror will pay the fees associated with the competitive acquisition offer to the Authority immediately after disclosure of the offer.

Members of the Board of Directors of the offeree need to be neutral when dealing with the original and the competitive offer, and will make the same information available to each offeror.

The original offeror may submit a request to the Authority to modify the original acquisition offer during the period from the submission of the competitive acquisition offer until the ordinary general assembly of the offeree during which the decision is made between the offers. The revised offer needs to be material and in favour of the shareholders.

The offeror submits their request to modify their offer to the Authority setting out their reasons and attaching the modified offer document. The modified offer document may not be published until it has been approved by the Authority. Procedures for the original and the competitive acquisition offer will be suspended for ten business days for the Authority to issue their decision concerning the modified offer. If approved, the offeror will complete the procedures of execution of the competitive acquisition offer.

If rejected by the Authority, the offeror will complete the procedures of execution of the acquisition offer in accordance with the original offer document commencing from the subsequent day of announcement of rejecting the modified offer. The offeror of the competitive acquisition offer may modify their offer after the original acquisition offer has been modified. In order to do so, they will need to follow the same procedures as for the modification of the original acquisition offer. Offers may only be modified once.

In the event the ordinary general assembly of the offeree does not make a choice between the different offers within 180 days from the date of publication of the original acquisition offer, the Exchange will, within ten business days, hold an auction among the offerors. The bid with the highest cash offer will be awarded the bid, provided that the highest price of submitted acquisition offers is the auctions basic price.

In the event one of the original or competitive acquisition offers includes a non-cash voluntary acquisition offer, all acquisition offers will be annulled.

With the exemption of specific obligations in relation to the competitive acquisition offer, the obligations for the competitive offeror are the same as for the original offeror.

2.10.3 Reverse Acquisitions

A **reverse acquisition** is an arrangement under which a listed company issues new shares and offers them to shareholders in an unlisted company in return for their shares, so that the new shares represent more than 50% of the **issued shares** in a listed company after the execution of the acquisition. Each listed company will immediately notify the Authority and disclose any information received in relation to a reverse acquisition to the exchange.

During the disclosure and execution of a reverse acquisition, the shares of the offeror will be suspended from trading until completion of the transaction. Once completed, the shares of the offeror will be delisted and the company may submit a new listing request in accordance with the listing requirements.

2.11 Protection of Minority Rights

Shareholders or groups of shareholders owning between 5% and 30% of the shares may submit an objection to the Authority individually or jointly in relation to the decision of a general assembly. The objection needs to be submitted within 15 days of the date of the issuance of the resolution, or on the date on which the decision was made known to them, whichever is later. The objecting shareholders may not be among the ones that had approved the objected resolution, and the resolution shall constitute an abuse of minority rights.

The objection needs to be submitted in the form of a grievance and needs to include:

- the names of the objecting shareholders
- evidence of their share ownership
- statement of the objected resolution and the date of issuance
- details of the reasons to object to the resolution and how it constitutes an abuse of minority rights, and
- a statement verifying the shareholders agreement in objection to the resolutions of an ordinary or extraordinary general assembly, in case the objection is submitted jointly by a number of shareholders.

The Authority may request any additional information or documents it may require to decide on the grievance from any of the parties.

The Authority will decide on the objection within 20 days from the submission of the grievance or the date it was provided with the additional information requested. In the event the Authority does not respond during this period, the grievance will be taken as disapproved.

Either of the parties may challenge the Authority's decision before the competent court within 60 days of:

1. the date of notification
2. the date of their knowledge of the notification, or
3. the date of publication on the Authority's website or the official gazette.

Any challenge needs to be made through a writ of summons before the competent court filed against the Authority and either the company subject of the grievance, or the grievant. If this process is not followed, the lawsuit shall be dismissed. The competent court may confirm, annul or modify the general assembly's resolutions.

3. Partial Purchase Offer

Learning Objective

6.3.1 Know the rules and provisions in relation to partial purchase offers

Any Person may submit a Partial Purchase Offer at any time in accordance with the provisions of these bylaws.

An Offeror of a Partial Purchase shall treat all shareholders within each separate category of shares of the Offeree equally. During the **Partial Purchase Offer Period** or while an offer is under consideration, the Offeror, the Offeree or any of their advisers may not submit information to certain shareholders without making such information available to the rest of the shareholders.

An Offeror of a Partial Purchase shall submit his offer directly to shareholders of the Offeree of a Partial Purchase giving each shareholder the choice to sell their Shares to the Offeror of the Partial Purchase or to retain them.

A Partial Purchase Offer shall be a cash offer that leads to, after the execution of the Partial Purchase Offer, obtaining a percentage not less than 30% and not more than 50% of the capital of a Listed Company on the Exchange by the Offeror, provided that the direct and indirect ownership of the **Offeror of Partial Purchase** and its Subsidiaries or persons with whom it is Acting in Concert shall not exceed 50% of the capital of the **Offeree of Partial Purchase** after execution.

The percentage that is meant to be obtained pursuant to the Partial Purchase Offer shall not be less than 5% of the total capital of the Offeree of Partial Purchase.

The submission of the Partial Purchase Offer shall not be the result of application of the Mandatory Acquisition provisions.

An Offeror of Partial Purchase shall obtain approval from the Central Bank before submitting a Partial Purchase Offer to any Unit Subject to the Supervision of the Central Bank.

3.1 Investment Advisers

The investment advisers of any related party will need to be independent and need to be licensed by the Authority. They may not be a stakeholder in any of the parties unless they create and maintain a Chinese wall between the various licensed activities (see chapter 5).

An Offeror of a Partial Purchase, if it is a Listed Company on the Exchange, and the Offeree of Partial Purchase shall obtain independent advice concerning the offer from an Investment Adviser and shall make the details of the advice to the shareholders or partners of the two companies.

3.2 Responsibilities and Restrictions

The Board of Directors of the Offeree of a Partial Purchase must provide their shareholders with adequate information and recommendations to enable the shareholders to reach an informed decision on whether to approve or reject the offer, and they must avoid any conflict of interest when making any recommendation to the company's shareholders with regard to any acquisition offer.

The Offeree of a Partial Purchase shall invite its shareholders to an ordinary general assembly after to approving the Partial Purchase Offer.

In the event the offer would result in (an increase of) control of relevant market value, the offeror needs to comply with the protection of competition law and the associated executive bylaws.

An Insider who is in possession of Inside Information may not deal in shares of the Offeree of a Partial Purchase, its Subsidiaries or persons with whom they are Acting in Concert. This prohibition includes dealing in the shares of the Offeror of a Partial Purchase or its Subsidiaries or with whom they are acting in concert, if any of these parties is a Listed Company on the Exchange. In addition, an Insider who is in possession of Inside Information related to any Partial Purchase Offer is prohibited from making a recommendation to any other Person concerning dealing in related shares. An Insider shall not reveal the Inside Information.

Once the Initial Agreement concerning a Partial Purchase Offer is disclosed, shares of the Offeree of Partial Purchase shall be suspended for one hour in the trading session.

During the Partial Purchase Offer Period, an Offeror of a Partial Purchase or any Subsidiary or person with whom they are Acting in Concert may not sell any shares of the Offeree of Partial Purchase without obtaining prior approval by the Authority.

If an Offeror of a Partial Purchase or any Subsidiary or persons with whom they are Acting in Concert purchases shares of the Offeree of a Partial Purchase at a price higher than the offer price during the Partial Purchase Offer Period, they shall increase the value of their bid to not less than the highest price paid to acquire the shares during such period; and they shall disclose directly after purchase that the Offer shall be modified, and the disclosure shall set out the number of purchased Shares and the price paid.

An Investment Adviser of an Offeror of Partial Purchase or Offeree of Partial Purchase, or the Investment Adviser of any Subsidiary or persons with whom they are Acting in Concert, or Group member of the Investment Advisers may not perform any of the following during the offer period:

- Subscribing for or purchasing shares of the Offeree of the Partial Purchase or dealing in the Financial Derivatives of such Shares for their own account.
- Encouraging any Person by any means or form to keep deal in, or abstain from Dealing in Securities related to the Offeree of the Partial Purchase.

An Offeree of Partial Purchase may not, during a Partial Purchase Offer Period or primary negotiations concerning an offer, perform any of the following:

1. Issue new Shares within the limits of authorized capital, or issue or grant option contracts related to such Shares.
2. Issue any Securities convertible to Shares.
3. Dispose of any **Asset of Significant Value**.
4. Enter into contracts that are beyond the normal business operations of the company.
5. Adopt any procedure that would lead to refusing the offer or constraining the shareholders' choice to make a decision in this regard.
6. Impose significant financial obligations on the company, with the exception of those within the limits of enabling it to finance and practice its normal operations.

3.3 Conflicts of Interest

Members of a Board of Directors of any of the offer parties do not have a vote in decisions of Board of Directors, its sub-committees, or the general assembly, if they have an interest in the Partial Purchase Offer, and it shall not be construed as an interest if a Member of a Board of Directors has a participation in the Offeree of Partial Purchase or the Offeror of Partial Purchase if the percentage of such participation does not reach 5% of Traded Shares of the Offeree of Partial Purchase. Any indirect interest or in alliance with others shall be disclosed.

3.4 Partial Purchase Offer in the Existence of Parties with Effective Control

If a Person has Effective Control of either an Offeror of Partial Purchase or an Offeree of Partial Purchase or both before the execution of a Partial Purchase Offer, the Offer Document shall include the following additional information:

1. Name of any person with Effective Control and any Subsidiaries or persons with whom they are Acting in Concert.
2. A statement of the existing ownership of the person with Effective Control in each party of the offer, including any shares owned or controlled by that party, or by any Subsidiary or person with whom they are Acting in Concert, or that the party with Effective Control or any Subsidiary or person with whom they are Acting in Concert has an option of purchasing such shares.
3. A statement of whether the person with Effective Control holds a position of employment or serves as a Member of a Board of Directors at any of the companies involved in the offer.

4. An opinion of the Members of a Board of Directors of the Offeree of Partial Purchase concerning the offer and whether it is fair and reasonable for the rest of the shareholders other than the party with Effective Control, and the fact that the Members of a Board of Directors have developed this opinion without any role by such person.
5. Any reservations made by the Members of a Board of Directors concerning the offer, if any.

3.5 Partial Purchase Offer Rules

A Partial Purchase Offeror and an Offeree of Partial Purchase shall disclose the following information:

1. Whether the parties have concluded an Initial Agreement with regard to a Partial Purchase Offer.
2. When the Offeree of Partial Purchase is notified of a serious intention to submit the purchase offer.
3. When the Authority approves the publishing of a **Partial Purchase Offer Document**.
4. Any recommendation, when made, of the Board of Directors of the Offeree of Partial Purchase concerning the submitted offer.
5. When the general assembly of the Offeree of Partial Purchase issues its decision regarding the offer.
6. The completion of the Collection Period, disclosing the percentage of Shares collected.
7. The completion of all the procedures for the execution of the Partial Purchase Offer.
8. Any other disclosure required by the Authority.

3.5.1 Procedures for Primary Disclosure of a Partial Purchase Offer

The Authority shall be notified before the disclosure of an Initial Agreement regarding a Partial Purchase Offer, and such disclosure shall include name of the Offeror of Partial Purchase and the Offeree of Partial Purchase, and number of shares to be obtained from the capital of the Offeree of Partial Purchase, provided that such disclosure shall not include information that is listed in the Partial Purchase Offer Document such as price, timeline, **Partial Purchase Offer Manager**, sources of finance or other information that shall be included in the Partial Purchase Offer Document.

3.6 Publication and Modification of Partial Purchase Offer Documents

A partial purchase offer document needs to include the following information:

1. adequate information about the offeror of partial purchase and offeree of the partial purchase
2. details of the offeree of the partial purchase shares and any related rights or obligations
3. total amount of the submitted offer, number of shares, and percentage to be obtained from the capital of the offeree of the partial purchase
4. description of how the offer is being financed; the sources of financing; and the name of the main lenders or persons arranging financing
5. details of the required documents and procedures for acceptance of the offer
6. statement of any conditions or restrictions to which the offer is subject, and any related procedures
7. future plans of the Offeree company
8. timeline of the partial purchase offer
9. ownership of shares and any controlling share of the offeror of the partial purchase in the offeree of partial purchase

10. ownership of shares and any controlling shares of the offeror of the partial purchase in the offeree of the partial purchase including interests held by the members of the Board of Directors of the offeror of the partial purchase, ownership of, or control by, a subsidiary or close acting in concert with (including name and share of ownership), or ownership of shares or a controlling stake by persons who are committed to accept the offer irrevocably before publishing the partial purchase offer document, including their names
11. any other information required by the Authority.

A Partial Purchase Offer document will include a statement clarifying whether there is an agreement, arrangement or procedure between the offeror of the partial purchase, or any subsidiaries or person with whom they are acting in concert, and any of the members of the offeree of the partial purchase or its shareholders. The details of such an arrangement (if any) will be attached to the offer document. The partial purchase offer document will include a statement clarifying whether the shares that are meant to be purchased under the offer shall be transferred to any other persons or not. The details of such an arrangement (if any) will be attached to the partial purchase offer document.

3.6.1 Approval and Publishing a Partial Purchase Offer Document

An Offeror of a Partial Purchase shall submit a Partial Purchase Offer Document to the Authority in order to obtain its approval within 90 days from disclosing the Initial Agreement regarding the Partial Purchase Offer. The Partial Purchase Offer Document may not be published before the Authority's approval. The Authority may refrain from issuing its approval in the following cases:

1. the offer does not comply with the provisions of the Law and the requirements of these Bylaws
2. the offer is not accompanied by the required fees
3. the Offeror of Partial Purchase fails to submit the data required under the provisions of the Law and these Bylaws, or
4. the offer includes an incorrect or missing statement that would affect the decision of the shareholders.

If the Authority approves a Partial Purchase Offer Document, the Offer or their representative has to publish it on the website of the Offeror and the Offeree of the Partial Purchase as well as in at least two daily newspapers.

3.6.2 Recommendation of the board of directors of an Offeree Company

Within seven Business Days from receipt of the Partial Purchase Offer Document, the Board of Directors of an Offeree of a Partial Purchase shall submit a response to the Authority stating its opinion and recommendations to the shareholders, as well as the opinion of an Investment Adviser. The recommendation to the shareholders related to the offer shall be published on the website of the Offeror and Offeree of the Partial Purchase as well as in at least two daily newspapers.

3.6.3 General Assembly Approval of the Offeree Company

If the Authority approves the Partial Purchase Offer Document, an Offeror of a Partial Purchase shall obtain the approval of the ordinary general assembly of an Offeree of the Partial Purchase. At least 70% of the shareholders present have to approve the Partial Purchase.

3.6.4 Documents Available for Review

The offeror and offeree of a partial purchase will make the following documents available for review:

1. partial Purchase offer document and attachments
2. recommendation of the Board of Directors of the offeree of partial purchase
3. company contracts and other similar documents of the offeror of partial purchase and the offeree of partial purchase
4. audited financial statements of the offeror of partial purchase and offeree of partial purchase for the three years preceding the acquisition offer, if any
5. any report, letter, evaluation or other document that was presented or referred to in the partial purchase offer document
6. any document that serves as evidence for an irrevocable commitment to accept the offer
7. documentation of the financial arrangements regarding financing the offer if such arrangements were set out in the partial purchase offer document, and
8. any other documents required by the Authority.

The partial purchase offer document will specify where the documents shall be available for review.

3.6.5 Modification of a Partial Purchase Offer

The offeror of a partial purchase may submit a request for modification of an offer document within at most five business days of the closing of the collection period of the offeree of the partial purchase shares. Modifications may be made to the conditions of the execution process mentioned in the partial purchase offer document, provided they are in favour of the shareholders of the offeree of the partial purchase. The first step in the process is for the offeror of the partial purchase to submit a written request to the Authority including the reasons for the modification and attaching the modified partial purchase offer document. Procedures for executing the purchase offer process shall be suspended for ten business days, during which the Authority shall issue its decision concerning the modified partial purchase offer document. The modified partial purchase offer document may be published once approved by the Authority.

Once the Authority has approved the modified partial purchase offer document, the partial purchase offer manager restarts the collection process to allow for the shares of those shareholders willing to participate in the partial purchase offer to be collected. The re-opening of the collection process shall be announced in accordance with the mechanism of announcement. The partial purchase offer manager will immediately release any shares to participants in the collection process prior to its suspension as well as to those declining their participation in the partial purchase offer after the modification.



In the event the Authority rejects the modified offer document, the offeror shall complete the procedures of the purchase process as outlined in the original partial purchase offer document from the day after the Authority's announcement.

3.6.6 Extending Shares' Collection Period

An offeror of a partial purchase may submit to the Authority a request to extend the collection period of a purchase offer in accordance with the following conditions:

1. Before the publication of the partial purchase offer document, with a justification and a modified timetable.
2. Up to five business days prior to the end of the collection of the offeree of partial purchase shares, the following procedures are followed:
 - a. the offeror of partial purchase shall submit to the Authority a request setting out the reasons for its request to extend the collection period; provided that the modified timetable of the Partial purchase offer document be attached
 - b. the Authority shall notify the offeror of partial purchase of its decision concerning the extension of the collection period for those wishing to participate in the partial purchase offer
 - c. in the event that the Authority's approves, the offeror of a partial purchase shall announce the extension of the collection period and publish the updated timetable by using the mechanism of announcement
 - d. In the event that the Authority's rejects the extension request, the offeror of partial purchase shall follow the original timetable.

4. Division

Learning Objective

6.4.1 Know the rules and provisions in relation to divisions

A company may be divided, even if it is under liquidation, into two or more companies. The **Divided Company** may take any form of legal companies.

- **Divided Company** – a company or companies established as a result of the **Division** of the **Dividing Company**, whether as a company or companies existing or resulting from the Division.
- **Dividing Company** – the company wishing to divide, whether it continues through the same corporate entity or terminates as a result of the Division.

A Member of a Board of Directors of a Dividing Company shall not vote in the Board of Directors, its subcommittees, or the general assembly of the company if they have an interest in the Division. It shall not be construed as an interest if the Member of the Board of Directors has a participation in the Dividing Company of less than 5% of the voting shares in the general assembly.

Any indirect interest or in alliance with others shall be in disclosed in accordance with the provisions of Module Ten (Disclosure and Transparency) of these Bylaws.

The Dividing Company shall announce the Division phases as follows:

1. Immediately after the approval of the Board of Directors of a Dividing Company on the Division.
2. Upon obtaining the approval of the Authority on the **Draft Division Contract**.
3. Upon the general assembly's issuance of its resolution regarding the Division.
4. Upon the completion of the Official Announcement of the Division resolution.

If the Dividing Company is a member of the Exchange, the announcement shall be on the Exchange and the company's website. If the Dividing Company is licensed by the Authority and is not listed in the Exchange, the announcement shall be in the company's website.

In all cases, the announcement of obtaining the approval of the Authority on the Draft Division Contract shall be in at least two daily newspapers.

4.1 Draft Division Contract

The Dividing Company shall submit the Draft Division Contract to the Authority for its approval. Approval of the Central Bank is required for the Units Subject to the Supervision of the Central Bank. The Draft Division Contract shall not be published or circulated to shareholders or partners before obtaining these approvals. Each shareholder or partner shall have the right to receive a copy of the Draft Division Contract after obtaining the Authority's approval on the Draft Division Contract.

The Draft Division Contract shall include the following information:

1. Adequate information about the Dividing Company.
2. Details of the shares of the Dividing Company, and any rights or restrictions associated with them.
3. The Division plan and its reasons and purposes.
4. Statement of the financial arrangements for the financing of the Division.
5. Details of the Divided Company or Companies.
6. If the Dividing Company is a Listed Company, the company's plan to continue listing its shares in the Exchange and the plan to list the Divided Company or companies in the Exchange shall be determined. The company shall undertake to abide by the provisions of Module Twelve (Listing Rules) of the Executive Bylaws.
7. Information about the Investment Adviser and the Person responsible for the evaluation.
8. The date of the evaluation.
9. The initial report of the values of assets and liabilities of the Dividing Company, taking into consideration the assets' fair value, and the assets, liabilities, and nominal value of the Divided Company or companies.
10. Number of the shareholders or the partners, their names, and the share of each one of them in the Divided Company or companies, and these companies' rights and commitments and the mechanism of distributing the assets and liabilities between them.
11. The timeline of the Division.
12. Details of all the procedures necessary to be followed in order to execute the Division.
13. Details of any Effective Control the Dividing Company may have over other companies.
14. Any other details or information requested by the Authority.

The draft division contract needs to be accompanied by a full report of the Investment Adviser, including the asset evaluation report that evaluated assets and liabilities. In addition, a report of the basis on

which the initial evaluation of the assets and liabilities, determining the number of shareholders or partners, their names, and the share of each one of them in the Divided Company or companies, and these companies' rights and obligations and the mechanism of distributing the assets and liabilities between them, and the audited financial statements of the Divided Companies for the past three years, and the procedures to be followed in the event of forming a New Company or companies as a result of executing the Division, the procedures to be followed in the event of the Dividing Company's termination as a result of executing the Division, and the expected and estimated balance sheets (pro-forma) for the first financial year of the Dividing Company and the Divided Company or companies, attached with the Auditor's opinion.

4.2 A Person with Effective Control

In the event of a Person holds Effective Control over the Dividing Company before executing the Division, the Draft Division Contract shall include the following additional information:

1. Name of persons with Effective Control and names of any Subsidiary or persons with whom they are Acting in Concert.
2. Statement of the current ownership of the party with Effective Control in the Dividing Company, including any shares owned or controlled, or any Subsidiary or persons with whom they are Acting in Concert, or where a person with Effective Control or any Subsidiary or persons with whom they are Acting in Concert has the option of buying thereof.
3. A statement of whether a person with Effective Control holds a position of employment or serves as a Member of a Board of Directors in the Dividing Company.
4. The opinion of the Members of a Board of Directors regarding the Division and whether it is fair and reasonable for the rest of shareholders other than the party with Effective Control, and a statement that the Members of a Board of Directors have developed this opinion without any role by this party.
5. Any reservations made by Members of a Board of Directors regarding the Division, if any.

4.3 Conditions for Appointing an Investment Adviser

The investment adviser needs to be independent and may not be a stakeholder. They need to be licensed by the Authority and may not transact in the shares, subscribe to a share issue, or transact in any financial derivatives of the shares of any of the companies involved for their own account. Investment advisers who create and maintain a Chinese wall as per the CMA's guidelines, separating the licensed activities may trade in the shares of the companies involved.

4.4 Conditions for Appointing a Person Responsible for Asset Valuation

A Person who will be responsible for the valuation of the assets of the Dividing Company shall be independent, not a Stakeholder, and shall be licensed by the Authority. They may not subscribe for or purchase Shares or stakes in any of such companies or transact in the Financial Derivatives of such Shares for their own account.

4.5 Documents Available for Review

The Dividing Company shall make the following documents available to be reviewed by the stakeholders of the companies involved a Division:

1. The Draft Division Contract and its attachments.
2. The resolution of the Boards of Directors of the Dividing Company concerning the Division.
3. The contract of the Dividing Company or any other similar documents.
4. The audited financial statements of the Dividing Company for the past three financial years.
5. Any report, letter, assessment, or any other document presented or referred to in the Draft Division Contract.
6. Documentation of the financial arrangements for the financing of the Division.
7. Any other documents requested by the Authority.

4.6 Resolution of Shareholders in the General Assembly

The documents shall be made available for review at the Dividing Company's headquarters no later than ten Business Days before the commencement of the general assembly for the consideration of the Division.

The resolution to divide the company shall be issued pursuant to a resolution by the extraordinary general assembly which includes the number of shareholders or partners, their names, and the share of each one of them in the Divided Company or companies, and these companies' rights and obligations, and the mechanism of distributing the assets and liabilities.

The Dividing Company shall provide the Authority with a semi-annual report on the updates of implementing the resolutions of the general assembly regarding the Division.

If the Dividing Company withdraws from the Division, it shall be prohibited from executing any Division for a period of one year from the date of announcing its withdrawal from completing the Division.

Contracts of Financial Derivatives in the Exchange shall include provisions regulating the rights of such contracting parties upon executing the Division.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. List the three types of merger.

Answer reference: Section 1

2. List the types of activities investment advisers involved in an acquisition may not do.

Answer reference: Section 2

3. What are the regulations that apply in an acquisition regarding an investment adviser?

Answer reference: Section 2

4. What information needs to be disclosed by the offeror and the offeree?

Answer reference: Section 2.5

5. List the information required to be included in the offer document.

Answer reference: Section 2.6

6. What documents need to be made available for review by the offeror and offeree?

Answer reference: Section 2.6

7. How is the price of a mandatory offer determined?

Answer reference: Section 2.7

8. With what percentage may a controller vary their interest without having to submit an acquisition offer?

Answer reference: Section 2.8

9. List the other types of acquisitions.

Answer reference: Section 2.10

10. What is the recourse of a minority shareholder against an acquisition decision?

Answer reference: Section 2.11

11. What are the condition to submit a partial purchase offer?

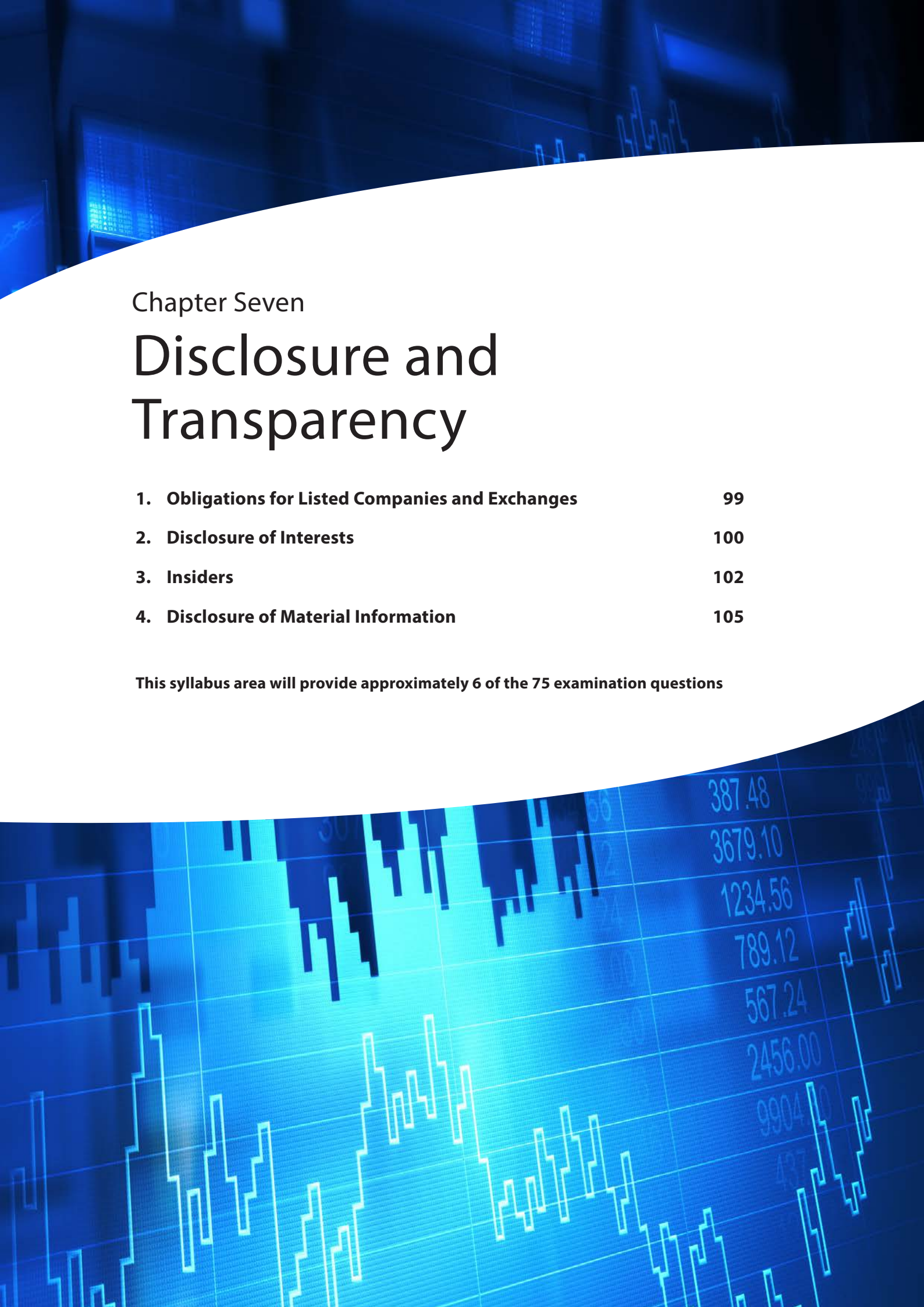
Answer reference: Section 3

12. What is the General Assembly percentage of approval on the partial purchase offer?

Answer reference: Section 3.6.3

13. What are the main components of the EGM resolution of the dividing company?

Answer reference: Section 4.6

The background of the page features a blue-toned image of financial data. At the top, there are faint line graphs and bar charts. The bottom half of the page is dominated by a large, detailed candlestick chart with white and blue bars, overlaid with a grid. To the right of the chart, several numerical values are listed vertically: 387.48, 3679.10, 1234.56, 789.12, 567.24, 2456.00, 9904.10, and 437.10. The overall aesthetic is professional and data-oriented.

Chapter Seven

Disclosure and Transparency

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2. Disclosure of Interests	100
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This syllabus area will provide approximately 6 of the 75 examination questions



1. Obligations for Listed Companies and Exchanges

Learning Objective

- 7.1.1 Know the disclosure and transparency provisions for: a listed company; an Exchange

1.1 Listed Companies

Listed companies need to maintain a register including all disclosure requirements described in this chapter. The register needs to be kept up to date and made available for review to any person during official working hours. One person in the listed company will be appointed to respond to all questions from the Authority regarding disclosure and transparency.

To avoid possible leaking of news, Board of Director meetings will not be held during trading hours. Results from the meeting will be made available at least 15 minutes prior to the start of the next trading session. Each issuer or **obligor** will disclose any resolutions issued in general assembly meetings of shareholders or holders of listed bonds or sukuk at least 15 minutes prior to the start of the next trading session.

1.2 Exchange

Any notifications received during trading hours will immediately be announced by the Exchange. In the event the notification was received after trading hours, the Exchange will announce the information at least 15 minutes prior to the start of the next trading session.

Management of the Exchange is responsible for the maintenance of a special register to record the disclosures received and their contents. Any party with a relevant interest may review this register on request and once fees are paid.

In the event an Exchange suspends trading of a security, it shall immediately notify the Authority including justifications and reasons. On a daily basis, at least 15 minutes prior to the start of the trading session, an Exchange will publish a report on its website clarifying disclosures of interests (see section 2) including any changes to previously announced information.

The Exchange receives the insiders' watch list (see section 3), and verifies that the names included in the list comply with their obligations related to insider trading when transacting in listed securities. Furthermore, the exchange needs to verify that insiders refrain from trading during restriction periods and announce all received disclosures related to insiders' trades.

Any false announcement (see section 4) on the Exchange's website announcement board shall be remedied by the issuance of a new announcement called a 'corrective announcement', which shall contain the false information and a statement of the accurate information. Additionally, when making a disclosure of a development relating to a previous announcement of **material information**, the Exchange shall call such subsequent disclosure a 'supplementary disclosure' and shall include reference to each previous disclosure related to the same subject.

2. Disclosure of Interests

Learning Objective

- 7.2.1 Know definitions and obligations relating to: interested persons; indirect interest or in alliance with others; disclosure of group; disclosure of CISs; disclosure in events of multiple interests

An interested person is any person with an interest in the capital of a listed company of at least 5%. This interest may be held (in)directly, as a group, or in alliance with other persons.

An indirect interest or an interest in alliance with others is in this context defined as follows:

1. Shares owned by minor children in the custody of the interested person.
2. Shares owned through investment portfolios, electronic trading accounts, or third parties providing that the interested person controls the voting rights.
3. Voting rights held by a third party under an agreement concluded with the interested person providing for the temporary or permanent transfer of the voting rights.
4. Voting rights attached to shares lodged as collateral with a lender (the interested person).
5. Voting rights attached to shares in an investment portfolio or electronic trading account, providing that the person holding these (the interested person) controls their voting rights.

A group in this context comprises a person, their subsidiaries, and the companies over which they have effective control collectively hold 5% or more of the capital of the listed company. The person will be responsible for disclosure of the collective ownership, details, and any subsequent changes of more than 0.5% of the whole of the group.

Managers of CISs are an interested person with regard to the shares held in the scheme. Unless the scheme's contract or articles of association stipulate that the manager is not permitted to exercise voting rights, the manager is responsible for disclosing any interests of 5% or more and any changes to their position. If the manager is not permitted to exercise voting rights, he will disclose the scheme's interest where it represents 5% or more without consolidating this interest with his other interests.

An interested person needs to disclose all interests of 5% or more in the capital of a listed company, even if they result from multiple sources or cases.

The following are not included when determining the interest of a person:

1. Shares held by an investment portfolio manager in their capacity of managing and keeping portfolios for their clients, providing that they do not exercise the voting rights or can only exercise the voting rights on instruction of the client.
2. Shares held by a market maker providing their holding does not equal or exceed 10% of the capital of the listed company and they do not intervene in the management of the company nor exert any influence on it to buy such shares or to back the share price.

An interested person needs to disclose their interest of 5% or more to the Authority, the Exchange and the listed company within five business days from acquiring the interest. In addition, any change to such interest of more than 0.5% needs to be disclosed within ten business days after the change. Disclosure remains mandatory once the holding declines to below 5%.

The disclosure needs to include the following information:

1. name of the interested person
2. the date on which the relevant threshold was reached or crossed
3. name of persons associated with the interest referred to in this section
4. the purpose of acquiring the disclosed interest
5. the type **of interest**, and
6. the percentage of previous interest in comparison with percentage of the disclosed interest.

The interested person needs to inform the Authority, the exchange, and the listed company with immediate effect once the purpose for the acquisition of the disclosed interest has changed, and they may not dispose the shares until they have made this disclosure.

Listed companies need to disclose at the beginning of each year the names of their shareholders whose shares represent 5% or more in their capital, as well as any change occurring to this percentage. In addition, listed companies need to provide the exchange with the following data and information upon listing:

1. General information about the company (company name, objectives, capital, contact details and any other information).
2. Names of members of the Board of Directors and the executive management.
3. Auditor.
4. Disclosure of **major shareholders**.
5. A list including all its subsidiaries and associate companies that are listed in the exchange.
6. Any other information set out by the Authority.

Such data and information shall be updated when any change occurs.

3. Insiders

Learning Objective

- 7.3.1 Know the definition and responsibilities of an insider
- 7.3.2 Know the responsibilities of listed companies in relation to inside information and insiders
- 7.3.3 Know the application of dealing restriction periods
- 7.3.4 Know the regulations regarding: corporate insiders' watch lists; corporate insider disclosure

3.1 Insiders

An insider is any person, in view of his position, who has access to information or data of **material effect** on a listed company that is not available to the public, and can be specified by the following:

1. Members of the Board of Directors and the executive body of the listed company, its subsidiaries and parent company who have access to inside information (in)directly related the company or its clients.
2. Directly linked to the company and hold inside information related to the company or their clients including, but not restricted to, the parent company, auditor, banking and advisory firms, credit rating agencies, information technology companies, and entities to which the company assigns their activities.

Insiders need to act with honesty and integrity and are responsible for maintaining confidentiality of the inside information they have obtained as a result of their position, or professional or personal relationships. They need to refrain from any of the following:

- dealing in listed securities for which they have inside information
- disclosing inside information
- give advice to third parties on the basis of inside information
- (in)directly transfer or cause to transfer inside information to others, or
- encourage others to trade securities on the basis of inside information.

Insiders need to maintain confidentiality of data and information related to clients of the listed company and shall not use or exploit it.

3.2 Responsibilities of Listed Companies in Relation to Insiders

In order to limit the potential misuse of inside information, the listed company needs to maintain strict confidentiality of its inside information by taking adequate measures to keep the information confidential taking into consideration the legal disclosure requirements. Adequate measures also need to be taken with regards to confidentiality of inside information related to clients.

Effective contractual arrangements need to be in place binding third parties who have access to inside information to keep the information confidential, not to misuse it, not to transfer it or to cause it to be transferred (in)directly to other persons, or urge others to transact in securities based on the information. At all times, an updated record needs to be maintained of all transactions undertaken by insiders in the securities of the company they have inside knowledge of. The listed company needs to obtain acknowledgements from all its insiders implying that they:

- Are aware that they hold inside information related to the company and its clients and that they are considered an insider in the listed company's watch list.
- Are liable for the legal consequences of their exposure to inside information of the listed company and their clients, and that they are fully aware of the consequential penalties of misuse or improper handling of such inside information.
- Shall notify the listed company of any transactions in its securities, or those of the parent company or subsidiaries before and after executing these transactions.

Each listed company needs to maintain a record of the disclosures and notifications of insiders and a detailed and accurate statement of compensations, salaries, incentives, and other financial benefits due to members of the Board of Directors and the executive body. This information shall be included in the reports to the general assembly. Any party with a relevant interest may have access to this record during normal working hours.

3.3 Dealing Restriction Periods

Insiders are prohibited from dealing in the securities issued by the listed company during the period starting ten business days prior to the end of each quarter and financial year until the announcement of the financial results related to that period. During the restriction period, insiders may only deal in the securities of the listed company after they have obtained approval from the Authority or the transaction is related to any of the following cases:

- transfer of ownership as a result of inheritance or will
- dealing in securities pursuant to a judicial judgement
- transfer or ownership from and to or among the investment portfolios managed by the licensed companies, provided that such is solely in favour of the beneficial owner
- transfer of ownership among relatives up to the second degree
- subscription on **pre-emptive rights** of securities or disposing the same
- purchase or transfer the ownership of the required number of shares to guarantee membership of the board of directors pursuant to the company contract
- transfer of ownership to settle a debt with a financial institution
- entering into a merger or acquisition offer
- pledge of securities
- transfer of ownership from the listed company to the employee in execution of the securities purchase option plans.
- enter public auctions of selling or purchasing a percentage not less than 5% of the shares of a listed company's capital.

Insiders who do not hold any inside information on the company may deal in securities issued by the company outside the dealing restriction periods set out above.

The same restrictions on insider trading apply to insiders with a controlling interest bearing in mind that dealings should be executed within the percentage limits that are permitted to trade as outlined in chapter 6.

3.4 Corporate Insiders' Watch List

The listed company needs to maintain a list of its insiders and submit it to the Authority and the exchange. Effective contractual arrangements need to be in place that require other insider entities to maintain a list of their employees who have access to inside information related to the listed company and their clients. In addition, effective contractual arrangements need to be in place to require other insider entities to provide the listed company with a list of their employees with access to inside information on the listed company and their clients.

Any updates to the corporate insiders' watch lists need to be submitted to the Authority and the Exchange in the following circumstances:

1. reason behind listing a person has changed
2. a person previously not listed has become an insider, or
3. a person in the list no longer holds insider status.

3.5 Corporate Insider Disclosure

On an ongoing basis, corporate insiders need to disclose their intention to deal in securities of a listed company, its subsidiaries and parent company to the compliance officer before executing the transaction. The disclosure needs to include the name of the insider, the names of any minors in their custody who intend to execute the transaction, the position of the insider in the company, the quantity and nature of the securities, the nature of the transaction, and the transaction date prior to execution of the transaction.

Insiders in the listed companies need to disclose any dealing in the securities of the listed company or their parent to the Authority, the Exchange, and the listed company within two business days as of the dealing date (prior to the trading session of the third day as a maximum) in accordance with the forms published by the Authority for that purpose.

The following conditions are considered as transactions executed by insiders in a listed company:

1. If the insider deals in the securities as a proxy, guardian, or custodian.
2. If the insider and any minors under their custody (in)directly own 50% or more of the voting rights in any general assembly of a company dealing in the securities issued by the listed company.
3. If a corporate person deals in the securities of a listed company for which one of their employees is a member of a Board of Directors.
4. Deals executed by the staff of the governmental or regulatory authorities who receive inside information related to the listed company.

4. Disclosure of Material Information

Learning Objective

- 7.4.1 Understand what material information is
- 7.4.2 Know the regulations regarding the timing of the disclosure of material information
- 7.4.3 Know the obligations listed companies have in relation to: rumours and news; unusual trading activity

Material information is defined as any information concerning a listed company, listed fund, issuer or obligor, as the case may be, relating to its activity, a person, its financial position or its management which is not available to the public and which relates to its assets, liabilities, financial position or general course of business, which may lead to a change in the price or volume of trading in a relevant listed security, or affect the willingness or unwillingness to acquire or divest an interest in such a security, or may affect the Issuer's ability to meet its obligations. This includes, but is not restricted to, information with **significant effect** on the listed company related to:

- joint ventures, mergers, acquisition conversion, division, or liquidation of a listed company or any of its subsidiaries or associate companies
- entering into or terminating a contract with significant effect
- purchase or sale of an asset with significant effect
- existence of new products or inventions
- changes in production or activities
- enactment of laws or decisions by governmental bodies, international organizations
- changes in accounting policies or standards, capital investment plans, and capital structure
- changes or defaults on financial obligations
- lawsuits, disputes, or disagreements
- asset valuations
- intercompany and related party transactions
- non-recurring events
- material information related to subsidiary and associate companies
- listing securities on other exchanges or foreign markets
- changes in the formation of the Board of Directors, senior and executive management, Sharia Supervisory Board, external body, or External Sharia Advisory Office
- credit rating
- changes to the objectives or activities
- discontinuation of one of the main activities
- authority's approval to treasury shares transactions
- general assembly meetings as per Appendix 17
- board of directors' meetings
- financial statements
- material information related to listed bonds and sukuk.

In general, disclosure is made for any changes with significant effect (either increase or decrease) in assets, liabilities, income or expenses of a listed company. Disclosure shall also cover any material information not mentioned and to which the definition of material information applies.

In all cases, the Board of Directors of a listed company has to disclose its assessment of the expected effects of such material information on its financial position, excluding the effects that cannot be foreseen or measured, as well as the expected earnings from tenders and similar contracts including disclosure of any effects may be harmful to the listed company. The listed company has to provide the Authority its justifications for the cases excluded from the provisions of this paragraph.

4.1 Timing of Disclosure of Material Information

Any material information that becomes available during the opening hours of the Exchange or the Authority will be disclosed immediately taking all necessary precautions to prevent leakage of the information before it is disclosed. In the event the information becomes available after the opening hours of the Authority or Exchange it will be disclosed 15 minutes prior to the start of the next trading session.

In the event the listed company's securities are listed on a foreign Exchange or market, the listed company will take all necessary measures to ensure any material information is disclosed simultaneously in all markets.

If the regulations of a foreign market require the company to disclose any material information on a day which is a public holiday in Kuwait, the information needs to be disclosed to the Authority and Exchange immediately upon the start of the business day of the foreign exchange and at least 15 minutes prior to the next trading session of the Exchange in Kuwait.

In the event the material information is incomplete, or in the event a listed company expects some material information to become available during the trading session it shall immediately notify the Authority and the Exchange of this and request temporary suspension of the trading of its securities. The listed company shall issue an announcement detailing all available information, reasons for non-disclosure, reasons for the suspension of trade, and the expected duration of the suspension. The listed company will include a statement to undertake to announce any further details as soon as possible. The Exchange may suspend dealing in the securities once it has ensured that a suspension of trading is in the interests of traders. In the event the request for suspension is accepted, the Exchange shall immediately notify the Authority including a detailed reason for any deficiency in disclosure and the expected duration of the suspension.

The Authority may temporarily suspend trading of any security if it becomes aware of any information or circumstance that impacts the activities of the issuer and it deems that these circumstances may impact the market or traders.

The disclosure of material information may be delayed if disclosure would damage the confidentiality of negotiations of preliminary procedures for a deal related to the listed company or any other transactions. Delay of disclosure is subject to the following:

1. The purpose of the delay is not to mislead regarding facts and circumstances necessary to evaluate the listed company's securities.
2. All measures are taken to ensure the confidentiality of material information until disclosure.
3. Once material information is fully disclosed, the listed company shall provide the justification behind the delay. If the Authority finds these justifications unacceptable, it may take disciplinary

action against the listed company. The listed company may consult the Authority before delaying the disclosure to determine the validity of a delay.

Confidentiality needs to be strictly maintained, and access to material information needs to be restricted to specific people in the listed company and shall not be disclosed to employees and others except when absolutely necessary for them to perform their duties.

4.2 Rumours and News

In the cases of speculation, news, information, or rumours about a listed company which may have an impact on the price of its securities or the investment decisions made by traders, it shall respond with immediate clarification, denial or confirmation depending on the validity of the information, as soon as the company becomes aware of any of this.

If the listed company fails to comment on any speculation, news, information, or rumours, the Exchange will notify the company of the necessity to comment or to provide it with a reason for not commenting. In these cases, the exchange or the Authority may temporarily suspend the trading of the securities of the listed company. The Authority may give instructions to the exchange to require the listed company to comment on the news, or notify the listed company directly.

4.3 Unusual Trading Activity

Listed companies are required to clarify any unusual trading activity related to price or trading volume to the exchange depending on the underlying cause.

- **Material information previously disclosed** – the information will need to be reissued together with any change in the previously disclosed information.
- **Speculation, news, rumours, or information** – immediate comment as described in section 4.2.
- **Leak of (delayed) material information** – immediate disclosure of the material information irrespective of whether this is in the interests of the listed company.
- **Unknown cause** – general announcement indicating there have not been any recent developments likely to impact the listed company or its affairs.

In all cases, the Authority may instruct the exchange to require the listed company to provide comment, or to notify the listed company directly. The Authority or the exchange may suspend trading and take appropriate legal procedures

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. How is the possible leaking of news prevented by listed companies?

Answer reference: Section 1.1

2. What is the timing for disclosures to be made to the exchange?

Answer reference: Section 1.2

3. What is the definition of an indirect interest?

Answer reference: Section 2

4. What information needs to be disclosed in a disclosure of interest?

Answer reference: Section 2

5. What is the definition of an insider?

Answer reference: Section 3.1

6. When does the dealing restriction period start and finish?

Answer reference: Section 3.3

7. When does the corporate insiders' watchlist need to be updated?

Answer reference: Section 3.4

8. What do corporate insiders need to disclose after dealing in the securities of the listed company?

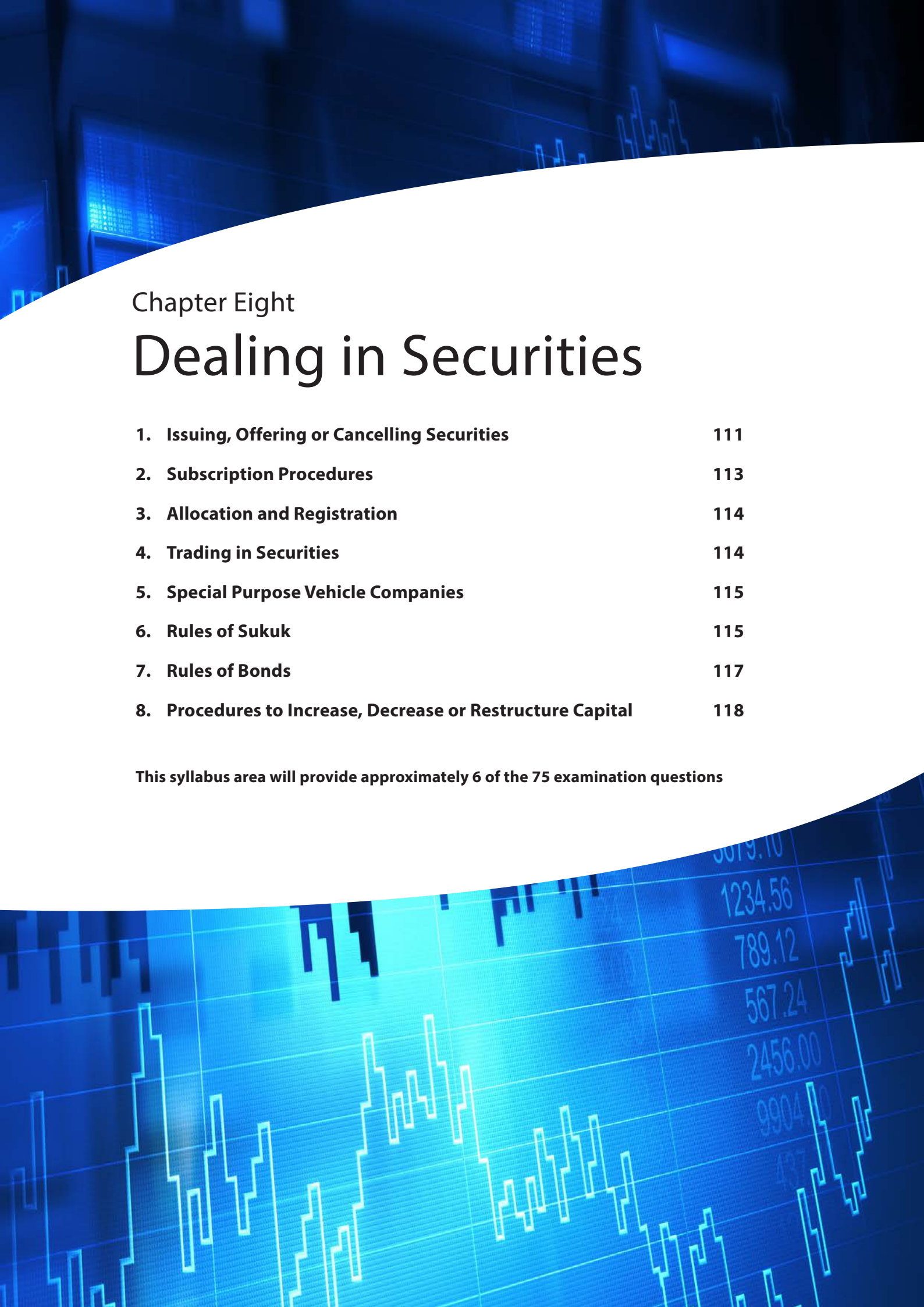
Answer reference: Section 3.5

9. When does material information need to be disclosed?

Answer reference: Section 4.1

10. What is required from the listed company in the event of unusual trading activity?

Answer reference: Section 4.3

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Chapter Eight

Dealing in Securities

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This syllabus area will provide approximately 6 of the 75 examination questions



1. Issuing, Offering or Cancelling Securities

Learning Objective

- 8.1.1 Know the general provisions for issuing, offering or cancelling securities
- 8.1.2 Know the general provisions for securities subscriptions
- 8.1.3 Know the regulations relating to the announcement and marketing of securities offerings

1.1 General Provisions for Securities Issue, Initial Offering and Cancellation Securities

No security can be issued or offered, directly or indirectly, without the prior approval of the Authority.

Approving the Securities **Issue Program** is considered an approval of all the **Issue Tranches** within the program, provided that the Authority shall be notified two Business Days prior to the issuance of each tranche within the program, and that the issuance process shall be executed within the program's cap and its terms and conditions.

In the event the issuer or obligor is subject to supervision of the Central Bank, they will need to obtain approval from the Central Bank. **Foreign issuers** need to obtain all necessary approvals from the regulatory bodies in their country of incorporation.

Meeting the conditions for issuance or offering does not automatically mean the issuer entails the right to issue, offer, trade, or market the securities.

Bonds and sukuk can be issued directly by the obligor or indirectly by means of a special purpose vehicle (SPV). In the event an SPV is involved, the SPV will act as the issuer. When issued directly the obligor is also the issuer.

Issuance, offering, subscription and allocation of Securities shall be within a period of six months at most from the date of the Authority's approval for the issue program, issuance, or offering. The Authority may extend this period in the event that it finds reasonable justification for such extension.

The process of cancelling Securities shall be within a period of three months at most from the date of the Authority's approval. The Authority may extend this period in the event that it finds reasonable justification for such extension.

1.2 General Provisions for Securities Subscription

Invitations to subscribe in a security may only be issued if it complies with the Authority's law and its executive bylaws, and is approved by the Authority.

The persons in charge of producing the prospectus will jointly compensate any person against damages resulting from incorrect or non-accurate information therein, or as a consequence of negligence concerning any data or information required to be included. Persons in charge of the prospectus include the following:

1. The issuer and any member of a board of directors of the issuer.
2. Subscription agent (if any).
3. Any person agreed to take responsibility for the contents of the prospectus.

Except for Preferred Shares and the **Collective Investment Schemes** including Special Purpose Vehicle Companies related to it, the Authority may exempt Shares issued or offered from submitting a Prospectus in the following cases:

1. No more than fifty Persons have been invited to subscribe in Shares in Kuwait.
2. Issuance or offering of Shares of no more than KWD 1,000,000 within twelve months from the last date of issue.
3. Issuance of Shares of no more than 10% of the last issue of the same class of Shares within a period of no more than twelve months.
4. Issuance of bonus shares to be distributed among shareholders as a dividend.
5. Issuance of Shares within the framework of an employees' stock option plan.
6. Issuance of Shares for the benefit of the issuer's creditors for the purpose of restructure the issuer's debt.
7. Any other cases determined by the Authority.

In these cases, promotion through mass media for an issuance or offering is not permitted unless the Authority decides otherwise.

In the event of a substantial change, mistake, or differences in the information or data in the prospectus approved by the Authority, the issuer or subscription agent shall provide the Authority with a supplementary prospectus including the necessary amendments. The supplementary prospectus must be provided prior to the end of the subscription period and the trading of the pre-emptive rights period.

1.3 Announcement and Marketing of Securities

In case of a public offering, the issuer, subscription agent and obligor(s) will publish the prospectus approved by the Authority on their website from where it can be printed and downloaded. The prospectus needs to be published at least two business days prior to the opening of the subscription. The Listed Company will publish a copy of the prospectus on the Exchange's website.

Public offers need to be advertised by publishing a summary of the prospectus in two Arabic language local newspapers and one English language local newspaper. The newspapers need to be widely circulated, and the announcement needs to be published at least two business days prior to the opening of the subscription.

2. Subscription Procedures

Learning Objective

8.2.1 Know the procedures relating to: the subscription period; role of the subscription agent

The period for subscriptions in securities may not exceed three months. In the event the subscription is full prior to the end of the period, the issuer may either close the subscription, or keep it open until the end of the period. This must be clearly stated in the prospectus.

Securities will be subscribed by the issuer himself or by one or more subscription agents or other entities approved by the Authority. Subscription payments shall be deposited in a bank account allocated for subscription at the issuer or the subscription agent (if any). It is not permitted to make any withdrawals from this account with the exception of:

- transfer of full subscription amount to the issuer, or
- refund of subscription amounts to subscribers in the event the issuance is cancelled.

Any securities not paid in full will be registered in the name of the subscription agent, and the remaining payment will be made into the subscription account. In the event of a dispute between the issuer and the subscription agent regarding the payment, the certificate issued by the bank where the subscription account is held will be used for verification of payment.

In the event that a subscriber fails to pay the full amount for their subscription by the due date, the issuer will request the subscription agent to sell the securities on behalf of the subscriber. Any proceeds from the sale will be deposited in the subscription account. An amount equivalent to the value of the unpaid securities will be transferred to the issuer's account; any remaining funds from the sale will be transferred to the subscriber.

Securities may be priced by the **Book Building Mechanism** in which the orders' register shall be built through recording the requests of Professional Clients who wish to subscribe within a specific price range or interest/return rate cap, and during a period specified for determining the offering price or the interest/return rate of issuing Securities for subscription.

3. Allocation and Registration

Learning Objective

8.3.1 Know the obligations relating to the allocation and registration of securities

Securities will be allocated to subscribers in accordance with the method defined in the prospectus within five business days of the date the subscription closes. The results of allocation and subscription shall be published using the same method used to publish and announce the prospectus. Unless otherwise provided in the prospectus, a subscription will be cancelled in the event of less than 50% of the bonds or sukuk being covered during the subscription period. Any funds received from subscribers will be repaid.

In the event issue of bonds or sukuk is oversubscribed, excess funds will be returned to subscribers and securities will be allocated among them in accordance with the method defined in the prospectus.

Within ten business days after the closing date of the subscription, a statement of the subscriptions will be submitted to the Authority stating the total number, value and means of payment of the securities subscribed for, and the names of subscribers and the number of securities allocated for each subscriber.

The issuer shall provide the obligor and the subscription agent with a copy of this statement and its attachments. Within one business day after receipt of the statement, the subscription agent will transfer the subscription payments and any returns to the issuer or obligor as defined in the prospectus.

In the event that the issue is cancelled, the subscription agent will return the subscription amounts and any other returns received to the subscribers within five business days of the cancellation date and in accordance with the instructions in the prospectus.

When an issuer wants to cancel an issue, they shall advertise this within 15 days after the subscription closing date, in the same way the prospectus is advertised.

4. Trading in Securities

Learning Objective

8.4.1 Know the share disposal rules for: founders; shareholders

Founders may not dispose of their shares during the first two financial years after the date on which the company is registered in the company register. Shareholders may not dispose of their shares until after the company has issued its first balance sheet spanning at least a twelve-month period.

Exempt from this rule are disposals of shares by the owner or their heir to a relative in the second degree or another owner of a similar type (founder or shareholder). Furthermore, transfers of the shares by a receiver, the state, or a public authority or department to a third party are also exempt from this rule.

5. Special Purpose Vehicle Companies

Learning Objective

8.5.1 Know the requirement for Special Vehicle Companies

Special Purpose Vehicle Companies that issue Securities may not be incorporated and carry out any activities unless it is licensed by the Authority, and it is limited to the issue of Bonds and Sukuk as shown in their contracts. These companies shall not pursue any other purposes, even if similar to their purposes, and they shall be wound up by force of law once the purposes for which they are formed are achieved. Moreover, the term of Special Purpose Vehicle Companies shall not be less than the term of the Bonds and Sukuk issued thereby, and it may be formed by one person. During the term of the company, there shall not be more than three founders or shareholders.

6. Rules of Sukuk

Learning Objective

8.6.1 Know the general conditions applicable to the issuance of sukuk

Companies may not issue sukuk directly or indirectly, unless they meet the following conditions:

1. The issued capital of company is paid in full.
2. The ordinary general assembly issues a resolution on sukuk issue.
3. An External Sharia Auditing Office certified by the Authority performs an audit of the structure of sukuk issue and gives its legal opinion as to approve it. In the event that there is a difference between the opinion of the External Sharia Auditing Office and that of the Advisory Board of the Islamic Supervisory Board, the opinion of the Advisory Board will prevail.
4. The Authority issues a resolution approving the sukuk issue.
5. The company acquires the Central Bank's approval of the sukuk to be issued or of an obligor if such be units subject its supervision.

Perpetual sukuk may be issued as long as they meet all standards and requirements of the Basel Committee on Banking Supervision (BCBS) related to capital adequacy as well as any further resolutions or instructions issued by regulatory bodies. Subscription to perpetual sukuk is limited to professional clients only.

Government, ministries, public authorities and institutions may issue perpetual **government sukuk** without a specific maturity date. These issues may be redeemed or amortized wholly or partially at any time at the discretion of the issuer or within specific periods.

The issuer or the obligor has the right to issue **Short-Term Sukuk** provided they shall be offered for **Private Placement** to Professional Clients only.



For the issuance of **Green Sukuk**, **Social Sukuk**, or **Sustainability Sukuk** proceeds are allocated to financing or refinancing green eco-friendly projects or social projects.

Sukuk convertible into shares may be issued if approved by a resolution issued by the obligor's extraordinary meeting which is based on a reasoned proposal by the Board of Directors containing the rules for conversion, particularly the value of the shares that will trigger the conversion. The price of the sukuk issued may not be below the par value of the shares, and the total par value of shares the sukuk are proposed to be converted into, plus the par value of shares issued may not exceed total authorized capital. The proposal needs to ensure the period of conversion is permissible and detail the eligibility of **sukukholders** to recover the value of sukuk if they do not wish to convert them.

The structure of Sukuk may be based on any of the following contracts:

1. **Ijarah** – the sale or transfer of a tangible asset to be leased later on for a period of time agreed upon in return for a consideration agreed upon and paid by the lessee.
2. **Intifa'a** – the right to utilize, own or develop any asset, or other legal rights of utilizing or holding such assets.
3. **Salam** – undertaking of a seller to supply certain goods to the purchaser at a future date in exchange for a price paid in full in advance.
4. **Istisna'** – agreement of sale, construct or manufacture whereby the consideration is paid based on production upon delivering certain products at a future date in accordance with the specifications agreed upon.
5. **Musharakah** – agreement of two or more persons upon contributing to a project that aims to make a profit through representing cash or in-kind shares with the purpose of sharing the resulting profits and losses.
6. **Mudarabah** – agreement of two or more persons to partner in a profitable project, where one of them represents a cash share or a share in kind and the other manages the project.
7. **Murabaha** – sale upon credit, where the seller transfers assets or goods immediately to the purchaser and adds a profit margin upon calculating the due payments deferred.
8. Contracts which create jus in rem, where the exercise of in rem right on a third party's properties pursuant to a valid contract between both parties only is allowed.
9. **Khadamat** – prior sale of services to be used in the future takes place based on expected benefit thereof.
10. Other contracts or transactions approved by the Authority and an External Sharia Auditing Office.

7. Rules of Bonds

Learning Objective

8.7.1 Know the general conditions applicable to the issuance of bonds

7.1 General Conditions of Issuance

Tradable bonds may be issued by the Kuwaiti government, ministries, public authorities, institutions, public and **closed shareholding companies**. Bonds may be issued directly or indirectly to subscribers against a subscription payment. Bonds may only be issued by companies if the following conditions are met:

- issued capital of the company is paid in full
- the ordinary general assembly issues a resolution on the issuance
- approval is obtained from the Authority, and
- for companies subject to Central Bank supervision, approval has been obtained from the Central Bank.

Public offers for bonds may be made by public shareholding companies or SPVs, provided that such bonds are secured in full by an obligor which must be in the form of a **public shareholding company**.

Bonds offered to the public may not be redeemed before the end of one year from the issue date, must produce (fixed or variable) periodical yields, and may not include any financial derivatives except for conversion into shares, wherein the option right implied must be subject to the discretion of the **bondholders** and shares subject to swap must be listed on the Exchange.

Perpetual bonds need to abide by all the standards and requirements of Basel Committee on Banking Supervision (BCBS) in relation to capital adequacy and any further resolutions or instructions issued by regulatory bodies. Subscription in such bonds is limited to professional clients only.

Bonds may be issued at less than their par value (on discount). If issued directly the issuer, and if issued indirectly the obligor, will meet the par value of the bonds to calculate the return.

Bonds will be amortized and redeemed as described in the prospectus. In the event that there is specific date set for paying the value of bonds, this may only be brought forward or backward pursuant to the conditions stipulated in the prospectus.

In the event of a wind-up or liquidation of an obligor, other than in a merger, the bondholders are entitled to redemption of their holdings prior to the maturity date, and the obligor may propose the same. Unless otherwise provided for in the prospectus, once settled, the **bondholder** no longer has any rights to any returns of the bond.

Obligations arising from bonds become extinct based on the conditions of extinction stipulated in the prospectus. The obligor must notify the Authority of the extinction of these obligations within ten business days of the extinction date, detailing the reasons and attaching the opinion of the auditor, **paying agent**, and clearing agency.

8. Procedures to Increase, Decrease or Restructure Capital

Learning Objective

- 8.8.1 Know the Types of Capital Increase (Ordinary Shares)
- 8.8.2 Know the Types of Capital Decrease (Ordinary Shares)

The provisions and laws related to increase, decrease, and restructuring of capital apply to Kuwaiti Public shareholding companies, Kuwaiti Shareholding companies listed on the Boursa Kuwait Securities Exchange, and shareholding companies licensed by the Authority to practice securities activities.

8.1 Capital Increase (Ordinary shares)

The capital of a shareholding company can be increased via one of the following methods:

1. **Cash Increase** – new shares are issued either at par value or at share premium, and are paid in cash. In the event of share premium account, a report shall be submitted by a licensed Investment Adviser stipulating the basis and the method of calculating the share premium.
2. **In-Kind Increase** – new shares are issued either at par value or at share premium, and paid in full by providing an asset in-kind (tangible or intangible). In the event of a share premium account, a report shall be submitted by a licensed Investment Adviser stipulating the basis and the method of calculating the share premium.
3. **Increase by distribution of free bonus shares** – bonus shares are transferred from the voluntary reserves, retained profits, or an excess of the minimum limit of the legal reserve. The shares shall be issued according to the par value without the share premium, and shall be distributed among the shareholders proportionate to their ownership share in the capital.
4. **Increase by transferring a debt to share** – new shares are issued to pay up all or part of the amount of debt as agreed between the company and the creditor. The company should obtain written approval from the creditor on the conversion of debt to shares in the company's capital, declaring the debt principal or bond and its value and submitting a copy of the debt contract. The debt shall be cash in the form of a loan or other **debt instruments** such as Bonds and Sukuk. Only the principal amount will be converted, not the interest or profit, and the issued capital shall be paid in full. If the share value is higher than the par value at the time of converting the debt, the share premium shall be evaluated by an asset valuator or investment adviser licensed by the Authority.
5. **Increase for the purpose of issuing shares for the employees** – new shares issued are allocated to the employees' stock option system, provided that the approved instructions of the Authority are complied with.

8.2 Capital Decrease (Ordinary Shares)

Reducing the capital of a shareholding company is implemented by one of the following ways:

1. Cancelling of ordinary shares in proportion to the ownership of each shareholder in the company's paid up capital.
2. Reducing the par value of the ordinary shares, provided the new value is not below the minimum limit stipulated in the companies law, the shares are not cancelled, and the value of each share is reduced by an equal amount.
3. The company purchases Treasury's shares for the purpose of cancelling them. The number of shares purchased equals the value of the amount to be reduced from the capital. The company must have valid approval from the authority.

When reducing the company's capital for the purpose of amortizing the accumulated losses of the company the following sequence must be taken into consideration when using the financial reserves before the reduction:

- **First** – using the voluntary reserve.
- **Second** – using the legal reserve of what exceeded 50% of the company's capital of this reserve.
- **Third** – using the Share premium.
- **Fourth** – using the rest of the remaining legal reserve.

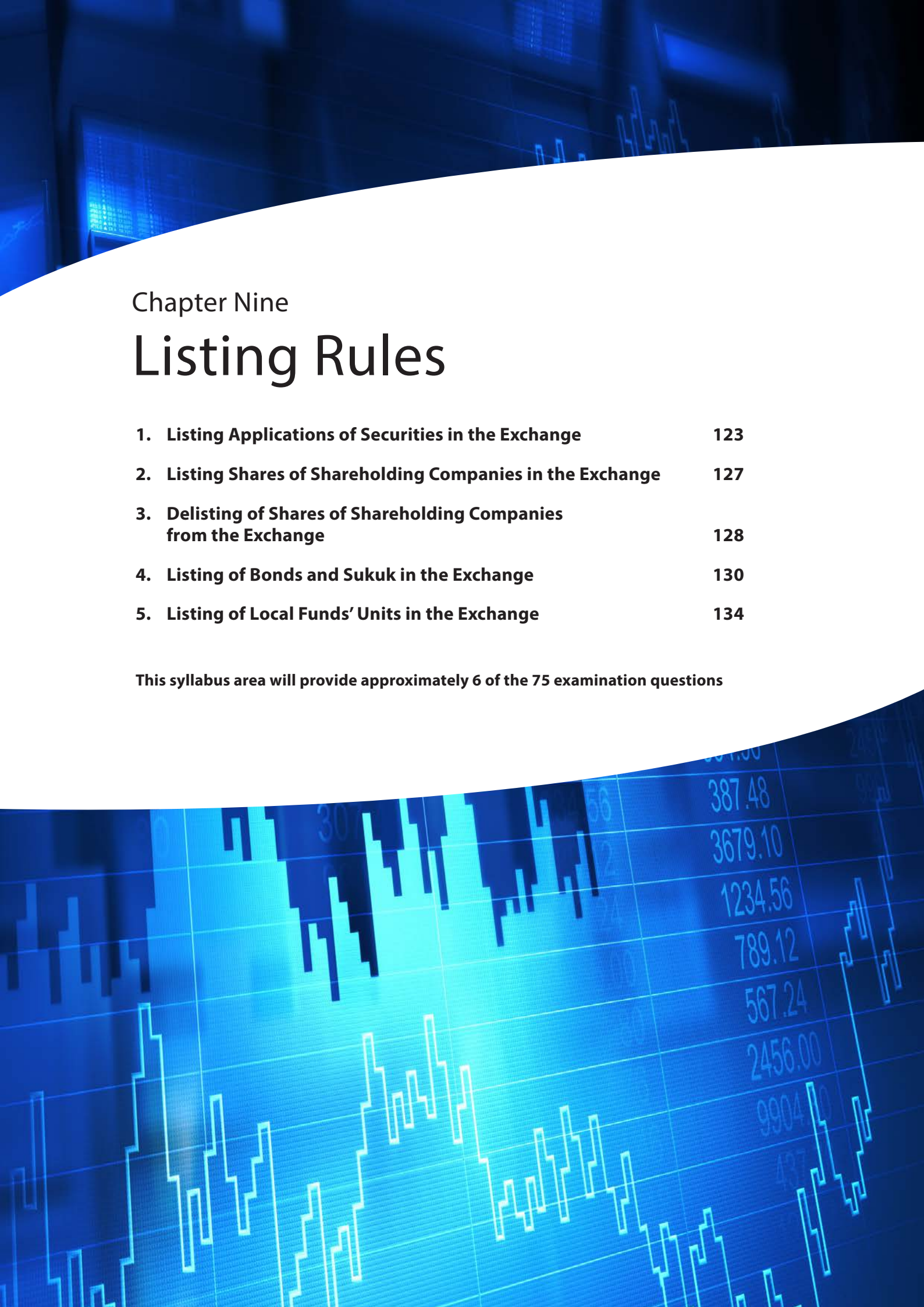
Once the company's accumulated losses reach 75% of the company's capital, the board of directors shall invite the extraordinary general assembly to consider the company's continuation or dissolution. The company may also include an agenda item to reduce or restructure the capital in the same assembly, only after the company has obtained the Authority's approval on reducing or restructuring the capital.

The provisions of capital increase and decrease also apply to restructuring of capital. A study of restructuring the capital and its impact on the company's financial situation will be provided with the request of restructuring and statement of financial position before and after the restructure.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

- 1. How may bonds and sukuk be issued?**
Answer reference: Section 1.1
- 2. How does an issuer need to advertise public offers of bonds or sukuk?**
Answer reference: Section 1.3
- 3. What is the maximum length of a subscription period for securities?**
Answer reference: Section 2
- 4. List the information required on a subscription application receipt.**
Answer reference: Section 2
- 5. Within what period are securities to be allocated?**
Answer reference: Section 3
- 6. When may founders dispose of their shares?**
Answer reference: Section 4
- 7. Subscription to perpetual sukuk is limited to which type of clients?**
Answer reference: Section 6
- 8. List the conditions for bond issuance by companies.**
Answer reference: Section 7.1

The background of the page features a blue-toned image of financial data. At the top, there are faint line graphs and data points. The bottom half of the page is dominated by a large, detailed candlestick chart (OHLC) with various price levels and volume bars, all in shades of blue and white.

Chapter Nine

Listing Rules

1. Listing Applications of Securities in the Exchange	123
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This syllabus area will provide approximately 6 of the 75 examination questions



1. Listing Applications of Securities in the Exchange

Learning Objective

- 9.1.1 Know the regulations regarding an application for listing
- 9.1.2 Know the regulations regarding continuous obligations on listed securities
- 9.1.3 Know the regulations regarding listing suspensions

1.1 Application for Listing

Securities may not list on the Exchange unless a recommendation is issued by the Exchange and approved by the Authority.

Listing Pre-emptive Rights shall be exempt from the approval procedures of listing and delisting stipulated in CMA Bylaws. The Authority's approval of the Prospectus that includes permission of trading Pre-emptive Rights at the Exchange is considered an approval from the Authority on listing these rights. Listing Pre-emptive Rights shall be cancelled after the Listed Company's disclosure of the results of subscription in the company's capital increase.

The Exchange's rules shall explain the controls of listing Pre-emptive Rights.

The application for listing needs to be submitted to the Exchange using the relevant form prepared by the Exchange. **Listing applications** in a **non-Kuwaiti Exchange** and applications for voluntary delisting from the Exchange need to be submitted using the relevant form prepared by the Authority. All documents and information required need to be attached to the application form in accordance with the Exchange's rules and the Authority's executive bylaws, along with the set payment fees



for the Exchange and Authority. The Authority and the Exchange may request additional information or documents at any time after receipt of the application. The application will be considered withdrawn if the requirements requested are not fulfilled within the period specified by the Authority or Exchange.

The Authority will make its decision within 30 days of receipt of a complete application including all relevant documents and information pursuant to the Exchange's rules and the Authority's executive bylaws, and will inform the applicant and the Exchange about its decision on the listing application. The Authority may reject the listing application under the following circumstances:

- any of the conditions of listing are not met
- the rejection is deemed necessary for considerations related to the market situation or the national economy, or
- the rejection is deemed necessary for the protection of investors.

In all cases, the decision shall include reasons for such rejection. New listing applications may be submitted six months after the rejection date.

The Authority, with a justified decision, may postpone making a decision regarding the applications of listing or voluntary delisting of any security listed in the Exchange if it is deemed to be in the public interest.

1.2 Continuous Obligations on Listed Securities

Listed companies shall:

- Provide a notification to the Authority and the Exchange, including the Right to Attend the General Assembly and the statement of the final date of purchasing the company's shares to obtain the right to attend the general assembly as well as the agenda, date and place of the meeting and the methods to participate in the general assembly according to the required form – attaching all relevant documents to the items on the agenda – at least five business days prior to the **date of the right to attend the General Assembly**.
- Provide the Authority and disclose at the Exchange the authenticated minutes of the general assembly's meeting, the report of calculating the quorum, the report of the voting results on each item of the meeting, and the report of the notices and reservations received from the shareholders or their representatives and the auditors within a maximum of ten business days from the date of the meeting.
- Provide the Authority and the Exchange with the certificate of noting the amendment of the Company Contract in the commercial register within a maximum of five business days from the date of issuing the commercial register notation.
- In the case where the amendment of the capital in the company contract is pursuant to the minutes of the Board of Directors, a copy of such minutes shall be attached with the certificate of noting in the register mentioned in the previous clause.
- Appoint an auditor from the auditors registered within the Authority for one financial year, renewable annually for not more than four consecutive years, unless it is in the liquidation phase, provided that such auditor is not a manager, an official, an employee or a partner in the listed company. The same auditor may be reappointed after the lapse of at least two consecutive years. The listed company must notify the Authority within a period of no more than seven business days from the date of appointment, replacement, or resignation of the auditor. Without prejudice to the

implementation of the rules stipulated by the Central Bank of Kuwait in this regard for the units subject to the supervision of the Central Bank of Kuwait.

Listed companies may use the electronic system to attend general assemblies. In order to achieve its objectives, especially within the scope of protecting minority rights, the Authority may oblige any of the listed companies to use the electronic system for participation.

In any event, shareholders registered in the company's records have the right to attend and vote via the electronic system at the end of the 10th business day that precedes the date of the General Assembly.

1.2.1 The Financial Statements of Listed Companies

Each Listed Company on the Exchange shall perform the following:

1. Provide the Exchange and the Authority with its reviewed periodical financial statements within 45 days from the end date of the period for which the statement is prepared with regard to the periodical financial statements, and disclose these simultaneously in accordance with the form prepared by the Exchange for this purpose. The shares of the Listed Company shall be suspended from trading if the company is delayed.
2. Provide the Exchange and the Authority with its audited annual financial statements within 90 days from the end of the financial year and disclose these simultaneously in accordance with the form prepared by the Exchange for this purpose. The shares of the Listed Company shall be suspended from trading directly if the company is delayed.

Banks are exempt from submitting their financial statements mentioned in the previous items (1) and (2) within the same dates to the Authority, without prejudice to the rules set by the Central Bank of Kuwait in this regard for Units Subject to the Supervision of the Central Bank.

The following procedures shall be applied in the event that the Auditor provides an adverse opinion or a disclaimer of opinion on the periodical or annual financial statements of the Listed Company:

1. Using the form provided by the Exchange the Listed Company shall disclose the following:
 - a. A written opinion of the Auditor.
 - b. A detailed explanation of the case that led the Auditor to give his opinion.
 - c. The steps that the company will follow to resolve what was stated in the Auditor's opinion.
 - d. The timetable of implementing the steps of resolving what was stated in the Auditor's opinion.
2. The Exchange shall suspend the shares of the Listed Company from trading.

In the event that the Auditor provides a qualified opinion on the periodical or annual financial statements of the Listed Company, the Listed Company shall disclose the items under point 1 a–d above.

The Authority may decide to resume trading the shares of the Listed Company that was suspended if one of the following was achieved:

- a. the resolution of the matters that led the Auditor to provide the opinion and submitting proof of this to the Authority
- b. the issuance of new financial statements that do not include an adverse opinion or a disclaimer of opinion, or
- c. any other cases approved by the Authority.

The Authority may take disciplinary action against the Board of Directors of the Listed Company in the following cases, for example but not limited to:

1. The trading on the Shares was suspended as a result of not providing the Exchange and the Authority with its reviewed periodical and audited annual financial statements according to the set time frames.
2. The trading on the Shares was suspended as a result of the Exchange suspending the shares of the Listed Company from trading.
3. The trading on the Shares was suspended as a result of the termination of the contract with the Auditor as a result of a disagreement between the Listed Company and the Auditor.
4. If the Listed Company does not hold its annual ordinary general assembly following the end of the financial year within two months from the disclosure date of its audited annual financial statements. Non-Kuwaiti Listed companies on the Exchange are exempt from the provision of this article and are subject to applicable regulations of the Exchange in which these companies are listed in its place of incorporation.

1.2.2 Sustainability Report Regulations for Listed Companies

The Listed Company may issue an annual Sustainability report and publish it through its website. The report shall determine the impact of the company's activities on the environment, society, and the economy, as well as the company's opportunities and risks associated with those areas and how it manages them. The Authority shall be notified of the report, and it shall be published on the website of the Exchange.

The information available in the Sustainability report must be clear and accurate, and the report must cover the most important issues of environmental, social, and economic impact in a way that enables stakeholders to evaluate the company's Sustainability level during the report's period. The following points shall be taken into consideration when preparing the report:

1. the report shall be prepared according to one or more of the international Sustainability reporting standards
2. describe the scope of the report and the basis for its determination
3. determine the company's most important topics of environmental, social, and economic impact, and engage stakeholders in the materiality assessment process of those topics and describe the method followed in the assessment process, and
4. describe the method and procedures followed in dealing with each of the Sustainability topics that were determined in the materiality assessment process mentioned in point (3) above. The company may seek external assurance to enhance the report's credibility, provided that the assurance report shall be included in the Sustainability report.

1.3 Suspension of Trading a Listed Security

The Authority may temporarily suspend trading in the Exchange, and suspend the trading of any security listed in the Exchange in any of the following cases:

1. Violating the issuer for any of the obligations imposed on it under the laws and regulations applied by the Authority and the Exchange.
2. Disasters, crises, and unrest that may have significant adverse effects on the market.
3. Achieve investor protection in the market.
4. If the issuer fails to submit any data or documents required by the Authority within its regulatory scope.
5. If the auditor has given a material, qualified opinion on the periodical or annual financial statements, or in the event that the contract with the auditor was terminated as a result of disagreement between the listed company and the auditor.

The Exchange may also suspend trading any listed security in cases which the Exchange is allowed to do so, in accordance with the provisions in the laws, regulations, and rules defined by the Authority and the Exchange.

2. Listing Shares of Shareholding Companies in the Exchange

Learning Objective

- 9.2.1 Know the regulations and conditions regarding listing shares of Kuwait shareholding companies and non-Kuwaiti shareholding companies on the Exchange

2.1 Listing of Public Shareholding Companies

Kuwaiti companies may be listed on the Exchange provided that the listing conditions stipulated in the Exchange's rules are met, the legal form of the company is a shareholding company, and the company's shares are tradable and freely transferable with no restrictions on trading all of its shares or the transfer of share ownership between investors.

Kuwaiti public shareholding companies must submit a listing application to the Exchange within the company's second year of practicing its main activities. Failing to do so, means the Authority may take legal measures in respect of the company. Companies fully owned by the government are exempt from submitting a listing application. The Authority must determine the time at which the company commenced operations in accordance with the available documents.

Each shareholder (in)directly holding 20% or more of the company's shares will provide an undertaking not to dispose of 20% or more of their shares for a period of one year from the listing date. The person to whom the shares are disposed will abide by the same undertaking. This rule does not apply in the event

an acquisition offer is made for all shares of the company in accordance with the regulations governing mergers and acquisitions.

Non-Kuwaiti companies may be listed on the Exchange if the conditions stipulated in the Exchange's rules are met. In addition to the following conditions:

1. The legal form of a company must be a shareholding company.
2. The company's Shares shall be tradable and freely transferable with no restrictions on the trading of the shares to be listed or the transfer of the Shares ownership between the investors related to the company nor the country of incorporation of other nationalities, and specifying such restrictions, if any.
3. The company shall appoint a legal representative in the State of Kuwait provided that it is one of the Licensed Persons to perform the tasks of representing the company in the State of Kuwait before the Authority, Exchange, and third parties.
4. Any other requirements, conditions or rules stipulated by the Authority.

3. Delisting of Shares of Shareholding Companies from the Exchange

Learning Objective

9.3.1 Know the regulations regarding: delisting; voluntary delisting

3.1 Delisting

The Authority may cancel the listing of a company's shares in any of the following events:

- If the company refrained from appointing a compliance officer, after being notified by the Authority to do so.
- If the company is dissolved in accordance with the provisions of the Companies Law.
- If the trading of the share was suspended for a period of six months without the company meeting the necessary requirements to resume trading.
- If a merger results in the termination of the corporate legal identity.
- If the company stopped practicing its activities permanently or temporarily for a period of more than one year.
- If a reverse acquisition occurred.
- If the company breaches one of the listing requirements.
- If the Authority deems that cancelling the listing is necessary for protection of investors or regulating the market.

The Board of Directors of a company shall call the general assembly to discuss the resolution of delisting the company's shares from the Exchange, including addressing the company's current condition and the future plans to resolve these conditions. Calling for the company's general assembly shall be made within a period of three months from the date of the resolution to delist the company's shares.

The members of a Board of Directors shall be subject to disciplinary actions in case of refraining from convening the general assembly during the stated period.

The company shall also provide the Authority and the Exchange with a copy of the certified minutes of the general assembly meeting, within a period of not more than two weeks from the date of commencing the general assembly.

3.2 Voluntary Delisting

A listed shareholding company may request to voluntary delist from the Exchange pursuant to the conditions and procedures in the following order:

1. Disclosing on the Exchange the company's Board of Directors' recommendation to voluntary delist from the Exchange and providing reasons for this decision.
2. Obtaining the approval of the general assembly to voluntary delist, with the following conditions fulfilled:
 - The votes to approve the voluntary delisting shall not be less than 75% of the attendees to the general assembly.
 - Not more than a year has passed since obtaining the decision of the voluntary delisting in the general assembly.
3. Providing the Authority with the reasons for delisting from the Exchange.
4. Providing the Authority with a voting sheet ratified by the Clearing Agency on the voluntary delisting item in the general assembly.
5. Providing the Authority with an undertaking guaranteeing payment of any amounts or obligations due from the company to the Exchange or Clearing Agency for the period of its listing in the Exchange.
6. Providing the Authority with an undertaking, in coordination with a Clearing Agency, for payment of any obligations of the company towards the shareholders including cash dividends and bonus shares.
7. Obtaining the Authority's approval for the voluntary delisting, and announcing it in the Exchange.
8. Announcing that a date is specified for delisting from the Exchange at least six months from the date of announcing the Authority's approval, without including any suspension of trading of Shares within this period.

If the Authority approves the application for delisting from the Exchange, any Person may submit an offer to purchase the Shares from the shareholders willing to sell before delisting from the Exchange, provided that the purchase price shall not be less than the average share price of the last six months of trading from the disclosure of the Board of Directors' recommendation to delist from the Exchange. The purchase must be completed before the actual date of the delisting.

The Exchange shall specify the rules for such process.

In cases where a company intends to withdraw its request to voluntary delist from the Exchange, it must express its intention before the Authority's issuance of its decision regarding the voluntary delisting request. The company must attach with the withdrawal request the following documents:

- A letter explaining the reasons for withdrawing the delisting request from the Exchange.

- A copy of the company's general assembly's decision to withdraw the delisting request, approved by the competent authorities.
- The Authority may accept the request, or reject it and continue to study the delisting request.

4. Listing of Bonds and Sukuk in the Exchange

Learning Objective

- 9.4.1 Know bond and Sukuk listing requirements related to: the obligor; bonds or sukuk; listing application; bonds or sukuk issued by a foreign issuer; bonds or sukuk listed in a non-Kuwaiti exchange; delisting

4.1 Obligor

- The obligor of a bond or Sukuk must be incorporated in accordance with the laws of its country of incorporation and be operating in conformity with its company contract.
- The issued capital of the issuer must be fully paid.
- When submitting a listing application, the obligor must have audited financial records for at least the three preceding financial years, and must have been practising its main licensed activities for the same period.
- The obligor must be able to demonstrate on its own or with its subsidiaries that it is able to meet the working capital requirements for the issuer for the 12 months following the listing application date.
- Members of the senior management or Board of Directors must have sufficient expertise and experience to manage the business.
- The obligor needs to obtain written approval from the Authority and other regulatory bodies for the issuance of the bonds or Sukuk seeking listing on the Exchange.
- A listing adviser must be appointed.
- The Authority may request any other requirements or conditions.

4.2 Bonds and Sukuk

- Bonds and Sukuk may be listed on the Exchange if the listing conditions in the Exchange's rules are met, and will be issued in accordance with the provisions of the laws and regulations applicable to the issuer and the obligor and in accordance with the company's contract.
- Bonds and Sukuk must be tradable and freely transferable without any restriction that may obstruct trading or the transfer of ownership between traders or in the country of incorporation of the obligor, as any restrictions need to be specified.
- Sukuk needs to be approved for trading in accordance with the provisions of Islamic Sharia and approved by an External Sharia Auditing Office.
- The obligor must form a Bondholders or Sukukholders Association as appropriate. A credit rating must be obtained from a credit-rating agency licensed or accepted by the Authority.
- The Authority may request any other requirements or conditions.

4.3 Listing Application for Bonds and Sukuk

The listing application shall be signed by the issuer or obligor and submitted to the Authority on the form prepared for this purpose, accompanied by the following documents:

- An authorization letter from the issuer or obligor – as applicable – to the **listing adviser** for following up with the process of listing the bonds or Sukuk.
- Copy of the article of association of the issuer, obligor, and **guarantor** pursuant to the applicable laws in the country of its incorporation and a copy of all the amendments that occurred to the same.
- Basic and financial details of the issuer or obligor – as applicable – as follows:
 - the name of the issuer or obligor – as applicable – and its legal form
 - the amount of capital
 - the issuer or obligor – as applicable – main licensed activities and its relationship with any other holding, subsidiary, associate, or ally company
 - the list of the names of the members of a Board of Directors
 - the list of the authorized signatories and sample of signatures
 - the country in which the Issuer or obligor – as applicable – and the place of its headquarters are incorporated
 - the name and address of the external auditor and the External Sharia Audit Office
 - copy of the company's shareholders register issued by a clearing agency
 - copy of the prospectus
 - copy of the **trust document**, if any
 - copy of the guarantee of the issuance, as applicable.
- Unless the issuer is a special purpose vehicle set up for the purpose of issuing **asset-backed bonds** or **Sukuk**, approved original copy of the audited financial statements of the Issuer or obligor – as applicable – and any other guarantor for the last three financial years prior to the submission of the listing application are required, in addition to the latest audited quarterly financial statements if more than three months have passed since the last annual financial statements of the company.
- A copy of the Board of Directors or the related management of the issuer or obligor to approve the listing application.
- In case of **guaranteed issue**, a copy of the resolution of the Board of Directors' or the administrative authority to the guarantor approving the listing application, in the case of a guaranteed issue of Sukuk.
- A copy of the approval sought from the Authority or any other regulatory bodies for the bonds or Sukuk issue, in addition to a letter from the listing adviser of the issuer – as applicable – confirming that all the necessary approvals have been obtained.
- An undertaking or acknowledgment from the Board of Directors or members of the administrative authority of the issuer or obligor – as applicable – to comply with the applicable laws, regulations and resolutions of the Authority and the Exchange and provide all information and statements required by the Authority and the Exchange while ensuring that such information and statements are accurate and true.
- With regards to Sukuk issued outside the State of Kuwait, a copy of the report of the External Sharia Audit Office or the legal opinion of the Sharia Audit Officer approving the issue and trading of Sukuk.
- A legal opinion from the issuer and obligor's external legal adviser setting out all the cases or group of cases filed for or against the issuer or obligor that have a material effect on the financial position of the issuer or obligor, including amounts and details of such claims.

- A detailed report on the assets of the issuer or the **bond assets** or **Sukuk assets** related to the indirect issuances, issued by its auditor stating that these assets have been valued in accordance with generally accepted rules and standards. The Authority may request a copy of these valuations.
- Payment receipt of the listing application fees to the Authority.
- Other documents required by the Authority from the issuer, obligor, **originator** or guarantor, as applicable.

In cases where the issuance of bonds or sukuk is guaranteed by the government of the State of Kuwait or in such other circumstances as the Authority may decide, the Authority may grant exemptions and waive some or all of the requirements stipulated above.

Convertible bonds or **convertible Sukuk** may be admitted to listing, only if the shares of the same class into which they are convertible are already listed on the Exchange or an Exchange outside Kuwait under the supervision of a foreign authority with supervising competences.

4.4 Bonds and Sukuk Issued by a Foreign Issuer

Before issuing bonds or Sukuk in the State of Kuwait, a foreign issuer must be listed on an exchange and be subject to the supervision of a competent foreign authority, and this condition does not apply if the foreign issuer is a special purpose vehicle (SPV) company and the obligor or originator is registered in the State of Kuwait. Prior to trading the bonds or sukuk on the exchange, the issuer must provide and undertake to publish its latest audited financial statements and business results in two daily Arabic language newspapers. This condition applies if the foreign issuer is an SPV company and the obligor or originator is registered in the State of Kuwait.

In addition to any other conditions or regulations stipulated by the Authority, the foreign issuer will appoint a legal representative in the State of Kuwait amongst the persons licensed by the Authority. The representative will assume the duties the bonds or Sukuk registration, all financial obligations including periodic profit distributions, receiving, and submitting related required reports, and any other matters related to the bonds or sukuk.

A foreign issuer also needs to submit to the Authority the following documents:

- Certificate of listing of the bonds or Sukuk in any Exchange in a jurisdiction other than the State of Kuwait. In case the foreign issuer is a **special purpose vehicle company** and the obligor or originator is registered in the State of Kuwait, this Item shall not apply.
- The documentation related to the appointment of the legal representative of the foreign issuer in the State of Kuwait.

4.5 Bonds or Sukuk Listed in a Non-Kuwaiti Exchange

Issuers of bonds or Sukuk listed on the exchange may list their bonds or Sukuk on a non-Kuwaiti exchange after obtaining approval from the Authority.

4.6 Delisting

The Authority may cancel the listing of any bond or Sukuk listed on the Exchange in any of the following conditions:

- a final judgement or resolution was passed to dissolve or liquidate the issuer or obligor
- the issuer or obligor temporarily stopped practicing its licensed activities for more than one year
- a merger of the issuer or obligor with another entity results in:
 - the termination of its legal identity
 - redemption of the issued bonds or Sukuk, or
 - the conversion of (a large part of) the bonds or sukuk into a different type of security
- the issue is redeemed in full before the final maturity date
- the issue is converted in full into a different type of security
- the issue is delisted in a regulated foreign exchange outside the State of Kuwait, or
- the Authority deems that delisting is necessary for protection of investors and to maintain an orderly market.

4.7 Voluntary Delisting

An issuer may apply for voluntary delisting in accordance with the conditions and procedures in the following consecutive order:

- Announcing the recommendation of the Board of Directors of delisting and specifying the reasons for the decision.
- Notify the bondholders or sukukholders, the Authority, and the exchange in writing prior to delisting. This notification needs to detail:
 - the decision to delist
 - the intended date and time of delisting
 - the nature of the events affecting the activities of the issuer, and
 - any other information required by the Authority.
- Submitting an undertaking to the Authority from the issuer and obligor guaranteeing payment of any amounts or liabilities due from the issuer or obligor – as applicable – to all the relevant parties for the listing period.
- Providing the Authority with undertaking, in coordination with a clearing agency for payment of any liabilities on the company towards the **Bondholders Association or Sukukholders Association** including cash profits or returns.
- Obtaining the approval of two thirds of the bondholders or Sukukholders to delist from the Exchange and deposit the approval with the Authority.
- An issuer shall obtain the Authority approval to delist from the Exchange, and shall announce it in the Exchange.
- Announcing the specification of the date of delisting from the Exchange within a period of no more than six months from the date of the Authority approval without suspension of bonds or Sukuk during this period.

5. Listing of Local Funds' Units in the Exchange

Learning Objective

- 9.5.1 Know the listing requirements related to: listing application; listing units of local funds in a non-Kuwaiti exchange; delisting; general provisions

5.1 Listing

Funds submitting a listing application for their units have to meet the investment conditions stipulated in the executive bylaws of the Authority's law and the listing conditions in the Exchange's rules, in addition to the following:

1. Funds must be licensed by the Authority and registered in the CISs register.
2. They need to be either closed-ended or exchange-traded funds (ETFs).
3. Their articles of association must stipulate that the units may be listed on the Exchange.
4. Funds can only be listed if the remaining period until maturity of the fund exceeds one year from the date of the listing application, unless its period is extended.
5. The units of the funds need to be tradable and freely transferrable. By purchasing any unit, the buyer acknowledges that he has read and agreed to the provisions of the articles of association of the fund. The **fund manager** will publish the articles of association of the fund and its amendments through the Exchange.
6. In addition, the fund must adhere to any other conditions the Authority may require.

Units of real estate investment trusts (REITs) (traded) shall be traded and listed on the Exchange.

5.2 Listing Units of Local Funds on a Non-Kuwaiti Exchange

Units of local funds listed on the Exchange may only be listed on a non-Kuwaiti exchange with approval from the Authority.

5.3 Delisting

The listing of units of a fund may be cancelled by the Authority in the event the fund no longer complies with the listing requirements outlined in section 5.1 above, in particular when:

- there is failure to appoint a service provider within six months after being required to do so, or
- trading has been suspended for more than six months and the fund manager has not taken any required steps to resume trading.

In addition, the Authority may delist the units if the fund has stopped practicing its licensed activities permanently or temporarily for more than one year; its license was cancelled; or if the fund was terminated, and if the Authority deems that cancelling the listing is necessary for protecting investors or regulating the market.

5.4 Voluntary Delisting

A listed fund may request to voluntarily delist its units from the Exchange in the following consecutive order:

- Recommendation from the entity managing the fund, which is disclosed to the Exchange, with the reasons for delisting.
- Obtaining the approval of the unitholders representing at least 75% of the fund's capital, and submitting proof to the Authority.
- Unitholders cannot recover ETFs due to the limited number of units. In this case, the fund manager will be responsible for redeeming the units at the last price for the unit assessment at the redemption time, and proof must be submitted to the Authority.
- The fund needs to provide the reasons for delisting to the Authority.
- The entity managing the fund will need to provide the Authority with an undertaking to guarantee payment of any amounts or liabilities incurred throughout the period the units were listed on the Exchange.
- Providing the Authority with undertaking, in coordination with a clearing agency for payment of any liabilities on the fund towards the unitholders including cash profits and returns.
- Obtaining the Authority's approval for the voluntary delisting, and announcing it in the Exchange.
- An announcement must be made that a date is specified for delisting at least six months after the date of announcing the Authority's approval, excluding any periods during which trading has been suspended.

5.5 General Provisions

The fund manager should, in the event of a decline of the fund's capital less than the minimum, notify the Authority within five business days as of the date of reduction in capital. The Authority shall take the appropriate measures, as it may deem fit for each case, to attain the interest of unitholders.

It is the responsibility of a fund manager to publish basic financial information and any information relating to unitholders on the disclosure system of the Exchange and shall disclose all material information in a manner consistent with its nature in accordance with the Authority's executive bylaws provisions regulating disclosure and transparency. In any case, the fund manager shall disclose to the Authority and the Exchange the following information:

1. Any transaction for the purchase, sale, mortgage or lease of an asset at a price equal to or greater than 10% of the total value of the **fund's assets** in accordance with the latest monthly valuation or financial statements.
2. Any losses equal to or greater than 10% of the net assets of the funds in accordance with the latest monthly valuation or financial statements.
3. Percentage of borrowing or obligations on the fund from the net value of its assets.
4. If the operating income of a tenant exceeds 10% of the total operating income of the fund, the fund manager shall disclose the duration of the contract and the remaining period in respect to the REITs (traded).
5. Amendments to the articles of association.
6. Any change in the composition of the members of the Board of Directors of the fund or the service providers.
7. Any ceasing of the fund's activities which constitute a material impact on their revenue.

In the event of a change in fund manager, the new fund manager will commit to all requirements.

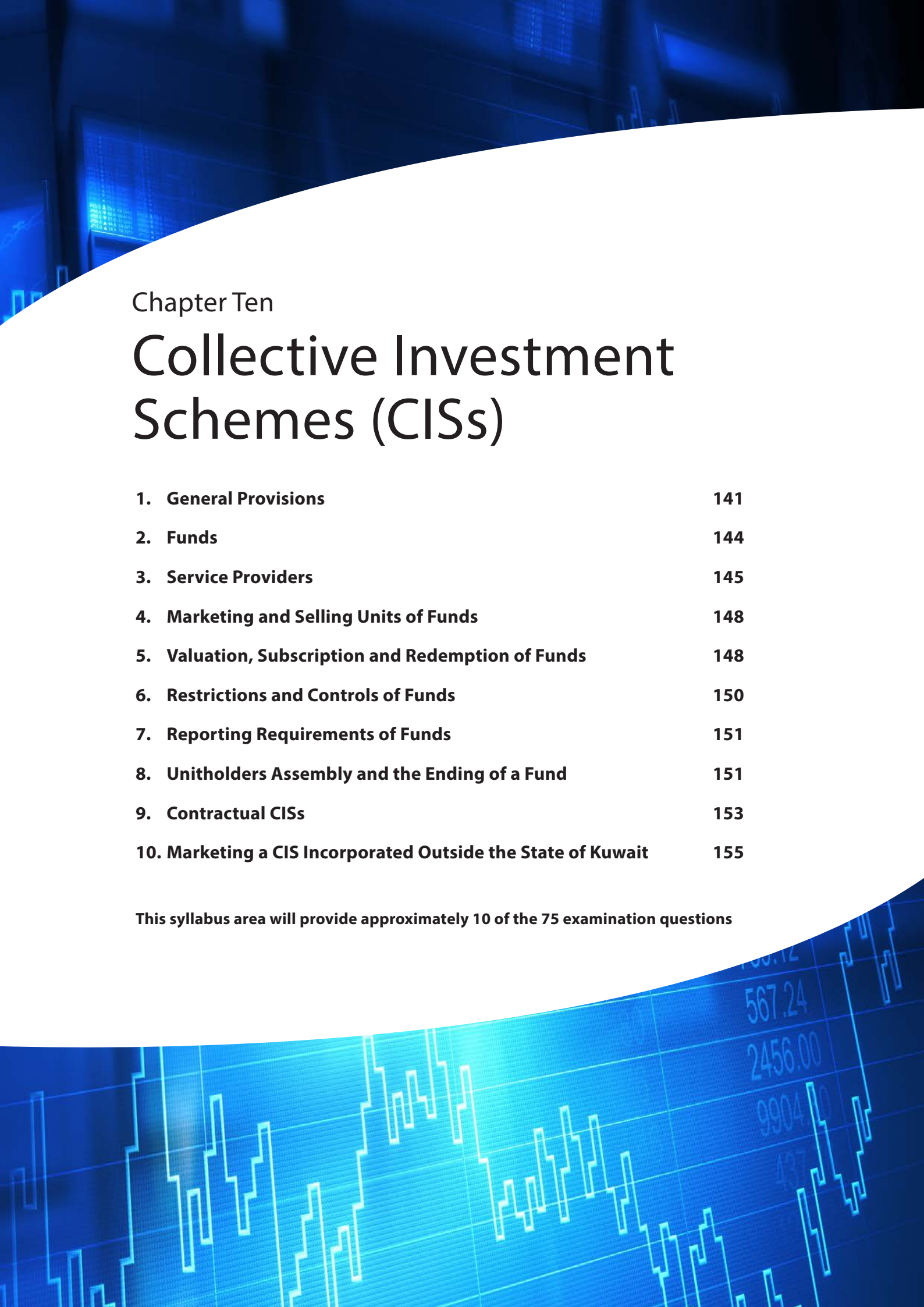
The fund manager shall comply with the provisions of distributing dividends as stipulated in the Exchange's rules in respect to the **entitlement of shares** in a manner consistent with the nature of the fund and the provisions to which the fund is subject

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

- 1. List the reasons why the Authority may reject a listing application.**
Answer reference: Section 1.1
- 2. What are the criteria for a Kuwaiti closed shareholding company to be listed?**
Answer reference: Section 1.1
- 3. When may the Authority suspend the listing of a security?**
Answer reference: Section 1.3
- 4. List the conditions for the listing of shares of a public shareholding company.**
Answer reference: Section 2.1
- 5. List the documentation required for the listing of a public shareholding company.**
Answer reference: Section 2.1
- 6. List the events in which the Authority may cancel the listing of a company.**
Answer reference: Section 3.1
- 7. What are the criteria for the issuance of bonds and sukuk regarding their tradability?**
Answer reference: Section 4.3
- 8. What is the period within which the fund manager must fulfil the requirements of listing?**
Answer reference: Section 5.1





Chapter Ten

Collective Investment Schemes (CISs)

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This syllabus area will provide approximately 10 of the 75 examination questions



1. General Provisions

Learning Objective

- 10.1.1 Know the general provisions relating to CISs
- 10.1.2 Know the obligations of investment adviser
- 10.1.3 Know the prohibition provisions in collective investment schemes

1.1 General Provisions relating to CISs

A CIS may exist in the form of an investment fund which is a corporate entity, or a **contractual CIS** which is related to (im)movable assets intended to enable investors to participate in or gain from the profits accrued by acquisition, ownership, management, or sale of the assets, or any mechanism that the Authority decides to include as a CIS.

The following shall not be included in the CISs:

1. The insurance contracts and the relevant investment tools thereof, as well as the investments managed as part of Takaful insurance contracts.
2. The investment accounts opened with the Islamic banks, that are subject to the supervision of the Central Bank.
3. Investment Portfolios.
4. The contracts executed between companies that belong to one group.
5. Schemes of saving, pensions, retirement or benefits created for the benefit of the companies' employees.
6. Other cases that the Authority decides to be excluded from the scope of the CISs.

Units of a CIS may only be managed or sold once the scheme has been licensed and approved by the Authority, and this has been published in the Official Gazette. A CIS may not be incorporated

without obtaining a licence from the Authority and registration in the Authority's register. A CIS can only be incorporated by Licensed Persons licensed to practice CIS manager activity.

Participants in a CIS are entitled to redeem their units as defined in the articles of association or the contract of the CIS.

The person employed as the manager of a CIS, whether in his capacity of being a fund manager or in his capacity of being a Contractual CIS manager, needs to be licensed by the Authority to practice CIS manager activity, and needs to manage the CIS in such a way that it achieves the investment goals outlined in the articles of association or the contract, and needs to take all of the investment decisions and other decisions in a manner that achieves the interest(s) of the scheme and its Unit holders, and ensure the fair treatment of the Unit holders.

Appropriate policies and procedures need to be in place to prevent or limit malpractices that may affect the market's stability and integrity. The manager needs to ensure the CIS does not take any unnecessary investment risk given their investment mandate. The Authority needs to be informed immediately of any material events exposing unitholders to risk.

1.2 Obligations of Investment Adviser

Any person acting as an investment adviser for a CIS needs to:

- be licensed by the Authority to act as (the representative of) an investment adviser
- conform with the rules and regulations governing CISs, protecting unitholders' interests
- be prudent in protecting their own property when giving investment advice
- maintain accounting records and submit periodic reports to the Authority.

1.3 Prohibition Provisions in CISs

A CIS may not:

- grant credit and finance other parties under different names through concluding contracts that involve giving monies to third parties
- purchase securities issued by the company managing the CIS or any of its subsidiaries, except to the extent of the rules established by the Authority's law and its executive bylaws in this regard
- purchase securities of an entity for which the CIS manager is the subscription manager or sales agent, except to the extent of the rules established by the Authority's law and its executive bylaws in this regard.

Deposits at banks in accordance with their deposit systems, Debt Instruments, or any financial instruments set for sale at the **Primary Market** or the **Secondary Market** are not considered credit prohibited to be practiced by CISs.

The manager, custodian, or investment controller of a CIS may not be replaced without prior approval from the Authority. Applicants will be notified by the Authority of its decisions and the underlying reasons within 30 days from the receipt of the request.

Under the following circumstances, the Authority may revoke the licence of a CIS:

- failure to meet requirements of the licence
- cancellation is in the interests of the participants of the CIS
- violation of the laws or regulations or submission of incorrect or misleading information to the Authority by the CIS manager, investment controller or custodian
- on request of the CIS manager, in which case the Authority will review all information and documents provided and make their decision within two months from the date the request is received.

In the event a cancellation of licence is requested by the CIS manager, the Authority may reject the request if it deems it necessary to investigate anything related to the CIS or the cancellation not to be in the interests of the participants in the scheme.

The Authority may notify the manager, the investment controller, or the custodian of the CIS regarding its intention to revoke the licence in writing, including a justification. The investment manager, investment controller, or custodian may submit a response within 15 days from the date of notification. The Authority will decide whether the representation is satisfactory in order to avoid the cancellation of the CIS's licence. In the event the Authority decides to revoke the licence of a CIS, it will appoint a Licensed Person to liquidate the CIS or shall request the competent court to do so. The Authority shall, in such case, inform the CIS manager and Custodian – immediately and in writing – of the procedures undertaken. The provisions of liquidation stipulated in Module Thirteen (CISs) of Executive Bylaws do not apply to the liquidator appointed by the court.

In the event a manager or any Service Provider of a CIS fails to comply with the rules and regulations, hereof, the Authority decides any of the following:

1. Instruct the CIS manager to temporarily suspend issuance or redemption operations in the Units of the CIS, or both, from the date specified in the instructions therewith.
2. Suspend the non-compliant entity/party and assign one of the Licensed Persons or Registered Persons with the tasks of the suspended entity or who would safeguard the assets of the scheme until the final resolution is taken by the Authority in this regard.

The license of a CIS incorporated locally is valid for three years from its granting date and it may be renewed for a period or similar periods based on a request submitted by the scheme's manager to renew the license and it should be submitted three months before the end of the license term according to the form of renewing a CIS set out in the executive bylaws.

In any event, the scheme's manager shall verify the license validity throughout the duration of the scheme. Not-to-renew shall only be in the cases of ending the scheme pursuant to the regulations stipulated in the Executive Bylaws.

In such an event, he shall notify the Authority of the aforementioned three months before the end of the license term so that the Authority can decide on ending the scheme.

The Authority needs to be notified prior to the incorporation or management of a CIS outside the State of Kuwait. Only Licensed Persons that may undertake the activity of a CIS manager may incorporate or manage a CIS outside the State of Kuwait. The units of such a CIS may not be marketed in the State of Kuwait unless a permission is granted from the Authority pursuant to the provisions of Chapter Five of Module Thirteen (CISs) of Executive Bylaws.

The Authority may revoke the permission of a CIS incorporated outside the State of Kuwait under the following circumstances:

- Proven failure to meet any of the requirements for granting the permission.
- Cancellation is in the interests of the participants of the CIS.
- Violation of the laws or regulations or submission of incorrect or misleading information to the Authority by the **Marketer**, CIS manager, investment controller or custodian.

2. Funds

Learning Objective

10.2.1 Know the various forms and types of funds, fund's capital, and participation of the fund manager

Two forms of funds are permitted: open-ended and closed-ended funds. The type of fund is determined by the nature of the investments. A fund can be any one of the following:

- Equity Fund
- **Private Equity Fund**
- **Money Market Fund**
- Debt Instrument Fund
- **Real Estate Fund**
- **Fund of Funds**
- **Real Estate Income-Generating Fund (Traded)**
- Hedge Fund
- **Venture Capital Fund**
- **Sustainable Fund**
- Any other type approved by the Authority, provided that it shall be a **Private Fund**.

The capital of a **Public Fund** should not be less than KD 2 million or its equivalent in any other currency. A Private Fund's Articles of Association shall specify the minimum of its capital, unless the Authority specifies a higher capital for certain types of funds. The fund manager should, in the event of a decline of the fund's capital to below the minimum, notify the Authority within five business days as of the date of reduction in capital. The Authority shall take the appropriate measures, as it may deem fit for each case, to attain the interest of unitholders.

Participation of the fund manager in the units of a public fund must not be less than KD 100,000 or its equivalent in any other currency at the incorporation and he may act or redeem some of the Units that he owns if their net value exceeds the minimum stipulated in this section.

2.1 Articles of Association

The Articles of Association should, in particular, include the mandatory information set forth in Module Thirteen (CISs) of Executive Bylaws. Specified in the regulations, a Fund Manager may add any other conditions compatible with the peremptory provisions in the Authority's Law and Executive Bylaws.

A printed copy of the Articles of Association must be provided to each participant or any Person that intends to subscribe/participate in the Fund. The signature of the participant on the subscription/participation form – after reviewing the Fund's Articles of Association – shall be regarded as approval thereof.

A manager of a fund shall not make any amendments to the Articles of Association unless approved by the Authority. The Authority – if it finds that the proposed amendments shall affect the acquired rights of Unit holders – may request the CIS manager to acquire the approval of more than 50% of the capital on those amendments.

No amendments shall be done on the Fund's Articles of Association or the appendix without the approval of the Authority immediately or on the date it determines. The Fund Manager must notify the unit holders of any amendments on any of them within a period not more than ten Business Days from the date of the Authority's approval on the amendments. The Articles of Association of the Fund may include the method(s) in which to notify the Unit holders through modern means of communication.

3. Service Providers

Learning Objective

- 10.3.1 Know the role of the following service providers: Fund Manager; Investment Controller; Custodian; Record Keeper; External Auditor; Sharia Supervisory Controls
- 10.3.2 Know the mechanism of vacancy of Fund's Executive Committee Members or a service provider position

3.1 Fund Manager

The Fund Manager is the Fund's legal representative and exercises all rights and obligations related to the Fund on behalf of the Unit holders. The Fund Manager, or his representatives, is an authorized signatory of the Fund.

The Fund shall be managed by an **Executive Committee** formed of two or more of the Fund Manager's employees, who meet the requirements of the representatives of activity of CIS manager. One of the employees should be a Senior Executive or Chief Executive Officer of the fund manager.

The members of the Executive Committee shall be Registered Persons at the Authority and shall represent the Fund Manager in terms of the responsibilities and authorities stipulated in executive bylaws. The signature of the Executive Committee members or their representative is considered as the signature of the Fund Manager, and they shall be, in conjunction with the manager, reliable for any failure, default, or fraud in the Fund's management.

The Fund Manager shall appoint a representative of the activity of a CIS Manager – (Operations Officer) who works for the Executive Committee and receives orders and implements them within the limits of the supporting operations. He also coordinates with the Investment Controller and provides him with all necessary information about the Fund that enables him to evaluate shares or Units and perform his tasks efficiently and effectively, without having any discretionary power to make investment decisions regarding the Fund management.

The Fund Manager or unit holders may not participate in voting on matters related to the personal interests or if the interests thereof are in conflict with the Fund's interests. If the manager manages more than one Fund, should keep the transactions related to each of these funds separate. The Authority may replace the Fund Manager if it notices a material breach of his obligations set forth in the executive bylaws.

3.2 Investment Controller

Each Fund shall have a licensed Investment Controller appointed by the Fund Manager after obtaining the approval of the Authority. It is the responsibility of the investment controller to ensure the fund manager complies with the Authority's Law and Executive Bylaws and the Authority's decisions and instructions, Articles of Association, Prospectus, and any other documents issued by the Fund Manager. In addition, the Investment Controller shall appraise the investment Units and calculate their net asset value in an independent and fair manner in accordance with the methods, periods and policies stated thereof in the Fund's Articles of Association.

3.3 Custodian

The Fund's Assets shall be kept with a licensed Custodian appointed by the Fund Manager after obtaining the approval from the Authority. The Custodian may appoint a sub-Custodian that is licensed or registered by another Regulatory Body authorised for safekeeping of assets outside of the State of Kuwait. Contracting with a sub-Custodian shall not exempt the principal Custodian from the responsibilities thereof.

3.4 Record Keeper

The Fund's Unit holders' record shall be kept at the Clearing Agency. If the Fund is not listed, their records may be kept at the Custodian. In the event of the Fund's liquidation, it is permitted to keep the Unit holders' record at the Fund's liquidator if the services of the record keeping entity were dismissed. In any event, the charges of the record keeping entity shall be paid from the Fund's monies. In addition, the **Record Keeper** will attend the Unit holders' assemblies and announce the legal quorum after verifying the identities and validity of the proxies.

3.5 External Auditor

The Fund Manager shall appoint an external Auditor who is Registered with the Authority, in which he shall comply with Reviewing and auditing the Fund's accounts in accordance with the International Accounting Standards approved by the Authority. The Fund's external Auditor shall not be the same Auditor for the Fund Manager.

A Fund's External Auditor shall be appointed for one financial year renewable annually, and for a maximum period of four consecutive financial years unless the Fund was under liquidation. The same Auditor may be reappointed after a period of suspension not less than two consecutive financial years. The Fund Manager may not replace the Auditor during the contracted period unless the reasons and justifications are given to the Authority and its approval is obtained thereon.

3.6 Sharia Supervisory Controls

Funds operating under the provisions of Islamic Sharia shall have Sharia supervisory controls to carry out oversight of all the activities of the Fund to ensure compliance with the Sharia Standards and the relevant resolutions of the Authority. The Sharia supervisory controls consist of:

1. Internal Sharia Audit Unit
2. External Sharia Auditing Office.

The Fund Manager may appoint a Sharia Supervisory Board to carry out the tasks stipulated in Module Five (Securities Activities and Registered Persons) of Executive Bylaws. It is not permitted to combine the tasks of the Internal Sharia Audit Unit and the External Sharia Auditing Office.

A Fund Manager, who manages a Fund that operates in accordance with sharia standards, shall be entitled to appoint the External Sharia Auditing Office, provided that such office shall be a Registered Person at the Authority.

A Fund Manager who operates in accordance with Sharia standards may assign the Sharia Audit Officer thereof to carry out the tasks of the Fund's Internal Sharia Audit Unit.

If the Fund Manager does not operate in accordance with Sharia standards, he shall be entitled to appoint an External Sharia Auditing Office to carry out the functions of the Fund's Internal Sharia Audit Unit, provided that the Fund Manager shall incur the charges thereof, and that office shall not carry out the external operations of the Fund's External Sharia Auditing Office.

A Fund's External Sharia Auditing Office shall be appointed for one financial year renewable annually, and for a maximum period of four consecutive financial years unless the Fund was under liquidation. The same External Sharia Auditing Office may be reappointed after a period of suspension not less than two consecutive financial years.

The Fund Manager may not replace the External Sharia Auditing Office during the contracted period unless the reasons and justifications are given to the Authority and its approval is obtained.

An Internal Sharia Audit Unit shall ensure that the operations are carried out according to sharia by selectively examining some of the different daily transactions of the Fund; to ensure that the Fund's transactions are abiding by Sharia Standards and by the relevant resolutions of the Authority.

3.7 Mechanism of Vacancy

In the event of a vacancy in any of the positions of the Fund's Executive Committee members or any of the service providers, the Fund Manager should notify the Authority and apply for the vacant position(s). In any event, the Fund Manager must notify the Unit holders of the vacancy of the position and occupation according to the periods specified in the executive bylaws for each position.

4. Marketing and Selling Units of Funds

Learning Objective

10.4.1 Know the general regulations relating to the promotion and marketing of funds

The regulations regarding the marketing and promotion of units, apply to all Public Funds that are Publicly Offered and licensed by the Authority in the State of Kuwait according to the conditions to be provided in the **Promotion or Marketing of a Fund** and Information Prohibited in the Financial Promotion of a Fund stipulated in the Executive Bylaws of the Authority's law.

Private Funds shall not address any Financial Promotion unless it is in accordance with the Financial Promotion set forth in Chapter Seven of Module Eight (Conduct of Business) of executive Bylaws and it shall be addressed only to a Professional Client, given that the means of marketing available for public shall not be used in particular not to use the advertisements, articles or any methods to address the public such as publishing in newspapers, magazines or press news, transmitting through visual, audible or readable media means, and not to hold introductory seminars or meetings with prospective investors unless these qualified invited investors are known and previously defined.

5. Valuation, Subscription and Redemption of Funds

Learning Objective

10.5.1 Know the provisions relating to valuation, subscription and redemption

The rules related to valuation, subscription and redemption stated below only apply to **open-ended funds**. The Open-Ended Funds are exempted from such provisions in the events in which the Articles of Association permits closure or suspension of participation or redemption.

The Open-Ended Funds have specific **Dealing Days** in which the Fund's Units may be subscribed in or redeemed, and **Valuation Day(s)** on which the net asset value (NAV) of the Fund is calculated pursuant to the provisions following this section:

- The Fund's Assets must be evaluated on the last Dealing Day and no later than one Business Day after the deadline for submitting subscription and redemption applications.
- No subscription in the Fund's Units or redemption must take place except on the Dealing Day. Executing subscription and redemption may be through modern communication means and electronic websites without the need for the investor's personal attendance in the Fund Manager's headquarters and without prejudice to the investor's rights including his access to the Fund's Articles of Association.
- The Fund Manager must execute the subscription or redemption applications according to the valuation price following the subscription or redemption applications. Subscription or redemption prices may include any other commissions, provided that they are stated in the Fund's Articles of Association.
- The valuation of the Fund's Assets may be within a maximum of three Business Days as of the Dealing Day in the event of not being able to appraise a substantial part of the Fund's Assets, provided that the net asset value (NAV) of the Fund's Assets is calculated and appraised as on the Valuation Day determined in the Articles of Association.
- The Fund Manager shall pay to the Unit holder the redemption value within a maximum of six Business Days following the Valuation Day determined in the Articles of Association.
- The Fund Manager may postpone meeting any redemption application until the following Dealing Day or the following redemption date, in accordance with the Fund's Articles of Association in any of the following cases:
 - If the total redemption requests of Unit holders on any Dealing Day or redemption date are 10% or more of the Fund's Assets net value, provided that the manager is, in this event, committed to meeting the redemption requests less than 10% of the Fund's Assets net value and that all the redemption requests shall be taken into account on a **pro-rata** basis. The redemption requests that are more than 10% of the Fund's Assets net value are deferred to the next Dealing Day or redemption date.
 - If trading is suspended on the Exchange or regulated financial markets, in which trading in Securities or other assets owned by the Fund, or if trading is suspended on Securities that constitute a substantial value in the assets thereof.
- The Fund Manager may suspend the approval of subscribing in the Fund for the period he finds appropriate if it is in the interest of the Fund and the Unit holders.
- The Fund Manager may accept requests for early redemption and collect its fees from any Unit holder who requests to redeem his Units after subscription, provided that the Articles of Association stipulate the permissibility of early redemption, and specifying its period, conditions and the mechanism for calculating its fees. The collected early redemption fees must be deducted from the redemption proceeds. They must be paid directly to the Fund and not others and may not be paid to the Fund Manager.

6. Restrictions and Controls of Funds

Learning Objective

- 10.6.1 Know the restrictions on funds, investment controls and the procedures to be followed in the event of a violation of investment and borrowing controls

The fund manager may not buy any securities issued by the fund management company or any of their subsidiaries unless The Articles of Association of the Fund permit the Fund to invest its assets in Securities issued by the Fund Managing company, or any of its Subsidiaries. The fund manager needs to obtain approval from the investment controller prior to making such a purchase. The combined funds managed by the fund management company may not invest in more than 10% of the securities issued by the fund management company or any of their subsidiaries, with the exception of the funds that track an index according to their articles of association which are not included in this percentage.

While the fund manager undertakes the role of subscription agent (selling) or subscription manager of an issuer, they may not purchase any securities of the issuer. In the event the fund management company or any of its subsidiaries has committed to cover the public offer or private placement of a security, this security may not be offered for the benefit of the Fund during the commitment period. Funds that follow a certain index according to their Articles of Association are excluded from the provisions of this section.

Fund managers may only keep cash or cash equivalents to meet redemption requests of units and to manage the fund in accordance with the investment objectives and mandate. In this regard, he shall exercise the Care of a Prudent Person in the interest of the Fund and the Unit holders. This does not apply during the first year the fund has been granted a license.

Fund managers should comply with the investment and borrowing controls of each type of Fund as mentioned in the executive Bylaws of the Authority's law and in the fund's articles of association. In the event of a violation or non-compliance with the investment and borrowing controls due to any error or negligence by the Fund Manager, or as a result of an event beyond the control of the Fund Manager, the Fund Manager shall notify the Authority immediately and take the necessary procedures and measures to correct. In the event of not correcting the violation within five Business Days, the Fund Manager shall notify the Authority of the procedures and measures required to resolve the Violation and the period required for that and the Authority may minimize such period.

In any case, the Fund Manager shall notify the Investment Controller of all the cases referred to in the section above and he must keep a permanent record of Violations and document the procedures undertaken and the period required for remedy. In any event, the Fund Manager shall notify the Authority and the Investment Controller as soon as the correction is completed.

7. Reporting Requirements of Funds

Learning Objective

- 10.7.1 Know the reporting requirements relating to: material information for the public; financial statements; periodic reports to unitholders

Regardless of whether a fund is listed or not, the public fund manager needs to publish material information to the public on a monthly basis through the Exchange. This report needs to be available within seven business days after the end of the month in accordance with the form set out in the Executive Bylaws.

The fund manager needs to produce financial statements and provide them to the Exchange and the Authority in case the fund is a public fund, and to the Authority only in case the fund is a private fund, in accordance with the following schedule:

- reviewed quarterly financial statements within 15 business days after the end of the quarter, and
- audited annual financial statements within 45 days after the end of the financial year.

For funds that are not listed on the Exchange, a Fund Manager shall provide quarterly reports to each Unit holder, unless the Articles of Association set forth a shorter period, about the fund's situation in accordance to the requirements in the Executive Bylaws.

8. Unitholders Assembly and the Ending of a Fund

Learning Objective

- 10.8.1 Know the role of the Unitholders Assembly
10.8.2 Know the events leading to ending of a fund

8.1 The Role of the Unitholders Assembly

Each fund shall have a unitholders assembly held at least once during the financial year of the Fund. Each participant shall be entitled to attend the assembly and vote on its resolutions. Each unitholder shall have one vote for each investment unit owned thereby.

The unitholder assembly shall look into and decide on the following issues:

1. The report of the Fund Manager or the liquidator on the Fund's activity and its financial position for the Fund's financial year.
2. The auditor's report on the fund's annual audited financial statements.
3. The annual audited financial statements of the fund.

4. The External Sharia Auditing Office's report (for funds licensed to operate in accordance with the provisions of sharia) for the Fund's financial year.
5. The investment controller's report for the Fund's financial year.
6. Amendments to the articles of association related to the acquired rights of unitholders.
7. Appointment of a substitute fund manager.
8. Approval of the liquidation and selection of the Fund's liquidator and supervise the works thereof.
9. Appointment of a substitute liquidator.

Decisions of the Unit holders' assembly shall not be implemented without the approval of the Authority, and the Authority may object or dismiss any decision contained in the minutes of the meeting if it contradicts the Law, Executive Bylaws, circulars and resolutions issued by the Authority or the Fund's Articles of Association or outside the powers of the entity concerned with the implementation of that decision.

The Fund Manager or the party that called for the meeting, as the case may be, shall provide the Authority with a copy of the minutes of the assembly meeting, after it is signed by whoever chaired the meeting, and the service providers present at the meeting, within two weeks from the date of its convening.

8.2 Events Leading to Ending of a Fund

The fund shall end in the following events:

1. End of the period specified in the articles of association, unless it is renewed in accordance with the rules set out in the articles of association.
2. End of the purpose for which the fund is incorporated for or in the event of the impossibility of achieving its goal.
3. Damage or use of all the fund's assets or most of them, so that other assets cannot feasibly be invested.
4. At the request of the fund manager and by virtue of an approval issued by the assembly of unitholders owning more than 50% of the fund's capital has approved the winding up of the fund before the end of its term.
5. A resolution issued by the Authority to cancel the fund's license.
6. A court order is issued for the winding up and liquidation of the fund.
7. The Fund Manager is exposed to a matter that hinders his ability to continue managing the Fund, such as liquidation, bankruptcy, or cancelation of his license unless a replacement manager is appointed for the Fund.

9. Contractual CISs

Learning Objective

- 10.9.1 Know the general provisions relating to contractual collective investment schemes
- 10.9.2 Know the service providers of contractual collective investment schemes
- 10.9.3 Know the mechanism of vacancy of the position of a member of the Executive Team or any of the service providers
- 10.9.4 Know the pre-emptive right of unit holders, financial statements, periodic reports to unit holders
- 10.9.5 Know the cases ending a contractual collective investment scheme

9.1 General Provisions

The Authority may permit the incorporation of contractual CISs which do not have a corporate entity, whose units are issued by a special purpose vehicle company licensed by the Authority. The purpose of a contractual CIS is to invest the funds of two or more professional clients, except for cases based on a court order or inheritance enabling them to participate in the scheme the CIS invests in, or to participate in the gains accrued by the acquisition, ownership, management, or disposition of the assets. A contractual CIS must be managed by a Licensed Person authorized to practice CIS activity.

The Contractual CIS is incorporated pursuant to a contract concluded between the CIS Manager and the Clients participating for the purpose of owning units in the Special Purpose Vehicle Company, provided that the number of participants in the Scheme does not exceed 25 Professional Clients. The number of participants may be increased in the event of inheritance or based on a court order or any other special cases approved by the Authority.

Subscription or participation in the Contractual CIS shall be through Private Placement addressed to a Professional Client only.

9.2 Service Providers

Each Contractual CIS must have the following service providers:

1. a CIS Manager
2. a Investment Controller
3. a Custodian
4. a Record Keeper
5. an external Auditor
6. an external Sharia Auditing Office (for Contractual CISs licensed to operate in accordance with the provisions of Islamic Sharia).

The Contractual CIS shall be managed by an **Executive Team** formed of two or more of the CIS Manager's employees, who must be registered at the Authority as Representatives of CIS Manager activity, provided that one of the employees should be at an Executive Position or Chief Executive Officer of the CIS Manager. The Executive Team shall represent the CIS Manager with the responsibilities and powers set forth in the executive bylaws. Their signature or whom they authorize among them thereof shall be considered as the CIS Manager's signature. The members will be jointly liable with the manager for any errors, negligence, or fraud in the management of the Scheme.

The Scheme manager shall appoint a representative of the activity of a CIS Manager (Operations Officer) who works for the Executive Team and receives orders and implements them within the limits of the supporting operations. He also coordinates with the Investment Controller and provides him with all necessary information about the Scheme that enables him to evaluate shares or Units and perform his tasks efficiently and effectively, without having any discretionary power to make investment decisions regarding the Scheme management.

9.3 Mechanism of Vacancy

In the event that the position of a member of the Executive Team of the Scheme becomes vacant, the Scheme manager shall notify the Authority of this, and he shall also submit an application to fill the vacant positions. In all events, the Scheme manager shall notify Unit holders of the vacancy of the position and occupation according to the periods specified in the executive bylaws for each position.

9.4 Pre-Emptive Rights

In the event of the intention to subscribe, redeem or transfer the ownership of the Units of the Contractual CIS or increase the capital of the scheme, the Unit holders shall have the priority to purchase these Units. If multiple Unit holders are intending to increase their participation amount, the stake shall be divided among the participants on a pro rata basis. The **Contractual CIS Contract** may include any additional requirements regulating the acceptance of the subscriptions of new Professional Clients in accordance with what is provided for in this section.

The following is excluded from the cases of ownership transfer of Units in the Contractual CIS Transfer of ownership as a result of inheritance or will, transfer of ownership pursuant to a court order, and Transfer of ownership to new Professional Clients according to extraordinary cases regulated by Contractual CIS Contract.

The CIS Manager shall prepare the financial statements of the Contractual CIS to be reviewed or audited – as the case may be – by the external Auditor and provide such statements to the Authority and the Unit holders as follows:

1. Reviewed semi-annual financial statements, within a period not more than sixty days as of the end of the term.
2. Audited annual financial statements, within a period not more than ninety days as of the end of the financial year.

A CIS Manager shall provide a periodic report to each Unit holder about the Scheme's situation in accordance to the requirements in the Executive Bylaws.

9.5 Cases Ending a Contractual CIS

The Contractual CIS shall end in the following events:

1. End of the period specified in the Contractual CIS Contract, unless it is renewed in accordance with the rules set out in the contract.
2. End of the purpose or objective for which the Contractual CIS is incorporated for or where it is impossible to achieve its objective.
3. Damage or loss of all the CIS's Assets or most of them, so that the remaining assets cannot be invested feasibly.
4. At the request of the CIS Manager or any of the Unit holders, and the approval of Unit holders owning more than 50% of the Contractual CIS's capital on the winding up of the scheme before the end of its term.
5. A resolution issued by the Authority to revoke the Contractual CIS's license.
6. A court order is issued for the winding up and liquidation of the Contractual CIS.
7. The Scheme manager is exposed to something that hinders his ability to continue managing the Scheme, such as liquidation, bankruptcy, or revocation of his license, unless a substitute manager is appointed for the Scheme.

10. Marketing a CIS Incorporated Outside the State of Kuwait

Learning Objective

- 10.10.1 Know the general provisions related to marketing a collective investment scheme incorporated outside the State of Kuwait
- 10.10.2 Know the obligations of a marketer of a collective investment scheme incorporated outside the State of Kuwait
- 10.10.3 Know the Marketing of a collective investment scheme in the State of Kuwait

10.1 General Provisions

Marketing in the State of Kuwait for a CIS incorporated out of the state shall not take place except after the Authority issues its marketing license. This is limited to Licensed Persons to practice the activity of a CIS Manager or Subscription Agent (selling). Marketing operations that are made by unlicensed persons to market in the State of Kuwait through direct or indirect contact by using public means of announcement that are available to the public or through the electronic platforms, branches of Subsidiary or Associate Companies, agreements, alliances, contractual or legal relations, entities, or structures in any form are prohibited unless prior permission is granted from the Authority in accordance with the requirements of the Authority.

A CIS incorporated out of the State of Kuwait is any entity or structure with the purpose of collecting money to enable two Clients or more to participate in this scheme, or gain the profits accrued by acquisition, or ownership, or management or disposition of the scheme's assets, for example investment Funds, Contractual or Structural CIS, or companies of all kinds, including Special Purpose Vehicle Companies. The Authority studies the requests and cases of marketing the Securities incorporated outside the State of Kuwait to decide which shall be included as a CIS.

The CIS and its manager, or the companies or entities composing it, shall be incorporated pursuant to the laws and regulations in the country of origin in accordance with a document issued by the relevant entity and approved by the Ministry of Foreign Affairs of Kuwait.

The Units of a CIS in the State of Kuwait should be offered for Private Placement and marketed to Professional Clients only.

The Marketer of a CIS incorporated outside the State of Kuwait has the right to receive the subscription requests in the State of Kuwait and may appoint Subscription Agents (selling) after obtaining the Authority's approval.

10.2 Obligations of a Marketer

A Marketer of a CIS incorporated outside the State of Kuwait shall comply with the following:

1. Assume Care of a Prudent Person when undertaking the responsibilities and compensate every Person harmed as a result of an error committed by the marketing tasks mentioned in this section.
2. Not exceeding the share approved for marketing by the Authority unless approved by the Authority to increase the share before the expiration of the license term and the payment of the prescribed fees.
3. Provide the participant with evidence of participation in the CIS upon participation, and evidence of his ownership in the scheme to enable him to exercise all of the rights associated with his ownership.
4. Develop and maintain a record of the Unit holders for which he marketed in the State of Kuwait.
5. The Marketer shall notify the Authority of any material events that may affect the CIS or the rights of the Unit holders – in the event of availability or knowledge of it.
6. Dealing with the complaints against the Marketer submitted by the Unit holders who were marketed for in the State of Kuwait by the Marketer and ensuring the corrective measures taken as soon as possible.
7. Providing the appropriate method to deliver the breaches submitted against the manager of a Foreign CIS by the Unit holders who were marketed for in the State of Kuwait and seeking to deliver it to the relevant entity as soon as possible.
8. Submitting a report of the results of marketing a CIS incorporated outside the State of Kuwait within fifteen Business Days from the expiration date of the license certificate or after having finished the marketing processes (if sooner) in accordance with the form attached to executive bylaws of the Authority's law.
9. Submitting any other information or documents required by the Authority.

These obligations shall apply on the Marketer even if the marketing license provided by the Authority is expired, until he submits to the Authority proof of the exit of all Unit holders who were marketed for in the State of Kuwait.

10.3 Marketing a CIS Incorporated Outside of Kuwait

Marketing a CIS incorporated outside the State of Kuwait is only permitted according to the conditions of the Financial Promotion stipulated in Chapter Seven of Module Eight (Conduct of Business) of executive bylaws of the Authority's law, especially prohibition in the use of any public media in advertising for the CIS, in particular using the advertisements, articles, or any methods to address the public, publishing in newspapers or magazines or press news, or transmitting through visual, audible or readable media means or social network means, and not to hold introductory seminars or meetings with prospective investors unless they were only addressed to the relevant parties in the private subscription and after obtaining the marketing permission from the Authority.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. Which activities may a CIS not undertake?

Answer reference: Section 1

2. List the two forms a fund can take.

Answer reference: Section 2

3. What is the minimum participation of the fund manager in the fund?

Answer reference: Section 2

4. What is the percentage of approvals required of the capital to make amendments that affect the acquired rights of Unit holders on the Articles of Association?

Answer reference: Section 2.1

5. What is the minimum number of members of the Fund's Executive Committee?

Answer reference: Section 3.1

6. What is the main responsibility of an investment controller?

Answer reference: Section 3.2

7. When can a custodian appoint a subcustodian?

Answer reference: Section 3.3

8. What is the maximum number of consecutive financial years an external auditor may be appointed for?

Answer reference: Section 3.5

9. Do unit holders need to be notified if a member is appointed to the Fund's Executive Committee?

Answer reference: Section 3.7

10. Give examples of marketing methods available for the public that are Prohibited on private funds in the Financial Promotion.

Answer reference: Section 4

11. What do dealing days and valuation days mean?

Answer reference: Section 5

12. Under what circumstances may a fund manager keep cash or cash equivalents?

Answer reference: Section 6

13. What are the financial statements that the fund manager needs to produce and provide them to the Authority?

Answer reference: Section 7

14. Does a private fund need to publish material information to the public on a monthly basis through the Exchange?

Answer reference: Section 7

15. Give examples of events under which the fund may end.

Answer reference: Section 8.2

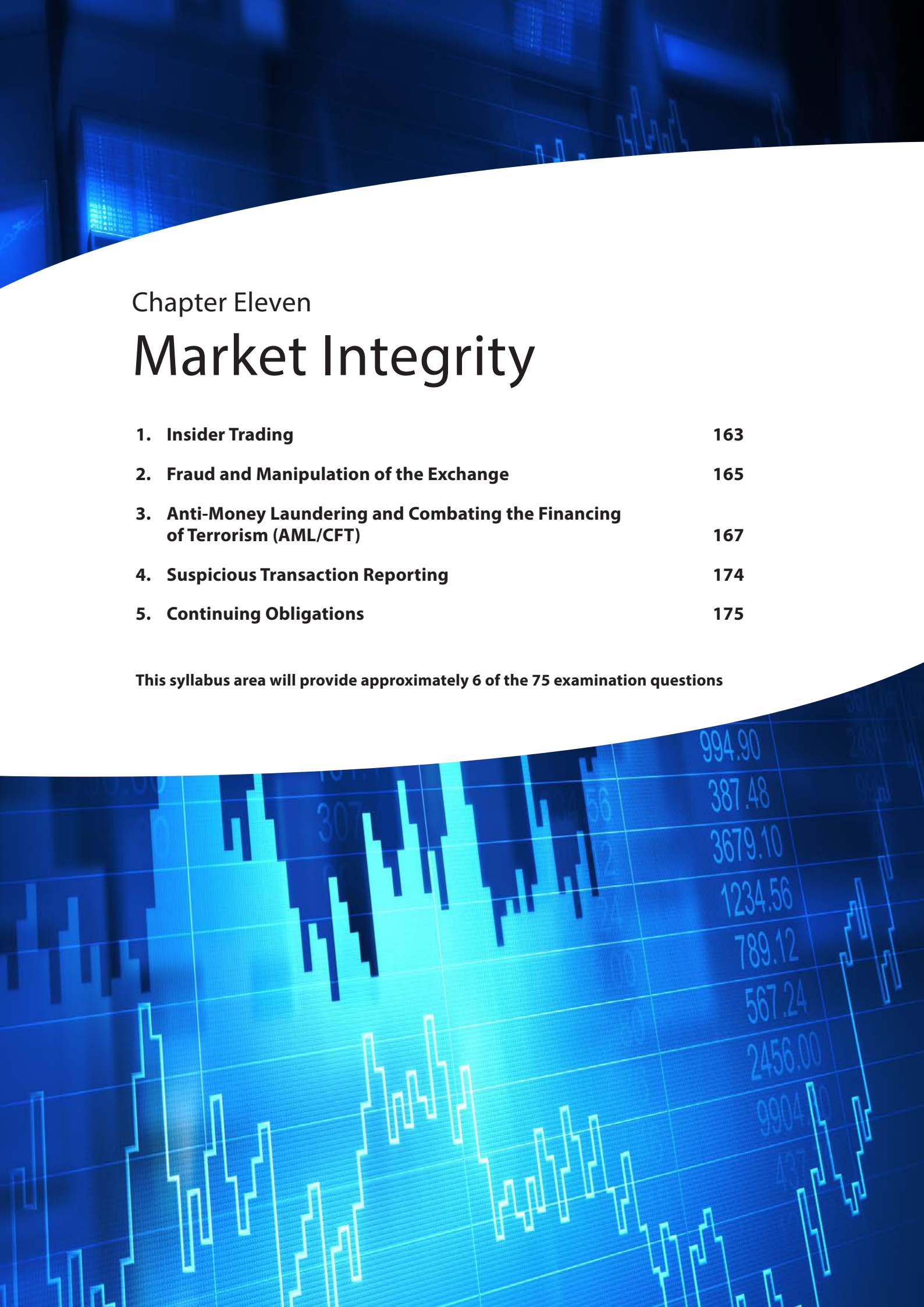
- 16. Is it permissible for a marketer to submit a request to the Authority to increase the share that was approved for marketing by the Authority during the licensing period?**

Answer reference: Section 10.2

- 17. Who develops and maintains a record of the unit holders in the event of marketing a CIS Incorporated Outside the State of Kuwait?**

Answer reference: Section 10.3



The background of the page features a dark blue gradient with abstract financial data visualizations. In the top left, there are faint, glowing blue lines and shapes resembling a network or data flow. In the bottom right, there are more prominent, glowing blue line charts and bar graphs, with some numerical values like '994.90', '387.48', '3679.10', '1234.56', '789.12', '567.24', '2456.00', and '9904.10' visible. The overall aesthetic is high-tech and financial.

Chapter Eleven

Market Integrity

1. Insider Trading	163
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3. Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)	167
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This syllabus area will provide approximately 6 of the 75 examination questions





1. Insider Trading

Learning Objective

- 11.1.1 Know what constitutes inside information
- 11.1.2 Know the definition of an insider, examples of insider trading and examples of legitimate trading activity
- 11.1.3 Know the penalties for insider trading

Inside information is information and data that is related to a security or company listed on the Exchange, yet not available to the public, and would have a significant effect on the price or trading of the security of a company if it were disclosed or provided to the public. Information shall not be considered as inside information if it is disclosed in the Exchange, included in records available to be viewed by any person, or if it is a technical analysis or a research study on a security and has been prepared based on information available for the public.

In this context, an insider is any person who, by virtue of their position, is in the possession of information or data that is not available to the public and which has, or may have, material effect on a security or listed company. The following categories of insider have been identified:

1. Members of a Board of Directors and the administrative body of a listed company, their parent company and subsidiaries who have inside information (in)directly related to the listed company.
2. Employees of other entities who are in the possession of inside information related to a listed company or listed security including, the auditor, advisers, credit-rating agencies and other entities.
3. Shareholders who have been provided with inside information by their representatives on the Board of Directors.

4. Employees of a Licensed Person who have information related to purchases and sales of a listed security by a client.
5. Persons who illegally possess inside information of a listed company or the trading of listed securities.
6. Any other person defined as an insider.

Examples of an insider trading while possessing or exploiting Inside information include:

- the purchase or sale of securities while in the possession of inside information either on own account or on behalf of another person
- appointing another person to purchase or sell a security on their behalf
- exploiting the accounts of other persons to undertake purchase or sale transactions
- executing orders ahead of an intended client order by an employee of a Licensed Person in order to get precedence and achieve a benefit
- the purchase and sale of securities ahead of a merger or acquisition, excluding cases in which it is permissible to sell or purchase in accordance with the Authority's provisions related to mergers and acquisitions.
- disclosing or giving advice to another person on the basis of inside information
- the purchase and sale of securities on the basis of inside information received from an insider, in order to achieve any benefit for such person or for a third party.

Examples of legitimate cases that do not amount to trading while possessing or exploiting inside information include:

1. An insider shall not be guilty of insider trading if they are executing purchase or sale orders of another person in line with their job description and without revealing any inside information; or if they are executing purchase and sale orders on the basis of a court judgement.
2. An insider who is a legal entity shall not be guilty of insider trading if the person executing purchase and sale transactions was not aware of inside information at the time of the transaction, providing they have abided by the appropriate rules and regulations set out by the Authority.

The penalties for insider trading are:

- imprisonment for up to five years, and/or
- a monetary fine: not less than the benefit achieved or losses avoided, or KD 10,000 (whichever is higher) up to a maximum equal to three times the benefit achieved or losses avoided), or KD 100,000 (whichever is higher).

The penalties also apply to insiders and persons who purchased or sold a security based on inside information obtained from an insider and being aware of the fact that the information was inside information.

2. Fraud and Manipulation of the Exchange

Learning Objective

- 11.2.1 Know the crime of fraud and manipulation in the Exchange and how it is punished and examples of legitimate behaviours
- 11.2.2 Understand examples of illegitimate trading behaviour

Fraud and manipulation are defined as intentionally behaving in a way that creates a false impression or misleads people concerning the actual trading in a security or a securities' exchange through:

- a. entering into a deal in a way that does not result in a real change in ownership, or
- b. entering a purchase or sale order for a security knowing that a similar order in terms of size, price, time, and security has been or will be issued by the same person or by anyone who acts in agreement with that person.

In addition, fraud and manipulation is committed when a person concludes one or more deals related to a security that would lead to an increase or decrease of the price of the security for the purpose of encouraging others to buy or sell the security, or the creation of actual or fictitious trading for the purpose of encouraging others to buy or sell.

A criminal offense occurs in relation to point (a) above when purchasing or selling a listed security:

- 1. using the accounts of the same persons
- 2. among (in)direct accounts of such person through investment portfolio incorporated for a licensed person and managed by the client or among accounts of such portfolios
- 3. among (in)direct accounts of such person through the subsidiaries thereof or among the accounts of such subsidiaries.

A criminal offense occurs in relation to point (b) above when:

- 1. concluding transactions on a listed security in order to give a false impression about the activity or price of such security, with the exception of market-making activities
- 2. concluding transactions on a listed security to affect the closing price of the security and mislead traders
- 3. transactions undertaken by a person, or among persons working in collusion with each other, in order to fix the purchase or sale price at a certain level or creating other unfair trading conditions
- 4. transactions undertaken by a person with **significant influence** over demand or supply of a security for the purpose of creating a distorted price level at which others have to deliver their security
- 5. transactions undertaken by a person, or among persons working in collusion with each other, in order to manipulate a market index or another security
- 6. a person who is not a market-maker frequently undertakes transactions in a contradictory manner and at convergent times, which constitute a significant percentage of the trading of a listed security, particularly when this results in a noticeable change in the market price of the securities.



The penalty for fraud and manipulation of the Exchange is:

- imprisonment of up to five years, and/or
- fine between KD 10,000 and KD 100,000.

The following are not considered to be a criminal act in relation to fraud and manipulation:

- Transactions conducted pursuant to a court judgement, regulations of the Authority, or rules of the Exchange that are approved by the Authority.
- Transactions executed among the accounts of various public institutions and authorities.
- Transactions executed by market makers in accordance with rules governing its activity in the cases set out in paragraph (1) and paragraph (6) of the criminal offences in relation to point (b) above.
- The purchase or sale of a listed security undertaken for the interest of the same person with the purpose of financing the purchase of financial derivatives or refinancing.
- The purchase or sale of a listed security among the (in)direct accounts of a person through investment portfolios managed on behalf of this person without the person's interference in the management. The transaction conditions in terms of volume, price, and time, as well as a lack of repetition must demonstrate that the transactions are not undertaken as a result of a prior arrangement.
- The purchase or sale of a listed security between accounts of investment portfolios managed by clients. The transaction conditions in terms of volume, price, and time, as well as a lack of repetition must demonstrate that the transactions are not undertaken as a result of a prior arrangement.
- Orders submitted for the purchase of a listed security at levels of prices lower than the prevailing price at the time providing the purpose of the orders is actual trading.
- Orders submitted for the sale of a listed security at levels of prices higher than the prevailing price at the time providing the purpose of the orders is actual trading.
- Transactions executed for the same security at the same time without any intention to affect the volume of trading or the price of the security.

2.1 Illegitimate Trading

A number of violations are considered to be illegitimate trading for which the person is subject to disciplinary measures that may be subject to financial or other penalties by the Disciplinary Board. These violations are as follows:

- Entering, cancelling, or amending orders consecutively and intensively to:
 - obstruct or delay the trading system of the Exchange
 - obscure the orders in the trading system of the Exchange, or
 - mislead others in relation to trading volumes or prices of a listed security.
- Entering orders for a price higher or lower than the execution price at the time of the order with the intention of affecting the price.
- Spreading, broadcasting or promoting rumours or misleading information and statements that may affect the price and trading volumes of securities.
- Orders entered by insiders either personally or through another person while possessing inside information about such security, even if such orders could not be executed for other reasons not related thereto.
- Orders entered by a person, personally or through another person with the intention to commit a criminal offense related to fraud and manipulation as specified in section 2 above for no other purpose than to generate actual or fictitious trading volumes to encourage others to sell or purchase the security.

- Giving opinions, advice, or recommendations on a listed security that may affect the price or trading volumes for the purpose of obtaining a benefit or interest for such person without disclosure of such benefit of interest before giving the opinion, advice or recommendation.
- Repetitively entering one or more orders for a listed security and cancelling them prior to execution, affecting the real demand and supply of the security if it is intended to:
 - encourage traders to purchase or sell the security, or
 - increase or decrease the price of the security.
- Excessive entering of orders or executing transactions on client accounts for the benefit of the Licensed Person, not the client (eg, to receive fee and commission income – the practice known as churning).
- Frequent execution of contradictory transactions at a convergent time, with a rate that will influence the trading of a listed security, particularly when associated with a noticeable change in the market price of the security. Transactions undertaken by market makers in accordance with their role are exempt.
- Entering one or more orders or concluding trading transactions, based on reviewing data, reports, or analyses, which may affect the price of a listed security ahead of the publication of the information to clients of the public.
- Entering orders or concluding transactions on a listed security while in possession of information undisclosed to the public relevant to a company belonging to the same group of the company which issued the security subject of the order or deal, if such information may affect the price or trading of the security subject of the order or deal.
- Entering orders or concluding transactions in a security listed outside the State of Kuwait to affect the price of the same security on the Exchange and to encourage others to sell or purchase.
- Any other practices aiming to mislead traders on securities.

3. Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)

Learning Objective

- 11.3.1 Know the rules on accepting cash from clients
- 11.3.2 Know the client due diligence (CDD) measures a Licensed Person should carry out on all clients
- 11.3.3 Know the application of a risk-based approach to: reduced CDD; enhanced CDD; politically exposed persons (PEPs); non-profit organizations or entities; CISs
- 11.3.4 Know the rules relating to reliance on third party CDD

3.1 Accepting Cash from Clients

A Licensed Person must not accept cash payments from clients for investment purposes or as payment for services provided, with the exception of trivial service fees paid for services such as, for example, account opening fees, and fees for printing of certificates and documents. The exemption applies under the following conditions:



- payment is made by the client or their legal representative
- payment is KD 100 or less
- fees are non-refundable
- fees are paid as one payment, and
- client due diligence (CDD) is applied and any suspicious cases need to be reported.

3.2 Client Due Diligence (CDD)

Licensed Persons may not open or maintain accounts that are anonymous, in false or fictitious names, or in the name of prohibited persons (as notified by the Authority). When opening an account, all necessary steps need to be taken to obtain valid and complete information on the client, their financial situation, and investment objectives.

CDD is required for all clients and involves the following:

- identification and verification of the identity of the client and any authorised signatories by means of original documents (see below for a list of permitted documents)
- understanding the ownership and control structure of the client
- verification of the identity of the beneficial owners of the account and the persons controlling it by means of original documents
- obtaining information on the purpose and nature of the business relationship considering the type of client, business relationship or transaction to assist with ongoing CDD requirements
- ensuring ongoing CDD is undertaken involving continuous scrutiny of transactions and accounts throughout the relationship to ensure all transactions are consistent with the Licensed Person's knowledge of the client, client profile, source of wealth, and source of funds.

The Licensed Person is exempted from verifying the identity of the beneficial owners who invest through another Licensed Person or by an equivalent foreign regulatory entity, provided that it shall be ensured, as the case may be, that the counterparty:

1. is regulated and supervised by a competent authority
2. operates in a country that applies the Financial Action Task Force's (FATF's) recommendations
3. applies, as a minimum, requirements for anti-money laundering and combating the financing of terrorism (AML/CFT), including measures for CDD and identification of beneficial owners, that are consistent with the requirements of the Authority stated in this section, and the FATF recommendations.

The Licensed Person to whom the exemption provided above is bound to enter into an agreement with the counterparty, under which the counterparty agrees to provide the Licensed Person or the Authority with any information required of the beneficial owners, under which the counterparty shall provide the Licensed Person with an undertaking that he has fully implemented FATF recommendations including measures for CDD towards the beneficial owners as follows:

1. Before or during the course of opening an account or establishing a business relationship with the counterparty or any of the beneficial owners.
2. Before carrying out a transaction above the limit set forth in the executive bylaws of the **Anti-Money Laundering and Combating Financing of Terrorism Law** for a beneficial owner with

whom the licensed person is not in an established business relationship, whether it is conducted as a single transaction or several transactions that appear to be linked.

3. Before carrying out a domestic or international electronic transfer for the beneficial owner.
4. Whenever there is a suspicion of money laundering or terrorism financing.
5. Whenever there are doubts about the veracity or adequacy of previously obtained beneficial owner identification data.

The Licensed Person needs to obtain sufficient adequate identification data on the beneficial owners, within the minimum data to be obtained. The exemptions apply where a Licensed Person is undertaking a transaction with a company registered outside the State of Kuwait through an omnibus account for named clients through a designated account, and where a Licensed Person deals with foreign clients through a **global custodian**.

Original documents used to verify the identity of a client or beneficial owner need to be valid and can be one of the following:

- **citizens and residents of Kuwait** – civil card
- **persons not residing in the State of Kuwait** – passport or travel document
- **resident companies and entities** – commercial license issued by the Ministry
- **non-resident companies and entities** – documents issued by the competent authorities in their country of incorporation or establishment
- **representatives** – any documents, papers, instruments, or court orders proving they have been appointed to represent the client or beneficial owner
- **any other clients** – approved official identification documents attested by competent official authorities or bodies that issue these documents.

Except where applicable in the Authority's executive bylaws, the Licensed Person must interview the client, the potential client or the beneficial owner or his representative when verifying his identity before opening an account or establish a business relationship with him. In case the client or his representative does not appear in person, the Licensed Person must consider the following non face-to-face business relations:

- money laundering and terrorism financing threats that may arise from the development of new products or business practices, including new delivery mechanisms, and the use of new or developing technologies, and must formulate policies, procedures and internal controls to prevent such threats.
- formulate policies, procedures and internal controls that address the risks associated with non-face-to-face business relationships and transactions. Risks arising from the implementation of specific and effective measures during the course of the business relationship should be considered as part of ongoing CDD.

In the event the Licensed Person faces difficulties in determining whether a document is genuine, or has doubt about the authenticity of a document, the account should not be opened and the Licensed Person should consider the need to raise a suspicious transaction report (STR). Copies of all documents used to verify the identity of a client need to be retained.

At the start of a business relationship, when identifying a beneficial owner, the Licensed Person must establish whether the person is acting for their own account or on behalf of another party. The Licensed Person must obtain a written statement signed by the client certifying they are the beneficial owner of the account, or request any other types of documents they may deem necessary. The Licensed Person must understand the purpose and (intended) nature of the business relationship or transaction, and may request additional information from the client.

3.2.1 When CDD must be Performed

CDD must be performed in the following instances:

- opening an account or establishing a business relationship
- on suspicion of money laundering or financing of terrorism
- in the event of doubts regarding the accuracy or adequacy of data, information, or documents previously obtained for the purpose of identity verification from the client or beneficial owner.

A (potential) client or beneficial owner's identity must be verified before and during the course of establishing the relationship or transaction execution. In the event it is not possible to complete CDD satisfactorily at the account opening stage or prior to entering into the transaction, the Licensed Person must terminate the business relationship and raise an STR. This also applies to existing client relationships established prior to the application of the AML/CFT provisions of the Authority's executive bylaws.

3.2.2 Ongoing CDD and Unusual Transactions

Business relationships with clients must be monitored on an ongoing basis. It is the responsibility of the Licensed Person to ensure transactions are consistent with the information held on the client's business, risk profile, and source of funds. All complex and large transactions as well as unusual transaction patterns without an economic or visible legal purpose require specific attention.

In addition, close attention needs to be paid to business relationships or transactions with clients or financial institutions from countries who do not or insufficiently apply FATF recommendations. Business relationships and countries for which the Authority has assessed the FATF recommendations as being insufficiently applied need to be treated as high-risk, and are subject to enhanced CDD.

Adequate information must be obtained in relation to the purpose and nature of all transactions. Any transactions that appear to have no economic or visible legal purpose need to be examined closely and findings need to be recorded in writing and retained for at least ten years from the date of the start of the transaction. Such records need to be made available to the Authority, and internal and external auditors on request.

3.3 Risk-Based Approach to CDD

3.3.1 Reduced CDD

All clients are subject to CDD taking into consideration their risk. Reduced measures may be applied if the risk is low, such as when information on the identity of the client and the beneficial owner is publicly available, that is when the client is a company listed on the Exchange of a country that has sufficiently implemented the FATF recommendations, or a subsidiary of that listed company.

However, for listed companies subject to the control of an individual or a small group of individuals, the Licensed Person must carefully review the AML/CFT risk and consider whether they need to verify the identity of such individuals.

3.3.2 Enhanced CDD

High-risk clients, business relationships, or transactions are subject to enhanced CDD. The exact measures vary depending on the client's background, type of transaction, and circumstances surrounding the transaction. The Licensed Person must be very cautious in exercising their own judgement when applying enhanced CDD.

Client acceptance policies must clearly state the risk factors for determining the type of client and the type of activity that is considered high-risk. Risk factors include, but are not restricted to, client risk, country risk, geographic risk, product and service risk, and delivery risk.

The following need to be considered when assessing whether or not a country sufficiently applies the FATF AML/CFT standards:

- Standards of prevention of money laundering and financing of terrorism. The Licensed Person may rely on information and data made available by relevant authorities. The higher the risk, the greater the CDD measures that need to be applied.
- Compliance assessment by the FATF, FATF-style regional bodies or other international institutions regarding the compliance of the country with FATF recommendations.
- Ongoing vigilance concerning money laundering and financing of terrorism taking into account information available to the Licensed Person about the level of AML/CFT standards in the country.

The following are considered high-risk types of clients:

- complex legal arrangement without any apparent legal or economic purpose
- any legal or natural person from or in countries that do not or insufficiently apply the FATF recommendations, and
- politically exposed persons (PEPs).

Higher-risk clients need to be subject to enhanced CDD which, at a minimum, includes:

- obtaining declarations in writing from the beneficial owners detailing the identity of, and relationship with, the directors and substantial shareholders
- obtaining additional information on the purpose and reasons for opening the account, business or employment background, source of funds, identification data of the client and beneficial owner, and on the intended nature of the business relationship
- assigning staff to serve the client. These staff members must conduct CDD and ongoing monitoring in order to ensure that unusual transactions are analysed and suspicious transactions are identified on a timely basis
- conducting face-to-face meetings with the senior management of the client on a regular basis throughout the business relationship, and
- obtaining the approval of the senior management of the Licensed Person when opening an account.

3.3.3 Politically Exposed Persons (PEPs)

The risk management systems within the Licensed Person needs to be able to identify whether a (potential) client or beneficial owner is a PEP. PEPs are considered to be higher risk and subject to enhanced CDD and monitoring.

If a Licensed Person determines that the client or beneficial owner is a PEP, it should apply the following additional client due diligence measures:

- Have the opening or operation of an account for any PEP approved by the senior management of the Licensed Person.
- Where a Licensed Person has accepted a client, and the client or beneficial owner becomes or is found to be a PEP, the Licensed Person must obtain the approval of the senior management to continue the business relationship;
- Take measures to establish the source of wealth and source of funds of PEPs or of any person associated with them, who can be a client or beneficial owner.

If a Licensed Person determines that a client or beneficial owner is a domestic PEP or a person who has been entrusted with a prominent function by an international organization, the above shall be applied wherever the Licensed Person determines the risk of money laundering or terrorism financing to be higher.

3.3.4 Non-Profit Organizations or Entities

A Licensed Person must have in place policies, procedures and internal controls to comply with the requirements regarding the opening and handling of accounts and transactions of non-profit organizations and entities. The following requirements must be observed when dealing with accounts of any such organizations and entities:

- Non-profit organizations and entities must have an official license issued by the relevant government authority specifying the purposes and activities of the organization.
- Due diligence measures shall be applied when dealing with such organizations

3.3.5 Collective Investment Schemes (CISs)

Where a Licensed Person acts for a client who is investing in a CIS, they are responsible for undertaking the CDD on the client in line with the requirements highlighted in this section. In the event the client is a counterparty licensed by the Authority or an equivalent foreign regulatory entity, the Licensed Person does not need to verify the identity of the beneficial owner that is investing through the counterparty, providing the counterparty should meet the requirements related to the exemptions from verifying the identity of the beneficial owners highlighted earlier in this chapter.

3.4 Reliance on Third Parties for CDD

In the context of this section, a third party is a party that introduces clients to a Licensed Person and performs client identification and verification on their behalf. The third party is either a financial institution or a banking institution engaged in securities and regulated by the Authority. If the third party offers its services outside the State of Kuwait, it must be licensed by a competent regulatory entity in a foreign country implementing the FATF recommendations.

Licensed Persons may rely on the third party for the identification of the clients and beneficial owners, and for understanding the ownership and control structure of the client providing they meet the criteria outlined below for clients who have headquarters in Kuwait. Ultimate responsibility for client identification and verification remains with the Licensed Person. The Licensed Person may only rely on third party CDD if the client is located outside the State of Kuwait. It is the responsibility of the Licensed Person to make sure it is reasonable to rely on the third party and that their CDD measures are as rigorous as the ones the Licensed Person applies. Clear policies need to be in place to determine whether the third party is reliable.

The Licensed Person must:

1. Obtain copies of the CDD documentation and information from the third party in relation to the identification of clients and beneficial owners and the understanding of the ownership and control structure of the client including Know Your Client (KYC) information.
2. Take adequate steps to ensure copies of documentation and data related to CDD requirements will be made available by the third party on request. Such documents need to cover the establishment of responsibility in writing, or agreements with the third party for them to immediately make available all documentation on request. The Licensed Person will then be in a position to verify the CDD measures undertaken by the third party.
3. Ensure the third party is regulated, monitored, and supervised by a competent authority and has measures in place to comply with CDD and record-keeping requirements equivalent to the requirements in the State of Kuwait and the FATF recommendations.

Licensed Persons must not rely on third parties based in a country considered as high risk, such as countries that have no anti-money laundering and combating terrorism financing systems, or where those systems are inadequate.

Licensed Persons must conduct annual reviews to ensure that the third party continues to conform to the standards set forth in the Authority's executive bylaws regarding reliance on third parties for CDD.

This may involve reviews of relevant policies and procedures and sample checks of the due diligence conducted.

4. Suspicious Transaction Reporting

Learning Objective

11.4.1 Know suspicious transactions reporting requirements

An activity or transaction that is (suspected to be) related to money laundering, financing of terrorism, terrorist acts, or terrorist organisations must be reported immediately by means of an STR by the Licensed Person. The STR needs to be accompanied by a detailed report containing all available data and information about the transaction(s) and the related parties. At a minimum, this report needs to include account statements for a period of six months, copies of all account opening documents, any data related to the nature of the reported transactions, and the indications and justifications for the suspicion including supporting documents. Even when other related transactions have already been reported for the same client, an STR will need to be completed for any new suspicious transaction.

The compliance officer must be appointed at senior management level and is responsible for the implementation of the AML/CFT laws and other relevant laws. The compliance officer must be registered, qualified, and have practical experience in AML/CFT.

The Licensed Person must instruct all staff to immediately refer to the compliance officer any:

- complex, huge or unusual transaction
- transaction that raises doubts or suspicion, and
- activity (suspected to be) related to money laundering, financing of terrorism, terrorist acts, or terrorist organisations.

The compliance officer will take the necessary actions for referral to the Financial Intelligence Unit (FIU).

It is the responsibility of executive management (which includes the compliance officer) to implement the reporting procedures of the Kuwait FIU. They need to have an active role in the identification and reporting of suspicious transactions, need to review system-generated large or irregular transaction reports, and need to review reports compiled by employees.

When any Licensed Person's employee reports a suspicious transaction, the compliance officer will review the transaction to determine whether the suspicion is justified and report to executive management. In the event executive management decides to follow the compliance officer's recommendation to not report the transaction to the Kuwait FIU, the underlying reasons for this decision need to be fully documented.

Licensed Persons need to maintain records of all transactions referred to the compliance officer including all internal observations and analysis associated with the transaction. Each suspicious transaction (whether an STR is sent to the Kuwait FIU or not) needs to be recorded in a specific register.

It is the responsibility of the Licensed Person to ensure an acknowledgment of receipt has been received for STRs sent to the Kuwait FIU. Once an STR is sent, the account and the client need to continue to be monitored, and the Licensed Person must follow up with the Kuwait FIU on the status of the STR. Any information requested by the Kuwait FIU needs to be provided promptly and without delay.

The Licensed Person, the members of their Board of Directors, and their employees may not disclose to anyone that they are making or considering to make an STR, or are in the process of providing any other information, or a money laundering or terrorist financing investigation, to the Kuwait FIU. All STR reporting needs to be kept highly confidential and all reports to be reviewed by the compliance officer may only be accessible to specifically authorized members of staff. In the event the Kuwait FIU requires additional information that can only be obtained from the client, great care must be taken to ensure the client does not become aware an STR has been produced. The Licensed Person will continue to deal with the reported client as usual and must not warn their client or other parties that they are awaiting further instructions on an STR that they have raised. The internal regulations of the Licensed Person will stipulate sanctions for the breach of confidentiality.

5. Continuing Obligations

Learning Objective

11.5.1 Know the continuing obligations relating to internal policies, compliance, auditing and training

Licensed Persons need to have clear internal policies, procedures and controls in place to help prevent money laundering and terrorist financing. These policies, procedures and controls need to be communicated to the employees and need to be made available to the regulatory body on request.

The internal policies and procedures must comply with all relevant regulatory and legal requirements related to AML/CFT; need to be in keeping with the size of the Licensed Person, nature, and scope of operations; and be approved by the Board of Directors. They need to include:

- risk assessment of clients and transactions
- CDD measures
- mechanism of retaining records and documents of all transactions throughout the course of a business relationship
- obligation to raise an STR, and
- adequate screening procedures ensuring high standards when appointing staff.

The Licensed Person needs to ensure the compliance officer and other staff members undertaking compliance functions are able to act independently and have timely access to client and transaction records as well as other relevant information. The compliance officer needs to have appropriate experience and qualifications related to AML/CFT.

The duties of the compliance officer are as follows:

- Develop, update, and implement the systems, procedures, and controls related to AML/CFT.
- Keep up to date with developments in AML/CFT laws and regulations, trends, techniques, and indicators of money laundering and terrorist financing.
- Ensure the Licensed Person complies with the AML/CFT policies and procedures.
- Analyse reports received from staff to decide whether an STR is to be raised with the Kuwait CFT.
- On an annual basis, report all actions taken to implement the policies, procedures and controls as well as any recommendations for the increase in effectiveness and efficiency of the procedures to the Board. A copy of the report will be submitted to the Authority.
- Ensure all necessary records, documents, and reports are maintained.
- Organize ongoing training programs for all staff.

5.1 Auditing

A Licensed Person needs to have an adequately resourced, independent internal audit function to verify compliance with internal policies, procedures, systems, and controls, and to ensure their effectiveness and conformity with the AML/CFT laws. The internal audit function shall periodically assess the effectiveness of these policies, procedures, and controls.

An external auditor will be appointed to report on the Licensed Person's adherence to the AML/CFT laws, the related instructions issued by the Authority, and the internal policies, procedures, systems, and controls.

5.2 Training

It is the responsibility of the Licensed Person to ensure all new and current employees, directors, members of the Board, and executive and supervisory management receive regular ongoing training in relation to AML/CFT in particular covering:

- laws and regulations, specifically highlighting CDD measures, and detecting and reporting of suspicious transactions
- prevailing techniques, methods, and trends
- internal policies, procedures, and controls and staff responsibilities.

Training needs to be provided at the start of employment as well as on an ongoing basis to ensure up-to-date knowledge, capacity building, and awareness of responsibilities. Staff who deal directly with the public and help clients open new accounts are particularly exposed to potential AML/CFT and it is important they are aware at all times.

New employees must meet the requirements provided for in the Authority's fit and proper regulations. The Licensed Person must ensure they are qualified and have a high level of competence enabling them to discharge their functions.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

1. Describe inside information.

Answer reference: Section 1

2. In which two ways can a false impression be created concerning actual trading on the market?

Answer reference: Section 2

3. List the three criminal offences associated with the buying or selling of a security that does not result in a change in ownership.

Answer reference: Section 2

4. List the violations considered to be illegitimate trading.

Answer reference: Section 2.1

5. List the requirements for client due diligence (CDD).

Answer reference: Section 3.2

6. When may a client be subject to reduced CDD?

Answer reference: Section 3.3.1

7. What information needs to be included in a suspicious transaction report (STR)?

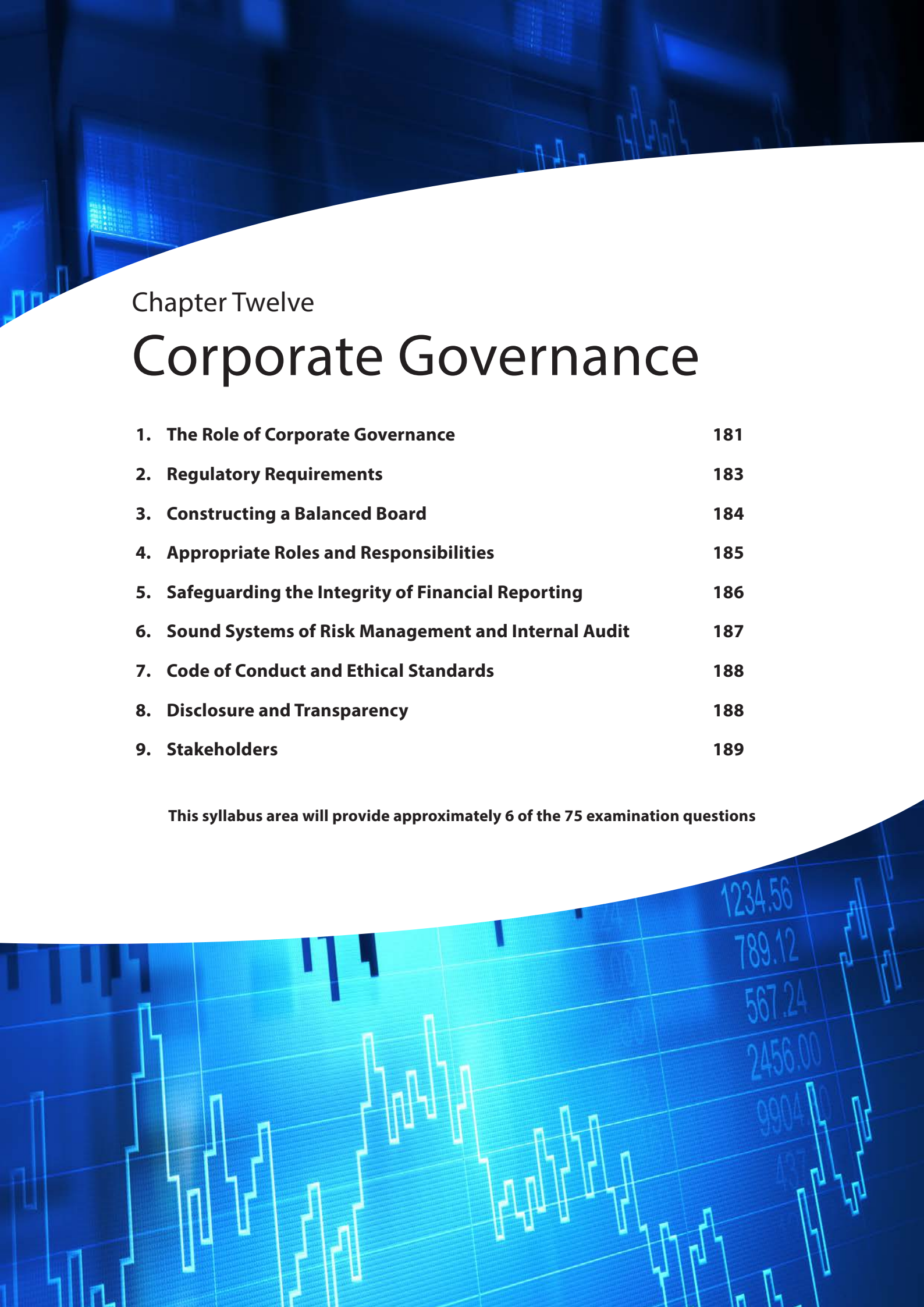
Answer reference: Section 4

8. List the components of the internal policies in relation to anti-money laundering and combating the financing of terrorism (AML/CFT).

Answer reference: Section 5

9. What elements need to be covered in ongoing AML/CFT training?

Answer reference: Section 5.2



Chapter Twelve

Corporate Governance

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This syllabus area will provide approximately 6 of the 75 examination questions



1. The Role of Corporate Governance

Learning Objective

- 12.1.1 Understand the role, importance and goals of corporate governance

The corporate governance rules are the principles, systems, and procedures in place to achieve the best protection and balance between interests of management companies on the one hand and those of shareholders and other stakeholders on the other hand. The key goal of applying corporate governance is to ensure that companies are managed in accordance with shareholder goals, in a manner that enhances the confidence of investors in the efficiency of the company's performance and their ability to face any crisis.

Corporate governance regulates the decision-making process within a company and stimulates transparency and credibility of this process. One of the most significant goals of adopting the rules of corporate governance is to protect shareholders by segregating the powers of the executive management which manage the company, and the Board of Directors who prepare and review the plans and policies of the company, in a manner that provides trust and enhances confidence in dealing. These rules also enable shareholders and stakeholders to have effective control of the company.

The rules of sound corporate governance shall document the following:

1. **Ethical conduct** – ensure compliance with ethics and good professional code of conduct in achieving the interests of all related-parties and transparency in the presentation of financial and non-financial information.

2. **Control and accountability** – develop an integrated condition for control and accountability by reporting deviations and breaches. In addition, activate the role of stakeholders to control the company and to assert that disclosure and transparency are key components in the protection of the rights of stakeholders.
3. **Sound administrative condition** – ensure the distribution of powers and authorities, separation of powers, and develop a system of incentives and rewards through evaluating performance of managers or employees at the company.

The importance and benefits of corporate governance for companies in general, and the financial sector in particular, are:

1. **Enhance administrative efficiency of companies** – the rules of governance stimulate the application of the sound methodology in companies' management through the application of best practice modern administrative methods. This contributes to the development of companies; increase of their profitability; and reduction of the risks they are exposed to. Sound governance ensures that the company management shall be assumed by a Board of Directors and a team of managers of high technical experience and efficiency. Additionally, specialized committees will be formed to ensure the company is managed in accordance with the policies of the company and the goals of the shareholders.
2. **Reduce funding cost** – application of governance rules provides an environment of trust and safety for investors. Consequently, they will have a strong motivation to subscribe in new issues of the various financial instruments offered by the company. Therefore, the company will be able to provide necessary sources of funding at the lowest cost possible.
3. **Enhance procedures of supervision and audit** – governance rules require controlling practices and behaviours of officials at the company and that the company shall abide by all laws and regulations issued by the supervisory authorities; and follow the policies and work systems therein. Consequently, this will allow the company to practice self-control in its activities, which contributes to minimizing the risks a company may be exposed to.
4. **Support social role of companies** – the rules of governance encourage companies to play a more effective social role, as they lead companies to expand their activities to include other activities in addition to their basic or key activities. For example, the company can conduct studies and research that benefit the company, the society, the environment, and the economy, while taking into consideration the three components of sustainable development (economic growth, social progress, and environmental protection).
5. **Enhance fairness, transparency, and fair treatment** – the rules of governance aim, through the application of principles included therein, to enhance fairness, transparency, and the fair treatment of all parties including shareholders, investors, and other stakeholders.
6. **Minimize conflict of interest** – the rules of governance stimulate companies to follow appropriate conduct while dealing with various groups, inside or outside the company, and avoid unsound practices which may result in conflict of interest and, as a result, expose the company to financial problems.

2. Regulatory Requirements

Learning Objective

12.2.1 Know the regulatory requirements relating to corporate governance

On an annual basis, companies need to provide the Authority with evidence that they have met the requirements of corporate governance as defined by the Authority. The Authority may request additional information or data necessary to ensure requirements are met.

The majority of the compliance rules are based on the principle of 'comply or explain', which implies that companies specifically note rules they do not comply within the corporate report, including the details of the specific rule and principle, and reasons for non-compliance.

The principle of 'comply or explain' applies to the following rules:

- **Rule One** – construct a balanced board composition (excluding the provision mentioned under Rule One below).
- **Rule Two** – establish appropriate roles and responsibilities.
- **Rule Three** – recruit highly qualified candidates for the board membership and executive management.
- **Rule Six** – promote code of conduct and ethical standards (excluding the provisions of items (a) and (b) mentioned under Rule Six below).
- **Rule Nine** – recognize the roles of stakeholders
- **Rule Ten** – encourage and enhance performance.
- **Rule Eleven** – focus on the importance of corporate social responsibility.

The following principles must be complied with:

- **Rule One** – the members of a Board of Directors shall include independent members allowing them to make decisions without pressures or obstacles.
- **Rule Four** – safeguard the integrity of financial reporting.
- **Rule Five** – apply sound systems of risk management and internal audit.
- **Rule Six:**
 - a. Inform the Board of Directors of the personal interest related thereto in works or agreements concluded for the company and such reporting shall be listed in the minutes. The member of interest shall not be entitled to vote on the resolution issued in this regard.
 - b. Assign an independent expert to report to the general assembly or the Board of Directors on any transaction between the company and any related party or any arrangement whereby each party enters into any project or financing asset where the value of the transaction or arrangement equals 5% or more of the total assets of the company, or if the transaction or the arrangement had a Material Effect on the company's financial statements, provided that such report is submitted before the transaction is approved, or the arrangement stipulated. The assigned expert must be objective and impartial in preparing the report required in this Article.
- **Rule Seven** – ensure timely and high quality disclosure and transparency.
- **Rule Eight** – respect the rights of shareholders.

Non-compliance with these rules shall expose the company to those penalties identified in the laws and associated bylaws.

3. Constructing a Balanced Board

Learning Objective

12.3.1 Know the standards for board composition

12.3.2 Know the standards for board meetings

3.1 Standards for Board Composition

A company's Board of Directors must be composed in accordance with the company's activity, volume and nature of business, as well as the assigned roles and responsibilities. Diversity of educational and professional experience and specialized skills must be considered. Board members must be aware of relevant laws and policies and the rights and roles of the Board. This is in addition to having a full understanding and awareness of the company's activities and all their financial and non-financial risks.

The Board must be composed of sufficient members in order to enable them to form the requisite number of committees. The composition of the Board must ensure diversity in experience and specialized skills to enhance the efficiency of decision making. The majority of the members need to be non-executive directors (NEDs) and at least 20% of the board of directors are independent members. In the event of a fraction in the result of calculating the ratio, the result is rounded to the next whole number, provided that the number of independent members does not exceed half of the Members of a Board of Directors.

The characteristics of independent directors are:

1. **Independence** – a director is not considered independent when, among others, they:
 - a. hold 5% or more of the shares of the company for which they are a candidate or representative
 - b. are related in the first degree to any of the members of a Board of Directors or executive management members in the company, or any other company in its group, or key stakeholders
 - c. are a member of a Board of Directors in any company of the group
2. **Qualifications** – an independent member must have the appropriate qualifications, experience and technical skills relevant to the company's activity.

3.2 Standards for Board Meetings

- A Board of Directors must allocate enough time to execute their assigned roles and responsibilities, including preparing for Board meetings as well as attendance of permanent and temporary committees' meetings.
- A Board of Directors must organize periodic meetings and specify issues to be discussed in regard of the company's activity.
- The Board must meet at least six times per annum with at least one meeting being held each quarter.

- Each meeting must be attended by at least half of all members with a minimum of three members in attendance.
- Ordinary meetings will be held on a regular basis on request of the chairman.
- Urgent meetings may be called by the chairman upon the written request submitted by at least two members.
- The Board of Directors shall appoint a secretary from amongst the company's employees and will provide the job description. The secretary may not be appointed or removed unless a resolution is issued by the Board of Directors.

4. Appropriate Roles and Responsibilities

Learning Objective

12.4.1 Know the roles and responsibilities of the Board of Directors

12.4.2 Know the independent committees

4.1 Roles and Responsibilities of the Board of Directors

The Board of Directors aims to accomplish the strategic goals of the company through ensuring that executive management perfectly performs their roles, enhancing the company's competitive capacity, achieving high growth rates, and increasing profits, and integrating economic, social, and governance sustainability considerations in its processes if required, as well as making sure executive management resolutions and actions are always for the benefit of the shareholders.

There must be a clear separation between the Board of Directors and the executive management to ensure full independence. Roles and responsibilities of the Board of Directors and executive management must be specified in the approved policies and conditions to reflect a balance of authorities and powers between both Board of Directors and executive management. Furthermore, none of the parties should have absolute power to ensure the Board is accountable to shareholders.

The Board of Directors shall have all powers and authorities required to manage the company. Ultimate responsibility for the company shall remain with the Board even if they have delegated responsibility to committees or other authorized agencies or parties to perform some of its works. The Board must avoid issuing general time-unlimited authorizations.

The responsibilities of the Board of Directors must be clearly specified in the company articles of association, giving consideration to the general assembly's specializations. The responsibilities include, but are not restricted to:

1. Approving company major goals, strategies, plans and policies.
2. Acknowledging annual estimated budgets and approving phase and annual financial information.
3. Pursuing the performance of each member of a Board of Directors and executive management member subject to key performance indicators (KPIs).

4. Forming specialized committees where the period, powers and responsibilities of the committee are clarified and how the Board shall monitor it. Formation resolution shall also include titles of members and determining their roles, rights and duties. This is in addition to assessing performance and works of the committees and their main members.

4.2 Independent Committees

Board committees are established pursuant to the internal regulations set by the Board. These regulations include the roles, term and powers of the committees, and the way in which they are monitored by the board. The committees report their resolutions and activities to the Board of Directors. At a minimum, the board will establish an Audit Committee, Risk Management Committee, Nominations and Remunerations Committee as well as any other committees that are deemed necessary in accordance with each company's needs, and the conditions and nature of their activities. The Board will define the terms of reference for each of its permanent committees. It is the responsibility of the Board to appoint a sufficient number of non-executive members of a Board of Directors to the committees.

Committees shall be responsible to the Board for their assigned work. However, this shall not discharge the Board of their ultimate responsibility.

5. Safeguarding the Integrity of Financial Reporting

Learning Objective

12.5.1 Know how standards of financial reporting should be applied

The soundness of the financial statements is an important indicator of the integrity and credibility of the financial position of the company. They enhance investor confidence in the data and information provided and allows bond and equity subscribers to have access to their rights. Therefore, companies need to have a mechanism in place to verify the soundness and integrity of their financial statements including oversight by the Audit Committee, and verification of the independence and integrity of the external auditor.

The executive management shall provide the Board of Directors with a written undertaking that company financial reports are provided soundly and fairly, presenting all financial aspects of the company, including data and operational results, and they are prepared in accordance with the international accounting standards approved by the Authority.

The annual report submitted to shareholders by the Board of Directors shall include an undertaking of soundness and integrity of all financial statements and reports related to the company's activity.

The existence of an Audit Committee is considered a main feature and indicates the application of good governance. The Audit Committee shall incorporate the culture of accountability within the company through ensuring the soundness and integrity of financial reporting of the company, in addition to the sufficiency and effectiveness of the conditions of internal audit systems applied in such a company. The

Board of Directors shall form an Audit Committee consistent with the nature of the company's activity. The Audit Committee will be independent and will consist of members with the appropriate experience so that they can perform their duty.

The Audit Committee's roles and responsibilities include but are not restricted to the following:

1. Review periodical financial statements prior to their submission to the Board of Directors and provide the Board with opinions and recommendations regarding them, in order to ensure fairness and transparency of financial statements.
2. Review the results of the internal audit reports and ensure that the necessary corrective actions were taken concerning the observations stated in such reports.

The external auditor of the company is proposed by the Board of Directors and appointed at the annual ordinary meeting. The proposal by the Board of Directors needs to be based on recommendations from the Audit Committee.

6. Sound Systems of Risk Management and Internal Audit

Learning Objective

12.6.1 Know the required standards for risk management and internal audit

The Board of Directors needs to understand and be able to analyse the nature and extent of risks encountered by the company's activities, and be able to identify risk mitigants as appropriate, in line with the strategic goals and risk appetite of the company. In the identification of risks facing the company and potential risk mitigants, both internal and external factors need to be taken into consideration. As part of a sound risk management framework, internal audit is required to ensure the soundness of financial statements and the efficiency of company activities including an evaluation of the extent of commitment to supervisory measures being demonstrated.

The company organizational structure (as approved by the Board of Directors) must include an independent risk management unit responsible for measuring, monitoring, and mitigating all types of risks encountered by the company. Effective systems and procedures of risk management will be in place to assist the risk management unit in their task. Systems and procedures need to be reviewed periodically and amended as necessary. Periodical reports are part of the risk management system. The risk management unit and their staff will need to be independent from other functions of the organization which is achieved by their direct link to the Board of Directors in combination with the powers granted to the unit. The risk management unit does not assume any financial powers and authority nor any powers or authorities that lead to conflict with their regulatory role, and will be staffed with appropriately qualified and competent staff. The risk management unit will review all transactions with related parties and make recommendations regarding these transactions to the Board of Directors.

One of the Board committees will address risk management. The terms of reference of the Risk Management Committee, including the membership term of the committee members and its mechanisms of its operation will be drawn up by the Board of Directors.

7. Code of Conduct and Ethical Standards

Learning Objective

12.7.1 Know the required standards relating to codes of conduct and ethical standards

Establishing an ethical culture and code of conduct within a company promotes the confidence of investors in the company's integrity and financial soundness. The commitment by all employees in the company, including the Board of Directors and executive management, to the company's policies and procedures as well as the legal and regulatory requirements shall result in meeting the interests of all related parties, particularly shareholders, without conflicts of interest and with a significant extent of transparency.

The Board of Directors shall develop the company's ethical concepts and standards which will be implemented and supported by the executive management. The development of a business charter will be part of this process and will help the Board of Directors and all employees to perform their role properly.

The Board of Directors shall have a policy for conflicts of interest including clear examples and the methods for resolving and dealing with any such conflicts.

8. Disclosure and Transparency

Learning Objective

12.8.1 Know the required standards for disclosure and transparency

Accurate disclosure contributes to improving the levels of understanding by shareholders, investors, and the public of the company structures, activities, and policies. Accurate disclosure is also considered a factor contributing to the ability to attract capital, as it improves investor confidence in relation to the financial soundness of a company in general, and financial institutions in particular.

It is important for shareholders and investors to have access to accurate, credible data that is comparable to other data. This will assist them in the evaluation of company performance and to make informed decisions related to their (potential) investment.

The Board of Directors must develop mechanisms for presentation and accurate and transparent disclosure, in accordance with the provisions set out in the Authority's law and its executive bylaws, and any instructions issued by the Authority in this regard, which identify aspects, fields, and features of disclosure, whether in relation to issues or components to be disclosed.

9. Stakeholders

Learning Objective

- 12.9.1 Know the required standards for dealing with: shareholders; other stakeholders; corporate social responsibility

9.1 Shareholders

A company's executive management, overseen by the Board of Directors, manages the day-to-day operations of the company on behalf of its owners (the shareholders). The rights of the shareholders are restricted to electing the members of a Board of Directors and the formation of said Board. In addition, shareholders may vote on the company's articles of association and, in limited cases, the approval of highly unusual transactions. The governance structure in combination with the company's articles of association, and relevant regulations ensures all shareholders will be able to exercise their rights, are treated fairly and equally, and their funds are protected from misuse by the company's managers, Board members, and other major shareholders.

The ownership of all shares needs to be recorded in the company records, including the name of the shareholder and the number of shares owned. Shareholders may dispose of shares or transfer the ownership to another person. They are entitled to receive the proportionate share of dividends and, in the event of liquidation of the company, a proportionate share of company assets. Shareholders also have the following rights:

1. Easy access to information on company activity, operational strategy, and investment strategy on a regular basis.
2. Participation in the general assembly of shareholders and to vote on its resolutions.
3. Elect board members.

The company shall not create any obstacles to prevent the shareholders from casting their vote. The company shall ensure that all shareholders exercise such rights.

9.2 Stakeholders

A stakeholder is any person, group, or organization that has an interest or concern in an organization and includes, for example, shareholders, employees, government, suppliers, and clients. The rights of stakeholders need to be respected and protected in accordance with the related laws applicable in the State of Kuwait (eg, Labour Law, the Companies Law and its executive bylaws) as well as agreements

concluded between the parties and any additional undertakings. A failure to protect the rights of stakeholders pursuant to laws may entitle them compensation.

The company policies need to include rules and measures to ensure protection and acknowledgment of the rights of stakeholders and allow them to have access to compensation in case of any breach of their rights

In order to prevent conflicts of interest between stakeholders and shareholders, the company will need to ensure that stakeholders are not unfairly advantaged through their dealings with the company and that appropriate policies and procedures are in place for awarding contracts, transactions, and purchase orders. These mechanisms must be fully disclosed.

9.3 Corporate Social Responsibility (CSR)

Corporate social responsibility (CSR) refers to the commitment from a company to assess and take responsibility for their effects on environmental and social wellbeing. It implies the company will behave in an ethical manner and will contribute to achieving sustainable development for society in general, and employees of the company in particular. The social wellbeing of the workforce can be achieved through the improvement of their living, social, and economic conditions and that of their families. For society as a whole, the company's contribution will be the reduction of unemployment levels and optimal utilization of available resources.

A strong understanding of, and focus on, CSR will positively reflect on the company and consequently impact reputation and profitability. Within a company, the implementation of CSR relies on a continuous commitment of the company to behave, at all times, in a way consistent with the law and general ethical norms. In addition, the company needs to make a sustainable contribution to achieving economic and social development by:

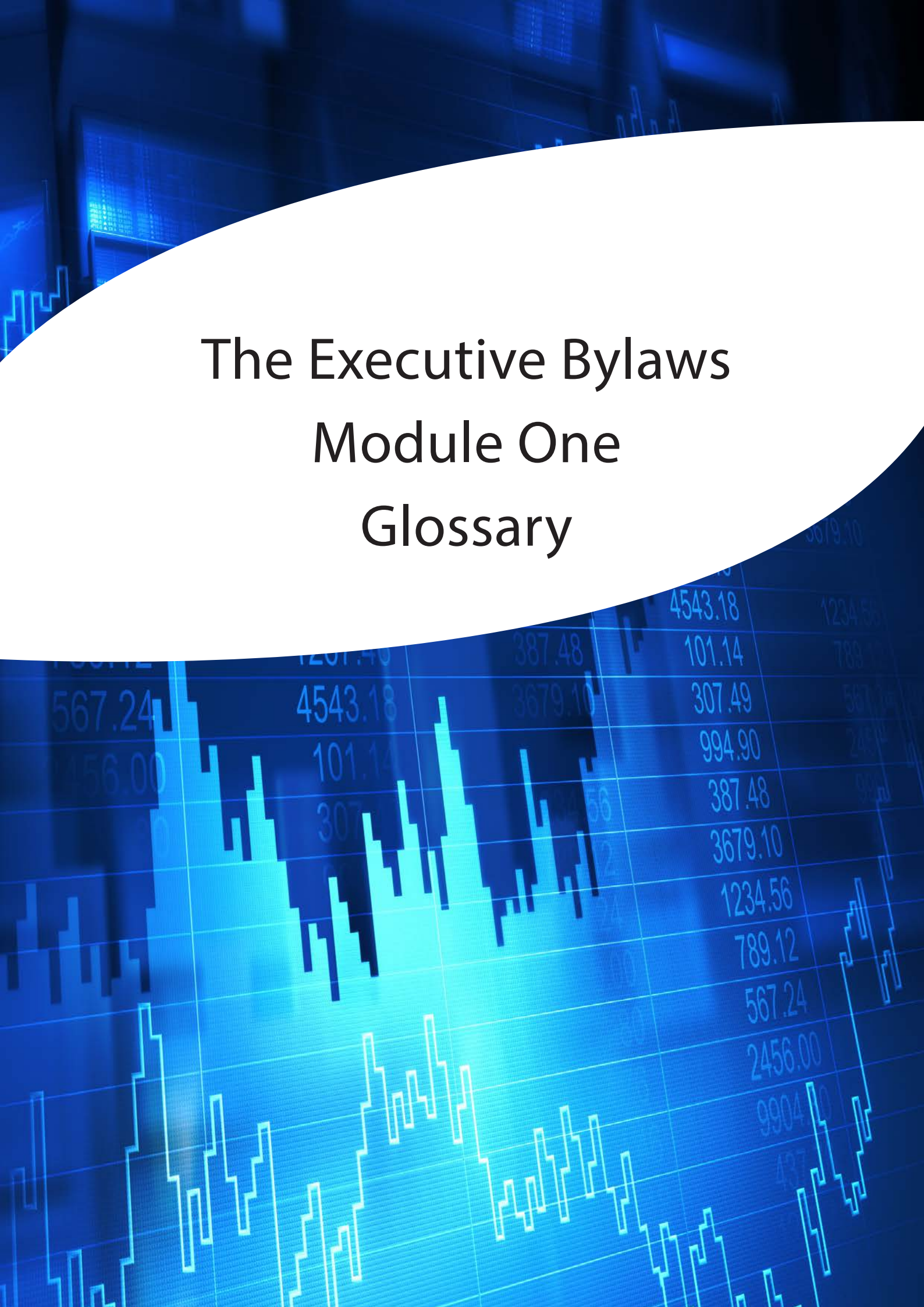
- seeking out national talent when filling vacant positions
- improving the quality of living conditions of employees and their families, and the immediate and wider society
- any percentage of profits donated to social services and projects will need to be approved by the general assembly.

In order to achieve a balance between the goals of the company and those of society, companies need to develop and implement specific policies concerning the development of living, social, and economic conditions within society.

End of Chapter Questions

Think of an answer to each question and refer to the appropriate section for confirmation.

- 1. To which rules does the principle of comply and explain apply?**
Answer reference: Section 2
- 2. Under which circumstances is a director not deemed to be independent?**
Answer reference: Section 3.1
- 3. List the responsibilities of the Board.**
Answer reference: Section 4
- 4. What is the main task and responsibility of the risk management unit?**
Answer reference: Section 6
- 5. What is the purpose of a business charter?**
Answer reference: Section 7
- 6. What is corporate social responsibility (CSR)?**
Answer reference: Section 9.3

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The Executive Bylaws

Module One

Glossary

Introduction to the Glossary of Definitions

1. This Module includes the set of definitions as used in all Modules of the Executive Bylaws. Expressions used in the Modules that are defined in the Glossary appear in capitalized and underlined text. An expression that is not shown in capitalized and underlined text has its natural meaning.
2. This Glossary includes all definitions mentioned in the CMA's Law and other related laws.
3. Terms in the Glossary shall be interpreted as follows:
 - a. The singular includes the plural, and the plural includes the singular; and
 - b. The masculine includes the feminine.

Acquisition Manager

A person licensed by the Authority to carry out the activity of Investment Portfolio Management who is engaged for the purpose of accumulating the Shares of those wishing to participate in an Acquisition.

Acquisition Offer

An offer to acquire or a solicitation to procure the acquisition of Shares which would contribute to achieving Effective Control of a Company Listed on an Exchange, or of an unlisted company in the event of Reverse Acquisition, to which the provisions and rules of Module Nine (Mergers and Acquisitions) apply.

Acting in Concert

Persons who, pursuant to an agreement or understanding (whether oral or written), co-operate, directly or indirectly, to obtain 30% or more of the Shares of a Listed Company admitted to trading, or to frustrate an Acquisition Offer for a Listed Company.

Without prejudice to the general application of this definition, the following persons will be presumed to be persons Acting in Concert with other persons unless proven otherwise:

1. a Parent Company with members of its Group and Associate Companies and Associate Companies thereof in addition to companies that consider these companies to be their affiliates

2. a company with any of its directors and their Relatives
3. a CIS manager along with the Collection Investment Schemes that it manages on a discretionary basis where the CIS manager exercises voting rights attached to the shares available in such scheme
4. an Investment Portfolio manager together with any client of such portfolio if the Investment Portfolio manager exercises voting rights attached to the Shares available in such portfolios.

Ally

A person who is affiliated with another person(s) or is subject to their control.

Anti-Money Laundering and Combating Financing of Terrorism Law

Law No. 106 of 2013 regarding Anti-Money Laundering and Combating Financing of Terrorism, and its Executive Bylaws.

Arbitration Rules

The Capital Markets Authority Arbitration Rules referred to in the Law and Chapter Seven of Module Three (Enforcement of the Law) of these Bylaws.

Asset of Significant Value

For the purpose of applying the provisions of Chapter Three of Module Nine (Mergers and Acquisitions), Assets of Significant Value means assets that have a significant effect on a Listed

Company. Accounting standards adopted by the Authority shall be applied in determining the definition of transactions of significant effect.

Asset Valuator

A corporate entity licensed by the Authority to carry out the activity of valuation of assets and Shares in kind, provided that one of its partners is an Auditor registered in the Authority's register. It shall abide by the provisions of the Companies Law and its Executive Bylaws.

Asset-backed Bonds

The structure of Bonds where these are based on various elements including:

1. Bondholders' right of recourse (directly or indirectly) on the Bonds assets, as the case may be.
2. The Bond Assets are ring-fenced or securitized in a manner which protects them from claims from other creditors.
3. Bondholders' reliance on the assets of those Bonds as the principal source for servicing periodic distributions and redemption.
4. Bondholders' bearing the risk of losses in the value of the Bond assets.

Asset-based Sukuk

The Sukukholders of asset-based Sukuk are able to seek recourse from an Obligor, which recourse shall be dependent on the ability of the Obligor to meet that obligation.

Auditor

A natural person registered with the Authority in the Auditors' register who gives an independent technical opinion on whether the financial statements of a company present a true and fair view of the company's affairs to the Clients mentioned in Article (3-4-1) of Module Five of these Bylaws, and are prepared in accordance with the accounting rules and principles adopted and registered with the Authority.

Authority

The Capital Markets Authority.

Board/Board of Commissioners

The Board of Commissioners of the Capital Markets Authority.

Bondholder

Any natural or corporate entity whose name is registered in the Bondholder's register.

Bondholders Association or Sukukholders Association

An association formed by the Bondholders or *Sukukholders* for each Bond Issue or *Sukuk* Issue to protect the mutual interests of its members. It also has a legal representative appointed from its members or a third party.

Bonds

A financial instrument that represents an indebtedness due from the Issuer to a Bondholder, pursuant to which a Bondholder receives periodic distributions during the Bond's Term or one payment or more of the redemption or both which when matured leads to the expiry of the Bond.

Bond Assets

In the case of Asset-backed Bonds, the assets or a class of assets which are used to determine the value and returns of those Bonds.

Book Building Mechanism

Process of registering the orders of those who intend to subscribe from Professional Clients within a specific price range or interest/return rate cap and within a specified period for determining the offering price or the interest/return rate of issuing Securities for subscription. This process is executed by the Subscription Agent in accordance with the terms and conditions.

Broker

A corporate entity who purchases and sells Securities for the account of a third party against a commission.

Business Day

An official business day at the Authority.

Candidate

A natural person nominated to fill a registered position or job.

Central Bank

The Central Bank of Kuwait.

Central Securities Depository

An entity that provides securities accounts, central safekeeping services, and asset services, which may include the administration of corporate actions, and plays an important role in helping to ensure the integrity of securities issues (that is, ensuring that securities are not accidentally or fraudulently created or destroyed or their details changed).

Chief Executive Officer (CEO)

A person appointed by the company's Board of Directors from amongst the members of the Board or others, who shall be directly under the Board of Directors, who is in charge of managing all executive works relating to the company's main activities, in accordance with the responsibilities and authorities granted to him. This includes the general manager of a limited liability company.

Clearing Agency

Any entity that conducts settlement and clearing operations of Securities, and one which provides the central custody of Securities, and one which provides other related services.

Client

A Person who is provided, or purported to be provided, services by a Licensed Person within the scope of the Securities Activities which it is licensed to carry out. A client shall include any potential client, it shall also include the endowment (Waqf) and charity will, in addition to Persons to whom a registered Auditor provides its services, and who are mentioned in Article (3–4–1) of Module Five of these Bylaws, or Persons to whom a registered External Sharia Auditing Office provides its services.

Client's Assets

All non-cash money and Securities and other assets held or received by a Licensed Person for or on behalf of a Client in the course of any Securities Activity.

Client's Funds

All cash monies and all funds held or received by any Licensed Person for and on behalf of a Client in the course of any Security Activity. When a Client designates a certain amount for the purpose of covering present or future, actual or contingent or prospective obligations, such money shall not be regarded as Client Funds.

Closed Shareholding Company

A company where Subscription in its issued Shares is limited to its founders.

Collection Period

The period from opening registration in the Acquisition Manager's portfolio for participation in the Acquisition until closing the registration in the Acquisition Manager's portfolio.

Collective Investment Scheme (CIS)

An entity that employs investors' money in various investment instruments.

CIS Manager

A person licensed by the Authority to practice the activity of a CIS Manager, and to establish and manage CISs.

Companies Law

Law No. 1 of 2016 on the Promulgation of the Companies Law and its amendments, or any subsequent law that replaces it.

Company Contract

The company's memorandum of association or memorandum and Articles of Association, if any.

Compliance Officer

A senior executive officer and employee in charge of ensuring the Licensed Person's compliance with all laws and legislations issued by the relevant regulatory authorities, and its compliance with the rules specified by the Exchange, Clearing Agencies and clients' contracts. He is also in charge of preparing and executing plans related to the position of compatibility and compliance to ensure that the regulatory requirements of a Licensed Person are met and its contractual obligations are met, in addition to other legal requirements of relevance. He shall be in charge of executing the requirements of the Anti-Money Laundering and Combating Terrorism Financing Law.

Competent Court

The Capital Markets Court provided for in the Law.

Competent Minister

The Minister of Commerce and Industry.

Competitive Acquisition Offer

A Voluntary Acquisition Offer for a Competitive Acquisition made by an Offeror which contains a material addition or revision to a condition in

the Original Acquisition Offer. The Offeror of a Competitive Acquisition must state its objectives for making the offer, to be submitted before five Business Days from the closing of the Collection Period of the Original Acquisition Offer.

Competitive Offer Period

A written agreement that includes the terms and conditions regulating the Contractual CIS and that governs the contractual relationship between the CIS manager and the unitholders participating in the same Scheme in accordance with the conditions and requirements issued by the Authority.

Contractual CIS

A CIS formed to collect money from two or more Professional Clients for the purpose of investing it on their behalf in various fields according to the fundamentals of professional management of collective investment and in accordance with the Contractual CIS Contract, and managed by a CIS Manager for a specific fee.

Contractual CIS Contract

A written agreement that includes the terms and conditions regulating the Contractual CIS and that governs the contractual relationship between the CIS manager and the unitholders participating in the same Scheme in accordance with the conditions and requirements issued by the Authority.

Control

Any condition, agreement, shareholding (whether individual holding or through Subsidiaries or Acting in Concert) exceeding 30% of the Traded Shares of a Company Listed on the Exchange.

Controller

Any person, natural or corporate, who has Control.

Convertible Bond

A type of Bond that gives its holder the right to convert such Bond into ordinary Shares

Convertible Sukuk

A type of *Sukuk* that gives the holder the right to convert such *Sukuk* into ordinary Shares in the share capital of the Issuer.

Core Activities

The activities that a financial or banking institution practices in accordance with the nature of its establishment, in addition to the activities related to the following fields:

1. Financial management
2. Operations management
3. Risk management.

Credit Rating Agency

A corporate entity licensed to carry out the activity of credit rating or the activity of rating credit information.

Custodian

A corporate entity licensed by the Authority to hold in custody Clients' Funds and Clients' Assets including those constituting a CIS in accordance with the provisions of the Law and these Executive Bylaws.

Care of a Prudent Person

Care undertaken by a Person of sufficient experience and commitment to perform his duties.

Date of the Right to Attend the General Assembly

The date specified for the purpose of listing the shareholders registered in the registry of the Listed Company's shareholders with the Clearing Agency, and who have the right to

attend and participate in the company's general assembly, as well as any postponed general assembly, provided that such date shall be the tenth Business Day prior to the date of the general assembly.

Dealing Days

The days on which one can subscribe in, or redeem units of, a CIS.

Dealing in Securities

A person's dealing in securities for his account or on behalf of a third party by sale, purchase, submitting an offer of sale or purchase or Acquisition in respect thereof, issuance, public offer for Subscription, waiver of the right to subscribe, promoting, marketing, undertaking to cover a Subscription, custody, listing, depositing, settling, financing the dealing of, lending, short sale, pledge, waiver of securities, or any other transaction which the Authority deems as dealing in Securities.

Debt Instruments

Securities that represent short-term, mid-term and long-term investment/financing instruments such as convertible and non-convertible Bonds and Sukuk to shares with fixed or variable return, treasury bonds or any other Debt Instrument regulated or approved by the Authority.

Default Event

Occurrence of an urgent factual or legal event for the Licensed Person that may lead to the inability to continue performing business, or meeting obligations, or losing its administrative capacity, thereby jeopardizing the safety of Clients' funds and assets in his possession.

The Default Events are divided into two parts which are: Primary Default Event and Secondary Default Event.

Disciplinary Board

The Disciplinary Board which is set up at the Capital Markets Authority pursuant to Article 140 of the Law.

Divided Company

A company or companies established as a result of the Division of the Dividing Company, whether as a company or companies existing or resulting from the Division.

Dividing Company

The company wishing to divide, whether it continues through the same corporate entity or terminates as a result of the Division.

Division

Segregation between the company's assets and activities, and its related obligations and ownership rights into two or more separate companies.

Draft Division Contract

The contractual terms and conditions proposed to execute the Division in accordance with the procedures specified by law.

Draft Merger Contract

The terms and conditions proposed in a draft agreement between companies that are party to a Merger to execute the same in accordance with the procedures set out by the Law.

Effective Control

Every condition, agreement or shareholding, no matter what the amount, that leads to controlling the appointment of the majority Members of the Board of Directors, the resolutions issued by it or the general assembly of the relevant company.

Entitlement of Shares

Measures taken by the Listed Company, which may result in rights, obligations or changes to the issued Shares such as cash dividends, bonus Shares, right to subscribe, capital decrease, mergers, division, or change in nominal value of Shares.

Exchange

A market licensed by the Authority and designated for matching bid and ask offers for Securities which follows specific trading procedures and performs the functions usually performed at securities markets.

Executive Bylaws of the Companies Law

The Executive Bylaws to the Companies Law, as amended.

Executive Committee

A committee duly appointed to be in charge of managing a Fund which shall consist of two or more of the Fund Manager's employees who are duly qualified to be its Representatives and one of whom shall be a Senior Executive or the Chief Executive Officer in accordance with the provisions set out in Article 2-14-1 of Chapter Two of Module Thirteen (CISs) of these Bylaws.

Executive Positions

Positions related to the core activities of a Financial or Banking Institution directly subordinate to the Chief Executive Officer in accordance with the organizational structure adopted by the Institution, such as a representative or an assistant to the Chief Executive Officer.

Executive Team

The team managing a Contractual CIS is composed of two or more of the CIS manager's employees, who meet the conditions of the Representatives of CIS manager, and one of whom shall be a Senior Executive or the Chief Executive Officer of the CIS Manager.

External Sharia Auditing Office

An independent institution (individual or corporate license) specialized in auditing the commercial and financial transactions of a Licensed Person or CIS to ensure their compatibility with Sharia standards and the Authority's relevant resolutions.

Financial Analysts Register

A register in which the Financial Analyst is registered.

Financial Derivatives

Financial instruments, the value of which is derived from the value of the relevant assets such as Shares, Bonds, commodities and currencies, which are purchasable, sellable and tradable similarly to Shares or other financial assets.

Financial Derivatives are considered securities subject to the provisions of the Law and these Bylaws.

Financial Manager

A person in charge of supervising accounting and financial procedures at a Licensed Person.

Financial or Banking Institution

A Licensed Person or a unit subject to the control of the Central Bank, or foreign institute or company licensed by a controlling authority to work in Securities Activities, a bank or a financing company, or a government entity that works in activities relating to the financial or banking sector or supervision thereof, except for any Financial Institution which invests its own capital solely for its own account.

Financial Products

The Securities or derivatives approved to be passported in the jurisdiction of one or more Regulatory Entity. This includes, for example but not limited to, Investment Funds, Bonds, Sukuk, Debt Instruments and Financial Derivatives.

Financial Promotion

An invitation or an inducement to enter into an agreement, the making or performance of which by either party constitutes a Security Activity, including exercise of a right conferred by a Security to acquire, dispose of, underwrite or convert a Security.

Foreign Issuer

A corporate entity established abroad that has issued or intends to issue Securities.

Fund

A CIS formed to collect money from investors for the purpose of investing it on their behalf in different fields in accordance with professional management principles of Collective Investment and to be managed by a Fund Manager for a specific fee.

Fund Manager

A person licensed by the Authority to practice the activity of a CIS Manager, and to establish and manage Funds.

Fund of Funds

A Fund with the main objective of investing in other Investment Funds licensed by the Authority or by a foreign supervisory authority in accordance with regulatory standards and conditions no less than those applied by the Authority.

Fund's Assets

All cash and all other assets other than cash, including real estate, owned by a Fund.

Government Bodies

Ministries, public authorities and institutions and government departments.

Government Sukuk

Sukuk issued by the government, ministries or public authorities and institutes whether through a direct or indirect Issue or secured entirely by those authorities.

Group

A Parent Company that has direct or indirect control of a company, a Subsidiary of a company and a Subsidiary of a Parent Company.

Guaranteed Issue

A Bond or *Sukuk* issue guaranteed by a Guarantor.

Guarantor (in the context of *Sukuk*)

A person other than the Obligor who guarantees with his entire net worth the settlement of obligations arising from *Sukuk* whilst the Obligor remains obliged to settle such obligations.

Green Sukuk

Islamic financial instruments of a participation nature, or according to the structure of the *Sukuk*, which are used for financing or refinancing of eco-friendly projects, products, or services pursuant to the relevant international standards provided for in Article (11–28).

Initial Agreement

An agreement that contains general principles and initial steps to present a Voluntary Acquisition Offer or enter into a Merger between two companies or more.

Insider

Any person, in view of his position, has access to information or data of material effect on a Listed Company that is not available to the public.

Inside Information

Information and data not announced to the public which if announced would influence the price or trading of a Security.

Interested Person

A Person with an interest amounting to 5% or more in the share capital of a Listed Company, whether directly or indirectly or as a Group or in Alliance with others.

Internal Audit Officer

A person in charge of independently evaluating and inspecting a Licensed Person's internal operational systems, in addition to determining and analysing risks of potential operations in the Licensed Person in accordance with the professional rules and standards of internal audit, and providing recommendations and reports to the senior management and auditing committee or Board of Directors.

Internal Sharia Audit Unit

An administrative unit, answering to the Audit Committee, specialized in supervising a company's commercial and financial transactions to ensure their compatibility with the Islamic principles and standards and the Authority's relevant resolutions.

Investment Adviser

A corporate entity that provides investment advice relating to Securities for remuneration.

Investment Controller

A corporate entity licensed to carry out the activity of controlling and supervising CISs.

Investment Portfolio

Cash, Securities or other assets owned by a Client the ownership of which is recorded in an account opened in favour of the Client by a company licensed to manage Investment Portfolios, in accordance with the requirements set out by the Authority. The Investment Portfolio shall either be a custody portfolio or be managed by a Portfolio Manager or by the Client.

Investment Portfolio Manager

A person who manages discretionary or non-discretionary Investment Portfolios on behalf of Clients or who manages the assets of the Company by whom he is employed.

Issue Program

Multi-series of issuances of a particular Debt Instrument according to specific terms and conditions.

Issued Shares

Shares in the subscribed capital of a shareholding company, whether fully or partially paid.

Issue Tranches

Issuance of a Debt Instrument of the same type on a specific date within the Issue Program.

Issuer

A corporate entity entitled to issue Securities.

Licensed Person

Aa natural or corporate entity that has a license from the Authority to practice one or more of the Securities Activities provided for in Article 1–2 of Module Five (Securities Activities and Registered Persons) of these Bylaws.

Listed Company

Means:

- a. a shareholding company, the Shares of which are listed on an Exchange
- b. an Issuer or Obligor that lists on an Exchange Bonds and Sukuk it has issued or is the Obligor thereof
- c. a Fund, the units of which are listed on an Exchange.

Listing Adviser

A person licensed to carry out the activity of an Investment Adviser in accordance with the provisions set out in Module Twelve.

Listing Application

An application to list Securities on an Exchange or a Non-Kuwaiti Exchange.

Local Bank

Any Kuwaiti bank, or a branch of a foreign bank, licensed by the Central Bank of Kuwait.

Major Shareholders

Any shareholder holding 5% or more of the Shares of a shareholding company in accordance with the provisions of Module Ten (Disclosure and Transparency) of these Bylaws.

Mandatory Acquisition Offer

An offer to acquire or a solicitation to procure the acquisition of the remaining Shares of the Offeree Company which the Offeror is obliged to make to all of that company's shareholders as a result of possessing together with its Subsidiaries and any party Acting in Concert 30% or more of the Securities of a Listed shareholding company.

Market Maker

A Person who ensures the availability of supply and demand for one or more Securities according to such controls as may be issued or approved by the Authority.

Marketer

A person licensed by the Authority to practice the activity of a CIS Manager or Subscription Agent (selling) who markets a foreign CIS's Units in the State of Kuwait after a permission granted from the Authority.

Material Effect

An effect resulting from a transaction, action, arrangement, or contract that may affect the user of the company's financial statements.

Material Information

Any information concerning a Listed Company, Listed Fund, Issuer or Obligor, as the case may be, relating to its activity, a person, its financial position or its management which is not available to the public and which relates to its assets, liabilities, financial position or general course of business, which may lead to a change in the price or volume of trading in a relevant Listed Security, or affect the willingness or unwillingness to acquire or divest an interest in such a Security, or may affect the Issuer's ability to meet its obligations.

Merged Company

A company whose legal entity is wound up following an agreement to transfer its financial liabilities and assets in whole or in part to one or more other companies, or to one or more New Companies founded for the purpose, in accordance with the procedures specified by law.

Merging Company

A company that assumes the financial assets and liabilities or part thereof of one or more companies which are then to be wound up in accordance with the procedures specified by law.

Merger

An agreement that leads to the merger of one company or more into another or into a different legal entity, whether through amalgamation, consolidation, or division and amalgamation.

Merger by Amalgamation

The liquidation of one company or more (the Merged Company) and transfer of its financial assets and liabilities into an existing company (the Merging Company).

Merger by Consolidation

The liquidation of two companies or more (the Merged Companies) and formation of a New Company into which the merged companies' financial assets and liabilities are transferred.

Merger by Division and Amalgamation

The division of a company's financial assets and liabilities into two parts or more and the transfer of each part into an existing company (the Merging Company).

Member of a Board of Directors

A natural or corporate entity elected or appointed to membership of a company's Board of Directors. This includes a representative of a corporate entity, who shall be a natural person. The fit and proper rules shall apply to each natural person who is a member of a Board of Directors whether directly elected to the Board or appointed to represent a legal entity.

Money Market Fund

A Fund with the main objective of investing in money market instruments as provided for in its Articles of Association.

New Company

A company set up to combine the financial liabilities and assets of two companies that have been Merged by Merger by Consolidation in accordance with the procedures specified by law.

Non-Cash Voluntary Acquisition Offer

An offer to acquire, or a solicitation to procure the acquisition of, Shares of one or more classes of Shares of an Offeree Listed Company other than Shares owned by the Offeror, its Subsidiary or those Acting in Concert with it on the date of Offer Submission, in exchange for shares issued by the Offeror company or for a combination of cash and Shares issued by the Offeror company.

Non-Kuwaiti Exchange

A person licensed by a Non-Kuwaiti Regulatory Body to carry out Securities activity outside the State of Kuwait.

Obligor

A corporate entity that benefits from the revenues of the issuance of Bonds or Sukuk who is the main person in charge of paying out regular distributions and redemption pursuant to those Bonds or Sukuk. Further, this is the Issuer in the case of a Direct Issue, and uses a Special Purpose Vehicle Company to become the Issuer in the case of an Indirect Issue.

Of Interest

A person with an interest provided for by the Law. A potential interest shall suffice if the purpose of a request for information is to prevent an imminent harm or to document a right, the evidence of which is feared to disappear upon dispute.

Offer Document

A document that contains details of an Acquisition Offer addressed by the Offeror to the shareholders of the Offeree Company in accordance with the information and guidelines provided for in these Bylaws.

Offer Period

The period from disclosing an Acquisition Offer until announcing the execution of the Acquisition transaction.

Offeree

Any Listed Company on the Exchange in respect of which an Acquisition offer is made.

In the event of a Reverse Acquisition, any unlisted Company in respect of which a Reverse Acquisition is offered to its shareholders.

Offeror

A person, natural or corporate, that submits an Acquisition Offer. In the event of a Reverse Acquisition, any Listed Company that issues new Shares and offers them to the shareholders of an unlisted Company.

Offeror of Partial Purchase

Any person, natural or corporate, that offers Partial Purchase Offer.

Offeree of Partial Purchase

Any Listed Company on the Exchange in respect of which a Partial Purchase Offer is made.

Official Announcement

Registration in the Commercial Register or CISs register and publication in the Official Gazette.

Omnibus Account

An account containing collective assets and funds belonging to more than one investor, and not containing the funds and assets of the Omnibus Account Operator.

Open-ended Fund

A Fund of a variable capital, with a capital that increases with the issuance of new investment units or decreases with the redemption of any of its units during the period specified in its articles.

Option Contracts

A contract or agreement that gives a person the right, and not an obligation, to purchase or sell a Security or Securities, but such right does not bear the right to own Securities.

Original Acquisition Offer

An Acquisition offer submitted to an Offeree by a Person before another Person submits a Competitive Acquisition Offer.

Original Offer Document

An Offer Document before revision.

Originator

A corporate entity that acts, directly or indirectly, in person or through Related Parties to transfer the ownership of assets to the Issuer of Asset-backed Bonds or *Sukuk*, or who, directly or through Related Parties, is a party to an original agreement which creates an Issuer's obligations and leads to the creation of the Bonds or *Sukuk* founded on those assets, or who purchases a third party's assets for its own account and then disposes of the same in the Issue of Asset-backed Bonds or *Sukuk*.

Parent Company

A company is a parent company of another if it owns more than 50% of its share capital or has the right to appoint or dismiss most of the Members of the Board of Directors, or has an influence in directing the company's decisions in a manner that realizes its interests.

Partial Purchase Offer

An offer to acquire or a solicitation to procure the acquisition of at least 30% and not more than 50% of the company's share capital of the partial purchase offer – after execution, provided that the percentage to be obtained is not less than 5% of the total capital of the Offeree of the Partial Purchase. The Offeror shall be obliged to submit his offer to all the shareholders of the company. The shares of the Offeree company shareholders that are participating in the Partial Purchase Offer process shall be distributed Pro Rata.

Partial Purchase Offer Period

The period from disclosing a Partial Purchase Offer until announcing the execution of the Partial Purchase Offer.

Partial Purchase Offer Document

A document that contains details of a Partial Purchase Offer addressed by the Offeror of the Partial Purchase to the shareholders of the Offeree company in accordance with the information and guidelines provided for in these Bylaws.

Partial Purchase Offer Manager

A person licensed by the Authority to carry out the activity of Investment Portfolio Management who is engaged for the purpose of accumulating the Shares of those wishing to participate in a Partial Purchase Offer.

Passported Marketing

The marketing of the passported financial products throughout the jurisdictions of the Regulatory Entities according to the specified terms and conditions.

Passporting

The process of registering the financial product in the financial products register with the Registering Regulatory Entity and Host Regulatory Entity.

Paying Agent

An Issuer's agent in charge of coordinating payment of periodic distributions and redemption due to Bondholders and Sukukholders.

Penalties

Disciplinary penalties issued by the Disciplinary Board specified in Article 146 of the Law and Articles 5–10 and 5–11 of Chapter (Disciplinary Matters) of Module Three (Enforcement of the Law) of these Executive Bylaws.

Person

A natural person or a corporate entity.

Pre-emptive Rights

A tradable or waivable Security that grants its owner priority to subscribe in an Issuer's share capital increase pro rata to the number of Securities he owns in the Issuer's share capital.

Preferred Shares

Shares that are granted certain privileges in voting, profits, liquidation proceeds or any other rights provided that Shares of the same type are equal in rights and privileges.

Primary Market

The market in which Securities Subscriptions or issuances are made.

Private Equity Fund

A fund that aims to invest in private unlisted companies or projects, or companies that are expected to be listed, or in companies whose aim is to expand in various fields.

Private Fund

A fund that is subject to the investment and borrowing controls stipulated in its Articles of Association in which subscription/participation is conducted by Professional Clients through Private Placement.

Private Placement

An invitation addressed to a specific class of person(s) to subscribe in securities.

Pro Rata

The mechanism of distributing the Shares of the Offeree company shareholders that are participating in the Partial Purchase Offer as an equal proportion of the proportion to be purchased. This shall be calculated by the Clearing Agency.

Professional Client

A Professional Client by Nature or a Qualified Professional Client.

Professional Client by Nature

Each of the following shall be deemed a Professional Client by Nature:

1. a government, public authority, central bank or international institute (such as the World Bank or the International Monetary Fund)
2. Licensed Persons by the Authority, Investment Funds and other Financial Institutions that are subject to a supervisory authority inside or outside the State of Kuwait
3. a company with a paid-up capital of at least one million Kuwaiti Dinars or its equivalent.

Professional Position

For the purpose of classifying a Client as a Qualified Professional Client in accordance with the provisions of Article 2–7 of Module Eight (Conduct of Business) of these Bylaws, a Professional Position means a position that requires knowledge of transactions and services provided to it.

Promotion or Marketing of a Fund

Promotion or marketing of a Public Offer for a Fund licensed by the Authority in the State of Kuwait, whether made by direct communication or by Promotional or Marketing Material.

Prospectus

A document that contains information regarding a Security, its Issuer and other information in accordance with the conditions and requirements issued by the Authority.

Protection of Competition Law

Law No. 10 of 2007 regarding Protection of Competition.

Public Fund

A fund that is subject to the investment and borrowing controls stipulated in these Bylaws in which subscription/participation is conducted by the clients through Public Placement. This subscription may target a specific category stipulated in the Prospectus.

Public Shareholding Company

A company, the issued Shares of which are subscribed to by means of a Public Offer whether at formation or capital increase, or a company that lists its Shares on an Exchange.

Public Offer/Initial Public Offering

An invitation addressed to the public through various means of media to subscribe or purchase Securities.

Qualified Professional Client

Each of the following shall be deemed a Qualified Professional Client:

1. a Client that has transactions of large sizes with an average not less than KWD 250,000 every quarter for the past two years
2. the size of money and assets a Client has with one or more Licensed Persons is not less than KWD 100,000
3. a Client who works or has previously worked in the financial sector for at least one year in a professional position that requires knowledge in dealing and the services to be provided to him.

Qualified Securities Broker registered with an Exchange

The one who receives the sale and purchase orders and transmits them in accordance with Client's instructions and receives and deposits funds and assets of licensed parties from regulatory bodies in Kuwait.

Real Estate Fund

An investment Fund that aims at investing the Fund's money for real estate purposes.

Real Estate Income-Generating Fund (Traded)

A close-ended fund listed on the Exchange. It aims to invest the funds' money in real estate assets that generate income on the fund's assets.

Record Keeper

An entity licensed by the Authority to practice the activity of Custodian or Clearing Agency who practices the tasks related to the register of the CISs' Units holders.

Registered Employment Position

1. The Chief Executive Officer
2. Senior Executives
3. Finance Manager
4. Compliance Officer
5. Risk Management Officer
6. Internal Auditing Officer
7. Sharia Audit Officer, for Persons Licensed to operate in accordance with Islamic Sharia Principles
8. Representatives in respect of Securities Activities:
 - a. representative of a Securities Broker registered with an Exchange
 - b. representative of a Securities Broker not registered with an Exchange
 - c. representative of an Investment Adviser
 - d. representative of a CIS Manager
 - e. representative of a Custodian
 - f. representative of an Investment Controller
 - g. representative of a Subscription Agent
 - h. representative of a Credit Rating Agency
 - i. representative of a Market Maker
 - j. representative of an Asset Valuator
 - k. representative of a Qualified Securities Broker registered with an Exchange

- l. representative of Investment Portfolio Manager – (Managed by the Client personally and custody)
- m. representative of Investment Portfolio Manager – (Managed by the Licensed Person in favour of Clients)
- n. representative of CIS Manager – (Operations Officer).
9. Senior Investment Adviser.
10. Senior Asset Valuator.
11. Any other Employment Positions that the Authority deems are Registered Employment Positions.

Registered Person

Any natural or corporate entity registered with the Authority in accordance with Article 3–1–1 of Chapter Three (Registered Persons) of Module Five (Securities Activities and Registered Persons) of these Bylaws, and these are:

1. those occupying positions at the Licensed Person that require registration
2. auditors registered with the Authority
3. External Sharia Auditing Offices registered with the Authority.

Registered Positions and Employment Positions

Members of the Board of Directors of a Licensed Person in addition to Registered Employment Positions.

Regulatory Bodies

The Authority, Ministry or Central Bank with regards to companies subject to any of them, and other competent authorities inside or outside of the State of Kuwait.

Regulatory Entity

The national entity responsible for the regulation, oversight and supervision of capital markets in a country.

Related Parties

A party is considered related to a company if:

1. the person has direct or indirect control over the company
2. the party is a Subsidiary company
3. the party is a member of the same Group in which the company is a party to
4. the party is a Board Member of the company or member of its executive management
5. the person is a Relative of a related party referred to in paragraph (1) or (4)
6. is a company under the control or combined control of or material influence of the related parties referred to in paragraph (4) and (5) through their direct or indirect voting power.

When determining Related Parties, the provisions of the Law, Bylaws and International Accounting Standard No. 24 and amendments thereto shall be taken into account.

Relative or Relatives

- **First degree relative or relatives** – it is the direct relationship that links the parents upwards and children downwards of a first degree (for example father, mother, son, daughter).
- **Second degree relative or relatives** – it is the direct relationship that links the parents upwards and children downwards of a second degree (for example grandfather, grandmother, grandson, granddaughter).

Relevant Market

This is formed of two elements, the products and geographic scope. Products mean all products that substitute one another and may replace one another to meet the needs of a service or commodity receiver. Geographic scope means the international borders of the State of Kuwait.

Report

A report made by a person for the purpose of bringing attention to the possible occurrence of one of the crimes stated in the Law which meets the conditions and requirements provided for in Article 3–2 of Module Three (Enforcement of the Law) of these Executive Bylaws.

Representative

A person or more appointed by the Bondholders Association or Sukukholders Association from amongst its members or others to represent the Bondholders and protect their rights.

Representatives in respect of Securities Activities

Employees of a Licensed Person who undertake one or more Securities Activities for the benefit of a Licensed Person or its Clients.

Representative of an Investment Portfolio Manager – (Managed by the Client personally and custody)

An employee who works with the administrative body that is authorized to manage Investment Portfolios owned by the Clients of the Licensed Person. The mechanism of managing the Investment Portfolio of the Licensed Person shall take the form of an Investment Portfolio 'Managed by the Client personally or custody'.

Representative of an Investment Portfolio Manager – (Managed by the Licensed Person in favour of Clients)

An employee who works with the Licensed Person and is part of the administrative body that is authorized to manage Investment Portfolios owned by the Clients of the Licensed Person. The mechanism of managing the Investment Portfolio of the Licensed Person shall take any of the following forms of portfolios:

1. Investment Portfolio 'Managed by the Licensed Person in favour of Clients'.
2. Investment Portfolio 'Managed by the Client personally and custody'.

Representative of a CIS Manager – (Operations Officer)

An employee who works for the body that is authorized to manage the CISs of the Licensed Person, and receives orders and executes them within the limits of the support operations, such as executing, registering, and settling the sale and purchase transactions according to the accounting system for registering those transactions. They also coordinate with the Investment Controller and provide them with the necessary information on the system that enables them to evaluate the shares or units and carry out its duties efficiently and effectively, without having any discretionary authorization to take investment decisions regarding managing the CISs.

Retail Client

A client who is not a Professional Client.

Reverse Acquisition

Any arrangement pursuant to which a Listed Company issues new Shares and offers them to an unlisted company's shareholders in exchange for theirs, so as the new Shares represent more than 50% of the Listed Company's issued Shares following the Acquisition.

Risk Management Officer

A person responsible for determining, evaluating and classifying risks in proportion to a Licensed Person's strategic goals, in addition to controlling the risk control systems and monitoring the Licensed Person's ability to face risks, and updating the Licensed Person's register regularly and consistently.

Secondary Market

The market or markets in which Securities sale and purchase transactions and transfers of ownership are made pursuant to regulations, regulations and laws governing the same.

Securities Activities

The activities provided for in Article 1–2 of Module Five (Securities Activities and Registered Persons) of these Executive Bylaws.

Securities Broker Registered with an Exchange

The one who receives the sale and purchase orders and transmits them in accordance to Client's instructions in his capacity of being registered within the list of brokers at the Exchange.

Security

Any instrument – in any legal form – that evidences ownership of a share in a financial transaction and that is negotiable pursuant to a license from the Authority, such as:

- shares issued or proposed to be issued in the capital of a company
- any instrument that creates or acknowledges a debt issued or to be issued by a company
- loans, Bonds, Sukuk and other instruments that can be converted shares in the capital of a company
- all public Debt Instruments that are tradable and issued by the various government entities or public institutions or authorities
- any right, option or derivatives relating to Securities
- units in a CIS
- financial instruments whose value is derived from assets or price references, specifically the value of shares, bonds, commodities, currencies and interest rates, and can be bought, sold and traded in a manner similar to Shares or any other financial assets.

Not to be considered as Securities are commercial papers such as cheques, promissory notes, bills of lading, letters of credit, cash transfers and instruments negotiated by banks exclusively between each other, insurance policies and rights arising from retirement funds established for the benefit of the beneficiaries therefrom.

Senior Asset Valuator

A natural person practicing the asset valuation activity at the person licensed to carry out an asset valuation activity only or an activity of Valuation of Assets and an Investment Adviser activity without any other Securities Activities. Requirements for qualifications and experience shall be higher than those of the representatives of corresponding activities.

Senior Executives

Persons occupying executive positions and performing important and essential work relating to Securities Activities carried out by the Licensed Person.

Senior Investment Adviser

A natural person practicing the activity of an Investment Adviser at the person licensed to carry out the activity of an Investment Adviser only or the activity of an Investment Adviser and an activity of Valuation of Assets without any other Securities Activities. Requirements for qualifications and experience shall be higher than those of the representatives of the corresponding activities.

Shares

Shares issued or to be issued in a company's share capital.

Sharia Audit Officer

A person in charge of supervision of the business and finances of a Licensed Person to ensure its compatibility with the provisions of Islamic Sharia and related resolutions and standards issued by the Authority.

Sharia Standards

Standards of financial and commercial transactions in accordance with the provisions of Islamic Sharia that are issued by the Authority or approved by it.

Sharia Supervisory Board

An independent board of experts in Fiqh Transactions of not less than three members appointed by the General Assembly or partners' meeting of the Person Licensed to Operate in Accordance to Islamic Sharia, to perform the duties prescribed in Article 2–2–8 of Module Five (Securities Activities and Registered Persons) of these Bylaws.

Short-term Sukuk

Islamic financial instruments whose structure is based on the formats of the contracts mentioned in Article (11–49) of Module Eleven and their maturity is within a maximum of one year from their issuance date. The payment shall be in accordance with the terms and conditions.

Significant Effect (for the purpose of Module Ten Disclosure and Transparency)

Information on a transaction, contract or action taken into account when a prudent investor makes an investment decision regarding the sale or purchase of Securities, which if announced to the public, may lead to an abnormal change in the price or trading of such Securities.

Significant Influence

When a company owns directly or indirectly 20% or more in another company, it is considered to have Significant Influence unless it proves that it has no influence. Such influence is established in one of the following ways:

- a. representation on the company's Board of Directors
- b. participation in setting out regulations, including resolutions related to the distribution of profits and any other distributions
- c. any important transactions between the two companies
- d. exchange of administrative employees
- e. provision of basic technical information.

Social Sukuk

Financial instruments of a participation nature, or according to the structure of the Sukuk, which are used for financing or refinancing of social projects, products, or services pursuant to the relevant international standards provided for in Article (11–28).

Special Purpose Vehicle Company

A company set up for a special purpose such as to issue a Sukuk or to undertake other securitization transactions, or issue contractual CIS units. The company is subject to the rules and conditions provided for in the Law and these Bylaws

Stakeholders

Every Person of Interest with the company such as employees, creditors, suppliers, clients, agents and service providers thereto.

Subscription Agent

A person who offers or sells Securities for the benefit of an Issuer or Ally, or obtains Securities from an Issuer or Ally for the purpose of re-marketing the same or managing their issuance.

Sukuk

Instruments each of equal value representing a common share in the ownership of real estate plots, utilities or services or the assets of a specific project or investment activity.

Sukuk Assets

The assets or class of assets owned by an Issuer, or are subject of an agreement with an Issuer, for the purpose of realizing revenues, directly or indirectly, for the benefit of the Bondholders or Sukukholders.

Sukukholder

Any natural or corporate entity whose name is registered in the Sukukholders' register.

Sustainability

The development that meets the present needs without compromising the ability of future generations to meet their own needs. The pillars of Sustainability are the economy, the environment, and society.

Sustainable Fund

A Fund that adopts one or more of the environmental, social, or governance considerations in its investment policies or strategies that are determined in its Articles of Association. A Sustainable Fund is also considered a responsible fund, as both sustainable and responsible investments have the same meaning.

Sustainability Sukuk

Financial instruments of a participation nature, or according to the structure of the Sukuk, which are used for financing or refinancing of eco-friendly and social projects, products, or services pursuant to the relevant international standards provided for in Article (11–28).

Traded Shares

Shares issued by a shareholding company listed on the Exchange.

Trader

A person that trades in the purchase and sale of Securities for his own account.

Treasury Shares

A company's shares which the issuing company repurchases or buys back or otherwise makes use of.

Trust

Contractual arrangements concluded to protect the Bonds or Sukuk Assets for the benefit of the holders of such Bonds or Sukuk.

Trust Document

A document establishing a Trust.

The Global Custodian

A corporate entity licensed by a regulatory authority in a foreign country who applies the Financial Action Task Force (FATF) recommendations to practice the custody of clients' funds and assets, including those of CISs.

Units

An investment unit is an indivisible Security that represents a share in a CIS's Assets directly vesting its holders with all rights resulting therefrom.

If one unit is owned by more than one owner, they must choose one person amongst them to represent them before the CIS.

Units Subject to the Supervision of the Central Bank

1. Kuwaiti banks and branches of foreign banks licensed by the Central Bank to do business in the State of Kuwait
2. financing companies, excluding commercial companies subject to the supervision of the Ministry of Commerce and Industry which grant credit facilities through sale of commodities through instalments or the provision of services payable in instalments or any kind of deferred sales, or investment companies exercising, in addition to a financing activity, Securities Activities licensed by the Authority
3. exchange companies that are subject to the supervision of the Central Bank in accordance with Ministerial Order dated 19/3/1984 subjecting Exchange Companies to the Supervision of the Central Bank of Kuwait.

Valuation Day

The days on which the net asset value of a CIS is calculated (NAV).

Valuation of Assets

The process and mechanisms undertaken to determine the value of a companies' assets and Shares in the following cases:

1. value of in-kind Shares constituting the company's share capital whether upon incorporation or upon increase of its capital
2. value of the net assets of companies which are parties to a Merger, conversion or division, or when making an Acquisition Offer
3. value of the share of a partner who does not wish to remain a partner in accordance with Article 16 of the Companies Law
4. value of the share of a joint partner in accordance with Articles 43 and 298 of the Companies Law
5. value of the share of a partner's who refuses to amend a partnership company contract in accordance with Article 52 of the Companies Law
6. value of the Shares of a removed partner in accordance with Article 55 of the Companies Law
7. value of the share of a deceased partner in a professional company in accordance with Article 52 and 59 of the Executive Bylaws to the Companies Law
8. value of any attached Shares in accordance with Articles 62 and 69 of the Executive Bylaws to the Companies Law
9. any other events provided for in the Companies Law, its Executive Bylaws or these Bylaws.

Venture Capital Fund

A fund that aims to invest in companies or projects of relatively high risks such as new companies or projects, distressed companies, or companies whose aim is to expand or invest in new technologies, or companies with new or innovative ideas in terms of technology.

Violation

Every act in violation of the provisions of the Law, and any Bylaw, regulation, resolution or instruction issued by the Authority.

With regards to the provisions of the Violations Committee of an Exchange, a Violation means every act in breach of the rules and regulations applicable at the Exchange.

Violator

Every natural or corporate entity that commits an act that constitutes a breach of to the provisions of the Law, any Bylaw, regulation, resolution or instructions issued by the Authority. With regards to the Violations Committee of an Exchange, a Violator is every member of the Exchange that commits an act that constitutes a breach of the Exchange's applicable rules and regulations.

Voluntary Acquisition Offer

An offer to acquire, or a solicitation to secure the acquisition of, Shares of one or more classes of Shares of a Listed Company other than those owned by the Offeror, its Subsidiaries or those Acting in Concert with it as of the date of submitting the offer.

Whistleblower

A person that submits a report who shall enjoy the protection provided for in Articles 3–7 to 3–12 of Module Three (Enforcement of the Law) of these Executive Bylaws.

[illegible]

The following questions have been compiled to reflect as closely as possible the standard you will experience in your examination. Please note, however, they are not the CISI examination questions themselves.

Tick one answer for each question. When you have completed all questions, refer to the end of this section for the answers.

1. **Which of the following results in an exemption from the requirement to place client funds in a separate and independent account opened with a local bank?**
 - A. The client is a foreign entity
 - B. The funds originate from a different country
 - C. Settlement takes place in a foreign market
 - D. Securities are from a foreign issuer listed in Kuwait

2. **After expiry of its license to market within the State of Kuwait, a collective investment scheme incorporated outside the State must continue to meet the associated regulatory obligations until:**
 - A. the anniversary date of the scheme's inception
 - B. the scheme's final accounts have been audited
 - C. proof is submitted that all relevant unit holders have exited
 - D. the Exchange issues a termination notice

3. **Founders may not dispose of their shares during:**
 - A. six months prior and six months after the date of company registration
 - B. one financial year after company registration
 - C. 12 months after the first financial statement
 - D. two financial years after company registration

4. **What is the first step to follow when reducing a company's capital to offset accumulated losses?**
 - A. Using the voluntary reserve
 - B. Using the legal reserve
 - C. Using the financial reserve
 - D. Using the share reserve

5. **Under what circumstances does the Exchange need to immediately inform the Authority?**
 - A. Complaints about a member
 - B. A member cannot comply with financial resources requirements
 - C. Breach of data security by a member
 - D. Trading of securities at prices that are not the market price

6. Which of the following is NOT a component of the agreement for services provided to a client?
 - A. Fees charged
 - B. Profile of the Licensed Person
 - C. Services provided
 - D. Conditions of services

7. The Authority makes a decision on an application for listing, delisting, or listing in a non-Kuwaiti Exchange, within how many days of the receipt of a complete application?
 - A. 15 days
 - B. 30 days
 - C. 60 days
 - D. 90 days

8. As a minimum, a Board of Directors should establish which of the following committees?
 - A. An Audit Committee and a Risk Management Committee
 - B. A Nominations Committee and a Remuneration Committee
 - C. An Audit Committee, Risk Management Committee, Nominations and Remunerations Committee
 - D. An Audit Committee, Risk Management Committee, Nominations Committee, Remunerations Committee and a Compliance Committee

9. In order to achieve the objectives, the Authority may file lawsuits related to the application of the provisions of the Law. Which of the following lawsuits CANNOT be filed by the Authority?
 - A. Civil
 - B. Commercial
 - C. Criminal
 - D. Administrative

10. In which of the following events does the insiders' watch list not need to be updated?
 - A. Reason behind listing a person has changed
 - B. Person previously not listed becomes an insider
 - C. Person no longer holds insider status
 - D. Insider has traded on inside information

11. One of the objectives of the Authority is to regulate securities activities in a manner that is:
 - A. reasonable, effective and efficient
 - B. fair, transparent and efficient
 - C. fair, honest and not misleading
 - D. effective, efficient and honest

- 12. Which of the following best describes a secondary default event?**
- A. Limitation imposed by the Authority related to holding client funds
 - B. Financial disorder of a third party holding funds of a Licensed Person
 - C. Securities issuer's inability to fulfil an obligation on the due date
 - D. Pooling of client assets in an independent account
- 13. The Exchange may receive disclosure notifications at all times, and not just during trading hours. In the event the notification is received outside trading hours, the Exchange will announce the information:**
- A. immediately
 - B. at least 15 minutes prior to the start of the next trading session
 - C. at least 15 minutes after the start of the next trading session
 - D. at least 15 minutes after the end of the next trading session
- 14. Who is responsible for dealing with complaints against the Marketer of a CIS incorporated outside the State of Kuwait that have been submitted by the Unit holders who were marketed for in the State of Kuwait?**
- A. The Authority
 - B. The Exchange
 - C. The Home-State Authority
 - D. The Marketer himself
- 15. To prevent conflicts of interest, the acquisition offer needs to disclose any (in)direct interests of which of the following, in the offeree company?**
- A. Senior management
 - B. External auditor
 - C. Investment adviser
 - D. Board of Directors
- 16. In which of the following events may a company delay the disclosure of material information?**
- A. The information has no impact on the share price
 - B. The information is confidential
 - C. The Authority has approved the delay
 - D. Disclosure would damage confidentiality of negotiations
- 17. Which of the following is a registered employment position?**
- A. External audit officer
 - B. Chairman of the Board of Directors
 - C. Accountant
 - D. Financial manager
-



18. Fees and commissions charged by a Licensed Person for the management of an investment portfolio need to be:
- A. flat fees disregarding the profitability
 - B. related to the establishment of an investment portfolio
 - C. paid only in the event the portfolio is profitable
 - D. reasonable and consistent with the nature of the services
19. An obligor listing a bond or sukuk needs to be able to demonstrate their ability to meet working capital requirements for at least how many months following the listing application?
- A. 3
 - B. 6
 - C. 12
 - D. 24
20. Which ONE of the following best describes merger by amalgamation? The merged company is:
- A. liquidated and its assets transferred into an existing company
 - B. liquidated and its assets transferred into a new company
 - C. divided into parts, each then transferred into an existing company
 - D. a going concern with other companies' assets transferred into it
21. Securities will be allocated to subscribers:
- A. within five business days of the opening of the subscription
 - B. on the closing date of the subscription
 - C. within five days after the closing date of the subscription
 - D. within one month after the closing date of the subscription
22. Perpetual government sukuk may be issued by which of the following?
- A. Companies
 - B. Financial institutions
 - C. Investment advisers
 - D. Public authorities
23. Which of the following is not an activity a CIS may undertake?
- A. Accept funds via Wakala
 - B. Extend credit
 - C. Invest in foreign shares
 - D. Accept deposits

- 24. Who is the legal representative of a fund, acting in the interests of the Unit holders?**
- A. The Investment Controller
 - B. The Fund Manager
 - C. The licenced custodian
 - D. The Executive Committee
- 25. Licensed Persons need to ensure financial promotions are:**
- A. guiding towards the decision
 - B. clear and not misleading
 - C. based on expected future performance
 - D. generic
- 26. Avoiding conflicts of interest is the responsibility of which of the following?**
- A. Professional client
 - B. Investment manager
 - C. Authority
 - D. Licensed Person
- 27. Who carries out the procedures that may lead to uncovering crimes?**
- A. Licensed Persons
 - B. Disciplinary Board
 - C. The Exchange
 - D. The Authority
- 28. Which of the following is not a category of fit and proper rules?**
- A. Education and ability
 - B. Competence and capability
 - C. Honesty and integrity
 - D. Financial soundness
- 29. Which of the following is exempt from the fact that Licensed Persons must not accept cash payments from clients for investment purposes?**
- A. Payment made by unrelated third party
 - B. Payment of KD 1,000 or less
 - C. Non-refundable fees
 - D. Periodical fees

30. At which point in time must the Licensed Person provide a client with conditions of services?
- A. Prior to providing any services
 - B. On the date services commence
 - C. Within one week after services commence
 - D. Within one month after services commence
31. The Board of Directors of the offeree company needs to submit its response to an acquisition offer to the Authority within:
- A. three business days
 - B. five business days
 - C. seven business days
 - D. ten business days
32. Fraud and manipulation occurs in two ways, one of which is when transaction(s) are undertaken with the intention to increase or reduce the price of the security, either directly or indirectly. In this case, a criminal offense occurs in which of the following?
- A. Giving a false impression of activity or price
 - B. Using accounts of the same persons
 - C. Purchasing price below the prevailing price at the time
 - D. Using investment portfolios of the same person
33. Which of the following is a power of the Judicial Officer?
- A. Manage judicial risk
 - B. Ensure the rules of the Authority are upheld
 - C. Practize the powers of the judicial police when a crime is observed
 - D. Ensure compliance with the rules of the Exchange
34. Which party is responsible for the safekeeping of securities within a central securities depository?
- A. A clearing agency
 - B. The exchange
 - C. The Authority
 - D. A custodian
35. Which of the following controls apply to investment portfolios?
- A. Access to the location where the portfolio is managed is open to all employees
 - B. The portfolio continues to be managed upon death or inheritance until heirs are determined
 - C. Investment decision making and order execution need to be undertaken by the same person
 - D. The account will be closed upon disbursement to all heirs

36. What is the maximum number of shareholders permitted for a Special Purpose Vehicle?
- A. 3
 - B. 4
 - C. 5
 - D. 10
37. Which of the following activities require a license from the Authority?
- A. CIS manager
 - B. Fund manager
 - C. Insurance broker
 - D. Auditor
38. Which licensed activity enables the licensee to participate in facilitating the supply and demand for securities?
- A. Custodian
 - B. Market maker
 - C. Investment controller
 - D. Subscription agent
39. The license of an Exchange can be cancelled in the event the operations of the Exchange have been suspended for more than how many working days:
- A. 5
 - B. 10
 - C. 15
 - D. 20
40. Information is insider information if it is not available to the public and would have a significant effect on the share price if it were made public. In this context, which one of the following is a category of insiders?
- A. Risk managers
 - B. Members of the Board of Directors
 - C. Compliance officers
 - D. Auditors
41. Which of the following is not a type of fund included in the regulations?
- A. Commodity fund
 - B. Equity fund
 - C. Real estate fund
 - D. Fund of funds

42. When applying for a listing by a Kuwaiti shareholding company, each shareholder with an (in)direct holding of 20% or more, may not dispose of their shares for a period of how many months after the listing date?
- 6
 - 12
 - 18
 - 24
43. An interested person is any person with an interest in the capital of a listed company of at least:
- 5%
 - 25%
 - 30%
 - 49%
44. Under what circumstances may the issuer of a security be exempted from including a prospectus when issuing an invitation to subscribe?
- If the nature of the issuance, offer or type of securities requires so
 - The prospectus has not been approved by the Authority
 - The invitation complies with laws and bylaws
 - The issue is a private placement
45. Which of the following is a criteria to be assessed as a professional client by nature?
- Holding funds and assets of at least KD 100,000
 - Professional position in the financial services sector for at least one year
 - Minimum paid-up capital of KD 500,000 or equivalent
 - International institution
46. Internal anti-money laundering and the combating of financial terrorism (AML/CFT) policies and procedures of the Licensed Person need to:
- cover all Financial Action Task Force (FATF) requirements
 - be in line with the size, nature and scope of operations
 - be based on the risk-based approach
 - apply to limited staff only
47. Which ONE of the following is a reason for the Authority to delist the shares of a company?
- Capital is equal to the minimum limit
 - Trading of shares was suspended for three months
 - A merger resulting in the termination of the corporate legal identity
 - Suspended practising a licensed activity for less than one year

48. One of the obligations of the securities exchange is to set policies and procedures to:
- A. ensure fairness, transparency and efficiency in trading in listed securities
 - B. manage conflicts of interest between members
 - C. publish all information received by them with respect to members, issuers, and clients
 - D. define laws and regulations
49. Decisions of the Unit holders' assembly shall not be implemented without the approval of whom?
- A. The Fund Manager and the Board
 - B. The Exchange
 - C. The Authority
 - D. The Authority and the Exchange
50. What must a Licensed Person ensure when depositing client assets with a third party?
- A. That the third party is located in the same country as the Licensed Person
 - B. That client assets are segregated from any other assets held by the third party
 - C. That client assets are transferred to multiple custodians for safety
 - D. That the third party provides a report to the Authority every month
51. Which of the following must be part of the Sharia audit system of a Licensed Person operating in accordance with Sharia Principles?
- A. Sharia Audit Officer
 - B. Sharia Advisory Board
 - C. Internal Sharia Audit Unit
 - D. Independent External Auditor
52. In the context of fit and proper rules, a candidate may not have been declared bankrupt (unless settled) and no arrest warrant to pay their debt is outstanding against them. This is known as:
- A. Financial integrity
 - B. Financial competence
 - C. Financial capability
 - D. Financial soundness
53. Where a fund manager requests early closure of a collective investment fund, this will require approval from unitholders collectively owning more than what threshold proportion of the fund's capital?
- A. 50%
 - B. 60%
 - C. 75%
 - D. 90%
-

54. Which one of the following is a control that needs to be considered while establishing an investment portfolio?
- A. Variety controls
 - B. Variance controls
 - C. Settlement controls
 - D. Capital contribution controls
55. Client information needs to be reviewed and updated continuously and at least every:
- A. quarter
 - B. six months
 - C. year
 - D. two years
56. Reports containing details of all securities investment portfolios under the control of the Licensed Person need to be submitted to the Authority quarterly and within how many working days from the end of the quarter?
- A. 10
 - B. 15
 - C. 20
 - D. 30
57. A client is a qualified professional client if they have carried out securities transactions of a significant size averaging KD 250,000:
- A. per year over the past two years
 - B. per quarter over the past two years
 - C. per year over the past year
 - D. per quarter over the past three years
58. Who does an employee need to inform of personal transactions to ensure there are no conflicts of interest?
- A. Auditor
 - B. Risk manager
 - C. Compliance officer
 - D. Own manager
59. Which of the following criteria needs to be applied whether or not a transaction is executed on the express order of a client?
- A. Order characteristics
 - B. Client categorization
 - C. Type and nature of related securities
 - D. Price and size of transactions

60. An interested person needs to disclose their interest of 5% or more to the Authority, after which they need to disclose every change of more than:
- A. 0.1%
 - B. 0.25%
 - C. 0.5%
 - D. 1%
61. Which of the following conditions is considered as transactions executed by insiders in a listed company?
- A. Transacting as a proxy, guardian, or custodian
 - B. Trades following from an inheritance
 - C. Trades undertaken to settle a debt
 - D. Entering into a merger or acquisition offer
62. Listed companies must appoint an auditor for one financial year renewable annually for no more than:
- A. one year
 - B. two consecutive years
 - C. three consecutive years
 - D. four consecutive years
63. Bonds and sukuk must be:
- A. listed on the Exchange
 - B. issued by a Kuwaiti issuer
 - C. tradeable and freely transferable
 - D. guaranteed
64. If a licensed person amends its business continuity arrangements it must retain records for a minimum period of:
- A. 3 years
 - B. 5 years
 - C. 7 years
 - D. 10 years
65. The External Sharia Auditing Office for a fund is appointed for:
- A. one financial year
 - B. two financial years
 - C. three financial years
 - D. four financial years

66. For the purpose of enhanced client due diligence (CDD), high-risk clients are:
- A. beneficial owners
 - B. politically exposed persons (PEPs)
 - C. the Financial Action Task Force (FATF)
 - D. sovereigns
67. How frequently must a CIS Manager provide a periodic report to each Unit holder about the Scheme's situation?
- A. At least quarterly
 - B. At least semi annually
 - C. In accordance to the requirements in the Subscription Document
 - D. In accordance to the requirements in the Executive Bylaws
68. Any suspicious transactions need to be reported immediately to:
- A. internal audit
 - B. the Authority
 - C. the Exchange
 - D. the compliance officer
69. All assets of a fund are kept with the:
- A. investment controller
 - B. fund manager
 - C. custodian
 - D. auditor
70. Which of the following is documented as part of sound corporate governance?
- A. Fair trade
 - B. Control and accountability
 - C. Conflicts of interest
 - D. Administrative efficiency
71. One of the impacts of corporate governance is that it:
- A. avoids conflicts of interest
 - B. increases funding costs
 - C. enhances supervisory powers
 - D. supports the social role of companies

- 72. When companies specifically note the rules they do not comply with, this is known as?**
- A. Comply or Explain
 - B. Comply or Complain
 - C. Complain or Support
 - D. Support or Explain
- 73. To accomplish strategic goals is the responsibility of the:**
- A. Board of Directors
 - B. executive management
 - C. Board committees
 - D. chief executive officer
- 74. The confidence of investors in a company's integrity and financial soundness is improved by:**
- A. sound risk management systems
 - B. independent external auditors
 - C. independent risk management committee
 - D. ethical culture and code of conduct
- 75. Capital adequacy reports must be submitted to the Authority within a maximum period of how many days at the end of the quarterly financial reporting period?**
- A. 15 days
 - B. 30 days
 - C. 45 days
 - D. 90 days



Answers to Multiple Choice Questions

1. C Chapter 4, Section 1.2

Client funds need to be placed in a separate and independent account opened with a local bank immediately upon receipt. Exception to this rule is when the settlement of a client's transaction takes place in a foreign market in which case the transaction shall be settled in accordance with the relevant settlement procedures.

2. C Chapter 10, Section 10.2

These obligations shall apply on the Marketer even if the marketing license provided by the Authority is expired, until he submits to the Authority proof of the exit of all Unit holders who were marketed for in the State of Kuwait.

3. D Chapter 8, Section 4

Founders may not dispose of their shares during the first two financial years after the date on which the company is registered in the company register.

4. A Chapter 8, Section 8.2

When reducing the company's capital for the purpose of amortizing the accumulated losses of the company the following sequence must be taken into consideration when using the financial reserves before the reduction:

- **First** – using the voluntary reserve.
- **Second** – using the legal reserve of what exceeded 50% of the company's capital of this reserve.
- **Third** – using the Share premium.
- **Fourth** – using the rest of the remaining legal reserve.

5. B Chapter 2, Section 1.2

The Exchange must immediately inform the Authority of the following:

- one of its members cannot comply with any of the rules or the financial resources regulations of the Exchange
- financial irregularities or any other situations that indicate inappropriateness of a member or their incapacity to fulfil their obligations, or
- disciplinary actions taken against any member, operator, or subordinate.

6. B Chapter 5, Section 1

Before providing any services to a client, the Licensed Person and the client need to enter into an agreement which specifically describes the profile of the Licensed Person, the services they provide, the conditions of these services, and the mutual obligations of the parties.

7. B Chapter 9, Section 1.1

The Authority will make its decision within 30 days of receipt of a completed application.

8. C Chapter 12, Section 4.2

Board committees are established pursuant to the internal regulations set by the Board. These regulations include the roles, term and powers of the committees, and the way in which they are monitored by the board. The committees report their resolutions and activities to the Board of Directors. At a minimum, the board will establish an Audit Committee, Risk Management Committee, Nominations and Remunerations Committee as well as any other committees that are deemed necessary in accordance with each company's needs, and the conditions and nature of their activities. The Board will define the terms of reference for each of its permanent committees. It is the responsibility of the Board to appoint a sufficient number of non-executive members of a Board of Directors to the committees.

Committees shall be responsible to the Board for their assigned work. However, this shall not discharge the Board of their ultimate responsibility.

9. C Chapter 1, Section 1.2

The Authority is responsible for undertaking all the work necessary to achieve its objectives, in particular to file civil, commercial, and administrative lawsuits related to the application of the provisions of the Law, regulations, instructions and rules issued by virtue of the Law, or others relevant to the Authority.

10. D Chapter 7, Section 3.4

Any updates to the corporate insiders' watch list need to be submitted to the Authority and the Exchange in the following circumstances:

- reason behind listing a person has changed
- a person previously not listed has become an insider, or
- a person on the list no longer holds insider status.

11. B Chapter 1, Section 1.1

The first objective of the Authority is to regulate securities activities in a fair, transparent and efficient manner.

12. B Chapter 4, Section 4.2

A secondary default event is related to financial or administrative disorder of a third party who holds funds of a Licensed Person.

13. B Chapter 7, Section 1.2

Any notifications received during trading hours will immediately be announced by the Exchange. In the event the notification was received after trading hours, the Exchange will announce the information at least 15 minutes prior to the start of the next trading session.



14. D Chapter 10, Section 10.3

A Marketer of a CIS incorporated outside the State of Kuwait shall comply with the following:

1. Assume Care of a Prudent Person when undertaking the responsibilities and compensate every Person harmed as a result of an error committed by the marketing tasks mentioned in this section.
2. Not exceeding the share approved for marketing by the Authority unless approved by the Authority to increase the share before the expiration of the license term and the payment of the prescribed fees.
3. Provide the participant with evidence of participation in the CIS upon participation, and evidence of his ownership in the scheme to enable him to exercise all of the rights associated with his ownership.
4. Develop and maintain a record of the Unit holders for which he marketed in the State of Kuwait.
5. The Marketer shall notify the Authority of any material events that may affect the CIS or the rights of the Unit holders – in the event of availability or knowledge of it.
6. Dealing with the complaints against the Marketer submitted by the Unit holders who were marketed for in the State of Kuwait by the Marketer and ensuring the corrective measures taken as soon as possible.
7. Providing the appropriate method to deliver the breaches submitted against the manager of a Foreign CIS by the Unit holders who were marketed for in the State of Kuwait and seeking to deliver it to the relevant entity as soon as possible.
8. Submitting a report of the results of marketing a CIS incorporated outside the State of Kuwait within fifteen Business Days from the expiration date of the license certificate or after having finished the marketing processes (if sooner) in accordance with the form attached to executive bylaws of the Authority's law.
9. Submitting any other information or documents required by the Authority.

15. D Chapter 6, Section 2.3

In order to prevent conflicts of interest, any (in)direct interests of members of the Board of Directors in the offeree need to be disclosed.

16. D Chapter 7, Section 4.1

The disclosure of material information may be delayed if disclosure would damage the confidentiality of negotiations of preliminary procedures for a deal related to the listed company or any other transactions.

17. D Chapter 3, Section 3.1

Registered employment positions are:

1. Chief executive officer
2. Senior executive
3. Financial manager
4. Risk management officer
5. Internal audit officer
6. Sharia audit officer, for persons licensed to operate in accordance with Sharia Principles
7. Compliance officer

8. Representative of securities activities:
- a. Representative of a securities broker registered in a securities Exchange
 - b. Representative of a securities broker not registered in a securities Exchange
 - c. Representative of an investment adviser
 - d. Representative of an investment portfolio manager
 - e. Representative of a CIS manager
 - f. Representative of a custodian
 - g. Representative of an investment controller
 - h. Representative of a subscription agent
 - i. Representative of a credit-rating agency
 - j. Representative of a market maker
 - k. Representative of a valuation of assets
9. Senior investment advisor
10. Senior asset valuator.
11. Any other employment positions that the Authority deems are registered employment positions.

18. D Chapter 4, Section 2.6.1

Fees and commissions charged by the Licensed Person for managing an investment portfolio need to be reasonable and consistent with the nature of the services provided. No fees may be charged for the establishment of an investment portfolio.

19. C Chapter 9, Section 4.1

The obligor must be able to demonstrate on its own or with its subsidiaries that it is able to meet the working capital requirements for the issuer for the 12 months following the listing application date. Members of the senior management team or Board of Directors must have sufficient expertise and experience to manage the business.

20. A Chapter 6, Section 1

Amalgamation – liquidation of one or more companies and the transfer of their financial assets and liabilities into an existing company.

21. C Chapter 8, Section 3

Securities will be allocated to subscribers in accordance with the method defined in the prospectus, within five business days of the date the subscription closes.

22. D Chapter 8, Section 6

Government, ministries, public authorities and institutions may issue perpetual government sukuk without a specific maturity date.

23. B Chapter 10, Section 1

A CIS may not:

- grant credit and finance other parties under different names through concluding contracts
- that involve giving monies to third parties
- purchase securities issued by the company managing the CIS or any of their subsidiaries
- purchase securities of an entity for which the CIS manager is the subscription manager or sales agent.

24. B Chapter 10, Section 3.1

The Fund Manager shall represent the Fund legally and practice the rights and obligations related to the Fund for the interest of the Unit holders and on their behalf and shall have – or his representatives – the right to sign on its behalf.

25. B Chapter 5, Section 6

It is the responsibility of the Licensed Person to ensure financial promotions are clear and do not contain false, misleading or deceptive statements.

26. D Chapter 5, Section 3.1

It is the responsibility of the Licensed Person to take all appropriate steps to limit the occurrence of any conflicts of interest between:

- client and Licensed Person (including managers, employees, agents or any other persons ((in directly linked to them), and
- client and another client.

27. D Chapter 1, Section 1.2

It is the responsibility of the Authority to carry out all the procedures that may lead to uncovering crimes.

28. A Chapter 3, Section 3.2

The fit and proper rules can be divided into three categories:

- competence and capability
- honesty and integrity, and
- financial soundness.

29. C Chapter 11, Section 3.1

A Licensed Person must not accept cash payments from clients for investment purposes or as payment for services provided, with the exception of trivial service fees paid for services such as account opening fees or fees for printing of certificates and documents. The exemption applies under the following conditions:

- payment is made by the client or their legal representative
- payment is KD 100 or less

- fees are non-refundable
- fees are paid as one payment, and
- client due diligence (CDD) is applied and any suspicious cases need to be reported.

30. A Chapter 5, Section 1

Before providing any services to a client the Licensed Person and the client need to enter into an agreement which specifically describes the profile of the Licensed Person, the services they provide, the conditions of these services, and the mutual obligations of the parties.

31. C Chapter 6, Section 2.6

Within seven business days of the receipt of the offer document, the Board of Directors of the offeree company will submit its response to the Authority.

32. A Chapter 11, Section 2

B is a criminal offense following the entering into of a transaction in a way that does not result in a real change in ownership, answers C and D are not criminal offenses.

33. C Chapter 1, Section 3.1

Judicial Officers have the following powers:

1. Receive written and verbal notices and complaints from individuals and companies and to verify them as well as investigating acts to determine crimes committed in violations of the law.
2. Visit premises and carry out inspections to investigate and discover whether a crime has been committed or not, and to collect evidence and proof of a crime. This could be in response to a report from a known or anonymous source. In addition, Judicial Officers may review any license concerned.
3. Practize the powers of the judicial police in the event a crime is observed when performing a periodical inspection.
4. Request all information they deem necessary for their work and review all records, books, documents and statements. They have the right to call witnesses to hear their testimonies, and to record their personal information. They also may call experts for their technical opinions on technical aspects.
5. Hold documents and papers that they consider as evidence that the inspected entity has committed a crime.

34. A Chapter 2, Section 2.1

The Authority may license a clearing agency to undertake one or more of the following activities or services:

1. providing one or more services related to settlement or clearing of securities in relation to payment and/or delivery
2. the safekeeping of securities within a central securities depository for keeping and transferring ownership or registry of related transactions including sale, purchase, transfer of ownership, pledge, distribution of profits and other transactions, or
3. any other services set by the Authority.

35. D Chapter 4, Section 2.6.2

Once the Licensed Person has obtained a copy of the determination of the heirs, the restrictions on the Client's account may be removed and the following steps can be taken:

- Commence the formal procedures to transfer the contents of the Client's account to its beneficiaries according to the determination of the heirs, within a period not exceeding three months.
- If the parties entitled to the deceased Client's portfolio request to liquidate the contents of the Investment Portfolio (sale only) – complete all formal and legal requirements, and obtain the approval of all the heirs to liquidate the portfolio's contents. If there are no objection from any of the heirs, liquidate within a period not exceeding one month. The Client's portfolio shall be permanently closed after that period.

36. A Chapter 8, Section 5

During the term of the company, there shall not be more than three founders or shareholders.

37. A Chapter 3, Section 1

The activities for which a license is required are:

1. Security Exchange
2. Clearing agency
3. Investment portfolio manager
4. CIS manager
5. Investment adviser
6. Subscription agent
7. Custodian
8. Market maker
9. Securities broker registered in the securities Exchange
10. Securities broker not registered in the securities Exchange
11. Investment controller
12. Credit-rating agency
13. Valuation of assets
14. Qualified securities broker registered with an Exchange
15. Any other activities which the Authority may specify.

38. B Chapter 3, Section 1

Market maker – a person who ensures the availability of supply and demand for one or more securities according to such controls as may be issued or approved by the Authority.

39. A Chapter 2, Section 1.4

There are a number of instances in which the Authority can cancel the license of an Exchange. The cancellation has to be in writing and can be issued in the following cases:

1. the company is no longer able to meet any of the conditions required to qualify for a license
2. operations of the Exchange have been suspended for more than five working days
3. closure of the Exchange
4. the Exchange does not abide by the Authority's instructions despite being notified accordingly
5. the Exchange does not provide the Authority with the information requested, or if the information is misleading or inaccurate.

40. B Chapter 11, Section 1

The following categories of insiders are identified:

- Members of a Board of Directors and the administrative body of a listed company, their parent company and subsidiaries who have inside information (in)directly related to the listed company.
- Employees of other entities who are in the possession of inside information related to a listed company or listed security including, but not restricted to, the auditor, advisers, and credit-rating agencies.
- Shareholders who have been provided with inside information by their representatives on the Board of Directors.
- Employees of a Licensed Person who have information related to purchases and sales of a listed security by a client.
- Persons who illegally possess inside information of a listed company, or the trading of listed securities.
- Any other person defined as an insider.

41. A Chapter 10, Section 2

A fund can be any one of the following:

- Equity Fund
- Private Equity Fund
- Money Market Fund
- Debt Instrument Fund
- Real Estate Fund
- Fund of Funds
- Real Estate Income-Generating Fund (Traded)
- Hedge Fund
- Venture Capital Fund
- Sustainable Fund
- Any other type approved by the Authority, provided that it shall be a Private Fund.

42. B Chapter 9, Section 2.1

Each shareholder (in)directly holding 20% or more of the company's shares will provide an undertaking not to dispose of 20% or more of their shares for a period of one year from the listing date.

43. A Chapter 7, Section 2

An interested person is any person with an interest in the capital of a listed company of at least 5%. This interest may be held (in)directly, as a group, or in alliance with other persons.

44. A Chapter 8, Section 1.2

Invitations to subscribe in a security may only be issued if they comply with the law and bylaws and are approved by the Authority.

45. D Chapter 5, Section 2.1

A client is a professional client by nature if they fall within each of the following categories:

1. Government, public entity, central bank or international institution (eg, World Bank or International Monetary Fund (IMF)).
2. Licensed Persons and other financial institutions subject to regulation and supervision by regulatory bodies inside or outside the State of Kuwait.
3. Companies with a minimum paid-up capital of KD 1 million or equivalent.

The Licensed Person may categorize a professional client by nature as a retail client providing this is agreed between the Licensed Person and the client in writing.

46. B Chapter 11, Section 5

The internal policies and procedures must comply with all relevant regulatory and legal requirements related to AML/CFT; need to be in keeping with the size of the Licensed Person, nature, and scope of operations; and be approved by the Board of Directors.

47. C Chapter 9, Section 3.1

The Authority may cancel the listing of a company's shares in any of the following events:

- If the company refrained from appointing a compliance officer, after being notified by the Authority to do so.
- If the company is dissolved in accordance with the provisions of the Companies Law.
- If the trading of the share was suspended for a period of six months without the company meeting the necessary requirements to resume trading.
- If a merger results in the termination of the corporate legal identity.
- If the company stopped practising its activities permanently or temporarily for a period of more than one year.
- If a reverse acquisition occurred.
- If the company breaches one of the listing requirements.
- If the Authority deems that cancelling the listing is necessary for the protection of investors or regulating the market.

48. A Chapter 2, Section 1.1

The Authority's rules and regulations specify a number of obligations a securities Exchange needs to meet which are defined as follows:

1. Establish policies and procedures to ensure fairness, transparency and efficiency in trading in listed securities.
2. Ensure management maintains proper awareness of the risks associated with its business and operations.
3. Establish policies and procedures to identify and manage any conflicts of interest between the Exchange and its members, or among shareholders or management.
4. Provide and operate its services in accordance with applicable laws and regulations.
5. Ensure it organizes its operations, standards of practice and its members' behaviour in accordance with the rules, policies and procedures of the Exchange.
6. Establish preventive measures to ensure the sound management of the technical operation of its systems, including the establishment of effective contingency arrangements to cope with the risks of system disruptions.
7. Provide services in accordance with the most advanced techniques and applications and automated systems in line with the international standards approved and set by the Authority.
8. Maintain sufficient financial resources to facilitate the performance of its business in a regulated form.
9. Maintain the confidentiality of all information under its custody with respect to its members, issuers and clients. It is not permissible to disclose such information except to the Authority, or by its order or by a judicial order. Policies and procedures shall be in place to protect the information systems.
10. Follow the Authority's instructions.

49. C Chapter 10, Section 8.1

Decisions of the Unit holders' assembly shall not be implemented without the approval of the Authority, and the Authority may object or dismiss any decision contained in the minutes of the meeting if it contradicts the Law, Executive Bylaws, circulars and resolutions issued by the Authority or the Fund's Articles of Association or outside the powers of the entity concerned with the implementation of that decision.

50. B Chapter 4, Section 1.3

A Licensed Person must ensure segregation between his clients' assets deposited with a third party and any other assets belonging to the clients of such person by maintaining separate accounts with the person where the clients' assets are held. In case of depositing clients' assets at another custodian, the Licensed Person must prepare a periodic report on that entity, in respect of following up on the custody and possession of such assets.

51. C Chapter 3, Section 2

The Sharia audit system of the Licensed Person needs to consist of an Internal Sharia Audit Unit and an External Sharia Auditing Office.



52. D Chapter 3, Section 3.2.3

Financial soundness: a candidate may not have been declared bankrupt unless they have settled and no arrest order or warrant to pay their debt is outstanding against them. The Authority may consider the circumstances of the exoneration of an individual in the event the exoneration has occurred within the past three years.

53. A Chapter 10, Section 8.2

The fund shall end in the following events: ... 4. At the request of the fund manager and by virtue of an approval issued by the assembly of unitholders owning more than 50% of the fund's capital has approved the winding up of the fund before the end of its term.

54. A Chapter 4, Section 2.1.3

The controls to be considered while establishing an investment portfolio are financial or capital controls and variety controls.

55. C Chapter 4, Section 2.2

A Licensed Person must review and update the client information continuously and at least annually.

56. A Chapter 4, Section 3.2

Quarterly reports will be provided to the Authority, within a period not exceeding ten working days from the end of each quarter, covering all securities investment portfolios for which the Licensed Person is responsible, whether managed by the client, the Licensed Person, or held in custody.

57. B Chapter 5, Section 2.1

Have carried out securities transactions of significant size averaging at least KD 250,000 per quarter over the previous two years.

58. C Chapter 5, Section 3.2

Employees need to immediately inform the compliance officer of any transactions undertaken by themselves, their relatives or any subsidiary companies owned by themselves or any of their relatives.

59. D Chapter 5, Section 4

When executing client's orders, a Licensed Person must take due care to achieve the best possible result for its clients, taking into account the execution factors and in consideration of the following criteria:

1. Nature and needs of the client.
2. Client categorization (retail or professional).
3. Characteristics of the order.
4. Characteristics of the related securities, including type and nature.
5. Characteristics of the execution venues to which the order can be directed.
6. Priority of order execution is according to the order in which they were received.
7. Price and size of transaction.
8. Likelihood of execution and settlement.

60. C Chapter 7, Section 2

An interested person needs to disclose their interest of 5% or more to the Authority, the Exchange and the listed company within five business days from acquiring the interest. In addition, any change to such interest of more than 0.5% needs to be disclosed within ten business days after the change.

61. A Chapter 7, Section 3.5

The following conditions are considered as transactions executed by insiders in a listed company:

1. If the insider deals in the securities as a proxy, guardian, or custodian.
2. If the insider and any minors under their custody (in)directly own 50% or more of the voting rights in any general assembly of a company dealing in the securities issued by the listed company.
3. If a corporate person deals in the securities of a listed company for which one of their employees is a member of a Board of Directors.
4. Deals executed by the staff of the governmental or regulatory authorities who receive inside information related to the listed company.

62. D Chapter 9, Section 1.2

Listed companies shall appoint an auditor from the auditors registered within the Authority for one financial year, renewable annually for not more than four consecutive years, unless it is in the liquidation phase, provided that said auditor is not a manager, an official, an employee or a partner in the listed company.

63. C Chapter 9, Section 4.2

Bonds and sukuk may be listed on the Exchange but must be tradeable and freely transferable.

64. B Chapter 3, Section 8

All related records need to be maintained for a period of five years after they have been removed or amended.

65. A Chapter 10, Section 3.6

A Fund's External Sharia Auditing Office shall be appointed for one financial year renewable annually, and for a maximum period of four consecutive financial years unless the Fund was under liquidation.

66. B Chapter 11, Section 3.3.2

The following are considered high-risk types of clients:

- complex legal arrangement without any apparent legal or economic purpose
- any legal or natural person from or in countries that do not or insufficiently apply the FATF recommendations, and
- politically exposed persons (PEPs).

67. D Chapter 10, Section 9.4

A CIS Manager shall provide a periodic report to each Unit holder about the Scheme's situation in accordance to the requirements in the Executive Bylaws.

68. D Chapter 11, Section 4

All staff will need to be instructed to immediately refer to the compliance officer any:

- complex, huge or unusual transactions
- transactions that raise doubts or suspicion, and
- activity (suspected to be) related to money laundering, financing of terrorism, terrorist acts, or terrorist organizations.

69. C Chapter 10, Section 3.3

The Fund's Assets shall be kept with a licensed Custodian appointed by the Fund Manager after obtaining the approval from the Authority.

70. B Chapter 12, Section 1

The rules of sound corporate governance shall document the following:

1. Ethical conduct.
2. Control and accountability.
3. Sound administrative condition.

71. D Chapter 12, Section 1

The importance and benefits of corporate governance for companies in general, and the financial sector in particular, are:

1. enhance administrative efficiency of companies
2. reduce funding cost
3. enhance procedures of supervision and audit
4. support the social role of companies
5. enhance fairness, transparency, and fair treatment, and
6. minimize conflict of interest.

72. A Chapter 12, Section 2

The majority of the compliance rules are based on the principle of 'comply or explain', which implies that companies specifically note rules they do not comply within the corporate report, including the details of the rule and principle, and reasons of noncompliance.

73. A Chapter 12, Section 4.1

The Board of Directors aims to accomplish the strategic goals of the company through ensuring that executive management perfectly performs their roles, enhancing the company's competitive capacity, achieving high growth rates, and increasing profits, as well as making sure executive management resolutions and actions are always for the benefit of the shareholders.

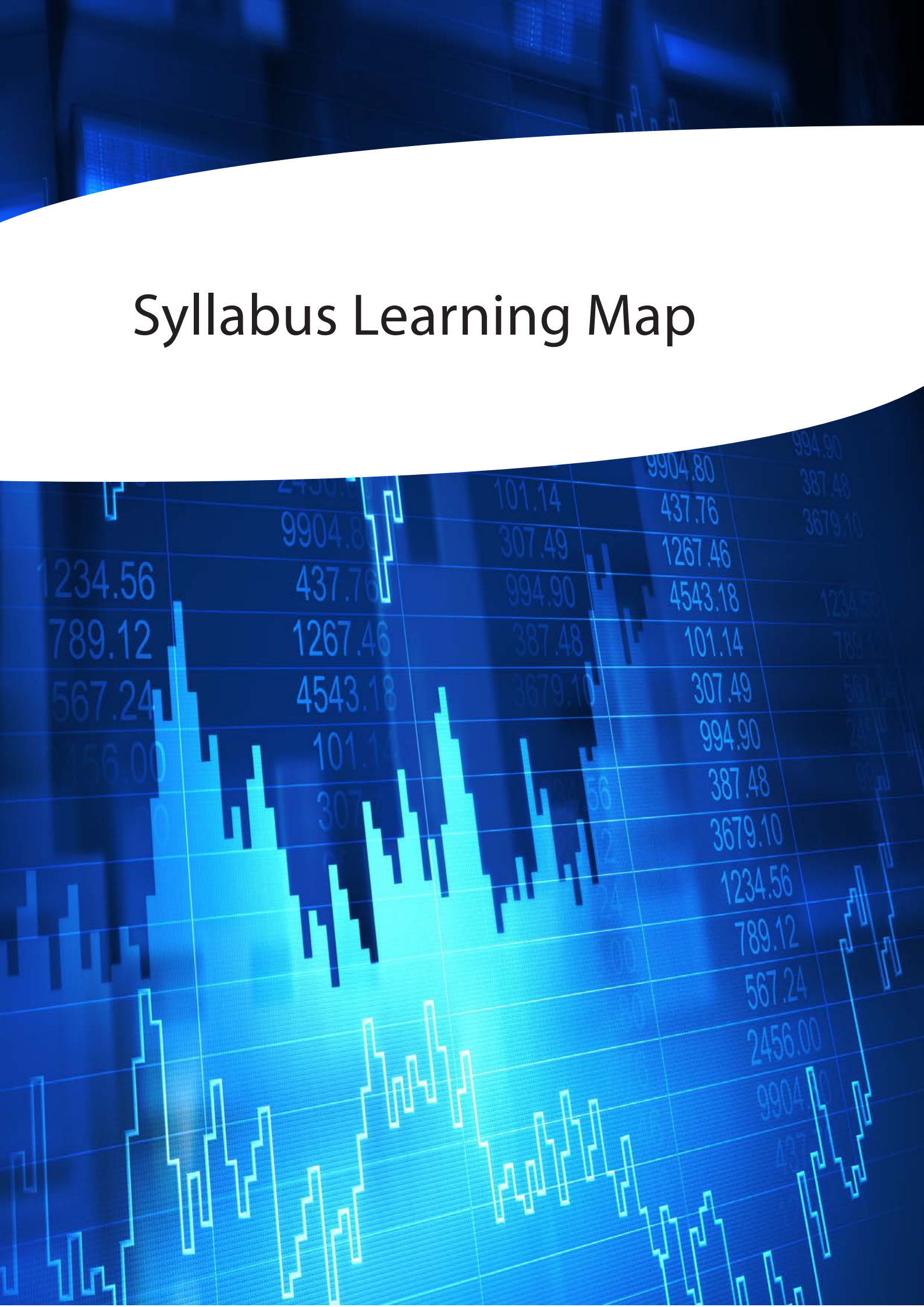
74. D Chapter 12, Section 7

Establishing an ethical culture and code of conduct within a company promotes the confidence of investors in the company's integrity and financial soundness.

75. C Chapter 3, Section 5

Capital adequacy needs to be reported to the CMA on a quarterly basis containing quantitative and qualitative requirements within:

- 45 days of the end of the quarterly financial reporting period, and
- 90 days from the end of the annual financial reporting period.

The background of the slide is a dark blue image featuring several overlapping financial charts. These include candlestick charts and line graphs with various data points. Numerical values such as 1234.56, 789.12, 567.24, 456.00, 9904.80, 437.76, 101.14, 307.49, 994.90, 387.48, 3679.10, 1267.46, 4543.18, 1234.56, 789.12, 567.24, 2456.00, and 9904.80 are scattered across the image, some appearing as part of the chart data and others as standalone numbers. The overall aesthetic is high-tech and financial.

Syllabus Learning Map

Syllabus Unit/ Element		Chapter/ Section
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Element 1	Regulatory Structure	Chapter 1
1.1	The Capital Markets Authority On completion, the candidate should:	
1.1.1	Know the aims of the Authority	1
1.1.2	Know the scope of the Authority's activities	1
1.2	Right to Request Information, Supervision and Inspection On completion, the candidate should:	
1.2.1	Know the Authority's right to request information and commission special reports	2
1.2.2	Know the Authority's activities in relation to supervision and inspection	2
1.3	Judicial Officers On completion, the candidate should:	
1.3.1	Know the role of the Judicial Officer	
1.4	Reporting Violations and Crimes On completion, the candidate should:	
1.4.1	Know the conditions for the submission for reporting suspected crimes or violations	3 and 4
1.4.2	Know the protections available to whistleblowers	4
1.5	Investigation On completion, the candidate should:	
1.5.1	Know the rules governing an investigation into suspected crimes or violations	5

Element 2	Securities Exchanges and Clearing Agencies	Chapter 2
2.1	Securities Exchanges On completion, the candidate should:	
2.1.1	Know the obligations a Securities Exchange must fulfil	1
2.1.2	Know the type of matters that a Securities Exchange must immediately inform the Authority about	1
2.1.3	Know how the Authority may: • intervene in times of crisis • cancel an exchange's license	1



Syllabus Unit/ Element		Chapter/ Section
2.2	Clearing Agencies On completion, the candidate should:	
2.2.1	Know the activities undertaken by licensed clearing agencies	2
2.2.2	Know the obligations a clearing agency must abide by	2
2.2.3	Know the type of matters that a clearing agency must immediately inform the Authority about	2
2.2.4	Know how the Authority may: • intervene in times of crisis • cancel a clearing agency's license	2

Element 3	Licensed Persons and Registered Persons	Chapter 3
3.1	Licensed Securities Activities On completion, the candidate should:	
3.1.1	understand which security activities require a license from the Authority	1
3.1.2	Know the actions related to the license that a Licensed Person can take	1
3.1.3	understand the circumstances under which the Authority may revoke or restrict the license of a Licensed Person	1
3.2	The Sharia Supervisory System On completion, the candidate should:	
3.2.1	Know how Licensed Persons operate in accordance with Sharia	2
3.3	Registered Persons On completion, the candidate should:	
3.3.1	understand what registered employment positions are required to be registered with the Authority	3
3.3.2	Know the restrictions on Registered Positions and Registered Employment Positions	3
3.3.3	Know the fit and proper rules	3
3.4	Policies and Procedures for Licensed Persons On completion, the candidate should:	
3.4.1	Know the minimum criteria a manual of policies and procedures should include	4

Syllabus Unit/ Element		Chapter/ Section
3.5	Capital Adequacy Regulations On completion, the candidate should:	
3.5.1	Know the regulatory capital adequacy requirements for licensed persons: • scope • exempt Licensed Persons • types of eligible regulatory capital • types of Risk Based Capital Requirements	5
3.6	Risk Management On completion, the candidate should:	
3.6.1	Know what risk management systems are designed to achieve and how responsibilities for the management and reporting of risks are managed	6.1
3.6.2	Know: • the principles behind risk-based capital charges • requirements for the general market risk charge	6.1
3.7	Business Continuity On completion, the candidate should:	
3.7.1	Know the business continuity requirements for Licensed Persons	7
3.8	Passporting of Financial Products On completion, the candidate should:	
3.8.1	Know the required obligations for passported marketing	8

Element 4	Clients' Funds and Clients' Assets	Chapter 4
4.1	Requirements On completion, the candidate should:	
4.1.1	Know organisational and record keeping requirements relating to: • client funds and client assets • registers, accounts and reconciliations	1
4.1.2	Know the correct procedure for the segregation of client funds, its transfer to other entities, and deposit conditions with third parties	1
4.2	Rules of Securities Investment Portfolios On completion, the candidate should:	
4.2.1	Know the definition, goals, components and types of securities investment portfolios	2

Syllabus Unit/ Element		Chapter/ Section
4.2.2	Know what information a Licensed Person must obtain before providing services to a client	2
4.2.3	Know how Licensed Persons comply with their duty of care obligations	2
4.2.4	Understand the duty of honesty and what a Licensed Person should and should not do	2
4.2.5	Know the particular content that investment portfolio agreements must include	2
4.2.6	Know relevant operational requirements and controls: • executing client transactions • fees and commissions • controls and internal auditing	2
4.3	Reporting Systems On completion, the candidate should:	
4.3.1	Know the Licensed Person's reporting obligations to: • clients • the Authority	3
4.4	Default Events On completion, the candidate should:	
4.4.1	Know the meaning of and actions to be taken when a: • primary default event occurs • secondary default event occurs	4

Element 5	Conduct of Business	Chapter 5
5.1	General Provisions On completion, the candidate should:	
5.1.1	Know the rules relating to: • providing a client with conditions of service • benefits • sharing the loss • confidentiality of information	1
5.2	Client Categorisation On completion, the candidate should:	
5.2.1	Know the relevant criteria for categorising a client as a: • professional client by nature • qualified professional client	2
5.2.2	Know what information must be provided to retail and professional clients	2

Syllabus Unit/ Element		Chapter/ Section
5.3	Conflicts of Interest On completion, the candidate should:	
5.3.1	Understand conflicts of interest	3
5.3.2	Know the policies, procedures and measures that Licensed Persons should adopt to manage conflicts of interest	3
5.3.3	Know how Licensed Persons manage the requirements relating to personal transactions of employees	3
5.4	Best Execution of Client Orders On completion, the candidate should:	
5.4.1	Know how Licensed Persons fulfil best execution requirements	4
5.5	Clients Records On completion, the candidate should:	
5.5.1	Know the record keeping requirements for Licensed Persons	5
5.5.2	Know the requirements for recording and maintaining telephone conversations and electronic communications	5
5.5.3	Know the minimum period that records, telephone conversations and correspondence must be kept by a Licensed Person	5
5.6	Financial Promotions On completion, the candidate should:	
5.6.1	Know how Licensed Persons fulfil financial promotion requirements	6

Element 6	Mergers and Acquisitions	Chapter 5
6.1	Mergers On completion, the candidate should:	
6.1.1	Know the rules and provisions in relation to mergers	1
6.2	Acquisitions On completion, the candidate should:	
6.2.1	Know the rules and provisions in relation to acquisitions	2
6.3	Partial Purchase Offer On completion, the candidate should:	
6.3.1	Know the rules and provisions in relation to partial purchase offers	3
6.4	Division On completion, the candidate should:	
6.4.1	Know the rules and provisions in relation to divisions	4

Syllabus Unit/ Element		Chapter/ Section
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Element 7	Disclosure and Transparency	Chapter 5
7.1	Obligations for Listed Companies and Exchanges On completion, the candidate should:	
7.1.1	Know the disclosure and transparency provisions for: - a listed company - an exchange	1
7.2	Disclosure of Interests On completion, the candidate should:	
7.2.1	Know definitions and obligations relating to: - interested persons - indirect interest or in alliance with others - disclosure of group - disclosure of collective investment schemes - disclosure in events of multiple interests	2
7.3	Insiders On completion, the candidate should:	
7.3.1	Know the definition and responsibilities of an insider	3
7.3.2	Know the responsibilities of listed companies in relation to inside information and insiders	3
7.3.3	Know the application of dealing restriction periods	3
7.3.4	Know the regulations regarding: - corporate insiders watch lists - corporate insider disclosure	3
7.4	Disclosure of Material Information On completion, the candidate should:	
7.4.1	Understand what material information is	4
7.4.2	Know the regulations regarding the timing of the disclosure of material information	4
7.4.3	Know the obligations listed companies have in relation to: - rumours and news - unusual trading activity	4

Element 8	Dealing in Securities	Chapter 5
8.1	Issuing, Offering or Cancelling Securities On completion, the candidate should:	
8.1.1	Know general provisions for issuing, offering or cancelling securities	1

Syllabus Unit/ Element		Chapter/ Section
8.1.2	Know general provisions for securities subscriptions	1
8.1.3	Know regulations relating to the announcement and marketing of securities offerings	1
8.2	Subscription Procedures On completion, the candidate should:	
8.2.1	Know procedures relating to: - the subscription period - role of the subscription agent	2
8.3	Allocation and Registration On completion, the candidate should:	
8.3.1	Know obligations relating to the allocation and registration of securities	3
8.4	Trading in Securities On completion, the candidate should:	
8.4.1	Know share disposal rules for: - founders - shareholders	4
8.5	Special Purpose Vehicle Companies On completion, the candidate should:	
8.5.1	Know the requirements for special purpose vehicle companies	5
8.6	Rules of Sukuk On completion, the candidate should:	
8.6.1	Know general conditions applicable to the issuance of sukuk	6
8.7	Rules of Bonds On completion, the candidate should:	
8.7.1	Know general conditions applicable to the issuance of bonds	7
8.8	Increase, Decrease or Restructure of Capital On completion, the candidate should:	
8.8.1	Know the types of capital increase (ordinary shares)	8
8.8.2	Know the types of capital decrease (ordinary shares)	8

Element 9	Listing Rules	Chapter 5
9.1	Listing Applications of Securities in the Exchange On completion, the candidate should:	
9.1.1	Know the regulations regarding an application for listing	1
9.1.2	Know the regulations regarding continuous obligations on listed securities	1

Syllabus Unit/ Element		Chapter/ Section
9.1.3	Know the regulations regarding listing suspensions	1
9.2	Listing Shares of Shareholding Companies in the Exchange On completion, the candidate should:	
9.2.1	Know the regulations and conditions regarding listing shares of Kuwaiti shareholding companies and non-Kuwaiti shareholding companies on the Exchange	2
9.3	Delisting of Shares of Shareholding Companies in the Exchange On completion, the candidate should:	
9.3.1	Know the regulations regarding: • delisting • voluntary delisting	3
9.4	Listing of Bonds and Sukuk in the Exchange On completion, the candidate should:	
9.4.1	Know bond and sukuk listing requirements related to: • the obligor • bonds or sukuk • listing application • bonds or sukuk issued by a foreign issuer • bonds or sukuk listed in a non-Kuwaiti Exchange	4
9.5	Listing of Fund Units in the Exchange On completion, the candidate should:	
9.5.1	Know listing requirements related to: • listing application • listing units of local funds in a non-Kuwaiti Exchange • delisting • general provisions	5

Element 10	Collective Investment Schemes	Chapter 5
10.1	General Provisions On completion, the candidate should:	
10.1.1	Know general provisions relating to collective investment schemes	1
10.1.2	Know the obligations of an investment adviser	1
10.1.3	Know the prohibition provisions in collective investment schemes	1

Syllabus Unit/ Element		Chapter/ Section
10.2	Funds On completion, the candidate should:	
10.2.1	Know the various forms and types of funds, fund's capital and participation of the fund manager	2
10.3	Service Providers On completion, the candidate should:	
10.3.1	Know the role of the following service providers: • Fund Manager • Investment Controller • Custodian • External Auditor • External Sharia Auditing Office	3
10.3.2	Know the mechanism of vacancy of the Fund's Executive Committee Members or a Service Provider Position	3
10.4	Marketing and Selling Units of Funds On completion, the candidate should:	
10.4.1	Know the general regulations relating to the promotion and marketing of funds	4
10.5	Valuation, Subscription and Redemption of Funds On completion, the candidate should:	
10.5.1	Know provisions relating to valuation, subscription and redemption	5
10.6	Restrictions and Controls of Funds On completion, the candidate should:	
10.6.1	Know the restrictions on funds, investment controls and the procedures to be followed in the event of a violation of investment and borrowing controls	6
10.7	Reporting Requirements of Funds On completion, the candidate should:	
10.7.1	Know reporting requirements relating to: • material information for the public • financial statements • periodic reports to unitholders	7
10.8	Unitholders Assembly and Ending of a Fund On completion, the candidate should:	
10.8.1	Know the role of the unitholders assembly	8
10.8.2	Know the events leading to the ending of a fund	8

Syllabus Unit/ Element		Chapter/ Section
10.9	Contractual Collective Investment Schemes On completion, the candidate should:	
10.9.1	Know general provisions relating to contractual collective investment schemes	9
10.9.2	Know the service providers of contractual collective investment schemes	9
10.9.3	Know the mechanism of vacancy of the position of a member of the Executive Team or any of the service providers	9
10.9.4	Know the pre-emptive right of unit holders, financial statements, periodic reports to unit holders	9
10.9.5	Know the cases ending a contractual collective investment scheme	9
10.10	Marketing a Collective Investment Scheme Incorporated Outside the State of Kuwait On completion, the candidate should:	
10.10.1	Know the general provisions related to marketing a collective investment scheme incorporated outside the State of Kuwait	10
10.10.2	Know the obligations of a marketer of a collective investment scheme incorporated outside the State of Kuwait	10
10.10.3	Know the marketing of a collective investment scheme in the State of Kuwait	10

Element 11	Market Integrity	Chapter 5
11.1	Insider Trading On completion, the candidate should:	
11.1.1	Know what constitutes inside information	1
11.1.2	Know the definition of an insider, examples of insider trading and examples of legitimate trading activity	1
11.1.3	Know the penalties for insider trading	1
11.2	Fraud and Manipulation in the Exchange On completion, the candidate should:	
11.2.1	Know the crime of fraud and manipulation in the Exchange, how it is punished and examples of legitimate behaviours	2
11.2.2	understand examples of illegitimate trading behaviour	2

Syllabus Unit/ Element		Chapter/ Section
11.3	Anti-Money Laundering and Combating Financing of Terrorism On completion, the candidate should:	
11.3.1	Know rules on accepting cash from clients	3
11.3.2	Know the client due diligence (CDD) measures a Licensed Person should carry out on all clients	3
11.3.3	Know the application of a risk-based approach to: • reduced CDD • enhanced CDD • politically exposed persons (PEPs) • non-profit organizations or entities • collective investment schemes	3
11.3.4	Know rules relating to reliance on third party CDD	3
11.4	Suspicious Transactions Reporting On completion, the candidate should:	
11.4.1	Know the suspicious transactions reporting requirements	4
11.5	Continuing Obligations On completion, the candidate should:	
11.5.1	Know continuing obligations relating to internal policies, compliance, auditing and training	5

Element 12	Corporate Governance	Chapter 5
12.1	Corporate Governance Role On completion, the candidate should:	
12.1.1	Understand the role, importance and goals of corporate governance	1
12.2	Regulatory Requirements On completion, the candidate should:	
12.2.1	Know regulatory requirements relating to corporate governance	2
12.3	Constructing a Balanced Board On completion, the candidate should:	
12.3.1	Know standards for board composition	3
12.3.2	Know standards for board meetings	3
12.4	Appropriate Roles and Responsibilities On completion, the candidate should:	
12.4.1	Know the roles and responsibilities of the Board of Directors	4
12.4.2	Know the independent committees	4



Syllabus Unit/ Element		Chapter/ Section
12.5	Safeguarding the Integrity of Financial Reporting On completion, the candidate should:	
12.5.1	Know how standards of financial reporting should be applied	5
12.6	Sound Systems of Risk Management and Internal Audit On completion, the candidate should:	
12.6.1	Know required standards for risk management and internal audit	6
12.7	Code of Conduct and Ethical Standards On completion, the candidate should:	
12.7.1	Know required standards relating to codes of conduct and ethical standards	7
12.8	Disclosure and Transparency On completion, the candidate should:	
12.8.1	Know required standards for disclosure and transparency	8
12.9	Stakeholders On completion, the candidate should:	
12.9.1	Know the required standards for dealing with: - shareholders - other stakeholders - corporate social responsibility	9

Examination Specification

Each examination paper is constructed from a specification that determines the weightings that will be given to each element. The specification is given below.

It is important to note that the numbers quoted may vary slightly from examination to examination as there is some flexibility to ensure that each examination has a consistent level of difficulty. However, the number of questions tested in each element should not change by more than plus or minus 2.

Element Number	Element	Questions
1	Regulatory Structure	4
2	Securities Exchanges and Clearing Agencies	4
3	Licensed Persons and Registered Persons	8
4	Clients' Funds and Clients' Assets	8
5	Conduct of Business	8
6	Mergers and Acquisitions	3
7	Disclosure and Transparency	6
8	Dealing in Securities	6
9	Listing Rules	6
10	Collective Investment Schemes	10
11	Market Integrity	6
12	Corporate Governance	6
Total		75

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