



Mutual Evaluation

Anti-Money Laundering and Combating the
Financing of Terrorism

Sultanate of Oman

4 May 2011

The Sultanate of Oman is a member of the Middle East & North Africa Financial Action Task Force (MENAFATF). It is also a member of the Gulf Co-operation Council, which is a member of the Financial Action Task Force (FATF). This joint MENAFATF-FATF evaluation was adopted as follows:

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PREFACE

INFORMATION AND METHODOLOGY USED FOR THE EVALUATION OF THE SULTANATE OF OMAN

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Sultanate of Oman¹ (Oman) was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004². The evaluation was based on the laws, regulations and other materials supplied by Oman, and information obtained by the evaluation team during its on-site visit to Oman from 17 - 28 July 2010, and subsequently. During the on-site the evaluation team met with officials and representatives of all relevant Omani government agencies and the private sector. A list of the bodies met is set out in the annexes to the mutual evaluation report.

2. This is a joint mutual evaluation by the Middle East and Northern Africa Financial Action Task Force (MENAFATF, مينافاتف) and the Financial Action Task Force (FATF). The evaluation was conducted by an evaluation team which consisted of experts from the MENAFATF and FATF in criminal law, law enforcement and regulatory issues. The team included Mr. Hussam Imam (Senior Mutual Evaluation Officer of the MENAFATF Secretariat), Mr. Richard Berkhout (Administrator of the FATF Secretariat) and Mr. Shunichi Fukushima (Senior Expert of the FATF Secretariat), and further included the following assessors: Dr. Badr El Banna (Senior Compliance Examiner, Special Investigation Commission, Lebanon) who participated as legal expert for the MENAFATF, Ms. Maud Bökkerink (Senior Examining Officer, Expertise centre for integrity, Central Bank of the Netherlands, Kingdom of the Netherlands) who participated as law enforcement expert for the FATF, Ms. Sabina Kook (Policy Advisor, Office of Terrorist Financing and Financial Crimes, Department of the Treasury, United States) who participated as financial expert for the FATF, and Mr. Peter El Sharoni (Examiner and Analyst, Examination and Investigation Department, Egyptian Money Laundering Combating Unit, Central Bank, Republic of Egypt) who participated as financial expert for the MENAFATF. The experts reviewed the institutional framework, the relevant AML/CFT Laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering and the financing of terrorism through financial institutions and Designated Non-Financial Businesses and Professions, as well as examining the capacity, the implementation and the effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Oman as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, sets out Oman's levels of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

4. The assessment team extends its heartfelt gratitude and thanks to H.H. Sayyid Marwan bin Turki bin Mahmud Al-Sa'id, Director General of Economic Affairs, Ministry of National Economy, and Head of the Technical Committee for Combating ML/TF, his aides, and all relevant Omani authorities and private

¹ In this report, Oman and the Sultanate both denote the Sultanate of Oman.

² As updated in October 2008.

sector bodies for their genuine help and assistance that enabled the team to carry out its mission in such a fruitful, transparent and constructive manner.

EXECUTIVE SUMMARY

Background information

5. Oman is a relatively large country, located on the Arabian Peninsula, sharing land borders with the United Arab Emirates, Saudi Arabia and Yemen, and sharing the strategically Strait of Hormuz with Iran. Even though Oman's history as a Sultanate dates back more than a millennium, in its modern form Oman was created after the accession to the throne of the current Sultan H.M. Qaboos bin Said al Said on 23 June 1970.

6. Oman's population of only 2.87 million persons consists of 70% Omani citizens and 30% expat workers. Oman is not a major financial center and has limited oil and gas reserves. Oman has differentiated and modernized itself economically based on a series of 5 year plans since 1976. Important assets in the modernization process are Oman's history as maritime and trading nation, its adherence to free market economic principles, its low general levels of crime and its clean and unique nature that makes it a popular (eco) tourism destination.

7. Oman's legal system is based on a 1996 *Basic Law of the State*, and on the direct incorporation of international treaties and conventions into its domestic legal system. The Omani legal system was to a large extent codified in written statutes since 1970. Laws are generally comprehensive, and in the context of AML/CFT, often follow the international standard to a great detail. A first Anti-Money Laundering Law (AML Law) was issued in 2002, replaced by the 2010 Anti-Money Laundering and Combating Terrorism Financing Law (AML/CFT Law). The AML/CFT Law covers most of the areas in line with the FATF Recommendations. The 2002 AML Law was accompanied by an Executive Regulation (outgoing ER), and pending the drafting of new Executive Regulations for the AML/CFT Law (incoming ER), the outgoing ER is still in force. This pending legal update causes some of the gaps in the legal framework for preventive measures. Oman should expeditiously finalize the drafting of the incoming ER and enact it to address the shortcomings in the preventive area. Notwithstanding the remaining shortcomings, the overall legal compliance with the FATF Recommendations is high.

8. Oman has not used the possibilities of its legal system to its full potential, and the overall effectiveness of the AML/CFT system regarding the legal system and the related institutional law enforcement framework is generally lacking (the effectiveness of the preventive area is relatively higher). For example, while Oman is to be commended for its near-perfect criminalization of ML, only a handful of ML convictions has been obtained over the past 8 years. One reason for this may be the generally low levels of crime. In addition, within the law enforcement community, financial investigations and fighting ML are considered to be primarily the task of the Financial Intelligence Unit (FIU). The main reason seems to be the overall lack of awareness and eagerness to prosecute ML cases, confiscate assets and promote financial investigations. Finally, financing of terrorism is considered part of the wider external terrorism threat, and dealt with as security and intelligence topic. No terrorist financing investigations, prosecutions or convictions have been obtained. On the longer term, Oman should considerably enhance the effectiveness of its legal system and generate more cases.

Legal system and related institutional framework

9. Oman has criminalized money laundering (ML), to a large extent in line with the requirements under the Vienna and Palermo Conventions. However, the ML offense does not cover “the concealment or disguise of the disposition of property” and criminal liability for ML does not extend to all legal persons, but only to financial institutions (FIs), designated non-financial business and professions (DNFBPs) and non-profit organisations (NPOs) within the limits of the AML/CFT Law. The AML/CFT Law covers all predicate offenses designated by FATF, extends to any type of property as defined by the FATF and applies to persons who commit the predicate offense. Appropriate ancillary offenses are also provided for.

10. Although the ML criminalisation is largely in line with the FATF requirements, the assessment team questions the effective implementation due to the extremely low number of convictions for ML in comparison with the number of investigations and convictions for the predicate offenses that generate illicit proceeds, particularly drug-related offenses. For full compliance with FATF requirements, Oman needs to considerably raise the number of ML convictions.

11. Omani legislation provides for most of the elements needed to criminalize terrorist financing (TF). However, the TF offence does not cover the financing of an individual terrorist, and the definition of terrorism (a terrorist act *per se* is not defined in the Omani law) does not cover the situation where the purpose behind the terrorist acts is to compel a government or an international organization to do or to abstain from doing any act. Appropriate ancillary offenses are provided for and the offence of TF is a predicate offence for ML. Omani legislation provides for dissuasive and proportionate sanctions, however, as there are no investigations, prosecutions or convictions relating to TF, the effectiveness cannot be established.

12. Oman has in place a robust legal framework that provides for a wide range of confiscation, seizure and provisional measures with regard to property laundered, proceeds from and instrumentalities used in and intended for use in ML and TF or predicate offenses, and property of corresponding value. However, the low number of confiscations and amounts confiscated indicates that the effectiveness of the framework is still at an insufficient level.

13. As for the freezing of terrorist assets in relation to the implementation of the relevant United Nations Security Council Resolution (UNSCR) 1267 and its successor resolutions, although names of persons designated by the UN are after some time circulated to concerned parties, there are major gaps in the Omani legal framework for freezing and no procedures are in place to implement the majority of the requirements under the resolutions. Moreover, Oman has no laws and procedures in place to implement UNSCR 1373. Oman has neither designated any terrorist or terrorist organization, nor has it frozen assets in accordance with UNSCR 1373.

14. The FIU has made clear progress in functioning as a financial intelligence unit since 2009, and further progress is foreseen under the new AML/CFT Law. Under the AML/CFT Law, the FIU is established as an independent unit within the Royal Oman Police (ROP). The FIU and its predecessors, which were dependent ROP units, have been in place since 2002. Since 2009, more attention has been paid to investigations of suspicious transaction reports (STRs) and training for staff and Oman has made notable efforts in enhancing the functioning and capacity of the FIU. Yet, the FIU should further enhance its capacity and experience in analyzing STRs in order to expedite the time between reporting and dissemination.

15. The FIU has sufficient powers and access to information to perform its tasks. The FIU is tasked to receive STRs and other information from financial institutions (FIs), designated non-financial businesses and professions (DNFBPs), non-profit organizations (NPOs) and other competent entities regarding

transactions suspected to involve the proceeds of crime or to be related to terrorism, terrorist crimes, or terrorist organizations or ML, or TF and the attempts to execute such transactions. The FIU is empowered to conduct analytic and investigative work regarding STRs and other information, for which it has access to a plethora of databases and can demand and review any necessary information from reporting entities as well as other competent regulatory authorities. The FIU disseminates reports to the Public Prosecution Office (PPO) when there are strong leads of ML, TF, or any other crime. The PPO considers the report of the FIU as circumstantial evidence and will use it as the basis for its own investigation.

16. The FIU should ensure that staff receives (external) training to ensure a broad insight and exposure to ways of financial analysis. Since 2002, the FIU received 231 STRs of which approximately 98% were reported by banks. The number of STRs has been increasing since 2009. Of the 28 STRs that were disseminated in total, the first STR filed in 2005 was only disseminated to the PPO in August 2007, and the majority (20) of the STRs filed in 2007-2009 has been disseminated in 2010. Some investigations have taken a long time, in some cases up to several months or even years. The length of the investigation causes a lack of effectiveness of the system.

17. There are two law enforcement authorities empowered to conduct investigations of ML and TF: the ROP and the PPO. Both are sufficiently resourced to perform their tasks and the legal requirements for professional standards are high. The investigations of these authorities are thorough in the sense that they collect ample information and evidence. However, there have been only 29 ML investigations -of which 28 originated from an STR and one from a police case- by the PPO and no TF investigations. The ROP has done very few specific ML investigations. Overall, there is insufficient attention by the ROP for ML or TF investigations since they rely on the FIU to do those investigations. Even though the FIU is part of the ROP, this should not discharge the ROP from investigating ML/TF. The PPO and ROP should also endeavor to investigate more ML or TF crimes that do not originate from an STR.

18. The PPO can choose to postpone the arrest of a suspect or the seizure of money. The PPO and the ROP have sufficient powers to compel production of, search person and premises for, and seize and obtain all the records and data they would need for their investigation, whether that data is held by FIs or any other business or person.

19. Under the new AML/CFT Law, Oman has introduced a declaration system for currency, bearer negotiable financial instruments, precious metals and precious stones. The declaration threshold is OMR 6 000 (approx. EUR 12 000/USD 15 600) or the equivalent in foreign currencies. Even though the AML/CFT Law came only into force shortly before the onsite visit (July 2010), Customs had already taken steps to implement the new tasks, including placing signs in the airport and arranging a workshop in cooperation with the FIU. Customs does not yet have experience in, or technical facilities for, detecting cross-border transportation of currency, etc and they should take further measures to ensure that SRIX is effectively and fully implemented.

20. The legal requirements for cross-border movements of cash and other financial instruments are generally sufficient, with a few issues that should be amended or clarified. The AML/CFT Law seems to apply to travelers and carriers, but mail and containerized cargo are not explicitly referred to. The pecuniary sanction for natural persons does not seem dissuasive, principally because the fine of OMR 5 000 is even lower than the declaration threshold of OMR 6 000. The authorities pointed out that confiscation is also possible and is regarded as a sanction. However, according to the AML/CFT Law confiscation may be ordered by the court if the violation has been committed in the name or on behalf of a legal person. Since no sanctions have been issued yet and the law is relatively new, the effectiveness of the measures has not been established.

Preventive measures – Financial institutions

21. The Omani financial system comprises a banking sector with two types of banks (commercial banks and specialized banks) and a non-banking financial sector that includes financing companies (conducting financial leasing and hire purchase activities), exchange companies, companies operating in securities, and insurance companies. All these entities are covered by the FATF definition of financial institution. The Central Bank of Oman (CBO) is the prudential supervisor for all banks, financing companies and exchange companies. The Capital Market Authority (CMA) supervises securities and insurance companies.

22. To complement the AML/CFT Law and its outgoing ER that apply to all financial institutions, CBO and CMA have issued specific sets of regulations and guidelines for each of the sectors under their supervision. However, CMA and CBO had different approaches regarding these regulations and guidelines. CMA issued two very comprehensive circulars for its two sectors, with direct and detailed obligations addressing various AML/CFT issues. These two circulars can be considered as other enforceable means (as defined by the FATF). CBO issued a number of circulars for the sectors under their supervision. Some of these circulars contain clear enforceable obligations. Other circulars, however, only attach copies of international standards and guidance papers (accompanied by an instruction to implement these international standards) and these cannot be regarded as enforceable means, as they are considered supervisory guidance. As a result, great variations in implementation were cited among CBO-supervised entities. The major driver for those FIs that applied more comprehensive systems was either the experience of the compliance officers in charge, or the FI's internal policies in the cases where the FI is an Omani branch or subsidiary of a large international financial group (or both).

23. Although the AML/CFT Law and the outgoing ER include basic provisions related to customer due diligence (CDD), most of these provisions are insufficient to meet the FATF Recommendations. Furthermore, the definition of politically exposed persons (PEPs) in the AML/CFT Law needs to be revised in order to be fully in line with the FATF definition. Insurance companies should be obliged to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs. Effective compliance with PEP requirements was lacking, especially for non-bank FIs. In addition, banks, finance companies and exchange companies should be obliged to apply Recommendations related to PEPs, correspondent banking, non face-to-face business, new payment methods, and third parties.

24. The newly issued AML/CFT Law permits the exchange of information between FIs, regulatory authorities, the FIU and other competent authorities. However, until recently, the flow of information between some of these entities was likely affected by restrictions of the old AML Law, which required that information requested by the PPO should be submitted through the CBO or other competent supervisory authorities. In addition, the outgoing ER still requires that if the competent authority deems it necessary to obtain any additional information relating to the suspicious transaction, it shall submit an application to that effect to the PPO specifying the nature of the information and the justifications for its obtainment; however, these provisions were updated in the AML/CFT Law which provides the FIU with a direct flow of information. With regard to the exchange of information between financial institutions where this is required by the FATF Recommendations, there was no requirement to overrule secrecy provisions currently in effect.

25. There are few gaps in the legal system for records keeping, such as the fact that there is no requirement to maintain records for longer than standard periods on request by a competent authority. FIs should also be required to provide all customer and transaction records and information *on a timely basis* to domestic competent authorities. Despite these legal gaps, all FIs that the assessment team met with confirmed keeping records of the identification data, account files and business correspondence for

10 years, or more if requested by competent authorities. The assessment team did not come across any indication that customer and transaction records and information were not provided on a timely basis to competent authorities whenever requested.

26. The requirement for transaction monitoring is explicitly noted in Oman's outgoing ER. FIs are required to establish electronic data systems for the purposes of tracking and reporting unusual transactions. While examples of unusual transactions are provided in the outgoing ER, there is a clear lack of understanding by FIs on the difference between monitoring of unusual transactions and the identification of suspicious financial transaction involving criminal activity for the purpose of reporting. More importantly, FIs are uncertain of the appropriate criteria that would capture transactions judged to be unusual for the purpose of monitoring.

27. Oman's AML/CFT system does not include a formal mechanism by which the supervisory authorities alert their FIs of countries that do not apply the FATF Recommendations. While the outgoing ER states that financial transaction with high risk jurisdictions should be monitored, there is no evidence that FIs adequately apply this obligation. Moreover, Oman has not established a mechanism for applying counter-measures with respect to jurisdictions that do not adequately apply the FATF Recommendations. The authorities were unaware of previous FATF public statement calling for countermeasures to be applied in certain cases. The lack of awareness of FATF's call for action and the authorities' failure to advise its FIs of the risks emerging from the weak AML/CFT systems of other countries presents a gap in Oman's ability to take responsive action and protect its financial system.

28. As for the suspicious transactions reporting in Oman, the statistics show a steady increase in the number of STR filings since 2002 with a significant spike in 2009 where the number of STRs doubled from the previous year of 29 to 60 STRs. However, the level of reporting is still very low in Oman. To date, no STRs have been filed by insurance, investment or finance companies and of the total STRs filed so far, all relate to suspicious transactions concerning proceeds of crime and none have been linked to terrorism or terrorist financing. The limited understanding of the potential ML/TF threat of the financial sector raises significant deficiencies in the effectiveness of Oman's STR system. To address the issue of effectiveness, Oman authorities should take greater efforts to increase awareness among the private sector on the potential ML/TF threats and supervisory authorities should provide clear guidance on what constitutes suspicious transactions.

29. The AML/CFT Law empowers the competent regulatory entities to verify the compliance of all FIs, non-financial businesses and professions, and non-profit associations and bodies under their supervision or control. The CBO is the supervisory authority for licensed FIs covering banks, finance and leasing companies, and money exchange business while the CMA supervises the securities and insurance sector. Both supervisory authorities have the power to conduct onsite inspections and are generally thorough in covering the prudential health of the FI as well as their AML/CFT procedures and policies in place. While authorities have sufficient powers to monitor FIs under their supervision, there is a lack of effectiveness in ensuring compliance of AML/CFT requirements. Authorities should utilize their full sanctioning powers for violation of AML/CFT requirements. While Oman's supervisory authorities have a broad list administrative sanctioning powers, they have not proved to be effective or dissuasive. With only one instance of administrative penalties imposed so far for an AML violation, the number is too low and ineffective.

Preventive measures – Designated non-financial businesses and professions

30. Not all DNFBPs exist in Oman. The existing sectors in Oman that are relevant for this assessment are: *i*) real estate agents, *ii*) dealers in precious metals and stones and *iii*) lawyers and legal advisers and accountants. Trust and Company Services could be partially conducted by lawyers and

accountants at the formation stage of legal persons, however, the legal basis supporting their engagement in such services could not be established. In addition to dealers in precious metals and stones who are subject to the supervision of the Ministry of Commerce and Industry (MOCI), a number of exchange companies in Oman are licensed to deal in gold bullion. Just like all other services conducted by exchange companies, dealing in bullions by exchange companies is also under the licensing requirements and supervision of the CBO. Casinos in all its forms are not permitted in Oman. They can be neither licensed nor registered as per the Omani authorities. Although covered under the new AML/CFT Law, notaries (notary public) are civil servants subject to the Directorate General of Courts in the Ministry of Justice.

31. All obligations applicable to FIs under the AML/CFT Law are also applicable to DNFBPs. Besides being subject to obligations under the AML/CFT Law, real estate brokers, dealers in precious metals and stones and accountants are subject to a decision by the MOCI, which partially covers the requirements of identification of clients, record keeping, reporting suspicious transactions, the use of modern technologies, training and other requirements. Exchange companies dealing in bullion are subject to a set of regulations taking the form of circulars issued by the CBO. Lawyers were not subject to any obligations other than those set in the AML/CFT Law and the outgoing ER. The deficiencies identified for FIs' are the same for the DNFBPs-sector. The effectiveness of the framework for DNFBPs is generally rather limited, mainly due to the recent enactment of the AML/CFT Law, and low ML/TF risk perception by the businesses that are covered.

Legal persons and arrangements & non-profit organisations

32. Legal persons are obliged to register at the Commercial Register. The registered information in the register covers ample data on companies including the owners of the shares, but it does not sufficiently cover the beneficial ownership and control of legal persons. Also, in case a partner is a foreign company, the beneficial owner(s) of this foreign company is not registered. The public has a right to access the information recorded in the Commercial Register. Authorities, such as the ROP and FIU, have online access to the complete files.

33. Oman has a legal arrangement known as *waqf* (plural: *awqaf*). The Minister of Awqaf and Religious Affairs has the right of general supervision over all *awqaf*. The *waqf* deed may contain information on the beneficiaries, but does not contain information on the beneficial owner. All *awqaf* are registered, and supervised by a judge. Overall, this system for controlling *awqaf* outperforms the systems for controlling legal arrangements of other countries. The only remaining issue is the lack of a requirement to disclose information on beneficial ownership (in addition to the beneficiary) on the *waqf* deed.

34. The authorities have taken a comprehensive approach towards NPOs already since 2000 and there is a high level of awareness and knowledge of the risk of NPOs to be misused for illegal purposes. The Ministry of Social Development (MSD) collects and registers ample information on the activities, size and other features of the NPOs, and the MSD inspectors will visit NPOs regularly. NPOs are a category of reporting entities and the complete legal framework of the AML/CFT Law applies to all NPOs. In addition, the AML/CFT Law obliges competent regulatory entities to establish the necessary measures to determine the criteria governing the ownership, management and operation of non-profit associations and bodies. Despite the lack of a formal (written) review of the laws and regulations for NPOs, from the interviews with the authorities, the recent update of the requirements with the enactment of the AML/CFT Law, and the current drafting of the Civil Association Law, it is inherent that Oman has in fact reviewed its laws and regulations.

National and international co-operation

35. Oman has accessed to the Vienna and Palermo Conventions, and enacted legislation that covers their key AML requirements. Oman has criminalized the participation in a criminal organization but only when the purpose of the organization is committing a transnational organized crime, or when it is a terrorist organization. On the other hand, and although Oman has not signed nor ratified the TF Convention, most of its provisions are implemented in the Sultanate. TF has been criminalized but lacks the level of detail required to fully comply with the requirements set out in the TF Convention.

36. With regard to ML and TF, Oman can provide mutual legal assistance (MLA), covering the tracing or seizure of any property, proceeds, or instrumentalities, in case there is a signed agreement or on the basis of reciprocity. As for predicate offences, it appears that Oman cannot provide MLA on the basis of reciprocity. In these cases, MLA relations are primarily governed by the existing bilateral and multi-lateral treaties. MLA statistics provided by the authorities reflect that Oman has approved all the MLA requests it received. However, such assistance was not provided in a timely manner, and only few requests have been received.

37. The authorities did not provide any information on cases where MLA has been granted in the fight against terrorism and TF. Given the lack of statistics and further information, the assessment team was not able to assess whether and to what extent Oman is able to provide mutual legal assistance in a timely and effective manner, nor that the overall MLA framework regarding TF is implemented in an effective way. It should be however noted that the deficiencies in the TF offense described under SR11 may impact on Oman's ability to provide MLA where dual criminality is a precondition. Such impact may likely be limited given the exceptional circumstances where dual criminality is required and the lack of unduly restrictive requirements.

38. Both ML and TF offences are extraditable offences. However, in the absence of comprehensive statistics, the assessment team was unable to confirm the effectiveness of the extradition system in Oman.

Other issues

39. Oman has set up two coordination committees to deal with general ML/TF issues, and a specific committee that deals with terrorism issues. Outside this formal framework, the assessment team noted a high degree of effective informal cooperation and coordination between most agencies, with the exception of PPO and the Ministry of Foreign Affairs (MOFA). MOFA and the AML/CFT community need to connect more effectively to enhance compliance with the requirements to freeze terrorist assets. Also, the PPO should become more engaged in AML/CFT issues, and foster AML/CFT awareness within its organisation.

40. Statistics gathering is generally sufficient, and in the case of the ROP excellent. However, more needs to be done to ensure proper recording of ML cases, as the assessment team witnessed that the statistics of ML cases reported to the assessment team varied from time to time during the assessment process. Oman has just enacted its new AML/CFT Law, and in preparation, the authorities have used the above-mentioned coordination committees to review the previous AML system first.

41. Omani government organs have limited, but generally well trained, number of staff at the national (policy) level. This enables the authorities to cooperate effectively and the assessment team did not notice any agencies that have a significant shortage of (trained) staff.

42. The assessment team extends its heartfelt gratitude and thanks to H.H. Sayyid Marwan bin Turki bin Mahmud Al-Sa'id, Director General of Economic Affairs, Ministry of National Economy, and Head of

the Technical Committee for Combating ML/TF, his aides, and all relevant Omani authorities and private sector bodies for their genuine help and assistance that enabled the team to carry out its mission in such a fruitful, transparent and constructive manner.

1. GENERAL

1.1 General information on the Sultanate of Oman

43. The Sultanate of Oman³ covers an area of 309 500 square kilometers, and shares land borders with the United Arab Emirates, Saudi Arabia and Yemen, and sea borders with Iran (the Sea of Oman and Arabian Gulf). The Sultanate of Oman is divided into 4 governorates and 5 regions. The capital of Oman is Muscat. Oman has a population of 2.87 million (2008). Omani nationals account for 69% of the population. About one third of the population is under 15 years old and the literacy rate is 86.7%. The literacy rate among younger people is considerably higher (97.6%). Life expectancy is 72 years and the national language is Arabic.

44. Modern Oman was established on 23 July 1970 by His Majesty Sultan Qaboos bin Said al Said, who is the Head of the State. 23 July 1970 is an important day in the mind of all Omanis and it is considered a major watershed in the Sultanate's history. Before that, health care, education and transportation services were fairly modest. Since 23 July 1970, the Sultan of Oman has led the country in short time to be an economically modern, safe, peaceful and clean country.

Economy

45. Oman is a member of Gulf Co-operation Council (GCC). The economy relies on oil extraction, the services sector and manufacturing. At the end of 2009, the oil sector accounted for roughly (67%) of budget revenues, (40%) of GDP at current prices, and (65%) of export earnings. The non-oil sector generated (60%) of GDP at current prices at the end of the same period. The Sultanate's dependence on oil revenues has historically made the economy vulnerable to fluctuations in the world price of oil. The Omani economy is based on free market principles. Like many countries, Oman's economy suffered from the global economic slowdown caused by the 2009/2010 financial crisis. While the comparatively small financial sector was not negatively affected, the decline in oil prices during the same period did have an effect on the government revenues and GDP.

46. Economic development is based on 5 year plans. The 7th five year plan covers the period until 2010. This plan aimed to realize growth rates at constant prices of at least annual average of (3%), raise citizens' standard of living, maintain low inflation rates, improve public education outputs, expand higher education opportunities, and raise citizens' employment levels.

47. The currency of Oman is the Omani Rial⁴ (OMR) which is pegged to the USD. Oman's economy is based on free market principles with low levels of taxation. The economy is open to foreign investments and it is a government policy to ensure that Oman is attractive for foreign investments. Local incorporation

³ *Oman*, the *Sultanate of Oman*, and *the Sultanate* all denote the Sultanate of Oman.

⁴ On 17 July 2010 (the first day of the on-site mission) the interbank exchange rate for the EUR was OMR 1.00 = EUR 2.00 and EUR 1.00 = OMR 0.50. The rate for the USD was OMR 1.00 = USD 2.60 and USD 1.00 = OMR 0.39 (source www.oanda.com).

of companies is required, but foreign ownership can reach 100%. Nevertheless this does not prohibit the government from requiring detailed information on legal entities to be publicly available.

48. At the end of 2009, the most important export partners were People's Republic of China (32%), Japan (16.7%) Thailand (13.5%) and Korea (10.4%). As for non-oil exports, the most important partners were the United Arab Emirates (26.3%), India (12%), Saudi Arabia (7.1%). The most important import partners were United Arab Emirates (23.8%), Japan (15%), United States (6.4%), and People's Republic of China (4.8%). Most imported goods concern machinery and transport equipment, electrical equipment and its parts, metals and metal products, and food products.

System of government, legal system and hierarchy of laws

Before 1970 and transition

49. Before 1970, the legal system of Oman was almost exclusively based on religious and customary law. The role of the country's local (*Walis*) and tribal leaders (*Sheiks*) focused on settling disputes for the purpose of maintaining a stable and peaceful society. Only when disputes could not be settled, these would be brought to a *Shari'ah* Court. There have been some written laws applicable in Oman since 1929, such as the Traffic Law, Municipal Law, and Customs Law.

50. After 1970, manmade laws and civil and criminal courts were gradually introduced in all areas. Oman also opened up to the outside world, and became a member of the United Nations on 7 October 1971. Most laws were introduced between 1970 and 1985, after which Oman had a comprehensive legal framework in place. The codification process has resulted in a set of statutes that resembles those of civil law countries, with laws that are comprehensive and self-explanatory.

Basic law (the Constitution)

51. The State's constitution (the Basic Law) was introduced in 1996 to set the political and economic foundations for the State and guarantee further development, progress, prosperity and stability and to enhance the involvement of the Omani people in the development of the country.

52. All laws in Oman are issued by Royal Decrees while regulations are executive decisions issued pursuant to Ministerial decisions (together primary and secondary legislation). The Basic Law declares that Islam is the official religion of Oman, and the Islamic *Shari'ah* is the basis of legislation. All laws are published in the Official Gazette within two weeks of the day of issuance and come into force from the day following their publication unless otherwise stipulated. Decrees or circulars from other state institutions (such as financial supervisors) have the force of other enforceable means, except when the language of the document is insufficiently prescriptive or precise to be implemented, in which case the document is considered guidance or an information paper.

International law

53. Domestic and international law form a unity in Oman (*monism*). International law does not need to be translated into Omani law; the act of ratifying international conventions immediately incorporates these conventions into Omani law. International conventions can be directly applied by an Omani court and replaces earlier or later Omani law that would not be in line with it. This also applies in criminal cases (criminalization), if the criminal conduct is defined specifically enough in the international treaty. Ratification of international agreements or treaties is by Royal Decree. Any such ratification decree would include a reminder that the agreement or treaty has become part of domestic law. In addition, should the international agreement or treaty contain provisions that would require implementation measures (for

example because the criminal conduct is insufficiently specific), the Royal Decree would contain those implementation measures.

Executive and legislative powers

54. The system of government is a hereditary Sultanate. The Sultan of Oman is the Head of State and Government (prime minister), the Supreme Leader of the Armed Forces and Royal Oman Police, and the Head of Governors of the Central Bank. The Sultan is assisted by a Cabinet (*Diwans*), consisting of 32 appointed ministers (of which three woman). Ministers are appointed and dismissed by the Sultan. Legislation is issued by the Sultan (legislative powers) and enforced by the Sultan (executive powers).

Consultative powers

55. While the Sultan has all legislative and executive powers, the Sultan also introduced a system of consultative powers. The Sultan is assisted by a bicameral advisory council (*Majalis Oman*). The first chamber is the State Council (*Majlis A'Dawla*). All members are appointed by the Sultan. The State Council reviews matters referred to it by the Sultan, drafts laws before promulgation and prepares studies on development-related issues including human resources. In 2006 the State Council had 59 members (of which 9 women). Membership is for a four-year period and renewable. The second chamber is the Consultation Council (*Majlis ash Shura*). It was set up in 1991, and has 84 members (of which one chair and two women) with only consultative tasks. Since 4 October 2003 Oman has universal suffrage for citizens over 21 years.

Judicial powers

56. Oman's judicial system traditionally has been based on *Shari'ah* Courts, administering justice on the basis of the *Shari'ah* (the *Qur'an* and *Hadith*⁵). For family and inheritance cases, *Shari'ah* Courts are still competent. In other cases, Oman has set up a separate civil court system, based on a system introduced first in 1984. In its current form, the judiciary consists of the public prosecution and courts of all instances.

57. The magistrate court system is composed of courts of first instance, courts of appeal, and the Supreme Court in Muscat. There are 44 courts of first instance located throughout the Sultanate that hear civil, criminal, commercial, labor, and personal status cases. One judge presides over each court of first instance. There are 14 courts of appeal (Muscat, Nizwa, Sohar, Ibra, Ibri, Salalah, Musandam, Buraimi, Rustaq, Sur, Al-Mudhaibi, Seeb, Duqum, and Mahtut), each with a panel of three appointed judges. The Supreme Court standardizes legal principles, reviews decisions of lower courts, and monitors judges in their application and interpretation of the law. The Sultan can pardon or reduce sentences but not overturn a Supreme Court verdict. The Supreme Judicial Council can hear appeals beyond the Supreme Court and overturn its decisions. The Sultan is the chair of the Supreme Judicial Council.

58. The Public Prosecution Office is an independent body, formerly part of the Royal Oman Police, (ROP) but currently the leading agency for investigations (guiding and supervising the investigations carried out by the Royal Omani Police) and prosecutions. The Supreme Judicial Council also oversees the work of the Public Prosecution Office (PPO).

Transparency, good governance and measures against corruption

59. Oman has not signed the United Nations Convention against Corruption. Corruption and bribery are predicate offences for ML.

⁵ *Hadith*: the teachings and sayings of Prophet Mohammed.

60. According to the Transparency International Corruption Perception Index in 2010, Oman scored 41 out of 178 jurisdictions on the global level, and fourth in the Middle East and North Africa region. This is a relatively high score, indicating a low perception of corruption in Oman. This perception was confirmed during many interviews held by the assessment team.

61. The Basic Law provides that government ministers are not allowed to combine their ministerial position with the chairmanship or membership of the Board of any joint stock company, nor may the government departments of which they are in charge have dealings with any company or organization in which they have a direct or indirect interest. In addition, ministers are required not to exploit their official positions in any way for their own benefit or for the benefit of those with whom they have special relations with.

1.2 General situation of money laundering and financing of terrorism

Money laundering

62. As is indicated in Sections 2.1 and 2.6 of this report, the general levels of crime in Oman are comparatively low. The most common proceeds generating crimes are fraud, theft, smuggling, narcotic related crimes and violations of specific laws such as the Banking Law and the Capital Market Law (CML) (*i.e.* Ponzi schemes). In addition, the authorities note that most crimes are domestic stand alone crimes, and that links to international groups are rarely detected. With a very international population (about 1/3 of the population consists of expatriates/immigrant workers), this is not something one would initially expect; however, the authorities have provided the assessment team with very detailed statistics regarding the nationality of perpetrators of most common crimes. The statistics did not point at cross border crimes, most crimes committed by non-Omani nationals are ordinary theft and breach of trust.

63. With low levels of crime, the number of potential ML cases is also low. The authorities stated that the AML/CFT system contributes to the low level of crime as it acts as a preventive measure against ML. The authorities also indicated that the enactment of the new AML/CFT Law on 4 July 2010, and the future enactment of the Executive Regulations to the AML/CFT Law will have a positive impact on the preventive system and further limit the number of cases. However, the assessment team believes that it is quite desirable that the repressive part of the AML/CFT system should be enforced and detect more ML cases, leading to more convictions.

Terrorist financing

64. Generally, Oman enjoys political, economic, social stability and security, and has a comprehensive legal and institutional framework. There have been no reports of terrorist threats or attempts of terrorist attacks or terrorist financing in the known history of the Sultanate. Oman maintains good relations with neighboring and other countries and has no international cooperation provision issues with regard to terrorist crimes of any sort. Despite its regional proximity to countries that have been plagued with terrorism, the terrorism and terrorist risk factor for Oman seems to be remarkably low. Moreover, as is noted in this report, in general Oman has a comprehensive legal and institutional AML/CFT framework to prevent abuse of its financial systems or territories from being used in terrorist or terrorist financing schemes. The AML/CFT Law in particular provides for a preventive framework that can help it contribute to the international efforts to combat terrorism financing. However, and in the absence of real threats or terrorist incidents as indicated above, the anti-terrorist and anti-terrorism financing regime has not been tested. In addition, there seems to be a lack of awareness regarding TF, which may also explain the ratings of some specific TF-related Special Recommendations.

1.3 Overview of the Financial Sector and DNFBP

Overview of the financial sector

65. The financial sector in Oman is composed of traditional institutions, products and vehicles that are not very sophisticated. The relatively small population and the still below expectation level of reliance on the conventional financial institutions and products by a sizable portion of the Omani citizens contribute to the limitedness of this sector, albeit all financial activities are practicable in Oman. The table below indicates which financial activities exist in Oman, their practitioners, and supervisors.

Table 1. Financial Activities in Oman

| Types of financial activities to which the FATF Recommendations apply | Types of financial institutions in Oman that conduct these specified financial activities | Legal basis for licensing (not necessarily financial sector supervision purposes) | Supervisor |
|--|---|---|-------------|
| Acceptance of deposits and other repayable funds from the public | CBO Banks and FLCs Money Exchange Companies (MEs) Brokerage Companies. | CBO Banking Law Banking Law CMA Law | CBO CMA |
| Lending | | | |
| Issuing and managing means of payment (e.g. credit and debit cards, cheques, travelers' cheques, money orders, bankers' drafts, electronic money) | | | |
| Financial guarantees and commitments | | | |
| Trading in money market instruments (cheques, bills, CDs, derivatives etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; and commodity futures trading | | | |
| Safekeeping and administration of cash and liquid securities on behalf of other persons | | | |
| The transfer of money or value | Banks and MEs | Banking Law 2000 | CBO |
| Money and currency exchange | Banks and MEs | Banking Law 2000 | CBO |
| Financial leasing | Banks and FLCs | Banking Law 2000 | CBO |
| Underwriting and placement of life insurance and other investment related insurance | Insurance Companies | Oman Insurance Law Companies Law | CMA |
| Participation in securities issues and the provision of financial services related to such issues | Banks | Banking Law 2000 CMA Law | CBO and CMA |
| Individual and collective portfolio management | Brokerage Companies | | |
| Otherwise investing, administering or managing funds or money on behalf of other persons | | | |

66. Financial services in Oman are dominated mainly by banks and money exchange companies. Many of the financial activities and services available, such as insurance and financial leasing, are not widespread or relied upon by the majority of the population, which is concentrated in the capital Muscat, and are provided mainly on a corporate level. During the onsite visit, representatives of the financial sector indicated that the demand on financial services and products is not as expected or desired.

Banking sector

67. In 2010, there were 17 commercial banks operating in Oman; 7 local and 10 foreign, with a total number of branches of 395. Local banks have 13 branches abroad.

68. Commercial banks in Oman exhibited very strong balance sheet expansion during the period 2005 to 2008, owing to the favorable oil price cycle and high economic growth. In 2009, with the slowdown of the Omani economy emanating from the fallout of the global financial and economic crisis, banking indicators in the Sultanate witnessed decelerated growth. Total assets/liabilities of the commercial banks as at the end of December 2009 stood at OMR 14 198.9 million compared to OMR 13 778.4 million a year ago, representing an increase of just 3.1 percent over the year as against a significant increase of 33 percent a year earlier.

69. Private sector deposits, which constituted 72 % of total deposits, grew by only 2.8 % in 2009. In terms of the tenor of deposits, while both private sector demand and saving deposits registered growth of 11.3 % and 10.4 % respectively, time deposits witnessed a decline of 5.5 %. Core capital and reserves of commercial banks increased by 5.9 % to OMR 1 906.5 million as at the end of December 2009, while supplementary capital elements increased by 33.3 % to OMR 444.9 million.

70. At the end of 2009, there were two specialized banks operating in Oman, with a network of 22 branches. Both the specialized credit institutions are Government owned banks, namely, the Oman Housing Bank (OHB) and Oman Development Bank (ODB). OHB provides finance by way of long term soft housing loans to all segments of Omani society. Mortgage loan accounts as at the end of 2009 stood at OMR 177.5 million compared to OMR 156.3 million a year ago, a rise of 13.6 percent. The capital of OHB stood at OMR 30 million while total shareholders equity comprising share capital, reserves and retained earnings amounted to RO 103.3 million as at the end of December 2009.

71. Oman Development Bank is mainly engaged in providing loans for development projects, including for activities related to agriculture and fisheries, health, tourism, professional activities and traditional craftsmanship in Oman. As at the end of 2009, the total net loans and advances including staff housing loans, stood at OMR 78.4 million compared to OMR 58.3 million in the previous year, registering a significant rise of 34.5 percent. The share capital of ODB increased to OMR 58 million in 2009 from OMR 40 million at the end of the previous year while total shareholders equity increased to OMR 85.6 million from OMR 60.5 million.

72. Money exchange business is carried out by two types of institutions in Oman, namely, money changers that are engaged in money exchange only and exchange establishments doing both money changing and remittance business. As at the end of December 2010, there were 31 money changing business firms and 16 exchange establishments which operated under the license of money changing and draft issuance business. There were in total 164 branches of the sixteen exchange establishments⁶. Exchange companies undertaking both money changing and remittances are annually examined by the Central Bank of Oman (CBO) to ensure that they keep proper books and records and comply with the regulations.

⁶ Authorities provided updated information by end of 2010 indicating that there were 16 exchange companies that operated through 131 branches.

73. The total assets of the sixteen establishments amounted to OMR 30.8 million as at the end of December 2009. The asset profile mainly included cash on hand of OMR 9.6 million and balances held with banks amounting to OMR 15.6 million. The total capital and reserves of these companies as at the end of December 2009 stood at OMR 15.4 million compared to OMR 14.2 million a year ago⁷.

Insurance sector

74. The insurance market in Oman is composed of 23 insurance companies; 11 local and 12 foreign, in addition to 18 insurance brokers. Total assets owned by the insurance companies operating in Oman stood at OMR 431 626 063 as at the end of 2009 compared to OMR 423 623 145 in the previous year recording an overall increase of 1.9%. The non-life insurance assets increased from OMR 351 030 461 to OMR 352 435 374 representing a percentage growth of 0.4% while the life insurance assets increased from OMR 72 601 684 to OMR 79 190 689 representing a percentage decrease of 9.1%.

75. The insurance companies issued 833 458 policies in 2009 compared to 866 158 in 2008, recording a decrease of 3.8%. The general insurance companies which issued 821,637 policies in 2009 compared to 848 874 in the previous year registered a decrease of 3.2% while the life insurance companies issued 11 821 policies in 2009 compared to 17 284 in the previous year registering a decrease of 31.6%.⁸

Finance and Leasing companies

76. The financial leasing sector in Oman is rather small with only 6 companies operating with 33 branches. They mainly operate in three market segments, namely, retail financing where the financing is to individual customers for purchase of automotive and electronic goods; equipment leasing where the financing is to small and medium enterprises (SMEs) for expansion, modernization and replacement requirements; and factoring and working capital financing to SMEs for cross border or domestic trade, or for the execution for projects, usually against the assignment of receivables.

77. In line with the slowdown of the economy, the total asset base of finance and leasing companies (FLCs) contracted by around 10 % in 2009 as against 38 % growth witnessed in the previous year. Combined assets of finance and leasing companies stood at OMR 553.8 million as at the end of December 2009 compared to OMR 611 million a year ago. Total outstanding credit extended in the form of hire purchase, lease financing and factoring, declined by 9.7 % to OMR 535.2 million in 2009 from OMR 592.4 million in 2008. Asset quality in terms of the loan portfolio reflected deterioration during 2009 with gross non-performing loans (NPLs) increasing to OMR 52.8 million or 9.9 % of the gross loan portfolio compared to OMR 24.5 million or 4.1 % of gross loans in 2008.

78. Contraction in the size of the loan portfolio and the narrowing of interest spread due to the higher cost of funds had an adverse impact on net interest income and profits of FLCs. Net profit after provisions and taxes of FLCs dropped to OMR 13.9 million in 2009 as against OMR 17.2 million in the previous year, reflecting a decline of 19.2 percent. On the liabilities side, the FLCs have steadily increased their paid up capital over the years to be in line with the minimum required level of OMR 20 million to be achieved before the end of June 2012. At the aggregate level, the paid up capital of FLCs reached OMR 81.1 million as at the end of December 2009, an increase of 10.6 % over the previous year.

79. The consolidated capital and reserves of the FLCs rose to OMR 136.9 million at the end of the year compared to OMR 123.1 million a year ago. In line with the contraction of loan portfolio, borrowings

⁷ Central Bank of Oman; Annual Report 2009.

⁸ CMA's Insurance Market Review for 2008-2009 (www.cma.gov.om/documents//da8d5f99-e20e-4bd8-8620-c95d87d7b0ca.pdf).

from banks and other financial institutions, which is the main source of funding for the non-bank finance and leasing sector, declined from OMR 325.8 million in 2008 to OMR 276.7 million in 2009⁹.

Securities sector

80. The Muscat Securities Market (MSM) was established as a government entity in 1988 by Royal Decree (53/88) and officially commenced operations on May 20, 1989. After almost a decade of growth, the CML was promulgated by Royal Decree No. 80/98 separating the regulatory and exchange functions of the MSM. Accordingly, the Capital Market Authority (CMA) was established as the Government regulatory body with the responsibility for regulating the capital market and carrying out licensing of intermediaries, supervising the operations of MSM as well as all companies operating in the securities and insurance industry in Oman. The MSM on the other hand is in charge of providing facilities for trading securities, settlement of transactions and publication of information related to the activities of the capital market.

81. The MSM 30 share price index recovered considerably during 2009 after the slump in 2008. The share price index closed higher at 6 368.8 by the end of trading in 2009 compared to 5 441.12 at the end of the previous year, a rise of 17.05 % over the year. Foreigner's participation in the stocks of listed companies in MSM declined marginally to 22.6 % of market capitalization in 2009 compared to 23.9 % in the previous year with the continuation of the risk averse behavior. The total number of trading days stood at 246 during 2009 and the number of shares traded increased to 6.1 billion compared to 4.2 billion shares traded in 2008. The number of bonds traded during 2009 also increased to 23.9 million as against 6.3 million in the previous year. Though the volume of traded shares and bonds increased during the year, the total market turnover in value terms dropped by 32.6 % to OMR 2 285 million in 2009. The average value of trading per day thus reduced from OMR 13.66 million in 2008 to OMR 9.29 million in 2009.¹⁰

82. Currently, there are 26 companies operating in securities with total capital of OMR 124 335 716.

Overview over the DNFBPs Sector

Casinos, including internet casinos

83. Casinos and internet casinos are prohibited under Omani law.

Real estate agents

84. There are 12985 real estate brokerage offices in Oman.

Dealers in precious metals and stones

85. There are 2420 offices of precious metal companies including jeweler stores whose capital vary from OMR 3 000) to 99 999.

Lawyers

86. There are 367 lawyer offices and 36 law firms in Oman. Lawyers' activities in Oman are limited to representation in litigation, providing legal consultancy, and contract preparation. The authorities indicated that lawyers cannot be engaged in the management or operation of legal person.

⁹ Central Bank of Oman; Annual Report 2009.

¹⁰ Central Bank of Oman; Annual Report 2009.

Notaries

87. Notaries exist in Oman and are designated under the AML/CFT Law. However, notaries in Oman provide document validation services – something which the FATF Recommendations do not require to be covered under the AML/CFT system.

Accountants

88. The latest statistics provided by the authorities indicate that there are 90 individual accounting offices, and 14 branches of accounting firms.

Trust and company service providers

89. This sector does not exist independently in Oman; lawyers can play a marginal role in the establishment of companies and other forms of legal persons by formulating the respective establishment/incorporation contracts.

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

90. The following legal persons, legal arrangements and NPOs exist in Oman. More information is provided in Section 5.1 (legal entities), 5.2 (legal arrangements) and 5.3 (NPOs) of this report.

Legal persons

91. *General Partnership:* A company combining two or more natural or legal persons. The partners are pro bono jointly and individually with all their possessions responsible for the debts of the company. The partners must register the Partnership in the Commercial Register in accordance with the provisions of the law. The partners' shares cannot be represented in negotiable certificates.

92. *Limited Partnership:* It is a company that includes two categories of partners: *i)* One or more authorized partners to be responsible for the debts of the company jointly and individual with all their possessions; and *ii)* One or more limited partners whose liabilities for the debts of the company are limited to the amount of their contribution to the capital of the company, provided that this amount has been mentioned in the memorandum of incorporation of the partnership. The authorized partners have to register the company the Commercial Register in accordance with the law. The liability of the limited partner remains limited as long as he does not participate in the management of the company or works on its behalf as an agent or in another capacity. The limited partner who participates in the management of the company or work on its behalf shall be responsible for the obligations arising from his work as a partner and he can be held responsible as an authorized partner for the rest of the company's debts.

93. *Joint Stock Companies:* These are companies whose capital is divided into shares of the same value that are traded at the exchange market. The liability of the shareholder is limited to the payment of the value of the shares they have subscribed for and they are not held accountable for the obligations of the company unless within the limits of the nominal value of the shares. These companies are composed of at least three persons and are registered at the Commercial Registrar of the Ministry of Commerce and Industry (MOCI).

94. *Limited Liability Companies:* These are companies whose capital is divided into equal shares that are untradeable at the exchange market. They are formed of at least two persons and their liability is limited to the nominal value of their shares. They are registered with the Commercial Registrar at the MOCI.

95. *Joint Ventures*: These are companies formed by at least two persons. They create legal ties among these persons but they do not have any impact on third parties. These companies do not have a commercial name and are not registered with the Commercial Registrar at the MOCI.

Legal arrangements

96. In Oman, *waqfs* are set up like Anglo-Saxon trusts, with the exception of the addition of a judge who supervises the particular trustee(s) and trust.

Non-profit legal entities

97. In Oman, there are four types of charities. All of these are governed by the civil association law, and all of these are generally known in Oman as (civil) associations: *i*) women associations (53); *ii*) professional associations (23); *iii*) clubs (9) and branches (3); *iv*) charities (14); and *v*) foundations (trust funds) (2).

1.5 Overview of strategy to prevent money laundering and terrorist financing

1.5.a AML/CFT Strategies and Priorities

98. At the time of the on-site, Oman had just issued the new AML/CFT Law (which replaced the 2002 AML Law) and was drafting the new incoming Executive Regulations to the AML/CFT Law (to replace the old outgoing Executive Regulations from 2004). The main purpose of this legal drafting exercise is to bring the AML/CFT framework of Oman in line with the most up-to-date version of the international consensus relating to the implementation of the FATF Recommendations. It is not known what the AML/CFT strategies and priorities will be for the authorities after the legal framework has been brought into place; however, the assessment team would advise the authorities to implement the few shortcomings identified in this evaluation report, and to expeditiously enhance the effectiveness of the system relating to some key and core FATF Recommendations.

1.5.b The institutional framework for combating money laundering and terrorist financing

99. The key government Ministries, regulatory and other authorities involved in combating ML or FT are set out below:

Ministries

Ministry of National Economy

100. The Ministry of National Economy (MONE) is responsible for proposing the development strategy and future trends for the national economy. MONE is also the head of delegation of Oman to the MENAFATF and FATF, and overall responsible for the implementation of the FATF Recommendations in Oman.

Ministry of Justice

101. The Ministry of Justice (MOJ) is responsible for legislation relating to the criminal code and code for criminal procedure. The MOJ is also responsible to judicial work such as evaluation, training of judges, supervising court affairs, and organize and manage the work of lawyers and notaries.

Ministry of Commerce and Industry

102. The Ministry of Commerce and Industry (MOCI) is responsible for the registration of all types of companies, whether they are Omani or branches of foreign companies. It is also responsible for the registration of relevant non-financial institutions. MOCI is also responsible for AML/CFT measures relating to DNFBPs.

Ministry of Foreign Affairs

103. The Ministry of Foreign Affairs (MOF) is responsible for formal international cooperation requests.

Ministry of Social Development

104. The Ministry of Social Development (MSD) is responsible for supervising all NPOs.

Policy coordination

The National Committee for Combating Money Laundering and Terrorist Financing

105. The National Committee for Combating Money Laundering and Terrorist Financing (National Committee) is a committee under the chairmanship of the Executive President of the Central Bank of Oman. This committee is the main responsible inter-agency body for implementing the FATF Recommendations. The National Committee is fully described in Section 6.1 of this report.

The Technical Committee for Combating Money Laundering and Terrorist Financing

106. The Technical Committee for Combating Money Laundering and Terrorist Financing (Technical Committee) mirrors the National Committee in membership and tasks, but it meets more often, elaborates more on policy options and prepares input for the National Committee's decision making process. One of the recent core tasks of the Technical Committee was the drafting of the new AML/CFT Law. The Technical Committee is chaired by the Director General of Economic Affairs of the MONE, who is also the head of delegation of Oman to MENAFATF and FATF. The Technical Committee is fully described in Section 6.1 of this report.

The National Committee for Combating Terrorism

107. The National Committee for Combating Terrorism is an operational and intelligence driven committee, chaired by the Assistant Inspector of Police and Customs. The Committee works with the National and Technical Committees (the chairs of each Committee are members of the other Committees). The National Committee for Combating Terrorism is fully described in Section 6.1 of this report.

Other authorities

Central Bank of Oman

108. The Central Bank of Oman (CBO) is responsible for maintaining the internal and external value of the national currency, the stability of Omani financial system, and for the supervision of banks, money exchange businesses, money transfer businesses and finance and leasing companies.

Capital Market Authority

109. The Capital Market Authority (CMA) is an administratively and financially independent body responsible for the supervision of insurance and security businesses, Muscat Securities Market, and Muscat Clearing and Settlement Company.

Law enforcement bodies*Public Prosecution Office*

110. The Public Prosecution Office (PPO) is a part of the judiciary. It is responsible for investigations and prosecutions. It is independent and leads the Royal Omani Police in its information gathering work.

Royal Omani Police

111. The Royal Oman Police (ROP) is the main law enforcement body in Oman. It includes Customs. The Inspector General of Police and Customs who is the General Commander of ROP appointed by the Sultan to command, manage, and supervise police force; however, in its daily work the ROP assists the prosecution in its investigations.

Financial Intelligence Unit

112. The Omani Financial Intelligence Unit is the FIU of Oman. For organizational purposes, the FIU is part of the ROP. However, for executing its functions it is operationally independent.

1.5.c Approach concerning risk¹¹

113. The authorities have a sufficient understanding of potential ML/FT risks in Oman as described in Section 1.2 of this report, and are aware that the ML/FT risk in Oman will increase as the economy further opens and develops. Relevant authorities are also aware of the fact that certain specific risks are low in Oman, such as regarding life insurance businesses which are almost non-existent in Oman. The authorities also take pride of the fact the Oman generally enjoys low levels of crime. However, this has not led to a limitation of the application of certain FATF Recommendations in Oman with respect to certain businesses or products, even where this would have been relatively easy to apply (see for example regarding notaries). On the other hand, Oman has identified higher risks in certain other areas (such as NPOs) and extended AML/CFT measures to these sectors. Oman is to be commended for this.

1.5.d Progress since the last mutual evaluation

114. Oman's AML regime was last assessed in June 2001 by a joint assessment of the FATF and the Gulf Co-operation Council (GCC), using a previous assessment methodology under the old FATF Standard (1998 FATF Recommendations) that only related to ML. According to the authorities, much progress has been made to deal with the recommendations contained in that assessment. This includes issuing an AML Law in 2002 (executive regulations in 2004), and AML/CFT Law in 2010. These laws expanded the criminalization of ML. The crime was no longer limited to laundering the criminal proceeds of illicit trade in narcotics but expanded to involve all types of offences punishable by Omani laws. The

¹¹ An important consideration underlying the FATF Recommendations is the degree of risk of money laundering or terrorist financing for particular types of financial institutions or for particular types of customers, products or transactions. A country may therefore take risk into account and may decide to limit the application of certain FATF Recommendations provided that defined conditions are met (see FATF Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations).

laws also include provisions and measures for tracking, seizure and confiscation of funds or the property associated with or arising out of ML. The laws also created a national AML/CFT Committee, responsible for further enhancing the AML/CFT system.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

2.1 Criminalisation of ML (R.1 & 2)

2.1.1 Description and Analysis

Recommendation 1

Legal Framework

115. Oman has developed the criminalisation of money laundering (ML) in three stages over the last 12 years. The first stage was an introduction of the Narcotics and Psychotropic Control Law (NPCL), issued by Royal Decree No. 17/99 in 1999, which criminalized ML of proceeds from the illicit narcotics or psychotropic trafficking (Articles 38 – 42). The second stage was an introduction of the Law on Money Laundering (former AML Law) issued by Royal Decree No. 34/2002 in 2002¹². The former AML Law broadened the scope of ML to the proceeds of any offence. The third and the most recent development is the introduction of the Anti-Money Laundering and Combating Financing Terrorism Law (AML/CFT Law) issued by Royal Decree No. 79/2010. The AML/CFT Law was issued on 28 June 2010, publicized by gazette on 3 July 2010, and entered into force on 4 July 2010. The AML/CFT Law, which is a replacement of the former AML Law, further broadened the scope by including TF, and covering non-financial institutions (non-FIs) and designated non-financial businesses and professions (DNFBPs). The NPCL is still in force, including the AML Provisions. However, the AML/CFT Law is the *lex specialis* and *lex posterior* for ML cases.

116. The former AML Law was supported by the Executive Regulation (ER) of the former AML Law issued under Royal Decree No.72/2004 dated 28/6/2004 (outgoing ER). This outgoing ER remains in force until the Executive Regulation to the AML/CFT Law (incoming ER) is enacted, unless the outgoing ER contravenes the AML/CFT Law (Article 4, Royal Decree 79/2010). At the time of the on-site visit, or during the 7 months thereafter, the incoming ER was not issued.

117. There are some differences in the criminalisation of ML between the former AML Law and the AML/CFT Law. The assessment of the compliance is based on the AML/CFT Law; however, as the differences between the former AML Law and the AML/CFT Law are minor, the former AML Law is taken into account for measuring effectiveness.

¹² Article 2 of the former AML Law (repealed) was translated as follows:

Any person who intentionally commits any of the following acts shall be deemed to have committed the offence of ML:

(a) Transfer or movement of property or conducting a transaction with the proceeds of crime knowing, or with reason to know, that such property is derived directly or indirectly from a crime or from an act or acts of participation in a crime, with the purpose of concealing or disguising the nature or source of such proceeds or of assisting any person or persons involved in a crime.

(b) The concealment, or disguise of the nature, source, location, disposition, movement, ownership and rights in or with respect of proceeds of crime, knowing or with reason to know, that such proceeds were derived directly or indirectly from a crime or from an act or acts of participation in a crime.

(c) The acquisition, receipt, possession or retention of proceeds of crime knowing, or with reason to know, that it was derived directly or indirectly from a crime or from an act or acts of participation in a crime.

Knowledge of the illicit source of the property shall be imputed unless the owner or possessor proves otherwise.

118. The Sultanate is party to the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention 1988) pursuant to Royal Decree No. 29/91 dated 26/2/1991 (date of accession: 15/3/1991) and to the UN Convention against Transnational Organized Crime (Palermo Convention 2000) pursuant to Royal Decree No. 37/2005 dated 12/4/2005 (date of accession: 13/5/2005).

Criminalization of ML (c. 1.1)

119. ML is criminalized under Article 2 of the AML/CFT Law¹³. The offense covers to a large extent the physical and material elements of the ML offenses as defined in the Vienna and Palermo Conventions. *Conversion or transfer* of proceeds is covered in Article 2(1), *disguising and concealing the movement of proceeds* is covered in Article 2(2), and *acquisition, possession or use* is covered in Article 2(3). However, the ML offense does not cover “the concealment or disguise of the disposition of property”. This act is not also captured by the definition of *transaction* (Article 1), as concealment or disguise of the disposition of property is different from the act of disposition of property itself.

120. *Knowledge* is covered in all three elements of article 2.

Property / definition of proceeds (c. 1.2)

121. The offence of ML extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime.

122. Property is defined in Article 1 of the AML/CFT Law and it includes “local currency, foreign currencies, financial and commercial instruments, any asset of value whether immovable or movable corporeal or incorporeal, and all the rights vested therein, deeds and documents evidencing all the above in any form including electronic and digital documents”. Proceeds of crime is defined in the same article as property directly or indirectly obtained from the commission of a crime. Moreover, the offence in Article 2 explicitly covers in all three sub articles proceeds that are “*obtained directly or indirectly from a crime, or any other act that constitutes a participation in a crime*”.

Predicate offences (c. 1.2.1)

123. Under the AML/CFT Law, conviction for a predicate offence is not a prerequisite to proving that property is the proceeds of crime. In fact, Article 21 provides that “*without prejudice to the provisions of Article 4 of the Penal Code, the Public Prosecution Office may investigate ML funds independently from the original crime.*”

¹³ Article 2 of the AML/CFT Law (in force) is translated as follows:

Any person who intentionally commits any of the following acts shall be deemed to have committed the offence of ML:

- 1) Exchange, transfer, or move property; conduct transactions with the proceeds of crime knowing that such property is derived directly or indirectly from a crime, or from an act or acts of participation in a crime with the purpose of disguising or concealing the nature and source of such proceeds or of assisting any person or persons involved in a crime, hinder the exposure of a person who has committed the crime from which the proceeds have been obtained, or aiding a person to evade the lawful punishment stipulated for his acts*
- 2) Disguise or conceal the nature, source, location, movement and ownership of the proceeds of the crime and the rights related or resulting therefrom knowing that such proceeds are derived directly or indirectly from a crime, or from an act or acts that constitute participation in a crime*
- 3) Acquiring, owning, receiving, managing, investing, guaranteeing, using, possessing or retaining the proceeds of the crime, knowing that they are obtained directly or indirectly from a crime or from an act or acts that constitute participation in a crime.*

124. The authorities indicated that the AML/CFT Law, like the former AML Law, does not require that a person is convicted of a predicate offence to prove that property is the proceeds of a crime, but that it is enough to provide evidence which prove that funds or property is proceeds of crime.

Predicate offenses (c. 1.3) (c. 1.4)

125. When criminalizing ML, the Sultanate has opted for an all offences approach, including all serious offences. The predicate offence for ML, as defined in Article 1 of the AML/CFT Law, covers “any act constituting an offence under the laws of the Sultanate enabling the perpetrator to obtain proceeds of a crime”. This definition is unchanged from the former AML Law. In addition, the outgoing ER, which is still valid, lists examples of predicate offences.

126. The following table shows all predicate offences that are listed as “designated predicate offences” by the FATF (Glossary to the FATF 40 Recommendations), and shows if and how these are designated as predicate offence under Omani law. As can be seen, Oman has covered all the designated predicate offences as listed by FATF. Due to the all crimes approach, more predicate offences are covered than this table shows.

Table 2. Predicate offences in Oman

| Designated categories of offences | Reference in Omani Law | Remarks |
|---|---|---|
| Participation in an organized criminal group and racketeering | Penal Code (PC) Articles 131 & 318 / PC Article 287(2) | |
| Terrorism, including TF | PC, Article 132 | |
| | AML/CFT Law, Article 3 | |
| | Terrorism Combating Law (TCL), Articles 1 – 3 | |
| Trafficking in human beings and migrant smuggling | PC, Article 323 | |
| | Anti-Human Trafficking Law, all articles | |
| Sexual exploitation, including sexual exploitation of children | PC, Articles 218 – 222 | |
| | Anti-Human Trafficking Law, all articles | |
| Illicit trafficking in narcotic drugs and psychotropic substances | Law of Narcotics and Psychotropic Control, Articles 43 – 44 | |
| Illicit arms trafficking | Weapons and Ammunitions Law, Article 23 | |
| Illicit trafficking in stolen and other goods | PC, Article 97 | |
| Corruption and bribery | PC, Articles 155 – 161 | Corruption definition is mostly consistent with UNCAC definition. However, it does not cover the bribery of foreign public officials and officials of public international organizations (Article 16-1 UNCAC) |
| Fraud | PC, Articles 288 – 289 | |
| Counterfeiting currency | PC, Article 194 | |

| Designated categories of offences | Reference in Omani Law | Remarks |
|--|---|---------|
| Counterfeiting and piracy of products | Law of the Protection of Intellectual Property, Chapter 14 | |
| Environmental crime | Law on Conservation of the Environment and Prevention of Pollution, Chapter 3 | |
| Murder, grievous bodily injury | PC, Articles 235 – 251 | |
| Kidnapping, illegal restraint and hostage-taking | PC, Articles 256 – 259 | |
| | TCL, Article 5 | |
| Robbery or theft | PC, Articles 278 – 284 | |
| Smuggling | GCC Common Customs Law and its Executive Regulation, Articles 142 – 146 | |
| Extortion | PC, Article 287 | |
| Forgery | PC, Articles 199 – 208 | |
| Piracy | PC, Article 285 | |
| Insider trading and market manipulation | Capital Market Law, Article 64 / PC, Article 295 | |

Foreign predicate offences (c. 1.5)

127. The AML/CFT Law defines the predicate offence for ML as “any act constituting an offence under the laws of the Sultanate enabling the perpetrator to obtain the proceeds of a crime.”

128. The AML/CFT Law does not require that the predicate offense be committed domestically and the authorities confirmed that it’s sufficient that the latter offence would constitute an offense under Omani law had it occurred domestically.

Self laundering (c. 1.6)

129. Self laundering is criminalized under Omani legislation. Article 30 of the AML/CFT Law, states that the sentence for ML will be doubled if the offender is a participant (original offender or accomplice) in the predicate offence from which the proceeds subject to the ML offence have been obtained. It is also worth mentioning that the Head of the PPO has issued a Judicial Circular No. 7/2009 dated 27/5/2009 instructing prosecutors, upon investigating the crimes that result in financial proceeds, to investigate the disposition of these proceeds. If the investigation reveals that an accused person has concealed the nature and source of these proceeds, the person should be charged with ML crime in addition to the original crime.

Ancillary offences (c. 1.7)

130. Article 5 of the AML/CFT Law broadly criminalizes ancillary offences of ML. Any person who has initiated, participated, instigated, assisted, or agreed to commit ML or terrorism financing crime is to be penalized, and the person is considered as an original perpetrator.

131. The penalty for these ancillary offences is imprisonment of not less than 3 years but not more than 10 years, and a fine of not less than OMR 5 000 but not more than the equivalent amount of money subject to ML (Article 27).

132. With respect to other ancillary offences to ML, the Penal Code (PC)'s general rules (*Penal Liability and Punishment, Chapter III*) equally apply. The PC provides for several forms of participation that are applicable to all crimes, including ML. Association with or conspiracy to commit, aiding and abetting, facilitating, and counseling the commission of an offence are all covered by Articles 93 – 96 of the PC.

Additional elements (c. 1.8)

133. One of the conditions required by Article 12 of the PC in order to apply the Omani legislation to a foreigner that commits abroad a felony or misdemeanor punishable by Omani laws, and who is thereafter present in Oman, is that the law of the state where the crime is committed requires a sentence amounting to three years imprisonment.

134. Although this general principle does not provide a clear answer to the additional element, it is an indicator that in the absence of dual criminality, Omani legislation seems not to be applicable to ML offences where the proceeds of crime are derived from conduct that occurred in another country, which is not an offence in that other country but which would have constituted a predicate offence had it occurred domestically.

135. However, the Omani authorities indicated that for ML to be proven it is not necessary to prove the predicate offence and hence it is not relevant in which jurisdiction the predicate offence was committed, and if the conduct is punishable in the jurisdiction where it was committed, as long as it is criminalized in Oman.

Recommendation 2

Natural persons that knowingly engage in ML activities (c. 2.1)

136. According to the PC, one of the incrimination conditions is the existence of the crime elements consisting of the *will* and the material act. The moral crime element related to premeditated crimes is the *criminal intent* and, in cases stipulated in special legislation, the *motive* (PC, Article 78).

137. In the case of ML under the AML/CFT Law, the *mens rea* requirements are differentiated according to the *modus operandi* of the ML offense. ML pursuant to Article 2 of the AML/CFT Law requires intentional commission (*intentionally*) of the act by the perpetrator and whereas Paragraphs 2 (disguise or conceal) and 3 (acquiring, owning, receiving, managing, investing, guaranteeing, using, holding or keeping) of Article 2 require only the *criminal intent*, Paragraph 1 (exchange, transfer, or move property; conduct any transactions) requires in addition to the criminal intent, a *special motive* (disguise or conceal the nature and source of these proceeds, help any accomplice(s) in a crime, hinder the exposure of a person who has committed the crime from which the proceeds have been obtained, or help a person escape the legal penalty fixed for his acts). All this is in line with the FATF Recommendations¹⁴.

¹⁴ It should be noted that the *mens rea* in the former AML Law was broader than that required by the Vienna and Palermo Convention, because it also included *dolus eventualis*. In fact, Article 2 also provided for criminal liability of negligent ML since the perpetrator was held responsible if he knew, or *had reasons to know*, that the proceeds were derived directly or indirectly from a crime or from an act or acts of participation in a crime. This considerably lightened the burden of proof placed on the prosecution and went beyond the requirements of FATF.

Inference from objective factual circumstances (c. 2.2)

138. As with all other offences in Oman, the law permits the intentional element of the offence of ML to be inferred from objective factual circumstances (Article 215 CPL). Moreover, the Supreme Court has established a principle stating that “criminal intention, when hidden, can be inferred from the circumstances surrounding the incident”¹⁵. In addition, for confiscation sentences (which are directly linked to ML cases due to their mandatory character), the court does not have to bear the burden of demonstrating actual knowledge of the illicit nature of the proceeds since Article 35 of the AML/CFT Law states that a ruling for the confiscation has to be issued unless the accused person proves that he has obtained the funds legitimately and that he has been unaware it was the source of ML or terrorism financing crime¹⁶.

Liability of legal persons (c. 2.3)

139. It seems that Omani legislation does not adopt the principle of criminal liability of legal persons. The PC only refers to natural persons, and not legal persons. The Commercial Companies Law does not stipulate sanctions for commercial companies either, but only for chairmen, directors, managers and the like (Articles 170-171).

140. It should be noted that the criminalisation of ML in Article 2 of the AML/CFT Law covers *any person*, and the definition of *person* as drawn by Article 1 clearly covers *natural* and *juristic* (legal) *persons*.

141. On the other hand, Article 5 (criminalisation of ML by FIs, DNFBPs and NPOs) and Article 33 of the AML/CFT Law (sentences for FIs, DNFBPs and NPOs for breaching Article 5) are limited to FIs, DNFBPs and NPOs. It should also be noted that the definition of FIs, DNFBPs and NPOs pursuant to Article 1 does not cover all legal persons. Also, the information provided by the government in the mutual evaluation questionnaire (MEQ) focuses mostly on these designated entities, without making a reference to the much broader definition of *person* in Article 1.

142. Overall, and despite the definition of person in Article 1, the evaluation team is of the view that criminal liability for ML does not extend to all legal persons, but only to FIs, DNFBPs and NPOs within the limits of the AML/CFT Law.

Parallel criminal, civil or administrative proceedings (2.4)

143. Making legal persons subject to criminal liability for ML does not preclude the possibility of parallel criminal or administrative proceedings, when such form of liability is available. This view was shared by the authorities during the on-site visit and is supported by examples. For instance, Article 14 of the Banking Law allows the CBO to impose administrative sanctions in additions to criminal sanctions of the AML/CFT Law. Another example is Article 47 of the Civil Associations Law which empowers the Minister of the Social Development to dissolve civil associations when violating

Recommendations especially that Article 2 also stated that the *knowledge of the illicit source of the property shall be imputed unless the owner or possessor proves otherwise*. Unfortunately, these provisions were not taken onboard in the current AML/CFT Law.

¹⁵ Decision No. 287 dated 30/12/2003.

¹⁶ Article 2 of the former AML Law clearly stated that the *knowledge of the illicit source of the property shall be imputed unless the owner or possessor proves otherwise*.

public order (which includes the AML/CFT Law), while the PPO can nonetheless prosecute the NPO for ML under the AML/CFT Law.

144. Notwithstanding these possibilities to use parallel action against FIs, DNFBPs and NPOs, for any other legal entity, there is a lack of criminal liability and a lack of other proceedings.

Sanctions for ML (c. 2.5)

145. The Omani authorities have a wide range of sanctions available to punish for ML. Ordinary ML is punishable by 3 (minimum) to 10 (maximum) years imprisonment, and a fine of OMR 5 000 (minimum) to the amount laundered (maximum). These sentences apply also in the case of attempt (AML/CFT Law, article 27).

146. The sentences are doubled to 6 (minimum) to 20 (maximum) years imprisonment, and a fine of OMR 10 000 (minimum) to twice the amount laundered (maximum) in case where: *i*) the ML is committed in conjunction with another person, *ii*) the offender commits the crime through an organized criminal organisation, *iii*) the crime was committed as part of or combined with other crimes, *iv*) the offender has committed the crime by taking advantage of his professional powers, or *v*) the offender is involved as perpetrator or accomplice in the predicate offence that generated the proceeds that were laundered. These sentences also apply in the case of attempt (AML/CFT Law, article 30).

147. The AML/CFT Law provides that the sanctions in the AML/CFT Law are only applicable if no other higher sanction is available (Article 26). For instance, ML resulting from the illicit narcotics or psychotropic trafficking is punishable by minimum 5 years imprisonment (Article 60 of the Law of Narcotics and Psychotropic Control).

148. Article 5 of the AML/CFT Law specifically refers to the fact that FIs, DNFBPs and NPOs are liable for ML if the ML is committed in their name or on their behalf. The specific sanctions are listed in Article 33 and include (among others): *i*) a fine between OMR 10 000 (minimum) and the amount laundered (maximum), *ii*) publication of the conviction in the press at the expense of the FI, DNFBP or NPO, *iii*) revocation of the license, *iv*) suspension of the license for a maximum of one year, *v*) closure of the institution for a specific time or permanently, *vi*) specific bans on specific activities, and *vii*) judicial supervision.

149. The imprisonment sanctions described in the AML/CFT Law for natural persons appear to be dissuasive and proportionate, especially when compared with provisions for other proceeds-generating crimes in Oman (from 3 months to 2 years for fraud; from 6 months to 2 years for market manipulation; from 3 months to 10 years for corruption; from 3 month to 10 years for embezzlement). Sanctions for legal persons stipulated in Article 33 appear also to be dissuasive and proportionate, considering that the Omani legislation in general as mentioned before does not adopt the principle of criminal liability of legal persons in other offences.

150. Fines for ML imposed on natural and legal persons are maximized to the amount of proceeds involved along with the confiscation of criminal properties and proceeds (Article 35), which increases their dissuasive character. See Section 2.3 of this Report for more details on the confiscation provisions. ML crimes are excluded from the provisions related to the extinguishment of the public lawsuit (Article 36). The AML/CFT Law also contains sanction provisions applicable to FIs, DNFBPs and NPOs for non-reporting of suspicious transactions (Article 28, see Section 3.7 of this Report), non-compliance with specific CDD requirements (Article 32, see Section 3 and 4 of this Report), and non declaration of cash at the border (Article 34, see Section 2.7 of this Report).

151. Sanctions for ancillary offenses appear also to be dissuasive and proportionate since Article (5) of the AML/CFT Law considers any person who has initiated, participated, instigated, assisted, or agreed to commit ML or terrorism financing crime as an original perpetrator. For other ancillary offenses, Articles 93 - 96 of the PC are applied and they also appear to be dissuasive and proportionate.

152. Finally, Article 38 of the AML/CFT Law provides that any perpetrator, who informs the authorities of a ML crime and of the persons involved in that crime before these authorities have any knowledge of the crime, is exempted from any penalty.

153. However, at this stage, the dissuasive effect is greatly diminished by the lack of effective imposition of these penalties.

Statistics (Recommendation 1 and 2)

154. The authorities provided three sets of statistics. The first table provides an overview of the number of crimes and criminals for some offences (including ML). The second table shows the number of convictions for crimes in Oman, and the third table shows the number of ML cases handled by the PPO.

Table 3. General ROP statistics for some offences (2009)

| Offences | No. of crimes | No. of criminals |
|--------------------------------------|---------------|------------------|
| Theft and attempted Theft | 10 488 | 3 171 |
| Breach of trust | 476 | 552 |
| Narcotics | 688 | 1 048 |
| Fraud | 807 | 622 |
| Currencies forgery and promotion | 51 | 63 |
| Illegal trading of liquor, smuggling | 143 | 210 |
| Bribery | 20 | 34 |
| Embezzlement | 3 | 5 |
| Human trafficking | 2 | 14 |
| ML ¹ | 1 | 7 |

Table Note:

1. In 2009, one ML crime appeared for the first time in ROP criminal records.

Table 4. Convictions for crimes 2006-2009

| Offence | 2006 | 2007 | 2008 | 2009 | Total |
|-----------------------------------|------|------|------|------|-------|
| Murder | 4 | 9 | 8 | 16 | 37 |
| Theft | 58 | 70 | 86 | 81 | 295 |
| Forgery | 5 | 6 | 15 | 18 | 44 |
| Drugs | 11 | 8 | 17 | 31 | 67 |
| Grievous bodily injury | 19 | 37 | 25 | 18 | 99 |
| Shooting | 2 | 5 | --- | 2 | 9 |
| Robbery | 9 | 19 | 14 | 36 | 78 |
| Weapons trafficking | 1 | --- | --- | --- | 1 |
| Promotion of counterfeit currency | 1 | -- | 6 | 1 | 8 |

| Offence | 2006 | 2007 | 2008 | 2009 | Total |
|--|------------|------------|------------|------------|------------|
| Arson | --- | 1 | 1 | --- | 2 |
| Mischief | --- | 1 | 1 | --- | 2 |
| Driving under the influence of alcohol | --- | 1 | --- | --- | 1 |
| Bribery | --- | 1 | 1 | 1 | 3 |
| Kidnapping | --- | 1 | 1 | 2 | 4 |
| Embezzlement | --- | --- | --- | 1 | 1 |
| Slander | --- | --- | --- | 1 | 1 |
| Trafficking in human beings | --- | --- | --- | 1 | 1 |
| Total | 110 | 159 | 175 | 209 | 653 |

Table 5. ML cases through PPO and courts, all years

| ML cases handled by the PPO | | | | | | ML cases handled by the courts | | | |
|-----------------------------|-----------------------|-------|---------------------|--------------|-----------------------|--------------------------------|------------|-----------|---------|
| STR referred by the FIU | Cases referred by ROP | Total | | | | Cases | Conviction | Acquittal | Ongoing |
| | | | Under investigation | Left on file | Referred to the court | | | | |
| 28 ¹ | 1 | 29 | 10 | 6 | 13 | 13 | 2 | 2 | 9 |

Table Note:

1. See Section 2.5 of this Report for a detailed breakdown of the 28 STRs.

Effectiveness

155. While the ML criminalisation is largely in line with the FATF requirements, questions can be raised in regard to its effective implementation. One issue is that the number of convictions for ML is extremely low in comparison with the number of investigations and convictions for the predicate offenses that generate illicit proceeds, particularly drug-related offenses.

156. Since the criminalisation of ML in 2002, only 4 ML cases have been judged and 2 convictions for ML were obtained. The first was in 2009 with 10 years imprisonment while the second in 2010 with 5 years imprisonment. In both cases, the court decided to confiscate the revenues from the proceeds of the ML crime that are more than the properties of the accused. In two other cases, the indicted persons were acquitted. Currently, 9 cases are under hearing and 10 others are under investigation by the PPO.

157. Moreover, most of ML cases originate as suspicious transactions that were referred to the PPO. Only one case was referred by the ROP.

2.1.2 Recommendations and Comments

158. In order to comply with Recommendations 1 and 2, Oman should:

Recommendation 1

- Greatly enhance the number of ML cases handled by ROP, PPO and the courts to increase the effectiveness of the ML criminalisation.
- Amend the ML definition to cover “the concealment or disguise of the disposition of property”.

- Enact the incoming ER as soon as possible.

Recommendation 2

- Extend criminal liability for ML to all legal persons. Otherwise, in case a fundamental legal principle would prevent this, extend civil or administrative liability to persons not subject to criminal liability.
- Greatly enhance the number of ML cases handled by ROP, PPO and the courts to increase the effectiveness of the ML criminalisation.

2.1.3 Compliance with Recommendations 1 & 2

| | Rating | Summary of factors underlying rating |
|------------|---------------|--|
| R.1 | LC | <ul style="list-style-type: none"> • Low number of convictions for ML compared to the number of criminal investigations for predicate offenses that generate proceeds. • ML offence does not cover “the concealment or disguise of the disposition of property”. |
| R.2 | LC | <ul style="list-style-type: none"> • Criminal liability for ML does not extend to all legal persons. • Low number of convictions for ML compared to the number of criminal investigations for predicate offenses that generate proceeds. |

2.2 Criminalisation of TF (SR.II)

2.2.1 Description and Analysis

Special Recommendation II

The TF offence

159. The Omani legal framework for TF is based on the AML/CFT Law, the Terrorism Combating Law (TCL) issued by Royal Decree No. 8/2007 dated 22 January 2007, and the PC.

Characteristics of the TF offences (c. II.1.a)

160. Article 3¹⁷ of the AML/CFT Law provides for most of the elements needed to criminalize TF. The article covers any person, who collects or provides funds directly or indirectly and by any means while being consciously aware that they will be used wholly or in part in financing *i)* terrorism, *ii)* terrorist crimes and *iii)* terrorist organizations.

¹⁷ Article 3 of the AML/CFT Law was translated as follows:

Any person who collects or provides funds directly or indirectly and by any means while being consciously aware that they will be used wholly or in part in financing any of the following shall be considered as a perpetrator of terrorism financing crime:

1) Terrorism, terroristic crime or terroristic organization.

2) Perpetration of an act that constitutes a crime under the conventions or treaties related to combating terrorism and to which the Sultanate is a party and whether this crime takes place inside or outside the Sultanate.

The crimes covered in this article shall not include the cases that involve struggle, by whatever means, against foreign occupation, aggression for liberation and self-determination in accordance with the principles of international law.

161. Terrorism, terrorist crimes and terrorist organizations are defined in Article 1 of the TCL¹⁸, and linked to TF through Article 1 of the AML/CFT Law.

162. However, this definition of TF in the TCL does not cover the financing of an *individual terrorist*. Hence, the offense of TF is not entirely consistent with SRII in the sense that it does not fully cover the financing of an individual terrorist regardless of whether that financing is for criminal activities, legal activities or general support. The provision/collection of funds for an individual terrorist would not amount to a criminal offense unless it can be established that the perpetrator was consciously aware that the funds will be used wholly or in part in financing of a terrorist act.

163. Furthermore, the definition of terrorist act pursuant the TCL is not fully consistent with the provisions of the TF Convention. *Terrorism* as defined by Article 1 of the TCL does not cover the situation where the purpose behind the terrorist acts is to compel a government or an international organization to do or to abstain from doing any act.

164. The AML/CFT Law in Article 3(2) specifically criminalizes all acts that constitute a crime under the UN Conventions related to terrorism and to which the Sultanate is a party. It should be noted that, for compliance with this Special Recommendation, it is not necessary to sign, ratify and implement these Conventions, but it is necessary to criminalize the relevant conduct.

165. Oman has accessed to all of the conventions listed in the annex of the TF Convention except for the International Convention for the Suppression of Terrorist Bombings. Moreover, acts that constitute an offence within the scope of and as defined in seven of the nine treaties listed in the annex of the TF Convention are criminalized as terroristic crimes pursuant the TCL. Acts that are not covered are those targeted by the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

166. Although the Sultanate has not yet accessed to the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997, financing of such acts is criminalized since they are designated as *terroristic crimes* pursuant the TCL.

¹⁸ Article 1 of the TCL was translated as follows:

For the purpose of this Law, the following phrases and words shall have the meanings hereby respectively assigned to them unless otherwise required by the context:

Terrorism: *Violence or the threat of violence that takes place in application of an individual or collective culprit project implemented for a terroristic purpose. The purpose shall be terroristic if it aims to spread terror among the population or intimidate them by threatening to harm them or endanger their lives, honors, freedoms, security, or rights; damaging the environment, public or private facilities or properties or seizing them; endangering national resources; threatening regional safety or security of the Sultanate or its political unity or sovereignty; hindering or preventing its public authorities from practicing their functions; or hindering the enforcement of the provisions of the Basic Law of the State, laws or regulations.*

Terroristic Crime: *Any and each action, attempt, or participation thereof committed for a terroristic purpose.*

Terroristic Organization: *Any and each society, authority, association, center, group, gang, or a similar entity, whatever its name or form may be and any branch thereof, created for a terroristic purpose.*

167. The material element of the TF offense as defined by Article 3 of the AML/CFT Law (*while being consciously aware*) is wide enough to adequately cover the material elements set out in Article 2, paragraphs 1, a and b of the UN TFC.

168. It should be noted that Article 3 of the AML/CFT Law excludes struggle against foreign occupation, or aggression for self-determination and liberation, in line with the principles of international law. This exemption is not further defined, nor is any jurisprudence available to assess this. However, the exemption seems not to be overly broad.

Definition of funds (c. II.1.b and c)

169. *Funds* are defined in Article 1 of the AML/CFT Law. The definition does not exactly mirror the definition of funds in Article 1 of the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (TF Convention) and does not explicitly target *funds whether from a legitimate or illegitimate source*, however its language indicates that no limitation applies and is broad enough to be in line with the standard on this point. This view was shared by the authorities during the on-site visit.

170. From the language of Article 3(1) of the AML/CFT Law it follows that the mere act of financing a terroristic organization constitutes a criminal offense and that it is not required that the support provided to a terrorist organization is actually used to carry out or attempt a specific terrorist act, or that the support is linked to a specific terrorist act.

171. Moreover, the judges met by the assessors also confirmed that the offense does not require that the funds be linked to a specific terrorist act, nor that a terrorist act is committed or even attempted; and that it is sufficient that the funds are provided or collected while being consciously aware that they will be used for TF purposes.

Ancillary offences and UN Conventions (c.II.1d and e)

172. Omani law considers that an attempt to carry out a crime is equal to carrying out of the crime, and this also applies to TF (PC, Articles 85 – 86). In addition, attempt to commit TF is criminalized through Articles 5 and 31 of the AML/CFT Law. These articles, in addition to Article 12 of the TCL, also cover initiation, participation, instigation, assistance and agreement to commit TF. Attempt and participation are also criminalized through Article 1 of the TCL. Finally, the PC in Articles 93 – 96 covers association with or conspiracy to commit, aiding and abetting, facilitating, and counseling the commission of an offence.

TF as a predicate offence for ML (c.II.2)

173. The offence of TF is a predicate offence caught by the “all offences” approach used for the ML offence in the AML/CFT Law.

Jurisdiction over TF offences (c.II.3)

174. TF offenses apply regardless of whether the person alleged to have committed the offense(s) is in the same country or a different country than the one in which the terrorist(s)/terrorist organization(s) is located or the terrorist act(s) occurred/will occur. However, the minimum imprisonment period in this case is lowered to 5 years (TCL, Article 8).

Inference from objective factual circumstances (applying c. 2.2 in R.2. c.II.4)

175. As in all offences, the law permits the intentional element of the offence of TF to be inferred from objective factual circumstances (Article 215 CPL). Moreover, the Supreme Court has established a principle stating that “criminal intention, when hidden, can be inferred from the circumstances surrounding the incident”¹⁹. In addition, for confiscation sentences (which are directly linked to TF cases due to their mandatory character), the court does not have to bear the burden of demonstrating actual knowledge of the illicit nature of the proceeds since Article 35 of the AML/CFT Law states that a ruling for the confiscation has to be issued unless the accused person proves that he has obtained the funds legitimately and that he has been unaware it was the source of ML or terrorism financing crime²⁰.

Criminal liability for legal persons (applying c. 2.3 & 2.4 in R.2 c.II.4)

176. Under the AML/CFT Law, criminal liability for legal persons does not extend to legal entities other than FIs, DNFBPs and NPOs. See on R2 in Section 2.1 of this report.

177. In addition to the overall framework, Article 17 of the TCL contains a provision that legal persons can be sentenced if it is proven that a terroristic crime was perpetrated in the name of the legal entity or in its interested, by its representatives, managers or agents to confiscation. The sentence would be dissolution of the legal entity, closure of its premises, and confiscation of the TF-related funds.

Sanctions for TF (applying c. 2.5 in R.2 c.II.4)

178. The Omani authorities have a wide range of sanctions available to punish for TF. The AML/CFT Law provides that the sanctions in the AML/CFT Law are only applicable if no other higher sanction is available (Article 26). Also the TCL contains a range of penalties.

179. Ordinary TF is punishable by a minimum of 10 years imprisonment (the maximum is not specified), and a fine of OMR 10 000 (minimum), and the (equivalent) amount of the money used to finance terrorism (maximum). These sentences apply also in the case of initiation (attempt) or participation (AML/CFT Law, article 31).

180. Article 5 of the AML/CFT Law specifically refers to the fact that FIs, DNFBPs and NPOs are liable for TF if the TF is committed in their name or on their behalf. The specific sanctions are listed in Article 33 and include a fine from OMR 10 000 (minimum) up to the amount laundered (maximum), publication of the conviction in the press at the expense of the FI, DNFBP or NPO, revocation of the license, suspension of the license for a maximum of one year, closure of the institution for a specific time or permanently, specific bans on specific activities, judicial supervision (etc).

181. The TCL also provides for sanctions in case of providing funds (or other support) to a terrorist organisation. The sentence in this case is imprisonment for a maximum of 10 years (TCL, Article 3B).

182. Finally, Article 38 of the AML/CFT Law provides that any perpetrator, who informs the authorities of a TF crime and of the persons involved in that crime before these authorities have any knowledge of the crime, is exempted from any penalty.

¹⁹ Decision No. 287 dated 30/12/2003.

²⁰ Article 2 of the former AML Law clearly stated that the *knowledge of the illicit source of the property shall be imputed unless the owner or possessor proves otherwise*.

183. The evaluation team considers all these sanctions dissuasive and proportionate. However, as with ML sanctions, the lack of use (see below on statistics) makes it difficult to establish that the sanctions are effective.

Statistics

184. The authorities stated that there are no investigations, prosecutions or convictions relating to TF.

Effectiveness

185. There have been no TF cases, and it is early to assess whether the offence is effectively implemented under the AML/CFT Law. However, the vulnerability that the TF definition in the AML/CFT Law does not cover the financing of an individual terrorist, nor the situation where the purpose behind the terrorist act is to compel a government or an international organisation to do or to abstract from doing any act, could be potentially abused and significantly undermine the effective criminalisation of TF.

186. The lack of an ER which corresponds to the AML/CFT Law also undermines the entire legal framework of AML/CFT.

2.2.2 Recommendations and Comments

187. In order to comply with SR.II, Oman should:

- Broaden the definition of TF to cover the financing of an individual terrorist.
- Broaden the definition of terrorist act to cover the situation where the purpose behind the terrorist acts is to compel a government or an international organization to do or to abstain from doing any act.
- Introduce the incoming ER as soon as possible.

2.2.3 Compliance with Special Recommendation II

| | Rating | Summary of factors underlying rating |
|-------|--------|--|
| SR.II | LC | <ul style="list-style-type: none"> • TF definition does not cover the financing of an individual terrorist. • Terrorist act's definition is not fully consistent with Article 2, Paragraph 1(b) of the UN TFC. • Effectiveness cannot be established. |

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

Recommendation 3

188. The freezing, seizing and confiscation of proceeds of crime in Oman are governed by four key pieces of legislation: the PC, the Criminal Procedure Law (CPL), the AML/CFT Law and the TCL. The PC/CPL apply to all offences and in all cases, however, in AML/CFT cases, the AML/CFT Law and TCL take priority (*lex specialis derogat lex generalis*).

Property subject to confiscation (c.3.1 & c.3.1.1)*Proceeds and instrumentalities*

189. Pursuant to Article 52 of the PC, in case of conviction, the judge may order the confiscation²¹ of the seized items which were used or prepared for use in a crime, and those usurped due to or resulting from such a crime.

190. Moreover, a number of specific laws includes provisions about confiscation of proceeds of predicate offences, such as the Law of Narcotics and Psychotropic Control (Articles 58, 59, and 60); the Weapons and Ammunitions Law (Article 26); and the Anti-Human Trafficking Law (Article 14).

191. In addition to the general confiscation provisions of the PC, the AML/CFT Law provides for specific mandatory confiscation provisions (Articles 35 – 37). Confiscation has to be ordered by the courts, even if not requested by the PPO. See also Sections 2.1 (Sanctions for ML) and 2.2 (Sanctions for TF) of this report. These provisions in the AML/CFT Law are a copy of the narrower previous confiscation provisions in the former AML Law (which only targeted ML proceeds and profits in Article 18).

192. Under the current AML/CFT Law, funds and property subject of ML or TF crimes, the instrumentalities and means used, and income and revenues derived from it are subject to confiscation. This provision targets the funds subject to confiscation of the convicted person, his relatives and third parties. The funds and property are assumed to be connected to ML or TF crime, unless otherwise proven. The article also covers funds and property that was mixed with legitimate funds and property. Only the illegitimate part is subject to confiscation (AML/CFT Law, Article 35).

193. The language used by the provision requires the conviction of the offender as a condition for the confiscation of profits. However, in case the lawsuit is extinguished (because of death of the accused, amnesty, etc) the law would still enable the confiscation of the proceeds of crime without a conviction. This resembles non-conviction based confiscation systems (also known as civil confiscation); however, it is based on the principle in Islamic law that the proceeds become tainted by the crime they are generated with (AML/CFT Law, Article 36 and PC, Article 15).

194. Other specific provisions can be found in the TCL (Article 17), which orders the confiscation of the funds and items related to the crime if it is proved that the representatives, managers or agents of that juristic person have committed or contributed to the committing of TF. This article also includes provisions to deal with missing of illegal and legal proceeds, and equivalent value confiscation.

Equivalent / corresponding value confiscation

195. With respect to the PC, Article 54 indicates that if the assets that should be confiscated are not already seized, the suspect or convicted person will be ordered to deliver the assets, at the risk of paying twice the value of the assets. The value is determined directly by a judge, or by an expert.

196. Regarding equivalent value confiscation in ML and TF cases, Article 36 of the AML/CFT Law provides that in case the proceeds of ML/TF crimes cannot be confiscated, or could be

²¹ English translations of Omani laws often use the term seizure, but the Arabic version, which is the only legally binding, uses the term confiscation.

confiscated but are in the possession of a third party acting in good faith, the court can levy a fine of corresponding value. Article 17 of the TCL equally contains an equal value provision.

Provisional measures (c. 3.2)

197. Provisions for seizure for predicate offences are found in the CPL (Article 88 – the English translation use the term confiscate). Moreover, there are provisional measures in the AML/CFT Law and TCL but these only apply to freezing and seizing in AML/CFT cases.

198. The AML/CFT Law authorizes the PPO to take all necessary measures, including the seizure and freezing of funds that are subject to ML and TF crimes and profits thereof. If the decision is appealed before a criminal court, the court may rule a freezing until a ruling is issued in the related ML/TF lawsuit. This appeal and the ruling take place *in camera* (i.e. without public). Freezing is defined in Article 1 of the AML/CFT Law as a temporary ban on the transfer, conversion, replacement or disposal of funds pursuant to an order from a competent judiciary authority. The PPO may make such a request also on request of a foreign party (see Section 6.3 of this Report for mutual legal assistance in confiscation cases).

199. The FIU is also allowed to order the freeze of an AML/CFT related transaction in case of a suspicion. The freeze cannot last longer than 48 hours, unless the PPO grants a 10 days extension in case the FIU can present evidence of suspicion (AML/CFT Law, Article 9)

200. Specifically in TF cases, Article 22 of the TCL provides that if there is sufficient proof of suspicion of a terrorist crime, the PPO can ban the suspect temporally from managing his funds (or those of his spouse and kids).

Ex parte application for provisional measures (c. 3.3)

201. Neither the AML/CFT Law nor the CPL prevents confiscation from being made *ex-parte* or without prior notice. Article 20 of the AML/CFT specifically indicates that grievances against the order can be made to the court, but that is only after the order would have executed.

Powers to trace property (c.3.4)

202. The CPL provides the PPO with a wide range of powers for the identification and tracing of property subject to confiscation. This is complemented by the AML/CFT Law.

203. Under the PC, confiscation constitutes an incidental consequence of a criminal act. As a result the entire range of investigative techniques of the CPL is available for investigating the matter to the extent that it also applies to the preconditions of these incidental consequences. Thus, Omani competent authorities have a comprehensive repertoire of investigative techniques at their disposal for ascertaining the origin and ownership of property that could be subject to confiscation.

Bona fide third parties (c. 3.5)

204. The rights of bona fide third parties are protected from any confiscation measures pursuant to Article 52 of the PC (“*with no prejudice to the bona fide third party*”); Article 35 of the AML/CFT Law (“*unless he proves that he has obtained the same legitimately and that he has*

been unaware it was the source of a ML/TF crime” and “unless the parties concerned establish they have acquired them from a legitimate source”); Article 36 of the AML/CFT Law (“the court shall order the forfeiture of funds subject of ML/TF crimes or impose an additional fine equivalent to the value [...] in the case of disposing of the same to others in good faith”); and Article 17 of the TCL (“without compromising others’ rights in good faith”). In addition, Article 20 of the AML/CFT Law and Article 23 TCL provide the possibility for bona fide third parties to file a grievance against provisional measures.

Authority to void actions and contracts (c.3.6)

205. Article 37 of the AML/CFT Law clearly states that without prejudice to others' rights, each contract or conduct whose parties or one of them have been aware or have had reason to believe that the purpose of the same is to prevent the forfeiture of instrumentalities or proceeds relating to original crimes or to ML or terrorism financing crimes shall be null and void.

206. Moreover, despite the fact that the Sultanate currently does not have a Civil Code, the judges met by the team confirmed that as a general rule, a judge has the power to void contracts which violate existing (statutory) laws or which are *contra bonos mores*.

Additional elements

207. Article 318 of the PC criminalizes membership of a criminal organisation if the purpose of the organisation is to commit transnational organized crime. Article 2 of the TCL criminalizes membership of a terroristic organisation. In these two cases, confiscation of property belonging to criminal organizations can be pronounced *malum in se* (evil in itself). In other circumstances, there is no legal basis for the confiscation of property of organizations that are found to be primarily criminal.

208. According to Article 35 of the AML/CFT Law, an order shall be issued for the confiscation of the property unless the parties concerned establish they have acquired them from a legitimate source. This reverses the burden of proof (*proof onus reversal*). In this case there is no need for the prosecutor to prove that the money is the proceeds of a specific offense.

Statistics

209. The authorities report 6 seizure cases. In all of these six cases, the authorities seized companies, equipments, vehicles, golden sets and real estate, and froze accounts of the suspect(s), their company and/or relatives. It is unknown in which years these seizures took place and what the value is of the seized amounts, but according to the authorities all 6 seizures relate to ML.

210. So far, there are only 2 convictions for ML that were obtained in Oman. In both cases, the court decided to confiscate the surplus revenues from the proceeds of the ML crime that are more than the properties of the accused (see Section 2.1 of this Report). However, no additional information about the amount of the confiscated assets was communicated to the evaluation team.

211. As for TF, there were no related cases and thus no related confiscation in Oman.

212. Authorities provided the evaluation team with statistics related to confiscation in terms of crimes, amounts or properties confiscated in relation to predicate offences. A copy of the full statistics is included in the Annex to this report. The statistics show the number of cases for predicate offences for each year between 2006 and 2009, and shows the number of cases in which the court ordered confiscation. The total

numbers are: in 2006, 249 convictions for predicate offences were obtained, 16 included a confiscation order; in 2007, 300 convictions for predicate offences were obtained, 9 included a confiscation order; in 2008, 310 convictions for predicate offences were obtained, 29 included a confiscation order; and in 2009, 353 convictions for predicate offences were obtained, 38 included a confiscation order. In total, 1 212 convictions for predicate offences were obtained, 92 included a confiscation order. Considering that most of these convictions relate to theft/robbery and drugs related offences, the number of confiscation orders does not seem high. The amounts of confiscated criminal proceeds and instrumentalities are: OMR 1 240 301 in 2007, OMR 1 308 290 in 2008, OMR 805 785 OMR in 2009, OMR 713 215 in 2010. The total amount of confiscated criminal proceeds and instrumentalities from 2007 – 2010 would amount to OMR 4 067 591 or approximately USD 10 575 736 .However, as the following table indicates, confiscation orders also includes the confiscation of illegal goods (like dugs) and instrumentalities of crime (like weapons) that would not in all jurisdictions be included in confiscation statistics.

213. The authorities also provided statistics that show the types of assets that are confiscated.

Table 6. Statistics of assets confiscated 2006-2010

| Year of Issuing the Judgment/ Type of Confiscated Items | 2006 | 2007 | 2008 | 2009 | 2010 | Total |
|---|----------|----------|-----------|-----------|---|------------|
| Drugs | 6 | 3 | 12 | 16 | 6 | 43 |
| Counterfeit currency | 1 | 1 | 5 | 5 | 4 | 16 |
| Crime tool | - | 2 | 4 | 6 | 1 | 13 |
| Counterfeit documents | - | 1 | 4 | 3 | 1 | 9 |
| Mobile phone sets | - | - | 1 | 4 | 1 | 6 |
| Vehicles | - | - | - | 3 | 2 | 5 |
| Financial Amounts | - | - | - | 2 | 1 OMR 7 920 AED ¹ 14 500 | 3 |
| Counterfeit Bank Cards | - | - | 1 | 1 | - | 2 |
| Knives | - | - | - | 2 | - | 2 |
| Weapons | 1 | - | - | - | - | 1 |
| Liquor | - | 1 | - | - | - | 1 |
| Devices used in Counterfeiting | - | - | 1 | - | - | 1 |
| Iron Cutting Device | - | - | - | - | 1 | 1 |
| Gross Total | 8 | 8 | 28 | 42 | 17 | 103 |

Table Note:

1. AED = United Arab Emirates Dirham

Effectiveness

214. While the legal framework for the confiscation regime is robust in that it provides for a wide range of confiscation, seizure and provisional measures with regard to property laundered, proceeds from and instrumentalities used in and intended for use in ML and FT or other predicate offenses, and property of corresponding value, issues can be raised about its effectiveness. The number of confiscations is low, and from the table it appears that most assets that are confiscated are instrumentalities of crime and illegal goods that are forfeited.

2.3.2 Recommendations and Comments

215. In order to comply with Recommendation 3:

- Enhance the use of the confiscation framework to achieve full effectiveness in this area.

2.3.3 Compliance with Recommendations 3

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.3 | LC | • Lack of effectiveness in ML and predicate cases due to lack of use of legal provisions |

2.4 Freezing of funds used for TF (SR.III)

2.4.1 Description and Analysis

Special Recommendation III

216. Before analyzing the related Omani (legal) framework, it should be noted that the implementation of United Nations Security Council Resolution (UNSCR) 1267(1999) and successor resolutions and UNSCR 1373(2001) requires member states to take preventative measures that cannot be solely reliant upon criminalization of TF (SR.II) in national laws. This means that countries should adopt special procedures or other administrative mechanisms dealing with their obligations under the UNSCRs, and that existing criminal laws could only be used as complementary tools.

217. Oman has a freezing mechanism in place for United Nations Security Council Resolution 1267 (UNSCR 1267). This system was put in place on 28 June 2010, although it is based on an earlier system for informing FIs of updates of lists issued under UNSCR 1267. This older system is described below.

218. The authorities' interpretation of the requirements of UNSCR 1373 is based on the use of provisions for the criminalisation of TF (see Section 2.2 of this Report) and the framework for regular mutual legal assistance (see Section 6.2 – 6.4 of this Report). These provisions; however, are insufficient to be considered for the implementation of UNSCR 1373 as required by FATF SR.III. This means that SR.III for UNSCR 1373 is considered not to be complied with. Where possible, this shortcoming is not repeated in each of the subsections below.

Laws and procedures to freeze pursuant to UNSCR 1267 (c. III.1)

System prior to 28 June 2010 – CBO Circulars based on the former AML Law

219. Before the AML/CFT Law was introduced in 2010, the National Committee for Combating Terrorism, established by the Royal Decree No. 3/2008, received updated lists regarding UNSCR 1267 from the Ministry of Foreign Affairs (MOFA), and disseminated these updates to the Royal Office, the CBO, the ROP, the FIU, the Internal Security and the Customs.

220. The competent regulatory bodies circulated these lists to all relevant institutions with respect to freezing the funds and property of listed persons and entities. Prior to the issuance of the TCL, these lists were circulated directly to the competent regulatory bodies by the MFA.

221. The CBO followed up by issuing confidential circulars to inform banks and other FIs under their supervision (Finance and Leasing Companies and Money Exchange Establishments) about updates to UNSCR 1267 (and successor resolutions).

222. The CBO circulars contained a link to the relevant UN website, and advised licensed FIs to: *i*) not be associated in any way with any of the accounts and transactions, including inward/outward remittances; *ii*) to advise the CBO of any account details and transactions of individuals found in the books of local and foreign branches; *iii*) to freeze all transactions and accounts if so advised by the CBO; *iv*) to acknowledge receipt of the circular; and *v*) to inform the CBO of any match with the UNSCR 1267 list within 2 weeks from the date of the circular.

223. The evaluation team has been provided with a number of the CBO letters related to the UNSC Sanctions Committee 1267 (1267 Committee) decisions. Although these letters ask the licensed institutions to enforce immediate precautions measures, which can be interpreted as without prior notice to the designated persons involved, it should be however noted that they were addressed to the licensed institutions sometimes after over a month from the 1267 Committee's decision (*i.e.* Letter dated 15/4/2009 refers at the same time to the decisions of 23/2/2009 and 5/3/2009; Letter dated 20/10/2005 refers to 1267 Committee's decision of 30/9/2005; Letter dated 4/1/2005 refers to the decision of 22/11/2004; Letter dated 30/8/2004 refers to the decision of 6/7/2004). In addition, licensed institutions were given sometimes 10 days and sometime 2 weeks to report back to the CBO (although authorities stated that banks usually report back in 10 days).

224. In accordance with SRIII, freezing should take place without delay, ideally within a matter of hours of a designation by the Al-Qaida and Taliban Sanctions Committee. The Omani procedure was not in line with this requirement.

225. It should also be noted that *freezing*, as it was defined in Article 1 of the former AML Law, required *an order of a competent court*. It appears that the CBO had no legal ground to impose such measure. The CBO confirmed that freezing actions would have been based on the fact that the Sultanate adopts the principle of international cooperation in combating ML/TF crimes and on the commitment of the Sultanate in the fight against ML/TF.

226. The previous system would have been insufficient to meet the majority of the requirements of SRIII regarding UNSCR 1267 and the introduction of the new article for implementation of UNSCR 1267 under the AML/CFT Law is a positive step forward. Notwithstanding the shortcomings of the old system, Oman is to be commended for having had a system in place at all to circulate relevant lists, as far back as 1 October 2001. Under the previous system, no accounts were frozen, or no transactions were adjusted of persons and entities listed by UN under UNSCR 1267, according to the authorities, due to the absence of any accounts or financial activities of terrorists in the Sultanate.

System since 28 June 2010 – AML/CFT Law

227. With the enactment of the AML/CFT Law on 28 June 2010, Article 17 deals with UNSCR 1267 and its successor resolutions. In fact, the article is not restricted to UNSCR 1267 and its successor resolutions, but it could also be used for any UNSCRs that require jurisdictions to take freezing action on the basis of a list issued by the UNSC or one of its Committees. However, the fact that the Article refers to lists makes it non-applicable to UNSCR 1373 (UNSCR 1373 does not have a list attached to it).

228. Article 17 of the AML/CFT Law requires competent regulatory entities to circulate standard lists issued by the UNSC regarding the freezing of funds of persons and entities included in these lists to FIs, DNFBPs and NPOs. Should any of the FIs, DNFBPs or NPOs have any information available relating to

these lists, they have to immediately inform the PPO in order to take freezing procedures in accordance with the controls and procedures specified in the incoming ER.

229. This reference to further procedures is included in anticipation of the incoming ER, but refers temporarily to the outgoing ER (as long as the incoming ER is not yet drafted and in force). However, the outgoing ER does not contain any information that would be relevant to Article 17 of the AML/CFT Law.

230. In practice, the National Committee for Combating Terrorism now disseminates updates on UNSCR 1267, in addition to the previously mentioned authorities that already received lists under the former AML Law, to the Ministry of Justice (MOJ), the CMA, the PPO, the Ministry of Social Development (MSD), the MOCI (Commercial Register) and the Ministry of Housing (Properties Register). Moreover, all these authorities are required to report back to the Committee within 2 weeks, informing it of the procedures that have been taken. A sample of such correspondence was provided to the assessors. The National Committee for Combating Terrorism intends in the near future to begin taking the updates to UNSCR 1267 directly from the related website in order to avoid the delay between the issuing of these updates and their reception from the MFA.

231. As to the other specific requirements of SRIII in relation to UNSCR 1267:

- *Freeze*: Article 17 refers to freezing procedures to be taken, but these procedures had not been issued yet at the time of the on-site. Also, the freezing is not mandatory, it is only mandatory to inform the prosecution.
- *Without prior notice*: the AML/CFT Law is silent on this issue
- *Without delay (for the jurisdiction)*: The AML/CFT Law was enacted on 28 June 2010, while the most current updated list at the time of the on-site was issued by the UN 1267 Committee on 25 June 2010. The evaluation team was not aware of any lists immediately issued.
- *Without delay (for the FI or DNFBP)*: the Law only requires informing the prosecution immediately of any information, while the freezing is only a possible a next step.

Laws and procedures to freeze pursuant to UNSCR 1373 (c. III.2)

232. Oman has no laws and procedures in place to implement UNSCR 1373. While criminalisation of TF (see Section 2.2 of this Report) and mutual legal assistance procedures (see Sections 6.2 – 6.4 of this Report) were suggested by Oman to be the venues for the implementation of UNSCR 1373, none of this will be sufficient to implement UNSCR 1373 as well as SRIII. Oman has neither designated any terrorist or terrorist organization, nor frozen assets in accordance with UNSCR 1373.

233. The evaluation team met with representatives of domestic and foreign banks in Oman, most of which use commercial screening software that actively screens for designated entities (as defined by the owner of the commercial screening software). The assessment team did realize that UNSCR 1373 is not implemented in Oman, however, it did inquire what the banks' action would be if an account or a transaction related to such an entity would appear. Banks indicated that they did not have any concrete idea on how to react as this had never happened, and responded that they would ask the CBO for advice.

Laws and procedures to examine and give effect to other jurisdictions freezing mechanisms (c. III.3)

234. Oman has no laws and procedures in place to examine and give effect to other jurisdictions freezing mechanism outside the regular mutual legal assistance framework (see Sections 6.2 – 6.4 of this Report), which is insufficient to implement or comply with UNSCR 1373 as required by SRIII.

Scope of property / funds to be frozen (c. III.4)

System prior to 28 June 2010 – CBO Circulars based on the former AML Law

235. For UNSCR 1267 only, as indicated above, and before the issuing of the new AML/CFT Law, freezing transactions by FIs did not amount to a freeze of all the assets covered by the Resolution, but to a request to notify the CBO, which does not cover all FIs and no DNFBPs. In addition, lists were not distributed to all entities that are responsible for asset registries (such as land and vehicle registries and companies register to determine whether a named individual or organization holds property in Oman). Therefore, the freezing measures as they were practically applicable in the Omani framework were not in line with the definition of *fund or other assets* as envisaged by the interpretative note of SRIII.

System since 28 June 2010 – AML/CFT Law

236. After the issuing of the new AML/CFT Law, the broad definition of *funds and proceeds of crime* stipulated in Article 1, combined with the authority of the PPO to *take all necessary precautionary measures* pursuant Articles 20 and 22, should cover this point of standard adequately as far as the legal definition is concerned. However, there is still no automatic freezing mechanism, and also under the new law, the PPO would have to order a freeze according to the not yet known procedures that will be stipulated by the incoming ER.

Systems for communication (c. III.5)

237. See above for a description of the systems for communicating lists that existed under the former AML Law and current AML/CFT Law. As indicated. Updated list were circulated, but not without delay and not to all relevant authorities.

238. With respect to UNSCR 1373, no information is being communicated to the financial sector. In addition, the MOFA considers UNSCR 1373 implemented by having the ability of receiving mutual legal assistance requests from other jurisdictions. This does not adequately reflect the efforts a country should undertake to implement UNSCR 1373.

Domestic guidance (c. III.6)

239. With respect to UNSCR 1267, the CBO letters sent to licensed banks, finance & leasing companies and money exchange establishments operating in Oman provide sufficient guidance concerning their obligations.

240. Regarding other persons or entities that may be holding targeted funds or other assets that should be subject to freezing pursuant UNSCR 1267, no freezing mechanism is in place. Consequently, no guidance was provided to the FIs and other persons or entities that may hold targeted funds or other assets.

241. Under the AML/CFT Law, no guidance was issued and the incoming ER, which could contain guidance, has not been issued either.

242. With respect to UNSCR 1373, no freezing mechanism is in place. Consequently, no guidance has been ever provided to any person or entity.

Procedures for delisting of frozen entities (c. III.7)

243. There is no procedure for considering de-listing requests and for unfreezing the funds or other assets of de-listed person or entities, although it should be mentioned that the authorities provided the evaluation team with an example of a circular from September 2002 whereby the CBO specifically mentions that an entity was removed from the UNSC 1267 Committee's list and should have *normal access to banking services* again. Other letters advise the licensed institutions when a person has been removed from the list, to take *immediate necessary action* with respect to that person.

244. Nevertheless, it is unclear: *i)* how a delisted entity would have to proceed to file a de-listing or unfreezing request, *ii)* what the procedure within government would be to deal with this kind of request, and *iii)* what competent authority could take a decision on such a request.

Procedures for unfreezing frozen funds (c. III.8)

245. There are no specific procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person. However, the usual protections under Omani law to the rights of *bona fide* third parties are applicable since the introduction of the AML/CFT Law (see also Section 2.3 of this Report for the protection of *bona fide* third parties).

Procedures for obtaining access to frozen funds (c. III.9)

246. There are no procedures for authorizing access to funds or other assets that were frozen pursuant to UNSCR 1267 and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses.

Review by a court (c. III.10)

247. Freezing of funds based on UNSCR 1267 follows on UNSC 1267 Committee's decisions; it is not dependent on the existence of a criminal ML or TF investigation and cannot be reviewed by a national court.

248. With respect to UNSCR 1373, no freezing mechanism is in place. Consequently, no procedures have been put in place through which a person or entity whose funds or other assets have been frozen can challenge that measure with a view to having it reviewed by a court.

Freezing, Seizing and Confiscation in other circumstances and the protection of bona fide third parties (c. III.11) (c. III.12)

249. See Section 2.3 of this report for an overview of regular freezing, seizing and confiscation of terrorist-related funds. The strengths and weaknesses identified in that section have an effect on the assessment of the compliance of SRIII.

Monitor compliance (c. III.13)

250. Before the issuance of the new AML/CFT Law, Oman did not implement an appropriate legal mechanism to freeze assets in accordance with SR III and, consequently, did not establish measures to monitor the compliance with the obligations under SR III.

251. However, with respect to licensed banks, finance and leasing companies and money exchange establishments operating in Oman, the Department of Banking Inspection at the CBO conducted spot-checks within the program of periodic inspection to make sure that these entities abide by legislation, rules and regulations, including CBO letters related to the enforcement of Committee 1267 decisions. In case of non-compliance the CBO can impose sanctions (see for sanctions on FIs, R17, in section 3.10 of this report).

252. With the issuance of the new AML/CFT Law, compliance with its provisions is supervised by the Competent Regulatory Entities, as defined in Article 1. See for a full overview of supervisory powers and effectiveness Section 3.10 (FIs), Section 4.3 (DNFBPs) and Section 5.3 (NPOs). The strengths and weaknesses identified in these Sections have an effect on the assessment of the compliance of SRIII.

Additional elements (c. III.14 and c. III.15)

253. No information was provided with respect to the implementation of the Best Practice Paper on SRIII (which is non-binding) and the procedures for access to funds frozen pursuant to UNSCR 1373. However, it should be noted that, as no system is in place for the implementation of UNSCR 1373 in Oman, one would not need a system to grant access to those funds.

Statistics

254. To date, no funds were frozen in Oman under UNSCR 1267, its successor resolutions, or UNSCR 1373.

2.4.2 Recommendations and Comments

255. In order to comply with SRIII, Oman should:

- Have effective law and procedures in place to fully implement SRIII regarding UNSCR 1267.
- Have effective laws and procedures in place to implement SRIII regarding UNSCR 1373.
- Have effective laws and procedures in place to examine and give effect to actions initiated under the freezing mechanisms of other jurisdictions.
- Amend the few remaining shortcomings in the criminalization of TF.
- Have more effective systems in place to immediately (without delay) communicate freezing actions to the financial sector.
- Provide guidance to non-FIs that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.

- Have effective and publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons or entities in a timely manner consistent with international obligations.
- Have effective and publicly-known procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing.
- Have appropriate measures for authorizing access to funds or other assets that were frozen.
- Establish appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that measures with a view to having it reviewed by a court.
- Address the shortcomings identified in relation to R3 (effectiveness) and R17.

2.4.3 Compliance with Special Recommendation III

| | Rating | Summary of factors underlying rating |
|--------|--------|---|
| SR.III | NC | <ul style="list-style-type: none"> • No laws and procedures in place to implement UNSCR 1373 • Although names of designated persons are circulated to concerned parties in order to freeze any related funds, there are gaps in the legal framework and no procedures are in place to implement most of UNSCR 1267 and successor resolutions. |

2.5 The Financial Intelligence Unit and its functions (R.26)

2.5.1 Description and Analysis

Recommendation 26

Background

256. The former AML Law of 2002 provided for the Directorate General of Inquiries and Criminal Investigations at the ROP to be the competent authority to receive suspicious transaction reports (STRs) from reporting entities (at the time among others defined as banks, money exchangers or an investment, financing, insurance or a financial intermediary company, and as of 2004 on the basis of the outgoing ER brokerage activities, real estate dealings, dealing in precious metals and lawyers and accountants are also included). To ensure for a more separate unit, the ROP established the Financial *Investigation* Unit (not to be confused with the current FIU), attached to the Inspector General Assistant of Police and Customs (Decision 19/2008 of 31 March 2008).

257. With the issuance of the AML/CFT Law on 28 June 2010²², the current Financial *Intelligence* Unit (FIU) has become the unit responsible for receiving, analyzing and disseminating STRs. The AML/CFT Law requires the ROP to establish an independent FIU under the supervision of the Assistant Inspector General of Police and Customs. This FIU is the same unit that functioned as the financial intelligence unit under the former AML Law. Considering the short period of time between the issuing of the AML/CFT Law on 28 June 2010 and the on-site visit (2nd half July 2010), the assessment also takes into account the functioning of the FIU under the previous legal framework.

²² The AML/CFT Law entered into force on 4 July 2010.

Receiving and analyzing STRs (c.26.1)

258. The former AML Law (Article 9) provided that irrespective of any provisions relating to confidentiality of banking transactions, institutions had to report to the ROP, the CBO and other relevant competent supervisory authorities, all transactions suspected to be related to ML. STRs had to include all available information and documents relating to the transaction. In addition, the PPO could require institutions and other obligors to submit any additional information relating to the STR. This information had to be submitted through the CBO and other competent supervisory authorities. The CBO and CMA indicated that they did not analyze any STRs but used the information for policy and research purposes.

259. In addition to the former AML Law, Article 6 of the outgoing ER stated that the ROP, upon receiving an STR from a compliance officer of an institution, would take measures to collect evidence and investigate the background of the STR. This would include an investigation of the financial status of the concerned person, and of the activities from which the proceeds subject of the STR were generated. The ROP was allowed to collect such information within or outside the Sultanate.

260. Under the AML/CFT Law (Articles 6 – 11), the tasks, duties, rights and powers of the FIU are much more specific and comprehensive. The FIU is tasked to receive STRs and other information from FIs, DNFBPs, NPOs and other competent entities (reporting entities) regarding transactions suspected to involve the proceeds of crime or to be related to terrorism, terrorist crimes, or terroristic organizations or ML, or TF and the attempts to execute such transactions. Under the current AML/CFT Law, only the FIU receives STRs; copies are not required to be sent anymore to the supervisory authorities.

261. The FIU is empowered to conduct analytic and investigative work regarding STRs and other information it receives. The FIU can disseminate reports to the PPO, and, at any time during the investigation, request the PPO to freeze the transaction for up to 48 hours (extendable by the PPO for 10 days) in case of suspicion of a crime. The FIU has to provide feedback to the reporting entities on the results of the analysis and investigation (AML/CFT Law Articles 8 - 10).

262. The following number of STRs was received by the ROP and FIU since 2002. Since 2002 the FIU received 231 STRs of which approximately 98% of the STRs were reported by banks, and the remainder by exchange houses, as well as one STR in 2010 by a real estate agent.

Table 7. STRs received by the FIU in 2002 – 14 July 2010

| Year | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 (until July 14) | Total |
|---------------------------------|------|------|------|------|------|------|------|------|----------------------------|------------|
| Banks | 2 | 5 | 24 | 14 | 20 | 21 | 28 | 60 | 48 | 222 |
| Securities companies | - | - | - | - | - | - | 1 | - | - | 1 |
| Exchange companies | - | - | - | - | - | - | - | - | 7 | 7 |
| Real estate agents | - | - | - | - | - | - | - | - | 1 | 1 |
| Total | 2 | 5 | 24 | 14 | 20 | 21 | 29 | 60 | 56 | 231 |

263. Upon receipt of an STR, the analysis unit of the FIU records the information contained in STR, checks if all the required data is reported and discusses the STR with the Director in order to decide if there

is a need to prioritize the investigation of the STR. The analysis unit of the FIU investigates all STRs. During the investigation of the STR, the FIU collects information and leads from a variety of other sources, such as the ROP databases and other governmental databases. When necessary, the FIU will request additional information from the reporting entity. Based on the collected information and the analysis of the financial information, the FIU assesses whether the suspicion is justified. This investigation has taken in some cases several months up to years. Once the FIU decides that the STR is related to a crime, a full report plus supporting documents is disseminated to the PPO.

264. The Omani authorities stated several reasons for the length of the investigations: in a limited number of cases (five at the time of the on-site), the FIU has requested FIs to follow up the accounts and to alert the FIU of any developments. Other stated reasons for the length are *i*) connections to other transactions carried out in other jurisdictions which require more time to follow up; *ii*) execution of international co-operation requests (including refusal of co-operation by some jurisdictions²³); *iii*) initial unavailability of sufficient evidence for referral; and *iv*) presence of suspects outside the Sultanate (which has an effect on investigation procedures).

Guidance regarding the manner of reporting (c.26.2)

265. In accordance with Article 13 of the outgoing ER, the ROP is required to establish a database which includes, among others, basic principles and general guidelines as means for training and to assist institutions in identifying suspicious conduct and detecting suspicious transactions, as well as information on recent developments in the area of ML. The AML/CFT Law has an identical provision (Article 11), which indicates that the FIU may issue instructions and guidelines necessary for reporting entities to report STRs.

266. The FIU has issued seven types of reporting forms to be used by the various reporting entities: banks, financial and leasing companies, money exchange companies, securities companies, insurance companies, goldsmiths and jewelers, and real estate. However, no additional written guidance or procedures were issued at the time of the on-site. A reporting manual was issued after the on-site on 28 August 2010. This manual contains copies of the relevant sections of the AML/CFT Law, the reporting forms and a list of indicators. In general, upon request from reporting entities, the FIU advises them when STR should be filed and what sort of information should be filled in.

267. Once the FIU receives an STR, it sends a receipt to the concerned reporting entity. According to the reporting entities, the FIU keeps them regularly informed on the investigation. Once the investigation is finalized, the FIU sends information to the reporting entity on the outcome of the investigation. The following is an example of this feedback:

| Example of STR feedback form | | | |
|--|--|------------------------|-------------------------|
| Basic data | Reporting entity | Date of STR | Reported subject |
| | <i>Bank X</i> | <i>29 January 2008</i> | <i>2 individuals</i> |
| Type of STR | <ul style="list-style-type: none"> - Big deposits to customers accounts - The customers transferred big amounts to customers abroad | | |
| Transactions sum | OMR 3 699 629,00 | | |
| FIU Procedures (inquiry, investigation, analysis) | <ul style="list-style-type: none"> - Case referred to the courts for ML, prostitution and selling alcoholic beverage. - The defendants were acquitted if ML. | | |

²³ The Omani authorities provided the assessment team with examples of requests to other jurisdictions and subsequent *de jure* or *de facto* refusals.

Access to information (c.26.3)

268. Article 8 of the AML/CFT Law provides that the FIU has the right to demand and review any necessary information, data or documents from competent authorities. The FIU has access to the ROP databases, the Commercial Register, data of the financial supervisors and of several Ministries, such as the Ministry of Commerce and Industry (MOCI), the Ministry of Manpower, as well as the Municipalities. The FIU can access the ROP databases and the database of the Ministry of Commerce and Industry (on companies’ registration) online. This ROP database contains background information (such as address, business connections, source of income, and criminal records) on every citizen residing in Oman. More specifically, the ROP Database gives direct access to the following systems: passports and residency inquiries, traffic offences system; driver’s license system; motor vehicle blacklist system; motor vehicle registration; persons warning system; criminal information system; special section (secret service); commercial records, civil records, general inquiry, black list inquiry. Information from the other authorities is requested by letter or email, and where necessary by phone, usually followed up by a letter.

Requests for additional information from reporting entities (c.26.4)

269. The ROP had no power under the former AML Law to request reporting entities for additional information. Only the PPO could request additional information relating to the STR. This information was submitted through the CBO and other supervisory authorities (Article 9 former AML Law). The PPO indicated often to have made use of this power. Furthermore, under the former law the PPO used to send broad request with respect to STRs to many institutions asking the institutions to check if a certain person has an account with the institutions or is otherwise known. . From what the assessment team understood, this was like a fishing expedition trying to find out where a person under investigation holds bank accounts. Besides requests to the institutions, requests are mostly sent to other government agencies. Other powers of the PPO to obtain information are described in section 2.6.1.

Table 8. Number of requests for (additional) information from reporting entities and competent authorities

| Agencies/Bodies | No. of requests by year | | |
|--|-------------------------|------------|------------|
| | 2008 | 2009 | 2010 |
| Security Agencies (including ROP database) | 150 | 308 | 282 |
| Governmental Bodies | 22 | 58 | 134 |
| Private Sector | 14 | 29 | 39 |
| Total | 187 | 395 | 455 |

270. Under Article 8 of the AML/CFT Law, the FIU has the right to demand and review any necessary information, data or documents from reporting entities as well as the competent regulatory authorities. It is not known, however, how often this right has been exercised so far. The reporting institutions all indicated that they always respond to requests from the ROP, FIU or PPO.

Dissemination of reports (c.26.5)

271. The FIU is to establish a database of all available reports and information and has to develop necessary means to make the data available to the judicial authorities, and is tasked to be able to exchange the information in the database with the competent authorities in Oman (AML/CFT Law, Article 7). In accordance with Article 6 of the outgoing ER, the ROP is authorized to disseminate STRs to the PPO in cases where there is evidence that a reported transaction is related to ML or attempted ML. In these cases, the ROP would submit a written application in order to ask the PPO to consider stopping the transaction.

272. The AML/CFT Law empowers the FIU to notify the PPO of the outcome of the analysis and investigation when there is evidence of ML, TF, or any other crime (Article 8). The FIU disseminates a full report on the STR and its investigation thereof, accompanied with supporting documents. The PPO indicated that they consider the report of the ROP/FIU as circumstantial evidence and will use it as the basis of their own investigation.

Statistics

273. At the time of the onsite visit, 28 STRs were disseminated, which is about 12% of all reported STRs. Even though the FIU and its predecessors have been receiving STRs since 2002, the first STR was disseminated in August 2007. Only 8 STRs were disseminated in the period 2007-2009, the other 20 STRs were disseminated in 2010. Of the 28 disseminated STRs, 19 were reported in 2009 and one in 2010. The other 8 disseminated STRs were reported in 2005 (1), 2007 (2) and 2008 (5). As can be seen in the table below, in about half of the cases it has taken 6 months or more before an STR is disseminated, which raises questions regarding how useful that STR still is. Also, considering the fact that the FIU indicated that their work consists of collecting information from various databases and analyzing that information in relation to the STR, it is unclear why this takes such a long time. As is noted above, the authorities have provided some explanation regarding the long delays in dissemination. These explanations are valid in those cases where there is international cooperation concerned or where the FIU only later becomes aware of essential additional information. It, however, does not enhance the usefulness of STRs when it takes several months before an STR is disseminated.

Table 9. Overview of disseminated STRs

| Month/year reported | Month/year disseminated | Offences | Public prosecutor's action |
|---------------------|-------------------------|--|--|
| 9-2005 | 8-2007 | ML, violation of banking law | Left on file by PPO |
| 4-2008 | 5-2008 | ML, fraud, violation of banking law | Under procedures at Court |
| 2-2008 | 8-2008 | ML, prostitution, alcohol dealing | Acquittal |
| 3-2009 | 3-2009 | Fraud, violation of the countries law | Acquittal |
| 4-2008 | 3-2009 | Fraud, violation of banking law, violation of capital market law | Under procedures at Court |
| 3-2009 | 3-2009 | ML, fraud, violation of banking law | Conviction for ML, 10 yrs imprisonment plus OMR 100 000 fine |
| 5-2009 | 8-2009 | Fraud, trust abusing, violation of banking law, issuing flash cheque | Conviction of the predicate crime |
| 1-2009 | 9-2009 | Trust abusing, violation of banking law, dealing in currencies w/o license | Conviction of the predicate crime |
| 7-2009 | 1-2010 | violation of banking law | Under procedures at court |
| 8-2009 | 1-2010 | violation of banking law | Under procedures at court |
| 3-2009 | 1-2010 | Drugs dealing | Pending at court |
| 2-2009 | 1-2010 | Fraud, violation of banking law, trust abuse | Pending at court |
| 3-2007 | 1-2010 | ML, fraud, violation of banking law | Under procedures at court |
| 10-2009 | 2-2010 | violation of banking law, violation of capital market law | Left on file by PPO |
| 10-2009 | 2-2010 | violation of banking law, violation of capital market law | Left on file by the PPO |

| Month/year reported | Month/year disseminated | Offences | Public prosecutor's action |
|---------------------|-------------------------|---|---|
| 10-2009 | 2-2010 | ML, fraud, violation of banking law | Referred to Court |
| 10-2009 | 2-2010 | violation of banking law, violation of capital market law | Left on file by the PPO |
| 10-2009 | 2-2010 | violation of banking law, violation of capital market law | Under inquiries by the PPO |
| 10-2009 | 2-2010 | violation of banking law, violation of capital market law | Left on file by the PPO |
| 10-2009 | 2-2010 | violation of banking law, violation of capital market law | Left on file by the PPO |
| 10-2009 | 2-2010 | ML, violations of communications regulation | Acquitted |
| 11-2008 | 2-2010 | ML, violation of labor law | Under inquiries by the PPO |
| 10-2008 | 3-2010 | Violation of banking law | Under inquiries by the PPO |
| 1-2010 | 3-2010 | Violation of banking law, suspicions of ML | Under procedure at Court |
| 8-2007 | 4-2010 | Fraud, violation of labor law | Under inquiries by the PPO |
| 12-2009 | 4-2010 | Violation of banking law | Returned from the PPO for further investigation |
| 10-2009 | 5-2010 | ML, fraud, forgery, trust abusing | Under inquiries by the PPO |
| 11-2009 | 5-2010 | ML, fraud, forgery, trust abusing | Under inquiries by the PPO |

274. As can be seen from the table above, of those 28 disseminated STRs, one led to a conviction for ML with a sentence for 10 years imprisonment, 2 to convictions for the predicate offences, and 3 to acquittals. In addition, 6 cases were left on file by the PPO, 6 are still under investigation by the PPO, 1 returned to the FIU for further investigation, 9 are at Court (either referred to Court, pending a lawsuit or under procedures at Court). The conviction, as well as the most of the other cases concern investment fraud/Ponzi schemes (violation of the Banking Law). The authorities indicated that after the onsite visit, with regard to some cases under review by the courts, 4 judgments were passed. Two of these judgments were related to ML while the others related to predicate crimes.

275. It is clear from the table that, while most STRs were disseminated in 2010, the FIU recently started to function as an FIU should function. Nevertheless, seeing that of the 56 STRs that were reported in 2010 (until 14 July) only one has been disseminated and the other were apparently still being analyzed by the FIU, the FIU should sustain the positive development that has taken place since 2009.

Operational independence (c.26.6)

276. The AML/CFT Law requires the ROP to establish an independent FIU under the supervision of the Assistant Inspector General of Police and Customs (Article 6). The Inspector General of Police and Customs is required to issue a resolution regarding the nomination of the FIU director, work procedure, and its financial and administrative system. The AML/CFT Law also provides that the FIU has to have sufficient number of officers and requires the MOF to provide necessary funds for the FIU's work.

277. The FIU is located in a separate building and it has a separate and independent budget. The budget allocated for 2008-2010 is OMR 2 120 000 (approximately, USD 5 512 000 or EUR 4 275 000). The budget has been strategically allocated for recruiting new staff, improving the offices and the database system. The Director is in charge of allocating the budget and in charge of hiring staff.

278. The current Director was appointed by Decision No: MA/MB/92/2008 of the Inspector General of Police and Customs on August 31, 2008. The fact that the FIU is under the supervision of the Assistant Inspector General of Police and Customs, seems to be for organizational purposes. It does not seem that this interferes with independence and autonomy of the FIU.

Protection of information (c.26.7)

279. The FIU has been allocated a separate building at Police Headquarters. It is guarded as a part of the ROP Command Building site. Surveillance cameras were installed at the doors of the FIU and all offices are secured with electronic locks that can only be opened by fingerprint. The FIU has separate computer server and infrastructure on which its data is stored. The server is in a secured room inside the FIU offices.

280. In accordance with the Law on Occupation Secrets and Protected Locations (issued by Royal Decree No.36/1975) it is a crime for any employee of the Government of Oman to transfer official documents or information to unauthorized persons. In addition, it is also a crime to enter a protected location, such as the FIU, without prior permission. In addition, the Regulation of Investigation and Trials for ROP Staff states in Article 21 that it is a very serious disciplinary crime if staff secretly divulge or leak work related information or documents.

281. The Director of the FIU indicated that there have been no breaches.

Public reports (c.26.8)

282. The AML/CFT Law (Article 7) provides that the FIU will prepare an annual report on its activities in the area of ML and TF, with information on its work on the received reports, and proposals for further improvement of the Omani AML/CFT system. The Minister will submit the report to the Council of Ministers upon the recommendation of the AML/CFT Committee.

283. The FIU has not issued a public report and it is unclear if the report would contain all the information required by the FATF (statistics, typologies and trends, and information regarding its activities), and if such report would be made publicly available. After the onsite visit, the FIU started a website (www.fiu.gov.om) which contains STR-statistics, the reporting forms and the manual. The information on the website does not contain any ML/TF trends or typologies in Oman. It does not constitute an annual report as provided for in the AML/CFT Law or the FATF Recommendation.

Egmont Group (c.26.9 & c.26.10)

284. Oman is in the process of joining the Egmont Group. The United States and Qatar act as co-sponsors. The FIU On-site assessment of the co-sponsors is pending the issuance of the Executive Regulations delineating and powers of the FIU. The FIU is tasked to be able to exchange the information in their database with the competent authorities in foreign countries and international organizations. The information exchange needs to take place in accordance with provisions of international or bilateral conventions and agreements to which Oman is a party, or on the basis of reciprocity provided that the information is used for the purposes of combating ML and TF (AML/CFT Law, Article 7). As such, this Article 7 creates the possibility for the FIU to exchange information based on the *Egmont Group principles for information exchange between FIUs*.

Resources and internal organization (Recommendation 30)

285. The number of staff of the FIU is 23, and the Director indicated that he has plans to hire up to eight more staff. Staff consists mostly of ROP policemen and police officers, but also a number of civilian policy employees are working for the FIU, of which some have a private sector background. On 3 July 2010, the Director approved, by Interior Decision No. 7/2010, an organizational structure and jurisdiction of the FIU. This structure has to be approved by the Inspector General of Police and Customs. The structure foresees several sections within the FIU: legal affairs and studies; international cooperation; administration and training; financial affairs; financial analysis and statistics; investigation and information collection; and operations and technical support.

286. Currently, there are the following positions: Director (1), Assistant Unit Director (1), Legal officer (1), Financial Analysts (3), Data entry (4), Administration (3), Investigators (10).

Professional standards (Recommendation 30)

287. See Section 2.6 of this Report for an overview of required professional standards of the ROP, which are equally applicable to all staff of the FIU, whether police or civilian staff. Overall, the requirements are sufficient and fit the needs of the FIU and include a security screening of new and existing FIU staff. The assessment team is not made aware of any breach of professional standards by FIU staff.

Training

288. The authorities provided the following list of training courses that some staff of the FIU attended, and in addition, in 2009 and 2010 the FIU has also organized two in-house trainings for its staff, and one for the officers from customs, passports and border security. These trainings addressed financial analysis and confidentiality issues.

| List of training programs and the number of participants from the FIU (or former PAC-Unit) | |
|--|---|
| 2002 | Course on investigation on ML crimes, 1 participant, Dubai Police College (UAE) |
| | Course on combating of cyber crimes and terrorism, 1 participant (Oman) |
| 2004 | Conference on subterfuge and TF, 1 participant, London (UK) |
| 2006 | AML/CFT course, 3 participants (Oman) |
| | ML course, 2 participants (Oman) |
| 2007 | Scientific session on AML Methods, 1 participant, Abu Dhabi (UAE) |
| 2008 | FIU workshop, 2 participants, Al-Fujairah (UAE) |
| 2009 | Forum on cyber security and crimes, challenges and resources, 1 participant (Oman) |
| | Gathering to study terrorist phenomena in GCC states, 1 participant (Saudi Arabia) |
| | Training on financial analyses methods in AML/CFT, 2 participants, Beirut (Lebanon) |
| | Workshop on the implementation of UNSCRs on WMDs, 2 participants, Beirut (Lebanon) |
| | 6th mutual EU-GCC AML/CFT Forum, 1 participant (Saudi Arabia) |
| | AML Forum, 1 participant (Oman) |
| | MENAFATF Assessor training, 1 participant, Manama (Bahrain) |
| | Financial investigation training course, 1 participant (UK) |

289. The FIU has furthermore provided a detailed overview of the general training courses that the FIU staff attended, ranging from computer courses to specialized police training courses. For all staff, even those staff working for less than a year for the FIU, it is mentioned that they attended “many training courses on AML/CFT”, though no course is mentioned specifically.

290. From the overview provided, it clearly appears that the FIU staff have not yet received sufficient AML/CFT related training over the previous years, and although from 2009 the number of trainings seem to increase, this is not sufficient to provide the staff with the skills necessary for financial analysis and financial investigation. In addition to in-house training, the FIU should also ensure that staff also receives external training to ensure a broad insight and exposure to ways of financial analysis.

Effectiveness of the FIU

291. The FIU has sufficient powers and access to information to perform its tasks. With the change to a Financial Investigation Unit in 2008, the recent change to an FIU, more attention to investigations of STRs and training for staff, Oman has made significant efforts in enhancing the functioning and capacity of the FIU. However, the fact that investigations have taken a long time, in some cases up to several months or even years, impedes the effectiveness of the FIU. Although there is no standard period that the analysis of an STR should take, for an FIU to be efficient and an STR useful, the financial analysis should not take months or years.

292. Even though the FIU and its predecessors at the ROP have been receiving STRs since 2002, only since 2009 this number is increasing somewhat. Yet, up to now the FIU only receives 5-8 STRs per month and with all the data and resources available, it should be possible to shorten the analysis and investigation period. Moreover, with the new AML/CFT Law in force it is likely that the FIU will receive more STRs and as such will also need to enhance its capacities in the area of financial investigations and expedite its investigations.

293. The FIU showed awareness that in some cases, for example STRs with a link to abroad, it was necessary to speed up the investigation. The effectiveness of the reporting system can only benefit from ensuring that the time between the reporting of the STR and the dissemination to the PPO is shortened significantly. Further training on AML/CFT, financial analysis and financial investigation should allow the FIU staff to focus its work.

294. The fact that 20 of the 28 disseminated STRs have been forwarded to the PPO in 2010, indicates that the FIU has been enhancing its functioning as an FIU in 2010. Further progress is foreseen under the new AML/CFT Law. Although it is commendable that the FIU is progressing, there was already a requirement to report suspicious transaction to the ROP in the Law on the Control of Narcotic Drugs and Psychotropic Substances of 1999 and a predecessor of the current FIU was already formed in 2002. Yet, the first STR was only disseminated in 2007, two more in 2008 and only five in 2009. This shows that until 2009 insufficient attention was paid to the functioning of the FIU. Also of the 56 STRs reported in 2010, only one has been disseminated and the others are still under investigation, which can give cause to concern whether the recent progress is maintained.

295. The number of STRs reported is very low. This can be caused by the lack of guidance by the FIU to ensure that reporting institutions have sufficient in-depth knowledge of what detailed constitutes a suspicious transaction. Most institutions indicate that they go by the list of 12 types of transactions to be scrutinized as mentioned in the outgoing ER (Article 3) which does not promote any deeper awareness or pro-active attitude in discerning suspicious transaction (even though the authorities indicated to the assessment team that this Article is not a basis for suspicion). The FIU should provide more insight and

guidance into what is suspicious by providing information to the reporting institutions on ML/TF typologies and trends in Oman.

2.5.2 Recommendations and Comments

- The FIU has made clear progress in functioning as a financial intelligence unit in 2010. Nevertheless the FIU should further enhance its capacity and experience in analyzing and investigating STRs in order to expedite the time between reporting and dissemination.
- The FIU should enhance AML/CFT and financial analysis training for its staff.
- The FIU should issue periodic reports to the public which include typologies and trends in Oman, as well information regarding its activities.
- The FIU should provide more guidance on trends and typologies in Oman to reporting entities to ensure that they can detect and report proper suspicions.

2.5.3 Compliance with Recommendation 26

| | Rating | Summary of factors relevant to s.2.5 underlying overall rating |
|------|--------|---|
| R.26 | LC | <ul style="list-style-type: none"> • Although significant and positive changes in the functioning of the FIU started in 2009, the FIU had not been operating in an effective manner before that, and there are some concerns that the progress will be maintained since the 56 STRs reported in 2010 (until July 2010), only one had been disseminated at the time of the onsite visit. • The analysis of STRs takes longer than necessary. • The guidance by the FIU to reporting entities on STR reporting consists of issuing reporting forms, but should also give more insight into detecting suspicious transactions. • There are no publicly released periodic reports that include typologies and trends in Oman and information regarding the FIU's activities • Insufficient training on ML/TF provided to FIU staff |

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R. 27 & 28)

2.6.1 Description and Analysis

Recommendation 27 (Designated law enforcement authorities) c.27.1

296. There are two law enforcement authorities in Oman empowered to conduct investigations of ML and TF: the ROP and the PPO. ROP investigates and collects leads while PPO investigates and collects evidence.

The Royal Oman Police

297. The ROP is competent to investigate and collect leads in all crimes including ML and TF, in accordance with Article 11 of the Police Law of 1990, and Articles 30 and 31 of the CPL issued by Royal Decree 97/99. In accordance with Article 32 of the CPL, the ROP is subject to the supervision of the PPO when executing their investigation. Investigation of ML and predicate offences is done by the Directorate General of Criminal Inquiries and Investigations through *i*) local / regional departments and *ii*) specialized

departments such as Department for Combating Economic Crimes and the Department for Drugs Enforcement.

298. The ROP will start an investigation (also referred to as intelligence or information gathering) on all the offences on the basis of a complaint or other information, such as a tip (article 33 PCL). The ROP will collect the information from all relevant sources and will submit a report to the PPO stating the case. The ROP indicated that they refer many cases to the PPO that could have a ML aspect in it but they will not classify it as a ML case. They leave it to the PPO to decide if they will indeed legally characterize the crime as ML or not.

299. According to the statistics of the ROP, there were in total 25 262 offences in Oman in 2009; 23 760 in 2008; and 20 392 in 2007. The following statistics were provided:

Table 10. ROP statistics 2007-2009

| Some of the proceeds generating crimes | 2007 | 2008 | 2009 |
|---|---------------|--|---------------|
| Theft and attempted theft | 7 935 | Not available | 10 488 |
| Trades forgery | 5 | Not available | 1 |
| Forgery | 152 | Not available | 228 |
| Forgery of statement | 1 | Not available | 2 |
| Narcotics-related crimes | 345 | 611 | 688 |
| Fraud | 454 | 542 | 807 |
| Counterfeiting currency | 90 | 96 | 51 |
| Robbery | 230 | 244 | 358 |
| Smuggling (liquor) | 106 | 125 | 143 |
| Bribery | 8 | 21 | 20 |
| Kidnapping | 8 | 10 | 9 |
| Embezzlement | 2 | 2 | 3 |
| Human trafficking/piracy | 3 | 1 | 2 |
| Total numbers for proceeds generating crimes | 9 339 | 1 652 (incomplete statistics) | 13 848 |
| <i>For reference only: total overall number of offences</i> | <i>20 392</i> | <i>23 760</i> | <i>25 262</i> |

300. In addition, in 2009 there was one ML case according to the statistics of the ROP. The authorities indicated after the onsite that there have been 3 more ML investigations in the past years.

301. The ROP considers theft the most predominant crime in Oman, which includes several cases of robbery of bank customers that just withdrew money from an ATM.

The Public Prosecution Office

302. The powers of the PPO are provided by Article 64 of the Basic Law issued by Royal Decree 101/96, and Article 1 of the PPO Law issued by Royal Decree 92/99. The PPO Law authorizes the PPO to:

i) conduct legal proceedings on behalf of the society; ii) oversee judicial police affairs; iii) ensure the execution of penal laws; iv) prosecute offenders; and v) execute court judgments.

303. The power for the PPO to investigate ML and TF crimes is based on a Judicial Circular (No. 7/2009) of the Attorney General of 27 May 2009. The circular, based on the former AML Law (Royal Decree 34/2002), is addressed to the general managers and department managers of the attorney general governorates and regions. It states that “*Out of the importance of activating the provisions of the abovementioned Law and upon investigating the crimes that result in financial proceeds, such as, cases of bribery, embezzlement, drug trafficking and others, the disposition of these proceeds should be investigated. If the investigations reveal that the suspect has concealed the nature and source of these proceeds, the suspect should be charged with money-laundering crime in addition to the original crime pursuant to the provisions of Article (2) of the former AML Law.*” Another Judicial Circular (No. 12/2009) of 2 September 2009 requires the PPO to coordinate with the Director General of Inquiries and Procedures when conducting inquiries in crimes related to ML. In addition, Article 21 of the AML/CFT states that the PPO may investigate ML funds independently from the original crime.

304. The PPO Department at State Security Court investigates terroristic crimes as stipulated in the articles of Chapter Three of the TCL issued by Royal Decree 8/2008.

305. Upon receipt of a report from the ROP or the FIU, the PPO will start an investigation through its financial investigators and/or by instructing the ROP to collect further evidence. Approximately 20 public prosecutors have been delegated to work at the Investigation and Pleading Department as financial investigators (in addition to their regular tasks). The investigation will include an investigation into both the predicate offence and the ML offence. The PPO will request additional information from the FIU or other agencies. The investigation will focus on substantiating the suspicions by questioning the suspect, collecting additional information on the suspect, and, when applicable freezing or stopping a transaction.

306. The PPO had in total 32 521 cases in 2009; 28 042 in 2008; and 23 771 in 2007. The PPO mentioned as the most seen predicate offences fraud and investment fraud (Ponzi scheme/violation of the Banking Law). According to the data provided by the PPO, there have been 29 ML cases (of which 28 come from STRs and one from a police case). Of these 13 have been referred to Court, of which two resulted in a conviction of ML, and two in acquittals, and 9 are still before the Court. A further 10 are under investigation at the PPO, and 6 are kept on file by the PPO. This data differs somewhat from the data provided by the FIU (see under R26, in Section 2.5 of this Report) which lists 15 cases which were referred to Court. Most likely the difference of the two is caused by two convictions on the predicate crime, which were not included by the PPO under the ML-statistics.

307. According to statistics provided after the onsite visit, there has been only one ML investigation not originating from an STR and there have been no TF investigations. The authorities indicated after the onsite that there have been 3 more ML investigations in the past years. The PPO also indicated that they have their first case of drug trafficking. Also, compared to the total number of crimes referred to the PPO, there have been very few ML cases. The following statistics were provided, not all data match in a consistent manner:

Table 11. Investigations Conducted by the PPO in ML Crimes – All years

| STRs received from financial investigations | Number of cases from police stations | Total | Under follow up and completion | Kept on file | Total cases referred to courts | Under review by Court | Judged | |
|---|--------------------------------------|-------|--------------------------------|--------------|--------------------------------|-----------------------|--------|------------|
| | | | | | | | Guilty | Not guilty |
| 28 | 1 | 29 | 10 | 6 | 13 | 9 | 2 | 2 |

Table 12. Statistics of the offences received by PPO at Governorates and Regions 2006-2009

| Type of Offence | No. of Offences | | | |
|--------------------------------------|-----------------|--------------|--------------|--------------|
| | 2006 | 2007 | 2008 | 2009 |
| Robbery | 138 | 133 | 255 | 230 |
| Piracy | 7 | - | 11 | 1 |
| Currency forgery | 85 | 60 | 60 | 47 |
| Currency promotion | 15 | 30 | 50 | 38 |
| Check forgery | 3 | 3 | 1 | - |
| Narcotics trafficking | 15 | 23 | 31 | 66 |
| Narcotics consumption | - | - | 478 | - |
| Bribery | 13 | 11 | 22 | 28 |
| Embezzlement | 14 | 8 | 10 | 13 |
| Aggravated theft | 226 | 260 | 357 | 459 |
| Theft | 672 | 348 | 630 | 714 |
| Nighttime burglary (private home) | 414 | 297 | 243 | 233 |
| Nighttime burglary (stores) | 272 | 198 | 192 | 120 |
| Daytime burglary (private home) | 222 | 200 | 216 | 196 |
| Daytime burglary (store) | 97 | 85 | 109 | 79 |
| Theft from a vehicle at nighttime | 545 | 215 | 170 | 249 |
| Theft from a vehicle at daytime | 88 | 281 | 208 | 146 |
| Pilferage | 106 | 34 | 16 | 7 |
| Ordinary theft | 3 432 | 3 191 | 4 595 | 5 280 |
| Attempted theft | 471 | 205 | 267 | 245 |
| Theft of a vehicle | 234 | 179 | 172 | 172 |
| Embezzlement of non-claimed property | - | 9 | 2 | 4 |
| Deliberate arson | - | - | - | 63 |
| Alcohol trading | 101 | 79 | 85 | 88 |
| Vandalism | 518 | 45 | 37 | 18 |
| Robbery | 4 | 3 | 20 | 5 |
| Fraud | 472 | 450 | 510 | 657 |
| Cheating in transactions | 3 | 2 | 23 | 7 |
| Breach of trust | 323 | 353 | 493 | 520 |
| Fraudulent bankruptcy | 1 | 4 | 9 | - |
| Defaulting bankruptcy | - | 1 | - | - |
| Weapons trading | 2 | 1 | - | - |
| Total | 8 493 | 6 708 | 9 277 | 9 685 |

Effectiveness of law enforcement entities

308. In Oman both the PPO and the ROP are designated to investigate ML and TF. The investigations these authorities perform are thorough in the sense that they collect ample information and evidence. However, there have been few investigations by the PPO into ML and no TF investigations. The ML investigations that have taken place almost all () originated from an STR. Additionally, the ROP has done very few specific ML investigations and no TF investigations. Overall, there is little attention by the ROP for ML/TF investigations since they rely on the FIU to do those investigations; their attention focuses more on the predicates such as theft and fraud. Even though the FIU is part of the ROP, this does not discharge the ROP from investigating ML/TF. After the onsite visit, the mission was provided with a letter dated 13 February 2010 from the Assistant Inspector General of Police and Customs (under whose supervision the FIU falls) to the Brigadier/Director General of the Criminal Investigations and Inquiries stating that it is noticed that the crime of ML is ignored during investigation and evidence collecting of predicate crimes and that this should be given attention during investigations of all proceeds generating crimes. The status and the effect of this letter are unknown.

Additional elements (c.27.3 & c.27.4 & c.27.5 & c.27.6)

309. The NCL authorizes the Inspection General of Police and Customs to conduct the controlled delivery in drugs cases (Article 13). And article 14-D of the outgoing ER provides for the possibility of joint investigation operations for ML investigations with foreign authorities, using techniques such as controlled delivery of suspect funds or property. In general, the Omani laws do not provide for, nor prohibit a wide range of investigative techniques. The ROP does not seem to be making use of techniques such as controlled delivery or undercover operations. Although the various units within the ROP cooperate and can have access to each other's information, there are no standing multi-disciplinary groups specialized in investigating ML/TF or underlying crimes. However, ROP departments form working committees to inquire and collect information in some criminal cases, some joint with PPO. Formation decisions of these committees were issued by the authorities and examples provided to the assessment team.

Recommendation 27 and 28 (law enforcement powers)

Powers to postpone arrest and/or seizure (c.27.2)

310. The legal powers to postpone arrest or seize money are not explicitly mentioned or prohibited in the Omani laws. Article 41 of the CPL states that a person can only be arrested with an order from a concerned legal authority. This means that the ROP will only arrest someone with an order from a public prosecutor (unless it is *in flagrante delicto*). In addition, according to Article 53 of that same law a public prosecutor may also order preventive detention if that is in the interest of the preliminary investigation of an offence.

311. The PPO indicated that since that have to issue an order to arrest someone, they can at their discretion, also postpone or waive that arrest of the suspect if that is useful for the investigation.

312. Article 20 of the AML/CFT Law allows the PPO to take / order all necessary precautionary measures, including the seizure and freezing of property subject to ML and TF offences and their proceeds, and any evidence facilitating identification of such property and proceeds.

313. Similarly as with the order to arrest someone, a public prosecutor could also postpone taking the measures to seize any funds.

Powers of production, search and seizure c.28.1

314. The CPL gives a broad powers to the PPO to: *i)* compel production of, *ii)* search persons or premises for, and *iii)* seize and obtain *a)* transaction records, *b)* identification data obtained through the customer due diligence (CDD) process, *c)* account files and business correspondence, *d)* and other records, documents or information (Chapter 3 and 4).

315. Article 76 of the CPL states that a public prosecutor may move to any place whenever this is deemed necessary to furnish competent evidence on the situation of places, articles and individuals and the presence of offence and on any other matter requiring such evidence.

316. Article 90 of the CPL states that correspondence and cables may not be seized or perused, newspapers, publications and parcels may not be seized, conversation taking place at a private place may not be recorded, phones may not be tapped and dialogues may not be recorded without the permission of a public prosecutor.

317. In addition, a judicial control commissioner²⁴ (which includes PPO and ROP) can order a person possessing an article, which is deemed necessary to be seized or go through, to produce it (Article 94). In addition, if a judicial control commissioner feels, while collecting evidence, that there is a need to search a certain person or house; he needs to obtain permission from the PPO (Article 36).

318. Also, the AML/CFT Law, Article 20, allows the PPO to take / order all necessary precautionary measures, including the seizure and freezing of property subject to ML and TF offences and their proceeds, and any evidence facilitating identification of such property and proceeds.

319. Furthermore, Article 21 of the TCL gives the Head of the PPO (or his Assistant for State Security Cases) the power to order the acquisition of any data or information related to the accounts, deposits, trusts, safes, or any other transactions at banks or any other FIs if this is required for revealing the truth in the crimes stipulated in the TCL.

320. Even though the CPL gives broad powers to the PPO, Article 70 of the Banking Law (Decree 114/2000) on confidentiality of banking transactions states that no Government Agency, or any person can ask a licensed bank directly to disclose any information or to take any action relating to any customer. Such request, in all cases, has to be submitted to the CBO. The Banking Law also indicates that a committee established at the CBO has to decide on whether to release the information or to take the action requested or not. If the CBO finds the request acceptable, the licensed bank will be advised to release the requested information or to take the requested action, in a manner instructed by the CBO. The decision of the CBO regarding the disclosure of information or taking the action is final.

321. The PPO indicated during the onsite visit that they could not go directly to a licensed bank but had to enforce judicial orders through the CBO. The reporting entities confirmed that they could only release documents to the PPO with the approval of the CBO. This has caused an unnecessary delay in the process. The AML/CFT Law (Article 20) allows the PPO to directly seize any material for evidence in an ML/TF case, but this provision was untested (and unknown) at the time of the on-site visit. After the onsite visit, the PPO clarified that article 20 AML/CFT, being a conflicting provision from a more recent law (the *lex posterior* principle) would nullify article 70 of the Banking Law with respect to the PPO. Additionally, the PPO started requesting information directly from the reporting entities.

²⁴ Judicial control commissioners are *i)* members of PPO; *ii)* police officers and officers in other regular ranks starting from the rank of policeman; *iii)* staff of public security organisations specified by a decision issued by the head of the organisation; *iv)* *Walis* and deputy *Walis*; and *v)* all those who are given such a capacity by Law.

Powers to take witness statements c.28.2

322. The CPL (Article 34) gives judicial control commissioners the power to hear, during their collection of evidence, the statements of persons possessing information about the offence and the offender and question the accused about them. In addition, Article 104 states that the PPO can hear the evidence of witnesses based on suggestions of parties involved, unless the PPO believes that hearing those parties would be of no use. The same article also states that the PPO may hear the evidence of witnesses deemed necessary on events which establish or lead to the establishment of the offence, its circumstances, its attribution to the accused or his innocence.

Effectiveness of law enforcement powers

323. The PPO can choose to postpone the arrest of a suspect or the seizure of money. Furthermore, the PPO and the ROP have been provided with sufficient powers under the Omani laws to compel production of, search person and premises for, and seize and obtain all the records and data they would need for their investigation, whether that data is held by FIs or any other business or person. However, the fact that under the former AML Law, the PPO could not directly ask information from a bank seemed to be an unnecessary delay in the process. Also, the fact that under the Banking Law the CBO could block or amend a request, and had the power to dictate in which manner information needs to be submitted, seemed to unnecessarily limit law enforcement. Under the new AML/CFT Law this has changed, but since this law came only into force shortly before the onsite visit, the effectiveness could not be assessed.

Resources (Recommendation 30)

324. The PPO became an independent judicial body in 1999, and its prosecutorial powers are exercised by 32 regional branches. There are currently 146 prosecutors and 523 administrative officers. Approximately 20 public prosecutors have been delegated to work at the Investigation and Pleading Department as financial investigators (in addition to their regular tasks).

325. The Directorate General of Inquiries and Criminal Investigations of the ROP has 1 226 staff. Of these 18 staff work in the Department for Combating Economic Crimes at the Muscat headquarters, and they are supported by staff in the other department and from the regions. The Department for Drugs Enforcement has 137 staff in total, of which 51 work at Muscat headquarters and the remaining in the regional offices.

326. These authorities have sufficient technical and financial resources to perform their tasks.

Professional standards (Recommendation 30)

Public Prosecution Office

327. The professional qualifications for staff of the PPO and the judiciary are identical in Oman. The Judicial Authority Law requires that to become a Prosecutor or Judge, that the person be: *i*) a Muslim of Omani nationality; *ii*) of full capacity; *iii*) of good conduct and reputation; *iv*) the holder of a certificate in Islamic *Shari'ah* or law from a recognized university or higher institute; *v*) that no criminal or disciplinary judgment have been rendered against him on grounds offensive to conscience and honor, even if he has been rehabilitated; and *vi*) that he successfully completes the tests and interviews held for that purpose.

328. The training of members of the judiciary / PPO takes two years, and includes training on the job on all aspects. This training needs to be successfully completed. And prior to taking up a position, an oath is required (Law of the Judiciary, Articles 21 – 24).

329. Confidentiality of information and investigations are protected under the Office Secrets Law places protected function and promulgated by Royal Decree No. 36/1975.

Royal Oman Police

330. Police officers have to take an oath to promise to respect the country's laws and systems and to perform their duty with utmost honor, sincerity, and honesty. This oath ("*I swear by Allah, the Great, to maintain the safety of the country and citizens, to be loyal to His Majesty the Sultan, to respect the country's laws and systems and to maintain and abide by them, and to perform my duty with utmost honor, sincerity, and honesty.*") needs to be taken before taking duty (Article 14 Police Law).

331. Article 12 of the Police Law adds the following requirements for police officers: *i)* to be an Omani national; *ii)* to fulfill the conditions of age and health and physical fitness specified in a decision issued by the Inspector General after consulting the competent entities; *iii)* not to have married a non-Omani after the first of February 1986 without obtaining permission; *iv)* to be of good conduct and reputation; *v)* to not have been sentenced to a penalty of a crime involving moral turpitude or dishonesty; *vi)* to not have been dismissed from service because of a judgment or a final disciplinary decision unless he has been rehabilitated; and *vii)* to have the qualifications or experiences determined in a decision issued by the Inspector General after consulting the competent entities.

332. Regarding the confidentiality of information, Article 164 of the PC states that if an official discloses, with no lawful reason, a secret which he knows due to his function, he shall be sentenced to imprisonment for up to three years and a fine from OMR 20 to OMR 200. Also the Police Law enables the authorities to punish an employee in case he discloses an official secret. Before taking up duty, police officers are screened.

Training (Recommendation 30)

333. There is an extensive training plan for assistant public prosecutors during their first two years working for the PPO. This training includes theoretical training on criminal investigation, penal procedures and the Omani laws. Of the 490 hours, 36 hours are devoted to ML/TF related topics, such as the former AML Law, the FATF Recommendations and the Capital Market Law.

334. Since 2002, several public prosecutors attended 15 international conferences and seminars on ML/TF and related crimes. Furthermore, public prosecutors also attended 15 workshops and courses on ML/TF and related crimes organized in Oman. The number of attendants at these workshops and courses ranged from about 10-25 prosecutors at a time.

335. The training on ML/FT for the relevant Departments of the ROP consists mainly on participating in the workshops organized by the FIU or CBO and CMA. Other training consists of courses on commercial fraud, forensic investigation, credit card fraud, computer crime. There was no detailed overview of training available.

336. The Judiciary receives one-year academic training and one-year on-the-job training during their appointment at Court. During those training AML/CFT and related laws are also addressed but there are no specific AML/CFT trainings for the judiciary. Some judges attended a course on AML/CFT organized by the National Committee on Combating ML/TF.

2.6.2 Recommendations and Comments

337. The PPO can postpone the arrest of a suspect or the seizure of has sufficient powers under the Omani laws to collect all the information they need. The ROP and PPO are sufficiently resourced to

perform their tasks and the legal requirements for professional standards are high. The PPO provides sufficient training on AML/CFT and related issues for their prosecutors.

338. On the other hand, the ROP and the judiciary should benefit from further training on these topics to enhance their awareness, insight and knowledge. In addition, the PPO and ROP should also endeavor to investigate ML/TF crimes that do not originate from an STR.

2.6.3 Compliance with Recommendations 27 & 28

| | Rating | Summary of factors relevant to s.2.6 underlying overall rating |
|------|--------|--|
| R.27 | PC | <ul style="list-style-type: none"> • There has been a lack of ML or TF investigations undertaken by the ROP. • The PPO has focused its ML investigations on those coming from STRs and investigated only few ML cases that were not related to an STR. |
| R.28 | LC | <ul style="list-style-type: none"> • Up to July 2010, the indirect access to banking records to enforce judicial orders by the PPO impeded and inhibited the process of compelling information from banks. |

2.7 Cross Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

Special Recommendation IX

Declaration system c.IX.1

339. Under the former AML Law, Oman had a system for declaring export of foreign currency above USD 20 000. Licensed banks and money exchange companies were exempted from this system (outgoing ER, Article 15).

340. Under the current AML/CFT Law, Oman has introduced a declaration system for currency, bearer negotiable financial instruments, precious metals and precious stones. The declaration threshold is OMR 6 000, or the equivalent in foreign currencies. To declare, travelers coming into or departing from Oman need to use a form prepared by the AML/CFT Committee (AML/CFT Law, Article 40). Only travelers that reach the threshold need to fill in the declaration form. The threshold of OMR 6 000 is approximately EUR 12 000 and USD 15 600 (the OMR is pegged to the USD at 2.60). This is just above the allowed threshold of USD 15 000, but currently well below the threshold of EUR 15 000.

341. Bearer negotiable financial instruments is defined as “monetary instruments such as cheques, promissory notes, payment orders to the bearer or endorsed unconditionally, or issued to a formal beneficiary, or in a form that allows the transfer of the right therein upon delivery, signed payment orders, and bearer shares” (AML/CFT Law, Article 1). This is in line with the FATF definition of bearer negotiable instruments.

342. The AML/CFT Law seems to apply to travelers and carriers, but mail and containerized cargo are not explicitly referred to.²⁵ The Law also covers precious metals and precious stones, which is not required by the FATF.

343. Even though the AML/CFT Law has been only in force since 4 July 2010, the assessment team noticed upon arrival in the country that travelers are made aware of the declaration requirements by many, notable signs. Travelers will have to take initiative to find a Customs or immigration officer (all ROP) to collect a form, since these forms did not seem readily available in the arrival or departure area. According to Customs, these forms are also available at the seaports. However, according to Customs it is very rare that travelers (tourists) come in through seaports.

344. Customs does not have experience in, or technical facilities for, detecting cross-border transportation of cash or other financial instruments. They are currently just at the beginning of implementing the system and have some plans for technical resources that should help detecting. Customs was not aware of the FATF's Best Practices Paper (BPP) on SRIX and had not provided any red flags to its officials to enable them to detect cross-border cash transportations, although the authorities reported that co-ordination meetings between Customs and FIU, and a workshop, all in line with the FATF BPP on SRIX, had been held. This workshop was held in March 2010 for about 60 persons. The authorities indicated that after the onsite visit, Customs had started with sampling travelers to check if large cash amounts were being carried across the border.

Powers of competent authorities c.IX.2 and c.IX.3

345. Article 42 of the AML/CFT Law states that in case of suspicion of violating the provisions of the AML/CFT Law, the customs authority may stop the movement of currency, bearer negotiable financial instruments, precious metals and precious stones and seize them for a period not exceeding seven days, and notify the FIU immediately. Upon the request of the FIU, the PPO may extend the seizure for similar periods. Although not explicit in Article 42 of the AML/CFT Law, the authorities stressed that Customs cannot only stop the movement of currency etc. in case of a false or non-declaration, but also in case of a suspicion of ML/TF.

346. It should be noted that Customs is a regular part of the ROP and that all Customs officials are law enforcement officials. Therefore, when Customs would have a suspicion of ML/TF or a non-declaration or incorrect declaration, they would use the general powers of the ROP under the CPL and AML/CFT Law to request and obtain further information from the carrier with regard to the origin of the cash and their intended use.

347. During the onsite meeting, Customs stressed that they can only act upon a suspicion that there is a false declaration or failure to declare. They do not check if the amount declared is indeed the amount carried into or out of the country. Customs indicated that they do not restrain cash or other financial instruments for a reasonable time in order to ascertain whether evidence of ML/TF may be found. It is unclear if this statement derives from inexperience with the new powers of the AML/CFT Law.

Information retained, collected and shared c.IX.4 and c.IX.5

348. Article 41 of the AML/CFT Law provides that Customs shall retain the declaration for a period of not less than five years, and that the FIU can have access and use the same when necessary.

²⁵ The authorities indicated that this will be covered in the draft incoming ER, which is expected to replace the current outgoing ER. Since the said incoming ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

349. The information to be declared on the form consists of the name, date of birth, nationality, passport details, address in Oman, flight details, details on the cash, negotiable instruments and precious metals/stones, including the origin thereof and the purpose for carrying them, and information on the company (if applicable).

350. The declaration forms are currently held by Customs in hardcopy only and the FIU can have access to those hardcopies. The declaration information is not made immediately directly available to the FIU. In case of any suspicion Customs will notify the FIU immediately. The FIU indicated that they received 130 declaration forms from Customs in 2007 - 2010, but it is not certain how quickly these forms were provided, and out of how many declaration forms they are.

Domestic cooperation c.IX.6

351. Since Customs, Immigration, and FIU are all part of the ROP, coordination regarding SRIX is legally not an issue, albeit that the coordination regarding SRIX is untested in practice. Customs indicated that they work as a team with Immigration, and have direct contact with the FIU in cases of suspicion.

International cooperation c.IX.7

352. Customs has general cooperation agreements with GCC countries. They have no experience in cooperating with other customs authorities regarding SRIX.

Sanctions c.IX.8 and c.IX.9

353. Violation of the declaration by natural person is subject to imprisonment of not more than 6 months and/or a fine not exceeding OMR 5 000 (Article 34 of the AML/CFT Law). In case the violation is committed in the name or in favor of a legal person, the court is authorized to impose a variety of severe penalties, such as confiscation, revoke of license, and suspension of activities.

354. The pecuniary sanction applied to natural persons does not seem dissuasive, especially since the fine of OMR 5 000 is even lower than the threshold of OMR 6 000. The authorities pointed out that confiscation is also possible and is regarded as a sanction. However, the second sentence of Article 34 AML/CFT Law, indicates that confiscation may be ordered by the Court "...if the violation has been committed in the name or on behalf of the juristic person". On the basis of the law it therefore seems that confiscation of the amount smuggled is not possible as a sanction for natural persons. The fine; therefore, cannot be considered effective, proportionate and dissuasive. This is especially the case for cash smuggling by *mules* (also known as *straw men*).

355. In case the person or the cash that is transported relate to ML or TF, the regular ML or TF sanctions apply. See Section 2.1 of this Report for ML sanctions, Section 2.2 of this Report for TF sanctions. These sanctions are considered effective, proportionate and dissuasive.

356. Since no sanctions have been issued yet, the effectiveness of these measures could not be established.

Confiscation c.IX.10

357. Customs has the power to seize cash and other financial instruments in accordance with Article 42 as described above. However, no statistics were provided to confirm that this provision is appropriately implemented. As far as confiscation is concerned (the necessary follow-up to seizure), the strengths and weaknesses identified in relation to R3 (see Section 2.3 of this Report) equally apply. . In addition, as described above, from the second sentence of Article 34 AML/CFT Law it seems that confiscation may be

ordered by the Court if the violation has been committed in the name or on behalf of the juristic person, but not in case of natural persons.

Freezing terrorist assets c.IX.11

358. The strengths and weaknesses identified in relation to SRIII (see Section 2.4 of this Report) equally apply to this SRIX in relation to freezing of terrorist assets.

Precious metals and stones c.IX.12

359. Oman has opted to include all precious metals and stones in the declaration system. This goes beyond the requirements of SRIX and is on top of existing import and export controls over precious metals (but not precious stones) under the Control of Precious Metals Law. However, it is not certain how Customs notifies and cooperates with foreign counterparts regarding suspicious movement of such items.

Safeguarding information c.IX.13

360. The hardcopies of the declaration forms are currently kept in a box, and although this box is kept at secured offices, this does not seem to warrant the required strict safeguarding of the information.

Resources of customs (Recommendation 30)

361. Customs has 812 staff. The assessment team did not receive any information on funding, staffing, and technical and other resources provided to determine that Customs can fully and effectively perform their functions.

Professional standards of customs (Recommendation 30)

362. All Customs staff are ROP police officers. See Section 2.6 of this Report for an overview of required professional standards of the ROP. Overall, the requirements are sufficient and fit the needs of customs and include a security screening of new staff.

Training of customs (Recommendation 30)

363. The following statistics were provided. These are the total figures for all Customs training. In addition, before the enactment of the AML/CFT Law, the FIU organized a training session in March 2010 on SRIX, AML/CFT and Articles 40 – 42 of the AML/CFT Law for 60 Customs staff located at the borders.

Table 13. General training programs in Customs 2007 – 2009

| Training course | Courses per year | | | Participants per year | | |
|--------------------------|------------------|----------|----------|-----------------------|-----------|-----------|
| | 2007 | 2008 | 2009 | 2007 | 2008 | 2009 |
| Basic customs procedures | 7 | 3 | 3 | 94 | 22 | 51 |
| Smugglers behavior | - | 1 | - | - | 15 | - |
| Vehicles searching | 1 | 2 | 1 | 16 | 19 | 15 |
| Containers searching | - | 1 | 1 | - | 6 | 15 |
| Customs issues | 1 | 1 | 1 | 11 | 11 | 14 |
| Total | 9 | 8 | 8 | 121 | 73 | 95 |

Statistics

364. For the period 2007 – 2008, the authorities report 58 cases of import of foreign currency based on the forms under the old systems²⁶. Tourism and currency trade companies were the stated purpose for import.

365. The FIU provided information that it received 130 declaration forms from Customs from 2007 to 2010. There are no further detailed statistics available (such as on amounts, number of suspicious cases originating from the declarations, origin/destination of travelers, type of currency, and control points received, *i.e.* airports, roads and ports).

Effectiveness

366. The legal requirements for cross-border movements of cash and other financial instruments are generally sufficient. However, the legal shortcomings identified and the short time between the issuing of the Law (28 June 2010) and the on-site visit (2nd half July 2010) make it impossible to assess effectiveness. As a result, the overall assessed compliance with SRIX is lacking.

367. Even though the AML/CFT Law came only into force shortly before the onsite visit, Customs have already taken serious efforts with implementing the new tasks by placing signs in the airport and arranging a workshop in cooperation with the FIU. Yet, Customs does not have experience in, or technical facilities for, detecting cross-border transportation of currency or other financial instruments. Despite the existence, on paper, of a declaration system under the AML/CFT Law, Customs is currently at the beginning of implementing the system and have plans for technical resources that should help detecting. Customs was not yet aware of the FATF BPP on SRIX and had not provided any red flags to its officials to enable them to detect cross-border cash transportations at the time of the on-site.

2.7.2 Recommendations and Comments

368. In order to comply with SRIX:

- The requirements under the AML/CFT Law for SRIX are relatively new and efforts to implement the new tasks have been taken. Nevertheless, Customs should take further measures to ensure that SRIX is effectively and fully implemented.
- The pecuniary sanction available for false declaration or failure to declare (non-ML or non-TF cases) should be reconsidered, to ensure that it is effective, proportionate and dissuasive. This is especially urgent in relation to the fines available to target *mules*.
- The authorities should clarify in the AML/CFT Law that confiscation is a measure that the Court can order for natural persons in cases of false declarations or failures to declare
- Even though after the onsite visit Customs was said to have started with sampling travelers to detect if cash amounts are being carried across the border, Customs should develop further mechanisms to detect false declarations or failure to declare and ensure that the customs officials have authority to request and obtain further information from the carrier.[c.IX.1]

²⁶ The currencies that were imported were USD, GBP, EUR, INR, PKR, SAR, KWD, BHD, QAR, AED and BDT.

- It should be clarified in the AML/CFT Law that Customs is able to restrain the currency or other financial instruments for a reasonable time to ascertain whether evidence of ML/TF may be found.[c.IX2-3]
- Customs should ensure a more secured storage of the declaration form [c.IX4-5], and develop a computerized database [c.IX 16] with information on all declarations which is accessible for the FIU.
- Customs should develop red flags for detecting cross-border movements of currency and other financial instruments.
- Customs should provide further and periodic training on ML/FT, SRIX and article 40 – 42 AML/CFT Law to the customs officers.
- The declaration requirement should also explicitly cover shipment of cash and other financial instruments through mail and containerized cargo [c.IX.1]
- The shortcomings identified in relation to SRIII and R3 have an impact on the compliance with this Recommendation.

2.7.3 Compliance with Special Recommendation IX

| | Rating | Summary of factors relevant to s.2.7 underlying overall rating |
|-------|--------|---|
| SR.IX | NC | <ul style="list-style-type: none"> • Since the AML/CFT Law came only into force very recently, effective implementation cannot be established. • The pecuniary fine is not effective, proportionate and dissuasive and the effectiveness of the sanctions has not yet been tested. • The AML/CFT Law is unclear if confiscation is a measure that the Court can order for natural persons in cases of false declarations or failures to declare. • At the time of the onsite visit, sufficient mechanisms to detect false declarations or failure to declare had not yet been developed. • There is insufficient authority in the AML/CFT Law to request and obtain further information from the carrier. • The AML/CFT Law is unclear if Customs is able to restrain the currency or other financial instruments for a reasonable time to ascertain whether evidence of ML/TF may be found. • The information on all declarations is not sufficiently securely safeguarded. • There are no red flags for detecting cross-border movements of currency and other financial instruments. • There has been one workshop for 60 Customs officers, which is insufficient training on SRIX. • The declaration requirement does not explicitly cover shipment of currency and other financial instruments through mail and containerized cargo. |

3. PREVENTIVE MEASURES —FINANCIAL INSTITUTIONS

369. The Omani financial system is a simple structure system. It comprises a banking sector and a non-banking financial sector. The banking sector includes two types of banks: “commercial banks and specialized banks”. While the non-banking financial sector includes a variety of entities, those of which that qualify for the FATF definition of financial institutions include financing companies conducting both financial leasing and hire purchase activities, exchange companies, companies operating in securities, and insurance companies. The Central Bank of Oman (CBO) is the prudential supervisor for both commercial and specialized banks, in addition to being the prudential supervisor for financing companies and exchange companies. The Capital Market Authority (CMA) supervises companies operating in securities and insurance companies.

370. The powers granted to the CBO to supervise banks, financing companies and exchange companies is derived from Article (49) of the Banking Law issued by Royal Decree no. 114-2000 which states that the CBO represented by its Board of Governors is granted the authority to regulate and supervise the banking business in the Sultanate. The term “banking business” is defined in Article (5) to comprise a wide span of activities, which includes - *inter alia* - financial activities which may include, but not be restricted to, corporate finance, project finance, leasing, hire purchase financing and the purchase, sale and exchange of foreign and domestic currency or other monetary assets in the form of cash, coins and bullion”. According to the same article, the term “banking business” includes activities approved by the Board of Governors as banking business. By virtue of (CBO circular) BM 43/11/97, the CBO board of governors approved transfer activities under the name “issuing drafts”.

371. The CMA is the prudential supervisor for companies operating in securities and insurance companies as per Article (48) of the Capital Market Law issued by Royal Decree no. 80-98 (amended by Royal Decree number 5/2007), which mentions – *inter alia* – that the CMA is empowered to supervise all the companies dealing in the securities market and also supervise insurance companies. Originally, the supervision of insurance companies was the responsibility of the Ministry of Commerce and Industry, but was transferred to the authority of the CMA by virtue of Royal Decree (90/2004). However, the legal basis for having the CMA as a prudential supervisor over insurance agents and brokers is not as clear cut.

Customer Due Diligence and Record Keeping

3.1 Risk of ML or TF

372. Despite the wide range of powers granted to the National Committee on Combating ML/TF according to Article 24 of the AML/CFT Law that were partially exercised to address ML/TF risks in various fields of concern, the Omani authorities have not yet adopted a comprehensive national AML/CFT strategy/risk assessment of ML and TF. As to the coverage of financial institutions by AML/CFT requirements, Oman has not decided to limit applying certain requirements, or to reduce or simplify the measures being taken, on the basis of low ML/TF risk.

373. However, it should be noted that FI’s obligations with regard to combating the financing of terrorism was recently introduced to Oman’s legal system by virtue of the new AML/CFT Law that came into force on the 4th of July, 2010. Based on the on-site visit, the systems that were implemented in most

financial institutions were initially designed to deal with risks related to ML but were not yet completely modified to accommodate risks related to terrorist finance as well. That situation was furthered by extra reliance on a threshold approach in the detection of unusual/suspicious transactions which is unlikely to be helpful in detecting financing of terrorism schemes that can take place below most of the applied thresholds.

374. In addition, Oman has a huge population of expatriates and it is not apart from the problem of illegal expatriates facing other GCC countries (See Section 1 for the population of expatriates, and Section 3.11 for illegal expatriates). This fact might suggest a possible presence of informal transfer system especially in light of the rigidity in requiring identification documents in banks and exchange companies in order to provide their services. All these factors, together with the absence of actual steps to detect and regulate informal systems and the lack of a structured risk study at a policy level might create a loophole in the Omani financial AML/CFT system in dealing with risks relevant to TF. However, it is noteworthy that the assessment team was informed that the need for a comprehensive national risk assessment study was already addressed by the National Committee for Combating ML and Terrorist Finance and Oman is in process in receiving technical assistance in this regard from the IMF.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Legal Framework

375. The Omani authorities issued the AML/CFT Law shortly before the on-site visit. The law was issued by virtue of Royal Decree 79/2010 on 28 June 2010. It was published in the official Gazette on the 3rd of July 2010 (issue no. 914) and came into effect from the following day (4th of July 2010). Compared to its predecessor that was in force from March 2002 till the beginning of July 2010, the new AML/CFT Law is a more comprehensive AML/CFT framework with a major addition, which is the pairing of the AML requirements with requirements relevant to combating TF. However, the effectiveness of many of the requirements that were introduced in the new law could not be established due to its recent application.

376. The Executive Regulation (ER) of the new law was not issued as at the end of the on-site visit; however, the outgoing ER (issued by virtue of Royal Decree no. 72/2004) was still in effect according to Article (2) of Royal Decree 79/2010 issuing the new AML/CFT Law.

377. Both the AML/CFT Law and the ER ²⁷ apply to banks, financing companies, exchange companies, securities companies and insurance companies. Article (1) of the AML/CFT Law states that the term “Financial Institutions and Non-Financial Businesses and Professions” - which was used to set obligations on the covered FIs - applies to “each person licensed to practice banking, financial or commercial activities such as banks, exchange companies, investment companies, investment and credit funds, financing companies, insurance companies; companies and professionals who provide financial services; stock, securities brokers;”. Both the AML/CFT Law and the ER are considered as Law and Regulation as defined by the FATF²⁸.

378. In addition to the AML/CFT Law and the ER, both the CBO and the CMA were very active in area of delivering to their respective covered FIs their obligations regarding AML/CFT. Those requirements take the form of Rules, Regulations and guidelines that were delivered to the covered financial institutions over a number of circulars issued by CBO and CMA. Generally, most of these circulars are considered as other enforceable means (OEM) as defined by the FATF because: (i) they include clear mandatory obligations; (ii) they are issued by competent authorities that assess compliance with these circulars; and (iii) the competent authorities could issue sanctions for non-compliance with these circulars (see 3.10.1 on sanctions). However, some of the circulars are not considered as OEM for the reasons detailed further in this section.

379. Two different approaches were taken by both the CMA and the CBO with regard to issuance of regulations and guidelines to FIs under their supervision. For instance, the CMA issued two very comprehensive circulars (e/8/2009 and e/6/2009) comprising direct and detailed obligations addressing various AML/CFT issues covered under the FATF methodology. The first circular was issued to companies operating in securities while the other was issued to insurance companies, insurance agents and brokers. Those two circulars are considered as OEM as defined by the FATF²⁹

²⁷ Article (1) of the ER issued by Royal Decree No.72/2004 reads that “the provisions of this Regulation shall be applicable to any natural or juristic person whose profession or business is related to any of the following activities:

- a) Lending or financial transactions including dealing in bonds and securities or lease financing or fund transfer services or selling and purchasing currencies or issuing and managing payment instruments or guarantees and obligations.
- b) Trading for own account or for the account of customers in securities or foreign currencies or financial options and futures, or exchange and interest rate operations and other financial derivatives or convertible instruments.
- c) Underwriting share issues and participation in such issuing, and undertaking investment business and accepting deposits, and acting as financial intermediaries.
- d) Brokerage.
- e) Insurance business.
- f) Real estate transactions.
- g) Precious metals transactions.
- h) The advocacy and audit professions.
- i) Any other similar activities specified by the committee.”

²⁸ The Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations indicates that “Law or regulation refers to primary and secondary legislation, such as laws, decrees, implementing regulations or other similar requirements, issued or authorized by a legislative body, and which impose mandatory requirements with sanctions for non-compliance. The sanctions for non-compliance should be effective, proportionate and dissuasive.”

²⁹ The Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations indicates that “Other enforceable means refers to guidelines, instructions or other documents or mechanisms that set out enforceable requirements with sanctions for non-compliance, and which are issued by a

380. On the other hand, the CBO issued a number of circulars, some of them included clear enforceable obligations and hence are regarded as OEM as defined by the FATF methodology, while some others only attached copies of international standard and guidance papers (e.g. the 40 Recommendations, the 2001 Basel committee paper on CDD, etc) accompanied by instructions to the covered FIs directing them to implement the attached standards. For instance, Article (4) of circular BM 880 (issued to all licensed banks, non-bank finance companies and money exchange companies operating in the Sultanate of Oman) provided that it was issued for immediate adoption and implementation by all the financial institutions under the jurisdiction of the Central Bank to the extent they are applicable to them. On the other hand, Article (3) of circular BM 921 (issued to all licensed banks in Oman) mentions a less binding requirement for the adoption of the paper as it mentions “a copy of the Basel Committee's paper is enclosed for the information and necessary action by banks”. The circular also advised banks to evaluate the essential elements and enhance their existing KYC standards accordingly.

381. In both cases, international standard and guidance papers - as is - cannot be regarded as legislations or regulations for several reasons, including that they were initially issued only to give guidance to legislators and regulators for establishing their national frameworks after tailoring them to their local financial environments. Besides, such papers usually use soft language in addressing requirements, which is not suitable for setting enforceable obligations for FIs and always need to be re-formulated/transposed in an obligatory language. One other aspect is that those papers usually address requirements directed to several types of entities and not limited to FIs which would create a wide space for misinterpretation to the targeted FIs. In this context, those types of circulars cannot be regarded as either laws or regulation or OEM as defined by the FATF methodology. It should also be noted that none of the international papers circulated to those FIs comprise all the comprehensive requirements mentioned under the FATF methodology. It is in the view of the assessment team that the approach adopted by the CBO in that regard would not likely foster an effective implementation of the international standards.

382. It worth mentioning that this particular situation has created great variations in the implementation of AML/CFT standards among the various FIs under the supervision of the CBO. The major driver for those FIs who applied more comprehensive systems was either the experience of the compliance officers in charge or the FI's internal policies in the cases where the FI is an Omani branch or subsidiary of a large international financial group (or both).

Table 14. AMLCFT Legal and Regulatory Instruments Issued for Financial Institutions

| Financial Institutions | AML/CFT Law issued by Royal Decree 79/2010 | ER issued by Royal Decree 72/2004 | AML/CFT Enforceable Regulations | Other Non-Enforceable Guidance |
|--|--|-----------------------------------|--|---|
| 1- Entities Supervised by the CBO | | | | |
| All licensed banks in Oman (including 17 commercial banks and 2 specialized banks) | Article 1 | Article 1 | <ul style="list-style-type: none"> - CBO circular No. BM610 - CBO circular No. BDD/MLS/CB/ME/NBFIS/2005/1424 - CBO circular No. BDD/MLS/ME/NBFIS/2007/1480 - CBO circular No. BDD/AMLS/CB/ME/2004/5984 - CBO circular No. 652 - CBO circular No. 954 - BDD/CBS/CB/ME/NBFC/2 | <ul style="list-style-type: none"> • CBO circular BM880 • CBO circular BM919 • CBO circular BM921 • CBO circular BM 923 • CBO circular BDD-CBS-ME-NBFC-2003-4935 • CBO circular |

competent authority (e.g. a financial supervisory authority) or an SRO. The sanctions for non-compliance should be effective, proportionate and dissuasive.”

| Financial Institutions | AML/CFT Law issued by Royal Decree 79/2010 | ER issued by Royal Decree 72/2004 | AML/CFT Enforceable Regulations | Other Non-Enforceable Guidance |
|---|--|-----------------------------------|--|---|
| | | | 009/7449 - CBO circular 4841/2009 | BDD/CBS/CB/2009/5545 |
| Finance Companies (6 companies conducting leasing and hire purchase activities) | Article 1 | Article 1 | - CBO circular No. BM610 - CBO circular No. BDD/MLS/CB/ME/NBFIS/2005/1424 - CBO circular No. BDD/MLS/ME/NBFIS/2007/1480 - CBO circular No. BDD/AMLS/CB/ME/2004/5984 - BDD/CBS/CB/ME/NBFC/2009/7449 - CBO circular 4841/2009 | <ul style="list-style-type: none"> • CBO circular BM880 • CBO circular BM 923 • CBO circular BDD-CBS-ME-NBFC-2003-4935 |
| Exchange Companies (16 companies) | Article 1 | Article 1 | - CBO circular No. BM610 - CBO circular No. BDD/MLS/CB/ME/NBFIS/2005/1424 - CBO circular No. BDD/MLS/ME/NBFIS/2007/1480 - CBO circular No. BDD/AMLS/CB/ME/2004/5984 - BDD/CBS/CB/ME/NBFC/2009/7449 - CBO circular 4841/2009 | <ul style="list-style-type: none"> • CBO circular BM880 • CBO circular BM 923 • CBO circular BDD-CBS-ME-NBFC-2003-4935 |
| 2- Entities Supervised by the CMA | | | | |
| Companies operating in securities (26 companies) | Article 1 | Article 1 | CMA circular no. (e/8/2009) | CMA circular no. 2/2005 |
| Insurance Companies (23 companies: 11 local and 12 foreign) | Article 1 | Article 1 | CMA circular no. (e/6/2009) | - |
| Insurance Agents (280 agents) | Article 1 | Article 1 | CMA circular no. (e/6/2009) | - |
| Insurance Brokers (18 brokers) | Article 1 | Article 1 | CMA circular no. (e/6/2009) | - |

Prohibition of anonymous accounts (c 5.1)

383. Financial institutions in Oman are prohibited from opening anonymous accounts or accounts under assumed or fictitious names, and they are also prohibited from providing any services to such accounts. This prohibition is based on Article (12) of the AML/CFT Law which obliges FIs to abstain from opening of anonymous accounts or accounts in pseudonyms, fake names, or secret numbers or codes or to provide services to them, a similar requirement is mentioned in Article (2) para (c) of the ER. Although the mentioned prohibition in both the AML/CFT Law and the ER restricts opening anonymous accounts yet it does not prohibit “keeping” anonymous accounts or accounts in fictitious names. The Omani authorities mentioned that the existing legal requirements prohibits providing services to such accounts which would also include “keeping such accounts”, however there is no guarantee that the targeted FIs would not misinterpret that message in the current format. It is worth mentioning that while the team was not aware of the existence of such accounts in practice and the assertions received from the Omani authorities

conveying the same notion, this situation still might not completely mitigate the risks of possible anonymous accounts previously opened before year 2004 “the date of issuance of the ER”.

384. CBO issued Circular number BM 610 on June 5, 1991 to all licensed banks, investment, finance, leasing companies and money exchange companies, which also addresses the same criterion in Section (A-i) by mentioning that “Financial institutions should not keep anonymous accounts or accounts in *obviously* fictitious names”. Although the circular addresses “keeping” anonymous accounts or accounts in fictitious names, yet the requirement was even boiled down by limiting it to *obviously* fictitious names which makes it even softer than the requirement set in the ER.

385. CMA circular No. (E-8-2009) issued to companies operating in securities mentions in section “V-a” that “The company should not be permitted to enter into a relationship with anonymous persons or with fictitious names. The company should not be permitted to keep anonymous accounts or accounts in fictitious names.”

386. As to numbered accounts, the *opening* of such accounts is prohibited by Article (12) of the AML/CFT Law and Article (2) of the ER. This prohibition applies to all financial institutions covered by the mentioned regulation. However, as long as the mentioned prohibition is related to opening numbered accounts, this cannot be fully considered as a sufficient requirement if any of the FIs already had numbered accounts opened before the issuance of the regulation. There is no specific guarantee in a primary or secondary legislation that, in case such accounts existed, financial institutions are required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations.

387. CMA circular No. (E-8-2009) issued to companies operating in securities mentions in section “V-a” that where numbered accounts exist the securities company shall be required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations. For example, the company should properly identify the customers in accordance with these criteria and the customer identification records should be available to the compliance officer, other competent authorities and the Financial Intelligence Unit.

388. In practice, it appeared that financial institutions do not keep numbered accounts or accounts in fictitious names; however the lack of an obligation in a primary or secondary legislation concerning potentially existing numbered accounts does not preclude this, especially that FIs were not under an obligation to periodically update the customers’ information until the issuance of the AML/CFT Law.

When CDD is required (c 5.2)

389. Unlike its predecessor, which required FIs to conduct CDD before opening accounts or conducting any business dealings, the current AML/CFT Law is not clear enough with regard to instances where CDD is required. Article (12) of the AML/CFT Law requires FIs to exert due diligence to identify, verify, and update the identity of clients and beneficial owners in accordance with the conditions and controls specified in the regulation³⁰. Article (2) of the ER does not give any more clear specifications with regard to instances where CDD is required as it only mentions that institutions shall conduct verification of customer identification in accordance with Article (4) of the [old] Law³¹ (currently cancelled), and ensuring obtaining all necessary information and documents

³⁰ The term “regulation” refers to the ER of Law of Anti-ML and TF which is temporarily substituted with the ER of Law of ML issued by Royal Decree 72/2004 until the issuance new ER.

³¹ Law on ML issued by Royal Decree No. 34-2002.

390. Neither the AML/CFT Law nor the ER³² mention any requirements for applying CDD measures when:

- Establishing business relations;
- Carrying out occasional transactions above the applicable designated threshold (USD/EUR 15 000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;
- Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;
- There is a suspicion of ML or TF, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations
- The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

391. CBO stressed on the requirements set under the AML/CFT Law through circulating the law to its subordinate FIs by virtue of circular BM 1073/2010. In addition, circular 7449/2009 issued on 13 December 2009 to all licensed banks, non-bank financial institutions, money exchange establishments operating in the Sultanate of Oman mentions under section (3) some very general requirements requiring that identity of customers to receive utmost importance and that it shall be directly done before the relationship is established and supported by reliable official documents. It further requires that identification exercise to be extended to all customers, be they natural or otherwise. Moreover, circular no. BDD-CBS-ME-NBFC-2003-4935 issued by the CBO on 16 December 2003 targeting the same FIs focused on the issue of occasional/unusual transactions. The circular *advised* the covered FIs to observe enhanced due diligence with respect to those transactions. There was no mention of any threshold for applying that requirement. In addition, the mentioned circular does not provide any binding requirements in that regard.

392. For companies operating under the supervision of the CMA, requirements in line with the FATF Methodology were set for instances that require applying CDD. CMA circular no. E/8/2009 issued to companies operating in securities mentions in section “V-a” (bullets 4, 5, 8 and 12) that the licensed companies shall be required to undertake CDD at the following cases:

- When establishing business relations and maintain it for permanent customers.
- Before or during the business relation or in executing transaction for the account of occasional customers on the bases of relative importance and risks and take the required due diligence toward business relations in proper timings:
 1. A transaction of significance takes place.
 2. Customer documentation standards change substantially.

³² Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

3. When there is material change in the way the account is operated.
- If carrying out occasional transaction of more than RO 6 000. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked.
 - If there is suspicion of ML or TF, regardless of any exemptions or thresholds that are referred to elsewhere or the company has doubts about the veracity or adequacy of previously obtained customer identification data.

393. With respect to insurance companies, section (5.2) of the CMA circular number E-6-2009 mentions cases that require conducting customer due diligence which are considered more in line with the FATF requirement.

394. Most FIs seemed to be acquiring ID/passport information from all customers before initiating a business relationship. However, having not received any specific guidance on that, foreign exchange companies apply a self designated threshold approach with regard to identifying their (walk-in) customers. Although thresholds set by those companies seemed very low (ranging from OMR 100 to 250) and are considered below the FATF designated threshold (USD15 000), the risk is still present, taking into consideration the absence of any parallel requirement to apply CDD in cases of suspicion of ML or TF, regardless of any exemptions and cases when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

Required CDD measures

Identification and verification (c 5.3)

395. A review of the legal framework reveals that before the issuance of the new AML/CFT Law in July 2010, the Omani authorities used to utilize the term “verify” to refer to applying both CDD elements “identifying” customers and “verifying” their information. Although elements of both procedures could be pointed out in Article (2) of the ER, yet having no clear distinction between both terms in the old legal framework showed a lack of clear understanding of the FATF requirements concerning CDD at the policy level, which was also cascaded to a similar situation at the operational level (*i.e.* applying CDD requirements at FIs level). However, with regard to the legal framework, that issue was rectified in the text of the new AML/CFT Law which clearly mentions FIs’ obligations with regard to both identification and verification separately, however the way that new requirement have affected the implementation at the FIs level could not be established due to the recent issuance of the AML/CFT Law.

396. Neither the AML/CFT Law nor the ER³³ require FIs to verify a customer's identity using reliable, independent source documents, data or information and also neither of them requires that identification procedures apply for both permanent and occasional customers whether natural or legal persons or legal arrangements as per the FATF requirements, however, the current obligation does not also exclude any of those categories from applying the identification process.

397. Article (12) Para (2) of the AML/CFT Law provides that financial institutions must undertake to exert due diligence to identify, verify, and update the identity of clients and beneficial owners in accordance with the conditions and controls specified in the regulation.

³³ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

398. Article (2) of the ER requires obtaining some specific detailed information and documents with regard to different types of customers. For Omani natural persons, FIs are required to obtain the full name, current address, and a copy of passport or identity card or driving license. With respect to non-Omani natural persons, the same information is required, besides obtaining a copy of passport and a copy of the residence permit or the labor card for residents. In cases where customers are juristic persons, Article (2) of the ER requires FIs to obtain a copy of a valid commercial registration certificate, a specimen signature form of the authorized signatories and the memorandum and articles of association of the company. For juristic persons who are clubs, co-operative, charitable, social and professional societies, only an official certificate from the relevant ministry should be obtained including authorized managers and signatories. Moreover, the Executive Regulation of the Capital Market Law also tackles customer identification, yet in a more generic manner. Article 61 mentions that upon receiving a client's authorization for a selling/purchase order, the securities broker shall verify the identity of the customer and his ability to trade. Article 71-8-a requires that signing contracts with customers should take into account the adherence to "know your customer" requirements. Article 159-1 and 3 requires that the licensed company shall prepare its internal rules detailing the conditions and procedures for account opening and maintenance of customers files. That was further detailed that licensed companies shall maintain a written record documenting the identity of the customer.

399. CBO Circular no. BM-610 issued to banks, investment, finance, leasing and money exchange companies mentioned that the covered FIs "should be able to identify on the basis of official or other reliable identification documents and records the identity of their clients, whether occasional or usual, when establishing business relations or conducting transactions; in particular, opening of accounts or passbooks, entering into fiduciary transactions, renting safe deposit boxes, performing large cash deposit transactions". The last line might narrow the span of application of identification to some specific areas and covered FIs may easily misinterpret the requirement to just focus on those areas only. In addition, the use of the phrase "should be able to" in setting requirements essential to the effective application of AML/CFT requirements does not create enough obligations for FIs to apply these requirements. It should be noted that CBO issued circular 4841/2009 to its subordinate FIs stressing on the requirement to obtain copies of customers' ID cards. The circular also referred to CBO's commitment to apply penalties in cases of violations to the circular requirements.

400. Circular E/8/2009 issued by the CMA to companies licensed to deal in securities obliges the mentioned companies to identify the customer (whether permanent or occasional or legal person of non-profit entity) and verify customer's identity in accordance with the requirements stated in the clause on verification of the customer's identity as mentioned in the same circular. In addition, the circular also requires the covered FIs to access the official identification documents of the customer and obtain copies of such documents signed by the competent staff indicating they are true copies and to take the required measures to verify the accuracy of the information obtained from the customer especially to higher risks categories of customers, business relations or transactions through credible and impartial sources including contacting the competent authorities that issued the official documents. On the other hand, CMA issued Circular No. (2//2005) dated 7th of June 2005 which sets a full internal system model for helping securities companies in designing their own systems. The internal system model established under the title "Brokers procedures manual" detailed model requirements for the identification and verification of customers.

401. For insurance companies, sections 5.3 and 5.4 of CMA circular no. E/6/2009 set even more detailed requirements with regard to the identification of customers and verifying their information. However the circulars issued by both the CBO and the CMA covering areas under the requirements of identifying clients and verifying their information cannot be recognized as laws or regulations and are not recognized as such for rating purposes with regard to those requirements.

402. In practice, CDD measures applied by all FIs the assessment team met with, for natural person customers, were largely based on acquiring the data of the national ID card. Most FIs mentioned that the CDD process also includes taking copies of the ID card. According to article (42) of the Omani civil status law, any Omani who is above 15 years of age shall make an application for an identity card. This is obligatory for males and optional for females. Those who are below 15 years of age may obtain an Identity Card subject to approval of their guardians. A similar card is also required for foreigners residing in Oman (Residence Card). However the Resident Card did not seem to be used by FIs for identification/verification purposes as the ID card for nationals. Most FIs mentioned that for foreign customers, they require passport information besides also obtaining a passport copy, however none of the FIs the assessment team met with mentioned acquiring a copy of the residence card or the labor card in regard to residents as per Article (2) of the ER.

403. In the insurance sector, insurance companies mentioned that they are used to providing group life insurance policies to both the private and public sectors. Information on beneficiaries are usually obtained, however copies of identification documents for individuals under group life policies are usually not acquired. That was justified by the fact that these services are usually provided to large registered private and public entities that are considered as low risk, and in that case insurance companies rely more on verification of these legal entities.

Legal persons' representatives and legal status (c 5.4)

404. The AML/CFT Law does not provide any requirements related to the authorized person to act on behalf of customers that are legal persons or legal arrangements.

405. The ER provides in Article (2-b) that institutions shall take appropriate measures to obtain information about the true identity of the persons for whom it opens accounts or on whose behalf transactions are conducted, if there are any suspicions that these customers are not acting directly for their own account, especially as regards fund management companies which are not practicing any business or industrial activities or any other form of commercial activity in the country where they are registered. However, Article (2-b) does not address the requirement to verify that any person purporting to act on behalf of the customer (who is a legal person or a legal arrangement) is so authorized, and identify and verify the identity of that person. In addition, the mentioned article limits taking appropriate measures to obtain information about the true identity of the persons on whose behalf transactions are conducted to a condition "if there are any suspicions that these customers are not acting directly for their own account".

406. Article (2-a/3, 4) of the ER requires FIs to acquire the following information: With regard to juristic persons, a copy of a valid Commercial Registration Certificate, a specimen signature form of the authorized signatories and the memorandum and articles of association of the company. With regard to clubs, co-operative, charitable, social and professional societies, an official certificate from the relevant ministry should be obtained including authorized managers and signatories³⁴.

407. CBO circular BM-610 requires covered FIs to "take reasonable measures to obtain information about the true identity of the persons on whose behalf an account is opened or a transaction is conducted if there are any doubts as to whether these clients or customers are not acting on their own behalf. In particular, "in the case of domiciliary companies (*i.e.* institutions, corporations, foundations, trusts, etc.) that does not conduct any commercial or manufacturing business or any other form of commercial operation in the country where their registered office is located. The requirement set by the circular is more specific and more relevant than the requirement mentioned in the ER, yet it still limits its application to

³⁴ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

cases where "there are any doubts as to whether these clients or customers are not acting on their own behalf".

408. CMA circular No. E-8-2009 requires covered FIs (Companies Operating in Securities) under section V-b-5 to acquire detailed information regarding different types of legal persons and legal arrangements.

409. Similarly, Article (5-4-2) under circular (E/6/2009), mentions some detailed information that insurance companies should acquire when dealing with customers who are legal persons or legal arrangements. The circular also mentions a set of documents that the covered FIs have to obtain certified copies thereof in order to verify the information previously acquired from the customer.

410. Most FIs seemed committed to acquiring a full set of documentation with regard to legal persons; these documents usually include registration documents (issued by the commercial registry at the Ministry of Commerce and Industry), the memorandum of association and the power of attorney (authorized signatories). On the other hand, exchange companies having most of their customers as natural person did not have clear scenarios on what documentation and information to obtain in case they have legal persons as customers. Insurance brokers did not seem aware of the information to collect in case of dealing with legal persons; they seemed focused on the information of the signatories and the persons who deal directly with them.

411. Very few FIs showed knowledge about necessary information or documents that need to be acquired in case of dealing with customer who are trusts. One FI mentioned obtaining the trust agreement; however, the rest of FIs did not have specific procedures in place to deal with that specific situation. Although, the forms of trusts that could be found in Oman were very basic and usually took the form of pension funds and suchlike, yet having no clear procedures on what information and documents to ask for, FIs still face risks especially in case of dealing with foreign trusts.

Identification of Beneficial Owners c.5.5, c.5.5.1 & 5.5.2

412. Article (12) Para (2) of the AML/CFT Law provides that financial institutions shall undertake to exert due diligence to identify, verify, and update the identity of clients and beneficial owners in accordance with the conditions and controls specified in the regulation. The term beneficial owner (mistranslated in the English version of the law as actual beneficiary) was defined in Article (1) of the law as "The person who owns or fully controls *funds* or on whose behalf the transactions are conducted. This shall include the persons who practice a comprehensive efficient control on a juristic person. The definition set in Article (1) does not fully cover the FATF definition of the "beneficial owner" which is "the *natural* person(s) who *ultimately* owns or controls a *customer* and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise *ultimate effective* control over a legal person or arrangement."

413. Before the issuance of the new AML/CFT Law in July 2010, there were no requirements in the old law on ML nor its ER (which is currently in effect till the issuance of a new ER) to oblige FIs to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. Neither the new AML/CFT Law nor the ER³⁵ require FIs to "determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person".

³⁵ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

414. Article (2-a-3 and 4) of the ER requires FIs to obtain some specific information on customers who are juristic persons (authorized signatories and the memorandum and articles of association of the company), and customers who are clubs, co-operative, charitable, social and professional societies (an official certificate from the relevant ministry should be obtained including authorized managers and signatories). Those requirements are considered helpful for FIs with regard to identifying the beneficial owner of a legal person, yet the absence of any clear link between those requirements and the beneficial owner or even the requirement set in Article (12) of the AML/CFT Law regarding identifying the beneficial owner could eventually lead FIs to collect those documents just to satisfy the legal requirement without knowing what exactly they are looking for in them and that would not foster an effective implementation of the FATF requirements regarding the identification of the beneficial owner.

415. Article (2-b) of the ER requires FIs to “take appropriate measures to obtain information about the true identity of the persons for whom it opens accounts or on whose behalf transactions are conducted, if there are any suspicions that these customers are not acting directly for their own account, especially as regards fund management companies which are not practicing any business or industrial activities or any other form of commercial activity in the country where they are registered”. The requirement set under Article (2-b) draws FIs attention to the possibility of transactions being conducted on behalf of other persons; however, the Article links that procedure to the cases where there are suspicions that these customers are not acting directly for their own account and it does not clearly and directly require FIs to “determine whether the customer is acting on behalf of another person” as a general practice. On the other hand, requirements related to the identification of the parties of legal arrangements cannot be sited in the AML/CFT Law or the ER.

416. Section (A-ii) of the CBO circular BM 610 requires licensed banks, investment, finance, leasing and money exchange companies to “take reasonable measures to obtain information about the true identity of the persons on whose behalf an account is opened or a transaction is conducted if there are any doubts as to whether these clients or customers are not acting on their own behalf, and in particular, in the case of domiciliary companies which are institutions, corporations, foundations, trusts, etc., that do not conduct any commercial or manufacturing business or any other form of commercial operation in the country where their registered office is located”. Furthermore, section 3-i of CBO circular number 7449/2009 issued to all licensed banks, non-bank financial institutions and money exchange companies mentions that customer identification exercise shall be extended to all customers, be they natural or otherwise. Juristic persons shall have their official licensing/registration/recognition completed beforehand and file copies/evidences thereof.

417. Article (7) of the CMA Circular No. E/8/2009 requires companies operating in securities to (a): request from each customer a written statement specifying the identity of the beneficial owner of the transaction including customer identification information. (b): identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from official sources such as the name of the customer, names of trustees (of Trust Funds) legal status, addresses of managers (legal persons) such that the company is satisfied that it knows who the beneficial owner is. (c): For customers that are legal persons or legal arrangements, they are required to take reasonable measures to understand the ownership and control structure of the customer and determine who are the natural persons that ultimately own or control the customer.

418. The circular also sets some examples of the types of measures that would be normally needed to satisfactorily perform this function including: (For companies) Identifying the natural persons with a controlling interest and the natural persons who comprise the mind and management of the company. (For Trusts) Identifying the settler, the trustee or person exercising effective control over the trust and the beneficiaries.

419. Section (5-3) of the CMA circular E/6/2009 requires insurance companies to identify the ultimate beneficial owner especially for life and other investment related insurances and taking measures to verify the identity of the beneficial owner. Furthermore, section (5-4-2) mentions some detailed information to be required for both legal persons and legal arrangements, however no specific relevant information was required regarding legal arrangements as addressed by circular (E/8/2009) for securities companies. The assessment team did not see any specific reasons for differences in that area in both documents having the same authority issuing both documents.

420. In the same context, Article (6) under the CMA ministerial order no. 5/80 issuing regulations for implementing insurance companies law requires insurance companies to maintain a policy register for *direct insurance* including “recording all insurance policies issued by the company in the Sultanate and showing the serial number of each and every policy, date of issue, names and addresses of policy holders, policy beneficiaries, sum insured, duration of the policy, amendments and changes effected to the policy.”

421. For customers that are legal persons or legal arrangements, financial institutions are not specifically required by “law or regulation” to take reasonable measures to determine who are the natural persons that ultimately own or control the customer. As previously mentioned, only some relevant documents are required according to Article (2-a-3 and 4) of the ER regarding customers who are juristic persons.

422. Most financial institutions seemed unaware of the requirements regarding identifying the beneficial owner and many of FIs representatives showed total unawareness of even the term itself. The forms a beneficial owner can take in a legal person was not clear to most of them; while some mentioned that the manager of the FI is the beneficial owner, other mentioned the signatories, however a clear picture of the beneficial owner was not there. Although most of the financial institutions showed knowledge about the documents they have to collect from legal persons in order to open accounts for them, yet few of them made any reference to those documents when they tackled the issue of the beneficial owner. The purpose of collecting those documents seemed to be more for satisfying the legal requirements in that regard rather than obtaining information on the person(s) who own or control the legal person. Few representatives of the private sector showed some knowledge about obligations regarding beneficial owner according to the international standards and that was on the basis of either their professional experience accumulated in other foreign FIs or for being responsible for the AML/CFT issues in a major international financial group that is bound by stronger internal policies worldwide. In addition, when the possibility that a customer might be acting on behalf of another person was addressed to most FIs, none of them showed knowledge of what steps to take in that regard. Many of them just mentioned that they could not open an account for a person in the name of another but they also mentioned that this might only happen if the customer tells them that he/she is acting on behalf of another person.

Information on Purpose and Nature of Business Relationship (c. 5.6)

423. Neither the AML/CFT Law nor the ER³⁶ has any provisions requiring FIs to obtain information on the purpose and intended nature of the business relationship.

424. CMA circular E/8/2009 addressed to companies operating in securities defined customer due diligence in section (V-3-a-1) as “identifying and verifying the identity of the customer and real beneficiary and continuous follow up of the transactions made in continued relationship in addition to *identifying the nature of the future relation between the company and the customer and the purpose of such relationship*”. In the same section, companies operating in securities are required to conduct customer due

³⁶ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

diligence when establishing business relations and maintain it for permanent customers. In addition, covered FIs are required to conduct CDD before or during the business relation or in executing transaction for the account of occasional customers on the bases of relative importance and risks and take the required due diligence toward business relations in proper timings when (a) a transaction of significance takes place, (b) Customer documentation standards change substantially, or (c) when there is material change in the way the account is operated.

425. For insurance companies, a more simple approach was adopted in addressing the requirement, by requiring insurance licensees in section (5-3) of circular E/6/2009 to obtain information on the purpose and intended nature of business relationship.

426. There are no similar requirements for banks, finance companies and exchange companies.

427. It appeared that most FIs did not have systems in place to acquire information on the purpose and intended nature of the business relationship. The few FIs that had that requirement in place were just exercising it as an enhanced due diligence procedure for non residents or customers conducting high value transactions. However, finance companies seemed a bit more interested in obtaining information on the purpose of the business relationship but just for credit purposes (*i.e.* for mitigating credit risk).

Ongoing Due Diligence on Business Relationship (c. 5.7*, 5.7.1 & 5.7.2)

428. Article 12 (4 and 5) of the AML/CFT Law requires FIs to monitor clients' transactions on an ongoing basis and verify of the sources of their funds to ensure they match the information available on their identity, nature of their activities and the degree of risk. It also requires them to classify their clients and services according to the degree of risk of ML and TF and exert special care in dealing with persons who are exposed to risk owing to their positions and in other cases that represent high degree of risk in accordance with the cases and controls specified in the regulation. This is a recent legal requirement to FIs in Oman, as the old law (on money laundering only) set a very generic requirement providing that institutions shall establish internal control arrangements for detection and prevention of ML and shall further comply with any instructions from the competent supervisory authority.

429. The ER does not explicitly require financial institutions to conduct ongoing due diligence on the business relationship. Article (2-d) of the ER provides that “according to instructions issued by the regulatory authorities, institutions shall establish electronic data systems for monitoring all electronic banking transactions for the purpose of enabling institutions to report unusual transactions”. The later requirement was followed by a set of (example) red flags that constitute “unusual transactions” as a minimum requirement.

430. The requirements set in the ER can be helpful for FIs in designing their internal AML/CFT systems, yet they do not fully meet the standards in the view that they limit monitoring to electronic banking transactions and do not provide any clear definition of what constitutes an “unusual transaction”. On the other hand, those relatively few red flags listed in the ER in this regard can be very limiting to FIs and might reduce the span of their monitoring.

431. With regard to updating customer CDD information, Article 12-2 of the AML/CFT Law requires FIs to exert due diligence to identify, verify, and *update* the identity of actual clients and beneficiaries in accordance with the conditions and controls specified in the regulation. Article (2-a-4) of the ER requires FIs to “require their customers to update all their information whenever necessary”.

432. It should be noted that obliging FIs to “require their customers to update all their information whenever necessary” does not fully meet the standards in a way to ensure that “documents, data or

information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships”. Particularly, using the term “whenever necessary” makes the requirement too lax.

433. Section 3-i of CBO circular number 7449/2009 targeted to all licensed banks, non-bank financial institutions and money exchange companies mentions that knowing the customer shall not end with commencement of business relationship or opening an account and it should be on-going. It further requires setting up and executing a process of review of due diligence and updating identity documents periodically with possible changes.

434. CMA circular E/8/2009 – addressed to companies operating in securities – defines CDD in section (V-3-a-1) as “identifying and verifying the identity of the customer and real beneficiary and *continuous follow up of the transactions made in continued relationship* in addition to identifying the nature of the future relation between the company and the customer and the purpose of such relationship”. In the same section, companies operating in securities are required to conduct customer due diligence when establishing business relations and maintain it for permanent customers. In addition, covered FIs are required to conduct CDD before or during the business relation or in executing transaction for the account of occasional customers on the bases of relative importance and risks. Ongoing due diligence was explained in section (V-3-a-6) as “should include scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution’s knowledge of the customer, their business and risk profile, and where necessary the source of funds”

435. The approach adopted by the CMA circular in defining CDD, making it an all inclusive term, can be misleading and might cause confusion to the covered FIs. For instance, since the CDD definition includes conducting continuous follow up of the transactions made in continued relationship, it is not clear how can that be done as long as CDD is also required to be conducted before the business relationship. On the other hand, ongoing due diligence was explained in section (V-3-a-6) without having any explicit obligation on FIs to conduct ongoing due diligence on the business relationship.

436. For insurance companies, section (5-5-a and b) of the CMA circular (E-6-2009) requires that “business relationship with the customer shall be subjected to ongoing follow up and operations resulting of such relationship shall be verified and customer particulars shall be reviewed and updated periodically”.

437. Ongoing due diligence seemed poor and limited in most of the FIs the assessment team met with. Monitoring systems were non-consistent among various FIs without any systematic approach that links the monitoring or the level of due diligence to the customer’s risk profile. Customer monitoring was largely based on the vigilance of the employees and some very basic electronic threshold alerts analyzed by compliance officers. These alerts can be easily overridden by simple financial structuring schemes and can even totally overlook financing of terrorism schemes that usually take place below thresholds originally designed to detect ML. That situation was even aggravated by the fact that employees vigilance was hampered by weaknesses with regard to the type and frequency of training they receive (see analysis under R.15).

438. It also appeared that the update of customers’ CDD information is only required whenever the national ID card expires (every two years), in that case the new updated ID card copies are obtained the next time the customer checks in, however, FIs mentioned that they will not mind accepting passports as identification means in order to conduct the transaction in case a valid ID card is not available with the customer at that time. No systematic procedures for updating customers’ information were in place in any of the FIs the assessment team met with.

Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8)

439. Neither the AML/CFT Law nor the ER³⁷ explicitly requires FIs to apply enhanced due diligence for higher risk categories of customer, business relationship or transaction. However Article (12-5) under the AML/CFT Law provides that financial institutions should classify their clients and services according to the degree of risk of ML and TF. They shall exert *special care* in dealing with persons who are exposed to risk owing to their positions and in other cases that represent high degree of risk in accordance with the cases and controls specified in the regulation. It should be noted that the use of the generic term “special care” in that context is overly broad and cannot be regarded as an equivalent substitute for “enhanced due diligence” as required by the FATF.

440. Article (3) of the ER requires FIs to review and make careful scrutiny while conducting some types of transactions that are listed in that same article. It may be implied that those specified transactions are considered as high risk, however, Article (3) does not actually fulfill the standard as it focuses only on some specific high risk transactions and obviously overlooks high risk customers, besides not tackling high risk transactions in a comprehensive manner (the list of transactions deeply limits FIs’ scope of diligence). The ER also does not set any requirements related to enhanced due diligence as required by the standard.

441. CMA circular E/8/2009 issued to securities companies tackles high risk customers and transactions in several sections. Section (V-3-a-5) mentions that companies operating in securities “shall take customer due diligence measures . in executing transaction for the account of occasional customers on the bases of relative importance and risks and take the required due diligence toward business relations in proper timings when: (a) a transaction of significance takes place, (b) customer documentation standards change substantially, or (c) when there is material change in the way the account is operated.

442. Section (V-3-a-6) states that ongoing due diligence should include scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transaction being conducted are consistent with the institution’s knowledge of the customer, their business and risk profile, and where necessary the source of funds.

443. Section (V-c-3), which deals with higher risk categories of business relationships and transactions, requires companies operating in securities to “categorize their customers in accordance with the degree of risks relating to ML and TF taking into account: consistency of the transaction with the nature of the business, the extent of variation, overlapping, and activity of the accounts opened with the company. The circular then classifies customers as being of high risk if they were non-resident customer, legal persons or arrangements such as trusts that are personal asset holding vehicles or companies that have nominee shareholders or shares in bearer form. However, the circular does not provide the covered FIs with any guidance with regard to enhanced due diligence procedures to be applied in cases of high risk customers or transactions.

444. For insurance companies, circular E/6/2009 issued by the CMA, states in section 5.5 that the business relationship with the customer shall be subjected to ongoing follow up and operations resulting of such relationship shall be checked. Customer particulars shall be reviewed and updated periodically. Section 5.5 also gives examples of transactions or ‘trigger events’ (meant as high risk transactions) that can occur after the establishment of the insurance contract. Those examples are considered useful to the covered FIs being almost exact extracts from the International Association of Insurance Supervisors (IAIS) guidance paper on anti-money laundering and combating the financing of terrorism issued in October 2004.

³⁷ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

445. Section 5.7 of the same circular requires insurance licensee - based on the customer and the product profile - to classify the customers into low risk and high risk categories. Section 5.7.2 requires that enhanced measures be applied with respect to all business relationships, clients and transactions where the risk of ML is high. Examples of high risk categories were mentioned to include non-resident customers, high net worth individuals of non-Omanis, *private banking*, legal persons or arrangements such as trusts which are created for holding personal assets, charities and organizations, companies with closed family shareholding, firms with sleeping partners etc.

446. With regard to enhanced due diligence measures to be applied, the circular mentions (a) certification of documents by appropriate authorities and professionals, (b) requesting additional documents to complement those which are otherwise required, (c) performing due diligence on identity and background of the customer and/or beneficial owner, including the structure in the case of a corporate customer, (d) performing due diligence on source of funds and wealth, (e) obtaining senior managements approval for establishing a business relationship, and (f) conducting enhanced ongoing monitoring of the business relationship.

447. Based on the on site visit, the assessment team sensed a general broad perception among financial institutions that there is a low risk of ML/TF across the entire financial sector in Oman. That perception together with the absence of enough guidance with regard to AML/CFT risk management from supervisors has led to a general lacking of comprehensive AML/CFT risk management systems in almost all of the visited FIs. Customers were rarely classified according to risk and for those few FIs that showed interest in risk classifications, the only risk parameters that they took into consideration were high value transactions and non-resident customers. Accordingly, any sort of enhanced due diligence procedures that were applied by those FIs were only directed to only those two categories of customers and transactions.

448. With respect to enhanced due diligence procedures applied in cases of high risk transactions or customers, some of the FIs reportedly fill in additional application forms/checklists in order to acquire some extra information regarding the purpose of the transaction and the source of income and the source funds, etc. Private banking customers seemed to be one risk area that is usually covered with much more information in the visited banks. However, no comprehensive risk classifications or ongoing monitoring to customers that were classified as high risk were sited at most of the FIs the assessment team met with.

Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9 to 5.12)

449. Neither the AML/CFT Law nor the ER sets any requirements regarding simplified due diligence.

450. Apart from companies operating in securities and insurance licensees, no other FIs were subject to enforceable regulatory requirements regarding simplified CDD.

451. Section (4-V-a) of the CMA circular E/8/2009 issued to companies operating in securities stipulates that the general rule is that customers must be subject to the full range of CDD measures, including the requirements to identify the beneficial owner. Nevertheless, there are circumstances where the risk of ML and TF is lower, where information on the identity of a customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in the national systems. In such circumstances, it could be reasonable for the licensed company to apply simplified or reduced CDD measures when identifying and verifying the identity of the customer and beneficial owner. The same section in the circular also provides that simplified CDD measures are not acceptable whenever there is suspicion of ML or TF or if a specific higher risk scenario applies.

452. The circular gives examples on the customers' transactions or products where the risk may be classified as being lower (unless there is suspicion of ML or TF or if a specific higher risk scenario

applies). With the exception of the last example which mentions “non- resident customers in countries that have effectively implemented the FATF Recommendations”, those examples are considered incommensurate with those listed in the FATF Methodology. For the last example, it seems that the regulators have misinterpreted the requirement that “where financial institutions are permitted to apply simplified or reduced CDD measures to customers resident in another country, this should be limited to countries that the original country is satisfied are in compliance with and have effectively implemented the FATF Recommendations”. In addition, the example of “non-residents in countries effectively implemented the FATF recommendations” as low risk customers in its current format contradicts what is mentioned in the same circular under section (V-C-3-2-a) which lists “non-resident customers” as customers that should be deemed of high risk.

453. Section (5-7) and (5-7-1) of circular E/6/2009 issued to insurance licensees, provides that based on the customer and the product profile, the insurance licensee may classify the customers into low risk and high risk categories. The circular also mentions that if the ML/TF risk is lower (based on insurance licensee’s assessment), and if information on the identity of the customer or beneficial owner is publicly available, or adequate checks and controls exist elsewhere in the national systems, it would be reasonable to apply simplified and reduced CDD measures when identifying and verifying the identity of the customer or the beneficial owner.

454. The circular provides some examples of customers, transactions or products where the risk may be lower that slightly differ from those set for securities companies. Those examples include (a) financial institutions— banks and financial institutions regulated by the Central Bank of Oman, (b) companies listed on a stock exchange recognized by CMA, (c) government administrations or government enterprises *and companies where government is a major shareholder*, (d) life insurance policies where the annual premium is no more than RO 500 (approximately equivalent to USD 1300 which is considered higher than the FATF threshold), or, a single premium of no more than RO 1000 (approximately equivalent to USD 2600 which is also slightly higher than the FATF threshold) or equivalent, (f) insurance policies for pension schemes, if there is no surrender clause and policy cannot be used as security for loan, and (g) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a members’ interest under the scheme.

455. Section (5.7.1) of circular E/6/2009 mentions exceptions from applying simplified CDD, including when “the insurer suspects or has a reason to suspect that the customer is engaged in ML or that transaction has been carried out on behalf of another person engaged in ML”, that exception cannot be recognized as being in line with the requirement that “simplified CDD measures are not acceptable whenever there is suspicion of ML or TF or [where a] specific higher risk scenarios apply”.

456. In practice, none of the FIs that the assessment team met with confirmed the application of simplified CDD in any specific cases. Although regulations issued to entities operating in securities and insurance companies permit the application of simplified CDD, yet it seemed that standard CDD procedures were applied to all types of customers, in addition to some extra requirements were applied to some few categories of high risk customers as previously described in this section of the report.

Timing of Verification of Identity—General Rule (c. 5.13)

457. The AML/CFT Law is not clear with regard to the timing of verification of identity. Article (12) of the AML/CFT Law requires FIs to exert due diligence to identify, verify, and update the identity of clients and beneficial owners in accordance with the conditions and controls specified in the regulation. Article (2) of the ER does not give any more clear specificities with regard to timing of verification as it only mentions that institutions shall conduct verification of customer identification in accordance with

Article (4) of the (old) Law³⁸ (currently cancelled), and ensuring obtaining all necessary information and documents³⁹.

458. As mentioned earlier, circular 7449/2009 issued on 13 December 2009 to all licensed banks, non-bank financial institutions, money exchange establishments operating in the Sultanate of Oman mentions under section (3) that identity of customers shall be directly done *before* the relationship is established and supported by reliable official documents.

459. Section (V-3-a-5) of Circular E/8/2009 issued to companies operating in securities states that the licensed company shall take customer due diligence measures *before [the establishment of] or during* the business relation or in executing transaction for the account of occasional customers on the bases of relative importance and risks and take the required due diligence toward business relations in proper timings when a transaction of significance take place, customer documentation standards change substantially, when there is material change in the way the account is operated.

460. Also section (5-6) of circular E/6/2009, which covers the insurance sector, states that the identification and verification of customers and beneficial owners should take place *before or during* the course of conducting transaction.

461. CMA circular E/8/2009 permits conducting CDD during the business relationship while c.5.13 deals only with the verification aspect of the CDD not both identification and verification. In the same context, CMA circular E/6/2009 permits conducting both identification and verification of customers and beneficial owners during the course of conducting transaction. That can lead the FIs covered by both circulars to conduct business with their customers under a total blackout of customer information. Although conducting CDD during the business relation is limited to certain conditions, yet it does not totally protect covered FIs from ML/TF risks, in addition to causing other possible problems (e.g. in cases of reporting a suspicion regarding ML/TF or their attempts, if the client cancels the transaction and redeems the money)

Timing of Verification of Identity—Treatment of Exceptional Circumstances (c.5.14 & 5.14.1)

462. Section 3-i of CBO circular number 7449/2009 targeted to all licensed banks, non-bank financial institutions and money exchange companies mentions that identifying customers shall be done before the relationship is established and supported by reliable official documents. However, it also requires that when pre-operative/non-face to face electronic transactions are inevitable before physical receipt of documents, there should be adequate follow up system to obtain documents in time and ensure that no material transaction takes place defeating the objective of AML/CFT vision.

463. Section (V-3-a-10) of CMA circular E/8/2009 stipulates that verification may be postponed to after the establishment of the business relationship provided that:

- Situations where it is essential for the normal conduct of business including non face to face business, securities transactions where intermediaries may be required to perform transactions very rapidly, according to market conditions at the time the customer is contacting them, and the performance of the transaction may be required before verification of identity is completed provided this will not result in ML or TF.

³⁸ Law on ML issued by Royal Decree No. 34-2002.

³⁹ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

- Verification shall occur as reasonable practicable.
- The company should be required to adopt risk management procedures. These procedures should include a set of measures such as limitation of the number, type and amount of transactions that can be performed prior to verification.

464. Section (XII-5-e) of CMA circular E/8/2009 stipulates that where the client is allowed to benefit from the business relationship prior to the verification the company shall apply risk management procedures in such circumstances, the procedures shall include restriction on the number of transaction, types and/or amounts as well as monitoring large and complex transactions which are not within the usual scope of such transactions.

465. Article (5-6) of circular E/6/2009 covering insurance licensees stipulates that the identification and verification of customers and beneficial owners should take place before or during the course of conducting transaction. An insurance licensee may start processing the business while taking steps to verify the customers' identity. Pending receipt of required evidence, insurer shall "freeze" the rights attaching to the policy, and shall not issue documents of title. In case of failure by a customer to provide satisfactory evidence of identity, the transaction in question should not proceed further and relationship be terminated. The insurance licensee shall consider making a STR as this circular's requirements. In case of life insurance, where a business relationship has been established after due verification of the policyholder, it is permissible to do the identification and verification of the beneficiary after the establishment of business relationship with the policyholder. However, such identification and verification must occur before the time of payout to the beneficiary or before the time the beneficiary intends to exercise vested rights under the policy.

466. In practice, many FIs did not seem aware of the differences between the terms identification and verification which generally has negative implications on the CDD process as previously described in this section of the report. Although verification procedures were limited to obtaining legal identification documents, FIs the assessment team met with seemed committed to obtaining those legal identification documents from customers (both natural and legal persons) as a prerequisite for opening accounts and/or conducting transactions.

Failure to Complete CDD before commencing the Business Relationship (c. 5.15)

467. Article (12) of the AML/CFT Law requires FIs to exert due diligence to identify, verify, and update the identity of clients and beneficial owners in accordance with the conditions and controls specified in the regulation⁴⁰. Article (2) of the ER does not give any specificities with regard to procedures to be taken if FI fails to identify and verify their customers. However Article (3) of the ER sets some examples of suspicious transactions including the case when a customer refuses or shows reluctance to provide the intermediary with documents of identity or the purpose of conducting the transaction. However, according to the same Article, the FIs are only obliged to make careful scrutiny while conducting those transactions and no obligation was established to consider making a STR in their regard.

468. As previously mentioned section 3-i of CBO circular number 7449/2009 targeted to all licensed banks, non-bank financial institutions and money exchange companies requires that identification of customers shall be done before the relationship is established and supported by reliable official documents. However, banks, finance companies and money exchange companies are not subject to any explicit requirement obliging them that when they are unable to perform the CDD, they should not open the

⁴⁰ The term "regulation" refers to the ER of Law of AML/CFT which is temporarily substituted with the ER of Law of ML issued by Royal Decree 72/2004 until the issuance new ER.

account, commence business relations or perform the transaction and they are not either required to consider making a STR.

469. Section (V-3-a-9) of CMA Circular E/8/2009 (issued to securities companies) states that where the licensed company fails to undertake CDD it shall not open accounts or commence business relations with customer or perform the transaction and consider making a STR.

470. Article (5-10) of circular E/6/2009 issued by the CMA to insurance licensees stipulates that where an insurance licensee is unable to comply with the CDD criteria as this circular requires that it should not establish an insurance business relationship and should also consider making a STR.

Failure to Complete CDD after commencing the Business Relationship (c. 5.16)

471. Banks, finance companies and money exchange companies are not under any obligation that where they have already commenced the business relationship, and they are unable to apply CDD, they should terminate the business relationship and consider making a STR.

472. Section (V-3-a-11) of CMA circular E/8/2009 issued to companies operating in securities stipulates that where the licensed company commence the business relationship prior to CDD and is unable to comply later it shall be required to terminate the business relationship and to consider making a STR.

473. Article (5-10) of circular E/6/2009 issued by the CMA to insurance licensees stipulates that where the insurance licensee has already commenced the business relationship and the insurance licensee is unable to comply with the CDD criteria (a) to (d) of paragraph 5.3 it should terminate the business relationship and consider making a STR.

474. The general notion among various FIs is that they cannot conduct transactions for customers without obtaining updated legal identification documents and acquiring copies of them. However, most of FIs did not have clear procedures on what action to take in case they fail to identify and verify a customer; mostly they demonstrated clear answers with regard to not opening accounts or conducting transactions in that particular case while very few of them mentioned that they would report or consider reporting the situation in an STR.

Existing Customers—CDD Requirements (c. 5.17)

475. With the exception of the obligations set for companies operating in securities (being the closest to the FATF requirement), financial institutions are not explicitly required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.

476. Article (12-2 and 3) of the AML/CFT Law requires FIs to update the identity of clients and beneficial owners in accordance with the conditions and controls specified in the regulation. Article (2-a-4) of the ER obliges FIs to require their customers to update all information relating to them *whenever necessary*.

477. Section (V-3-a-5) of CMA circular E/8/2009 states that the licensed securities company shall take customer due diligence measures before or during the business relation or in executing transaction for the account of occasional customers on the bases of relative importance and risks and take the required due diligence toward business relations in proper timings, namely when:

- A transaction of significance takes place.

- Customer documentation standards change substantially.
- When there is material change in the way the account is operated.

478. In addition, section (V-3-a-7) of the same circular mentions that the targeted FIs should ensure that documents, data or information collected, under CDD process is kept up-to-date and relevant by undertaking reviews of existing records. Nonetheless, the cited obligation would not fully cover the requirement to apply CDD measures on existing customers (as defined by the Methodology⁴¹) on the basis of materiality and risk.

479. Section (5-5) of the Circular No. (e/6/2009) issued by CMA to insurance companies states that customer particulars shall be reviewed and updated periodically. Examples of transactions or 'trigger events' after establishment of the insurance contract that would require applying CDD were also extracted from the IAIS AML/CFT guidance paper and provided to the covered FIs under the same section, however, none of examples under c.5.17 were mentioned.

480. As indicated above, financial institutions, are neither explicitly nor fully required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times. Obligations under the AML/CFT Law and the ER regarding existing customers are very generic and not laying any clear path for FIs to effectively apply CDD over existing customers. In addition, applying CDD to existing customers in most of the FIs visited by the assessment team was limited to requesting updated identification documents from customers whenever they require conducting transactions. FIs seemed to apply that procedure relying on the fact that Omanis are under the obligation to update their national ID cards every two years; however some FIs mentioned that they can still accept passports as an identification document in case the ID card was not updated. Representatives of only one FI mentioned that they send their customers' notices to come and update their ID information whenever their IDs expire. Insurance companies seemed not committed to apply CDD over their existing customers in case of renewal of the insurance policies, however they mentioned that they would apply CDD if the customer leaves the company and then comes back again later. In general, no systematic approach was adopted for updating/acquiring existing customers' CDD information which is not likely to lead to having all existing customers subject to CDD.

Existing Anonymous-account Customers – CDD Requirements (c. 5.18)

481. There is no specific requirement with regard to performing CDD on existing customers if they are customers to whom criterion 5.1 applies (*i.e.* anonymous accounts and accounts under false or fictitious names). However, anonymous accounts are prohibited by virtue of Article (12-3) of the AML/CFT Law and Article (2-c) of the ER. Consequently, applying CDD measures on existing customers in relation to those types of accounts is not applicable.

Politically exposed persons (PEPs) (Recommendation 6)

PEPs—Requirement to Identify (c. 6.1)

482. Article (12-5) of the AML/CFT Law deals with Politically Exposed Persons (PEPs) among requirements relevant to high risk customers, requiring FIs to classify their clients and services according to the degree of ML/TF risk. They shall exert special care in dealing with *Persons exposed to risk owing to their positions* and in other cases that represent high degree of risk in accordance with the cases and

⁴¹ "Existing customers as at the date that the national requirements are brought into force".

controls specified in the regulation⁴². The term “Persons exposed to risk owing to their positions” was defined in article (1) of the law as “persons who hold or have held senior public function in a foreign country such as the heads of states or governments; prominent politicians; judicial or military officers; high-ranking government officials; or prominent members in a political party including their intimates, family members until the third degree”. The definition is considered mostly in line with the definition of “politically exposed persons” as provided in the FATF methodology with the exception of not including “senior executives of state owned corporations”. It is in the view of the Omani authorities that the legal interpretation in the Sultanate of “persons who hold or have held senior public function” would also include “senior executives of state owned corporations”, however the assessment is in the view that there is no guarantee that the targeted FIs would make a similar interpretation to that part of the definition especially when taking into account the prevailing level of knowledge of the term “PEPs” among FIs as described later in this section. On the other hand, the ER does not include any provisions related to “PEPs” or “Persons exposed to risk owing to their positions”⁴³.

483. However, section (V-3-C-2) of CMA circular E/8/2009 issued to companies operating in securities uses the FATF term “politically exposed persons” in setting its requirements, stating that the licensed company shall be required to put in place appropriate risk management systems to determine whether a customer or a beneficial owner is a politically exposed person, yet no definition is given to the term “politically exposed persons” in the circular. However, no further guidance was given to the covered FIs with regard to the risk management systems that can be adopted in that regard.

484. With regard to the insurance sector, article (5-7-2) of Circular E/6/2009 issued to insurance licensees states that enhanced CDD measures should apply to all business relationships, clients and transactions where the risk of ML is high. Examples of high risk categories were given including PEP who were defined as “the individuals who are or have held prominent public positions in a foreign country, for example head of state and government, senior politicians, senior government, judicial and military officials, senior executives of state owned corporations, important political parties officials”. The circular does not require insurance licensees to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a PEP.

485. Apart from companies operating in securities, no other types of FIs are required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person.

486. The newly introduced definition of the term *persons exposed to risk owing to their positions* (corresponding to the FATF term PEPs) is considered very useful to FIs that did not receive clear enforceable guidance with regard to PEPs, however having another term used by CMA in setting obligations regarding the same group of customers would create confusion to FIs on the implementation level especially that the definitions under the AML/CFT Law and the CMA circulars are not coinciding.

487. FIs seemed lacking systematic procedures for determining whether a potential customer, a customer or the beneficial owner is a PEP. Some of them mentioned that they just heard about the term from their supervisor in meetings yet they had not received any instructions in their regard. Specifically, exchange companies had minimal knowledge about procedures to apply with regard to PEPs. Some other FIs mentioned that they would determine that the customer is a PEP through the profession field in the account opening form or based on their own personal knowledge. One bank mentioned that risks of PEPs

⁴² The term “regulation” refers to the ER of Law of Anti-ML and TF which is temporarily substituted with the ER of Law on ML issued by Royal Decree 72/2004 until the issuance new ER.

⁴³ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

are managed through the risk management procedures originally applied for non resident customers. The same bank denied the possible presence of any risk related to resident (foreign) PEPs since expatriates usually come to Oman searching for job opportunities.

488. However, generally banks seemed adopting a more systematic approach with regard to the detection of PEPs by conducting customer screening through online databases; one large bank mentioned that they conduct real time PEP screening. Also one securities firm mentioned conducting systematic checks on the world check database.

PEPs - senior management approval (c. 6.2 & 6.2.1)

489. CBO circular 7449/2009 tackles senior management involvement in dealing with high risk customers in a very broad manner. Section 3-v mentions that senior management should take effective control over complicated business relationships, mandating risk management system to identify higher risk relationships. However, no direct reference to PEPs was mentioned and the only reference was made to non-resident and high value private banking clients. Besides, it worth mentioning that the circular refers to taking “effective control” which does not necessarily imply obtaining senior management approval with regard to any of the mentioned relationships.

490. Requirements for obtaining approval of the senior management for establishing business relationships with a PEP can be found in section (V-3-C-2) of the CMA circular E/8/2009 issued to companies operating in securities which provides that “approval of the general manager or the like shall be obtained for establishing business relationship with a politically exposed persons”.

491. With regard to the insurance sector, article (5-7-2) of Circular E/6/2009 issued to insurance licensees states that with regard to enhanced due diligence that should be taken where the risk of ML is high, several additional measures should be applied including:

- a. Certification of documents by appropriate authorities and professionals.
- b. Requisition of additional documents to complement those which are otherwise required
- c. Performance of due diligence on identity and background of the customer and/or beneficial owner, including the structure in the case of a corporate customer
- d. Performance of due diligence on source of funds and wealth
- e. Obtaining senior managements approval for establishing business relationship
- f. Conducting enhanced on going monitoring of the business relationship

492. The article further specifies that for PEPs, an insurance licensee must observe measures (d), (e) and (f) stated in the above mentioned paragraph.

493. Except for companies operating in securities and insurance licensees no other types of FIs are required to obtain senior management approval for establishing business relationships with a PEP.

494. There are no requirements for any FI in Oman to obtain senior management approval to continue the business relationship, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes, a PEP⁴⁴.

495. FIs seemed generally not aware of requirements regarding obtaining senior management approval for initiating/continuing the business relationship with a PEP. Two foreign branches/subsidiaries of

⁴⁴ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

international financial groups confirmed applying that procedure by virtue of their globally applied internal policies. One bank mentioned applying that procedure for all non-residents and PEPs would also fall into that group since the potential for having a PEP as a customer would be much higher for non-residents.

PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3)

496. Article (12- 4) under the AML/CFT Law provides that financial institutions should monitor clients' transactions on an ongoing basis and verify the sources of their funds to ensure they match the information available on their identity, nature of their activities and the degree of risk. That requirement generally requires the covered FIs to verify the source of funds of all their customers, which would also include PEPs, however no requirements were set in the law for establishing PEPs' source of wealth and there is no mention of beneficial owners identified as PEPs⁴⁵.

497. According to section (V-3-C-2) of CMA circular E/8/2009 issued to companies operating in securities, the licensed companies are required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as politically exposed persons.

498. As previously mentioned, insurance companies are required under article (5-7-2) of Circular E/6/2009 to conduct several additional measures for clients and transactions where the risk of ML is high and specifically for PEPs they must observe - inter alia - “performance of due diligence on source of funds and wealth”. However, the requirement set by circular E/6/2009 does not fully satisfy the requirement to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs.

499. Banks, finance companies and exchange companies are not subject to any requirement to take reasonable measures to establish the source of wealth of customers identified as PEPs and the source of wealth and funds of beneficial owners identified as PEPs. Few FIs confirmed having internal policies setting clear procedures to be taken when a PEP customer is detected. Some FIs were even unaware of PEP requirements that were part of their internal policies. These issues also negatively affected the implementation of the requirement to determine the source of wealth and funds in most FIs.

PEPs—Enhanced Ongoing Monitoring (c. 6.4)

500. Article (12- 4) under the AML/CFT Law provides that FIs should monitor clients' transactions on an ongoing basis and verify the sources of their funds to ensure they match the information available on their identity, nature of their activities and the degree of risk. Article (12- 5) of the same law mentions that FIs should classify their clients and services according to the degree of risk of ML and TF. They shall exert special care in dealing with *persons exposed to risk owing to their positions* and the other cases that represent high degree of risk in accordance with the cases and controls specified in the regulation. However, these requirements cannot be recognized as an implementation of the standard as it does not require FIs to conduct enhanced ongoing monitoring on the business relation with PEPs.

501. According to section (V-3-C-2) of CMA circular E/8/2009 issued to companies operating in securities, the licensed companies are required to conduct enhanced ongoing monitoring of its relationship with PEPs.

⁴⁵ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

502. Insurance companies are required under article (5-7-2) of Circular E/6/2009 to conduct several additional measures vis-à-vis clients and transactions where the risk of ML is high and specifically for PEPs they must observe - inter alia - conducting enhanced on going monitoring of the business relationship.

503. Banks, finance companies and exchange companies are not subject to any requirement to conduct enhanced ongoing monitoring on the business relationship with PEPs.

504. Shortcomings cited under R.5 regarding ongoing monitoring also apply to PEPs. The lack of comprehensive AML/CFT risk management systems in most FIs has also adversely affected monitoring of PEPs. The absence of comprehensive detection systems and relying primarily on the vigilance of the compliance officer is not likely to result in effective monitoring either.

Domestic PEPs—Requirements (Additional Element c. 6.5)

505. CMA circular E/6/2009 addressed to insurance companies defines PEPs as only foreign PEPs while CMA circular E/8/2009 addressed to companies operating in securities does not include any definition of PEPs, which makes domestic PEPs not clearly excluded from the term, yet it does not also explicitly include them. A clearer message has been delivered to FIs after the issuance of the new AML/CFT Law having adopted a definition for PEPs under the term “persons exposed to risk owing to their positions”, which clearly limits the term to foreign PEPs.

506. In practice, many FIs did not seem to be drawing a divider between foreign and domestic PEPs but that situation did not seem to be as a result of extending the application to domestic PEPs based on their internal policies but rather was due to the lack of a clear understanding of the term and their obligations regarding that category of customers.

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6)

507. Oman has not yet joined the United Nation’s 2003 Convention Against Corruption (UNCAC).

Cross Border Correspondent Accounts and Similar Relationships (Recommendation 7)

Requirement to Obtain Information on Respondent Institution (c. 7.1)

508. Article (12) of the AML/CFT Law provides that FIs should verify that they are dealing with other counterparts that have a physical presence in the countries in which they are registered and that are subject to regulation in those countries. On the other hand, the ER does not tackle the area of correspondent banking or other similar relationships.

509. The requirement under Article (12) of the AML/CFT Law cannot be considered to be satisfying the standard which requires FIs to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action⁴⁶.

510. As previously mentioned in section 3.2.1 above, the approach adopted by the CBO to fulfill many relevant requirements was the issuing of circulars attaching international guidance papers requesting the

⁴⁶ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

covered FIs to adhere to them. That same approach was adopted with regard to requirements set under Recommendations 6 to 9. Although those circulars can be constructive with regard to CBO efforts to keep banks informed about their AML/CFT obligations, yet they cannot lead the covered FIs to be in line with the FATF standards and cannot be recognized as OEM (see the analysis under section 3.2.1).

511. In practice, in addition to banks, correspondent relationships were also found to be present in exchange companies. Similar relationships appeared to be present in securities companies with their foreign counterparts through opening accounts and transacting in their names for ultimate beneficiaries abroad.

512. Although not being covered by an adequate regulatory framework with regard to applying requirements under R.7, banks seemed to have procedures in place for pre-screening and for collecting information on the nature of their correspondents' business. However, they seemed usually depending on documents collected from them (annual reports, commercial registration, questionnaires, etc.) rather than depending on publicly available information.

513. One bank mentioned that an on-site visit is usually conducted to the premises of the potential correspondent bank before entering into the correspondent relationship. However, none of the banks made any specific emphasis on the quality of supervision of their correspondent, including whether it has been subject to a ML or TF regulatory action. For exchange companies, their foreign counterparts usually ask them to fill in a questionnaire, yet from their part they did not seem to collect enough information on their correspondents depending on the fact that they only deal with large reputable FIs. However, the assessment team was informed that the CBO must first approve any relation between exchange companies and any foreign financial institution, yet the basis for such approvals could not be established. As for securities companies, they only treated their counterparts abroad as foreign customers and all the information and documents usually collected for such customers are also collected from them without any extra or specific requirements.

Assessment of AML/CFT Controls in Respondent Institution (c. 7.2)

514. FIs in Oman are not required - by a law or regulation or any OEM - to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective⁴⁷.

515. In practice, information on foreign correspondent banks controls appeared to have been primarily collected through questionnaires.

Approval of Establishing Correspondent Relationships (c. 7.3)

516. FIs in Oman are not required - by a law or regulation or any OEM - to obtain approval from senior management before establishing new correspondent relationships.

517. For the FIs the assessment team met with, usually the CEO was the responsible authority for approving correspondent relationships, however, one bank mentioned that for *nostro* accounts the approval of both the compliance officer and the CEO is required while for *vostro* accounts the only the compliance officer approval is required.

Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4)

⁴⁷ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

518. FIs in Oman are not required - by a law or regulation or any OEM - to document the respective AML/CFT responsibilities of each institution in a correspondent relationship.

519. It seemed that FIs do document AML/CFT responsibilities, however some of them mentioned that those responsibilities are not that detailed and sometimes might only constitute one clause in the correspondent relationship agreement.

Payable-Through Accounts (c. 7.5)

520. Where a correspondent relationship involves the maintenance of payable-through accounts, FIs in Oman are not required by a law or regulation or any OEM to be satisfied that their customer (the respondent financial institution) has performed all the normal CDD obligations (set out in R.5) on those of its customers that have direct access to the accounts of the correspondent financial institution; and the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution.

521. The assessment team has not come across a case where financial institutions maintain payable through accounts through their correspondent relationships.

New technologies and NTF business relationships (Recommendation 8)

Misuse of New Technology for ML/FT (c. 8.1)

522. There is no requirement set in the AML/CFT Law or the ER obliging FIs to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes.

523. Article (2)-d of the ER states that according to instructions issued by the regulatory authorities, institutions shall establish electronic data systems for monitoring all electronic banking transactions with the purpose of enabling institutions to report on unusual transactions. However, some examples that fall under *usual* electronic transfers rather than high technological services were set as minimum requirement in that regard.

524. Section (III) of the Executive Regulation of the capital market law sets several general precautionary procedures with regard to trading through the internet. For instance, it requires brokerage companies under Article (71-4) to conduct surveillance of internet trading operations; however such obligation came out in a very general format that doesn't indicate any link to AML/CFT or any other aspects. In addition, it further requires under sub-section (8-1) of the same article that contracts should be signed with customer using such service while taking into consideration the adherence to "Know your customer" requirements. Article (74) also mentions that brokerage companies shall cancel the orders coming from such clients if they infringe applicable directives and regulations or the agreement with the client or intended to create a false impression of purchasing or selling orders. Furthermore, Section V-3-C-7 of CMA circular E/8/2009 issued to companies operating in securities provided that they shall have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and when conducting ongoing due diligence.

525. For the insurance sector, article (5-9) of CMA circular E/6/2009 stated that insurance licensees shall take particular care in accepting new business through internet, post or telephone. It goes further that in accepting business from non face-to-face customer an insurer should use equally effective identification

procedures as those available for face to face customer acceptance, supplemented with specific and adequate measures to mitigate the higher risk.

526. Although the circular gives some useful guidance to insurance licensees when using high technological services, still it does not fully meet the requirement to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes.

527. The risk of the use of high technological services did not seem to be high in Oman since such services did not seem to be provided by a wide scale of FIs. In addition, e-banking services did not seem to be highly developed either. Internet banking was limited to payment of phone bills or submitting transfer orders on line for transferring money among accounts owned by the same customer. In that specific case, the customer still needs to come to the bank to complete the transfer procedures. Prepaid cards were also provided by banks, yet representatives of the banks the assessment team met with mentioned that these cards were issued to be loaded by the client to pay for government fees.

528. Mobile banking services are also provided just for delivering information to the customer but not to conduct transactions. For such kinds of modern services, the customer was usually identified at the bank premises since these services were only provided to customers who have accounts. In addition, to provide any new service, they mentioned that have to acquire CBO's approval. Some banks representatives also mentioned that it was not a priority for them to expand in high technological banking services but rather to expand through opening new branches. Some securities companies confirmed that they provide mobile and online trading facilities. However, the customer in that case should open an account first via one of the companies account officers and money should be present in the customer's account in order to use that service.

529. As described above, the technological services provided by most FIs in Oman did not seem to be highly sophisticated, however the AML/CFT risk commonly associated with the use of such services was not addressed, as none of the FIs providing such services confirmed applying any specific measures to prevent the misuse of technological developments in ML or TF schemes, though mentioned applying the usual electronic security techniques (passkeys, tokens, etc.).

Risk of Non-Face to Face Business Relationships (c. 8.2 & 8.2.1)

530. There are no requirements set in the AML/CFT Law obliging FIs to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions whether when establishing customer relationships or when conducting ongoing due diligence. Article 12-5 of the AML/CFT Law only mentions that targeted institutions shall exert special care in dealing with other cases that represent high degree of risk in accordance with the cases and controls specified in the ER, however; no reference was made to the risks associated with non-face to face business relationships can be pointed out in the ER⁴⁸.

531. Besides the requirements mentioned under section (III) of the Executive Regulation of the Capital Market Law, Section V-3-C-7 of CMA circular E/8/2009 issued to companies operating in securities provides that they shall have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and when conducting ongoing due diligence.

⁴⁸ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

532. The circular mentions the following examples for non-face to face operations: business relationships concluded over the Internet or by other means such as through post services, and transactions over the Internet including trading in securities by retail investors or other interactive computer services; the use of ATM machines; telephone banking; transmission of instructions or applications via facsimile or similar means and making payment and receiving cash withdrawals as part of electronic point of sale transaction using prepaid or reloadable or account linked value cards.

533. The circular also provide that managing the risks should include specific and effective CDD procedures that apply to non-face face customer. Examples of which include the certification of documents presented, the requisition of additional documentation to complement those required for face to face customers, develop independent contract with the customer, rely on third party introduction and require the first payment to be carried out through an account in the customer's name with another bank subject to similar CDD standards. For electronic services, a reference was also made to the "Risk Management Principles for Electronic Banking" issued by the Basel Committee in July 2003.

534. For the insurance sector, article (5-9) of CMA circular E/6/2009 states that in accepting business from a non face-to-face customer, an insurer should use equally effective identification procedures as those available for face to face customer acceptance, supplemented with specific and adequate measures to mitigate the higher risk. The procedures mentioned by the circular are applicable at the customer acceptance phase, yet they do not deal with the requirement that risk mitigating policies and procedures should also apply when conducting ongoing monitoring.

535. Circular E/6/2009 also mentions examples of non-face to face operations including e-commerce or sales through the internet, accepting new business through internet, post or telephone. It also establishes some guiding examples of risk mitigating measures in line with those mentioned in the Methodology.

536. Most of the FIs met by the assessment team did not seem to have comprehensive policies/procedures in place to address risks associated with non-face to face business relationships or transactions. However, as previously described above, customers need to visit the FI's premises in order to apply for high technological services; in addition those services are only provided to account holders already subject to the standard CDD procedures. On the other hand, monitoring systems applied to transactions conducted using such services were the same ones applied to all other types of transactions (usually threshold based). With the exception of one bank mentioning the presence of some sort of monitoring over the use of ATM/CDM machines, none of the banks had specific monitoring systems for high technological services (e.g. electronic systems designed for that purpose).

3.2.2 Recommendations and Comments

Customer due diligence including enhanced and reduced measures (Recommendation 5)

- Financial Institutions should be prohibited by a primary or secondary legislation from *keeping* anonymous accounts and accounts in fictitious names.
- Setting a requirement in a primary or secondary legislation that, in case numbered accounts do exist, financial institutions are required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations
- FIs should be required by a primary or secondary legislation to apply CDD when:
 - Establishing business relations.

- Carrying out occasional transactions above the applicable designated threshold (USD/EUR 15 000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;
 - Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;
 - There is a suspicion of ML or TF, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations
 - The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
- Setting a requirement in the AML/CFT Law or the ER requiring FIs to verify the customer's identity using reliable, independent source documents, data or information and also neither of them requires that identification procedures apply for both permanent and occasional customers whether natural or legal persons or legal arrangements.
 - FIs should be required by a law or regulation to verify that any person purporting to act on behalf of the customer (who is a legal person or a legal arrangement) is so authorized, and identify and verify the identity of that person.
 - Reformulate the definition of the beneficial owner to be in line with the standards.
 - FIs should be required by a primary or secondary legislation to determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person.
 - Supervisors should exert more effort to ensure that FIs are aware with their requirements regarding the beneficial owner and actually implementing them.
 - Banks, finance companies and exchange companies should be required to obtain information on the purpose and intended nature of business relationship.
 - Supervisors should exert more effort to ensure that FIs have systems in place to acquire information on the purpose and intended nature of the business relationship.
 - Supervisors should exert more effort to ensure that FIs are conducting ongoing due diligence on the business relationship and that they are updating their CDD information.
 - Banks, finance companies and exchange companies should be required to apply enhanced due diligence for higher risk categories of customer, business relationship or transaction
 - Supervisors should provide guidance to companies operating in securities, banks, finance companies and exchange companies on enhanced due diligence procedures to be applied in cases of high risk customers.
 - Supervisors should exert more effort to ensure that FIs are aware of enhanced due diligence requirements to be applied to high risk customers and that they are actually applying them.

- Instances where simplified due diligence can be applicable for insurance companies need to be revised to be in line with the standards.
- CDD requirements for securities and insurance companies should not be permit to postpone identification after commencing the business relationship with the customer.
- Banks, finance companies and money exchange companies should be prohibited to open the account, commence business relations or perform the transaction and they should be required to consider making a suspicious transaction report whenever they fail to apply CDD.
- Banks, finance companies and money exchange companies should be under an obligation that where they have already commenced the business relationship, and they are unable to apply CDD, they should terminate the business relationship and consider making a suspicious transaction report.
- Supervisors need to ensure that FIs will consider making a suspicious transaction report whenever they fail to apply CDD.
- FIs should be fully required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.
- Supervisors need to exert more effort to ensure that FIs are applying CDD on existing customers.

Politically exposed persons (Recommendation 6)

- Definition of politically exposed persons in the AML/CFT Law needs to be in line with the FATF definition.
- Banks, finance companies, exchange companies and insurance companies should be required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person.
- Banks, finance companies, exchange companies should be required to obtain senior management approval for establishing business relationships with a PEP.
- FIs in Oman should be required to obtain senior management approval to continue the business relationship, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.
- Banks, finance companies and exchange companies should be required to take reasonable measures to establish the source of wealth of customers identified as politically exposed persons and the source of wealth and funds of beneficial owners identified as politically exposed persons.
- Insurance companies should be required to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs.
- Banks, finance companies and exchange companies should be required to conduct enhanced ongoing monitoring on the business relationship with PEPs.

- Supervisors need to enhance their monitoring on applying requirements under R.6 especially for nonbank financial institutions.

Correspondent banking (Recommendation 7)

- Financial institutions in Oman should be required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action.
- Financial institutions in Oman should be required to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective.
- Financial institutions in Oman should be required to obtain approval from senior management before establishing new correspondent relationships.
- Financial institutions in Oman should be required to document the respective AML/CFT responsibilities of each institution in a correspondent relationship.
- Where a correspondent relationship involves the maintenance of payable-through accounts, FIs in Oman should be required to be satisfied that their customer (the respondent financial institution) has performed all the normal CDD obligations set out in R.5 on those of its customers that have direct access to the accounts of the correspondent financial institution; and the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution.
- Supervisors need to enhance their monitoring in the area of applying requirements under R.7 especially for exchange companies and securities companies.

New technologies and NFTF business relationships (Recommendation 8)

- Banks, finance companies, exchange companies and insurance companies should be required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes.
- Banks, finance companies and exchange companies should be required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions whether when establishing customer relationships or when conducting ongoing due diligence.
- Banks, finance companies and exchange companies should be required to have measures for managing non-face to face business relationships or transactions risks including specific and effective CDD procedures that apply to non-face to face customers.
- Supervisors need to make sure that FIs under their supervision have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions when conducting ongoing due diligence.

3.2.3 Compliance with Recommendations 5 to 8

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.5 | NC | <ul style="list-style-type: none"> • Incomplete requirement regarding prohibiting FIs from <i>keeping</i> anonymous accounts and accounts in fictitious names. • There is no specific guarantee in a primary or secondary legislation that, in case numbered accounts do exist, financial institutions are required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations • FIs are not required by a primary or secondary legislation to apply CDD when: <ul style="list-style-type: none"> - Establishing business relations. - Carrying out occasional transactions above the applicable designated threshold (USD/EUR15 000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked; - Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; - There is a suspicion of ML or TF, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations - The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • Neither the AML/CFT Law nor the ER requires that FIs should verify customer's identity using reliable, independent source documents, data or information and also neither of them requires that identification procedures apply for both permanent and occasional customers whether natural or legal persons or legal arrangements. • FIs are not required by a law or regulation to verify that any person purporting to act on behalf of the customer (who is a legal person or a legal arrangement) is so authorized, and identify and verify the identity of that person. • Incomplete definition regarding the beneficial owner. • FIs are not required by a primary or secondary legislation to determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • Effectiveness regarding the beneficial owner. • There are no requirements for banks, finance companies and exchange companies to obtain information on the purpose and intended nature of business relationship. • Most FIs do not have systems in place to acquire information on the purpose and intended nature of the business relationship. • Effectiveness regarding the monitoring and updating CDD information. • Only partial requirements exist for banks, finance companies and exchange companies with regard to applying enhanced due diligence for higher risk categories of customer, business relationship or transaction • No guidance was given to companies operating in securities, banks, finance companies and exchange companies on enhanced due diligence procedures to be applied in cases of high risk customers. • Effectiveness regarding the applying enhanced due diligence to high risk customers. • Exception for insurance companies cannot be recognized as being in line with c.5.11 which states that "Simplified CDD measures are not acceptable whenever there is suspicion of ML |

| | Rating | Summary of factors underlying rating |
|-----|--------|---|
| | | <p>or TF or specific higher risk scenarios apply". Also Life insurance policies where annual premium is no more than RO 500 (approximately equivalent to USD 1300 which is considered higher than the FATF threshold), or, a single premium of no more than RO 1000 (approximately equivalent to USD 2600 which is also slightly higher than the FATF threshold)</p> <ul style="list-style-type: none"> • Securities and insurance companies are permitted to conduct identification after the business relationship with the customer has commenced. • Banks, finance companies and money exchange companies are not prohibited to open the account, commence business relations or perform the transaction and they are not required either to consider making a suspicious transaction report whenever they fail to apply CDD. • Banks, finance companies and money exchange companies are not under an obligation that where they have already commenced the business relationship, and they are unable to apply CDD, they should terminate the business relationship and consider making a suspicious transaction report. • Lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD. • Financial institutions are not fully required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times. • Lack of effectiveness regarding applying CDD on existing customers. |
| R.6 | NC | <ul style="list-style-type: none"> • Non complete definition of politically exposed persons in the AML/CFT Law. • Banks, finance companies, exchange companies and insurance companies are not required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person. • Banks, finance companies, exchange companies are not required to obtain senior management approval for establishing business relationships with a PEP. • There are no requirements for any FI in Oman to obtain senior management approval to continue the business relationship, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP. • Banks, finance companies and exchange companies are not under any obligation to take reasonable measures to establish the source of wealth of customers identified as politically exposed persons and the source of wealth and funds of beneficial owners identified as politically exposed persons. • Insurance companies are not under any obligation to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs. • Banks, finance companies and exchange companies are not subject to any requirements to conduct enhanced ongoing monitoring on the business relationship with PEPs. • Lack of effectiveness in applying requirements under R.6 especially in nonbank financial institutions. |
| R.7 | NC | <ul style="list-style-type: none"> • Financial institutions in Oman are not required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information, the reputation of the institution and the quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action. • Financial institutions in Oman are not required – by a law or regulation or any other enforceable means - to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective. • Financial institutions in Oman are not required – by a law or regulation or any other |

| | Rating | Summary of factors underlying rating |
|------------|-----------|---|
| | | <p>enforceable means - to obtain approval from senior management before establishing new correspondent relationships.</p> <ul style="list-style-type: none"> • Financial institutions in Oman are not required - by a law or regulation or any other enforceable means - to document the respective AML/CFT responsibilities of each institution in a correspondent relationship. • Where a correspondent relationship involves the maintenance of payable-through accounts, FIs in Oman are not required by a law or regulation or any other enforceable means to be satisfied that their customer (the respondent financial institution) has performed all the normal CDD obligations set out in R.5 on those of its customers that have direct access to the accounts of the correspondent financial institution; and the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution. • Lack of effectiveness with regard to applying requirements under R.7 especially for exchange companies and securities companies. |
| R.8 | PC | <ul style="list-style-type: none"> • No requirement for banks, finance companies, and exchange companies to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes. Only limited requirements in this respect exist for insurance companies. • Banks, finance companies and exchange companies are not required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions whether when establishing customer relationships or when conducting ongoing due diligence. • Banks, finance companies and exchange companies are not required to have measures for managing non-face to face business relationships or transactions risks including specific and effective CDD procedures that apply to non-face to face customers. • Lack of adequate policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions when conducting ongoing due diligence. |

3.3 *Third Parties and Introduced Business (R.9)*

3.3.1 *Description and Analysis*

Obtaining data on essential CDD elements (c.9.1)

537. Reliance on third parties was not tackled in either the AML/CFT Law or the ER. Banks, finance companies and exchange companies are not under any obligations regarding the application of R.9 requirements.

538. For companies operating in securities, CMA circular E/8/2009 mentioned in section VI-2 that “If the licensed company is permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, certain specified criteria should be met including to immediately obtain from the third party the necessary information concerning certain elements of the CDD process”. However, the circular does not clearly identify whether CMA permits reliance on third parties or not. The wording of the standard is identical to the one in the Methodology in this case, which might create confusion for the covered FIs.

539. Section VI-1 of the same circular mentions that these requirements do not apply to outsourcing or agency relationships *i.e.* where the agent is acting under a contractual arrangement with the financial

institution to carry out its CDD functions because the outsourced partner or agent is to be regarded as synonymous with the financial institution *i.e.* the processes and documentation are those of the financial institution. It also states that they do not apply to business relations, accounts or transactions between financial institutions for their clients.

540. On the other hand, for the insurance sector, section (5-11-1) of circular E/6/2009 clearly permits insurance companies to accept the customers introduced to them by the licensed brokers subject to some specific conditions including that the insurer shall obtain the necessary information concerning elements (a) to (d) of paragraph 5.3 of the CDD measures from the broker (identification and verification of customers). However, the circular does not mention that this procedure is required to be done immediately as required by the standard.

541. While banks are not under any obligations with regard to introduced business (including the obligation to immediately obtain from the third party the necessary CDD information), it seemed that introduced businesses are common for banks. Some banks mentioned having a number of foreign corporate customers performing projects/contracts in Oman. However, those customers had representatives in Oman who furnished for them all required identification information and documents. Other banks mentioned that they can receive instructions by phone from other FIs to open accounts for customers of other FIs. In that case they send the application form to the potential clients then receive it after being filled in, accompanied by copies of all the necessary documents like the power of attorney and other relevant documents. The same approach seemed also applied by securities companies. In all those cases, banks and securities companies did not seem to have clear procedures on what are the constraints relevant to relying on third parties in introduced businesses. In the same context, securities brokerage companies seemed willing to skip verifying the identity of the introduced customers if the introducer is known to them.

542. With regard to introduced businesses in the insurance sector, insurance companies seemed accustomed to relying on their agents/brokers in conducting the CDD for customers they introduce. Although the meeting with one insurance broker revealed that they do have comprehensive CDD procedures, yet it appeared that not all insurance companies do acquire identification documents from the broker/agent and only the brokerage slip is passed to the insurance company, however, the details of the brokerage slip was not available to the assessment team during the on site visit. The team was informed that in most cases actually the customer does not meet the insurance company unless there is a refund.

543. In addition, the assessment team detected reliance by finance companies on car dealers in conducting CDD for customers requesting vehicles finance. Car dealers seemed to fill in the finance company's form and take a copy of the ID and send all these documents to the finance company. However, the customer would still need to go to the finance company to deliver post dated checks used as collateral. It is in the view of the assessment team that requirements under R.9 would not be applicable to such kind of third party reliance being a kind of outsourcing or agency relationship where the processes and documentation are those of the finance company itself. One concern was cited in such kinds of relationships, which is that finance companies do not have the chance to see the original ID of the customer.

Responsiveness of the Third Party (c.9.2)

544. Regarding the securities sector, according to section VI-2 of CMA circular E/8/2009, if the licensed company is permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business then they should take adequate steps to satisfy themselves that copies of the identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. The requirement mentioned in the circular is considered to be in line with the requirement.

545. For the insurance sector, the conditions set in section (5-11-1) of circular E/6/2009 for accepting customers introduced by the licensed brokers including that the insurer shall obtain a written confirmation from the broker that any identification documents and other customer due diligence material can be accessed by the former and copies of the documents and material shall be provided to the insurer upon request, without delay.

546. For introduced businesses, banks are not under any requirement to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. However, banks and securities brokerage seemed more committed to obtaining identification documents from their introducers without delay. However, as described above, insurance companies usually do not acquire these documents accepting only the brokerage slip from their brokers.

Supervision of Third Party and Ability to Conduct CDD (c.9.3)

547. Regarding the securities sector, CMA circular E/8/2009 requires covered companies in section VI-2 that "If the licensed company is permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business then they should satisfy themselves that the third party is regulated and supervised and has measures in place to comply with CDD requirements in accordance with FATF Recommendations".

548. For the insurance sector, the conditions set in section (5-11-1) of circular E/6/2009 for accepting customers introduced by the licensed brokers include that the insurer shall obtain a written confirmation from the broker that all CDD measures required by this circular have been followed and customers'/beneficial owners' identity has been established and verified.

549. According to the circular, insurance companies can only accept customers introduced to them by licensed brokers, which implies that they must be subject to CMA supervision, yet the reliance on written confirmations does not seem to be enough assurance that the third party has measures in place to comply with CDD and record keeping requirements and cannot be viewed as implementing the standard in that regard.

550. Generally FIs did not seem to be collecting enough information about the CDD policy of the introducer; in addition, none of the FIs seemed to have internal policies requiring them to do so.

Country of Third Party (c.9.4)

551. Section VI-2 in circular E/8/2009 issued to securities companies mentioned that "If the licensed company is permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduced business then - inter alia- they should satisfy themselves that the third party has measures in place to comply with CDD requirements in accordance with FATF Recommendations. The requirement set in the circular is not considered to be in line with the standard, which requires that in determining in which countries the third party that meets the conditions can be based, the information available on whether those countries adequately apply the FATF Recommendations should be taken into account.

552. Nothing in the CMA regulations or circulars for the insurance industry tackles the issue of the country where an agent or a third party can be domiciled, however it should be noted that insurance companies are not permitted to accept customers from foreign financial institutions, as they are permitted to conduct business to customers introduced only by licensed agents (*i.e.* those subject to supervision of CMA).

553. It seemed that FIs did not receive adequate assistance in relation to determining what countries do not sufficiently apply the FATF Recommendations, or what factors should be taken into account to determine what countries do not sufficiently apply the FATF Recommendations. On the other hand, with the exception of very few, FIs did not seem knowledgeable about countries not sufficiently apply the FATF Recommendations and where they can obtain information about that area.

Ultimate responsibility for CDD (c.9.5)

554. Section VI-3 of circular e-8-2009 states that the licensed company shall bear responsibility for verifying and identifying the customer even if it relies on third parties.

555. Section 5-11-2 of circular E/6/2009 issued to insurance companies states that insurers shall be responsible for complying with the CDD measures for the business introduced by their agents and any third parties and for keeping records of the business introduced by them.

556. In practice, most FIs relying on third parties in conducting CDD showed clear knowledge that the ultimate responsibility remains with them and not the introducer.

3.3.2 Recommendations and Comments

- Set obligations for banks, finance companies and exchange companies for applying requirements under R.9.
- Establishing binding requirements for insurance companies to immediately obtain necessary CDD information from third parties.
- In determining in which countries the third party that meets the conditions can be based, companies operating in securities should be required to take into account information available on whether those countries adequately apply the FATF Recommendations.
- Require insurance companies to satisfy themselves that the third party has measures in place to comply with the CDD requirements set out in R.5 and R.10.
- FIs should be collecting enough information on whether the introducer has measures in place to comply with, the CDD requirements set out in R.5 and R.10.
- Competent authorities should actively assist FIs in determining what countries do not sufficiently apply the FATF Recommendations, or what factors should be taken into account to determine what countries do not through referring to reports, assessments or reviews concerning AML/CFT that are published by the FATF, FSRBs, the IMF or World Bank.

3.3.3 Compliance with Recommendation 9

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.9 | PC | <ul style="list-style-type: none"> • Banks, finance companies and exchange companies are not under any obligation for applying requirements under R.9. • Insurance companies are not bound by a time frame in order to immediately obtain necessary CDD information from third parties. • In determining in which countries the third party that meets the conditions can be based, companies operating in securities are not required to take into account information available |

| | Rating | Summary of factors underlying rating |
|--|--------|---|
| | | <p>on whether those countries adequately apply the FATF Recommendations.</p> <ul style="list-style-type: none"> • Insurance companies are not required to satisfy themselves that the third party has measures in place to comply with the CDD requirements set out in R.5 and R.10. • FIs did not seem to be collecting enough information on whether the introducer has measures in place to comply with, the CDD requirements set out in R.5 and R.10. • Authorities did not actively assist FIs in determining what countries do not sufficiently apply the FATF Recommendations, or what factors should be taken into account to determine what countries do not sufficiently apply the FATF Recommendations. |

3.4 Financial Institution Secrecy or Confidentiality (R.4)

3.4.1. Description and Analysis

557. The AML/CFT Law allows competent authorities to access information of financial institutions in order to perform their obligations under the FATF Recommendations. As for the flow of information from FIs to the FIU, Article (14) provides that in exception from the provisions relating to the confidentiality of banking transactions and professional confidentiality, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to notify the FIU regarding the transactions as soon as they are suspected of being related to the proceeds of crime, terrorism, terrorist crime or terrorist organization or involving ML or TF crimes, whether such transactions have or have not been conducted or at the time it is attempted to be conducted in accordance with controls and procedures specified in the regulation. In the same context, Article (12-8) provides that financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to provide the FIU directly with the information, data and documents it may require to conduct its functions. Article (16) also establishes legal basis with regard to exemptions from criminal and administrative liabilities in case of reporting suspicious transactions.

558. The flow of information between regulatory authorities and other competent authorities was also protected by virtue of Article (18), Paragraph (4) of the same law which stipulates that “competent regulatory entities shall cooperate and coordinate effectively with other domestic competent authorities to assist in conducting inquiries and in all stages of investigation and trial related to combating ML and TF”. Also Article (19) stipulates that “competent regulatory entities shall inform the Unit of the information it may receive on ML and TF crimes and the actions they may take in this regard and the results thereof. These entities shall provide the Unit with all the necessary data, information and statistics needed to conduct its functions.”

559. It should be noted that, according to Article (9) of the former AML Law, which was in effect till July 2010, FIs used to report STRs to both the Royal Oman Police (where the FIU is situated) and the competent supervisory authorities. In addition, based on the same article & Article 70 of the Banking Law, information requested by the Public Prosecutor used to be submitted through the Central Bank or other competent supervisory authorities. The latter procedure seemed to be unnecessarily lengthening the communication chain and has likely affected the timeliness of information flow to the PPO.

560. Article (6-c) of the current ER (which is in effect until the issuance of a new ER) provides that “If the competent authority deems it necessary to obtain any additional information relating to the suspicious transaction, it shall submit an application to that effect to the Public Prosecution specifying the nature of the information and the justifications for its obtainment, to consider mandating the institutions and other parties to submit such information in accordance with Article (9) of the Law (currently

cancelled)". However, that situation was changed by virtue of Article (12-8) of the AML/CFT Law which states that financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to provide the FIU *directly* with the information, data and documents it may require to conduct its functions". Before the issuance of the new AML/CFT Law, the procedures described under Article (6) of the ER seemed restrictive to the competent authority (used to be the Directorate General of Criminal Inquiries and Investigations of the ROP according to the old legal framework) access to FIs information on a timely manner. Usually the FIU needs to collect all the strings and available financial information before taking a further step to report to the public prosecution, which could not be effectively enhanced under the old legal framework.

561. Article (7) of the ER provides that concerned bodies under the AML/CFT Law and this Regulation shall observe the following on requesting confidential information:

- The required confidential information shall be within the limits necessary for the requirements of reporting and investigation of the suspicious transaction.
- Confidential information shall not be exchanged except by the concerned persons and shall not be disclosed to any other body.
- Confidential information shall not be used for any purposes other than those for which it was required.
- Confidential information shall not be copied or exchanged with any entity other than those concerned with combating ML.
- To maintain and protect the confidentiality of information exchanged with other countries and to ensure that it will not be used except for the purposes for which it was exchanged. An agreement to that effect may be made.

562. Being issued to cover provisions under the old AML Law, the ER requires under Article (7) that confidential information cannot be copied or exchanged with any other entity other than those concerned with combating ML, which literally excludes any other entities involved in measures related to the fight against terrorist finance. However, as previously stated, provisions under Articles 14, 12-8, 16, 18 and 19 of the newly issued AML/CFT Law extended the range of information exchange between FIs, regulatory authorities, the FIU and other competent authorities to cover both ML and FT. In addition, Article (7) of the same law requires the FIU to establish a database of all available reports and information and develop enough means to make them available to the judicial authorities as well as the exchange of such information and coordination with the competent entities in the Sultanate provided that the information is used for the purposes of combating money laundering and *terrorism financing*. It worth mentioning that Article (2) of the Royal Decree no. 79/2010 issuing the AML/CFT Law requires that till the issue of a new ER, the current ER shall be effective, unless it contravenes with the provisions of the law.

563. With regard to international cooperation, Article (43) of the AML/CFT Law stipulates that the Sultanate adopts the principle of international cooperation in combating ML and TF crimes in accordance with the laws of the Sultanate, the provisions of international conventions, bilateral agreements entered into or drawn by the Sultanate or application of reciprocity principle in the areas of legal assistance and joint international judicial cooperation. Also Articles 7 and 22 of the same law support the same concept on the FIU and the Public Prosecution levels.

564. There is no requirement to overrule secrecy provisions in order to permit the exchange of information between financial institutions where this is required by R.7, R.9 or SR.VII.

565. The Omani authorities whom the assessment team met with mentioned that they were able to access and share all relevant AML/CFT information, as contemplated by the old AML legal framework⁴⁹. The financial institutions which the mission met did not mention any case where they were not allowed to share relevant information where this is required by R.7, R.9 or SR.VII.

3.4.2 Recommendations and Comments

- Restrictions on exchanging information related to financing of terrorism between competent authorities should be eliminated in the new ER.
- A specific legal provision should be included to allow financial institutions to share information where this is required by R.7, R.9 or SR.VII.

3.4.3 Compliance with Recommendation 4

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.4 | LC | <ul style="list-style-type: none"> • No requirement to overrule the current secrecy laws with regard to permitting the sharing of information between financial institutions (where required by Rec. 7, 9 and SR VII) • Timeliness of information requested by the Public Prosecution and the competent authority is likely affected due to legal restrictions under the old AML legal framework⁵⁰. |

3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1 Description and Analysis

Record keeping (Recommendation 10)

Record-Keeping and Reconstruction of Transaction Records (c. 10.1* & 10.1.1)

566. Article (12), Paragraph (6) of the AML/CFT Law requires that financial institutions should retain records, documents, information and data relating to the identity of clients and beneficial owners and *their activities and transaction log* in a way which facilitates the retrieval thereof upon request in accordance with the provisions of this Law and for a period of (10) ten years commencing from the date of conducting or initiating the transaction or closing the account or end of work relationship, whichever is later. Upon request, they shall provide these records and documents to the *judicial* authorities that may keep authenticated copies of these records and documents for the said period. These copies shall have the same legal evidentiary effect as the originals. The Article also mentions that the regulation (the incoming ER which is not issued yet and currently substituted by the outgoing ER) will show the records, documents, information and data that must be retained.

⁴⁹ The old legal framework comprises the Law of ML issued by Royal Decree No. 34/2002 and its Executive Regulation issued by Royal Decree 72/2004. Effective implementation of the new AML/CFT law could not be established at the time of the on-site visit due to its recent issuance.

⁵⁰ The old legal framework constitutes the Law on ML issued by Royal Decree No. 34/2002 and ER of Law on ML issued by Royal Decree 72/2004.

567. Article (2), Paragraph (E) of the ER provides that FIs shall follow a system of retention of the documents and records specified in Article (5) of the AML/CFT Law (currently cancelled), in addition to accounts files and commercial correspondence, to expedite their response when required by competent bodies to provide any information or documents whenever the need arises.

568. Neither the AML/CFT Law nor the outgoing ER requires FIs to keep documents relevant to customers' transactions for a longer period if requested by a competent authority in specific cases and upon proper authority. However, it should be noted that for securities companies, Article (59) of the Capital Market Law gives some members of CMA the capacity of officers of law, allowing them to obtain data, statements, extracts and copies of the documents requested. However, that obligation is tied to the purpose of establishing any infringements of the provisions of Capital Market Law and its Regulations without any reference to requirement under the AML/CFT Law, besides it only requires the targeted FIs to provide documents when requested by CMA officers and it does not tackle a record keeping period.

569. CBO circular BM-610 issued to all licensed banks, investment, finance, leasing companies and money exchange companies requires that they should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of criminal behavior. These documents should be available to domestic competent authorities in the context of relevant criminal prosecutions and investigations.

570. For entities operating in securities, Article (2) of the ER of the Capital Market Law issued by decision no. (1/2009) states that all entities carrying out all or part of the activities provided for in the law or the regulation shall keep the documents and registers relating to the operations for ten years from the date of their creation and shall comply with the laws and decision issued by the competent authorities in respect of ML.

571. In addition, section VII-4 of CMA circular E/8/2009 requires that transactions' records should be sufficient to permit reconstruction of individual transactions so as to provide evidence for detection and prosecution of those who carry out ML and TF. Section VII-4-b requires that licensed companies shall maintain records and supporting evidence on the ongoing relationship and transaction including originals or copies accepted by courts in accordance with the applicable legislations for at least ten years commencing on the date of finalization of the transaction or the closure of the accounts or termination of the business relationship.

572. Neither the CBO circular BM-610 nor the CMA circular E/8/2009 provided any guidance with regard to keeping customer transactions documents for a longer period if requested by a competent authority in specific cases and upon proper authority.

573. Article (6) under CMA Circular E/6/2009 states that insurance licensees should keep records on the risk profile of each customer and/or beneficial owner and the data obtained through the CDD process (*i.e.* copies of records of official identification documents like passport, identity cards, driving licenses or similar other documents), and the account files, business correspondence and record on business transactions for at least ten years after the end of business relationship *i.e.* at least ten years after the expiry of the policies and/or ten years after settlement of claims, surrender or cancellation. Such record should be sufficient to permit reconstruction of individual transactions so as to provide, if required, evidence for prosecution of criminal activity. *In situations where the records relate to on-going investigations or transactions which have been subject to suspicious transaction reports, they should be retained until it is confirmed that the case has been closed.*

574. In practice, all FIs the assessment team met with confirmed keeping detailed documents relevant to customers' transactions for a period of 10 years starting from the account closing date for permanent customers and from the time the transaction is completed for non customers. Many of them also expressed that they may keep those documents for longer periods of time based on instructions from competent authorities.

Maintaining records of identification data (c.10.2*)

575. As mentioned above the AML/CFT Law (Article 12) and the ER (Article 2) require the retention of records, documents, information and data relevant to identity of clients and beneficial owners for a period of ten years.

576. However, the AML/CFT Law does not clearly specify that the types of documents that should be retained for ten years include account files and business correspondence as required by the standard, yet the ER mentions that retention of documents should be also applied to account files and commercial correspondence. When dealing with the period of retention, neither the law nor the ER addresses keeping these documents for a longer period if requested by a competent authority in specific cases and upon proper authority⁵¹. It should be noted that the Omani authorities explained that according to Article (11) of the AML/CFT Law the FIU can extend the duration of keeping relevant documents since the mentioned Article gives the FIU the power to issue instructions to the reporting entities in the course of conducting its work, however the need for extending the period or retention can arise from other competent authorities as well and presence of such a clause in the law cannot be regarded as sufficient to fulfill the requirement in the standard.

577. CBO circular BM-610 requires all licensed banks, investment, finance, leasing companies and money exchange companies to keep records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence for at least five years after the account is closed. These documents should be available to domestic competent authorities in the context of relevant criminal prosecutions and investigations.

578. For entities operating in securities, section VII-4 of CMA circular E/8/2009 requires that licensed companies shall maintain records and customer due diligence documents for at least ten years following the completion of the transaction or closure of accounts and termination of business relationship whichever is later.

579. Neither the CBO circular BM-610 nor the CMA circular E/8/2009 provides any guidance with regard to keeping customer transactions documents for a longer period if requested by a competent authority in specific cases and upon proper authority.

580. Article (6) of CMA Circular E/6/2009 states that insurance licensees should keep record on the risk profile of each customer and/or beneficial owner and the data obtained through the CDD process (*i.e.* copies of records of official identification documents like passport, identity cards, driving licenses or similar other documents), and the account files, business correspondence and record on business transactions for at least ten years after the end of business relationship *i.e.* at least 10 years after the expiry of the policies and/or ten years after settlement of claims, surrender or cancellation. Such record should be sufficient to permit reconstruction of individual transactions so as to provide, if required, evidence for prosecution of criminal activity. *In situations, where the records relate to on-going investigations or*

⁵¹ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

transactions which have been subject to suspicious transaction reports, they should be retained until it is confirmed that the case has been closed.

581. All FIs the assessment team met with confirmed keeping records of the identification data, account files and business correspondence for 10 years following. Many of them also expressed that they may keep those documents for longer periods of time based on instructions from competent authorities.

Responsiveness to competent authorities (c.10.3*)

582. Article (12), Paragraph (6) of the AML/CFT Law requires that upon request, financial institutions shall provide the records and documents (specified above) to the *judicial* authorities that may keep authenticated copies of these records and documents for the said period. These copies shall have the same legal evidentiary effect as the originals. Apparently, the said Article limits the authorities that can request for such records and documents to judicial authorities; however, Article (2), Paragraph (E) of the ER expands the requirement by stating that FIs shall follow a system of retention of the documents and records ... to expedite their response when required by *competent bodies* to provide any information or documents *whenever the need arises*.

583. Neither the AML/CT Law nor the ER⁵² sets any obligations with regard to making the retained documents available *on a timely basis* to domestic competent authorities upon appropriate authority.

584. CBO circular BM-610 issued to all licensed banks, investment, finance, leasing companies and money exchange companies requires that the retained documents be available to domestic competent authorities in the context of relevant criminal prosecutions and investigations.

585. Section VII-4-c of CMA circular E/8/2009 requires securities companies to develop integrated information system for record keeping enabling them to promptly respond to the requests of the FIU and CMA for any information especially the data *showing the ongoing* relationship with specific person during the past ten years and provision of information on such relationship.

586. No specific requirement was set to insurance companies in order to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.

587. During the on site visit, the assessment team did not come across any indication that customer and transaction records and information were not provided on a timely basis to competent authorities whenever requested upon appropriate authority.

Wire transfers (Special Recommendation VII)

588. Wire transfers are conducted through two types of institutions in Oman: banks and money exchangers licensed to do remittances (16 companies at the time of onsite visit). Concerning wire transfers, Article (13) under the AML/CFT Law states that financial institutions engaged in wire transfers shall ensure the client's identity verification statement as indicated in the ER. The financial institutions receiving the wire transfer shall refuse to receive it unless it contains the identification information. The law also indicates that the provision of this Article shall not apply to the following cases:

⁵² Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

- Transfers conducted as a result of credit card and ATM card transactions provided that the number of credit card or ATM card is attached to the transfer resulting from the transaction.
- Transfers conducted among financial institutions when the source and beneficiary are financial institutions working for their own interests.

589. When mentioning exceptions with regard to transfers of money conducted by a credit card or an ATM card, the law does not mention any provisions to differentiate between the cases where these instruments were used for withdrawals or for effecting payments (which is accepted as an exception from requirements related to originator information) and the case where those payment instruments are used as a payment system to effect a money transfer (in this case they should be covered by SR VII, and the necessary information should be included in the message). However, in practice, the assessment team did not come across any such kind of services being provided by any of the FIs met with the assessment team.

Full originator information (c.VII.1)

590. As mentioned above, Article (13) under the AML/CFT Law states that financial institutions engaged in wire transfers shall ensure that a client's identity information as indicated in the ER is included in the transfer. The financial institutions receiving the wire transfer shall refuse to receive it unless it contains the identification information. Article (2) of the ER requires obtaining a set of detailed information (see analysis under R.5), which would satisfy the requirement to include details like the name and the address of the originator but would not implement the requirement to include the originator's account number (or a unique reference number if no account number exists)⁵³.

591. The law does not set any thresholds to be taken into consideration when applying requirements related to transfers and it does not include a specific provision requiring covered entities to verify the identity of customers conducting transfers, yet the law includes a general provision to verify the identity of all customers without setting any thresholds (Article 12-2).

592. Many banks seemed to restrict conducting transfers only to account holders, which would suggest that they were already subject to standard CDD procedures. As for originator information accompanying the transfer message, all the FIs conducting transfers the assessment team met with confirmed acquiring a full set of information from customers applying for transfers. They also confirmed that this information also accompanies the transfer message. No evidence was seen to suggest otherwise.

Cross-border wire transfers (c.VII.2)

593. The AML/CFT Law does not differentiate between domestic and cross-border wire transfers concerning requirements related to the full originator information to be included in the transfer message. It does not also address specific diligence to be implemented for batched wire transfers. However, the general applicable rules require originator information as described by Article (13) of the law to accompany any, including batched, transfers.

Domestic wire transfers (c. VII.3)

594. As mentioned above, the AML/CFT Law does not differentiate between domestic and cross-border wire transfers concerning requirements related to the full originator information to be included in

⁵³ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

the transfer message. However, the general applicable rules require originator information as described by Article (13) of the law to accompany any, including domestic transfers.

595. In practice, the data collected from customers and sent over the transfer message did not seem to differ with regard to domestic transfers.

Duties of intermediary and beneficiary institutions and technical limitations (c. VII.4, c. VII.4.1)

596. No explicit obligation exists for the intermediary and beneficiary financial institutions in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer.

597. Article (13) under the AML/CFT Law states that the financial institutions receiving the wire transfer shall refuse to receive it unless it contains the identification information. The law does not tackle the situation where the FI is an intermediary in a payment chain.

598. There is no requirement set in the AML/CFT Law or its ER or any other enforceable regulations dealing with the situation where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer.

599. According to Article (12) -6 of the AML/CFT Law, there is a general provision for all covered entities to retain records, documents, information and data relating to the identity of actual clients and beneficiaries and their activities and transaction log in a way which facilitates the retrieval thereof upon request in accordance with the provisions of this Law and for a period of (10) ten years commencing from the date of conducting or initiating the transaction or closing the account or end of work relationship, whichever is later. The Article does not mention in specific any reference to the information received from the ordering financial institution.

600. None of the FIs conducting transfers that the assessment team met with mentioned the presence of any technical limitations preventing the full originator information accompanying across border wire transfer from being transmitted with a related domestic wire transfer, however they were not aware of their record retention obligations if such cases happen.

Incomplete originator information (c.VII.5)

601. Beneficiary FIs in Oman are not required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. There is also no requirement that the lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the FIU or other competent authorities. There is no requirement as well for the beneficiary financial institution to consider restricting or terminating its business relationship with financial institutions that fails to meet SR.VII requirements.

602. Article (13) of the AML/CFT Law states that the financial institutions receiving the wire transfer shall refuse to receive it unless it contains the identification information. The approach taken in the law in dealing with that aspect, which is refusing transfers is neither comprehensive nor practical enough and cannot lead to an effective implementation of the standard. On the one hand, it tackles identification information rather than full originator information as required by the Methodology. Being not limited to the originator information, the term identification information is likely to include much more information and on practical basis they cannot be all accompanied in the transfer message. Secondly, no guidance was given to the covered FIs with regard to the approach to be used in identifying such types of transfers.

603. None of the FIs met with the assessment team seemed to have any systematic procedures for the detection of transfer messages lacking full originator information. They only mentioned that such a situation rarely happens and if they manually detect such a transaction, they would immediately ask for the missing information. However, some of them were not even aware of the minimum set of information they should accept in a valid transfer message. Most of them seemed unaware of requirements regarding considering the lack of such information in a transfer message as a factor of suspicion, in addition to be not having clear instructions with regard to dealing with financial institutions that fail to meet SR.VII standards.

Compliance monitoring and sanctions (c.VII.6 & C.VII.7)

604. Being the supervisory authority for both banks and money exchange companies⁵⁴, both fall under the CBO's supervision. That role was also enforced by the AML/CFT Law which mentions in Article (18) that "Competent regulatory entities shall verify the compliance of all financial institutions, non-financial businesses and professions, and non-profit associations and bodies under their supervision or control with the obligations stipulated under the provisions of this Law".

605. No specific administrative sanctions were established in the AML/CFT Law to be applied in cases of non-compliance with the obligations set under SR.VII. However, for criminal sanctions, Article (32) under of AML/CFT Law states that "the penalty of imprisonment for a term of not less than (3) three months and not more than (2) two years and a fine of not less than OMR 1 000 and not more than OMR 10000, or either of them, shall be applied to any of the chairmen and directors of the boards of financial institutions, non-financial businesses and professions, and non-profit associations and bodies, their owners, authorized representatives, employees or the employees who act under these capacities who violate any of the obligations set forth in any of the articles of Chapter Four of this Law (which comprises FI obligations)". Apparently, these criminal sanctions are limited to the directors and senior management of the FIs but not to be applied on the legal person itself.

606. In addition, with regard to sanctions applicable on the legal person, the CBO issued circular BM/REG/012/5/78-2-1.09 which includes a list of administrative sanctions which may be imposed on a licensed *bank* for failure to comply with *directives or policies* of the CBO or for any breach or violation of the provisions of the *Banking Law or Regulations* of the CBO. This list includes the following:

- The withdrawal of the banking license of a licensed bank and/or any or all of its branch offices within the Sultanate.
- The suspension of operation of a licensed bank and/or any or all of its branches within or without the Sultanate.
- The imposition of a fee by way of penalty of not more than the bank or branch annual license fee to be assessed and charged for each business day during any period.
- Denial of access to credit facilities of the CBO.

607. Administrative sanctions applicable to money exchange companies conducting transfers were mentioned in CBO regulation BM-43-11-97 which was issued to regulate the licensing of conducting two services; money changing and the issue of drafts. The latter term was defined according to Article (2) to include foreign currency transfers inside and outside the Sultanate, selling and purchasing of travelers

⁵⁴ Refer to analysis under the beginning of section 3 of the report.

cheques and acting as agents on behalf of others in such transactions. Article (15) of the Regulation mentions that the CBO shall withdraw the license to carry out money changing or money changing and issue of drafts in some specific cases including if the licensee violates the provisions of this Regulation or directives issued by the CBO. Article (16) also mentions that in case of license withdrawal, the CBO shall inform the Ministry of Commerce and Industry, and shall publish the withdrawal decision in the Official Gazette once, and twice in two daily newspapers of which one is published in Arabic and the other in English.

608. Sanctions under circulars BM/REG/012/5/78-2-1.09 and BM-43-11-97 can be only applicable in case of violation the Central Bank Law or any directives or polices issued by the CBO, yet they are not applicable in cases of violations to the AML/CFT Law. However, the CBO circulated the AML/CFT Law to FIs under its supervision with instructions to abide by the provisions of the law by virtue of a circular, which would create a legal basis under which those sanctions can be applicable in case of violations to requirements related to transfers under the AML/CFT Law.

609. Entities conducting transfers mentioned receiving regular visits from their supervisors. Visits to exchange companies conducting transfers usually last for a week and would include visiting the company's branches as well. No sanctions related to the application of requirements under SR.VII were levied as per the information provided by the authorities, however some of the companies actually confirmed that the CBO had some remarks with regard to their systems although such remarks were more focused on their policies rather than their operations.

Additional elements (c.VII.8 & c.VII.9)

610. As previously discussed, the requirements set in the Omani legal and regulatory framework in order to cover requirements set under R.VII did not limit the required procedures to a certain threshold. In this context, current applicable requirements regarding outgoing or incoming transfers also applies to cross border transfers below EUR/USD 1000.

3.5.2. Recommendations and Comments

Record keeping (Recommendation 10)

- Financial institutions should be required by a primary or secondary legislation to maintain all necessary records on transactions, both domestic and international, for longer periods if requested by a competent authority in specific cases and upon proper authority.
- Financial institutions should be required by a primary or secondary legislation to maintain records of the identification data, account files and business correspondence, for longer periods if requested by a competent authority in specific cases and upon proper authority.
- Setting a requirement in a primary or secondary legislation for providing all customer and transaction records and information *on a timely basis* to domestic competent authorities upon appropriate authority.

Wire transfers (Special Recommendation VII)

- Reformulate the legal framework in a manner that makes the use of credit or debit cards as a payment system to effect a money transfer covered by requirements related to SR.VII.

- Financial institutions conducting transfers should be required to include the originator's account number (or a unique reference number if no account number exists) in the transfer message.
- Intermediary financial institutions in the payment chain should be required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer.
- Financial institutions conducting transfers should be required to keep a record for five years of all the information received from the ordering financial institution where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer.
- Beneficiary FIs in Oman should be required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.
- There should be a requirement in place indicating that the lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities.
- There should be also a requirement for the beneficiary financial institution to consider restricting or even terminating its business relationship with financial institutions that fail to meet SR.VII standards.
- FIs are advised to have adequate monitoring systems in place to ensure that transfers are accompanied by adequate information.
- Supervisory authorities should exercise their sanctioning powers whenever failures are sited.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

| | Rating | Summary of factors underlying rating |
|--------|--------|--|
| R.10 | LC | <ul style="list-style-type: none"> • Financial institutions are not required by a primary or secondary legislation to maintain all necessary records on transactions, both domestic and international, for longer periods if requested by a competent authority in specific cases and upon proper authority. • Financial institutions are not required by a primary or secondary legislation to maintain records of the identification data, account files and business correspondence, for longer periods if requested by a competent authority in specific cases and upon proper authority. • There is no requirement in a primary or secondary legislation on the timeliness of providing all customer and transaction records and information to domestic competent authorities upon appropriate authority. |
| SR.VII | PC | <ul style="list-style-type: none"> • Where credit or debit cards are used as a payment system to effect a money transfer, they are not covered by requirements related to SRVII. • Financial institutions conducting transfers are not required to include the originator's account number (or a unique reference number if no account number exists) in the transfer message. • Intermediary financial institutions in the payment chain are not required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. • Financial institutions conducting transfers are not required to keep a record for five years of |

| | Rating | Summary of factors underlying rating |
|--|--------|---|
| | | <p>all the information received from the ordering financial institution where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer.</p> <ul style="list-style-type: none"> • Beneficiary FIs in Oman are not required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. • There is also no requirement that the lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities. • There is no requirement as well for the beneficiary financial institution to consider restricting or even terminating its business relationship with financial institutions that fail to meet SR.VII standards. • Insufficient monitoring regarding transfers lacking full originator information. • Effectiveness regarding sanctions applied in case of failures to comply with requirements under SRVII could not be established. |

3.6 Monitoring of transactions and relationships (R.11 & 21)

3.6.1 Description and Analysis

Special Attention to Complex and Unusual Transactions (Recommendation 11) c.11.1-11.3

611. The AML/CFT Law requires financial institutions to monitor customers’ transactions on an ongoing basis and verify the sources of their funds to ensure conformity with the information available on their identity, nature of their activities and the degree of risk (Article 12 sub-4). The law however does not specify the requirement of an ongoing transaction monitoring for the purposes of detecting complex and unusual transactions and to record such findings to share with competent authorities when requested.

612. The requirement for financial institutions to pay attention to complex and unusual patterns of transaction is more explicitly noted in the outgoing ER, which requires financial institutions to establish electronic data systems for monitoring all electronic banking transactions with the purpose of enabling institutions to report on unusual transactions (Article 2 sub-d). This article of the outgoing ER further elaborates unusual transactions as a minimum requirement subject to reporting, and provides five situations: (i) when an account receives numerous small fund transfers electronically, followed by large transfers in the same way from that account; (ii) numerous and regular large deposits received within short periods by different electronic means; (iii) where an account receives large regular payments from countries known to have traffic in drugs or are classified as non-cooperative countries by the FATF; (iv) where transfers from abroad are received in the name of a customer electronically and are then transferred abroad in the same way without passing through the customer’s account; and (v) large and complicated electronic transfers conducted in an unusual manner and serving no apparent economic or lawful purpose.

613. The outgoing ER also obliges employees of financial institutions to review and carefully scrutinize certain unusual transactions listed out in 12 examples, including large cash transactions and unusual account movements (Article 3 sub-a to sub l),

614. Even long before the introduction of the former AML Law in 2002, CBO circular (BM.610) advised financial institutions to “pay special attention to all complex unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purposes” (Section B-

i). Additionally, the CBO circular (No. 3726/2000) issued on December 2000 sets forth an illustrative list of examples of financial transactions and customer behaviors that could indicate money laundering and therefore warrant additional scrutiny. With the ER requiring financial institutions to establish electronic data systems for monitoring and reporting of suspicious transactions, the CBO issued circular BDD/AMLS/CB/ME/2004/5984 on December 2004, instructing all financial institutions under its supervision to establish an electronic data system within six month of the date of the circular to assist in identifying money laundering and to facilitate reporting.

615. For the securities sector, CMA Circular E/8/2009 requires securities companies to pay special attention to all complex, unusual large transactions, or unusual pattern of transaction that have no apparent or visible economic purpose. The circular also includes general examples of transaction that may fall into that category requiring special attention in section VIII: *i.e.* (i) significant transactions relative to a relationship, (ii) transactions that exceed certain limit, (iii) very high account turnover inconsistent with the balance, and (iv) transactions which fall out of the regular pattern of the account's activity. The Circular also requires securities companies inquiring into an unusual transaction to refer back as far as possible on the background and purpose and document the findings in writing. Section VIII (3) requires companies to maintain the finding for at least five years.

616. The CMA circular directed at the insurance industry (E/6/2009) noted similar requirements of the above mentioned CMA securities circular, adding that the "background of such transaction should be as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors."

617. The AML/CFT Law requires financial institutions to retain records, documents, information and data relating to the identity of customers and real beneficiaries and their activities and transaction records for a period of ten years (Article 12 sub-6), and this includes records of unusual or complex transactions. The CBO Circular BM 610 mentioned above more specifically provides that the transactions should be examined as far as possible with the findings in writing and available to help supervisors, auditors and law enforcement agencies (Section B-1). The CMA circular also provides that findings be set forth in writing and be available for FIU and auditors for at least five years (Section VIII).

Effectiveness (R.11)

618. The financial institutions that the evaluation team met with were aware of their obligation to monitor large or complex transactions and noted that electronic databases systems were in place to capture all financial transactions. Financial institutions have in place automated monitoring systems with parameters set up to generate results that fit the criteria for large, complex or unusual transactions.

619. Many of the financial institutions noted implementing a cash transaction threshold or a high value transaction that would prompt monitoring by generating a report for further review. In general, there seems to be a lack of clear distinction between monitoring to identify unusual activity and suspicious transaction reporting identification.

620. The lack of clarity negatively effects implementation and is evident in a review of the supervisory examination reports. Financial institutions are found to have common difficulty in the implementation of policies and procedures related to transactions monitoring with gaps in their system, and some entities lacking an overall monitoring data system.

621. Overall, financial institutions do not have a clear understanding of what represents unusual activity resulting in an ineffective transaction monitoring system. There is a clear lack of understanding by financial institutions on the difference between monitoring of unusual transactions and the identification of

suspicious financial transaction involving criminal activity for the purpose of reporting. More importantly, financial institutions are not clear on the appropriate criteria that would capture transactions judged to be unusual for the purpose of monitoring. In order to overcome the lack of effective monitoring by financial institutions, the supervisory authority should undertake effort to clarify the requirements through further guidance.

622. In this context, the Omani authorities reported that on 28 August 2010 (within seven weeks following the onsite visit), the FIU issued a Manual of Suspicious Transaction Reports. The said manual provides basic information on the FIU, supervisors (diagram), reporting entities, reporting entities' obligations, and reporting procedures. In addition, the manual explains the definition of "suspicion" versus "knowledge" and provides a list of "examples of unordinary financial transactions [that] need to be reviewed and re-checked by the compliance officials for indicators of suspicion". According to the manual, the definition of suspicion is "the stage of mere doubt that a transaction includes an unordinary activity or it [sic] is a result of a criminal activity." According to this explanation on the definition of suspicion, unusual transactions would fall within the realm of suspicious transaction and would require the filing as an STR to the FIU. In the team's view, such definition would further confuse FIs as to unusual transaction monitoring versus criminal activity proceeds suspicion/reporting.

623. While the initial focus should be the issuance of better guidance on monitoring of unusual transactions, the Central Bank can improve the effectiveness of its AML/CFT supervision. Examiners are checking to see that financial institutions are implementing the monitoring of unusual transactions provisions and many are falling shorting of meeting the standard. The issuing of sanctions in the case of non-compliance, combined with stronger guidance may result in a more effective system of monitoring and evaluating unusual transactions.

Special Attention to Countries not Sufficiently Applying FATF Recommendations

Recommendation 21 c.21.1, 21.1.1 & 21.2

624. The AML/CFT Law has no specific provision requiring financial institutions to focus attention on geographic areas of concern or country specific risk. The outgoing ER (Article 2 sub-d-3) states as one of the requirements for establishing an electronic database to be for financial institutions to monitor *large regular payment transactions* originating from "countries known to have traffic in drugs or are classified as non-cooperative countries by FATF."

625. In contrast, (comparatively), CBO Circular BM610 requires financial institutions to "give special attention to business relations and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply [FATF] Recommendations." The circular also obliges that the background and purpose of the transactions should be examined, with the findings documented in writing for the competent authorities' availability.

626. Though the CBO circular is for AML purposes, it pre-dated the issuance of the former 2002 AML Law, and was subsequently followed in 2002 with a CBO circular (No. 2170/2002) on FATF's action relating to an update to FATF's Non-Cooperative Countries and Territories (NCCT) list. The circular also advises all banks and nonbank financial institutions to continuously refer to FATF's website for updated information. However, there appears to be a significant gap in the notification as the initial NCCT list of countries was adopted in 2000 and has undergone several updates since the distribution of the 2002 CBO circular. Furthermore, the CBO has not distributed more recent FATF statements identifying countries with strategic AML/CFT deficiencies.

627. During the on-site, the evaluation team met some financial institutions in Muscat, and found that financial institutions, especially banks are exercising enhanced due diligence with countries that did not apply the FATF Recommendations sufficiently or have been identified as FATF countries of concern based on their own internal compliance procedures. This is done on the basis of their access to commercial compliance software that provides information on countries formally identified by FATF for their AML/CFT deficiencies.

628. For the securities sector, CMA Circular E/8/2009 directs the licensed entities to “give special attention to transactions with persons from countries which do not or insufficiently apply measure for combating money laundering and terrorist financing” requiring the details to be provided to the CMA (Section V-c-5). It further states that if the transaction does not have any “apparent economic purpose” it needs to obtain additional due diligence measures and obtain the background and purpose of such transaction on record. However, as is the case in the CBO circular, the CMA has not provided guidance or follow-up on countries determined to be insufficiently applying AML/CFT measures.

Ability to Apply Counter-measures c.21.3

629. There is no formal mechanism by which the supervisory authorities alert their financial institutions of countries that do not apply the FATF Recommendations. While the ER states that financial transaction with high risk jurisdictions should be monitored, there is no evidence that institutions reasonably understand this obligation. Oman has not established a mechanism for applying counter-measures with respect to jurisdictions that do not adequately apply the FATF Recommendations.

Effectiveness

630. Many financial institutions rely on their subscription to commercial compliance software to fulfill their AML/CFT requirement for considering transactions from countries that do not sufficiently apply the FATF Recommendations. While this may be adequate in most cases, the lack of clear guidance from authorities hinders full effectiveness in cases where the information from commercial services are either in conflict or are more restrictive than national laws.

631. Moreover, the authorities were unaware of the possible course of action in response to FATF’s recent statements on jurisdictions of concern and the call for all members including the FATF-Style Regional Bodies (FSRBs) and the international community to apply countermeasures against Iran due to ongoing money laundering and terrorist financing risk and failure to address those risks. The lack of awareness of FATF’s call for action and the authorities’ failure to advise its financial institutions of the risks emerging from the weak AML/CFT systems of other countries presents a gap in Oman’s ability to take action and protect its financial system.

3.6.2 Recommendations and Comments

Recommendation 11

- Financial institutions need to determine more appropriate factors in the monitoring of transaction to assess what transactions fall outside of the regular pattern of account activity. More generally, in order to effectively monitor unusual transactions, the financial institutions should have a better understanding of their ML/TF risks specific to their industry as to what would constitute an unusual activity.
- The distinction between monitoring of unusual transactions and the identification / reporting of suspicious transactions is ambiguous for financial institutions and the authorities should take

effort to provide clarification through regulations and guidance for monitoring procedures. Authorities should also strengthen sanctions in the case of non-compliance by financial institutions that have not yet implemented a program to monitor transactions for the purposes of detecting unusual activity.

Recommendation 21

- Authorities should provide guidance to institutions on how they should be identifying countries that do not sufficiently apply the FATF recommendations. More fundamentally, authorities should institute a process under which they inform financial institutions of jurisdictions that do not apply adequate FATF standards.
- Authorities should also determine how to take into account FATF’s statements that call for action by it members and non-members alike when jurisdictions are identified as posing a significant ML/TF risk. It is recommended that authorities establish policy and procedures on applying appropriate countermeasures in response to specific FATF statements.

3.6.3 Compliance with Recommendations 11 & 21

| | Rating | Summary of factors underlying rating |
|-------------|---------------|--|
| R.11 | PC | <ul style="list-style-type: none"> • Lack of clarity on what constitutes unusual transactions as a separate from the reporting of suspicious transactions • Limited supervision and enforcement action against financial institutions pertaining to monitoring obligations • Lack of guidance by authorities to financial institutions on what raising awareness on monitoring unusual transactions |
| R.21 | PC | <ul style="list-style-type: none"> • No mechanism for applying counter-measures • No process in place for informing financial institutions to jurisdiction that pose a ML/TF vulnerability • Lack of guidance from authorities regarding what financial institutions should do to identify countries with significant weakness in AML controls |

3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)

3.7.1 Description and Analysis

Recommendation 13 and Special Recommendation IV (Suspicious Transaction Reporting)

Requirements to file STRs on ML and TF to FIU c.13.1, 13.2, 13.5 & SRIV.1

632. The AML/CFT Law requires financial institutions to report to the FIU the transactions as soon as they are suspected of: (i) being related to the proceeds of crime, terrorism, terrorist crime or terrorist organisation, or (ii) involving ML/TF, whether such transactions have or have not been conducted, or at the time they are attempted to be conducted (Article 14).

633. The outgoing ER provides that employees of covered entities are required to immediately report suspicious transactions to their compliance officer (Article 5). The compliance officer is responsible for reviewing the reasons for reporting and should submit the report to competent authority and the Central

Bank. With the issuance of the recent AML/CFT Law, the reporting structure has changed and compliance officers of covered institutions are now required to directly submit the STR report to the FIU without the need to send a copy to the CBO. The evaluation team noticed that due to the very recent changes in the reporting structure, some financial institutions still referred to submitting a copy of the suspicious transaction report to the CBO. The CBO Circular (BM610) has a provision of STR filing (Section B-ii). But it is deemed that this provision is replaced with the AML/CFT Law⁵⁵.

634. The requirements to file an STR for financial institutions are further detailed in CBO Circular (No. 880) issued in December 1999. In addition to the filing of suspicious transactions, financial institutions are required to submit quarterly reports summarizing the suspicious transactions. Even if no STRs were filed within the quarterly period, the CBO requires the filing of nil reports.

635. For financial institutions operating in the securities sectors, additional information on what is expected from a STR is stipulated in the CMA Circular E/8/2009. CMA-licensed companies are required to pay special attention to all complex and unusual patterns of transactions and are required to report to the competent authorities if they suspect that the funds moving through their accounts are suspected to be proceeds of criminal activity regardless of the amount and whether or not the transaction was completed. The circular includes additional guidance of red flags in the appendix of the circular for the securities sector in recognizing suspicious transactions and their obligation to report to authorities. The circular is clear that the reporting of suspicious transaction is required regardless of any other matters such as taxes. CMA issued a similar circular for the insurance sector (E/6/2009) on its requirement for STR filing.

Reporting Threshold c.13.3

636. There is no threshold for the filing of STRs in the AML/CFT Law. The law and ER require reporting of STRs to the FIU regardless of the amount of the transaction.

Filing of STRs Regardless of Possible Involvement of Tax Matters c.13.4

637. Oman has taken an all-crime approach for offenses to money laundering, and tax crime is also included in the predicate offence of money laundering. Therefore, a possible involvement of tax matters in a suspicious transaction is not an obstacle to filing STRs.

Effectiveness

638. According to authorities, the number of STRs filed by FIs since 2002 to 14 July 2010 total just 231. While the statistics show a steady increase in the number of STR filings in recent years, the level of reporting is very low. To date, no STRs have been filed by insurance, investment or finance companies. In 2010, all but one STR was filed by banks and heavily concentrated among a few banks that dominate the market. Updated information from the authorities after the on-site shows that of the 56 STRs filed through July 2010, 8 were in fact filed by non-banks. Of the total STRs filed so far, all were related to suspicions concerning proceeds of crime and none were linked to terrorism or terrorist financing.

639. Financial institutions reported awareness of their obligation to file a STR when faced with suspicious transactions in part due to recent increase in outreach by authorities on the obligations to file a report. The evaluation team also was informed across sectors that the low number and risk of criminal

⁵⁵ The authorities refer to a CBO circular (7393/2010), which directs FI subject to its supervision to send STRs and quarterly reports on them to the FIU only. The said circular is dated 5 October 2010, which is later than 7 weeks following the end of the onsite visit, and therefore the team cannot depend on it for analysis or rating as per the applicable evaluation procedures.

activity in Oman contributed to the low number of STR filings. The limited understanding of the potential ML/TF threat of the financial sector limits effective reporting.

Table 15. Statistics of STRs received from Financial Institutions from 2002 to 14 July 2010

| Year | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | Total |
|----------------|------|------|------|------|------|------|------|------|------|-------|
| Number of STRs | 2 | 5 | 24 | 14 | 20 | 21 | 29 | 60 | 56 | 231 |

Source: FIU

640. Further breakdown on the STR information, such as by nature of the suspicion, were not provided by the authorities. As supplemental information after the onsite, the authorities provided the assessment team with a chart below that breaks down the STRs by the type of transactions.

Table 16. STRs and Type of Transactions

| SN | STRs and Type of Transactions | Number |
|--------------|--|------------|
| 1 | Cash deposits | 95 |
| 2 | Financial transfers | 63 |
| 3 | Attempts to use forged documents | 15 |
| 4 | Payment of shares values of payment of loans | 5 |
| 5 | Cash withdraws | 53 |
| TOTAL | | 231 |

Recommendation 14 (Safe Harbor, Tipping-off and Confidentiality of Reporting Staff) c.14.1-14.3

641. Under the provision of the AML/CFT Law, persons who in good faith report any suspicious transactions to authorities are protected from criminal liability (Article 16). The AML/CFT Law also provides safeguards from civil or administrative liability that may result from breaching of confidentiality provisions in order to meet their obligations of reporting.

642. The AML/CFT Law prohibits from disclosing any of the procedures for reporting, analysis, or inquiry undertaken with respect to financial transactions suspected of involving ML or TF to the customer, beneficiary or other competent authorities (Article 15). Any person who violates this confidentiality clause is punishable with imprisonment for a period of no less than one year and a fine not exceeding OMR 10 000 (Article 29).

643. As described in Section 2.5, it is a crime for any employee of the Government of Oman to transfer official documents or information to unauthorized persons in accordance with the Law on Occupation Secrets and Protected Locations issued by Royal Decree No.36/1975. This law is applied to FIU staff as well.

Effectiveness

644. Financial institutions have a thorough understanding of the prohibitions of informing or inadvertently tipping off clients and related parties on filing of suspicious transactions. Overall, no discrepancy was determined to exist between the legal provision regarding safe harbor and tipping off and the implementation by financial institutions and their staff when filing STRs.

Recommendation 25 (Feedback for Financial Institutions with respect to STR) c.25.2

645. The AML/CFT Law requires the FIU to provide feedback to reporting entities, and competent regulatory authorities with the results of the STR (Article 10).

646. The FIU acknowledges receipt of all of the STRs received to the reporting entity and provides continual feedback if there are changes to the status of the STRs during the investigation. This is done on a straightforward basis between the FIU and the banks where communication channels are open and easily accessible. The FIU can contact a bank if it requires additional information on the circumstances of the transaction, the individual or the related account. The FIU has the ability to obtain any information necessary from reporting entities in the course of its analysis or investigation.

647. Discussions with both the FIU and the banks noted a close working relationship between the compliance officers of banks and the FIU. The communication between the banks that report an STR and the FIU is constructive with the FIU providing periodic feedback when changes to the status of the case occur. The FIU provides general information on the procedures it takes to follow-up on the STR. The feedback may be on the status of the STR, the results of the investigation such as closure or the referral to other agencies such as the Public Prosecutor's Office.

648. The FIU has not yet published an annual report to the public nor has it issued typologies that may provide information on emerging ML threats in the jurisdiction. With the continued operation and growth of the FIU, it should have the ability to provide more quantified feedback and analysis including examples of money laundering cases and information on trends and statistics of the STRs. Following the onsite visit, the authorities informed the team that the FIU launched a website (date of its launching was not indicated). The said website is still under construction but includes content consisting of basic statistics such as the number of STRs filed by each reporting financial entities, the total number of STRs filed since the passage of the initial money laundering law in 2002, STRs according to geographical regions and sectors. Since 2002 to July 14, 2010, there has been a total of 231 STRs filed with the FIU. The site also provides figures on the number of STRs being processed, referred to the public prosecution or kept on file at the FIU.

Recommendation 19 (Consideration of Reporting of Currency Transactions above a Threshold)

649. Besides the reporting requirements for STRs, Oman does not have any other reporting requirements for financial institutions. The evaluation team was not made aware of any consultative discussions by Omani officials to consider the feasibility and utility of implementing a separate system of reporting currency transactions meeting a certain threshold.

*3.7.2 Recommendations and Comments**Recommendation 13 and SR.IV*

- Authorities need to take greater efforts to increase awareness among the private sector on the potential ML/TF threats. Supervisory authorities should provide clear guidance on what constitutes suspicious transactions.

- The FIU should provide detailed guidance on the distinction between monitoring of transaction for unusual activities and reporting based on suspicious transactions to increase the number and improve the quality of reporting by financial institutions.

Recommendation 19

- Authorities should consider in the context of a risk-based analysis the possibility of implementing a reporting system for currency transactions meeting a threshold.

Recommendation 25

- The FIU and supervisory authorities should provide further guidance to the private sector through training, examples of case studies and typologies that describe money laundering and terrorist financing threat and methods.

3.7.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

| | Rating | Summary of factors underlying rating |
|--------------|---------------|--|
| R.13 | LC | <ul style="list-style-type: none"> • Low level of reporting raise questions of effectiveness • Reporting of STRs is heavily concentrated by a single financial sector |
| R.14 | C | |
| R.19 | NC | <ul style="list-style-type: none"> • There is no evidence that Oman has considered implementing a system for reporting currency transaction for regulated sectors |
| R.25 | PC | <ul style="list-style-type: none"> • Guidance provided insufficient for identifying TF and ML techniques and methods • Explicit feedback to reporting entities will generate better quality STRs |
| SR.IV | LC | <ul style="list-style-type: none"> • Lack of STRs on TF adds to inability to determine effectiveness of the regime |

3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)

3.8.1 Description and Analysis

Recommendation 15 (internal controls) (c.15.1)

650. Article (12), Paragraph (9) of the AML/CFT Law requires financial institutions to develop adequate systems for the application of the provisions of this Law provided that these systems include internal policies, procedures, control systems, compliance, training and appointment of compliance officers at these institutions in accordance with regulations, standards and rules established by regulatory entities.

651. Article (3) of the ER provides that employees in institutions which are subject to the Law shall review and make careful scrutiny while conducting certain types of transactions.

652. In addition, section (B) item (V) of CBO circular BM-610 issued to all licensed banks, investment, finance, and leasing companies and money exchange companies in 1991 requires that these entities should develop programs against ML. These programs should include, as a minimum the development of internal policies, procedures and controls.

653. Item 13 of CMA Circular 2/2005 provides guidance on policies and procedures to companies operating in the securities sector on the need to set internal control frameworks to combat ML. These requirements include ascertaining sources of funds, recording of details/transactions, preservation of such records, scrutiny over cash transactions, exceptional transactions, and reporting obligation to the compliance officer/regulator or any other authority. The circular also mentions that the requirements prescribed by CMA in this regard shall be specifically implemented.

654. Item IV-a of CMA circular E/8/2009 requires every licensed securities company to have procedures and control measures preventing ML and TF which should include record keeping and ability to reconstruct a transaction, recognition and reporting of suspicious customers/transactions to the competent authorities and the establishing and implementing internal policies, procedures and controls and appointment of a competent officer at the management level for implementation of such policies. Item XII-5 of the same circular gives more details on the required internal controls, compliance and review system.

655. With regard to insurance companies, item (8), Paragraph (1) under CMA circular E/6/2009 requires the establishing of a detailed internal policy, procedures and control system for combating ML and TF including CDD procedures, transactions monitoring, STRs reporting, compliance management and appointing of a compliance officer, employees' hiring standards and ongoing employee training.

656. The same circular also requires that the policy, procedures and controls shall be approved by the Board of insurance licensees who are companies incorporated in Oman, and by the senior management or head office in case of foreign branches and a copy shall be filed with the CMA.

657. Item (8) – paragraph 7 of the same circular requires the training of staff in several relevant fields including all aspects of AML/CFT Law, regulations, guidelines on AML and CFT measures set out in this circular by CMA, and in particular, the requirements concerning CDD and suspicious transaction reporting and the company's commitment.

658. In practice, most FIs the assessment team met with during the on-site visit had written AML/CFT policies. However, they were mostly basic and did not include much more details than the requirements already available in the AML/CFT Law and the ER. As for STRs reporting obligations, most of the FI seemed to have in place internal procedures organizing this matter.

Designated AML/CFT Units (c.15.1.1 & c.15.1.2)

659. Article (12), Paragraph (9) of the AML/CFT Law provides that financial institutions should appoint compliance officers in accordance with regulations, standards and rules established by regulatory entities.

660. Article (4) of the outgoing ER provides that every institution shall appoint a compliance officer who shall be responsible, in addition to other things, of liaising with the competent authority and the competent supervisory authority, to report cases of ML [*only*] and suspicious transactions and to prepare and maintain such reports in a proper manner, and to receive communications in this regard, and to ensure

that the institution's internal controls system operates efficiently for the proper implementation of the provisions of the Law and this Regulation⁵⁶.

661. Article (5) of the outgoing ER states that the Chairmen and members of boards of directors and managers and employees of institutions who suspect a transaction in the light of the provisions of Article (3) of this Regulation or for any other reason, are required to report the suspicious transaction instantly to the compliance officer, together with the reasons for suspicion. On receiving the report, the compliance officer shall review the transaction documents to ascertain whether the suspicions raised are justified, and shall, before finalization of the transaction, report the suspicious transaction to the competent authority, the Central Bank and the competent supervisory authority promptly, on the report forms attached to this Regulation.

662. The CBO Circular No. BDD/MLS/CB/ME/NBFIS/2005/1424 issued to all licensed banks, exchange companies, finance and leasing companies operating in the Sultanate of Oman in March 2005 provides that those institutions are required to strictly abide to rules stating that only the designated compliance officer, appointed at each institution, and not anybody else, is responsible for executing the specified tasks and duties assigned to him/her.

663. The provisions of the mentioned circular were further complemented by circular No. BDD/MLS/ME/NBFIS/2007/1480 which requires the same FIs to strictly and fully observe the requirement of informing the CBO and the Anti-Economic Crimes Unit of the Directorate General of Inquiries and Criminal Investigation of the Royal Oman Police with the updated data regarding the names, telephone and fax numbers of compliance officers immediately.

664. In addition, section (B) item (V) of CBO circular BM-610 issued to all licensed banks, finance companies and money exchange companies in June 1991 requires that these entities to develop programs against ML. These programs should include, at a minimum, the development of internal policies, procedures and controls, including the designation of compliance officers at management level.

665. Furthermore, Paragraph (3) of the CBO Circular BDD-AMLS-CB-ME-2004-5984 issued to the same FIs on in December 2004 provides that it is essential that all banking and financial institutions observe utmost care while vetting the academic qualifications and experience required in a person who is appointed as a compliance officer, and he should be vested with the powers that would enable him to perform his duties pursuant to the provisions of Articles (4) and (5) of the ER. In addition, a person chosen to this post must be a person of distinguished performance, integrity and honesty, and should be conversant with the sensitive nature of the post and the relevant issues. He should also be aware of the level of confidentiality required as a basis for the mandate and for the continued success in combating ML.

666. For the securities sector, Item (8) of Article (146) of the ER of the CML states that the company shall appoint a compliance officer who shall be a full time employee. Specific comprehensive powers and responsibilities of the compliance officer were also detailed under the same Article.

667. Article 147 of the ER of the CML states that the compliance officer shall ensure the company's compliance with legal requirement provided in the Capital Market Law, the regulation and directives and any other requirements.

668. Item XII-5-h of CMA circular E/8/2009 requires that internal controls, compliance and review system shall specify the power of the compliance officer to include at least what enables him to carry out

⁵⁶ Relevant requirements are reported by the authorities to be covered in the draft ER, which is expected to be replace the current ER. Since the said ER has not been issued yet, the team cannot depend on it in the analysis or in relation to ratings as per the applicable evaluation procedures.

his duties independently and maintaining confidentiality of the information he receives. He shall have access to the registers and data required to carry out examination and review of the systems and procedures put in place by the company to combat ML and TF.

669. For the insurance sector, Article (8) Paragraph (2) of CMA Circular E/6/2009 refers to Article 5/15 of its circular 7/1/2005 on the “Code of Corporate Governance for Insurance Companies” issued in 2005 which prescribes the appointment of a senior manager of appropriate standing, knowledge and experience as compliance officer. The compliance officer appointed as per Article 5/15 of the ‘Code of Corporate Governance’ shall also be entrusted with the responsibility of monitoring AML and CFT measures and reporting suspicious transactions. However, an insurance company may appoint an exclusive senior officer for AML/CFT measures and reporting of STRs if the work load so demands. Insurance brokers shall also designate a senior and competent officer as a compliance officer. The compliance officer should be well versed in different types of products and transactions which the insurance licensee handles and which may give rise to opportunities for ML and the financing of terrorism. Name and particulars of the compliance officer shall be communicated to the CMA. Paragraph (3) of the same Article mentions that the compliance officer shall have sufficient authority and resources to enable him to perform his duties.

670. Many compliance officers met by the assessment team during the on-site visit did not seem adequately knowledgeable and qualified as would be expected for holders of such a position. The assessment team sensed a prevailing concept at many FIs that it would be enough that the candidate has legal or audit background to qualify for that position. Some other FIs appointed fresh graduates in the position and gave AML/CFT training after being hired. For the few FIs that had appointed qualified compliance officers with relevant background in the position, the quality of internal AML/CFT procedures applied were apparently higher than their peers.

Independent Audit Function (c.15.2)

671. Neither the AML/CFT Law nor the ER requires FIs to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with these procedures, policies and controls.

672. Furthermore, no other enforceable regulation was issued for banks and other entities supervised by the CBO with regard to the establishment of an audit function or the responsibilities such a function has to take. The CBO only circulated in October 2001 the Basel guidance paper titled “Internal audit in banks and the supervisor's relationship with auditors” which was issued by the Basel Committee in August 2001. However, no similar guidance was provided to other FIs under the supervision of the CBO.

673. For securities companies, CMA circular 2/2005 gave a model internal system as guidance for such companies. That model tackled internal audit and inspections mentioning that full time employees shall be assigned and they should not be required to carry out any of the licensed activities. Methods like surprise checks shall also be employed. Sundry/suspense accounts shall be reviewed periodically. The audit/inspection team should report directly to the Board (preferably) or to the top management. Circular 2/2005 cannot be recognized as other enforceable means for lacking a direct obligation, only representing nonbinding guidance.

674. CMA circular E/8/2009 issued for the same group of FIs mentions under section XII (item 5) that internal systems should include appropriate mechanism for verification of compliance with the directives, policies and processes put in place to combat ML and TF and coordination as regards distinction between the powers and responsibilities of internal auditor and compliance officer.

675. However, the same circular mentions under section XII (sub-item 4-3) that the compliance officer duties also include to put in place a system to ensure the internal audit is checking internal control systems to ensure efficiency in combating ML and TF and propose any further measure or updating or development for more efficiency. That last requirement creates an ambiguity with reference to the roles of both the compliance and the internal audit functions. It is not clear how the compliance officer can set a system for the internal audit function to ensure that they test the internal control system. Under such circumstances, the internal audit would fall under the authority of the compliance officer, which contradicts the international standards that requires the independence of each of the two functions. This also creates an apparent difficulty in applying the requirement to “maintain an adequately resourced and independent audit function *to test compliance (including sample testing) with these procedures, policies and controls*”.

676. For the insurance sector, the Omani authorities provided the assessors with CMA circular 7/I/2005 titled “Code of Corporate Governance for Insurance Companies” issued in 2005 which mentions in Article 5/12 that “the board shall appoint an internal auditor who may be reasonably qualified and experienced full time manager or a licensed firm of auditors who are not the statutory (external) auditors of the insurer. The functions and duties of the internal auditor shall be as per annex (1)”. The responsibilities mentioned in an (annex 1) did not refer to policies, procedures and controls relevant to AML/CFT, yet the annex mentions that those responsibilities include “to review and/or examine the procedures and the internal controls of the company as established to ensure the company’s compliance with *the legal requirements* and the requirements of the Article 5 (11) of the Code of Corporate Governance for Insurance Companies and to recommend measures for removal of weaknesses identified.”

677. Article (8) Paragraph (4) of CMA Circular E/6/2009 issued to insurance companies, states that insurance licensee’s internal audit shall verify, on a regular basis, compliance with the policy, procedures and controls relating to AML/CFT measures and submit its report to the audit committee.

678. Although not being backed by a strong regulatory framework in that area, it seemed that banks were more ahead than other non-bank FIs in the area of having independent internal audit functions. They appeared to have a more structured internal audit functions supported by enough staffing. Most of banks’ internal auditors confirmed conducting sample testing and that checking compliance with AML/CFT requirements was among their responsibilities. However, for non-bank FIs, the interest in having a comprehensive audit function was much less. Some of the companies operating in securities and foreign exchange reported not having internal auditors at the time of the onsite visit. Other FIs seemed to be having small sized internal audit functions with limited staffing.

Training programs (c.15.3)

679. Article (12), Paragraph (9) of the AML/CFT Law requires FIs to develop adequate systems for the application of the provisions of this Law provided that these systems include internal policies, procedures, control systems, compliance, *training* and appointment of compliance officers at these institutions in accordance with regulations, standards and rules established by regulatory entities.

680. Article (8) of the ER lists some examples concerning the content of the training programs provided for in the Law.

681. For securities companies, Article (147) of the ER of the CML issued by decision No. (1/2009) stated that the compliance officer shall ensure the company’s compliance with legal requirements provided in the CML, the ER and directives and any other requirements specifically - inter alia – to ensure that training courses are provided to the company’s staff on statutory and anti-ML requirements and ensure they are notified of any developments in the Regulation.

682. Furthermore, Section (XII-5-i) of CMA Circular E/8/2009 requires the covered entities to ensure that their internal controls, compliance and review systems set training and awareness programs and plans for the company's employees. The programs shall include ML methods and ways of detection and reporting, and how to deal with suspicious customers and. Records of all training programs shall be kept for at least four years including the names of trainees, their qualifications and the entity that conducted the training whether in the Sultanate or abroad.

683. Under Section (XII-5-i-1) the circular further requires that each licensed company shall train its staff and agents about the nature and process of ML and TF, including current ML and TF techniques, methods and trends and new developments, all aspects of Anti ML Law, regulations, guidelines on anti ML and TF measures set out, and in particular, the requirements concerning CDD and suspicious transaction reporting and the company's commitment to that, in addition to the identity and responsibility of the compliance officer. It's also required that training programs should include explanation of the licensed company's policies and procedures for CDD, verification, record keeping, and reporting of suspicious transactions to the compliance officer.

684. In addition to the above mentioned requirements, the same section of CMA Circular E/8/2009 sets some additional detailed requirements with regard to training programs provided to front-desk staff, higher level training to be delivered to supervisors/Managers/Senior Management and Directors and in depth training that should be provided for compliance officers.

685. For insurance companies, article (8) Paragraph (7) under the Circular no. (E/6/2009), mentions almost the same requirements for insurance companies staff and agents. Specific training requirements with regard to front-line staff, supervisors, managers, senior management and directors, compliance officers are also provided in the circular.

686. It appeared that the responsibility for employees' AML/CFT training in the FIs visited by the assessment team was given to the compliance officers. Training programs seemed generally limited to basic in-house training delivered to the employees by the compliance officer, either through regular meetings or through (intra)web based training. Only one bank mentioned sending its employees on training courses abroad. The content of the training material did not seem to be specialized or customized according to trainees needs. Representatives of securities companies mentioned that their employees received training in the CMA. In addition, statistics from the CBO show that a number of seminars/workshops were provided to representatives from FIs subject to CBO's supervision as well. Extracts from examination reports suggest that supervisors seemed to be exerting an effort in monitoring training programs provided to FIs' staffs. However the examinations conducted seemed to be focusing on the number of employees trained rather than the quality of training provided. Moreover, although these examinations pointed out some violations yet effective sanctions were not exercised, which also contributed to the deficiencies sited above.

Screening Procedures (c.15.4)

687. For banks, paragraph 3 of CBO Circular BDD-AMLS-CB-ME-2004-5984 issued to all licensed banks, exchange companies and finance companies sets some requirements in this regard, albeit limited to the qualifications of compliance officers. The circular sets an obligation on all the covered FIs to observe utmost care while vetting the academic qualifications and experience required in a person to be appointed as a compliance officer. Such person should be vested with the powers that would enable him to perform his duties pursuant to the provisions of Articles (4) and (5) of the ER. In addition, a person chosen to this post must be of distinguished performance, integrity and honesty, and should be conversant with the sensitive nature of the post and the relevant issues. He should also be aware of the level of confidentiality required as a basis for the mandate and for the continued success in combating ML.

688. In addition, several requirements can be found in Article 77 of the Banking Law, and CBO circulars BM 652 dated 19 April 1992 and BM 954 dated 5 May 2003 which comprehensively tackle the minimum professional qualifications and highlight the fit and proper criteria that should be verified with respect to senior management members.

689. The circulars issued by the CBO with regard to senior management qualifications and qualities apply only to banks operating in Oman, no similar requirements were set for exchange and finance companies. In addition, the CBO was very keen to set specific qualifications for compliance officers and the senior management level, yet no requirements were set for employees working on the operational level.

690. For companies operating in securities, section (IV-e) of CMA Circular No. (E/8/2009) mentions a very brief non-detailed requirement for such companies to have procedures and control measures preventing ML and TF which should include - inter alia - establishing screening procedures when hiring employees and arranging ongoing training of employees and officers

691. For insurance companies, section (8) Paragraph (6) under the CMA Circular No. (E/6/2009), states that Insurance licensees are required to put in place screening procedures to ensure high standards of ability and integrity when hiring employees. Insurance licensees should identify the key staff within their organization with respect to AML/CFT and define fit and proper requirements which these staff should possess.

692. Employees screening seemed a bit inconsistent among FIs. Generally, although it seemed to be based mainly on the documents provided by potential employees, some FIs seemed to request criminal clearance from candidates, while others did not. One FI mentioned that acquiring criminal clearance from candidates before hiring is a requirement by the Omani Labor Law; however a reference about that issue could not be cited in the said law, which only deals under Article 32 and 40 with criminal incidents that might occur after hiring the employee. In addition, Article 18 of the same law requires that foreign employees must legally enter the country and abide to conditions governing foreign residents. Screening through external sources seemed to be minimal in most of the FIs the assessment team met with. Only one FI mentioned checking the background of the applicants with two references the applicant provides.

Additional element—Independence of the compliance officer (c. 15.5)

693. The legal and regulatory frameworks in Oman seem to be adequately supporting the independence of the compliance officer. Article (12) Paragraph (9) of the AML/CFT Law requires financial institutions to develop adequate systems for the application of the provisions of this law provided that these systems include - inter alia - appointment of compliance officers in accordance with regulations, standards and rules established by regulatory entities. In that context, Article (5) Paragraph (D) of the outgoing ER of the AML/CFT Law states that higher management of the institution shall not directly or indirectly influence the compliance officer in the performance of the duties imposed on him pursuant to the Law or this Regulation.

694. For companies operating in securities, Article 146 of the ER of the CML requires covered companies to appoint a compliance officer who shall be a full time employee on the following terms and conditions:

- The power to appoint and terminate the compliance officer shall vest with the board of directors. The compliance officer shall be a top management officer.
- Compliance officer shall not carry out any duties to be reviewed or audited by him and shall act independently from the executive management.

- Compliance officer shall have unfettered right to access the documents and records.
- Compliance officer shall act in accordance with internationally accepted standards.
- Compliance officer shall report to the general manager or the like and shall provide copy to the board of directors and the audit committee.

695. Article (8) Paragraph (3) of the CMA Circular E/6/2009 states that the compliance officer shall have sufficient authority and resources to enable him to perform his duties which also include submitting annual reports to senior management. No specific requirements for banks were set in that regard, however, in most FIs the assessment team met with, the compliance function was reporting to the audit committee or the Board of Directors.

Recommendation 22

Application of AML/CFT Measures to Foreign Branches and Subsidiaries (c. 22.1, 22.1.1 & 22.1.2, 22.2)

696. Article (12-7) of the AML/CFT Law requires FIs to “verify the compliance of their branches abroad with the procedures of combating ML and TF”. That obligation applies to branches of licensed FIs only and it does not cover their subsidiaries as well. In addition, the obligation set in the law, in its attempt to address the requirement, came out in very unclear general terms, in the sense that it does not clearly specify whether the mentioned procedures are those applied by Oman or the host country. Besides, it does not require FIs’ branches abroad to ensure compliance with the FATF Recommendations as well and to the extent that local (*i.e.* host country) laws and regulations permit. No further requirements set under R.22 were tackled under the AML/CFT Law. None of R.22 requirements were addressed by the ER.

697. CBO circular BM610 issued to all licensed banks, investment, finance, and leasing companies and money exchange companies, requires the said institutions in Paragraph (2), Section (C) to ensure that *the principles mentioned in the circular* are also applied by branches and *majority owned* subsidiaries located abroad, especially in countries which do not or insufficiently apply these *recommendations*, to the extent that local applicable laws and regulations permit. The circular sets further requirements to the covered FIs mentioning that when local applicable laws and regulations prohibit this implementation, competent authorities in the country of the mother institution [*i.e.* Oman] should be informed by the financial institutions that they cannot apply these *recommendations*. Although the whole paragraph does not make a clear reference to the FATF recommendations, the Omani authorities explained that the word “recommendations” refers explicitly to those issued by the FATF.

698. The requirements set under the CBO Circular BM610 applies only to the principles mentioned therein which only partially covers AML/CFT requirements as per the FATF standards and cannot be considered sufficient to implement the standards with respect to R.22 which requires countries to oblige FIs to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (*i.e.* host country) laws and regulations permit. In addition, the term “major owned subsidiaries” is limiting and would prevent applying that principle to all subsidiaries as required by the standards. The circular is also not considered consistent when requiring the covered FIs to report to the competent authority in the country of the mother institution (*i.e.* Oman) that they cannot apply *the FATF recommendations* in case they cannot apply *the principles mentioned in the circular* (not appropriate AML/CFT measures as required by the standards). The CBO circular is also silent with regard to the case where the minimum AML/CFT requirements of the home and host countries differ.

699. For securities companies, section XI-2 of CMA Circular E/8/2009 mentions that the covered companies shall ensure that their branches and agents abroad comply with the AML/CFT arrangements in line with requirements imposed in the Sultanate and the FATF Recommendations to the extent allowed by the locally applicable laws and regulations (in the host country). They are also required to pay special attention to this principle in respect of its branches and agents in countries which do not or sufficiently apply the FATF Recommendations, and where the minimum AML/CFT requirements differ in the Sultanate and the host country the branches and agents shall apply the highest standards to the extent allowed by the locally applicable laws and regulations (in the host country). Securities companies are also required to report to the competent department where a branch or agent is unable to implement proper AML/CFT procedures because the locally applicable laws, regulations and arrangements (in the host country) prohibit that. CMA Circular E/8/2009 only sets the above requirements for foreign branches and agents of securities companies without setting similar requirements for their subsidiaries abroad.

700. No regulatory requirements were set for insurance companies with regard to applying R.22. It is worth mentioning that the Omani authorities explained that there are currently no branches for insurance companies outside Oman, however it should be noted that in light of the data available to the assessment team, there are no legal provisions prohibiting them from opening branches abroad.

701. The FIs met by the evaluation team showed little knowledge of most of the requirements under R.22. For cases where AML/CFT requirements in the host and home country would differ most of them clearly indicated that they would apply the Omani laws and regulations rather than applying the higher standard. In addition, some FIs were not aware whether they received guidance in that regard from their supervisors. Few FIs were aware of the requirements under R.22 either based on the knowledge of the compliance officers of the international standards or based on the fact that the FI is either a branch or subsidiary of a large FI which is bound by strong AML/CFT requirements based on its internal policies and/or its strong home country laws and regulations.

Additional Element—Consistency of CDD Measures at Group Level (c. 22.3)

702. No requirements were set for FIs under the supervision of the CBO or the CMA to apply consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide.

703. Most of the FIs the evaluation team met with were not able to apply consistent CDD measures at a group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide either because of privacy limitations in the host or home country or on the basis of the fact that they did not have to/could not do that as per their internal policies. Few FIs showed limited ability to do so (on the basis of their internal policies).

3.8.2. Recommendations and Comments

Recommendation 15

- The CBO need to issue direct enforceable obligations to banks and other entities under its supervision regarding to the establishment of an audit function and the relevant responsibilities in its regard.
- The CBO should set screening requirements for employees at the operational level in banks and not only for senior management and compliance officers. CBO also needs to establish employee screening requirements for exchange and finance companies.

- Supervisors need to exert more effort in issuing guidance and monitoring of FIs to help them in setting comprehensive internal policies that can help them raise the level of procedures applied in the area of AML/CFT.
- Supervisors need to provide guidance to their FIs on the qualifications needed in the compliance officer (e.g. setting the minimum qualifications required).
- Supervisors need to exert more effort to ensure the establishment of adequate and effective internal audit function in nonbank FIs.
- FIs need to enhance the training provided to their employees to more specialized training programs customized to the needs of their employees. External training experts from outside the FI (e.g. from the supervisory authority or from specialized training institutes) might even raise the quality of implemented procedures inside the FI. Supervisors need to follow up on the quality of training provided to employees in most FIs.
- Supervisors need to provide guidance to their FIs on employees screening through external sources (e.g. the use of recommendation letters, inquiries through the previous employer, etc.)

Recommendation 22

- Authorities should set clear obligations and fully in line with R.22 for banks, finance companies and exchange companies (*i.e.* extending the coverage beyond principles mentioned in circular BM610 and setting the obligation in a manner more in line with R.22).
- Authorities should set obligations for insurance companies/licensees in line with requirements under R.22.
- Foreign subsidiaries of securities companies should be subject to requirements under R.22.
- Supervisors need to ensure that FIs under their supervision fully understand the requirements under R.22 and have incorporated them in their policies/manuals.

3.8.3. Compliance with Recommendations 15 and 22

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.15 | LC | <ul style="list-style-type: none"> • No enforceable obligations were given to banks and other entities supervised by the CBO with regard to the establishment of an audit function or the responsibilities such a function has to take. • Employee screening required by the CBO was only limited to senior management and compliance officers in banks and no employee screening requirements were available for exchange and finance companies. • <u>Effectiveness issues with regard to:</u> <ul style="list-style-type: none"> ○ Quality of FIs' internal policies. ○ Qualifications of the compliance officer. ○ Internal audit function in nonbank FIs. ○ Quality of training provided to employees in most FIs. ○ Employees screening through external sources. |

| | Rating | Summary of factors underlying rating |
|------|--------|--|
| R.22 | NC | <ul style="list-style-type: none"> • Only principles covered by CBO Circular BM610 were partially subject to requirements under R.22 for banks, finance companies and exchange companies. • Insurance companies are not covered by any of the requirements under R.22. • Foreign subsidiaries of securities companies are not under any obligation regarding requirements under R.22. • Most FIs showed insufficient knowledge of requirements under R.22. |

3.9 Shell banks (R.18)

3.9.1 Description and Analysis

Prohibition of Establishment of Shell Banks c.18.1

704. The CBO does not permit the establishment of shell banks within Oman. While there is no statutory prohibition on such entities, the possibility of creating a shell bank is precluded through the banking license granting process set out in the Banking Law (Article 52). Any person wishing to operate a bank in Oman must submit an application that includes a copy of its articles of incorporation, and, if the applicant is a foreign bank, proof of its authority to engage in banking business in the jurisdiction where it is organized or domiciled (Article 53). The Board of Governors of the CBO is to review and grant the approval for authorization of the banking license (Article 54).

Prohibition of Correspondent Banking with Shell Banks c.18.2

705. The AML/CFT Law specifically requires financial institutions to verify that their counterparts have a physical presence in the countries in which they are registered and are subject to regulation in these countries (Article 12 sub-1).

706. In addition, the CBO Circular (BDD/CBS/CB/ME/NBFC 2009/7449) states that there should be “no dealing with shell companies or entities coming under inadequate jurisdictions.” The Central Bank noted that no shell banks would be approved or currently operate in the country. Furthermore, banks noted that before correspondent relationships are established, they require verification of an AML/CFT program and includes the confirmation that they are not entering into a business relationship with a shell bank.

Requirement to Satisfy Respondent Financial Institutions – Prohibition of Use of Accounts by Shell Banks c.18.3

707. Financial institutions are not legally required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. The CBO Circular (BM 921) issued to banks stresses the importance of sound KYC standards as an essential aspect of risk management and includes a copy of the Basel Committee paper on Customer Due Diligence. The paper states that banks establishing correspondent accounts should consider such factors as the identity of any third party entities using the correspondent account and to ensure that the respondent bank is supervised with effective customer acceptance and KYC polices. The CBO advises that its banks evaluate the principles contained in the Basel Committee and enhance their KYC program accordingly. However, the said circular is not deemed to have actual enforceability, as it only attached a guidance paper on CDD for banks issued by the Basel Committee in October 2001.

708. Banks were explicitly aware of their obligation prohibiting the opening of correspondent accounts for shell banks but they should also be clearly aware of the risk arising from indirect access by shell banks.

3.9.2 Recommendations and Comment

- Authorities should raise awareness of indirect access to correspondent accounts by shell banks and should also oblige banks to ensure that their foreign correspondent does not allow its account to be accessed by shell banks.

3.9.3 Compliance with Recommendation 18

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.18 | LC | Financial institutions are not sufficiently required to satisfy themselves that their foreign correspondent does not permit its accounts to be used by shell banks. |

Regulation, supervision, guidance, monitoring and sanctions

3.10 The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)

3.10.1 Description and Analysis

Background on Supervisory Authorities

The Banking Sector

709. For a number of financial institutions in Oman, the Central Bank of Oman (CBO) is the supervisory authority. The CBO was established under the Banking Law of 1974 to develop and administer the government's monetary policies to sustain financial stability and growth in Oman. As the government's official bank, the CBO's principle functions are to: (i) to establish appropriate monetary policy; (ii) license, regulate and supervise banks and other licensed institutions and all matters relating to currency; (iii) promote economic development, growth and financial stability.

710. The CBO also has statutory responsibility for the supervision and regulation of the financial sector that includes commercial and specialized banks, financing and hire purchasing companies and money exchange companies. The Banking Law authorizes the CBO to consider the banking and financial recommendations made by international agencies and supranational organizations, and adopt those consistent with public interest without conflicting with the provision of applicable laws of the Sultanate.

711. Along with these general responsibilities as a central bank, the CBO has been designated as one of the competent authority to enforce the provisions of the former AML Law as a member of the National Committee for combating Money Laundering. Under the AML/CFT Law, the Executive President of the CBO is the chairman of the National Committee for Combating ML and TF (Article 23) (see Section 6.1 for the function of the National Committee).

712. Pursuant to the Banking Law, the CBO has authority to grant licenses for banks and finance and leasing companies wishing to operate in Oman and to take required action to "properly supervise and regulate banking in the Sultanate" (Article 14). All banks and finance and leasing companies licensed by CBO are subject to annual on-site examinations and regular periodic off-site assessments to measure the prudential health of the institutions.

713. The regulatory and supervisory functions within the CBO are mainly domiciled in the three banking control departments: Banking Development Department (BDD), Banking Examination Department (BED), and Banking Surveillance Department (BSD).

714. The BDD is one of the three banking control departments. It monitors compliance against certain prudential stipulations such as lending ratio and reserve requirements figures received from the financial institutions. Additionally, the BDD has the overall responsibility on AML/CFT policies and implementation housing the Anti Money Laundering and Combating Financing of Terrorism Unit (AML/CFT unit). The specialized unit was established in 2003 to deal specifically with ML and TF matters within the Central Bank. Its main responsibility is to issue direction in the form of circulars to CBO's financial reporting entities on ML and TF issues. The specialized unit also reviews STRs filed by banks, financing leasing companies and MSBs. Under the AML/CFT Law, financial institutions are now required to directly submit the STRs to the FIU. The specialized unit also tracks reports prepared by international authorities on AML/CFT and reviews all correspondences from banks, national committee and international groups that relate to AML/CFT.

715. The BDD carries out its functions with a staff of 21 covering offsite examinations for all 19 banks in Oman (seven national banks, ten foreign banks and two specialized government-owned banks). It is unclear if the number of total BDD staff is inclusive of those working within the AML/CFT unit. The BDD works closely with the BED, responsible for performing onsite examinations of banks and finance and leasing companies. BED has 26 examiners who carry out the annual examinations of banks. Usually a team of 5-6 examiners would be responsible for one bank, with the examination taking up to four months for larger banks to a few weeks for smaller institutions. The onsite examinations for finance and leasing companies require considerably less time and less number of examiners.

716. The Banking Surveillance Department, one of the three banking control departments (other than BDD and BED), is responsible for offsite examination of banks, finance and leasing companies, certain other responsibilities like credit institutions, stipulation of prudential limitations and norms and compliance oversight thereof. The BDD is also responsible for the onsite and offsite examination of money exchange businesses. CBO Regulation (BM/43/11/97) regulates the activities of money exchange operation in Oman. Pursuant to this regulation, the money exchange business is carried out by two types of institutions: (i) those engaged in money changing and remittances which consist of 16 companies, and (ii) those exclusively dealing in money changing business. Money exchange companies undertaking both the activities of exchange of currency and issue of draft are subject to annual examination by the CBO to ensure that they keep proper books and records and comply with the regulations and remain solvent. The BDD has four examiners responsible for the sector, and they cover 16 money exchange companies.

The Financing Sector

717. As mentioned above, the CBO also has authority over finance and leasing companies (FLC), which are subject to CBO's licensing system. The BED supervises and examines all finance and leasing companies annually. The majority of these companies in Oman mainly provide financing on vehicle purchases along with services to finance purchase of devices and machines for medium and small companies. At the time of the onsite visit, six companies with 33 branches were licensed.

718. Much of the offsite assessment of FLCs is conducted by the BSD. FLCs submit various monthly and quarterly reports on figures relating to the institution's balance sheets (assets and liabilities) to assess its prudential health with the BED conducting annual onsite examination. In most cases, these onsite visits can take up to 4 weeks and are performed by a team of 3-5 examiners for small financing and leasing companies and 5-6 examiners for the larger/more vulnerable ones.

The Capital Market and Insurance Sector

719. The CMA was established through issuance of the CML promulgated by Royal Decree No. 80/98 in 1998. It set up the CMA as the regulatory government agency responsible for overseeing the securities market. The other two related bodies, the Muscat Securities Market (MSM) and the Muscat Depository and Securities Registration Company (MDSRC) are supervised by the CMA. MDSRC registers and transfers the ownership of the securities of companies that are listed and traded on the MSM.

720. The main objectives of the CMA are to maintain a fair, efficient and transparent capital market in Oman through the following functions/power to:

- Regulate, license and control issuance and trading of securities;
- Supervise the MSM and the MDSRC;
- License, supervise and control public joint-stock companies, companies operating in securities, insurance companies, brokers and agents and credit rating companies;
- Develop capital market and insurance sectors through preparation of studies and development of appropriate legislations and regulations in accordance with the best international practices;
- Enforce the laws under the CMA jurisdiction; and
- Develop and enforce the legislations and regulations on combating money laundering at capital market sector.

721. The CMA is managed by a board of directors headed by the Minister of Commerce and Industry and includes representatives from the Ministry of National Economy, the CBO, the CMA, the MSM and three members representing the commercial banks, insurance companies and public joint-stock companies. The organizational structure of the CMA includes three main directorates, and the Directorate General of Market Operations and Insurance Control includes the five departments that license insurance companies and brokers and supervises and inspects them and also issues the regulations and circulars to combat money laundering and terrorism financing. The number of employees spread across these five departments under the Directorate General of Market Operations and Insurance Control is 39 (has recently hired 3 examiners with an additional 8 positions appointed). The CMA expects to hire additional staff for conducting onsite and offsite examinations.

Recommendation 23 (Regulation and Supervision)

722. The AML/CFT Law empowers the competent regulatory entities to verify the compliance of all financial institutions, non-financial businesses and professions, and non-profit associations and bodies under their supervision or control with the obligations stipulated under the provisions of this Law (Article 18 sub-1). The CBO is the supervisory authority for licensed financial institutions covering banks, finance and leasing companies, and money exchange business. With regard to money exchange businesses, there is a risk of informal money transfers (refer to section 3.11.1 on SRVI), in which the authorities have not taken a systematic approach towards detecting and addressing. The securities and insurance sectors are supervised by the CMA. In some cases however, both the CBO and CMA can have jurisdiction and authority over a financial institution that conduct activities licensed by both authorities. The CBO and CMA signed a MOU to ensure coordination and exchange of information when examining financial institutions such as banks that conduct financial services related to the securities sector.

The CBO

723. The CBO's power of inspection and supervision is primarily based on Article 73 of the Banking Law, which requires the CBO to examine the licensed banks on an annual basis and at other times it deems necessary.

724. The CBO uses a combination of both on-site examination and off-site examination methods. All licensed banks and finance and leasing companies are subjected to an annual on-site examination. Off-site examination is carried out at regular intervals to assess the prudential health of the institutions in between on-site examinations.

725. The AML/CFT Law authorizes competent regulatory authorities to issue instructions, guidelines, and recommendations to assist supervising institutions and bodies to implement the provisions of the AML/CFT Law (Article 18 sub-3). In accordance with provision, the CBO has issued numerous circulars pertaining specifically to AML/CFT. (see Section 3.2 for the legal status of the CBO circular)

726. Organizationally, the CBO has a specialized AML/CFT unit within the Banking Development Department responsible for developing and issuing AML/CFT circulars, examining STRs from financial institutions and is the point of contact for interagency cooperation with the FIU. However, with the issuance of the AML/CFT Law, all STRs filed by financial institutions go straight to the FIU. The AML/CFT unit is also responsible for tracking reports prepared by international authorities on AML/CFT and reviewing all correspondences from banks, national committee and international groups that relate to AML/CFT.

727. The activities of both onsite and offsite supervision are well coordinated. Onsite examinations focus on carrying out a comprehensive and in-depth analysis of the financial soundness, compliance, risk management, internal control and corporate governance of the financial institutions. The scope of the offsite examination is a more targeted and frequent information gained from offsite examinations is used as input for on-site examination planning. On-site examination ensures that the required off-site returns submitted by financial institutions are compiled accurately and submitted on time.

The CMA

728. According to Article 48 of the Capital Market Law (CML), the CMA is empowered to: (i) organize, license and monitor the issue and trading of securities; (ii) supervise the operation of the Muscat Securities Market, and (iii) supervise all companies operating in the field of securities.

729. To carry out its functions, the CMA has the authority to determine proper implementation of entities subject to the CML and regulations. Accordingly, the CMA is entitled to inspect records, books and documents at the principal office of the company or the place where the records are held to determine whether the person concerned has violated the CMA Law, regulations or any other directives issued by the CMA. The licensed entities are required to provide CMA with data, statements and any other materials requested by the CMA (Article 59).

730. The CMA issued Circular (E 8/2009) in July 2009 including guidance to all companies operating in the securities sector. The Circular sets forth the AML/CFT responsibilities of the securities companies. This guidance correlates to the outgoing ER and details requirements under CDD, high risk and low risk business relationship and transaction, filing of STRs, AML/CFT internal policies and compliance procedures among others.

731. The CMA issued similar guidance to the all insurance companies which identifies the factors that should be considered for insurance transactions and emphasizes the importance of ongoing monitoring of

business relationships. The CMA circular (E 6/2009) also requires insurance companies to implement internal regulatory controls to detect money laundering and to report suspicious transaction to authorities.

Recommendation 30 (Professional Standard and Training)

732. The CBO appears to have sufficient financial resources to carry out its function as the regulatory and supervisory authority for banks, FLCs and money exchange businesses. The total number of CBO staff is 511 of which 79 work among the three banking control departments of BDD, BSD and BED. Authorities noted that there are approximately 35 examiners with 26 tasked to conduct banking onsite examinations and 4 assigned to examine money exchange businesses. As for the 5 remaining examiners, they address the quality control of the inspection reports. The authorities have noted a projected increase that will add about 12 more examiners in the upcoming year and the CBO is in the process of planning for additional staff.

733. The Banking Law authorizes that Board of Governors or designated officials of the CBO to determine the qualification of the employees, officials, experts of consults needed to conduct its mission. It appears that the CBO maintains a high standard for employment with a majority having a diploma (technical certificate) and above up to PhD level. The minimum qualification for inspectors is a university degree. However, upon recruiting the senior inspectors from foreign regulatory bodies, priority is given to the holders of MA and Ph.D. and/or any professional degree such as chartered accountants (CA), chartered financial analyst (CFA), certified public accountant (CPA), etc., as well as at least 10 years of experience in the banking regulation/supervision field. Most senior examiners hold an advanced degree in business administration, economics and other related specializations and hold professional qualifications such as certified internal auditors (CIA), certified IT architects (CITA), CFA, and marketing resource managers (MRM).

734. CBO examiners go through at least a year of on the job training supplemented by internal and external training programs. For AML/CFT in particular, CBO examiners have participated in international and regional workshops and conferences. CBO has also participated in workshops hosted by the National Committee on Anti-Money Laundering and examiners complete in-house web module training.

735. The CMA also appears to have sufficient financial resources but lacks staff to adequately carry out its AML/CFT functions. The total number of CMA employees is 113 but there are 21 employees in the market operations and listed companies regulations department and 11 employees in the insurance operations regulation department. Of those figures, there are four who audit and inspect companies and four who conduct onsite inspections of insurance companies. CMA authorities are aware that additional staff is necessary and are in the process of increasing the staff of the regulatory departments by 25. Authorities have noted that 8 positions have been appointed and are in the process of filling them⁵⁷.

736. CMA officials noted that the organization maintains a high level of standard for its employees to be in line with CMA's overall values and principles in carrying out its mission of "maintain a fair, efficient and transparent capital market." CMA's Personnel Regulation (Articles 72 and 73) determines the duties of staff and the ethics that should be available in the working environment. In addition, CMA circulated criteria for professional conduct among the control-related staff.

737. According to information provided by authorities, CMA staff participated in both internal and external training related to AML/CFT. While most training sessions were overall AML/CFT workshops, some were specific to the sectors supervised by CMA focusing on the brokerage and insurance industries.

⁵⁷ The authorities reported in December 2010 that CMA had recently recruited 6 employees and CBO had hired 5. More staff are expected to be hired in both agencies according to the authorities.

Recommendation 29 (Supervisory Power)

The CBO

738. The AML/CFT Law requires the competent regulatory entities to verify the compliance of all financial institutions, non-financial businesses and professions, and non-profit associations and bodies under their supervision or control with the obligations stipulated under the provisions of the law (Article 18). Additionally, the Board of Governors of the CBO has the residual powers by provisions of the Banking Law to issue other authorities that may be necessary to regulate the banks (Article 15 of the Banking Law).

739. Furthermore, Article 73 of the Banking Law empowers the CBO to conduct examinations of the banking activities of each licensed bank with access at its discretion, the accounts, books, records and other affairs of any licensed bank. In this regard, banks must produce any documents within their authority and must furnish any information requested by the Central Bank.

The CMA

740. As for the CMA, Article 25 of the CML promulgates the powers to supervise those companies, including banks operating in the sector that engage in the following activities:

- Promotion and underwriting of Securities or financing of investment in Securities.
- Participation in the establishment or in increasing of the capital of companies was using Securities
- Depositing, clearance and settlement of Securities transactions.
- The establishment and management of Securities portfolio and investment funds.
- Brokerage in securities
- Management of trust accounts and custodianship of securities.

741. CMA is responsible for supervision of the entities engaged in the above activities, and the application of fit and proper criteria, ongoing monitoring, both onsite and off-site examinations and a full range of sanctioning measures.

742. The insurance sector is regulated by the Insurance Companies Law issued by Royal Decree No. 12/79 and its implementing regulations No. 5/80, which among other requirements, require the initial registration of insurance companies operating in Oman. In 2004, by accordance with Royal Decree 90/2004, there was an organizational transfer of the regulatory and supervisory authorities from the Ministry of Commerce and Industry (MOCI) to the CMA. Since 2004, the CMA has had the responsibility for the regulation and development of the insurance sector.

743. Article 3 of the Issuing Executive Regulation of the CML (Decision No. 1/2009) empowers the CMA to conduct inspections of the entities governed under the provisions of the CML which covers the securities sector, brokers and insurance companies. It allows the CMA to examine their compliance with the provisions of the law and regulations and to take appropriate action. The authority gives broad rights to the CMA to require the covered entities to provide all information requested in facilitating the inspection.

744. For both supervisory authorities of the CBO and the CMA, the powers to grant licenses, assess prudential reporting, apply the fit and proper criteria, ongoing monitoring, and sanctions are all within their realm. Both entities are required to conduct on-site inspections on a periodic basis as well as unscheduled visits whenever the authorities deem necessary.

745. For the CBO, full on-site examinations are conducted yearly for the covered institutions including banks, financing leasing companies and money exchange businesses. The staff of 35 examiners at the Central Bank will examine all banks and finance and leasing companies. As of December 2009, there were 19 banks comprised of seven national banks, two specialized banks and ten foreign banks. Depending on the size of the financial institutions, the CBO examiners spend a week and up to several months to conduct a comprehensive on-site examination.

746. During an on-site examination, the financial institutions are verified of their compliance with a number of prudential requirements, such as capital adequacy, liquidity, large exposures, asset quality, provisioning for non performing loans, related party transactions, income recognition, share ownership, investments, disclosure of accounts, risk management framework. In addition, the internal controls and standards of corporate governance in banks / FLCs are also assessed. Matters relating to non-compliance with prudential requirements and deficiencies in the financial condition, controls and systems of a bank or FLC are brought to the notice of its Board of Directors by the CBO to ensure that corrective action is taken by the entity. Where necessary, penalties are imposed as per an approved matrix of penalties.

747. As part of the overall on-site examination, the institution's AML/CFT program is reviewed and can take a period of few days to multiple weeks depending on the size of the institution. Before the on-site examination takes place, the financial institution receives an AML/CFT focused questionnaire of over 30 questions. As per the instructions on the questionnaire, the banks are required to prepare their responses to questions that cover procedures on KYC, AML/CFT; identification of higher risk customers and services; CDD training for staff on AML standards; suspicious transactions reporting among others. The information is to be furnished to the Central Bank with a signature from a Senior Manager of the bank.

748. These responses serves as the basis for the AML/CFT component of the on site exam where a few days or a few weeks are devoted from the overall length of the exam.

749. To date, the CBO has conducted examinations of 13 banks with the rest scheduled through September 2010. The CBO has completed the examinations for all six finance and leasing companies. The CBO has the authority to conduct examination outside the annual on-site examination schedule. Special or unscheduled examinations can occur based on the discretion of the authorities. They noted that if there were notified of specific risk or exposure based on reports from different agencies or the media, the authorities have the right to conduct targeted examinations although none so far have been conducted.

750. The CBO also conducts examinations of money exchange businesses including reviewing its AML/CFT regime. Exchange companies undertaking both the activities of exchange of currency and issue of draft are annually examined by the CBO to ensure that they keep proper books and records, comply with the regulations and remain solvent. Similar to the examination schedule of banks and finance and leasing companies, money exchange businesses are examined on an annual basis. In Oman, the number of money service businesses total 16 that are overseen by four examiners dedicated to the sector. Typically, examinations which cover the prudential and safety and soundness aspects as well as AML/CFT take 8-10 days.

751. The CMA developed a specific AML/CFT procedures guide for inspections conducted for entities in the securities market. The "Controls of Assessing Combating ML and TF" document sets forth an outline of an inspection program for the Department of Regulation of the Companies working Securities

Market and Credit Rating. This department is the main point of contact on issues related to AML/CFT for all companies operating in the securities field. The Inspection Program document summarizes the AML/CFT measures that the inspection program should cover such as verification of client and beneficiary's identities; record-keeping and document retention and internal compliance control. The summary sheet is organized in a helpful table-format with a column for the AML/CFT measures and another for reference to the corresponding law and regulations. The Inspection program also include an auditing checklist of standards to ensure that the licensed company has taken all required procedures to prevent money laundering and terrorist financing by setting up internal controls to monitor client records and recognizing suspicious transactions; obtaining proper identification to verify client identities; record updating and internal controls that are approved by higher management. At the time of the onsite, the CMA had inspected all insurance and brokerages since mid-last year and had currently inspected seven investment companies with additional inspections planned this year.

752. Oman has 26 companies including banks, investment and financial companies dealing in securities under supervision by a low number of CMA staff. There is currently eight staff including inspectors in the Market Operations Department. The authorities have noted that eight additional staff have been appointed with plans to appoint additional staff in order to increase the regulatory department of the CMA. The CMA is also undergoing reorganization in the department and the authorities acknowledge that additional staff to handle inspections will be needed to carry out the provisions of the new AML/CFT Law. They have noted this as a priority to hire additional staff to handle the increase in responsibility.

753. The CMA conducts comprehensive field inspections covering the activities of its licensed entities. Inspectors review the company's procedures for combating money laundering and terrorism financing to ensure that internal policies and controls exist and mechanisms for its applications exist. Circular E/6/2009 issued in June 2009 was based on the Executive Regulations on ML of 2004, obligates those entities operating in the insurance sector to set out internal regulatory controls to detect and combat money laundering.

754. Since the CBO and CMA as supervisory authorities have the power to require their licensed entities to provide any information requested and provide access to all records and relevant information to fulfill their supervisory functions, neither has to rely on court order to obtain access to information as their respective rights are clearly set out in relevant supervisory laws and regulations.

755. Overall, both the CBO and CMA examination process is thorough in covering the health of the financial institution as well as their procedures and policies in place to have an AML/CFT regime.

Recommendation 17 (Sanction)

Sanctions under the AML/CFT Law

756. Chapter Seven of the AML/CFT Law provides penalties against the violation of the provisions of the AML/CFT Law by financial institutions. When assigning sanctions in relation to violations by FI's (*i.e.* for failing to comply with their obligations), the AML/CFT Law applies penalties only to the Chairmen, board members, owners, authorized representative, and employees or the employees who act under these capacities. Criminal sanctions include a penalty of imprisonment of up to two years and/or up to OMR 10 000 (Article 32).

Administrative Sanctions

757. In addition to the criminal sanctions, the CBO holds administrative sanctioning powers grounded in the CBO penal regulation (BM/REG/12/5/78). It succinctly lays out the administrative sanctions in the

event that a licensed bank fail to comply with directives or policies of the Central Bank or for any breach or violation of the provisions of the Banking Law or Regulations of the Central Bank. The list of sanctions available to the Central Bank ranges and includes:

- a. withdrawal of the banking license
- b. suspension of operation of a licensed bank
- c. financial penalty
- d. denial of access to Central Bank's credit facilities

758. According to the statistics provided by the CBO, the CBO has imposed administrative sanctions against 8 banks and finance and leasing companies since 2007. There is only one case in which a financial sanction was imposed for a violation of AML/CFT requirements. A bank failed to establish an AML/CFT program for monitoring money laundering in accordance with letter from the CBO and was assessed a penalty of OMR 5000. Other cases relate to violation of non AML/CFT CBO circulars (such as wrong reporting), with administrative penalties ranging from OMR 2 500 to 45 000.

759. Before any of the above mentioned administrative sanctions are levied against a bank, the CBO allows for the opportunity to remedy the breach or violation. This generally results in a warning within the examination report requiring the financial institution to demonstrate improvement through quarterly progress reports and also at the next examination. In the case where the financial penalty was issued for violation of AML/CFT requirements, the bank had repeatedly failed to take corrective measures since it was sighted for the violation in its previous annual examination reports at least going back 3 years.

760. As for the CMA, Article (63) of the CML provides that the disciplinary board comprised of three members from the Board of Directors of the CMA can decide on any violation of the law, regulations, decision, and guidelines issued to entities regulated and supervised by the Authority. The sanctions include:

- The issue of reminders.
- The issue of cautioning
- Financial penalties not exceeding OMR 5 000
- The suspension of dealings in the Market for a period not exceeding three months.
- Final De-listing.

761. The Disciplinary Committee also can recommend to the CMA Executive President suspension of brokers and agents from trading on the Market for a period not exceeding two weeks. Before suspension though, a reminder or caution notice in respect of minor violations can be issued.

762. In addition to the sanctions mentioned above, Articles 64-69 of the CMA Law provides for penalty and sentencing guidelines for such violations as price manipulation, providing false information for investments and market manipulation. Monetary penalties can reach OMR 50,000 and an imprisonment period ranges from several months to two years. The punishments may be imposed upon any person responsible for the violation.

763. The Executive Regulations of the Capital Market Law (Article 317) lists over 60 types of violations in breach of the provision of the law, regulations and directives and its corresponding monetary amount. Examples of the violations and the penalty amount include: operating without a license from the

CMA (from OMR 50 000 to 100 000) and failure to file minutes of the general meeting with CMA (OMR 250).

764. According to information provided by CMA officials, a total of 62 disciplinary actions have been issued since 2004 against its licensed entities covering listed companies, financial investment companies, insurance companies and banks dealing in securities. Majority of the actions were warnings and issuance of monitions (official legal notices) informing them of their violation. CMA has issued seven monetary fines against entities with one instance of a suspension of practice. No other information or specifics on the details or the basis for the violations were provided. The assessment team did receive additional information after the onsite on disciplinary actions issued by the CMA during 2009-2010. The type of violations ranged from delays in filings meeting minutes to more serious breaches on audit controls. While the additional information provided more detail on the corrective measures issued by the CMA, they did not include any disciplinary actions related to AML/CFT violations. Authorities emphasize that the public disclosure of penalties issued against companies also serves as a penalty itself for the negative exposure to the entity.

765. While there are a notable number of prudential sanctions issued by the CMA, the lack of any specific AML/CFT related sanctions by the CMA raised concerns to the effectiveness of the sanctioning regime. As mentioned above, the sole AML/CFT related disciplinary action by CBO authorities indicate a very limited implementation of its sanctioning powers. As such, the bank's failure to institute a fundamental program to monitor for money laundering activities is a significant violation and the penalty imposed raises questions as to the whether it was a proportionate response to the violation. Overall, there is a range of formal sanctions both disciplinary and monetary available to authorities but there is a lack of evidence of their use and applying proportionate sanctions.

Recommendation 23 – Market Entry

766. The Banking Law authorizes the Board of Governors of the CBO to determine the minimum professional qualifications for appointment of a chief executive officer of each domestic bank (including not only banks but also other financial institutions supervised by the CBO) and the senior executive officer of the branches in Oman of the licensed foreign bank (Article 77).

767. The need to screen all potential hires before recruitment and periodically reviewing the employees has been emphasized from time to time. CBO Circular letter BDD/CBS/CB/ME/NBFC/2009/7449 dated 13th December 2009 for instance, states, in the context of ensuring awareness and preparedness to AML and CFT, the following:

“Awareness in the institution, as regards AML and CFT, shall be full. While recruitment process itself shall have appropriate screening, training should start immediately on recruitment and be repetitive.”

768. Banks are required to obtain prior approval from the CBO on the appointment or renewal of contracts of senior management, defined as general manager or CEO and assistant general manager. Before seeking prior approval, banks are required to ensure that the appointee meets the “fit and proper” criteria of no prior convictions, history of fraud or deception or any other action that questions the appointee's competence and sound judgment (Circular BM 954).

769. The Capital Market Regulation provides for the qualifications of securities companies and branches of foreign security companies operating in Oman. In applying for the license, the following information is required: (i) the founders' good reputation and (ii) they were not (a) declared bankrupt during the last five years or (b) convicted in a felony or dishonorable crime or for breach of trust or any of

the crimes stipulated in the Commercial Company Law, Commercial Law and the Capital Market Law or (c) they have been rehabilitated (Article 115). The securities companies are also required to submit along with the application form, founders' educational qualification and experience to satisfy the standards that the CMA deems necessary (Article 119).

770. The company and its Board of Directors or partners are responsible for ensuring that the company makes reasonably adequate efforts to ensure that all of its staff, agents and other representatives of the company are ethical, honest, and of good character, as well as properly qualified for whatever tasks they carry out. In addition, the CMA places a strong emphasis on corporate governance and has issued a code of corporate governance document for both the listed MSM entities and insurance companies. They emphasize the responsibilities of executives and management and the importance of an audit committee in promoting transparency and market efficiency. Authorities noted that the CMA was the first agency to issue corporate governance principles in Oman and the CMA regime has been recognized in the region. The Code of Corporate Governance for Insurance Companies requires companies to have effective policies and processes ensuring that the appointment of senior managers have the "necessary integrity, qualifications, technical and managerial competence and experience and they satisfy the 'fit and proper' criteria (Code of Corporate Governance for Insurance Companies 5/7d)."

Ongoing Supervision and Monitoring (Recommendations 23 & 32)

771. As mentioned in the previous sections, CBO examines its reporting entities annually. As of July 29, 2010, authorities had completed examination of 13 banks with two in process during that time and the rest scheduled for August and September. As for the FLCs, the CBO had completed examination of all 6 entities.

772. The typical examination will involve interviews with management and staff, sampling of transactions and records and a review of their internal control. The AML/CFT component of the examination determines the financial institution's compliance to the ER and the enforceable regulatory measures issued such as relevant CBO circulars. Depending on the size and type of financial institution, the length of the examinations may last from a few weeks to four months.

773. Soon after the conclusion of the onsite examination, a draft of the report is sent to senior management, allowing opportunity to review and comment on the findings in the CBO report. The management response is incorporated into the final report and recommendation on addressing any deficiencies or shortcomings are noted for follow-up at the next examination or earlier. The CBO has the discretion to request updates through quarterly progress reports.

774. While authorities noted a culture of compliance and a national focus on bringing Oman compliant to international AML/CFT standards, there were still basic deficiencies reported during the examination. Some overarching deficiencies were the failure to establish KYC programs, institute an electronic data system for monitoring transactions and designate a proper and competent AML compliance reporting officer.

775. It appears that the examinations procedures are relatively efficient and systematic. However, with the exception of one AML/CFT administrative penalty, there is a lack of formal AML/CFT enforcement action by the CBO against a financial institution for deficient AML/CFT compliance which raises uncertainty on effectiveness. In addition, while CBO and CMA provided a list of administrative sanctions applied, authorities do not keep statistics that allow for an assessment on the nature of the problem encountered and its frequency. CMA conducts biannual onsite inspections of companies operating in securities and insurance. All insurance companies have been inspected for this period which commenced last year. At the time of the evaluation, authorities had inspected seven investment companies with an

additional 15 planned for completion this (same) year. Sample inspection reports provided by CMA authorities only covered the insurance sector. The CMA noted that a draft of the report is sent to senior management for comment and the CMA has conducted follow-up visits to determine progress by the institution addressing the noted deficiencies. The sample inspection reports generally noted common deficiencies of an absent internal AML/CFT system and lack of a designated compliance officer.

776. In addition to the onsite inspections, CMA conducts offsite reviews through quarterly compliance reports submitted by reporting entities. These quarterly reports include balance sheet information on cash flow, profit and loss, and changes in equity.

Recommendation 25 (Guidance)

The CBO

777. The CBO has issued numerous circulars to financial institutions under its supervision on their AML/CFT requirements. The CBO's AML/CFT unit develops and issues circulars to banks, finance and leasing companies and money exchange businesses. These circulars which are distributed to all financial institutions are binding. However, as discussed in Section 3.2 of this report, some circulars issued by the CBO do not meet the FATF requirements to be other enforceable means, hence considered guidance at best. In addition, some of the circulars issued by the CBO are specifically addressed to certain financial sectors while others are addressed to all supervised institutions.

778. The first circular issued by the CBO addressed to all financial institutions was in 1991 and addresses customer identification, record-keeping, and increased diligence on financial transactions. This suggests that the CBO had recognized the need to address the issue of money laundering well before the introduction of the former AML Law in 2002. The CBO has issued circulars in relation to AML/CFT:

- The CBO issued Circular 880 in 1999 requiring banks and financial institutions, including money exchange companies to appoint a money laundering reporting official to be the focal point on issues related to suspicious activities and to submit quarterly reports to the CBO on status of suspicious transactions if any have been detected.
- The CBO has also informed its financial institutions on the threat of terrorist financing and that the obligation to report suspicious transactions covers the threat of terrorist financing in 2001 (Circular 923). This circular also reminded financial institutions that only license entities banks and money exchange companies could provide remittance services and those individuals or entities provided similar services without a license will be subject to administrative, civil or criminal sanctions.
- The importance of KYC was again stressed by the CBO with Circular 921 in 2001. It stressed that an effective KYC program was essential in preventing the use of the financial system for illicit activities and included a copy of the Basel paper on CDD. Banks were advised to enhance their KYC procedures accordingly.
- Following the introduction of the former AML Law, the CBO issued Circular 940 in July 2002, which summarized the law and requirements for all licensed banks, finance and leasing companies and money exchange companies. Thereafter, the CBO issued multiple follow-up circulars to provide information on the obligations under the former AML Law (Circular No BM-936-2002, BM 940, Circular No BDD-AMLS-CB-ME-2004-5984, Circular No BM- 3532-2004)

- The CBO has at times directly addressed a specific sector for shortcomings that it has become aware of. In particular, the CBO issued a circular for non-bank financial institutions (BDD/CBINBFIS/2003/917) on March 2003 that addressed the lack of implementation by the non-bank financial institutions on their AML requirements. The circular reminds non-bank financial institutions that factors common in their line of financial services such as limited product services, limited handling in cash transactions, dealing with existing bank customers should not result in a diminished application of the AML controls. NBFIs were advised to observe their AML requirements and the liability of AML implementation should be collective concern among management.
- As of the on-site, the most recent CBO Circular was issued to all financial institutions introducing the AML/CFT Law⁵⁸.

The CMA

779. Guidance to the capital market and the insurance sector have been issued by the CMA. The first circular issued by the CMA (Circular No. 18/2000) was back in 2000. The Circular was issued to all licensed companies operating in the area of securities markets to *inform* the main areas of the FATF Recommendations applicable to the securities sector, such as customer identification, record keeping and reporting suspicious transactions.

780. More recently, the CMA issued one circular separately to insurance companies, brokers and agents (Circular E/6/2009) and another to securities companies (Circular E/8/2009). While these circulars are considered OEMs, they included guidelines and provided reporting entities with information on a basic level of knowledge on money laundering operations within their sector, procedures to prevent money laundering and terrorist financing. The circular also sets out procedures in establishing business relations with a customer and monitoring of the relationship. It also requires entities to establish internal regulatory controls to detect money laundering and reporting of suspicious activities to the ROP who were the entities responsible for receiving and analyzing STRs at that time. The FIU is now the responsible authority for receiving and analyzing STRs.

3.10.2 Recommendations and Comments

Recommendation 23

- CBO and CMA should be better equipped with additional staff to conduct onsite examinations with the increase in the measures under the AML/CFT Law.
- Authorities should effectively detect the unregulated money value transmitters sector and subject them to effective monitoring under its AML/CFT requirements .

Recommendation 29

- While authorities have sufficient powers to monitor its reporting institutions, there is a lack of effectiveness in ensuring compliance of AML/CFT requirements. Authorities should utilize their full sanctioning powers for violation of AML/CFT requirements.

⁵⁸ CBO circular 7393/2010 was issued on 5 October 2010, later than 7 weeks following the onsite visit and therefore could not affect the analysis or rating as per the applicable evaluation procedures.

Recommendation 17

- The list of administrative penalties is broad but has not been effective or dissuasive (has not been utilized). With only one instance of administrative penalties so far, the number is too low and ineffective.
- CBO should publically release administrative fines issued against financial institutions

Recommendation 25

- AML/CFT guidance should be issued to provide clearer examples and descriptions of current methods or trends.
- Guidance should be issued to the DNFBPs on requirement to complying with the AML/CFT Law.
- Some CBO circulars are too general and need to be more specific in what is required by the financial institutions to comply.

3.10.3 Compliance with Recommendations 23, 30, 29, 17 & 25

| | Rating | Summary of factors relevant to s.2.10 underlying overall rating |
|-------------|---------------|---|
| R.17 | PC | <ul style="list-style-type: none"> • Administrative fines applied are low and nonmonetary sanctions are not dissuasive • Unsatisfactory level of effectiveness of the sanctioning regime |
| R.23 | LC | <ul style="list-style-type: none"> • The risk of unregulated informal money transfers should be addressed • Fit and Proper criteria is not applied to all sectors • There is a lack of staff to effectively monitor all financial institutions |
| R.25 | PC | <ul style="list-style-type: none"> • Guidance issued by supervisory authorities should include helpful examples citing methods and techniques. |
| R.29 | LC | <ul style="list-style-type: none"> • The inspections of some sectors by supervisory authorities are under-resourced. • There is a range of sanctions available for failure to comply with the AML/CFT requirements but the sanctions imposed have been limited to date. |

3.11 Money or value transfer services (SR.VI)

3.11.1 Description and Analysis

781. Money or value transfer (MVT) services are provided in Oman through money exchange companies allowed to conduct transfers and also through licensed banks in Oman. Both categories of FIs are licensed and supervised by the Central Bank of Oman.

782. It should be noted that Oman has a relatively huge population of expatriates compared to the total population (about 23.9% of the total population according to a census conducted in 2003⁵⁹). The services conducted by money exchange companies licensed to transfer money seems very appealing to expatriates in Oman, especially due to their low fees as compared to banks. It should be noted that, there has been no information available to the assessment team on informal remittance systems operating in Oman; however, like some other GCC countries, Oman suffers from the problem of illegal expatriates. News suggest that a number close to 66 000 illegal workers have applied for amnesty until January 2010⁶⁰. In the same context, statistics published by Oman Royal Police show a growing trend with regard to the violation of residence and Labor act crimes (1717 in 2007, 1885 in 2008, and 2480 in 2009).

783. All these facts suggest a possible presence of a parallel informal transfer system especially in light of the strict requirements with regard to the documents that should be provided by customers to exchange companies in order to request any of their services (refer to the analysis provided under R.5). The existence of informal transfer systems in Oman was discussed during meetings with the private sector and competent authorities, yet it was neither confirmed nor completely denied. CBO officials mentioned that periodical press releases are being issued advising the public not to deal with unauthorized service providers because of risks involved, in addition, if any of the service providers are brought to CBO's attention they would be referred to the judiciary for legal actions. However, although CBO officials mentioned that they know they should exert effort in the detection and monitoring of informal transfer systems, the evaluation team was not made aware of any structured procedures taken in dealing with such possible systems.

Designation of Registration or Licensing Authority (c. VI.1)

784. Article (52) of the Banking Law states that “No person shall engage in *banking business* in the Sultanate as either a domestic or foreign bank, or practice any other banking activity whatsoever, unless such a person has been granted a license by the Central Bank”. Article (5) of the Banking Law defines the term “banking business” as the undertaking – as the principal and regular course of business conduct – of one or more of several types of activities including “sale and exchange of foreign and domestic currency or other monetary assets in the form of cash, coins and bullion”. The same article provides that the term “banking business” may include additional activities as may be explicitly authorized by virtue of amendments to this Law or those authorized by the Board of Governors of the Central Bank in a license issued pursuant to this Law.

785. In that context, the Board of Governors of the Central Bank issued regulation BM 43/11/97 organizing the activities of Money Changing and Issue of Drafts. Article 1 of the regulation defines the issue of drafts as “foreign currency transfers inside and outside the Sultanate, selling and purchasing of travelers cheques and acting as agents on behalf of others in such transactions”. According to Article 2 of the mentioned regulation, the professions of *money changing* or *money changing and issue of drafts* shall not be carried out except after being duly licensed by the Central Bank of Oman.

786. As for registration requirements, both banks and exchange companies have to be registered in the commercial register at the Ministry of Commerce and Industry according to Articles 4 and 5 of the Law of Commercial Register number 3/74.

Application of FATF Recommendations (applying R.4-11, 13-15 & 21-23, & SRI-IX)(c. VI.2)

787. Both banks and money exchange companies licensed to conduct MVT are covered by the AML/CFT Law and the ER which makes both types of FIs under the obligation to identify their customers,

⁵⁹ Source: Oman Census Administration website (<http://www.omancensus.net/>).

⁶⁰ Reuters: <http://in.reuters.com/article/idINLDE60POJF20100126>.

report suspicious transactions to the FIU, maintain records for ten years and establish policies, procedures, and internal controls to prevent ML. Accordingly, the level of compatibility of the instruments governing MVTs in relation to the FATF Recommendations is the same as described for the banking sector.

788. Implementation of Recommendations 4-11, 13-15 and 21-23, and SRI-IX in the MVT sector suffers from the same deficiencies as those that apply to other FIs and which are described earlier in Section 3 of this report. More specifically, it should be noted that banks and money exchange companies licensed to conduct MVT are not subject to laws or regulations or any other enforceable means regarding Recommendations 6, 7, 8 and 9 as described in sections 3.2 and 3.3 above.

789. It should be noted that, based on the analysis at the beginning of section 3.11, there is a possibility of the existence of an informal transfer system that is not under any obligations with regard to the application of Recommendations 4-11, 13-15, 21-23, and Special Recommendations. That situation is even more profound due to the absence of a structured mechanism or a system to detect such informal systems and manage the associated risks.

Monitoring of Value Transfer Service Operators (c. VI.3)

790. Based on Article 4 of the Banking Law, the CBO – represented in its board of Governors – has the authority to regulate and supervise the banking business in the Sultanate, which includes MVT activities based on the above analysis.

791. The CBO is also entitled to supervise banks and money exchangers licensed to conduct transfer with regard to the application of the AML/CFT Law based on Article (18), Paragraph (1) of the law, which states that competent regulatory entities⁶¹ shall verify the compliance of all financial institutions, non-financial businesses and professions, and non-profit associations and bodies under their supervision or control with the obligations stipulated under the provisions of this Law.

792. In practice, FIs under the CBO supervision are under periodic on-site examination on yearly basis. The CBO has assigned a number of about 35 examiners for onsite examination purposes, of them 4 were assigned to examinations of exchange companies. Examinations of money exchangers usually last for a week and sometimes include visits to the company's branches as well. These visits usually cover various supervisory aspects with limited time provided to AML/CFT matters (sometimes two hours). Extracts from examination reports were provided to the assessment team, positively showing a commitment by the CBO to exercise its role as a supervisor in monitoring the activities conducted by exchange companies. However, it should be noted that the violations pointed out in relation to AML/CFT matters were very generic and only covered policy and training.

List of Agents (c. VI.4)

793. FIs conducting transfers are not under any obligation by law or regulation or by any other enforceable means to maintain lists of their agents and to make them available to a designated competent authority. However, the CBO maintains lists of all exchange companies licensed to conduct MVT. A list of the names of all licensed exchange companies and the number of branches for each was provided to the assessment team. Oman has 16 exchange companies licensed to work in exchanging currency, deal in precious metals and conduct financial remittances. These companies operate through 131 branches. In addition, there are 23 companies licensed to only exchange currency. CBO pays frequent visits to branches of money transfer companies during onsite examinations.

⁶¹ The term competent regulatory entities include the CBO as per Article (1) of the AML/CFT law.

Sanctions (applying c. 17.1-17.4 in R.17)(c. VI.5)

794. With regard to criminal sanctions applicable to MVT providers in the AML/CFT field, Article (32) under the AML/CFT Law provides that “the penalty of imprisonment for a term of not less than (3) three months and not more than (2) two years and a fine of not less than OMR 1 000 and not more than OMR 10 000, or either of them, shall be applied to any of the chairmen and directors of the boards of financial institutions, non-financial businesses and professions, and non-profit associations and bodies, their owners, authorized representatives, employees or the employees who act under these capacities who violates any of the obligations set forth in any of the articles of Chapter Four of this Law”.

795. For administrative sanctions, Article (14), Paragraph (G) of the Banking Law allows the Board of Governors to withdraw the license or suspend the operation of any *licensed bank* in the Sultanate or to impose such other sanctions as authorized by the regulations of the CBO and as may be appropriate under the circumstances. Sanctions shall apply for failure to comply with directives or policies of the Central Bank or for any violation of the provisions of this Law, the rules and regulations of the Central Bank and *other applicable laws* of the Sultanate. Sanctions also apply if the Board of Governors determines that such bank is in an unsound or unsafe condition or that such suspension or other sanction would be to the best interest of depositors in the Sultanate. The Board is also authorized to take possession of any suspended bank, administer it during the period of suspension and, when deemed necessary, liquidate and close, reorganize, or reopen it. It may also order, at any time, the sale in whole or in part of business, property, assets and/or liabilities of such bank or take any other similar actions pursuant to Chapter Four of this Law and the rules and regulations of the CBO promulgated pursuant to it.

796. In addition, the CBO issued regulation BM/REG/012/5/78-2-1.09(f) which sets out the sanctions that may be imposed on a *licensed bank* for failure to comply with directives or policies of the CBO or for any breach or violation of the provisions of the *Banking Law or regulations of the Central Bank* issued pursuant to it. The list of sanctions in the mentioned regulation provides the CBO with a wider range of proportionate sanctions that ranges from denial of access to credit facilities of the Central Bank up to the withdrawal of license.

797. Apparently these administrative sanctions apply to banks, however with respect to their applicability over exchange companies as well, CBO officials provided that according to Article (5) of the Banking Law, the term *Bank* “is any person licensed by the Central Bank or authorized by the jurisdiction in which it is regulated to carry out the banking business”. The term *Banking business* was defined under the same Article as “the undertaking – as the principal and regular course of business conduct, as such business conduct may be defined and interpreted by the Board of Governors of the Central Bank, - of one or more of the following activities *or such additional activities* as may be specifically authorized in amendments to this Law *or by the Board of Governors of the Central Bank in a license issued pursuant to this Law.*” As previously mentioned, the Board of Governors of the Central Bank issued regulation BM 43/11/97 licensing foreign currency transfers inside and outside the Sultanate, which make such services qualify under the term “banking business”

798. In addition, Article (15) of regulation BM 43/11/97 gives the CBO the authority to withdraw the license to carry out money changing or money changing and issue of drafts in some particular cases including if the licensee violates the provisions of this Regulation or directives issued by the Central Bank of Oman. Article (16) also stipulates that “without prejudice to the penalties provided for in banking regulation BM/REG/012/5/78-2-1.09 (f), the CBO, in case of license withdrawal, shall inform the MCI, and shall publish the withdrawal decision in the Official Gazette once, and twice in two daily newspapers of which one is published in Arabic and the other in English. The Central Bank of Oman shall give the licensee, whose license is withdrawn, the necessary grace period to complete procedures of liquidation”.

799. Although extracts from banks and exchange companies examination reports provided by the CBO show that some deficiencies were identified, the assessment team did not receive any information pertaining to sanctions applied to exchange companies licensed to conduct transfers. With regard to banks, the team received a list of sanctions that were applied, yet none of them was related to the area of MVT, which makes it impossible to establish the effectiveness of the sanctions applied with regard to MVT providers.

Additional Element—Applying Best Practices Paper for SR VI (c. VI.6)

800. With respect to existing laws, regulations and rules mentioned above, it appears that this legal framework meets some of the elements stipulated within the Best Practices Paper for SR.VI. Matching areas can be identified for Licensing/Registration under Articles (52) and (5) under the Banking Law and the CBO Board of Governors Regulation BM 43/11197.

3.11.2 Recommendations and Comments

- Recommendations under R.4-11, 13-15, 17, 21-23 and SRI-IX apply to SR.VI.
- MVT service operators should be required to maintain a current list of their agents which must be made available to the designated competent authority.
- The CBO should exercise its sanctioning powers over MVT services operators whenever appropriate. Effective, proportionate and dissuasive sanctions should be applied whenever shortcomings have been identified.
- The CBO should develop procedures to detect and regulate informal money transfer services providers.

3.11.3 Compliance with Special Recommendation VI

| | Rating | Summary of factors underlying rating |
|-------|--------|--|
| SR.VI | PC | <ul style="list-style-type: none"> • Deficiencies identified in relation to the effective implementation of requirements under Recommendations (4-11, 13-15, 17, 21-23 and SR.I-IX) affect the rating of compliance with SR.VI. • MVT service operators are not required to maintain a current list of their agents which must be made available to the designated competent authority. • Effectiveness of sanctions imposed on MVT services operators could not be established while shortcomings have been identified. • Weaknesses in supervisory framework to detect informal money transfer services. |

4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1 *Customer due diligence and record-keeping (R.12)*

(Applying R.5, 6, and 8 to 11)

DNFBPs and authorized activities

801. As previously mentioned at the beginning of section 3 of this report, a structured nationwide risk assessment was not established by the Omani authorities. Based on that situation, Oman took a more discreet approach in obliging all the forms of DNFBPs that could be traceable in the country. However, only few forms of the businesses and professions designated by the FATF exist in the Sultanate of Oman and those are: real estate agents, dealers in precious metals and stones and lawyers and legal advisers and accountants.

802. Trust and Company Service Providers (TCSP) activities are partially conducted by lawyers and accountants at the formation stage of legal persons, however, the legal basis supporting their engagement in such services could not be established. For lawyers, conducting those services is not covered by a legal basis in the Advocacy Law no. 108/96. The only two advocacy practices permitted according to Article (3) of the mentioned law are the attendance with (or on behalf of) people in front of courts, bodies of arbitrations, the general prosecution, administrative committees given legal responsibilities and any other investigative committees and defending them in lawsuits in addition to giving opinion and legal advice which also includes drafting of contracts. Similarly, for accountants, the legal basis for providing TCSP services also could not be established under the Law on Organizing the Accountancy and Auditing Profession, issued by Royal Decree no. 77/86.

803. In addition to dealers in precious metals and stones who are subject to the supervision of the MCI, a number of exchange companies in Oman are licensed to deal in bullion. Just like all other services conducted by exchange companies, dealing in bullions by exchange companies is also under the licensing requirements and supervision of the CBO.

804. The remaining categories of DNFBPs as defined by the FATF do not operate in the Sultanate:

- Casinos in all its forms are not permitted in Oman. They can be neither licensed nor registered as per the Omani authorities;
- Although covered under the new AML/CFT Law, notaries (notary public) are civil servants subject to the Directorate General of Courts in the MOJ. They draft all types of contracts that fall under their jurisdiction; authenticate common legal documents, and carry out any other transaction that is legal under their jurisdiction. There are (60) Departments of Notary Public all over the regions of the Sultanate. The Notary Public Law was issued by Royal Decree No. 40/2003 on 13/5/2003 and came into force on 17/8/2003. Among the services the notary public provides are issuing marriage and divorce certificates pursuant to the provisions of Article (14) of the Law, as regulated by Ministerial Decision No. 171/2003 on the procedures for issuing marriage and divorce certificates. Services provided by the Departments of Notary Public do not

fall under the coverage of R.12 as per the standards and they are limited to issuing marriage and divorce certificates, issue documents for proving none-marriage, issue widowing certificates, proving the date of common law documents, authenticating signatures, issuing true copies, issue certificates from its records, movement outside its place to carry out specific transactions, writing legal powers of attorney, writing debt deeds and recording transfer of companies shares, commercial register and contracts.

805. All obligations applicable to FIs under the AML/CFT Law are also applicable to DNFBPs. Chapter Four of the law setting all the requirements under the law for FIs addresses “financial institutions, non-financial businesses and professions, and non-profit associations and bodies”. That term was defined under Article (1) of the law as including “. real estate brokers; traders of gold, precious metals and precious stones; the notaries public; the offices of lawyers and accountants upon their execution of transactions for their clients regarding purchasing and selling real estate, management of funds, other securities or any other assets owned by their clients; management of bank accounts, deposit accounts or securities accounts; organization of contribution, operation or management of juristic persons or legal arrangements for the establishment of these companies; purchasing and selling commercial or financial institutions; and facilities and other professions to be determined by decision of the Minister, upon the recommendation of the Committee”.

806. Article (1) of the ER mentions that the provisions of this Regulation shall be applicable to any natural or juristic person whose profession or business is related to “. real estate transactions, precious metals transactions, advocacy and audit professions, any other similar activities specified by the committee”. The ER also mentions that the supervisory authority for the activities that are not subject to the competent regulatory authorities specified in the [AML] Law, shall be the authority concerned with such activities.

807. Besides being subject to obligations under the AML/CFT Law, real estate brokers, dealers in precious metals and stones and accountants were subject to Ministerial decision 82/2008 issued by the Ministry of Commerce and Industry, which partially covers the requirements under R.12 including identification of clients, record keeping, reporting suspicious transactions, the use of modern technologies, training and other requirements. In addition, as previously described under section 3 of the report, exchange companies are subject to a set of regulations taking the form of circulars issued by the CBO as shown in the table below. Lawyers were not subject to any obligations other than those set in the AML/CFT Law and the ER.

808. The following table shows the forms of DNFBPs operating in the Sultanate of Oman:

Table 17. Forms of Designated non Financial Businesses and Professions found in Oman

| Sector | Coverage under the AML/CFT Law | Coverage under the ER | Coverage under Other Enforceable Regulations | Licensing Authority | Supervisor |
|---|--------------------------------|-----------------------|--|-----------------------------------|-----------------------------------|
| Real estate brokers (12985 registered offices) | Article (1) | Article (1) | MOCI Ministerial Decision No. 82/2008 | Ministry of Commerce and Industry | Ministry of Commerce and Industry |
| Dealers in precious metals and stones (333 shops) | Article (1) | Article (1) | MOCI Ministerial Decision No. 82/2008 | Ministry of Commerce and Industry | Ministry of Commerce and Industry |
| Exchange companies licensed to deal in bullion (47 licensed companies, including only 2 | Article (1) | Article (1) | -CBO circular No. BM610 -CBO circular No. BDD/MLS/CB/ME | Central Bank of Oman | Central Bank of Oman |

| Sector | Coverage under the AML/CFT Law | Coverage under the ER | Coverage under Other Enforceable Regulations | Licensing Authority | Supervisor |
|---|--|---------------------------------------|--|---|--|
| companies actually dealing in bullion) | | | /NBFIS/2005/1424 - CBO circular No. BDD/MLS/ME/NBFIS/2007/1480 - CBO circular No. BDD/AMLS/CB/ME/2004/5984 | | |
| Lawyers (367 offices and 36 firms) | Article (1) | Article (1) | - | Ministry of Justice | Ministry of Justice |
| Accountants (133 accounting offices) | Article (1) | Article (1) | MOCI Ministerial Decision No. 82/2008 | Ministry of Commerce and Industry | Ministry of Commerce and Industry |
| TCSP (partially provided through lawyers and accountants) | (Lawyers and Accountants) Article (1) | (Lawyers and Accountants) Article (1) | -None for lawyers. -For accountants: MOCI Ministerial Decision No. 82/2008 | License for conducting such services could not be established | -Ministry of Justice (lawyers) -Ministry of Commerce and Industry (accountants) |
| Notaries Not applicable (The notary Public is a civil servant under the Directorate General of Courts that carries out services beyond the coverage of R.12) | Article (1) | - | - | Ministry of Justice | Ministry of Justice |
| Casinos and Internet Casinos | Not applicable (casinos are not permitted) | | | | |

4.1.1 Description and Analysis

Applying Recommendation 5

809. As mentioned above, both FIs and DNFbps are subject to the same legal requirements with regard to combating ML and TF. The detailed analysis of these legal requirements can be found in section 3 of this report. Similarly, exchange companies licensed to deal in bullions are subject to the same legal and regulatory frameworks applicable to other exchange companies as described under section 3. In addition, the Ministry of Commerce and Industry issued the ministerial decision 82/2008 which tackles several areas under R.5.

810. Article (1) of ministerial decision requires the covered DNFbps to conduct verification of clients' identification cards through checking the related official documents issued by competent authorities in the Sultanate and retention of a copy thereof whether such client is natural or a representative of a juristic person. It also requires recording all transactions in the commercial books and records, including original daily book and inventory book, by writing down the personal details of the client, the date and statement of the transaction (type and value). Further detailed requirements were mentioned under Section 1 A&B. However, deficiencies outlined under R.5 in section 3 of the report also apply to DNFbps.

811. Although DNFBPs were under the obligation to apply requirements relevant to combating ML since the year 2004, being covered under the ER issued by Royal Decree No.72-2004, the assessment team noticed that most DNFBPs have not gone through substantial steps towards implementing their obligations in that regard until the issuance of the new AML/CFT Law in July 2010.

812. With respect to implementation and effectiveness for exchange companies operating in bullions, refer to analysis under section 3 of this report. The level of CDD conducted by entities engaged in real estate brokerage and accounting was more structured and a bit more in line with the international standards. However, it appeared that they suffer from the same weaknesses identified in FIs, specifically those related to identifying the beneficial owner, obtaining information on the purpose and intended nature of business relationship, ongoing monitoring, applying enhanced CDD on high risk customers, lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD and applying CDD on existing customers.

813. Application of CDD requirements at the level of dealers in precious metals was apparently reduced to obtaining the ID card; however, even the implementation of that simple procedure seemed intermittent. Precious metals dealers mentioned that they might have legal persons as customers but only for promotional purposes and a permission is taken in that regard from the Ministry of Commerce and Industry and with regard to risks, precious metals dealers seemed to focus on theft and fake precious metals than risks relevant to ML/FT.

814. For lawyers, a general notion was sensed that they should not have been under any obligations with regard to AML/CFT due to legal professional secrecy considerations. That notion adversely affected their implementation of all requirements under R.12.

Applying recommendations 6, 8, 9, 10 and 11

815. The MOCI Ministerial decision (82/2008) was silent with regard to requirements under R.6, R.9 and R.11, yet on the other hand, some requirements under R.8 and R.10 were partially addressed. For requirements relevant to R.8, section 4 of the Ministerial decision requires the covered entities to exert due care to identify the potential hazards in advanced modern technological methods related to money laundering that can be used in covering the identity of the person carrying out the transaction and hiding the source of funds in order to take the appropriate procedures when necessary to prevent the use of these methods. Sections 2, 3—first bullet point and 5-2 of the Ministerial decision partially tackle requirements under R.10 imposing obligations for the covered entities to maintain records relevant to transactions and clients' personal data for a period of ten years.

816. With respect to the legal and regulatory framework, the following deficiencies could be noted:

- Deficiencies outlined under R.6, 8, 10 and 11 in section 3 of the report also apply to DNFBPs.
- DNFBPs are not under any obligation for applying requirements under R.9.

817. No evidence was available to the assessment team to indicate that requirements under R.6, R.8 and R.9 are being implemented. However, most DNFBPs the assessment team met with confirmed keeping records for 10 years. None of them had a systematic approach in identifying what constitutes a complex or unusual transaction and none of them showed the presence of internal procedures for handling such transactions.

4.1.2 Recommendations and Comments

- Recommendations under R.5 also apply to DNFBPs, where applicable.
- Recommendations under R.6, R.8, R.10 and R.11 also apply to DNFBPs, where applicable.
- DNFBPs should be under obligation to apply requirements under R.9.
- Supervisors of exchange companies dealing in bullion, real estate brokers and accounting offices should enhance their efforts in following up with their subordinate entities in the areas of identifying the beneficial owner, obtaining information on the purpose and intended nature of business relationship, ongoing monitoring, applying enhanced CDD on high risk customers, lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD and applying CDD on existing customers.
- The Ministry of Commerce and Industry should enhance its supervision on dealers in precious metals in applying requirements under R.5.
- Supervisors should enhance their monitoring over DNFBPs in applying requirements under R.6, R.8, R.9 and R.11.
- The Ministry of Justice should study whether requirements under the law governing legal professional secrecy are in conflict with AML/CFT requirements to report STRs and in that case a decision regarding the appropriateness of applying exemptions under R.16 should be taken.
- The Ministry of Justice should exert more effort in informing and convincing lawyers with their obligations regarding AML/CFT and monitoring the implementation of these obligations.

4.1.3 Compliance with Recommendation 12

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.12 | NC | <ul style="list-style-type: none"> • The deficiencies in CDD obligations identified for financial institutions (Recommendation 5) also apply to DNFBPs. • The deficiencies in obligations under R.6, R.8, R.10 and R.11 identified for financial institutions also apply to DNFBPs. • DNFBPs are not under any obligation for applying requirements under R.9. • Lack of effectiveness for exchange companies dealing in bullion, real estate brokers and accounting offices in identifying the beneficial owner, obtaining information on the purpose and intended nature of business relationship, ongoing monitoring, applying enhanced CDD on high risk customers, lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD and applying CDD on existing customers. • Lack of effectiveness for dealers in precious metals in applying most of requirements under R.5 • Lack of effectiveness for all DNFBPs in applying requirements under R.6, R.8, R.9 and R.11. • Lack of effectiveness for lawyers in applying requirements under R.12. |

4.2 *Suspicious transaction reporting (R.16)*

(applying R.13, 14, 15 & 21 to DNFBPs)

4.2.1 *Description and Analysis*

818. The AML/CFT Law applies to not only financial institutions but also to non-financial businesses and professions, and non-profit associations and bodies. The sectors that fall into non-financial businesses and professions include real estate brokers, traders in precious metals and stones, the notaries public, lawyers [law offices] and accountants.

Requirement to File STRs on ML/TF to FIU (applying R.13 & SRIV to DNFBPs)

819. The AML/CFT Law requires non-financial businesses and professions, to report to the FIU the transactions as soon as they are suspected of: (i) being related to the proceeds of crime, terrorism, crime related to terrorism or terrorist organisations, or (ii) involving ML/TF, whether such transactions have or have not been conducted, or at the time it is attempted to be conducted (Article 14).

820. The outgoing ER has a provision of a compliance officer who is responsible for reporting cases of suspicious transactions, but as the provision of the outgoing ER is applied to an “institution”, which is defined as any establishment licensed to do financial business in Oman per the 2002 AML Law (No.34/2002). As such, institution in this context refers to banks, money exchange, and does not seem to be applicable to DNFBPs. The authorities however have noted that the present AML/CFT Law in force includes non-financial businesses and professions in the definition of “institutions.” As such, there remains a temporary gap between the outgoing ER and the incoming ER based on the present AML/CFT Law.

821. The AML/CFT Law does not have a threshold for the filing of STRs, nor does it exclude STRs regarding tax matters. [c.13.3 and 13.4]

822. According to the statistics provided by the FIU, an STR submitted by a real estate agent in 2010 is the first case filed by the DNFBPs since 2002 (see table in Section 2.5.1).

Protection for Filing STRs and Protection against Tipping-Off (applying R.14 to DNFBPs)

823. The AML/CFT Law prohibits the direct or indirect disclosure of an STR or related information is being reported to authorities. Additionally, Article 16 establishes exemptions for both natural and legal person from criminal, civil or administrative liability for reporting suspicious activities according to the provisions of the law. [R.14]

Establish and maintain Internal Control (applying R.15 to DNFBPs)

824. For the sectors under the supervision of the MOCI (real estate businesses, accountants, and dealers in precious stones and metals), an official notice, Ministerial Decision (No.82-2008) outlines the requirements with respect to AML/CFT. The Ministerial Decision requires reporting entities to verify client identities, maintain records for up to 10 years, obtain information on the source of the funds pertaining to the transaction, report suspicious transactions to the ROP and set up a training program on money laundering typologies. Furthermore, the Ministerial Decision requires the records of all commercial transaction with client identification information, date, type and value of transaction.

825. The Ministerial Decision requires the designation of an employee to inform the FIU when suspicious transactions arise. However, there is no specific provision in the notice requiring the designated

individual is provided with the authority to access customer identification information and any other relevant information in a timely manner. Independent audit functions necessary to conduct compliance tests are also not part of the MOCI Ministerial Decision.

826. DNFBPs exhibited an awareness of their obligation to report suspicious transactions as required by the Ministerial Decision issued pursuant to the Money Laundering Law but that awareness has not resulted in effective implementation as only one STR was filed by a DNFBP since 2002.

827. Moreover, many of the DNFBPs noted that the risk of ML and TF was non-existent or extremely minimal and while they were clear on their obligation to report suspicious transactions, the level of understanding of suspicious activities appears to be limited.

828. Regarding lawyers, while the AML Law of 2002 was applicable to lawyers, the recent AML/CFT Law issued in July 2010 clarifies and explicitly states that lawyers, when conducting financial transaction on behalf of their client such as “purchasing real estate, management of funds, other securities or any other assets owned by their clients; management of bank accounts, deposit accounts or securities accounts; organization of contribution, operation or management of juristic persons or legal arrangements for the establishment of these companies; purchasing and selling commercial or financial institutions,” are subject to the law.

829. The MOJ issued Administrative Circular 4/2005 in May 2005 informing the legal sector that when carrying out transactions on behalf of the client and where suspicions of money laundering might arise, the lawyer is required to file a suspicious activities report. In cases where there are suspicious of money laundering, the lawyer cannot claim legal professional secrecy.

830. Before the promulgation of the AML/CFT Law, the Ministry of National Economy sponsored a seminar in June 2010 attended by representatives from MOJ, MOCI and some Omani law firms. The seminar addressed the obligation of lawyers on their AML/CFT obligations to file suspicious transactions reports. A greater level of outreach and guidance is needed to respond to the private sector’s view that the obligation under the AML/CFT Law to report suspicious transactions violates their legal professional privilege with clients. To date, no STRs have been filed by lawyers.

Application of Recommendation 21

831. There are no specific requirements for DNFBPs to give special attention to transaction or business relationships connected with persons from countries that do not or insufficiently apply the FATF Recommendations. In addition, there are no effective measures whereby DNFBPs are informed of countries that have specific weakness to their AML/CFT system.

4.2.2 Recommendations and Comments

- Authorities need to conduct greater outreach to raise awareness of ML and TF risk within the DNFBPs. Authorities should also provide direct industry guidance apart from scheduled inspections to assist in the DNFBPs development of their AML/CFT systems.
- MOCI should provide training to DNFBPs on their obligation to report suspicious transactions
- MOJ should conduct further consultations with lawyers to ensure they properly interpret their legal obligation when required to file a STR.

- DNFBPs should be required to apply special attention to transactions from countries that have weak AML/CFT system.

4.2.3 Compliance with Recommendation 16

| | Rating | Summary of factors relevant to s.4.2 underlying overall rating |
|------|--------|---|
| R.16 | PC | <p><i>Application of R13</i></p> <ul style="list-style-type: none"> • Lack of understanding of the ML/TF risk and requirements of the AML/CFT Law • Absence of filings from DNFBPs indicates a lack of effectiveness in the STR regime. <p><i>Application of R15</i></p> <ul style="list-style-type: none"> • Existing regulations for the DNFBP sector does not address the requirement to provide a designated staff responsible for AML/CFT compliance should also have access to customer information on a timely basis • Entities are not required to establish policies and procedures. • Training requirement does not include the provision of training on AML/CFT obligations. • Lawyers are not required to implement internal controls. • There is no requirement to establish an audit function or a screening procedure for employees. <p><i>Application of R21</i></p> <ul style="list-style-type: none"> • There are no provisions covering the possibility of DNFBPs to apply special attention to transactions from countries that have weak AML/CFT system. • There is no mechanism in place to advise DNFBPs about weaknesses in the AML/CFT system of other countries. • There are no mechanisms to apply counter measures to countries who continue not to apply or insufficiently apply FATF recommendations. |

4.3 Regulation, supervision and monitoring (R.24-25)

4.3.1 Description and Analysis

832. In relation to DNFBPs, the new AML/CFT Law defines non-financial businesses and professions as any person licensed to practice (banking, financial or) commercial activities such as: (i) real estate brokers; (ii) traders of gold, precious metals and precious stones; (iii) the notaries public; (iv) law offices and accountants upon their execution of transactions for their clients regarding purchasing and selling real estate, management of funds, other securities or any other assets owned by their clients; (v) management of bank accounts, deposit accounts or securities accounts; (vi) organization of contribution, operation or management of juristic persons or legal arrangements for the establishment of these companies; and (vii) purchasing and selling commercial or financial institutions.

833. As described in Section 4.1 of this report, casinos in all its forms are not permitted in Oman since gambling is deemed to be an illegal activity.

834. As listed above, the AML/CFT Law covers broader non-financial businesses and professions than those in the FATF terms. The following sections describe Omani regulatory system over the DNFBPs in FATF terms.

835. For the DNFBPS (as for FIs), the law assigns the responsibility of ensuring that such entities comply with their AML/CFT obligations to their normal supervisors.

Ministry of Commerce and Industry (MOCI)

836. The Ministry of Commerce and Industry (MOCI) supervises and regulates the real estate sector, dealers in precious metals and stones, and accountants. The main AML/CFT framework for these DNFBPs is the Ministerial Decision (No.82/2008) issued by the MOCI. As noted under Recommendation 16, the Ministerial Decision sets forth the obligations of these DNFBPs pursuant to the former AML Law of 2002, the Terrorism Combating Law (TCL) and other relevant laws and regulations.

837. The Ministerial Decision provides conditions and restrictions to be followed by these DNFBPs for AML/CFT purposes: (i) prohibiting from executing transaction with anonymous or fake names, (ii) keeping approved, documented and necessary records of all transactions, (iii) ensuring that invoices contain information that the funds and commodities are from legitimate sources, (iv) identifying the potential hazards in advanced modern technological methods related to ML, and (v) adopting a training strategy related to combating ML and other suspicious operations.

838. The officials informed the assessment team that the MOCI distributed copies of the Ministerial Decision produced in pamphlet form and distributed them to all businesses in the sector. In addition, the MOCI conducted a public awareness campaign through media outlets. The assessment team did not have any other details as to the content and the frequency of the public awareness campaign.

839. MOCI's Directorate General of Specification and Standards supervises the sector of precious metal dealers according to the Regulations (No. 109/2000) promulgating the Law on Control of Precious Metals. According to Article (13) of the outgoing ER, inspectors have the authority to monitor the implementation of the law and its regulations by conducting on-site visits. They have the right to enter businesses, shops, factories and other places that prepare or sell the precious metals/stones and to inspect the items.

840. In Oman, the sale of precious metal and stones are prohibited unless stamped with an official seal to denote the legal standards. An inspection team of eight members assigned to various regions of the country conduct up to two inspections weekly to ensure that the precious metals on the market are hallmarked or affixed with the official seal. Penalties are imposed against persons determined to have appended precious metals with fake hallmarking. Those found in violation are subject to imprisonment of up to three months or issued a monetary fine of up to OMR 500 or both. Merchants or businesses determine to knowingly sell these false stamped good are punishable with the same penalties. A more severe penalty of up to two years imprisonment and OMR 3 000 is levied against person that change or alter precious metal that have already been hallmarked. The same penalties are issued for merchants that knowingly deal with the tampered goods.

841. As for the real estate and accounting professions, each sector is organized by its respective law. The 1986 Law Organizing the Accountancy and Auditing Profession was issued under Royal Decree (77/86) and sets forth the registration requirement and conditions forth the professional guidelines for the sector. Any person practicing the profession is required to meet certain qualifications such as education level and obtain a mandatory license from the MOCI. Similarly, the Law Organizing the Brokerage Profession in Real Estate Activities was passed under Royal Decree (78/86) defines brokerage as "selling or leasing real estate properties and any other activity dealing with real estate property." Brokerages, either individuals or companies must be licensed by MOCI and meet the conditions and terms stipulated in the law.

842. Aside from the Ministerial Decision 82/2008 that applies to all DNFBPs, no other guidance or circulars pertaining to AML/CFT obligations have been issued to any of the sectors, especially, in accordance with the new AML/CFT Law which expanded the obligations to the DNFBPs for AML/CFT. In meeting with representatives from the private sector, all demonstrated knowledge of their AML/CFT requirements with an understanding of their obligation to file STRs and to retain records of customer transactions. The private sector representatives noted that they have in place someone that fulfils the role of the compliance officer; in almost all cases, the AML/CFT compliance role was a function and not a sole-dedicated position

843. Inspections to monitor the DNFBPs for compliance with the Ministerial Decision or to include AML/CFT component to existing sector inspections were only recently observed by authorities. All had noted that the first ever visit by the MOCI that included AML/CFT compliance had taken place in 2010. The MOCI has taken adequate measures to supervise and regulate the activities of precious metal and stone dealers for the purposes of monitoring control over the products but the MOCI has not demonstrated the ability and capacity of its inspectors to adequately monitor the sector for compliance against the AML/CFT Law.

844. The MOCI indicated that they have disseminated a copy of the AML/CFT Law to all of its sectors, but no follow-up guidance has been provided. Authorities reported holding a series of meeting sessions with the some of the regulated DNFBPs in which the requirements of the AML/CFT Law and the Ministerial Decision were discussed, in addition to the FATF standards.

Ministry of Justice (MOJ)

845. The Ministry of Justice (MOJ) has authority over the legal profession and any person practicing law must obtain a license and be entered into the Register of Lawyers. The Law of the Legal Profession, issued in December 1996 through Royal Decree No. 108/96 sets the provisions for the professions such as the qualifications for persons practicing laws. The Lawyers' Acceptance Committee within the MOJ approves the entry of lawyers into the various registers and has the authority to issue penalties. Any person who practices law without being registered is punishable by a minimum fine of OMR 100 and up to OMR 500. Licensed lawyers are also obliged to become a member of the Bar Association, but the association does not have any power to sanction or revoke the license.

846. Similar to the other DNFBPs, lawyers are subject to the same requirements under the AML/CFT Law. The MOJ informed the evaluation team that on-site visits to law offices have been conducted for the purposes of checking validity of licenses. It was not clear, however, if MOJ officials also performed any checks related to AML/CFT requirements. MOJ has not issued any regulations, circulars or guidance to the sector on its obligations under the AML/CFT Law.

847. In addition, no regulations or supervisory framework to perform supervisory duties or monitor lawyers' compliance by the authorities were issued.

848. The evaluation team was informed that prior to the introduction of the AML/CFT Law, the Ministry of National Economy did sponsor a seminar for the legal profession to inform and alert them to their AML/CFT obligations but no further details on the seminar were provided. The evaluation team met with a law firm who confirmed that they were aware of the new AML/CFT Law. However, they indicated their view that the filing of STRs is not in line with their primary professional obligations to their client, and the reporting obligations would violate attorney-client privilege. They indicated that no consultations were made with the legal professionals prior to their inclusion of as subject to the STR reporting obligations. They also had a view that the AML/CFT Law has not been activated in a full-fledged manner as the specific procedures are yet to be provided through the incoming ER.

849. For both the MOCI and MOJ, it was clear to the evaluation team that there was a lack of much needed mechanisms, including human, technical, and financial resources, to ensure the compliance of the concerned entities with their AML/CFT obligations. At the time of the onsite, the MOCI had just included AML/CFT examinations as part of their regular visits starting in 2010 but the MOJ had not yet incorporated specific AML/CFT reviews when visiting law offices.

4.3.2 Recommendations and Comments

Recommendation 24

- Supervisory authorities should effectively undertake their obligations in relation to verify the compliance of their subordinate entities with the various AML/CFT requirements. This should be coupled with increasing awareness and outreach activities related to AML/CFT requirements and the obligations under the Ministerial Decision to the DNFBP sector.
- Although a supervisory authority is delineated for each DNFBP category or group of categories, the capacity and training of the authorities should be enhanced.

Recommendation 25

- Authorities should provide detailed sector-specific guidance when the new Executive Regulations are issued.

4.3.3 Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

| | Rating | Summary of factors relevant to s.4.3 underlying overall rating |
|------|--------|---|
| R.24 | NC | <ul style="list-style-type: none"> • No effective system in place for the oversight and supervision of compliance with AML/CFT obligations for the DNFBP sector • Supervisory authorities do not have the ability to apply effective, proportionate and dissuasive criminal, civil or administrative sanctions. |
| R.25 | PC | <ul style="list-style-type: none"> • No guidance has been issued to the DNFBPs on their obligations. |

4.4 Other non-financial businesses and professions

Modern secure transaction techniques (R.20)

4.4.1 Description and Analysis

Other non-financial businesses and professions c.20.1

850. As described in Section 4.3.1, other than the DNFBPs in the FATF terms, the AML/CFT Law is also applied to any person licensed to practice banking, financial or commercial activities such as: (i) management of bank accounts, deposit accounts or securities accounts; (ii) organization of contribution, operation or management of juristic (legal) persons or legal arrangements for the establishment of these companies; and (iii) purchasing and selling commercial or financial institutions.

851. The AML/CFT Law provides that the scope of non-financial businesses and professions listed in Article 1 is not exclusive, and any other establishments or professions are to be included by a decision of the Minister of National Economy upon the recommendation of the National Committee (Article 1).

852. As previously noted under Recommendation 12, notary in Oman, which is an official government employee supervised by the MOJ has been listed as one of the subjects of the AML/CFT obligations. Since the notary public does not carry out financial activities for clients, it does not fall under the FATF definition of DNFBPs. The services provided by the notary public include: (i) the authentication of common law documents and signatures, (ii) issuance of marriage and divorce certificates, and (iii) production of certificates and deeds from records. There are approximately 60 notary public departments located in regions across Oman.

853. The evaluation team was informed that the only communication by MOJ officials to the notary public sector has been the dissemination of the new AML/TF law. No other outreach has been conducted to the sector on its AML/CFT obligations.

854. In addition to the above, the authorities have included accountants in the entities and persons subject to the AML/CFT Law, although the accountants, based on the meeting of the evaluation team, do not practice the activities required by the FATF to fall under such obligations. In both cases, the basis on which it was decided to include notary publics and accountants under the umbrella of the AML/CFT regime was not clear to the evaluation team.

Modern secure transaction techniques c.20.2

855. Cash is still heavily used in Oman, while the evaluation team recognized that efforts to avoid cash transactions are being made by many financial institutions and agencies. Omani officials have taken several initiatives on a national level to move towards a more modern and secure system for financial operations. The measures that have been implemented bring a more secure and automated system for transfer systems and promotes the electronic payment system to reduce the reliance on cash. Some of these initiatives are:

- The introduction of the Real Time Gross Settlement (RTGS) system: The CBO launched the implementation of the RTGS in 2005 to modernize the payment system infrastructure. RTGS is an advanced payment mechanism in which inter-bank payments are directly entered into the system and settled - item by item - across the banks' current accounts held with the CBO. The system allows member banks to view their balances throughout the day and as a result, it enables better management of the liquidity position.
- The introduction of upgraded payment processing system (OmanSwitch): The CBO has taken the initiative to upgrade a payment processing system that integrates all of Oman's commercial banks. The project involves consolidating the previous two independent payment switches into one central platform under the ownership of the CBO and unifying all financial institutions to the system. This is described to be a significant investment in the advancement of the automated financial infrastructure of Oman.
- Promotion of electronic-based payment/transaction: Oman has taken steps to promote nationwide the move to more electronic based payment transaction in preference of cash starting with payments for government services. Multiple government agencies such as the ROP, Ministry of Manpower, Regional Municipality and the Ministry of Housing have switched to electronic payment as the method for receiving fees such as passports, licenses, and other administrative

services with cash no longer accepted. This aims at reducing the reliance on cash by facilitating a more efficient and secure method of payment.

4.4.2 *Recommendations and Comments*

- Authorities should consider undertaking a national risk assessment to ensure that no additional sectors are vulnerable to AML/CFT.

4.4.3 *Compliance with Recommendation 20*

| | Rating | Summary of factors underlying rating |
|------|--------|--------------------------------------|
| R.20 | C | |

5. LEGAL PERSONS AND ARRANGEMENTS AND NON-PROFIT ORGANISATIONS

5.1 *Legal Persons – Access to beneficial ownership and control information (R.33)*

5.1.1 *Description and Analysis*

General framework

856. The Omani Commercial Companies Law (CCL), Royal Decree 4/1974, covers the following types of contracts, and defines them as a commercial company: general partnerships, limited partnerships, joint ventures, joint stock companies, limited-liabilities companies, and holding companies. Any company that does not adopt one of these types is null and void by the law (Articles 1 and 2). Except for joint ventures, the commercial companies are considered as legal persons (Article 3). See Section 1 of this Report for more basic information on the specific features of each of these types of legal entity.

857. Commercial companies are required to indicate the company's name, its form, its principal place of business and the number and place of its registration in the Commercial Register in all contracts, receipts, notices and other documents issued (Article 4).

858. The memorandum and articles of association of commercial companies other than those related to joint ventures are to be registered and published in accordance with the Commercial Register Law (CRL) issued by Royal Decree 3/1974 (Article 6).

Measures to prevent unlawful use of legal persons by requiring transparency c.33.1

859. In accordance with the CRL, legal persons are obliged to register themselves at the Secretariat of the Commercial Register in the Ministry of Commerce and Industry (MOCI). The CRL (Article 4) divides legal persons in the following groups: *i*) traders (*i.e.* any natural person whose occupation is to carry out commercial business and the commercial company) whose main work location is in Oman; *ii*) commercial companies whose main work location is in Oman; *iii*) the branches and agencies established in Oman by traders or commercial companies whose main work location is abroad; *iv*) the branches and agencies in Oman by traders or commercial companies whose main work location is registered in Oman in a region that does not administratively include these branches and agencies; and *v*) the branches and agencies that legally exist in Oman and that practice a commercial activity therein at the date of publishing the CRL in the Official Gazette.

860. See Section 3 of this Report for more information on traders in securities, see Section 3.10 of this report for thresholds regarding the ownership of FIs, and see Section 4 for more information on Company Service Providers (also known as Trust and Company Service Providers). The following only focuses on the commercial companies.

861. In accordance with Article 9 of the CRL, commercial companies whose main office is located in Oman are required to register the following information: *i*) name and type of the company; *ii*) purpose of the company; *iii*) address of its main work location and addresses of its branches or commercial agencies inside and outside Oman; *iv*) full name, nationality, and birth place and date of each partner in the

company (Joint-stock companies are to provide these data of their board directors); *v*) full name of every signatory and the extent of authority thereof; *vi*) company capital and estimated value of any contribution in the capital whether they are in kind advances of services; *vii*) incorporation date of the company and expiry date, if any; and *viii*) date and number of the license of the MOCI if the company has one or more non-Omani partners pursuant to the provisions of the Foreign Capital Investment Law. Traders or commercial companies whose main work location is abroad but that have a branch or an agency in Oman also have to register this branch or agency in the Commercial Register (Article 11).

862. Commercial companies are required to make the registration within one month from the incorporation of the company (CRL, Article 9), and any amendment of the registered information must be registered within one month of its changes (Article 10). A failure of registration is subject to a fine from OMR 25 to 200, and a provision of inaccurate information is subject to a fine from OMR 100 to 500 and/or imprisonment from 1 to 6 months (Article 18). The Secretariat of the Commercial Register cannot refuse registration unless all the required information and documents are not included or the registration fees are not paid (Article 16).

863. The registered information that the CRL requires only covers items that represent the commercial companies including the owners of the shares, but it does not sufficiently cover the beneficial ownership and control of legal persons (as defined by FATF). The authorities indicated that in accordance with Article 14 CRL (“The entries of the Commercial Register that fix the signatories on behalf of the applicant and their authorities shall be a decisive proof in this regard if claimed by third parties in good intention”) shows that the real owners are known. However, the information registered concerns the nominal owners and authorized persons, but not per se the economic owners. Also, in case a partner is a foreign company, the beneficial owner(s) of this foreign company is not registered.

864. The Commercial Register is managed by the MOCI. The Secretariat of the Commercial Register cannot refuse registration unless all the required information and documents are not included or the fees are not paid (Article 16). Non-compliance with any other legal obligation is not a stated ground for refusal. The MOCI indicated that it verifies the IDs of the persons involved, but it is not clear how the MOCI ensures the accuracy of other information in the register beyond the initial check of the submitted information. In addition, the registered information does not sufficiently include the information of the beneficial ownership and control structure of the legal person.

Access to information on beneficial owners of legal persons c.33.2

865. The CRL (Article 2) ensures that the public has a right to access the information recorded in the Commercial Register. The Commercial Register is used as a decisive proof on the information therein recorded. Authorities, such as the ROP and FIU, have online access to the complete files.

866. The authorities indicated that this online access is in a timely fashion to adequate, accurate and current registered information. Beyond the registration of basic company information in the Commercial Register, there are no up-to-date measures in place to prevent the unlawful use of legal persons in relation to ML and TF by ensuring that the commercial, corporate and other laws require adequate transparency concerning the beneficial ownership and control of legal persons. What is not registered or kept cannot be accessed either.

867. Nevertheless, it is worth mentioning that the Omani authorities have supervisory agreements in place to conduct on-site inspections of entities registered with the Commercial Register by inspectors of a committee formed by MOCI, Ministry of Manpower, and ROP. The authorities have provided the assessment team with examples of inspection reports which show that these authorities have used their powers to deal with violations detected. While AML/CFT is not part of these inspections, the assessment

team believes that it would be possible for the authorities to extend these inspections to a check on the misuse of legal entities for ML/TF (and general illicit activities) or to check with the registered entity who could be the beneficial owner. In addition, the authorities also have at their disposal the powers of the ROP and PPO under the CPL to obtain information (as described in section 2.6.1). Though not tested, these powers could be used to obtain information on beneficial owners.

Prevention of Misuse of Bearer Shares c.33.3

868. The Omani authorities indicated that transaction of bearer shares is not permitted in Oman. For shares that are sold through the Muscat Securities Market (MSM) only, the CMA indicated that these are dematerialized and anyone who wants to buy shares has to open an account with the Muscat Clearing and Depository Company (MCDC) and with a broker and as such will be identified and their names registered.

869. There are some specific provisions that could be interpreted as if bearer shares seem to be accepted. For instance, Articles 571 and 572 of the Commercial Law issued by Royal Decree 55/1990 provide that shares and other negotiable instruments issued wholesale and giving entitlement to equal money values and which may be quoted on a finance market may be nominative, to bearer or to order, and that if an instrument is created to bearer it transfers on simple handover. However, these articles are limited by Article 73 of the CCL which states that shares of a joint-stock company shall be represented by negotiable certificates which shall be nominative shares and shall bear a special number.

870. Also, Chapter II of the PC on criminal forgery states in Article 203 that “Bearer bonds and nominative bonds which issue is allowed by law in Oman or in any other foreign country, and all financial bonds, cheques, either drawn to the bearer or transferable by endorsement shall be deemed as official documents.”. The authorities indicated that this article does not create bearer shares and is relevant for foreign bearer shares.

Additional Element – Access to information on beneficial owners of legal persons by financial institutions c.33.4

871. Banks and other FIs indicated that they usually receive all required CDD information from their customers and ensure that where necessary it is authenticated. In addition, they could easily access the information available in the Commercial Register. Nevertheless, banks and other FIs will face the difficulties derived from the deficiencies discussed above when they try to obtain the registered information. This also has an impact on the effectiveness of Recommendation 5 (See Section 3.10 of this Report).

5.1.2 Recommendations and Comments

- 872. Even though the registered information that is in the Commercial Register covers sufficient data, it does not sufficiently cover the beneficial ownership and control of legal persons. In order to comply with R33, the authorities should either require legal entities to provide accurate information on beneficial owner and control structure of legal persons; or
- Use their powers under the CRL and CPL to obtain information on beneficial owner and control structure of legal persons

5.1.3 Compliance with Recommendations 33

| | Rating | Summary of factors underlying rating |
|--|--------|--------------------------------------|
|--|--------|--------------------------------------|

| | | |
|------|----|---|
| R.33 | LC | <ul style="list-style-type: none"> • The registration system, though elaborate, does not contain information on beneficial ownership of legal entities, but the authorities do have the powers to obtain that information. |
|------|----|---|

5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

5.2.1 Description and Analysis

Legal Framework

873. Oman has legal arrangements that are very similar, but not identical, to the common law express trust. The Omani legal arrangement is known as *waqf*. In general, a *waqf* can have two forms. It can either be established as: *i*) a charity entity (see section 5.3 of this report), in which case the *waqf* operates like a legal entity (similar to the civil law foundation), or *ii*) a legal arrangement, which operates like a common law express trust.

874. In general, every *waqf* is required to have a *waqif* (founder/donor), *mutawilli* (trustee/supervisor), *qadi* (judge of a court) and beneficiaries. Under a *waqf*, property is reserved, and its usufruct appropriated, for the benefit of specific individuals, or for a general charitable purpose; the corpus becomes inalienable; estates for life in favor of successive beneficiaries can be created and without regard to the law of inheritance or the rights of the heirs; and continuity is secured by the successive appointment of trustees or *mutawilli*.

875. The main difference with a common law express trust is the existence of the *qadi* (judge), who registers the trust deed (*waqfiyya*) and supervises the *waqf* to ensure that the trustee operates within his mandate. The *qadi* also has to register changes to the trust deed. The *qadi* has the power of veto, also if changes would change the nature of the *waqf*. The *qadi* also ensures that all *awqaf* are registered with the Ministry of Awqaf and Religious Affairs and information on them is publicly available.

876. The general framework on *waqf* is further elaborated in Omani law. The Law of Awqaf (issued by Royal Decree 65/2000) stipulates in article 2 that a *waqf* has legal status. There are four types of *awqaf* in Oman:

- Effective *waqf* whose form denotes it comes into force at once, once it is issued by the donor.
- Delayed *waqf* whose implementation is delayed until after the death of the donor.
- Charity *waqf* whose benefits are allocated to charity from the beginning.
- Civil *waqf* whose benefits are allocated to the *waqf* donor or certain persons or to both provided that in all cases the final allocation thereof shall be to a charity entity.

877. The supervisor (*qadi*) is appointed by the donor or the Ministry of Awqaf and Religious Affairs (Article 17) and will supervise the *waqf* and its development and maintenance. Article 20 lists the function of the supervisor: he shall be the guardian of the *waqf*, manage, construct, maintain and keep it in a good condition. He shall be accountable for that and for any default in managing the *waqf* or its revenue.

878. The Minister of Awqaf and Religious Affairs has the right of general supervision over all *awqaf*. The Minister also has the right to object to the supervisors' works and remove him if he commits any activity detrimental to the *waqf*. If the donor has kept the right of appointing or removing the supervisor, the Minister cannot remove the supervisor unless there is a judgment issued from the Shar'i (*Shari'ah-based*) court.

879. The *waqf* deed may contain information on the beneficiaries, but does not contain information on the beneficial owner. Nevertheless, the ROP and PPO could use their powers under the CPL (as described in section 2.6.1) to obtain information on beneficial owners (but this has not been tried by the authorities).

5.2.2 Recommendations and Comments

880. Overall, this system for controlling *awqaf* / legal arrangements outperforms the systems of other countries. The only remaining issue is the lack of a requirement to disclose information on beneficial ownership (in addition to the beneficiary) on the *waqf* deed.

5.2.3 Compliance with Recommendations 34⁶²

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.34 | LC | <ul style="list-style-type: none"> The assessment team was unable to confirm that beneficial ownership is available. |

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

881. Under the AML/CFT Law in Oman, NPOs are a category of designated entities, together with FIs and DNFBPs. The AML/CFT Law defines NPOs in Article 1 as “any organized group composed of several persons for the purpose of raising funds or spending funds for charitable, religious, cultural, social, educational purpose or any other purpose other than gaining material profit.” The complete legal framework for FIs and DNFBPs under the AML/CFT Law (CDD, record keeping, STR-reporting, etc) also applies to NPOs. Please see Sections 3 and 4 of this Report for a general overview of the requirements. This section provides an overview of the specific characteristics of NPOs in Oman, in relation with the specific requirements of SRVIII. For the overall assessment; however, it should be kept in mind that the regulatory environment for NPOs in Oman goes beyond the normal requirements for NPOs based under SRVIII. This has an overall positive effect on the effectiveness of the system.

General framework

Civil Associations

882. Oman has regulated its NPOs through the Civil Association Law (CAL), Royal Decree 14/2000 (as amended). A civil association is an organization composed of several natural individuals for non-profit purposes and aims at undertaking social, cultural or charitable. The MSD is in charge of the administration of civil association.

883. Civil associations can raise and disburse funds and can only work in 6 areas: *i*) orphan care, *ii*) maternal and child welfare, *iii*) women’s services, *iv*) elderly care, *v*) disabled and special group care, and *vi*) any other fields or activities where the Minister believes NPOs should be involved (Article 4). Civil associations are prohibited to engage in politics, form parties, or interfere in religious matters (Article 5).

884. For its establishment, an association is required to be registered by proclamation by the MSD (Article 10). An association is required to have a written statute which includes each member of the

⁶² FATF and MENAFATF assessment reports have taken different views on the issue whether a *waqf* is a legal arrangement, and should therefore be assessed under R.34. At the time of adoption of this report, MENAFATF and FATF were studying this issue for future consistency.

founders, the resources of the associations, and the names of persons representing the association. The MSD has the right to disapprove the proclamation (Article 11).

885. There are currently 101 associations and 3 branches: *i)* 53 women associations; *ii)* 23 professional associations; *iii)* 9 clubs for foreign societies and 3 branches of these foreign societies; *iv)* 14 charities; and *v)* 2 foundations (which are basically trust funds of wealthy families).

886. It is also possible for incidental groups of people to raise funds, but only with a license of the MSD under Ministerial Decision No. 53/2010.

A special Civil Association: The Oman Charitable Organization

887. The Oman Charitable Organization (OCO) is an organisation for charitable activities established by Royal Decree 6/96. It plays a pivotal role among civil associations in Oman. The OCO raises and receives donations and grants of voluntary contributions, and undertakes charitable activities stipulated by the Royal Decree 6/96. Though the OCO is a private organisation, it functions as a semi-public body. All financial transactions of charitable organisations in Oman, including donations to foreign charitable organisations, are to be conducted through the OCO. The OCO is funded by government grants and its funds are in allocated trust funds. The assessment team considers the OCO more as a government agency responsible for (international) development rather than as an NPO. As such, this organization was not considered as part of the evaluation of SR VIII. In some ways, the OCO could also be considered the SRO for charities.

888. The OCO has a board of directors chaired by the State Minister of Legal Affairs and with the membership of: *i)* the Undersecretary for Islamic Affairs of the MOJ and Awqaf and Islamic Affairs; *ii)* the Undersecretary of the Ministry for Social Affairs; *iii)* the Undersecretary for the Ministry of Interior (MOI); *iv)* the Undersecretary for the Regional Municipalities Affairs of the Ministry of Regional Municipalities and Environment Affairs; *v)* the Undersecretary for the MOF; *vi)* the Chairman of Oman Chamber of Commerce and Industry, and *vii)* five businessmen nominated by Oman Chamber of Commerce and Industry for three renewable years.

889. The OCO Board of Directors is granted to manage the affairs of the OCO and achieve its objectives and the assigned jurisdictions. They are especially to: *i)* establish the overall policy of the OCO and ensure its execution; *ii)* issue the necessary bylaws to achieve the objectives of the OCO and practice its jurisdictions; *iii)* pass the annual budget and program to finance the charitable activities; *iv)* accept the donations and/or grants and the voluntary contributions provided by public or private authorities inside or outside the Sultanate; *v)* identify the manners of expending and disbursing the funds of the OCO; and *vi)* issue the bylaws related to regulating the activities of the board of directors and the administrative and financial affairs

Other NPOs

890. The authorities assured that there are no NPOs in Oman that are not civil associations.

Review of adequacy of laws and regulations of NPOs c.VIII.1

891. Although the authorities have not conducted a formal review of the laws and regulations that relate to the NPO sector for potential TF risk, but they have brought the non-profit associations and bodies under the new AML/CFT Law as a reporting entity. For the purpose of this law, NPOs are defined as an organized group composed of several persons for the purpose of raising or spending funds for charitable, religious, cultural, social, educational purpose or any other purpose other than gaining material profit. Such

a broad coverage of NPOs; and the recent legislation shows the authorities' awareness of the potential vulnerabilities of this sector for TF.

892. The MSD collects and registers ample information on the activities, size and other features of the NPOs under the CAL. In addition, the AML/CFT Law obliges competent regulatory entities to establish the necessary measures to determine the criteria governing the ownership, management and operation of non-profit associations and bodies (Article 18 sub 2, AML/CFT Law). All the information collected and registered by the MSD would fully cover this requirement.

893. Furthermore, the MSD has also proposed several amendments to the CAL; these amendments are currently with the Minister of Social Development and were not yet available.

894. Despite the lack of a formal (written) review of the laws and regulations for NPOs, from their interviews with the authorities, the recent update of the requirements with the enactment of the AML/CFT Law, and the current drafting of the CAL, it is inherent that Oman has in fact reviewed its laws and regulations.

Outreach to the NPO sector to protect it from TF abuse c.VIII.2

895. The AML/CFT Law obliges the National Committee to promote awareness among non-profit associations and bodies (Article 24 sub 5). The National Committee has held a training course on the new law that was also attended by civil associations, but the assessment team was not informed about the contents of the training.

Supervision or monitoring of NPOs that account for significant share of the sector's resources or international activities c.VIII.3

896. The CAL obliges an association to maintain records on members of the association, subscriptions, and proceedings of board of directors, accounts of income, expense and donations (Article 15). All the information is available to and at the MSD. The MSD provides the information to the ROP when requested. Furthermore, the CAL requires NPOs to keep records and books on their member, board of directors, incomes, expenses, donations and any other necessary record. These requirements of the law promote transparency, accountability and integrity of the NPOs.

897. According to Article 7 of the CAL (as amended), the statute of the association includes the following information: *i)* the name of the association, its objectives, the fields of activities, the methods of performing these activities, the geographical jurisdiction of its work and the centre of where it shall be located within Oman. Any association shall not be authorized to adopt a name that creates confusion with another association or adopt a foreign name; *ii)* the name of each member of the founders, his surname, age, nationality, religion, profession, and residency address; *iii)* the resources of the association, how to make use and spend them, and the beginning and end of the fiscal year; *iv)* the departments of the association with their specializations, how to select its members and discharge or abrogate them or cancel their membership as well as the required number to convene the general assembly and the board of directors and the authenticity of the decisions taken in each; *v)* who shall represent the association in its connections with the others; *vi)* terms of the membership, rights of the members and their duties especially the right to attend the general assembly and vote provided that he shall not be under 18 years old and has never been accused in a crime or a misdemeanor involving moral turpitude or integrity unless otherwise he is rehabilitated; *vii)* methods of internal financial control; *viii)* method of modifying the statute of the assembly, merging and division and establishing the branches of the association, and *ix)* rules to optional disentangle the association and the party to which the funds of the association shall belong.

898. Additionally, the founders have to elect a first board of directors. This board is responsible for the proclamation application (Article 9). This application has to be accompanied by: *i*) a list of all the founders and another list of the members of the first board of directors which clearly stating to the surname, age, nationality, place of residency and religion of each member in each list; *ii*) minutes of meeting of the constituent assembly; *iii*) minutes of meeting of the first board of directors; *iv*) the decision made by the board of directors to authorize the person(s) who shall present the declaration documents; and *v*) the statute of the association.

899. A certificate issued by the concerned authorities stating that they have no objection against any of the founders shall be attached with the documents.

900. A violation of the obligations under the CAL is subject to a fine of OMR 50 to 500 and/or imprisonment of maximum 6 months (CAL, Article 54-56). The minister of MSD has a right to close down an association as a penalty (Article 58). These penalties do not preclude the imposition of a more severe penalty under the PC or any other Omani law.

901. The MSD indicated that in case they find a violation, they will send a notice requiring civil associations to amend a shortcoming within 2 months. If the civil association does not take action, the MSD could change the board or ask the founders to choose another Board. The MSD has given three such notices in 2009 and has found that in all three cases the civil associations reacted very fast and corrected the wrongdoing.

902. In the MSD the Civil Associations Department of the MSD is responsible for the licensing and inspections of civil associations. This department has 7 staff in Muscat and 3 staff in each of the 5 regions in Oman. All civil associations are registered by the MSD (Article 10) and they are subject to supervision of the MSD. The CAL obliges the MSD to audit the work of the associations and verify compliance with the laws and the statute of the association. Supervisors appointed by the Minister are authorized to enter the headquarters of the association and review its records, documents and offices (Article 17).

903. Civil associations are obliged to maintain records on members, on and subscriptions, and keep books of accounts of income, expenses and donations (CAL, Articles 15-16). Civil associations are required to hold an annual general assembly (Article 21), with all members (Article 18). The MSD has the right to be informed of every such meeting (Article 23). Each association is also required to have its own board of directors, and the Ministry has a right to monitor and intervene the meeting (Articles 32-34).

904. The civil associations have to keep all their records based on the CAL (Article 15), but no specific period is currently provided. As the AML/CFT Law requires record keeping for at least 10 years (Article 12-6), the authorities indicated that the revised CAL will be updated in line with the AML/CFT Law.

905. The AML/CFT Law obliges NPOs to conduct customer due diligence (Articles 7, 12), and the competent authorities are obliged to verify the compliance under the supervision or control. However, since the new law has entered into force on 2 July 2010, the MSD has not yet commenced inspecting for compliance with this new law.

906. The MSD inspectors will visit civil associations every 2-3 months to inspect their income and expenditures. The MSD officials indicated that they will compare financial statements with the record of the association's banking accounts.

Effective information gathering and implementation c.VIII.4 c.VIII.5

907. The MSD is a member of the National Committee on AML/CFT as described in Section 6.1. The MSD has a full access to the registered information of the civil associations, and the ROP can access the information through the MSD, or by making use of their powers under the CPL

908. If necessary, the MSD and the ROP can combine their expertise in the area of NPOs and TF for preventative and investigative actions for TF. The AML/FT Law has a provision regarding domestic co-operation (Articles 18 sub 4), and a general provision on international co-operation (Article 43). However, it is not clear if and how the MSD and law enforcement authorities have been co-operating in practice.

Effectiveness

909. The assessment team was impressed by the comprehensive approach that the Omani authorities have taken towards NPOs already since 2000. Even though, the AML/CFT Law is new for both the MSD and the NPOs, the MSD’s existing regulatory framework under the CAL goes beyond the requirements of SRVIII. This especially relates to supervision. In addition, the assessment team did notice a high level of awareness and knowledge of the risk of NPOs to be misused for illegal purposes at the level of NPOs, the OCO and the MSD.

5.3.2 Recommendations and Comments

910. The new AML/CFT Law just came in force on 4 July 2010 and the MSD should further build its experience and capacity in the area of AML/CFT to ensure effective AML/CFT supervision. However, in general, Oman fully and effectively complies with all requirements of SRVIII.

5.3.3 Compliance with Special Recommendation VIII

| | Rating | Summary of factors underlying rating |
|---------|--------|--------------------------------------|
| SR.VIII | C | |

6. NATIONAL AND INTERNATIONAL COOPERATION

6.1 National cooperation and coordination (R.31)

6.1.1 Description and Analysis

Mechanisms for domestic cooperation and coordination in AML/CFT c.31.1

911. Under the former AML Law, which entered into force in March 2002, the National Committee for Combating ML (the former Committee) was established as an inter-agency cooperation body for combating ML. With the issuing of the AML/CFT Law, Oman has replaced the former committee with the National Committee for Combating ML and TF (the National Committee). Both Committees are similar in terms of function and composition.

National Committee for Combating ML 2002 - 2010 (former AML Law)

912. Under the chairmanship of the Secretary of the Ministry of National Economy for Economic Affairs, the former Committee consisted of the Under Secretary of the MoJ, the under Secretary of the MOCI, the Secretary General of Taxation, the Executive President of the CBO, the Executive President of the CMA, the Deputy Inspector General of Police and Customs for Operations, and the Prosecutor General (Article 21). The FIU (the General Directorate of Criminal Investigations of the ROP), and the MSD (responsible for the some NPOs), were not included, but the FIU was represented indirectly through the membership of the Deputy Inspector of Police and Customs.

913. The purposes of the Committee set by the law were to: *i)* establish the general policies of combating ML in coordination with competent bodies; *ii)* study and follow up international and regional developments in the field of ML for the purpose of recommending appropriate changes to the former AML Law; *iii)* establish programs for training personnel working in the AML area; *iv)* specify the activities which are similar to the ‘institution’; *v)* specify the situations, conditions and amount of financial incentives payable to the personnel working in the field of AML and any person who reports on a ML offence; *vi)* establish the necessary budget for implementing its functions; and *vii)* establish procedures regulating its work (Article 21).

914. In addition to this function, the members of the Committee were obliged to submit periodic reports of their work to the Committee (outgoing ER, Article 10) that was to hold a technical committee at least three times a year with representatives of committee members to study policy matters (outgoing ER, Article 12). The Committee’s activity was supported by full-time staff members (outgoing ER, Article 11).

National Committee for Combating ML and TF (current AML/CFT Law)

915. The National Committee has been evolved with the issuance of the AML/CFT Law. The membership has been expanded to include a representative of the Ministry of Housing, MSD, and the FIU (Article 23). The Committee is to meet twice a year, and more if need be.

916. Under the supervision of the Minister of National Economy, the National Committee is headed by the Executive President of the CBO and consists of the following members (Article 23): *i)* the Head

Public Prosecutor; *ii*) the Deputy Inspector General of Police and Customs; *iii*) the Undersecretary of the MoJ; *iv*) the Undersecretary of the Ministry of National Economy for Economic Affairs; *v*) the Undersecretary of the MOCI for Commerce and Industry; *vi*) the Undersecretary of the Ministry of Housing; *vii*) the Undersecretary of the MSD; *viii*) the Executive President of the CMA; *ix*) the Secretary General of Taxation; *x*) the Director of the FIU.

917. The purposes of the National Committee are to: *i*) establish general policies and issue guidelines for the prohibition and combating ML and TF offences in coordination with the FIU and competent regulatory authorities; *ii*) review the international treaties and conventions on combating ML and TF and issue recommendations thereon to the Minister; *iii*) follow up global and regional developments in the field of combating ML and TF, submit recommendations on the development of general policies and guidelines and suggest appropriate amendments to this Law; *iv*) establish programs for the qualification and training of personnel working in the field of combating ML and TF offences; *v*) promote awareness among the FIs, DNFBPs, and non-profit associations and bodies on the risks of ML and TF; *vi*) coordinate with the National Committee for Combating Terrorism in the implementation of the resolutions of Security Council on the consolidated lists for freezing the funds of persons and entities specified therein; *vii*) propose adding any other activities to FIs, DNFBPs, and non-profit associations and bodies; *viii*) determine the cases, conditions, and amount of the financial incentives to be paid to personnel working in the field of combating ML and TF offences, and any person who reports on such crimes; *ix*) establish the necessary budget for executing its functions; and *x*) establish the organizational structure of the Committee.

Technical Committee for Combating ML and TF (current AML/CFT Law)

918. The operational work of the National Committee is undertaken by the Technical Committee for Combating ML and TF. The Technical Committee is chaired by a representative of the Ministry of National Economy, who also acts as the Head of Delegation of the Sultanate to MENAFATF and FATF. Institutionally, the membership the Technical Committee is equal to that of the National Committee.

919. The Technical Committee meets on an “as-needs” basis. For example, it has in preparation of the AML/CFT Law and the FATF/MENAFATF evaluation, been meeting approximately twice a month in 2010. As part of the regular tasks as described above, but specifically in relation to the new AML/CFT Law, the National Committee and the Technical Committee were responsible for: *i*) reviewing and issuing laws and by-laws, *ii*) conducting training courses, and *iii*) developing procedures and practices regarding AML/CFT. The National Committee also organized a conference for all reporting entities and relevant authorities to introduce the new law.

Effectiveness of domestic cooperation and coordination

920. It was apparent to the assessment team during the onsite visit that the representatives of the authorities were cooperating and coordinating both on a policy and operational level. This cooperation on policy level seemed to be driven by the fact that the law was being revised and the evaluation visit.

921. The cooperation between the supervisors and the ROP/FIU seems to be focused on requests from the ROP/FIU to the banks that have to be sent through the supervisors. Cooperation between the CBO and CMA seems to be generally limited to the CMA providing information on licensed institutions to the CBO. However, it should be noted that the Memorandum of Understanding signed between them on May 25, 2010, stipulates (Article 9) the formation of a coordination committee between the two parties whose responsibilities include taking urgent coordinating steps when there are emergency issues that are likely to affect the market quickly and periodically. Among the functions of this Committee is to review all laws and regulations of common interest between the parties. It may also have use of technical resources of the

parties to perform its tasks. The team was not made aware of whether the said committee has become functional.

922. The authorities reported one aspect of cooperation between CMA and CBO, *i.e.* the recent issuance of the regulatory controls for the requirements for marketing insurance products through banks. This was issued after a series of meetings between the professionals at CBO and CMA. Another example of cooperation is the formation of a joint team between the two parties to conduct a field visit to a finance company to ascertain the extent of its commitment to the applicable laws and regulations (background and details on this case were not available to the team). It should also be noted that oversight staff at CMA and CBO have judiciary powers, which would facilitate the task of implementing any joint plan with regard to oversight and inspection of companies.

923. As far as PPO and FIU is concerned, there is a lack of coordination to avoid duplication of work on the operational level.

924. Since the FIU, regular police and customs are all part of the ROP there is no impediment for cooperation.

Additional Elements – Mechanisms for consultation between competent authorities and regulated institutions c.31.2

925. Representatives from the Technical Committee indicated that the supervisory authorities had consulted some institutions of the private sector during the drafting process of the AML/CFT Law.

926. When the assessment team visited Oman, the new AML/CFT Law was in force, but the incoming ER, which is to stipulate provisions on more detailed and implementation aspects, had not been issued yet. Although the representatives of the entities that are subject to the new law were aware of the law, the assessment team had an impression that the degree of their understanding and knowledge about the new law was different by sector. While FIs are well informed by CBO's circulars and seminars, some DNFBPs had little idea about the law other than the fact that it was recently issued. The discrepancy between sectors depends on the outreach activities by the relevant competent authorities. On the other hand, all supervised entities indicated that in case of questions on any general or particular issue, they would call their supervisor for on-the-spot guidance.

Review of the effectiveness of AML/CFT systems (Recommendation 32)

927. The Technical Committee indicated that when it was working on the draft of the new AML/CFT Law, every agency involved in the Committee provided their input based on their sectoral review the former AML law and their system, and suggestions for the revisions of the law.

6.1.2 Recommendations and Comments

928. In order to comply with R31:

- Authorities should further enhance their cooperation by working together on developing guidance and other activities for the reporting entities and providing more joint outreach to the sectors to promote capacity-building.
- The National / Technical Committee should consider making an overall assessment of the ML/TF risks.

- Operational cooperation, especially between FIU – PPO and CBO/CMA – FIU – PPO should be better coordinated to avoid duplication of work.

6.1.3 Compliance with Recommendation 31

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.31 | LC | <ul style="list-style-type: none"> Operational cooperation between the CBO, CMA, FIU, PPO and ROP is not fully effective and needs to be enhanced. |

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

929. Oman has accessed to the Vienna and Palermo Conventions, and implemented their provisions to a large extent. However, and although some CFT related provisions are implemented, Oman did not sign nor ratify the TF Convention.

930. In addition, Oman did not enact special laws and procedures to deal with the requirements under UNSCR 1373, nor did it establish special procedures to deal with the UNSCR 1267. For a full overview of the implementation of UNSCR 1267, successor resolutions, and UNSCR 1373, see section 2.4 on SR.III in this report.

931. It should be noted that according to Article 72 of the Basic Law (the Constitution), the application of the Basic Law shall not infringe the treaties and agreements concluded between the Sultanate of Oman and other States and international bodies and organizations.

932. Moreover, in accordance with the Basic Law of Oman, any treaty acceded to or ratified by the Sultanate becomes a part of domestic law and has the same force of law, as stated in the following two articles:

- Article 76: Treaties and conventions shall not have force of law until they have been ratified. Under no circumstances may the treaty or convention comprise implicit conditions that conflict with its explicit conditions.
- Article 80: Nobody in the State may issue rules, regulations, decisions or directives that conflict with the provisions of the laws and decrees in effect or with the international treaties and conventions that are part of domestic law.

Ratification of AML Related UN Conventions (c. 35.I)

933. Oman has accessed to the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) on March 15, 1991 pursuant the Royal Decree No. 29/91 of 26 February 1991.

934. Oman has accessed to the United Nations Convention against Transnational Organized Crime (Palermo Convention) on May 13, 2005 pursuant the Royal Decree No. 37/2005 of 12 April 2005.

Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19)

935. Oman has enacted legislation that covers the key AML requirements of the Vienna Convention. The elements of the ML offense are largely in line with the physical and material elements of ML as set forth by Article 3(1) (b) and (c) of the Vienna Convention. Proper ancillary offenses as well as associated ML are also criminalized by the law (see Section 2.1 on Recommendations 1 and 2 in this report for a full overview of the criminalization of ML).

936. Moreover, the trafficking in narcotics and other drug-related offenses are criminalized by the Law of Narcotics and Psychotropic Control (NPCL) issued by the Royal Decree No. 17/99 of 6 March 1999.

937. The AML/CFT Law, the NPCL, the PC and the CPL provide for provisional measures and for confiscation of proceeds of crime, including proceeds derived from drug related offenses and narcotics and instrumentalities in drug related cases (see Section 2.3 on R3 for a full overview of confiscation provisions).

938. For mutual legal assistance and extradition provisions – which are also implemented in line with the Convention, see Sections 6.3 – 6.4 on Recommendations 36 – 39 of this Report.

939. Oman has also created the legal basis to allow for the appropriate use of controlled delivery as required under Article 11 of the Conventions (Article 13 of the Law of Narcotics and Psychotropic Control).

Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34)

940. Oman has enacted legislation that covers the key AML requirements of the Palermo Convention. However, Oman has criminalized the participation in a criminal organizations but only when the purpose of the organizations is committing a transnational organized crime (Article 318 of the PC), or when it is a terrorist organization (Article 2 of the TCL).

941. The AML/CFT Law, the PC and the CPL provide for provisional measures and for confiscation of proceeds of crime (see Section 2.3 on R3 for a full overview of confiscation provisions).

942. Obstruction of justice is criminalized under Articles 179-190 of the PC. Criminal liability does extend to legal persons but only with respect to few offences including ML and TF cases, and only for FIs, DNFBPs and NPOs (see on R2 in Section 2.1 of this report).

943. For mutual legal assistance and extradition provisions – which are also implemented in line with the Convention, see Sections 6.3 – 6.4 on Recommendations 36 – 39 of this Report.

Ratification of CFT Related UN Conventions (c. I.1)

944. Oman has not signed or ratified the United Nations International Convention for the Suppression of the Financing of Terrorism (TF Convention). The accession to this Convention is under consideration and Omani authorities were expecting that this will take place in August or in September 2010.

945. Oman is a party to 10 out of a total of 12 international conventions relating to the fight against international terrorism (including 8 out of the 9 instruments listed in the annex to the TF Convention). The instruments to which it has acceded are as follows: Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 (by Royal Decree No. 42/76); Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September

1971 (by Royal Decree No. 41/76); Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988 (by Royal Decree No. 74/92); Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 (by Royal Decree No. 24/88); International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 (by Royal Decree No. 61/88); Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (by Royal Decree No. 66/90); Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (by Royal Decree No. 66/90); Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963 (by Royal Decree No. 43/76); Montreal Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1991 (by Royal Decree No. 38/99); Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 (by Royal Decree No. 33/2003).

946. In addition to the TF Convention, Oman has not yet accessed to the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

Implementation of TF Convention (Articles 2-18)

947. As indicated above, although Oman has not signed nor ratified the TF Convention, most of its provisions are enforced in the Sultanate with the adoption of the AML/CFT Law and the TCL (see on SRII in Section 2.2 for Articles 2-6 and 17-18, SRII in Section 2.4 for Article 8; and Special Recommendation V in Sections 6.3 – 6.5 for Articles 7 and 9-18 of the TF Convention). TF has been criminalized but lacks the level of detail required to fully comply with the requirements set out in the TF Convention.

Implementation of UN SCRs relating to Prevention and Suppression of FT (c. I.2)

948. See Section 2.4 of this Report for an overview of the implementation of UNSCR 1267, and its successor resolutions, and UNSCR 1373. The strengths and shortcomings identified in that Section have an impact on the assessment of this SRIII.

949. Oman submitted 4 reports to the Counter-Terrorism Committee established pursuant to UNSCR 1373, on 18 January 2002⁶³, 27 June 2002⁶⁴, 31 July 2003⁶⁵ and 18 July 2005⁶⁶. None of the content of these reports would confirm implementation of SRIII.

Additional element (c. 35.2)

950. Oman is a party to the 1999 Convention of the Organization of the Islamic Conference on Combating International Terrorism, ratified by Royal Decree No. 22/2002 of 3 March 2002; the 1998 Arab Convention for the Suppression of Terrorism, ratified by Royal Decree No. 55/99 and the GCC Anti-Terrorism Agreement of 4 May 2004, ratified by Royal Decree No. 105/2005 of 21 December 2005. However, joining regional counter-terrorism instruments cannot be viewed as an alternative to joining the two remaining UN conventions (mentioned above).

⁶³ S/2002/87

⁶⁴ S/2002/87/Add.1

⁶⁵ S/2003/790

⁶⁶ S/2005/466

951. Oman did not sign or ratify the United Nations Convention against Corruption (Merida Convention).

6.2.2 Recommendations and Comments

952. In order to comply with R35 and SRI, Oman should:

- Sign and ratify the TF Convention.
- Rectify all shortcomings related to the implementation of UNSCR 1267 and successor resolutions, and UNSCR 1373.
- Take the necessary action in order to cover the remaining minor shortcomings related to the implementation of the Vienna Convention, the Palermo Convention and the TF Convention.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.35 | LC | <ul style="list-style-type: none"> • There are minor shortcomings in the implementation of the Vienna and Palermo Conventions. • The TF Convention is not ratified, and there are minor shortcomings in the implementation. |
| SR.I | PC | <ul style="list-style-type: none"> • The TF Convention is not ratified, and there are minor shortcomings in the implementation. • Limited implementation of UNSCR 1267. • Lack of implementation of UNSCR 1373. |

6.3 Mutual Legal Assistance (R.36-38, SR.V)

6.3.1 Description and Analysis

953. The type and extent of international co-operation that Oman may provide is mainly regulated by the Basic Law (the Constitution), the AML/CFT Law, the Law on Extradition of Criminals (LEC), promulgated by Royal Decree No. 4/2000, the international conventions to which Oman is party, and by other multilateral and bilateral agreements concluded by the Sultanate with various countries in the field of judicial assistance, exchange of information and extradition of criminals.

954. Moreover, as a member of Interpol, Oman engages in exchanges of information on international criminals and persons sought or prosecuted by other States, assisting in their arrest in the event that they enter Oman.

Recommendation 36

General description (c. 36.1 & c. 36.1.1)

955. Oman does not have a general framework for mutual legal assistance set out in the CPL or in a separate legislation. However, and with respect to ML and TF offences, Article 22 of the AML/CFT Law provides that upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, the PPO may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in ML/TF crimes.

956. Moreover, Article 43 provides that “the Sultanate adopts the principle of international cooperation in combating ML and terrorism financing crimes in accordance with the laws of the Sultanate, the provisions of international conventions, bilateral agreements entered into or drawn by the Sultanate or application of reciprocity principle in the areas of legal assistance and joint international judicial cooperation”. While the language of this article seems a statement of intent, it is a leading principle for the Omani authorities.

957. Thus with regard to ML and TF, Oman can provide mutual legal assistance (MLA), covering the tracing or seizure of any property, proceeds, or instrumentalities, in case there is a signed agreement or on the basis of reciprocity.

958. With respect to predicate offences, it appears that the Sultanate cannot provide MLA on the basis of reciprocity. In these cases, mutual legal assistance relations are primarily governed by the bilateral and multi-lateral treaties.

959. Among the judicial agreements concluded by Oman with various countries in the field of judicial assistance, exchange of information and extradition of criminals are as follows⁶⁷:

- Agreement of Implementation of Rulings, *Inabat*, and Judiciary Notices at the States of the Cooperation Council for the Arab States of the Gulf (GCC) (1995);
- MOU with India on Joint Cooperation for Combating Crime (1996);
- Riyadh Arab Agreement for Judicial Cooperation (Royal Decree No. 34/99);
- Legal and Judicial Cooperation Agreement with Egypt (Royal Decree No. 64/2002);
- Agreement of Security Cooperation with Yemen (Royal Decree No. 58/2004);
- Agreement of Extradition of Criminals and Convicts with India (Royal Decree No. 34/2005);
- Legal and Judicial Cooperation Agreement in terms of Civil, Commercial and Criminal matters with Turkey (Royal Decree No. 102/2008).

960. Mutual legal assistance may also be provided in accordance with related provisions contained in offense-related conventions such as the Vienna and the Palermo Conventions. Moreover, Omani authorities confirmed that they sometimes provide MLA even with default of an international agreement or reciprocity; however, no statistics or examples were provided.

961. The scope of international agreements to which Oman is party, covers the offering of many forms of assistance, including mutual assistance in order to conduct investigations, such as interrogating the accused, listening to witnesses, experts and parties that incurred damages, or exchanging exhibits supporting the accusation, as well as files and other documents, in addition to procedures relevant to inspection or seizure of items.

⁶⁷ Authorities met by the assessors stated that judicial agreements with India, Morocco and Tunisia are currently under consideration.

962. MLA statistics provided by the authorities reflect that the Sultanate has approved all the MLA requests. However, such assistance was not provided in a timely manner (around 1 to 5 months between the date of the MLA request and the date of the first procedure taken in response).

Conditions for mutual legal assistance (c. 36.2)

963. For Oman to be able to cooperate, MLA requests need to comply with Omani Law, and be on the basis of multilateral or bilateral agreements or, with respect to ML and TF, be on the basis of reciprocity (AML/CFT Law, Article 43). However, and as mentioned earlier, the PPO indicated that they sometimes provide or accept request for assistance to/from countries without an international agreement or reciprocity.

964. In accordance with the rules set out in bilateral and multilateral agreements with other jurisdictions, mutual legal assistance is not in principle subject to unreasonable, disproportionate or unduly restrictive conditions.

965. With respect to ML, the outgoing ER stipulates in its Article 14, paragraph (f) that the competent supervisory authorities and the competent authority, each within its jurisdiction, shall take the measures facilitating mutual assistance in cases relating to combating ML.

Efficiency of processes (c. 36.3)

966. Omani authorities stated that the MFA receives MLA requests and forwards these to the PPO and the MoJ. The MoJ stated that MLA requests are handled in an effective way, and do not take much time. This is not supported by statistics.

967. MLA statistics provided by the authorities reflect that the Sultanate has approved all the MLA requests. However, such assistance was not provided in a timely manner (around 1 to 5 months between the date of the MLA request and the date of the first procedure taken in response).

Fiscal matters (c. 36.4)

968. The international agreements to which Oman is party do not stipulate that a request for mutual legal assistance can be refused on the sole ground that the offence is also considered to involve fiscal matters. Moreover, the Omani authorities confirmed that they have never rejected any request for mutual legal assistance on this ground.

Confidentiality requirements (c. 36.5)

969. The international agreements to which Oman is party do not stipulate that a request for mutual legal assistance can be refused on the grounds of laws that impose secrecy or confidentiality requirements. Moreover, the Omani authorities confirmed that they have never rejected any request for mutual legal assistance, on these grounds.

Use of law enforcement powers for MLA (c. 36.6)

970. If the conditions for rendering mutual legal assistance are met, the powers of the relevant authorities are also available for use in response to requests for mutual legal assistance.

971. Moreover, Article 22 of the AML/CFT Law provides that upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, the PPO may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in ML and terrorism financing crimes.

972. In addition, and with respect to ML, the outgoing ER stipulates in Article 14, paragraph (f) that the competent supervisory authorities and the competent authority, each within its jurisdiction, can conduct, in liaison with concerned bodies in other countries, joint investigation operations in combating ML, such as controlled delivery of suspect funds or property.

Conflicts of jurisdiction (c. 36.7)

973. Although the PC determines the jurisdiction of the Omani courts (Articles 2 – 12), there is no information indicating that Oman has considered devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country or in the event of multiple requests for mutual legal assistance. For ML cases only, the outgoing ER suggests coordination among competent authorities to avoid conflict of jurisdiction (Article 14, paragraph (f)).

974. It should be noted that, with respect to extradition requests, most of the international agreements concluded by the Sultanate deal with this issue. (Riyadh Agreement: Article 46; Agreement with Egypt: Article 47; Agreement with Turkey: Article 41; Agreement with India: Article 14; Agreement with Yemen: Article 16)

Additional element (c. 36.8)

975. If the conditions for rendering mutual legal assistance are met, the powers of the relevant authorities are also available for use in response to requests for mutual legal assistance, but there is no mechanism in place to ensure direct cooperation between the judicial and law enforcement authorities of a foreign jurisdiction and the Omani authorities other than through the Interpol channels. The exception are ML cases, after an order by the PPO, and Article 14 of the outgoing ER.

International Cooperation under SRV (applying Recommendation 36 for TF)

976. With the exception of the above mentioned provisions of the outgoing ER, that apply solely in cases of ML, all the other provisions apply to the fight against terrorism and TF.

977. The authorities did not provide any information on cases where mutual legal assistance has been granted in the fight against terrorism and TF. Given the lack of statistics and further information, the assessment team is not able to assess whether and to what extent Oman is able to provide mutual legal assistance in a timely and effective manner, nor that the overall MLA framework regarding TF is implemented in an effective way.

Recommendation 37

Dual criminality in regular MLA (c. 37.1 & c. 37.2)

978. Dual criminality is formally only required for extradition. The LEC issued by Royal Decree No. 4/2000 states in Article 2 that the crime for which extradition is requested should be a felony or a misdemeanor punishable by imprisonment for not less than one year pursuant to the laws of the Sultanate. And this is, according to Article 1, without prejudice to the agreements the Sultanate may conclude with other countries.

979. Some of the international agreements concluded by the Sultanate do not require dual criminality as a condition for extradition (*i.e.* the Agreement with Egypt), other agreements require dual criminality but only in very few circumstances. For example, the Agreement with India states in its Article 8 paragraph

4 that extradition may be refused if the offence is committed by an alien outside the territory of the Requesting State, and it is not an offence under the law of the Requested State.

980. The dual criminality in the area of “other legal assistance” is not expressly required in the Omani legislation. Moreover, the international agreements related to MLA and to which Oman are party, do not mention the default of dual criminality as a basis for the refusal on an MLA request. Only the Agreement with Turkey (Royal Decree No. 102/2008) states in its Article 32 paragraph 1 b) that the request for assistance may be refused if it’s regarded by the requested party as being incompatible with its domestic law. This condition may be interpreted as dual criminality.

981. However, authorities stated that in general, and without prejudice to treaties that the Sultanate is part of, dual criminality is a condition for MLA and that at least, the act should be criminalized under Omani Law. Nevertheless, with respect to ML, the fact that Oman has adopted a definition of ML that covers all offences makes it easily possible in practice to meet any dual criminality condition, if required in ML cases.

982. In general, however, Oman cannot in principle render MLA in the absence of dual criminality, unless it stated otherwise in a relevant treaty.

983. When dual criminality is required, in cases such as extradition, the Omani legislation does not require full agreement in the definitions of criminal offenses. A different legal classification does not pose an impediment either. Moreover, the Omani authorities stated that technical differences between Oman’s legal or criminal system and that of countries that have requested assistance have not been an impediment to rendering MLA. It’s sufficient that the act is criminalized under the Omani legislation, irrelevant of other criteria such as differences in the manner in which each country categorizes or denominates the offence.

International Cooperation under SR V (applying Recommendation 37)

984. The provisions described above apply equally to the fight against terrorism and TF.

985. It should be noted, however, that the deficiencies in the TF offense described under SR II may impact on Oman’s ability to provide MLA where dual criminality is a precondition.

986. However, and despite the lack of statistics, the authorities have assured assessors that no requests for MLA have ever been denied by Oman, on the basis of dual criminality requirements not being met because of the deficiencies in the TF offense.

Statistics (Recommendation 36 and 37)

987. The followings are the cases where Oman exchanged information and MLA with other jurisdictions. It should be noted that the tables below shows about half of the case-information received by the assessment team. The other half of cases that were provided have been moved to Section 6.5 of this Report, because these requests related to cross-border assistance requests as defined by FATF R40 (e.g. FIU-to-FIU inquiry, Interpol request, circulars). There are 8 MLA request handled by Oman: 3 requests were received by Oman, 5 requests were made by Oman:

Table 18. All MLA request to and from Oman

| Country / body | Date of rogatory commission | Date of first procedure | To / from Oman | Type of information | Offence | Result |
|------------------------------|-----------------------------|-------------------------|----------------|---|--|--|
| Yemen / Ministry of Justice | 8 January 2008 | n/a | From Oman | Questioning Mr. X for participating in smuggling and about the other participants. | Smuggling of (stolen) equipment to Yemen. | The Yemeni government has sent a copy of the reports of the statements of those wanted |
| Qatar / Public Prosecution | 29 June 2008 | 9 February 2009 | To Oman | Completion of investigations by questioning witnesses and those who seized the drugs | Sub-interference in an offence of drugs for trafficking. | Request approved |
| Belgium | 11 August 2008 | 8 September 2008 | To Oman | Identifying those who are responsible and the beneficiaries of Company X. Investigating the mentioned persons and bodies and the actual ownership of the company. Determining the legal precedents of the suspects and those who are responsible. | ML, forgery in taxes and violating the Income Act | Request approved |
| Egypt / Public Prosecution | 6 November 2008 | n/a | From Oman | Request to include items seized in the case of Egyptian citizen Mr. X | Murder | Seized items have been sent |
| Dubai / Public Prosecution | 11 January 2009 | 14 February 2009 | To Oman | Delivering the vehicle subject to the request to the competent authorities in UAE. | Offences of cheating, fraud, stealing, possessing crime process and forgery. | Request approved |
| Syria | 10 February 2009 | n/a | From Oman | To verify correctness of marriage papers. | Human trafficking and forgery. | Awaiting reply |
| United States | 16 March 2009 | n/a | From Oman | Requesting the recovery of sums received by the defendant. | Fraud | The plaintiffs have been contacted are instructed to file a civil action at the primary court in Salalah |
| Bahrain / Public Prosecution | 17 July 2010 | n/a | From Oman | Request of delegating senior medical | Murder | Sent to Bahrain |

| Country / body | Date of rogatory commission | Date of first procedure | To / from Oman | Type of information | Offence | Result |
|----------------|-----------------------------|-------------------------|----------------|--|---------|--------|
| | | | | examiners to review two reports issued by the Sultanate and by the UAE | | |

Effectiveness (Recommendation 36 and Recommendation 37)

988. Although the MLA statistics reflect that the Sultanate has approved all the MLA requests, issues can be raised about the effectiveness of the process especially that such assistance was not provided in a timely manner (around 1 to 5 month between the date of the MLA request and the date of the first procedure taken in response).

Recommendation 38

General framework (c. 38.1)

Timeliness to requests for provisional measures including confiscation (c. 38.1)

989. As mentioned before, Oman does not have a general framework for confiscation related MLA set out in the CPL or in a separate legislation. However, and with respect to ML and TF offences only, Article 22 of the AML/CFT Law provides that upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, the PPO may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in ML/TF crimes.

990. With respect to other offences, it appears that the Sultanate cannot provide confiscation related MLA on the basis of reciprocity. MLA for provisional measures could be provided on the basis of treaties. In general, the scope of these treaties, including multilateral treaties such as the Vienna and Palermo Conventions, is sufficiently broad for Oman to be the basis for many forms of assistance, including provisional measures such as the identification, freezing or seizure of properties and instrumentalities.

991. However, and since confiscation is not a provisional measure, it should be studied under the Omani legal framework for the recognition of foreign judicial judgments. Article 13 of the PC related to the exequatur of penal sentences pronounced by a foreign justice does not cover confiscation. Moreover, none of the international agreements to which Oman is party covers the recognition of the judgments made by the courts of the other contracting State in Penal cases (only in civil cases). Hence, Oman cannot in principle respond to a request of confiscation.

992. No information was available as to the effective timing of the responses.

Property of corresponding value (c. 38.2)

993. Requests relating to property of corresponding value are dealt with in a similar way as described above. However, it is not clear how this principle and provisions have been implemented in practice.

Coordination of seizure and confiscation actions with other countries (c. 38.3)

994. There is no legal framework for the coordination of seizure and confiscation actions in the Omani legislation.

995. Provisions for coordinating provisional measures including seizures actions with other countries can be covered by most of the bilateral and multilateral agreements that Oman has exchanged with other countries for the provision of MLA. This does not apply to confiscation (see above).

Asset forfeiture fund (c. 38.4)

996. The proceeds of sale of the confiscated property, proceeds or instrumentalities of ML are to be deposited in the State Public Treasury in accordance with Law (Article 39, AML/CFT Law). So far, Oman had not considered the establishment of an asset forfeiture fund specifically designed for the purpose of law enforcement, health, education, or other appropriate purposes.

Sharing of confiscated assets (c. 38.5)

997. The outgoing ER authorizes the competent supervisory authorities and the competent authority to coordinate with competent entities in other countries and to consider the possibility of sharing in property confiscated property in ML. Considering the very low number of confiscations (see the statistics on R3) and the gaps in the legal framework (see above), it may not surprise that no sharing has yet taken place.

International Cooperation under SR V (applying c. 38.1-38.5 in R. 38, c. V.3)

998. Except for the possibility of sharing assets with other countries in ML cases under the outgoing ER, the MLA provisions regarding ML are applied to in the same way when the request deals with TF. Therefore, the deficiencies identified in R38 apply equally to ML and TF cases, and therefore, to SRV.

999. It should be noted that the deficiencies in the TF offense described under SRII may impact on Oman's ability to provide mutual legal assistance where dual criminality is a precondition. Such impact may likely be limited given the exceptional circumstances where dual criminality is required and the lack of unduly restrictive requirements.

Additional element

1000. In principle, confiscation is to be based on a conviction and no civil forfeiture procedures exist in Oman. However, Article 36 of the AML/CFT Law provides that ML and TF crimes are excluded from the provisions related to the extinguishment of the public lawsuit under the CPL (Article 15), and authorizes the court to order the forfeiture of funds related to ML and TF even without confiscation. This could apply to foreign non-criminal confiscation orders, provided that the case is not blocked by any of the other shortcomings in this area.

Statistics and effectiveness (Recommendation 38 only)

1001. In the absence of any related statistics, the assessment team considered that such assistance was not provided by Oman, or requested to Oman. Consequently, the team was unable to fully evaluate the effectiveness of the system.

6.3.2 Recommendations and Comments

Recommendation 36 and 38

1002. From meeting with the authorities and studying the legal framework and statistics, it is very obvious that Oman is willing to assist foreign jurisdictions. However, it is also obvious that the system for MLA in general is untested and slow. On the long term, the lack of timely responsiveness by Oman in dealing with foreign requests may discourage foreign partners to send a request to Oman. In defense of the

Omani authorities, the assessment team recognizes that Oman is a country with limited crime levels which lowers the number of requests. On the other hand, the assessment team also notices that about a third of Oman's residents are foreigners, and this should have led to higher number of MLA requests. The assessment team also noted that some Omani authorities deal with MLA requests in a very formal or passive manner. The MFA, for example, is committed to MLA, but also to diplomatic formalities, and the PPO, for example, keeps track of requests but as it seems for record keeping purposes only. Other authorities face similar shortcomings. Overall, for all Recommendations relating to MLA, the assessment team recommends that Oman rationalizes its MLA framework and procedures, including one national focal point that actively offers Oman's assistance abroad, and that has a coordinating authority and responsibility within Oman.

1003. On the legal side, from the description above it shows clearly that Oman's MLA framework does not cover all areas and has separate rules for separate crimes. Having a different legal basis for ML (outgoing ER), ML and TF (AML/CFT Law, Vienna, Palermo), TF (TCL) and predicate offences (PC/CPL) is confusing, and leads to gaps, most importantly for confiscation-based MLA for predicate offences. It is recommended that the Omani authorities introduce a comprehensive legal framework for MLA that covers all areas of cooperation for all FATF Recommendations. As for effectiveness, Oman should establish clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays.

1004. Specifically in relation to R38, Oman should establish legal basis to respond to a confiscation related MLA request, establish legal basis to coordinate confiscation actions with other countries, and consider setting up an asset forfeiture fund.

6.3.3 Compliance with Recommendations 36 to 38 and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.3 underlying overall rating |
|------|--------|--|
| R.36 | LC | <ul style="list-style-type: none"> • There are no clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays. • Effectiveness could not be fully assessed due to limited statistics and information on practical cases being available. • Effectiveness is low in cases where statistics and case examples are available to the assessment team, especially regarding the fact that assistance was not provided in a timely manner. |
| R.37 | LC | <ul style="list-style-type: none"> • Effectiveness could not be fully assessed due to limited statistics and information on practical cases being available. • Effectiveness is low in cases where statistics and case examples are available to the assessment team, especially regarding the fact that assistance was not provided in a timely manner. |
| R.38 | PC | <ul style="list-style-type: none"> • Lack of implementation / effectiveness • Oman has no legal basis to respond to a confiscation related MLA request. • Oman has no legal basis to coordinate confiscation actions with other countries. • Oman has not considered setting up an asset forfeiture fund. |
| SR.V | LC | <ul style="list-style-type: none"> • Shortcomings relating to R36/37/38/39/40 have a negative impact on this Rec. |

6.4 Extradition (R.39, SR.V)

6.4.1 Description and Analysis

ML and TF as extraditable offenses (c. 39.1 & SR V.4)

1005. The procedure for the extradition of criminals is regulated in Oman by the Law on Extradition of Criminals (LEC) and the relevant bilateral and multilateral treaties dealing with extradition to which the Sultanate is party. The LEC was issued by Royal Decree Number 4/2000 (Promulgating the LEC) on 22 January 2000 and provides that the crime for which extradition is requested should be a felony or a misdemeanor punishable by imprisonment for not less than one year pursuant to the Omani Law (Article 2). The LEG replaces previous PC articles on extradition (PC, Articles 14 – 28).

1006. Since the ML offence is punishable with a term of imprisonment of not less than three years but not exceeding ten years (per Article 27, AML/CFT Law), and the TF offence is punishable with a term of imprisonment of not less than ten years (per Article 31, AML/CFT Law), both ML and TF offences are extraditable offences.

1007. It should be noted that, as a restriction to the general extradition provisions, for extradition to be possible, the crime has to be committed in the jurisdiction of the requesting jurisdiction, or the crime needs to violate the security, affect the financial position or the conclusiveness of the stamps of the requesting jurisdiction. With respect to ML offences, the outgoing ER also confirms that competent authorities have to take the necessary measures for extradition of criminals (Article 14(g), outgoing ER).

1008. Additionally, Oman has signed the *Riyadh Arab Agreement for Judicial Co-operation* with 20 Arab jurisdictions and bilateral agreements on legal and judicial assistance with Saudi Arabia (1999), Egypt (2002) and Turkey (2008), all of which have provisions on extradition. In addition, Oman has signed extradition treaty with India in 2004. Each agreement and treaty only refers to “a crime”, which is deemed to include ML and TF offences.

1009. The authorities stated that extradition requests are received by the MOFA, which forwards them to the PPO. The authorities also indicated that the ROP takes over a case, and arrests the wanted person pursuant to the applicable Omani laws. The PPO then orders the arrested person to be investigated, be kept under provisional custody, or released on or without bail, as per the case. The PPO may prevent the requested person from leaving Oman until the extradition request is settled. The period of provisional custody of the requested person cannot exceed two months. If the formal extradition file is not received within such period (all prior steps can be taken based on informal requests by other countries), the requested person will be released. The Penal Court of Appeals in Muscat is the only and final authority to decide on extradition requests.

1010. The Omani authorities did not provide any statistics to verify the efficiency of the extradition requests and procedures. No information was provided on the length of time needed to proceed with the extradition requests, nor on the extradition requests that have been denied and on the grounds for the denials.

Extradition of Omani citizens and prosecution of non-extraditable Omani citizens (c.39.2 & 39.3 & SR V.4)

1011. In principle, the LEC prohibits the extradition of Omani nationals (Article 3), but this principle can be overturned by bilateral agreements, as Article 1 of the LEC determines. For instance, the extradition treaty with the Republic of India (2004) states in its Article (6) that extradition shall not be refused on the ground that the person sought is a national of the requested state. On the other hand, the agreement with

Turkey prohibits the extradition of nationals, pursuant its Article 35, paragraph 1. Paragraph 2 of the same article states that where the requested party does not extradite the person sought due to its own nationality, it will, at the request of the requesting party, initiate criminal proceedings against him.

1012. Some other bilateral agreements allow the requested State to choose not to extradite its nationals, provided that the case is to be submitted to its competent authorities for prosecution (*i.e.* the Riyadh Agreement, Article 39; the Agreement with Yemen, Article 15; and the Agreement with Egypt, Article 41).

1013. Even in case the extradition is ruled out on the grounds of nationality, the PC ensures the application of Omani law to any Omani, be it an offender, instigator or participant, who commits abroad a felony or misdemeanor punishable by virtue of the national laws, unless he is finally suited abroad and the pronounced sentence against him is executed, or the sentence is extinguished either by general or special pardon or by prescription (Article 10). The Omani authorities stated that no specific request for prosecution would be necessary from the requesting country.

Measures to handle extradition without delay (c.39.4 & SR V.4)

1014. Article 4 of the LEC states that in urgent cases, extradition requests may be received by phone, telex, or fax provided that they include information, such as *i)* the type of the crime, *ii)* the legal text that indicates the penalty for it, *iii)* the nationality and identity of the person to be handed over, and *iv)* his location in the Sultanate, if possible.

1015. In addition, related agreements concluded by Oman and that usually set out the channels of communication to be used with other countries, include provision measures or procedures that will allow extradition requests and proceedings relating to ML to be handled without undue delay.

1016. In practice, the efficiency of the extradition process is dependent on the time within which a requesting country submits its extradition file to the authorities. If the information submitted is complete, it would accelerate the process of extraditing a person to the requesting country. The information required to be submitted is provided for in bilateral and multilateral treaties entered into with the requesting countries. If the requesting state does not provide sufficient information within 2 months, the requested person is to be released.

Additional element (c. 39.5 & SR.V8)

1017. The LEC applies simplified procedures of extradition as described in the previous paragraphs.

Statistics (Recommendation 39)

1018. The authorities did not provide any statistics on extradition. The Omani authorities did not provide any statistics to verify the efficiency of the extradition requests and procedures. No information was provided on the length of time needed to proceed with the extradition requests, nor on the extradition requests that have been denied and on the grounds for the denials.

Effectiveness (Recommendation 39)

1019. In the absence of comprehensive statistics, the assessment team was unable to confirm the effectiveness of the extradition system in Oman.

6.4.2 Recommendations and Comments

1020. In order to comply with R39, Oman should enhance the effectiveness of the extradition system. The general recommendations relating to R36 and R38 in Section 6.3.2 of this report equally apply to extradition.

6.4.3 Compliance with Recommendations 37 & 39, and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.4 underlying overall rating |
|------|--------|---|
| R.39 | LC | <ul style="list-style-type: none"> Effectiveness could not be fully assessed due to limited statistics and information on practical cases being available. |
| SR.V | LC | <ul style="list-style-type: none"> Shortcomings relating to R36/37/38/39/40 have a negative impact on this Rec. |

6.5 Other Forms of International Cooperation (R.40 & SR.V)

6.5.1 Description and Analysis

1021. Oman confirms its basic principle of the international cooperation for legal matters (Article 14 of the outgoing ER, and Article 43 of the AML/CFT Law) that “*the Sultanate adopts the principle of international cooperation in combating ML and TF offences in accordance with the laws of the Sultanate, the provisions of international conventions and bilateral agreements to which the Sultanate is a party of signatory or on the basis of reciprocity in the areas of legal assistance and mutual international judicial cooperation.*” Based on this principle, Oman has signed multilateral and bilateral agreements with some countries.

Widest range of international cooperation c.40.1

FIU

1022. The AML/CFT Law requires the FIU to exchange information and coordinate with the competent authorities in foreign countries and international organizations in accordance with the provisions of international or bilateral conventions and agreements to which Oman is a party, or on the basis of reciprocity provided that the information is used for the purposes of AML/CFT (Article 7).

1023. The FIU is in the process of setting up memoranda of understanding (MOUs) with the FIUs of the UAE and the Republic of Korea. In 2009 and 2010, the FIU has received 5 requests for information: 3 from the UAE (all on the same case), one from Qatar, one from Canada. They have also received one inquiry from Yemen in 2009 about the jurisdiction of the Omani FIU and its organizational structure.

Law enforcement bodies

1024. The international co-operation of the ROP has been conducted through their Interpol Section. Over the past years, the ROP has received two requests related to ML and in 2009 they exchanged information on an ML case. However, from the data provided this seems to be the same case with the UAE that the FIU also mentioned.

Supervisors for FIs and DNFBPs

1025. Article 24 of the Banking Law on confidentiality provides a gateway for the CBO to exchange information with foreign counterparts. This article states that “Members of the Board of Governors and all officials, employees, advisers, special experts or consultants appointed hereunder shall not disclose any information acquired in the performance of their functions except when such disclosure is necessary to the fulfillment of their duties and (...) when such disclosure is necessary to the fulfillment of obligations imposed by other laws of the Sultanate or to foreign central banks or other regulators responsible for the supervision of any aspect of activities of banks in Oman or their branches or affiliates abroad.”

1026. The CBO has signed 3 MOUs (Lebanon, Jersey, and Bahrain), and exchanged 3 LOUs (letters of understanding) (Pakistan, Egypt, and India) on general co-operation of banking inspection. These agreements are not specifically for AML/CFT. They are generally used for those cases when they want to visit the other country for an inspection or when the other supervisor visits Oman for inspections. There has been no information sharing or joint inspections on AML/CFT.

1027. Article 49 sub 7 of the Capital Market Law states as one of the objectives of the CMA to liaise with securities markets abroad for the purpose of exchange of information. The CMA has signed eight MOUs with jurisdictions (Syria, Russia, Dubai, UAE, Iran, Egypt, Qatar and Malaysia) to facilitate exchange of information and cooperation on matters related to the securities sector. There have been no cases of information exchange with counterparts abroad.

Other competent authorities

1028. Other authorities, such as the MOCI or the MSD do not seem to have any international cooperation on registration of companies or other authorities in charge of NPOs.

Provision of assistance in timely, constructive and effective manner c.40.1.1

1029. See above.

Clear and effective gateways for exchange of information c.40.2

1030. See above

Spontaneous exchange of information c.40.3

1031. Oman seems mostly reactive to requests for information. The assessment team received little or no indications that requests for information were initiated by any of the Omani authorities.

Making inquiries on behalf of foreign counterparts c.40.4

1032. See above on Article 7 AML/CFT Law for the FIU. As to financial supervisory authorities (CBO and CMA), there is no reference or legal provision requiring or enabling them to conduct inquiries on behalf of their foreign counterparts.

1033. However, the authorities refer to resolution No. 30/2010 (July 2010) by His Excellency the Chairman of CMA Board of Directors, which allows CMA to provide other agencies and foreign entities responsible for the organization of securities markets with any information they might need, including documents, contacts, records, books and inspection results along with the investigations with persons and concerned without any fees. This is consistent with the multilateral MOU with the International Organization of Securities Commissions (IOSCO).

Conducting of investigation on behalf of foreign counterparts c.40.5

FIU

1034. The AML/CFT Law has no provision to prohibit the FIU from using its powers to conduct investigations on behalf of foreign FIUs.

Law enforcement bodies

1035. The CPL does not prohibit the ROP from using its powers to conduct investigations on behalf of a foreign law enforcement authority. From 2007 to 2009, the ROP has executed 3 MLA request from foreign law enforcement authorities, including questioning witnesses, delivering a vehicle, and investigating the ownership of a company and determining the legal precedents of the suspects.

No unreasonable or unduly restrictive conditions on exchange of information c.40.6

1036. Neither unreasonable nor unduly restrictive conditions seem to exist regarding the exchange of information in the Omani laws.

Provision of assistance regardless of possible involvement of fiscal matters c.40.7

1037. Though the Omani authorities have not received any requests related to fiscal matters, there is nothing in the Omani laws that would give grounds to the authorities to refuse requests that involve fiscal matters.

Provision of assistance regardless of existence of secrecy and confidentiality laws c.40.8

1038. The outgoing ER provides that the FIU and the competent supervisory authorities (*i.e.* the MOCI, the CBO and the CMA) should exchange information relating to ML with the competent authorities in other jurisdictions, provided that the necessary controls are observed to ensure the information is not in conflict with the laws in force in Oman (Article 14 sub b). There is currently no equivalent article in the AML/CFT Law.

1039. Article 24 of the Banking Law stipulates that Members of the Board of Governors and all officials, employees, advisers, special experts or consultants appointed are prohibited from disclosing any information acquired in the performance of their functions except for: (i) when such disclosure is necessary to fulfill their duties and is made to other CBO personnel or other authorized representatives of the CBO; (ii) when such person is called to give evidence in a judicial or similar proceeding before a tribunal created under the laws of Oman; or (iii) when such disclosure is necessary to fulfill obligations imposed by other laws of the Sultanate or to foreign central banks or other regulators responsible for the supervision of any aspect of activities of banks in Oman or their branches or affiliates abroad.

1040. The assessment team did not have any indications that the Omani authorities had ever refused requests for providing information.

Safeguards in use of exchanged information c.40.9

1041. The outgoing ER provides that competent relevant authorities should maintain and protect confidentiality of information exchanged with other countries and ensure that it will not be used except for the purposes for which it was exchanged (Article 7-e).

Additional Element – Exchange of information with non-counterparts c.40.10 & c.40.10.1

1042. Except for the multilateral and bilateral agreements on MLA, it is not clear whether Oman permits exchange of information with non-counterparts.

Additional Element – Provision of information to FIU by other competent authorities pursuant to request from foreign FIU c.40.11

1043. According to Article 7 of the AML/CFT Law, the FIU can make information available for other FIUs. There is no provision in the AML/CFT Law that restricts the FIU from using its powers to collect information on behalf of a foreign FIU.

Statistics

1044. See above

Effectiveness

1045. There are no legal impediments for international co-operation and exchange of information. However, given the lack of actual cases of international co-operation (on ML/TF), it is premature to assess the effectiveness.

6.5.2 Recommendations and Comments

1046. In order to comply with R40:

- Oman should make more use, where relevant, of their powers to request information from their foreign counterparts.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.5 underlying overall rating |
|-------------|-----------|--|
| R.40 | LC | <ul style="list-style-type: none"> • There is the legal authority to exchange information with foreign counterparts but while the FIU and the ROP have made use of this, the financial supervisors have not made use of this authority. |
| SR.V | LC | <ul style="list-style-type: none"> • The shortcomings in relation to R36 – R40 have a negative effect on the rating of this Recommendation. |

7. OTHER ISSUES

7.1 Resources and statistics

1047. The text of the description, analysis and recommendations for improvement that relate to Recommendations 30 and 32 is contained in all the relevant sections of the report *i.e.* all of section 2, parts of sections 3 and 4, and in section 6. There is a single rating for each of these Recommendations, even though the Recommendations are addressed in several sections. Section 7.1 of the report will contain only the box showing the rating and the factors underlying the rating, and the factors should clearly state the nature of the deficiency, and should cross refer to the relevant section and paragraph in the report where this is described.

| | Rating | Summary of factors relevant to Recommendations 30 and 32 and underlying overall rating |
|------|--------|---|
| R.30 | LC | <ul style="list-style-type: none"> Some supervisory authorities (for both FIs and DNFBP) need more human and technical resources and training to carry out their respective roles effectively. |
| R.32 | LC | <ul style="list-style-type: none"> Statistics related to multiple sectors and authorities are not readily available. |

TABLES

Table 1: Ratings of Compliance with FATF Recommendations.

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC) Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na).

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|--|-----------|---|
| Legal system | | |
| 1. ML offence | LC | <ul style="list-style-type: none"> • Low number of convictions for ML compared to the number of criminal investigations for predicate offenses that generate proceeds. • ML offence does not cover “the concealment or disguise of the disposition of property”. |
| 2. ML offence – mental element and corporate liability | LC | <ul style="list-style-type: none"> • Criminal liability for ML does not extend to all legal persons. • Low number of convictions for ML compared to the number of criminal investigations for predicate offenses that generate proceeds. |
| 3. Confiscation and provisional measures | LC | <ul style="list-style-type: none"> • Lack of effectiveness in ML and predicate cases due to lack of use of legal provisions. |
| Preventive measures | | |
| 4. Secrecy laws consistent with the Recommendations | LC | <ul style="list-style-type: none"> • No requirement to overrule the current secrecy laws with regard to permitting the sharing of information between financial institutions (where required by Rec. 7, 9 and SR VII) • Timeliness of information requested by the Public Prosecution and the competent authority is likely affected due to legal restrictions under the old AML legal framework⁶⁹. |
| 5. Customer due diligence | NC | <ul style="list-style-type: none"> • Incomplete requirement regarding prohibiting FIs from keeping anonymous accounts and accounts in fictitious names. • There is no specific guarantee in a primary or secondary legislation that, in case numbered accounts do exist, financial institutions are required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations • FIs are not required by a primary or secondary legislation to apply |

⁶⁸ These factors are only required to be set out when the rating is less than Compliant.

⁶⁹ The old legal framework constitutes the Law on ML issued by Royal Decree No. 34/2002 and ER of Law on ML issued by Royal Decree 72/2004.

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|-----------------------|--------|--|
| | | <p>CDD when:</p> <ul style="list-style-type: none"> - Establishing business relations. - Carrying out occasional transactions above the applicable designated threshold (USD/€15,000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked; - Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; - There is a suspicion of ML or TF, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations - The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. <ul style="list-style-type: none"> • Neither the AML/CFT Law nor the ER requires that FIs should verify customer's identity using reliable, independent source documents, data or information and also neither of them requires that identification procedures apply for both permanent and occasional customers whether natural or legal persons or legal arrangements. • FIs are not required by a law or regulation to verify that any person purporting to act on behalf of the customer (who is a legal person or a legal arrangement) is so authorized, and identify and verify the identity of that person. • Incomplete definition regarding the beneficial owner. • FIs are not required by a primary or secondary legislation to determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • Effectiveness regarding the beneficial owner. • There are no requirements for banks, finance companies and exchange companies to obtain information on the purpose and intended nature of business relationship. • Most FIs do not have systems in place to acquire information on the purpose and intended nature of the business relationship. • Effectiveness regarding the monitoring and updating CDD information. • Only partial requirements exist for banks, finance companies and exchange companies with regard to applying enhanced due diligence for higher risk categories of customer, business relationship or transaction • No guidance was given to companies operating in securities, banks, finance companies and exchange companies on enhanced due diligence procedures to be applied in cases of high risk customers. • Effectiveness regarding the applying enhanced due diligence to high risk customers. • Exception for insurance companies cannot be recognized as being in line with c.5.11 which states that "Simplified CDD measures are not acceptable whenever there is suspicion of ML or TF or specific |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|--------------------------------|-----------|--|
| | | <p>higher risk scenarios apply". Also Life insurance policies where annual premium is no more than RO 500 (approximately equivalent to \$1300 which is considered higher than the FATF threshold), or, a single premium of no more than RO 1000 (approximately equivalent to \$2600 which is also slightly higher than the FATF threshold)</p> <ul style="list-style-type: none"> • Securities and insurance companies are permitted to conduct identification after the business relationship with the customer has commenced. • Banks, finance companies and money exchange companies are not prohibited to open the account, commence business relations or perform the transaction and they are not required either to consider making a suspicious transaction report whenever they fail to apply CDD. • Banks, finance companies and money exchange companies are not under an obligation that where they have already commenced the business relationship, and they are unable to apply CDD, they should terminate the business relationship and consider making a suspicious transaction report. • Lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD. • Financial institutions are not fully required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times. • Lack of effectiveness regarding applying CDD on existing customers. |
| 6. Politically exposed persons | NC | <ul style="list-style-type: none"> • Non complete definition of politically exposed persons in the AML/CFT Law. • Banks, finance companies, exchange companies and insurance companies are not required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person. • Banks, finance companies, exchange companies are not required to obtain senior management approval for establishing business relationships with a PEP. • There are no requirements for any FI in Oman to obtain senior management approval to continue the business relationship, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP. • Banks, finance companies and exchange companies are not under any obligation to take reasonable measures to establish the source of wealth of customers identified as politically exposed persons and the source of wealth and funds of beneficial owners identified as politically exposed persons. • Insurance companies are not under any obligation to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs. • Banks, finance companies and exchange companies are not subject to any requirements to conduct enhanced ongoing monitoring on the business relationship with PEPs. • Lack of effectiveness in applying requirements under R.6 especially |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|---|-----------|--|
| 7. Correspondent banking | NC | <p>in nonbank financial institutions.</p> <ul style="list-style-type: none"> • Financial institutions in Oman are not required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information, the reputation of the institution and the quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action. • Financial institutions in Oman are not required – by a law or regulation or any other enforceable means - to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective. • Financial institutions in Oman are not required – by a law or regulation or any other enforceable means - to obtain approval from senior management before establishing new correspondent relationships. • Financial institutions in Oman are not required - by a law or regulation or any other enforceable means - to document the respective AML/CFT responsibilities of each institution in a correspondent relationship. • Where a correspondent relationship involves the maintenance of payable-through accounts, FIs in Oman are not required by a law or regulation or any other enforceable means to be satisfied that their customer (the respondent financial institution) has performed all the normal CDD obligations set out in R.5 on those of its customers that have direct access to the accounts of the correspondent financial institution; and the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution. • Lack of effectiveness with regard to applying requirements under R.7 especially for exchange companies and securities companies. |
| 8. New technologies & non face-to-face business | PC | <ul style="list-style-type: none"> • No requirement for banks, finance companies, and exchange companies to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes. Only limited requirements in this respect exist for insurance companies. • Banks, finance companies and exchange companies are not required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions whether when establishing customer relationships or when conducting ongoing due diligence. • Banks, finance companies and exchange companies are not required to have measures for managing non-face to face business relationships or transactions risks including specific and effective CDD procedures that apply to non-face to face customers. • Lack of adequate policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions when conducting ongoing due diligence. |
| 9. Third parties and introducers | PC | <ul style="list-style-type: none"> • Banks, finance companies and exchange companies are not under any obligation for applying requirements under R.9. • Insurance companies are not bound by a time frame in order to immediately obtain necessary CDD information from third parties. |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|--------------------------|-----------|---|
| | | <ul style="list-style-type: none"> • In determining in which countries the third party that meets the conditions can be based, companies operating in securities are not required to take into account information available on whether those countries adequately apply the FATF Recommendations. • Insurance companies are not required to satisfy themselves that the third party has measures in place to comply with the CDD requirements set out in R.5 and R.10. • FIs did not seem to be collecting enough information on whether the introducer has measures in place to comply with, the CDD requirements set out in R.5 and R.10. • Authorities did not actively assist FIs in determining what countries do not sufficiently apply the FATF Recommendations, or what factors should be taken into account to determine what countries do not sufficiently apply the FATF Recommendations. |
| 10. Record keeping | LC | <ul style="list-style-type: none"> • Financial institutions are not required by a primary or secondary legislation to maintain all necessary records on transactions, both domestic and international, for longer periods if requested by a competent authority in specific cases and upon proper authority. • Financial institutions are not required by a primary or secondary legislation to maintain records of the identification data, account files and business correspondence, for longer periods if requested by a competent authority in specific cases and upon proper authority. • There is no requirement in a primary or secondary legislation on the timeliness of providing all customer and transaction records and information to domestic competent authorities upon appropriate authority. |
| 11. Unusual transactions | PC | <ul style="list-style-type: none"> • Lack of clarity on what constitutes unusual transactions as a separate from the reporting of suspicious transactions • Limited supervision and enforcement action against financial institutions pertaining to monitoring obligations • Lack of guidance by authorities to financial institutions on what raising awareness on monitoring unusual transactions |
| 12. DNFBP – R.5, 6, 8-11 | NC | <ul style="list-style-type: none"> • The deficiencies in CDD obligations identified for financial institutions (Recommendation 5) also apply to DNFBPs. • The deficiencies in obligations under R.6, R.8, R.10 and R.11 identified for financial institutions also apply to DNFBPs. • DNFBPs are not under any obligation for applying requirements under R.9. • Lack of effectiveness for exchange companies dealing in bullion, real estate brokers and accounting offices in identifying the beneficial owner, obtaining information on the purpose and intended nature of business relationship, ongoing monitoring, applying enhanced CDD on high risk customers, lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD and applying CDD on existing customers. • Lack of effectiveness for dealers in precious metals in applying most of requirements under R.5 • Lack of effectiveness for all DNFBPs in applying requirements under |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|---|-----------|---|
| | | <p>R.6, R.8, R.9 and R.11.</p> <ul style="list-style-type: none"> • Lack of effectiveness for lawyers in applying requirements under R.12. |
| 13. Suspicious transaction reporting | LC | <ul style="list-style-type: none"> • Low level of reporting raise questions of effectiveness • Reporting of STRs is heavily concentrated by a single financial sector |
| 14. Protection & no tipping-off | C | |
| 15. Internal controls, compliance & audit | LC | <ul style="list-style-type: none"> • No enforceable obligations were given to banks and other entities supervised by the CBO with regard to the establishment of an audit function or the responsibilities such a function has to take. • Employee screening required by the CBO was only limited to senior management and compliance officers in banks and no employee screening requirements were available for exchange and finance companies. • <u>Effectiveness issues with regard to:</u> <ul style="list-style-type: none"> ○ Quality of FIs' internal policies. ○ Qualifications of the compliance officer. ○ Internal audit function in nonbank FIs. ○ Quality of training provided to employees in most FIs. ○ Employees screening through external sources. |
| 16. DNFBP – R.13-15 & 21 | PC | <p><i>Application of R13</i></p> <ul style="list-style-type: none"> • Lack of understanding of the ML/TF risk and requirements of the AML/CFT Law • Absence of filings from DNFBPs indicates a lack of effectiveness in the STR regime. <p><i>Application of R15</i></p> <ul style="list-style-type: none"> • Existing regulations for the DNFBP sector does not address the requirement to provide a designated staff responsible for AML/CFT compliance should also have access to customer information on a timely basis • Entities are not required to establish policies and procedures. • Training requirement does not include the provision of training on AML/CFT obligations. • Lawyers are not required to implement internal controls. • There is no requirement to establish an audit function or a screening procedure for employees. <p><i>Application of R21</i></p> <ul style="list-style-type: none"> • There are no provisions covering the possibility of DNFBPs to apply special attention to transactions from countries that have weak AML/CFT system. • There is no mechanism in place to advise DNFBPs about weaknesses in the AML/CFT system of other countries. |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
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| | | <ul style="list-style-type: none"> • There are no mechanisms to apply counter measures to countries who continue not to apply or insufficiently apply FATF recommendations. |
| 17. Sanctions | PC | <ul style="list-style-type: none"> • Administrative fines applied are low and nonmonetary sanctions are not dissuasive • Unsatisfactory level of effectiveness of the sanctioning regime |
| 18. Shell banks | LC | <ul style="list-style-type: none"> • Financial institutions are not sufficiently required to satisfy themselves that their foreign correspondent does not permit its accounts to be used by shell banks. |
| 19. Other forms of reporting | NC | <ul style="list-style-type: none"> • There is no evidence that Oman has considered implementing a system for reporting currency transaction for regulated sectors |
| 20. Other NFBP & secure transaction techniques | C | |
| 21. Special attention for higher risk countries | PC | <ul style="list-style-type: none"> • No mechanism for applying counter-measures • No process in place for informing financial institutions to jurisdiction that pose a ML/TF vulnerability • Lack of guidance from authorities regarding what financial institutions should do to identify countries with significant weakness in AML controls |
| 22. Foreign branches & subsidiaries | NC | <ul style="list-style-type: none"> • Only principles covered by CBO Circular BM610 were partially subject to requirements under R.22 for banks, finance companies and exchange companies. • Insurance companies are not covered by any of the requirements under R.22. • Foreign subsidiaries of securities companies are not under any obligation regarding requirements under R.22. • Most FIs showed insufficient knowledge of requirements under R.22. |
| 23. Regulation, supervision and monitoring | LC | <ul style="list-style-type: none"> • The risk of unregulated informal money transfers should be addressed • Fit and Proper criteria is not applied to all sectors • There is a lack of staff to effectively monitor all financial institutions |
| 24. DNFBP - regulation, supervision and monitoring | NC | <ul style="list-style-type: none"> • No effective system in place for the oversight and supervision of compliance with AML/CFT obligations for the DNFBP sector • Supervisory authorities do not have the ability to apply effective, proportionate and dissuasive criminal, civil or administrative sanctions. |
| 25. Guidelines & Feedback | PC | <ul style="list-style-type: none"> • Guidance provided insufficient for identifying TF and ML techniques and methods • Explicit feedback to reporting entities will generate better quality STRs • Guidance issued by supervisory authorities should include helpful examples citing methods and techniques. |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|--|-----------|---|
| | | <ul style="list-style-type: none"> No guidance has been issued to the DNFbps on their obligations. |
| Institutional and other measures | | |
| 26. The FIU | LC | <ul style="list-style-type: none"> Although significant and positive changes in the functioning of the FIU started in 2009, the FIU had not been operating in an effective manner before that, and there are some concerns that the progress will be maintained since the 56 STRs reported in 2010 (until July 2010), only one had been disseminated at the time of the onsite visit. The analysis of STRs takes longer than necessary. The guidance by the FIU to reporting entities on STR reporting consists of issuing reporting forms, but should also give more insight into detecting suspicious transactions. There are no publicly released periodic reports that include typologies and trends in Oman and information regarding the FIU's activities Insufficient training on ML/TF provided to FIU staff |
| 27. Law enforcement authorities | PC | <ul style="list-style-type: none"> There has been a lack of ML or TF investigations undertaken by the ROP. The PPO has focused its ML investigations on those coming from STRs and investigated only a few ML cases that were not related to an STR . |
| 28. Powers of competent authorities | LC | <ul style="list-style-type: none"> Up to July 2010, the indirect access to banking records to enforce judicial orders by the PPO impeded and inhibited the process of compelling information from banks. |
| 29. Supervisors | LC | <ul style="list-style-type: none"> The inspections of some sectors by supervisory authorities are under-resourced. There is a range of sanctions available for failure to comply with the AML/CFT requirements but the sanctions imposed have been limited to date. |
| 30. Resources, integrity and training | LC | <ul style="list-style-type: none"> Some supervisory authorities (for both FIs and DNFBP) need more human and technical resources and training to carry out their respective roles effectively. |
| 31. National cooperation | LC | <ul style="list-style-type: none"> Operational cooperation between the CBO, CMA, FIU, PPO and ROP is not fully effective and needs to be enhanced. |
| 32. Statistics | LC | <ul style="list-style-type: none"> Statistics related to multiple sectors and authorities are not readily available. |
| 33. Legal persons – beneficial owners | LC | <ul style="list-style-type: none"> The registration system, though elaborate, does not contain information on beneficial ownership of legal entities, but the authorities do have the powers to obtain that information. |
| 34. Legal arrangements – beneficial owners | LC | <ul style="list-style-type: none"> The assessment team was unable to confirm that beneficial ownership is available. |
| International Cooperation | | |
| 35. Conventions | LC | <ul style="list-style-type: none"> There are minor shortcomings in the implementation of the Vienna and Palermo Conventions. |

| Forty Recommendations | Rating | Summary of factors underlying rating ⁶⁸ |
|--------------------------------------|-----------|--|
| | | <ul style="list-style-type: none"> The TF Convention is not ratified, and there are minor shortcomings in the implementation. |
| 36. Mutual legal assistance (MLA) | LC | <ul style="list-style-type: none"> There are no clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays. Effectiveness could not be fully assessed due to limited statistics and information on practical cases being available. Effectiveness is low in cases where statistics and case examples are available to the assessment team, especially regarding the fact that assistance was not provided in a timely manner. |
| 37. Dual criminality | LC | <ul style="list-style-type: none"> Effectiveness could not be fully assessed due to limited statistics and information on practical cases being available. Effectiveness is low in cases where statistics and case examples are available to the assessment team, especially regarding the fact that assistance was not provided in a timely manner. |
| 38. MLA on confiscation and freezing | PC | <ul style="list-style-type: none"> Lack of implementation / effectiveness Oman has no legal basis to respond to a confiscation related MLA request. Oman has no legal basis to coordinate confiscation actions with other countries. Oman has not considered setting up an asset forfeiture fund. |
| 39. Extradition | LC | <ul style="list-style-type: none"> Effectiveness could not be fully assessed due to limited statistics and information on practical cases being available. |
| 40. Other forms of cooperation | LC | <ul style="list-style-type: none"> There is the legal authority to exchange information with foreign counterparts but while the FIU and the ROP have made use of this, the financial supervisors have not made use of this authority. |

| Nine Special Recommendations | Rating | Summary of factors underlying rating |
|---|-----------|--|
| SR.I Implement UN instruments | PC | <ul style="list-style-type: none"> The TF Convention is not ratified, and there are minor shortcomings in the implementation. Limited implementation of UNSCR 1267. Lack of implementation of UNSCR 1373. |
| SR.II Criminalize terrorist financing | LC | <ul style="list-style-type: none"> TF definition does not cover the financing of an individual terrorist. Terrorist act's definition is not fully consistent with Article 2, Paragraph 1(b) of the UN TFC. Effectiveness cannot be established. |
| SR.III Freeze and confiscate terrorist assets | NC | <ul style="list-style-type: none"> No laws and procedures in place to implement UNSCR 1373 Although names of designated persons are circulated to concerned parties in order to freeze any related funds, there are gaps in the legal framework and no procedures are in place to implement most |

| Nine Special Recommendations | Rating | Summary of factors underlying rating |
|--|-----------|---|
| | | of UNSCR 1267 and successor resolutions. |
| SR.IV Suspicious transaction reporting | LC | <ul style="list-style-type: none"> • Lack of STRs on TF adds to inability to determine effectiveness of the regime. |
| SR.V International cooperation | LC | <ul style="list-style-type: none"> • Shortcomings relating to R36/37/38/39/40 have a negative impact on this Rec. |
| SR VI AML requirements for money/value transfer services | PC | <ul style="list-style-type: none"> • Deficiencies identified in relation to the effective implementation of requirements under Recommendations (4-11, 13-15, 17, 21-23 and SRI-IX) affect the rating of compliance with SR.VI. • MVT service operators are not required to maintain a current list of their agents which must be made available to the designated competent authority. • Effectiveness of sanctions imposed on MVT services operators could not be established while shortcomings have been identified. • Weaknesses in supervisory framework to detect informal money transfer services. |
| SR VII Wire transfer rules | PC | <ul style="list-style-type: none"> • Where credit or debit cards are used as a payment system to effect a money transfer, they are not covered by requirements related to SRVII. • Financial institutions conducting transfers are not required to include the originator's account number (or a unique reference number if no account number exists) in the transfer message. • Intermediary financial institutions in the payment chain are not required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. • Financial institutions conducting transfers are not required to keep a record for five years of all the information received from the ordering financial institution where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer. • Beneficiary FIs in Oman are not required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. • There is also no requirement that the lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities. • There is no requirement as well for the beneficiary financial institution to consider restricting or even terminating its business relationship with financial institutions that fail to meet SR.VII standards. • Insufficient monitoring regarding transfers lacking full originator information. • Effectiveness regarding sanctions applied in case of failures to comply with requirements under SRVII could not be established. |
| SR.VIII Non-profit | C | |

| Nine Special Recommendations | Rating | Summary of factors underlying rating |
|---|-----------|--|
| organisations | | |
| SR.IX Cross Border Declaration & Disclosure | NC | <ul style="list-style-type: none"> • Since the AML/CFT Law came only into force very recently, effective implementation cannot be established. • The pecuniary fine is not effective, proportionate and dissuasive and the effectiveness of the sanctions has not yet been tested. • The AML/CFT Law is unclear if confiscation is a measure that the Court can order for natural persons in cases of false declarations or failures to declare. • At the time of the onsite visit, sufficient mechanisms to detect false declarations or failure to declare had not yet been developed. • There is insufficient authority in the AML/CFT Law to request and obtain further information from the carrier. • The AML/CFT Law is unclear if Customs is able to restrain the currency or other financial instruments for a reasonable time to ascertain whether evidence of ML/TF may be found. • The information on all declarations is not sufficiently securely safeguarded. • There are no red flags for detecting cross-border movements of currency and other financial instruments. • There has been one workshop for 60 Customs officers, which is insufficient training on SR.IX. • The declaration requirement does not explicitly cover shipment of currency and other financial instruments through mail and containerized cargo. |

Table 2: Recommended Action Plan to improve AML/CFT system

| Recommended Action (listed in order of priority) | |
|---|--|
| 1. General | |
| 2. Legal System and Related Institutional | |
| 2.1 Criminalisation of Money laundering Measures (R.1 & R.2) | <ul style="list-style-type: none"> • Greatly enhance the number of ML cases handled by ROP, PPO and the courts to increase the effectiveness of the ML criminalisation. • Amend the ML definition to cover “the concealment or disguise of the disposition of property”. • Enact the incoming ER as soon as possible. • Extend criminal liability for ML to all legal persons. Otherwise, in case a fundamental legal principle would prevent this, extend civil or administrative liability to persons not subject to criminal liability. • Greatly enhance the number of ML cases handled by ROP, PPO and the courts to increase the effectiveness of the ML criminalisation. |
| 2.2 Criminalisation of Terrorist Financing (SR.II) | <ul style="list-style-type: none"> • Broaden the definition of TF to cover the financing of an individual terrorist. • Broaden the definition of terrorist act to cover the situation where the purpose behind the terrorist acts is to compel a government or an international organization to do or to abstain from doing any act. • Introduce the incoming ER as soon as possible. |
| 2.3 Confiscation, freezing and seizing of proceeds of crime (R.3) | <ul style="list-style-type: none"> • Enhance the use of the confiscation framework to achieve full effectiveness in this area. |
| 2.4 Freezing of funds used for terrorist financing (SR.III) | <ul style="list-style-type: none"> • Have effective law and procedures in place to fully implement SRIII regarding UNSCR 1267. • Have effective laws and procedures in place to implement SRIII regarding UNSCR 1373. • Have effective laws and procedures in place to examine and give effect to actions initiated under the freezing mechanisms of other jurisdictions. • Amend the few remaining shortcomings in the criminalization of TF. • Have more effective systems in place to immediately (without delay) communicate freezing actions to the financial sector. • Provide guidance to non-FIs that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms. • Have effective and publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons or entities in a timely manner consistent with international obligations. • Have effective and publicly-known procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing. • Have appropriate measures for authorizing access to funds or other assets that were frozen. • Establish appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that measures with a view to having it reviewed by a court. |

| Recommended Action (listed in order of priority) | |
|--|--|
| | <ul style="list-style-type: none"> • Address the shortcomings identified in relation to R3 (effectiveness) and R17. |
| 2.5 The Financial Intelligence unit and its functions (R.26) | <ul style="list-style-type: none"> • The FIU has made clear progress in functioning as a financial intelligence unit in 2010. Nevertheless the FIU should further enhance its capacity and experience in analyzing and investigating STRs in order to expedite the time between reporting and dissemination. • The FIU should enhance AML/CFT and financial analysis training for its staff. • The FIU should issue periodic reports to the public which include typologies and trends in Oman, as well information regarding its activities. • The FIU should provide more guidance on trends and typologies in Oman to reporting entities to ensure that they can detect and report proper suspicions. |
| 2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28) | <ul style="list-style-type: none"> • The PPO can postpone the arrest of a suspect or the seizure of assets if it has sufficient powers under the Omani laws to collect all the information they need. The ROP and PPO are sufficiently resourced to perform their tasks and the legal requirements for professional standards are high. The PPO provides sufficient training on AML/CFT and related issues for their prosecutors. On the other hand, the ROP and the judiciary should benefit from further training on these topics to enhance their awareness, insight and knowledge. In addition, the PPO and ROP should also endeavor to investigate ML/TF crimes that do not originate from an STR. |
| 2.7 Cross Border Declaration & Disclosure | <ul style="list-style-type: none"> • The requirements under the AML/CFT Law for SRIX are relatively new and efforts to implement the new tasks have been taken. Nevertheless, Customs should take further measures to ensure that SRIX is effectively and fully implemented. • The pecuniary sanction available for false declaration or failure to declare (non-ML or non-TF cases) should be reconsidered, to ensure that it is effective, proportionate and dissuasive. This is especially urgent in relation to the fines available to target mules. • The authorities should clarify in the AML/CFT Law that confiscation is a measure that the Court can order for natural persons in cases of false declarations or failures to declare • Even though after the onsite visit Customs was said to have started with sampling travelers to detect if cash amounts are being carried across the border, Customs should develop further mechanisms to detect false declarations or failure to declare and ensure that the customs officials have authority to request and obtain further information from the carrier.[c.IX.1] • It should be clarified in the AML/CFT Law that Customs is able to restrain the currency or other financial instruments for a reasonable time to ascertain whether evidence of ML/TF may be found.[c.IX2-3] • Customs should ensure a more secured storage of the declaration form [c.IX4-5], and develop a computerized database [c.IX 16] with information on all declarations which is accessible for the FIU. • Customs should develop red flags for detecting cross-border movements of currency and other financial instruments. • Customs should provide further and periodic training on ML/TF, SRIX and article 40 – 42 AML/CFT Law to the customs officers. • The declaration requirement should also explicitly cover shipment of cash and other financial instruments through mail and containerized cargo [c.IX.1] • The shortcomings identified in relation to SR11 and R3 have an impact on the compliance with this Recommendation. |

| Recommended Action (listed in order of priority) | |
|---|---|
| 3. Preventive measures – Financial institutions | |
| 3.1 Risk of money laundering or terrorist financing | <ul style="list-style-type: none"> • No recommended action |
| 3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8) | <ul style="list-style-type: none"> • Financial Institutions should be prohibited by a primary or secondary legislation from keeping anonymous accounts and accounts in fictitious names. • Setting a requirement in a primary or secondary legislation that, in case numbered accounts do exist, financial institutions are required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations • FIs should be required by a primary or secondary legislation to apply CDD when: <ul style="list-style-type: none"> - Establishing business relations. - Carrying out occasional transactions above the applicable designated threshold (USD/€15,000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked; - Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; - There is a suspicion of ML or TF, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations - The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • Setting a requirement in the AML/CFT Law or the ER requiring FIs to verify the customer's identity using reliable, independent source documents, data or information and also neither of them requires that identification procedures apply for both permanent and occasional customers whether natural or legal persons or legal arrangements. • FIs should be required by a law or regulation to verify that any person purporting to act on behalf of the customer (who is a legal person or a legal arrangement) is so authorized, and identify and verify the identity of that person. • Reformulate the definition of the beneficial owner to be in line with the standards. • FIs should be required by a primary or secondary legislation to determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • Supervisors should exert more effort to ensure that FIs are aware with their requirements regarding the beneficial owner and actually implementing them. • Banks, finance companies and exchange companies should be required to obtain information on the purpose and intended nature of business relationship. • Supervisors should exert more effort to ensure that FIs have systems in place to acquire information on the purpose and intended nature of the business relationship. • Supervisors should exert more effort to ensure that FIs are conducting ongoing due diligence on the business relationship and that they are updating their CDD information. • Banks, finance companies and exchange companies should be required to apply enhanced due diligence for higher risk categories of customer, business relationship |

Recommended Action (listed in order of priority)

or transaction

- Supervisors should provide guidance to companies operating in securities, banks, finance companies and exchange companies on enhanced due diligence procedures to be applied in cases of high risk customers.
- Supervisors should exert more effort to ensure that FIs are aware of enhanced due diligence requirements to be applied to high risk customers and that they are actually applying them.
- Instances where simplified due diligence can be applicable for insurance companies need to be revised to be in line with the standards.
- CDD requirements for securities and insurance companies should not be permit to postpone identification after commencing the business relationship with the customer.
- Banks, finance companies and money exchange companies should be prohibited to open the account, commence business relations or perform the transaction and they should be required to consider making a suspicious transaction report whenever they fail to apply CDD.
- Banks, finance companies and money exchange companies should be under an obligation that where they have already commenced the business relationship, and they are unable to apply CDD, they should terminate the business relationship and consider making a suspicious transaction report.
- Supervisors need to ensure that FIs will consider making a suspicious transaction report whenever they fail to apply CDD.
- FIs should be fully required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.
- Supervisors need to exert more effort to ensure that FIs are applying CDD on existing customers.
- Definition of politically exposed persons in the AML/CFT Law needs to be in line with the FATF definition.
- Banks, finance companies, exchange companies and insurance companies should be required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person.
- Banks, finance companies, exchange companies should be required to obtain senior management approval for establishing business relationships with a PEP.
- FIs in Oman should be required to obtain senior management approval to continue the business relationship, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.
- Banks, finance companies and exchange companies should be required to take reasonable measures to establish the source of wealth of customers identified as politically exposed persons and the source of wealth and funds of beneficial owners identified as politically exposed persons.
- Insurance companies should be required to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs.
- Banks, finance companies and exchange companies should be required to conduct enhanced ongoing monitoring on the business relationship with PEPs.
- Supervisors need to enhance their monitoring on applying requirements under R.6 especially for nonbank financial institutions.
- Financial institutions in Oman should be required to gather sufficient information

| Recommended Action (listed in order of priority) | |
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| | <p>about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML or TF investigation or regulatory action.</p> <ul style="list-style-type: none"> • Financial institutions in Oman should be required to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective. • Financial institutions in Oman should be required to obtain approval from senior management before establishing new correspondent relationships. • Financial institutions in Oman should be required to document the respective AML/CFT responsibilities of each institution in a correspondent relationship. • Where a correspondent relationship involves the maintenance of payable-through accounts, FIs in Oman should be required to be satisfied that their customer (the respondent financial institution) has performed all the normal CDD obligations set out in R.5 on those of its customers that have direct access to the accounts of the correspondent financial institution; and the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution. • Supervisors need to enhance their monitoring in the area of applying requirements under R.7 especially for exchange companies and securities companies. • Banks, finance companies, exchange companies and insurance companies should be required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes. • Banks, finance companies and exchange companies should be required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions whether when establishing customer relationships or when conducting ongoing due diligence. • Banks, finance companies and exchange companies should be required to have measures for managing non-face to face business relationships or transactions risks including specific and effective CDD procedures that apply to non-face to face customers. • Supervisors need to make sure that FIs under their supervision have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions when conducting ongoing due diligence. |
| 3.3 Third parties and introduced business (R.9) | <ul style="list-style-type: none"> • Set obligations for banks, finance companies and exchange companies for applying requirements under R.9. • Establishing binding requirements for insurance companies to immediately obtain necessary CDD information from third parties. • In determining in which countries the third party that meets the conditions can be based, companies operating in securities should be required to take into account information available on whether those countries adequately apply the FATF Recommendations. • Require insurance companies to satisfy themselves that the third party has measures in place to comply with the CDD requirements set out in R.5 and R.10. • FIs should be collecting enough information on whether the introducer has measures in place to comply with, the CDD requirements set out in R.5 and R.10. • Competent authorities should actively assist FIs in determining what countries do not sufficiently apply the FATF Recommendations, or what factors should be taken into account to determine what countries do not through referring to reports, assessments or reviews concerning AML/CFT that are published by the FATF, |

| Recommended Action (listed in order of priority) | |
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| | FSRBs, the IMF or World Bank. |
| 3.4 Financial institution secrecy or confidentiality (R.4) | <ul style="list-style-type: none"> • Restrictions on exchanging information related to financing of terrorism between competent authorities should be eliminated in the new ER. • A specific legal provision should be included to allow financial institutions to share information where this is required by R.7, R.9 or SR.VII. |
| 3.5 Record keeping and wire transfer rules (R.10 & SR.VII) | <ul style="list-style-type: none"> • Financial institutions should be required by a primary or secondary legislation to maintain all necessary records on transactions, both domestic and international, for longer periods if requested by a competent authority in specific cases and upon proper authority. • Financial institutions should be required by a primary or secondary legislation to maintain records of the identification data, account files and business correspondence, for longer periods if requested by a competent authority in specific cases and upon proper authority. • Setting a requirement in a primary or secondary legislation for providing all customer and transaction records and information on a timely basis to domestic competent authorities upon appropriate authority. • Reformulate the legal framework in a manner that makes the use of credit or debit cards as a payment system to effect a money transfer covered by requirements related to SR.VII. • Financial institutions conducting transfers should be required to include the originator's account number (or a unique reference number if no account number exists) in the transfer message. • Intermediary financial institutions in the payment chain should be required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. • Financial institutions conducting transfers should be required to keep a record for five years of all the information received from the ordering financial institution where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer. • Beneficiary FIs in Oman should be required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. • There should be a requirement in place indicating that the lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities. • There should be also a requirement for the beneficiary financial institution to consider restricting or even terminating its business relationship with financial institutions that fail to meet SR.VII standards. • FIs are advised to have adequate monitoring systems in place to ensure that transfers are accompanied by adequate information. • Supervisory authorities should exercise their sanctioning powers whenever failures are sited. |
| 3.6 Monitoring of transactions and relationship (R.11 & 21) | <ul style="list-style-type: none"> • Financial institutions need to determine more appropriate factors in the monitoring of transaction to assess what transactions fall outside of the regular pattern of account activity. More generally, in order to effectively monitor unusual transactions, the financial institutions should have a better understanding of their ML/TF risks specific |

| Recommended Action (listed in order of priority) | |
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| | <p>to their industry as to what would constitute an unusual activity.</p> <ul style="list-style-type: none"> • The distinction between monitoring of unusual transactions and the identification / reporting of suspicious transactions is ambiguous for financial institutions and the authorities should take effort to provide clarification through regulations and guidance for monitoring procedures. Authorities should also strengthen sanctions in the case of non-compliance by financial institutions that have not yet implemented a program to monitor transactions for the purposes of detecting unusual activity. • Authorities should provide guidance to institutions on how they should be identifying countries that do not sufficiently apply the FATF recommendations. More fundamentally, authorities should institute a process under which they inform financial institutions of jurisdictions that do not apply adequate FATF standards. • Authorities should also determine how to take into account FATF's statements that call for action by it members and non-members alike when jurisdictions are identified as posing a significant ML/TF risk. It is recommended that authorities establish policy and procedures on applying appropriate countermeasures in response to specific FATF statements. |
| 3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV) | <ul style="list-style-type: none"> • Authorities need to take greater efforts to increase awareness among the private sector on the potential ML/TF threats. Supervisory authorities should provide clear guidance on what constitutes suspicious transactions. • The FIU should provide detailed guidance on the distinction between monitoring of transaction for unusual activities and reporting based on suspicious transactions to increase the number and improve the quality of reporting by financial institutions. • Authorities should consider in the context of a risk-based analysis the possibility of implementing a reporting system for currency transactions meeting a threshold. • The FIU and supervisory authorities should provide further guidance to the private sector through training, examples of case studies and typologies that describe money laundering and terrorist financing threat and methods. |
| 3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22) | <ul style="list-style-type: none"> • The CBO need to issue direct enforceable obligations to banks and other entities under its supervision regarding to the establishment of an audit function and the relevant responsibilities in its regard. • The CBO should set screening requirements for employees at the operational level in banks and not only for senior management and compliance officers. CBO also needs to establish employee screening requirements for exchange and finance companies. • Supervisors need to exert more effort in issuing guidance and monitoring of FIs to help them in setting comprehensive internal policies that can help them raise the level of procedures applied in the area of AML/CFT. • Supervisors need to provide guidance to their FIs on the qualifications needed in the compliance officer (e.g. setting the minimum qualifications required). • Supervisors need to exert more effort to ensure the establishment of adequate and effective internal audit function in nonbank FIs. • FIs need to enhance the training provided to their employees to more specialized training programs customized to the needs of their employees. External training experts from outside the FI (e.g. from the supervisory authority or from specialized training institutes) might even raise the quality of implemented procedures inside the FI. Supervisors need to follow up on the quality of training provided to employees in most FIs. • Supervisors need to provide guidance to their FIs on employees screening through external sources (e.g. the use of recommendation letters, inquiries through the |

| Recommended Action (listed in order of priority) | |
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| | <p>previous employer, etc.)</p> <ul style="list-style-type: none"> • Authorities should set clear obligations and fully in line with R.22 for banks, finance companies and exchange companies (i.e. extending the coverage beyond principles mentioned in circular BM610 and setting the obligation in a manner more in line with R.22). • Authorities should set obligations for insurance companies/licensees in line with requirements under R.22. • Foreign subsidiaries of securities companies should be subject to requirements under R.22. • Supervisors need to ensure that FIs under their supervision fully understand the requirements under R.22 and have incorporated them in their policies/manuals. |
| 3.9 Shell banks (R.18) | <ul style="list-style-type: none"> • Authorities should raise awareness of indirect access to correspondent accounts by shell banks and should also oblige banks to ensure that their foreign correspondent does not allow its account to be accessed by shell banks. |
| 3.10 The supervisory and oversight system – competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25) | <ul style="list-style-type: none"> • CBO and CMA should be better equipped with additional staff to conduct onsite examinations with the increase in the measures under the AML/CFT Law. • Authorities should effectively detect the unregulated money value transmitters sector and subject them to effective monitoring under its AML/CFT requirements. • While authorities have sufficient powers to monitor its reporting institutions, there is a lack of effectiveness in ensuring compliance of AML/CFT requirements. Authorities should utilize their full sanctioning powers for violation of AML/CFT requirements. • The list of administrative penalties is broad but has not been effective or dissuasive (has not been utilized). With only one instance of administrative penalties so far, the number is too low and ineffective. • CBO should publically release administrative fines issued against financial institutions • AML/CFT guidance should be issued to provide clearer examples and descriptions of current methods or trends. • Guidance should be issued to the DNFBPs on requirement to complying with the AML/CFT Law. • Some CBO circulars are too general and need to be more specific in what is required by the financial institutions to comply. |
| 3.11 Money or value transfer services (SR.VI) | <ul style="list-style-type: none"> • Recommendations under R.4-11, 13-15, 17, 21-23 and SRI-IX apply to SR.VI. • MVT service operators should be required to maintain a current list of their agents which must be made available to the designated competent authority. • The CBO should exercise its sanctioning powers over MVT services operators whenever appropriate. Effective, proportionate and dissuasive sanctions should be applied whenever shortcomings have been identified. • The CBO should develop procedures to detect and regulate informal money transfer services providers. |
| 4. Preventive measures – Non-Financial Business and Professions | |
| 4.1 Customer due diligence and record-keeping (R.12) | <ul style="list-style-type: none"> • Recommendations under R.5 also apply to DNFBPs, where applicable. • Recommendations under R.6, R.8, R.10 and R.11 also apply to DNFBPs, where applicable. |

| Recommended Action (listed in order of priority) | |
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| | <ul style="list-style-type: none"> • DNFBPs should be under obligation to apply requirements under R.9. • Supervisors of exchange companies dealing in bullion, real estate brokers and accounting offices should enhance their efforts in following up with their subordinate entities in the areas of identifying the beneficial owner, obtaining information on the purpose and intended nature of business relationship, ongoing monitoring, applying enhanced CDD on high risk customers, lack of effectiveness regarding the requirement to consider making a suspicious transaction report whenever they fail to apply CDD and applying CDD on existing customers. • The Ministry of Commerce and Industry should enhance its supervision on dealers in precious metals in applying requirements under R.5. • Supervisors should enhance their monitoring over DNFBPs in applying requirements under R.6, R.8, R.9 and R.11. • The Ministry of Justice should study whether requirements under the law governing legal professional secrecy are in conflict with AML/CFT requirements to report STRs and in that case a decision regarding the appropriateness of applying exemptions under R.16 should be taken. • The Ministry of Justice should exert more effort in informing and convincing lawyers with their obligations regarding AML/CFT and monitoring the implementation of these obligations. |
| 4.2 Suspicious transaction reporting (R.16) | <ul style="list-style-type: none"> • Authorities need to conduct greater outreach to raise awareness of ML and TF risk within the DNFBPs. Authorities should also provide direct industry guidance apart from scheduled inspections to assist in the DNFBPs development of their AML/CFT systems. • MOCI should provide training to DNFBPs on their obligation to report suspicious transactions • MOJ should conduct further consultations with lawyers to ensure they properly interpret their legal obligation when required to file a STR. • DNFBPs should be required to apply special attention to transactions from countries that have weak AML/CFT system. |
| 4.3 Regulation, supervision and monitoring (R.24-25) | <ul style="list-style-type: none"> • Supervisory authorities should effectively undertake their obligations in relation to verify the compliance of their subordinate entities with the various AML/CFT requirements. This should be coupled with increasing awareness and outreach activities related to AML/CFT requirements and the obligations under the Ministerial Decision to the DNFBP sector. • Although a supervisory authority is delineated for each DNFBP category or group of categories, the capacity and training of the authorities should be enhanced. • Authorities should provide detailed sector-specific guidance when the new Executive Regulations are issued. |
| 4.4 Other non-financial businesses and professions (R.20) | <ul style="list-style-type: none"> • Authorities should consider undertaking a national risk assessment to ensure that no additional sectors are vulnerable to AML/CFT. |
| 5. Legal Persons and Arrangements & Non-profit Organisations | |
| 5.1 Legal Persons – Access to beneficial ownership and control information (R.33) | <ul style="list-style-type: none"> • Require legal entities to provide accurate information on beneficial owner and control structure of legal persons; or • Use their powers under the CRL and CPL to obtain information on beneficial owner and control structure of legal persons |

| Recommended Action (listed in order of priority) | |
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| 5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34) | <ul style="list-style-type: none"> The only remaining issue is the lack of a requirement to disclose information on beneficial ownership (in addition to the beneficiary) on the <i>waqf</i> deed. |
| 5.3 Non-profit organisations (SR.VIII) | <ul style="list-style-type: none"> The new AML/CFT Law just came in force on 4 July 2010 and the MSD should further build its experience and capacity in the area of AML/CFT to ensure effective AML/CFT supervision. However, in general, Oman fully and effectively complies with all requirements of SRVIII. |
| 6. National and International Cooperation | |
| 6.1 National cooperation and coordination (R.31) | <ul style="list-style-type: none"> Authorities should further enhance their cooperation by working together on developing guidance and other activities for the reporting entities and providing more joint outreach to the sectors to promote capacity-building. The National / Technical Committee should consider making an overall assessment of the ML/TF risks. Operational cooperation, especially between FIU – PPO and CBO/CMA – FIU – PPO should be better coordinated to avoid duplication of work. |
| 6.2 The Conventions and UN special Resolutions (R.35 & SR.I) | <ul style="list-style-type: none"> Sign and ratify the TF Convention. Rectify all shortcomings related to the implementation of UNSCR 1267 and successor resolutions, and UNSCR 1373. Take the necessary action in order to cover the remaining minor shortcomings related to the implementation of the Vienna Convention, the Palermo Convention and the TF Convention. |
| 6.3 Mutual Legal Assistance (R.36-38 & SR.V) | <ul style="list-style-type: none"> From meeting with the authorities and studying the legal framework and statistics, it is very obvious that Oman is willing to assist foreign jurisdictions. However, it is also obvious that the system for MLA in general is untested and slow. On the long term, the lack of timely responsiveness by Oman in dealing with foreign requests may discourage foreign partners to send a request to Oman. In defense of the Omani authorities, the assessment team recognizes that Oman is a country with limited crime levels which lowers the number of requests. On the other hand, the assessment team also notices that about a third of Oman's residents are foreigners, and this should have led to higher number of MLA requests. The assessment team also noted that some Omani authorities deal with MLA requests in a very formal or passive manner. The MFA, for example, is committed to MLA, but also to diplomatic formalities, and the PPO, for example, keeps track of requests but as it seems for record keeping purposes only. Other authorities face similar shortcomings. Overall, for all Recommendations relating to MLA, the assessment team recommends that Oman rationalizes its MLA framework and procedures, including one national focal point that actively offers Oman's assistance abroad, and that has a coordinating authority and responsibility within Oman. On the legal side, from the description above it shows clearly that Oman's MLA framework does not cover all areas and has separate rules for separate crimes. Having a different legal basis for ML (outgoing ER), ML and TF (AML/CFT Law, Vienna, Palermo), TF (TCL) and predicate offences (PC/CPL) is confusing, and leads to gaps, most importantly for confiscation-based MLA for predicate offences. It is recommended that the Omani authorities introduce a comprehensive legal framework for MLA that covers all areas of cooperation for all FATF Recommendations. As for effectiveness, Oman should establish clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays. Specifically in relation to R38, Oman should establish legal basis to respond to a |

| Recommended Action (listed in order of priority) | |
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| | confiscation related MLA request, establish legal basis to coordinate confiscation actions with other countries, and consider setting up an asset forfeiture fund. |
| 6.4 Extradition (R.39, 37 & SR.V) | <ul style="list-style-type: none"> • In order to comply with R39, Oman should enhance the effectiveness of the extradition system. The general recommendations relating to R36 and R38 in Section 6.3.2 of this report equally apply to extradition. |
| 6.5 Other forms of cooperation (R.40 & SR.V) | <ul style="list-style-type: none"> • Oman should make more use, where relevant, of their powers to request information from their foreign counterparts. |
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| 7.1 Resources and statistics (R.30 & 32) | <ul style="list-style-type: none"> • Some supervisory authorities (for both FIs and DNFBP) need more human and technical resources and training to carry out their respective roles effectively. • Statistics related to multiple sectors and authorities should be readily available. |
| 7.2 Other relevant AML/CFT measures or issues | <ul style="list-style-type: none"> • No recommended action |
| 7.3 General framework – structural issues | <ul style="list-style-type: none"> • Oman should enhance the overall effectiveness of its system, and making better use of its great potential by having more output in relation to investigations, prosecutions and convictions for ML and TF, and seize en confiscate the proceeds and instrumentalities used for ML, TF and predicate offences. |

ANNEXES

ANNEX 1: List of Abbreviations

ANNEX 2: List of bodies met during the on-site mission

ANNEX 3: List of main supporting material received

ANNEX 4: The Anti-Money Laundering and Combating Financing Terrorism Law

ANNEX 5: The Executive Regulation of the Money Laundering Law

ANNEX 6: The Banking Law

ANNEX 7: The Capital Market Law

ANNEX 8: Capital Market Authority Circular E 6/2009

ANNEX 9: Capital Market Authority Circular E 8/2009

ANNEX 1: LIST OF ABBREVIATIONS

| | | | |
|-------------|---|---------------|--|
| AED | Arab Emirates Dirham | MDSR | Muscat Depository and Securities Company |
| AML/CFT | Anti-Money Laundering and Combating Financing Terrorism | MENAFATF | Middle East and North African Financial Action Task Force |
| AML/CFT Law | Anti-Money Laundering and Combating Financing Terrorism Law | MEQ | mutual evaluation questionnaire |
| BCD | Banking Control Department (of the CBO) | ML | money laundering |
| BDD | Banking Development Department (of the CBO) | MLA | mutual legal assistance |
| BED | Banking Examination Department (of the CBO) | MOCI | Ministry of Commerce and Industry |
| BOD | Board of Directors | MOFA | Ministry of Foreign Affairs |
| BSD | Banking Supervision Department (of the CBO) | MOI | Ministry of Interior |
| CA | chartered accountants | MOJ | Ministry of Justice |
| CAL | Civil Association Law | MOU | memorandum of understanding |
| CBO | Central Bank of Oman | MONE | Ministry of National Economy |
| CCL | Commercial Companies Law | MRM | market resource managers |
| CDD | Customer Due Diligence | MSD | Ministry of Social Development |
| CFA | chartered financial analyst | MSM | Muscat Securities Market |
| CIA | certified internal controls | MVT | money or value transfer services |
| CITA | certified IT architects | NCCT | Non-Cooperative Countries and Territories |
| CMA | Capital Market Authority | NPCL | Law of Narcotics and Psychotropic Control Law |
| CML | Capital Market Law | NPLs | non-performing loans |
| CPA | certified public accountant | NPOs | Non-Profit Organisations |
| CPL | Criminal Procedure Law (Penal Procedure Law) | OCO | Oman Charitable Organisation |
| CRL | Commercial Register Law | ODB | Oman Development Bank |
| DNFBPs | Designated Non-Financial Businesses and Professions | OEM | other enforceable means |
| ER | Executive Regulation | OHB | Oman Housing Bank |
| FIs | financial institutions | OMR | Omani Rial |
| FIU | Financial Intelligence Unit | PC | Penal Code |
| FLC | finance and leasing companies | PEP(s) | Politically Exposed Person(s) |
| FSRBs | FATF-Style Regional Bodies | ROP | Royal Omani Police |
| GCC | Gulf Co-operation Council | PPO | Public Prosecution Office |
| IAIS | International Association of Insurance Supervisors | RTGS | Real Time Gross Settlement |
| IOSCO | International Organisation of Securities Commissions | SMEs | small and medium enterprises |
| KYC | Know Your Customers | STR(s) | suspicious transaction report(s) |
| LEC | Law on Extradition of Criminals | TCL | Terrorism Combating Law |
| LOU | letters of understanding | TCSP | Trust and Company Service Provider |
| MCDC | Muscat Clearing and Depository Company | TF | terrorist financing |
| | | TF Convention | 1999 United Nations International Convention for the Suppression of the Financing of Terrorism |
| | | UNSC | United Nations Security Council |
| | | UNSCR | United Nations Security Council Resolution |

ANNEX 2: LIST OF BODIES MET DURING THE ON-SITE MISSION

Ministries & Government authorities

- Ministry of National Economy
- Ministry of Justice
- Ministry of Commerce and Industry
- Ministry of Foreign Affairs
- Ministry of Social Development

Other Government entities

- Central Bank of Oman
- Capital Market Authority
- Public Prosecution Office
- Financial Intelligence Unit
- Royal Oman Police
- Customs Directorate (part of Royal Oman Police)

Government policy coordination bodies

- National Committee to Combating Terrorism
- National Committee of Anti-Money Laundering and Combating Financing Terrorism
- Technical Committee of Anti-Money Laundering and Combating Financing Terrorism

Quasi-government entity

- Oman Charitable Organisation

Private Sector Entities

Financial institutions

- Two local banks
- One bank affiliated to a foreign banking group
- Two domestic money exchangers
- One money exchange/remittance company affiliated to a foreign money exchange/remittance company group
- One money exchange company affiliated to a foreign money exchange company group
- One domestic life/non-life insurance company
- One life/non-life insurance company affiliated to a foreign insurance company group
- One domestic leasing / finance lease company
- One domestic insurance brokerage company
- One domestic leasing / finance lease company affiliated to a foreign leasing company group
- Two domestic securities brokerage firms

Designated Non-Financial Businesses and Professions

- One real estate broker
- One accounting office affiliated to a foreign accounting firm
- One dealer in precious metals
- One law firm

Non-Profit Organisations

- One domestic NPO

ANNEX 3: LIST OF MAIN SUPPORTING MATERIAL RECEIVED

Royal Decree, Laws and Regulations

1. Royal Decree No.79/2010 for issuing the Anti-Money Laundering and Combating Financing Terrorism Law
2. Royal Decree No.126/2008 for issuing the Anti-Trafficking Law
3. Royal Decree No.69/2008 for issuing the Law of Electronic Transactions
4. Royal Decree No.8/2008 for issuing the law of terrorism combating
5. Royal Decree No.37/2005 Approving the Accession of the Sultanate to the United Nations Convention against Transnational Organized Crime and its Attached Protocols
6. Royal Decree No.90/2004 on the transfer of jurisdiction of insurance under the supervision of the Public Authority for Capital Market
7. Royal Decree No.72/2004 for promulgating the Executive Regulation of the Law of Money Laundering
8. Royal Decree No.123/2003 for issuing Executive Regulation for the Law on the Control of Precious Metals
9. Royal Decree No.34/2002 for issuing the Law of Money Laundering
10. Royal Decree No.114/2001 for issuing the Conservation of the Environment and Prevention of Pollution Law
11. Royal Decree No.114/2000 for issuing the Law of Banking
12. Royal Decree No.109/2000 for issuing the Law of Precious Metals Control & the Ministerial Decision
13. Royal Decree No.65/2000 for issuing the Law of Awqaf
14. Royal Decree No.14/2000 for issuing the Law of civil associations
15. Royal Decree No.4/2000 for issuing Extraditing Criminals Law
16. Royal Decree No.97/1999 for issuing the Law of penal procedure
17. Royal Decree No.17/1999 for issuing the Law of Narcotics & Psychotropic's Control
18. Royal Decree No.92/1999 for issuing the Law of public prosecution
19. Royal Decree No.90/1999 for issuing the Judicial Authority Law
20. Royal Decree No.80/1998 for issuing the Law of Capital Market
21. Royal Decree No.6/1996 for issuing the Oman Charitable Organization Law
22. Royal Decree No.101/1996 for issuing the Basic Law of the Sultanate of Oman
23. Royal Decree No.108/1996 for issuing the Law of Lawyers
24. Royal Decree No.102/1994 for issuing the Foreign Capital Investment Law
25. Royal Decree No.29/1991 Approving the Accession of the Sultanate to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
26. Royal Decree No.55/1990 for issuing the Law of Oman Commercial
27. Royal Decree No.36/1990 for issuing the Weapons and Ammunitions Law
28. Royal Decree No.35/1990 for issuing the Law of Police
29. Royal Decree No.78/1986 for issuing the Law of organizing brokerage profession on real estate activities
30. Royal Decree No.77/1986 for issuing the Law of Organizing the Accountancy and Auditing Profession
31. Royal Decree No.39/1982 for issuing the law of Protection of Public Funds and Avoidance of Conflict of Interest
32. Royal Decree No.5/1980 for issuing Lands Law
33. Royal Decree No.12/1979 for issuing the Containing the Insurance Companies Law
34. Royal Decree No.7/1974 for issuing the Law of Omani Penal Code
35. Royal Decree No.4/1974 for issuing the Law of Commercial Companies
36. Law of Copyrights and Neighboring Right & Industrial Property Rights and Their Enforcement for the Sultanate of Oman
37. Draft of the Executive Regulations of the AML/CFT Law
38. The Regulation of Investigation and Trials for ROP Men
39. The Civil Service Law - Chapter four
40. The Common Customs Law

Circulars and Ministerial Decisions

Central Bank of Oman (CBO)

1. CBO: list of Circulars
2. CBO Circulars related to Sanctions Committee decisions related to freezing

- funds & properties of people and entities mentioned in a list issued by the Committee
3. Circular No: BM/ 936/2002
 4. Circular No: BM/ 940/2002
 5. Circular No: BM/ 3532/2004
 6. Circular No: BDD/AMLS/CB/ME/2004/5984
 7. Circular No: BM/ 610
 8. Circular No: BM/ REG/40/96
 9. Circular No: BM/ 921
 10. Circular No:
BDD/CBS/ME/NBFC/2003/4935
 11. Circular No: BM/ 880
 12. Circular No: BM/ 955
 13. Circular No: BM/ 923
 14. Circular No: BDD/CBS/CB/2009/5545
 15. Circular No:
BDD/MLS/CB/ME/NBFIS/2005/1424
 16. Circular No:
BDD/MLS/ME/NBFIS/2007/1480
 17. Circular No: BM/ 919
 18. Circular No: BM/ 652
 19. Circular No: BM/REG/42/1197
 20. Circular No: BM/ 43/11/97
 21. Circular No: BA&DD/CBS/CB/2000/3726
 22. Circular:
BDD/CBS/CB/ME/NBFC/2003/4935
 23. Circular No: BDD/CB/ NBFIS/2003/917
 24. Circulars No: 610, 850, 880
 25. Circular: BDD/MLS/CB/NBFIS/2005/1424
 26. Circular:
BDD/CBS/CB/ME/NBFC/2009/7449
 27. Circular: BDD/QMGE/General/2010/7444
 28. Circular: BM/1073 (7/9/2010)
 29. Circular: BDD/CBS/CB/2010/7150 Accounts in the name of charitable organisations
 30. Ministerial Decision No. (101/90)
 31. Circular: BDD/CBS/CB/2009/5545 CDD for Banks
 32. Circular: BA&DD//CBS/CB/2000/ 3726
 33. Circular:
BDD/CBS/CB/ME/NBFC/2002/2170
 34. Circular: BDD/QMGA/General/2010/7393
 35. Circular: BDD/CBS/OAB/2010/8824

Capital Market Authorities (CMA)

1. Circular E/13/2010: STR
2. Circular E 6/2009
3. Circular E 8/2009
4. Circular No: E 8/2009
5. Circular No: 2/2005
6. Decision No. 1 /2009 Issuing Executive Regulation of the Capital Market Law
7. Capital Market Authority Regulatory and Supervisory procedures
8. Circular No: 18/2000

9. Code of Corporate Governance for Insurance Companies
10. Circular No. 18/2000
11. Circular 01/07/2005: Code of Corporate Governance for insurance Companies
12. CMA: General Guidelines
13. CMA (No.2009/4841): Identity Cards for Customers
14. CMA Ministerial Order NO. 5/80 for Issuing the regulations for implementing insurance companies law

Other organisations

1. Decision No: 19/2008 of establishing the financial investigation unit
2. Decision No: MA/MB/92/2008 for transferring and appointing of an officer
3. Decision No. (155/2009) for Delegating Members of Public Prosecution
4. Ministerial of Commerce and Industry Decision No. 82/2008 Regarding the Restrictions of Work at certain Fields of Companies, Corporations, Offices Activities.
5. Administrative Decision 31/2007 for Regulating the requirements of Licensing Insurance Business
6. Administrative Decision E/6/2007 for Issuing Trading Directives In Muscat Securities Market
7. Ministerial Decision No. 53/2010 Issuing the Regulation for the Rules and Procedures for Granting Licenses for Money Collection from the Public
8. Ministerial Decision (53/97) for establishing the Lawyers' Affairs Department
9. Judicial Circular No. 7/2009
10. MOJ: Administrative Circular 4/2005
11. MOJ: Administrative Circular No. 4/2005
12. Administrative Decision No.30/2010
13. Decision No. 155/2009: Delegating members of Public Prosecution

Material regarding CBO

1. The Central Bank of Oman Penal Regulation
2. Cautionary notice issued by the CBO
3. CBO: Internal Procedures
4. CBO: Organisation chart
5. CBO: Penalty imposed on Banks
6. CBO Examination
7. CBO: Penalty imposed on banks/FLCs
8. CBO: Effectiveness of Circulars/guidance
9. Risk Management in Banks --- Broad Outline of CBO's Approach

Material regarding CMA

1. CMA – requirements for foreign insurance company
2. CMA – Application form for approving auditor
3. CMA – Primary market
4. CMA – Inspection programme
5. CMA – Field Inspection report
6. CMA – List of authority’s membership at international organisations
7. CMA – Number of employees of the authority
8. CMA – structure
9. CMA: training programs and workshops made for CMA employees
10. CMA: Procedures of Joint Stock Companies

Material regarding FIU

1. FIU – Contract for the design application and maintenance of electronic database
2. Customs declaration notification to FIU
3. FIU budget (2008-2010)
4. FIU power of access to information
5. FIU staff profile
6. FIU Activities
7. FIU Structure and the Jurisdiction of FIU
8. FIU – MOU on International co-operation with UAE
9. FIU Database design and STR format
10. FIU Training programme
11. FIU: requests of information received by FIU
12. Statistical nature of the suspicion.
13. STRs (7/3/2010)
14. STR No. 11/M/2009
15. The proposed regulatory structure of FIU
16. ROP/FIU: Workshop on Cash Transit Cross-border Financial Instruments

MOU and bilateral agreements

1. Bilateral Agreement with Turkey on combating terrorism illicit trafficking of drugs
2. MOU with Iran on combating Narcotics Drugs
3. MOU with India on joint cooperation for combating crime
4. MOU between CBO and CMA
5. MOU between CMA and other regulatory authorities in other countries
6. MOU between CBO/CMA on regulating and Organizing the issues of common concerns

Statistics and data

1. List of Suspicious Transactions
2. List of Money Laundering cases
3. Cases of freezing seized Money and Assets
4. Electronic database for FIU

5. Statistics, legal assistance and international requests for cooperation
6. List of Money exchanger establishments operating in the sultanate of Oman
7. Criminal Court Case 402/2009
8. Statistics of Felonies at Directorates of the Attorney General
9. Statistical assistance of legal and judicial mutual
10. Statistics of International Cooperation between the Sultanate and other countries through Interpol (2006-2009)
11. ML cases referred to the courts
12. FIU – cases sent to Public Prosecution
13. FIU – transactions per reporting body
14. List of training programs and participants from FIU
15. Public Prosecution and Money-laundering Investigation
16. Public prosecution; Confiscated materials and its selling value
17. Convictions in a money laundering offense (case No. 402/2009)
18. List of banks and FIs
19. Court Verdict, Case No.16/Q/2008

Other Material

1. Organizational structure and terms of reference of the Royal Oman Police
2. The financial appropriations for the financial investigation unit
3. Samples of Telegraphic Transfer Procedures in some Financial Institutes
4. Samples of Periodic Inspection Reports on Licensed Banks, Financing Companies, Leasing Companies and Exchange Companies.
5. Structure for Regulators, Financial Investigations Unit and Public Prosecution
6. Training Courses that Regulators, Financial Investigations Unit and Public Prosecution participated in
7. Seminars and Workshops conducted by National Committee for Anti- Money Laundering
8. Code of Corporate Governance for MSM Listed Companies
9. Customs Training Plan
10. Code of Corporate Governance for Insurance Companies
11. Procedures for incorporation of securities brokerage company
12. Rogatory Commissions and Judicial supports received by Oman
13. Confiscate of a Judgment Text

14. Money Exchange Companies – Transactions of Precious Metals
15. Police and Procedures manual
16. Manual of suspicious transactions reporting
17. Interior Training Plan of the FIU for 2011
18. Verdict Certificate
19. Judgment No. 1521/2009 concerning the issue of money laundering (case No. 402/2009)
20. The Accused in offence
21. Organisational structure of Customs
22. Article 19 of the draft Regulations of the law against money laundering and terrorist financing
23. Customer Due Diligence
24. System to deal with trust funds
25. Due Diligence
26. Records and Archives Law promulgated by Royal Decree No. (60/2007)
27. Model of the reports of the inspectors as well as to the form that you fill out financial institutions before the start of the inspection process, which shows the need for these institutions to provide information on training programs
28. Sessions and workshops hosted by the Central Bank of Oman and attended by financial institutions.
29. The list of investment assets of insurance companies: Decision E11/2007
30. Section 9, Employee's Duties
31. Sanctions that have been taken by the Public Authority for Capital Market under the direction of financial institutions under its control
32. Monthly Bulletin of the Public Authority for Capital Market, which included some of the sanctions issued against companies under the control of the subject
33. Position of the Sultanate of informal money transfers
34. Introductory Seminar on the Lawyers' Role regarding AML/CFT Law
35. Minutes of Meeting 13/3/2010 & 14/4/2010
36. Minutes of Joint Meeting on Reviewing and Amending Some Controls and Measures regulating foreign investment
37. Investor Registration Form
38. List of Seminars
39. Instructive Seminar on ML/TF Law
40. List of the Accused extradited from other countries to the Sultanate in 2008-2010
41. Agreement of the National Security Council (30 March 2010)
42. List of international agreements signed by the Sultanate, including customs cooperation
43. Recommendation 38 General Framework
44. An insurance company: KYC presentation material
45. A brokerage company: account opening form
46. A securities firm: Account opening form
47. An insurance company: KYC doc.
48. A bank: application for opening account
49. A leasing Company: Auto Finance Agreement
50. A leasing Company: AML Policy Document, STR format, compliance report
51. A money exchange company: Staff Training Programme

ANNEX 4: ANTI-MONEY LAUNDERING AND COMBATING FINANCING TERRORISM LAW (AML/CFT LAW)

Royal Decree No. 79/2010 Issuing the Law of Combating Money Laundering and Terrorism Financing

We, Qaboos Bin Said, Sultan of Oman

After perusal of the Basic Statute of the State issued pursuant to Royal Decree No. 101/96,

The Penal Code of Oman issued pursuant to Royal Decree No. 7/74, as amended,

The Law of Combating Drugs and Psychotropic Substances issued pursuant to Royal Decree No. 17/99,

The Royal Decree No. 55/99 ratifying the Arab Convention for Combating Terrorism,

The Law of Judicial Authority issued pursuant to Royal Decree No. 90/99,

The Law of Public Prosecution issued pursuant to Royal Decree No. 92/99,

The Law of Penal Procedures issued pursuant to Royal Decree No. 97/99,

The Law of Extradition issued pursuant to Royal Decree No. 4/2000,

The Banking Law issued pursuant to Royal Decree No. 114/2000,

The Royal Decree No. 22/2002 ratifying the Convention of Islamic Conference for Combating International Terrorism,

The Money Laundering Law issued pursuant to Royal Decree No. 34/2002,

The Executive Regulation of the Money Laundering Law issued pursuant to Royal Decree No. 72/2004,

The Royal Decree No. 105/2005 on Sultanate of Oman ratifying the GCC Convention on Combating Terrorism,

And the Law of Combating Terrorism issued pursuant to Royal Decree No. 8/2007 AND

In accordance with public interest,

HAVE DECREED THE FOLLOWING:

Article (1): The attached Law of Combating Money Laundering and Terrorism Financing shall be applicable.

Article (2): Minister of National Economy shall issue the Executive Regulation for the attached Law and other executive decisions. Till the issue of this Regulation, the Executive Regulation for the above mentioned Money Laundering Law shall be effective, unless it contravenes with the provisions of the attached Law.

Article (3): The above mentioned Royal Decree No. 34/2002 is hereby repealed. Also, any provision violating or contravening the provisions of the attached Law is repealed.

Article (4): This Decree shall be published in the Official Gazette and shall take effect from the day following the date of its publication.

**Qaboos Bin
Said
Sultan of Oman**

**Issued on:
15th Rajab 1431H
28th June 2010**

Official Gazette No. 914

Chapter One Definitions

Article (1):

For the purpose of this Bill, the following phrases and words shall have the meanings hereby respectively assigned to them unless the context requires another meaning:

| Term | Definition |
|------------------|--|
| Minister | Minister of National Economy. |
| Committee | National Committee for Combating Money |

| Term | Definition |
|--|--|
| | Laundering and Terrorism Financing. |
| Unit | Financial Investigation Unit at Royal Oman Police. |
| Competent Regulatory Entities | Ministry of Justice, Ministry of Commerce and Industry, Ministry of Housing, Ministry of Social Development, Central Bank of Oman, and Capital Market Authority. |
| Regulation | The Executive Regulation of the Law of Combating Money Laundering and Terrorism Financing. |
| Funds | Local currency, foreign currencies, financial and commercial instruments, any asset of value whether immovable or movable corporal or incorporeal, and all the rights vested therein, deeds and documents evidencing all the above in any form including the electronic and the digital documents. |
| Money Laundering Crime | Any of the acts specified in Article (2) of this Law. |
| Terrorism, Terroristic Crime, Terroristic Organization | Shall have the same meaning specified in Article (1) of the Terrorism Combating Law promulgated by Royal Decree No. (8/2007). |
| Terrorism Financing Crime | Any of the acts specified in Article (3) of this Law. |
| Person | Natural or juristic person. |
| Financial Institutions and Non-Financial Businesses and Professions | Any person licensed to practice banking, financial or commercial activities such as banks, exchange companies, investment companies, investment and fiduciary funds, financing companies, insurance companies; companies and professionals who provide financial services; stock, securities and real estate brokers; traders in gold, precious metals and precious stones; the notaries public; Law offices and accountants upon execution of transactions for their clients regarding purchasing |

| Term | Definition |
|---|---|
| | and selling real estate, management of funds, other securities or any other assets owned by their clients; management of bank accounts, deposit accounts or securities accounts; organization of contribution, operation or management of juristic persons or legal process for the establishment of such companies; purchasing and selling commercial or financial institutions. Any other establishments or professions to be determined by a decision of the Minister, upon the recommendation of the Committee. |
| Non-Profit Associations and Bodies | Any organized group composed of several persons for the purposes of raising or spending funds for charitable, religious, cultural, social, educational purpose or any other purpose other than gaining material profit. |
| Persons at Risk by Virtue of their Positions | Individuals who are or have been entrusted with prominent public functions in a foreign country such as the Heads of States or Governments; prominent politicians; judicial or military officials; high-ranking government officials; or prominent members in a political party including their close associates, family members up to the third degree. |
| Predicate Offence | Any act constituting an offence under the laws of the Sultanate enabling the perpetrator to obtain the proceeds of a crime. |
| Proceeds of Crime | Property obtained from commission of a crime directly or indirectly. |
| Instrumentalities | Instruments and means of whatever kind used or intended to be used in any manner to commit a money |

| Term | Definition |
|-------------------------------------|--|
| | laundering or terrorism financing offence. |
| Transaction | Any purchase, sale, loan, extension of credit, mortgage, gift, transfer, movement, delivery, deposit, withdrawal, transfer between accounts, currency exchange; purchasing or selling of stocks, bonds, or certificates of deposit; rental of safes; or any other disposition of property. |
| Transaction Record | The register containing records of the documents relating to the parties to the identity of the transaction, their addresses and details of any account used in the transaction and the total value thereof. |
| Freezing | Temporary prohibition of transfer, remittance, exchange or disposal of property pursuant to an order from a competent judiciary authority. |
| Real Beneficiary | The person who owns or fully controls the funds or on whose behalf the transactions are conducted, and also include the persons who practice ultimate effective control over a juristic person. |
| Customer | A person who has an ongoing relationship with the financial institution or the non-financial businesses and professions, and non-profit associations and bodies. |
| Confiscation | Permanent expropriation and deprivation of property originating from or the instrumentality used in the commission of money laundering or terrorism financing offence pursuant to a final decision issued by competent Court. |
| Bearer Financial Instruments | Monetary instruments such as cheques, promissory notes, payment orders to bearer or endorsed unconditionally or issued to a formal beneficiary, or in a form that allows the |

| Term | Definition |
|------|--|
| | transfer of the right therein upon delivery, signed payment orders, and bearer shares. |

Chapter Two Crimes of Money Laundering and Terrorism Financing

Article (2):

Any person who intentionally commits any of the following acts shall be deemed to have committed the offence of money laundering:

- 1) Exchange, transfer, or move property; conduct any transactions with the proceeds of the crime knowing that such property is derived directly or indirectly from a crime, or from an act or acts of participation in a crime with the purpose of disguising or concealing the nature and source of such proceeds or of assisting any person or persons involved in a crime, hinder the exposure of a person who has committed the crime from which the proceeds have been obtained, or aiding a person to evade the lawful punishment stipulated for his acts.
- 2) Disguise or conceal the nature, source, location, movement and ownership of the proceeds of the crime and the rights related or resulting there from knowing that such proceeds are derived directly or indirectly from a crime, or from an act or acts that constitute participation in a crime.
- 3) Acquiring, owning, receiving, managing, investing, guaranteeing, or using the proceeds of the crime, knowing that they are obtained directly or indirectly from a crime, or from an act or acts that constitute participation in a crime.

Article (3):

Any person who collects or provides funds directly or indirectly and by any means knowing that such funds will be used wholly or in part in financing any of the following shall be deemed to have committed the offence of terrorism financing:

- 1) Terrorism, terroristic crime or terroristic organization.
- 2) Perpetration of an act that constitutes an offence under the conventions or treaties related to combating terrorism to which the Sultanate is a party whether such offence is committed inside or outside the Sultanate.

Offences under this Article shall not include the instances of resistances, by whatever means, against foreign occupation, and aggression for liberation and self-determination in accordance with the principles of international law.

Article (4):

Any person shall be deemed to have committed an offence related to money laundering or terrorism financing if he has information or suspicions by virtue of his profession, activity, job, business or any other means relating to:

- 1) Any money laundering or terrorism financing offence but has not informed the competent authorities thereof.
- 2) Conducting an inquiry or investigation in a money laundering or terrorism financing offences but has discloses such information to the prejudice of such inquiry or investigation.

Article (5):

Any person who attempts, participates by aiding or abetting or conspires to commit a money laundering or terrorism financing offence shall be considered as an original offender. The financial institutions, the non-financial businesses and professions, and non-profit associations and bodies shall be liable for that offence if committed in their name or on their behalf.

Chapter Three Financial Investigation Unit

Article (6):

Royal Oman Police shall establish an independent 'Financial Investigation Unit' which will be under the supervision of the Assistant Inspector General of Police and Customs. The Inspector General of Police and Customs shall issue a decision regarding the nomination of its director, work procedure, and its financial and administrative system. A sufficient number of officers and staff shall be assigned to the Unit and the Ministry of Finance shall provide the funds necessary for its work.

Article (7):

The Unit shall receive the reports and information from financial institutions, non-financial businesses and professions, non-profit associations and bodies and other competent entities regarding the transactions suspected to involve the proceeds of crime or to be related to terrorism, a terroristic offence, or terrorist organization or money laundering or terrorism financing and the attempts to execute such transactions.

The Unit shall establish a database of all available reports and information and develop necessary means to make them available to the judicial authorities as well as the exchange of such information and coordination with the competent authorities in the Sultanate, foreign countries and international organizations in accordance with the provisions of international or bilateral conventions and agreements to which the Sultanate is a party, or on the basis of reciprocity provided that the information is used for the purposes of combating money laundering and terrorism financing.

The Unit shall prepare an annual report on its activities in the field of combating money laundering and terrorism financing offences. This report shall include its action on the reports received, and its proposals regarding the implementation of combating systems and mechanisms. The Minister shall submit that report to the Council of Ministers upon the recommendation of the Committee.

Article (8):

The Unit shall conduct analytical and investigative work regarding the reports and information it receives with respect to the transactions referred to in the above Article. To that end, the Unit shall have the right to order the provision of any necessary information, data or documents from financial institutions, non-financial businesses and professions, non-profit association and bodies, and the competent authorities.

The Unit shall notify the Public Prosecution of the outcome of the analysis and investigation when evidence exists of the commission of the offences of money laundering and terrorism financing, or any other crime.

The Unit may request the Public Prosecution to take precautionary measures regarding the offences provided for in this Law pursuant to the provisions prescribed in the law of Penal Procedure.

Article (9):

In the event of suspicion of the commission of an offence under this Law, the Unit may issue an order to stop the execution of the related transaction for a period of not exceeding (48) forty-eight hours. Upon the request of the Unit, the Public Prosecution may order the extension of this period for a period of not exceeding (10) ten days if the evidence obtained makes it probable that the transaction is in contravention of the provisions of this Law.

Article (10):

Pursuant to rules and procedures established by the Regulation, the Unit shall provide the financial institutions, non-financial businesses and professions, non-profit associations and bodies and competent regulatory authorities with the results of the analysis and investigation regarding the reports it receives.

Article (11): In the course of conducting its work, the Unit may issue the necessary instructions and guidelines to the financial institutions, non-financial businesses and professions, and non-profit associations and bodies in the field of combating money laundering and terrorism financing.

Chapter Four
Obligations of Financial Institutions, Non-Financial Businesses and Professions, Non-Profit Associations and Bodies and Competent Regulatory Authorities

Article (12):

Financial institutions, non-financial businesses and professions, and non-profit associations and bodies shall comply with the following:

- 1) Ensure that they are dealing with other counterparts that have a physical presence in the countries in which they are registered and which are subject to regulation in such countries.
- 2) Exercise due diligence to identify, verify, and update the identity of customers and actual beneficiaries in accordance with the conditions and controls specified in the Regulation.
- 3) Avoid opening of anonymous accounts or accounts in pseudonyms or fictitious names or numbers or secret codes or to provide services to them.
- 4) Monitor customers' transactions on an ongoing basis and verify the sources of their funds to ensure conformity with the information available on their identity, nature of their activities and the degree of risk.
- 5) Classify their customers and services according to the degree of risk of money laundering and terrorism financing and shall exercise special care in dealing with politically exposed persons and other cases that represent a high degree of risk in accordance with the conditions and controls specified in the Regulation.
- 6) Retain records, documents, information and data relating to the identity of customers and real beneficiaries and their activities and transaction records in a way which facilitates the retrieval thereof upon request in accordance with the provisions of this Law and for a period of (10)

ten years commencing from the date of conducting or initiating the transaction or closure of the account or termination of business relationship, whichever is later. Upon request, they shall provide such records and documents to the judicial authorities. Institutions may keep authenticated copies of these records and documents for the said period. Such copies shall have the same evidential value of the originals. The Regulation shall specify the records, documents, information and data that must be retained.

- 7) Verify the compliance of their branches abroad with the procedures of combating money laundering and terrorism financing.
- 8) Provide the Unit directly with the information, data and documents it may require to conduct its functions.
- 9) Establish the necessary systems for the application of the provisions of this Law provided that these systems should include internal policies, procedures, control and compliance systems, training and appointment of compliance officers in these institutions in accordance with regulations, standards and rules established by the competent regulatory authorities.

Article (13):

Financial institutions engaged in wire transfers shall ensure inclusion of the customers' identity verification records as specified in the Regulation. The financial institutions receiving the wire transfer shall refuse to receive it unless it contains a statement of identity verification. The provision of this Article shall not apply to the following:

- 1) Transfers conducted as a result of credit card and ATM card transactions provided that the number of credit card or ATM card is attached to the transfer resulting from the transaction.
- 2) Transfers conducted among financial institutions when the source and beneficiary are financial institutions acting for their own interests.

Article (14):

Notwithstanding the provisions relating to the confidentiality of banking transactions and professional confidentiality, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies shall report to the Unit regarding the transactions as soon as they are suspected of being related to the proceeds of crime, terrorism, terrorist crime or terroristic organization or involving money laundering or terrorism financing, whether such transactions have or have not been conducted, or at the time it is attempted to be

conducted in accordance with controls and procedures specified in the Regulation.

Article (15):

It is prohibited to disclose, directly or indirectly or by any means whatsoever, to the customer, the beneficiary or to other than competent authorities and bodies responsible for application of the provisions of this Law, any of the procedures for reporting, analysis, or inquiry undertaken with respect to financial and non-financial transactions suspected of involving money laundering or terrorism financing.

Article (16):

No criminal liability shall attach to any person who, in good faith, reports any suspicious transactions under the provisions of this Law, or provides information or data in violation of the rules imposed to ensure their confidentiality, and there shall be no civil or administrative liability when such suspicion is based on reasonable grounds.

Article (17):

Within their respective jurisdiction, competent regulatory authorities shall circulate the consolidated list issued by the UN Security Council regarding freezing the funds of persons and entities included in this list, to financial institutions, non-financial businesses and professions, and non-profit associations and bodies, which shall immediately inform the Public Prosecution of any available information they may have in this regard, to implement freezing procedures of the same in accordance with the guidelines and procedures specified in the Regulation.

Article (18):

Competent regulatory authorities shall:

- 1) Verify the compliance of all financial institutions, non-financial businesses and professions, and non-profit associations and bodies under their supervision or control with the obligations stipulated under the provisions of this Law.
- 2) Establish the necessary measures to determine the criteria governing the ownership, management and operation of the financial institutions, non-financial businesses and professions, and non-profit associations and bodies.
- 3) Issue instructions, guidelines, and recommendations to assist financial institutions, non-financial businesses and professions, and non-profit associations and bodies to implement the provisions of this Law.
- 4) Cooperate and coordinate effectively with other competent local authorities to assist in conducting investigations and in all stages of

investigations and trial related to combating money laundering and terrorism financing.

- 5) Coordinate with the Unit to verify the compliance of the financial institutions, non-financial businesses and professions, and non-profit associations and bodies, with the rules and regulations and rules prescribed by law for the purpose of combating money laundering and terrorism financing, including reporting of transactions suspected to involve money laundering or terrorism financing.

Article (19):

Competent regulatory authorities shall report the Unit on the information it may receive on money laundering and terrorism financing offences and the actions taken thereon and the results thereof. The competent authorities shall provide the Unit with all the necessary data, information and statistics necessary for conducting its functions.

Chapter Five Investigation Procedures

Article (20):

The Public Prosecution may order taking all necessary precautionary measures, including seizure and freezing of property subject to money laundering and terrorism financing offences and their proceeds, and any evidence facilitating identification of such property and proceeds. However, a grievance may be filed against such order before the Criminal Court convened in chambers.

The competent court may order freezing pending issuing a court decision on the case.

Article (21):

Without prejudice to the provisions of Article (4) of the Penal Code, the Public Prosecution may investigate a money laundering offence independently from the predicate offence.

Article (22):

Upon the request of a competent authority in another country with which the Sultanate has a signed agreement or on a basis on reciprocity, the Public Prosecution may order tracing, seizing or freezing of property, proceeds and instrumentalities involved in money laundering and terrorism financing offences.

Chapter Six National Committee for Combating Money Laundering and Terrorism Financing

Article (23):

A Committee shall be established under the supervision of the Minister and shall be constituted under the Chairmanship of the Executive President of the Central Bank of Oman (CBO) and the membership of:

- 1) Public Prosecutor Undersecretary of the Ministry of Justice
- 2) The Deputy Inspector General of Police and Customs
- 3) The Undersecretary of the Ministry of Justice
- 4) The Undersecretary of the Ministry of National Economy for Economic Affairs
- 5) The Undersecretary of the Ministry of Commerce and Industry for Commerce and Industry
- 6) The Undersecretary of the Ministry of Housing
- 7) The Undersecretary of the Ministry of Social Development
- 8) The Executive President of Capital Market Authority
- 9) The Secretary General of Taxation
- 10) The Director of the Financial Investigation Unit

In execution of its functions, the Committee may solicit the assistance of suitable experts.

Article (24):

The Committee shall have the following functions:

- 1) Establish the general policies and issue guidelines for the prohibition and combating money laundering and terrorism financing offences in coordination with the Unit and the competent regulatory authorities.
- 2) Review the international treaties and conventions on combating money laundering and terrorism financing and issue recommendations thereon to the Minister.
- 3) Follow up global and regional developments in the field of combating money laundering and terrorism financing, submit recommendations on the development of general policies and guidelines and suggest appropriate amendments to this Law.
- 4) Establish programs for the qualification and training of personnel working in the field of combating money laundering and terrorism financing offence.
- 5) Promote awareness among the financial institutions, non-financial businesses and professions, and non-profit associations and bodies on the risks of money laundering and terrorism financing.
- 6) Coordinate with the National Committee for Combating Terrorism in the implementation of the resolutions of Security Council on the

consolidated lists for freezing the funds of persons and entities specified therein.

- 7) Propose adding any other activities to “financial institutions, non-financial businesses and professions, and non-profit associations and bodies”.
- 8) Determine the cases, conditions, and amount of the financial incentives to be paid to personnel working in the field of combating money laundering and terrorism financing offences, and any person who reports on such crimes.
- 9) Establish the necessary budget for executing its functions. The budget shall be financed by the Ministry of Finance.
- 10) Establish the organizational structure of the Committee.

Article (25):

The Minister shall issue a decision to:

- 1) Determine the Committee's work system, dates and venue of its meetings, and the rules and procedures necessary for exercising its functions.
- 2) Form a Technical Committee chaired by a representative of the Ministry of National Economy with the membership of the Director of the Unit, and representatives at the level of director-general from other authorities represented in the Committee, establishing therein its functioning and work mechanism.
- 3) Form the Secretariat of the Committee establishing therein its functions and duties. Staffing of this Secretariat shall not be restricted by the provisions of the Civil Service Law.

**Chapter Seven
Penalties**

Article (26):

Without prejudice to any more severe punishment provided for the Penal Code or any other law, the offences set forth in the following articles shall be punished by the penalties provided therein.

Article (27):

Whoever commits or attempts or participates in the commission of an offence of money laundering shall be punished by temporary imprisonment for a term of not less than (3) three years but not exceeding (10) ten years and with a fine of not less than (5000) five thousand Rials but not exceeding the equivalent amount of value subject to money laundering offence.

Article (28):

Whoever commits an offence under Article (4) of this Law shall be punished with the imprisonment for a

period of not exceeding (3) three years and a fine of not exceeding (3000) three thousand Rials or with any of these punishments.

Article (29):

Whoever contravenes the provisions of Article (15) of this Law shall be punished with imprisonment for a period of not less than (1) one year and a fine not exceeding (10,000) ten thousand Rials or with any of these punishments.

Article (30):

The penalties stipulated in articles 27, 28 and 29 of this Law shall be doubled in the following cases:

- 1) If the crime has been committed in with one or more persons.
- 2) If the offender commits the offence through criminal organisation.
- 3) If the offence has been committed as a part of or in relation with other criminal activities.
- 4) If the offender has committed the offence by use of his powers or influence through a financial institution or the like, or taking advantage of the facilities vested in him by his office or his professional or social activity.
- 5) If the offender is a participant in the predicate offence from which the proceeds subject to money laundering offence has been obtained, whether he is an original offender or an accomplice.

Article (31):

Whoever commits, attempts or participate in the commission of a terrorism financing offence shall be punished with imprisonment for a term of not less than (10) ten years and a fine of not less than (10,000) ten thousand Rials but not exceeding the equivalent amount of value of the property subject to terrorism financing offence.

Article (32):

A penalty of imprisonment for a term of not less than (3) three months but not exceeding (2) two years and a fine of not less than (1,000) one thousand Rials but not exceeding (10,000) ten thousand Rials, or either of them, shall be applied to any of the Chairmen and directors of the boards of financial institutions, non-financial businesses and professions, and non-profit associations and bodies, their owners, authorized representatives, employees or the employees who act under these capacities who violates any of the obligations specified in any of the articles of Chapter Four of this Law.

Article (33):

A fine of not less than (10,000) ten thousand Rials and not more than the equivalent amount of value of property subject to the money laundering or terrorism financing offence shall be imposed on the financial institutions, non-financial businesses and professions, and non-profit associations and bodies held liable in accordance with the provisions of Article (5) of this Law. In its ruling of conviction the court shall order the publication of the decision through the written press at the expense of the juristic person. The court may revoke the license of the juristic person, or suspend its activities for a period not exceeding one year or bar it from practicing the activity and close the institution permanently or for a specified period or place a permanent or temporary ban on practicing any professional or social activity during practice of which or by reason of which the offence had been committed either directly or indirectly, or place it under judicial supervision for a specific period or prohibit the trading of securities in financial markets, either permanently or for a specific period, or prohibit the issuance of cheques or using its own ATM cards for a specific period.

Article (34):

Whoever contravenes the provisions of Article (40) of this Law shall be punished with imprisonment for a term of not more than (6) six months and a fine not exceeding (5,000) five thousand Rials or either penalty shall be applied to any person. The court may issue an order of confiscation or revoke the license of a juristic person or suspend its activity for not more than one year, or deprive it from exercising the activity and close the institution permanently or for a specific period, or ban it from practicing any other activity permanently or temporarily if the violation has been committed in its name or on behalf of the juristic person.

Article (35):

In the event of a conviction with a money laundering or terrorism financing offence or an attempt thereof, the court shall issue a decision for the confiscation of:

- 1) The property subject of money laundering or terrorism financing offence and the institutions used, income and other proceeds derived from it that devolve to any person, unless he proves that he has no knowledge that it originated from a money laundering or terrorism financing offence.
- 2) Proceeds of the crime belonging to a person convicted of a money laundering or terrorism financing offence or to his spouse, children, or any other person, unless the parties concerned establish they have acquired them from a legitimate source.

- 3) Property that has become a part of the assets of the perpetrator of money laundering or terrorism financing offence, wherever located, unless the parties concerned establish they have acquired them from a legitimate source.

When the property subject to money laundering or terrorism financing offence are intermingled with the property obtained from legitimate sources, the order of forfeiture shall apply only to the property subject to the money laundering or terrorism financing offence.

Article (36):

Money laundering and terrorism financing offences shall be excluded from the provisions governing a lapse of a public lawsuit. In all cases, the court shall order the forfeiture of properties subject to money laundering and terrorism financing offences or impose an additional fine equivalent to the value of such property if it cannot be seized or in the case of disposing of the same to innocent third parties.

Article (37):

Without prejudice to innocent third parties' rights, any contract or disposition the parties to which or any of them know or have reason to know that the purpose of the contract is to prevent the forfeiture of instrumentalities, or proceeds of crime or proceeds relating to a money laundering or terrorism financing offences, shall be null and void.

Article (38):

A perpetrator who reports to the authorities with the information of the offence and the persons involved, provided that the authority have no prior knowledge of such offence shall be exempted from the penalties stipulated in this Law. If the report takes place after the authorities have the knowledge of the offences and leads to the forfeiture of the instrumentalities and proceeds of the offence or the arrest of any of the perpetrators, the court shall suspend the execution of the imprisonment sentence.

Article (39):

The Public Prosecution may authorize the sale of confiscated properties and instrumentalities and deposit the proceeds of sale in the public treasury, in accordance with the procedures prescribed by law.

**Chapter Eight
Final Provisions**

Article (40):

It is allowed to import and export currency, bearer negotiable financial instruments, precious metals and

precious stones to and from the Sultanate provided that they are declared to the customs authority if they amount to (6,000) six thousand Rials or more or its equivalent in other currencies, in the form prepared by the Committee for that purpose and as specified in the Regulation.

Article (41):

The customs authority shall retain the declaration stipulated for in the previous article for a period of not less than (5) five years. The Unit shall have the right to peruse and use the same when necessary.

Article (42):

In case of suspicion of contravention of the provisions of this Law, the customs authority may stop the movement of currency, bearer negotiable financial instruments, precious metals and precious stones and seize the same for a period not exceeding (7) seven days, and notify the Unit immediately. Upon the request of the Unit, the Public Prosecution may extend the seizure for a similar period.

Article (43):

The Sultanate adopts the principle of international cooperation in combating money laundering and terrorism financing offences in accordance with the laws of the Sultanate, the provisions of international conventions and bilateral agreements to which the Sultanate is a party or signatory or on the basis of reciprocity in the areas of legal assistance and mutual international judicial cooperation.

ANNEX 5: THE EXECUTIVE REGULATION OF THE MONEY LAUNDERING LAW

Royal Decree No.72/2004

Issued on: 28 June 2004

Article (1):

- a) In the implementation of the provisions of this Regulation, words and expressions shall have the same meanings assigned to them in the Law of Money Laundering promulgated by the Royal Decree No. 34/2002.
- b) The Law: is The Law of Money Laundering Promulgated by Royal Decree No 34/2002.
- c) The provisions of this Regulation shall be applicable to any natural or juristic person whose profession or business is related to any of the following activities:
 - (1) Lending or financial transactions including dealing in bonds and securities or lease financing or fund transfer services or selling and purchasing currencies or issuing and managing payment instruments or guarantees and obligations.
 - (2) Trading for own account or for the account of customers in securities or foreign currencies or financial options and futures, or exchange and interest rate operations and other financial derivatives or convertible instruments.
 - (3) Underwriting share issues and participation in such issuing, and undertaking investment business and accepting deposits, and acting as financial intermediaries.
 - (4) Brokerage.
 - (5) Insurance business.
 - (6) Real estate transactions.
 - (7) Precious metals transactions.
 - (8) The advocacy and audit professions.
 - (9) Any other similar activities specified by the committee.

The supervisory authority for the activities which are not subject to regulation by the competent regulatory authorities specified in the Law, shall be the authority concerned with such activities.
- d) Without prejudice to the generality of the definition specified for it in the Law, the “Predicate offence” shall include, without limitation, the following offences:

Unlawful transaction in drugs and psychotropic substances, abduction, threatening, piracy, terrorist acts, prostitution, unlawful trade in weapons and ammunitions, bribery, embezzlement, cheating, breach of trust, and any other profit generating offences provided for in the applicable laws of the Sultanate and the agreements and conventions to which the Sultanate is a party.

Article (2):

Institutions shall comply with the following:

- a) Verification of customer identification in accordance with Article (4) of the Law, and ensuring obtention of all necessary information and documents including:
 - (1) In regard to natural Omani persons:
The full name, current address, and a copy of passport or identity card or driving license.
 - (2) In regard to natural non-Omani persons:
The full name, current address, and a copy of passport, in addition to a copy of the residence permit or the labor card in regard to residents.
 - (3) In regard to juristic persons:
A copy of a valid Commercial Registration Certificate, a specimen signature form of the authorized signatories and the memorandum and articles of association of the company.
 - (4) In regard to clubs, co-operative, charitable, social and professional societies, an official certificate from the relevant ministry should be obtained including authorized managers and signatories.

Institutions shall require their customers to update all information relating to them whenever necessary.
- b) Institutions shall take appropriate measures to obtain information about the true identity of the persons for whom it opens accounts or on whose behalf transactions are conducted, if there are any suspicions that these customers are not acting directly for their own account, especially as regards fund management companies which are not practicing any business or industrial activities

- or any other form of commercial activity in the country where they are registered.
- c) Institutions shall not open anonymous accounts or accounts under assumed or fictitious names or numbers or codes, and shall not provide any services to such accounts.
 - d) According to instructions issued by the regulatory authorities, institutions shall establish electronic data systems for monitoring all electronic banking transactions with the purpose of enabling institutions to report on unusual transactions. As a minimum requirement, the system should be able to monitor the following situations:
 - (1) When an account receives numerous small fund transfers electronically, followed by large transfers in the same way from that account.
 - (2) Numerous and regular large deposits received within short periods by different electronic means.
 - (3) Where an account receives large regular payments from countries known to have traffic in drugs or are classified as non-cooperative countries by the Financial Action Task Force (FATF).
 - (4) Where transfers from abroad are received in the name of a customer electronically and are then transferred abroad in the same way without passing through the customer's account (*i.e.* they are not recorded in the customer's account and do not appear in his account statement).
 - (5) Large and complicated electronic transfers conducted in an unusual manner and serving no apparent economic or lawful purpose.
 - e) Institutions shall follow a system of retention of the documents and records specified in Article (5) of the Law, in addition to accounts files and commercial correspondence, to expedite their response when required by competent bodies to provide any information or documents whenever the need arises.
- Article (3):**
- Employees in institutions which are subject to the Law shall review and make careful scrutiny while conducting the following transactions:
- a) Cash transactions in banks where unusually large cash deposit amounts are made in the account of a customer whose normal business activities are conducted through cheques or other banking instruments, or when there is a substantial and unjustifiable increase in such deposits, especially if they are transferred within a short time to a destination which has no apparent association with the customer.
 - b) Accounts and transactions of Companies and individuals conducted in cash on deposit and withdrawal without any economic justification.
 - c) When a customer changes large quantities of lower denominations currency notes for those of higher denominations with no apparent cause.
 - d) When a customer transfers large amounts of money outside the Sultanate with instructions for payment in cash, and amounts of money is transferred from outside the Sultanate in favor of non-resident customers with instructions for payment in cash.
 - e) Unusually numerous cash deposits using ATMs to avoid direct contact with the concerned employee.
 - f) Maintaining a number of trustee or customers accounts not required by the type of business a customer conducts, particularly when cash deposits in such accounts are of noticeably large amounts and include banking transactions conducted by persons whose names are listed in the circulars of the competent authority and the competent supervisory authorities, and also accounts which are not used for normal personal or business banking activities, but are used to receive or disburse large sums to persons or for purposes not related to the account holder or his business, or when there is a sudden activity of an account which had been dormant for a long time, or when a customer omits recording his permanent address on the application form for opening an account, or where an account receives large and regular payments from countries known to have traffic in drugs or are classified as non-cooperative countries by the Financial Action Task Force on combating money laundering.
 - g) Where a customer obtains a loan from an institution against a pledge of certificates of deposit issued by foreign financial institutions in a country known to have drug traffic or money laundering, or when large deposits which are inconsistent with the depositor's financial status are made with the purpose of investment in real estate or foreign currencies or securities and other instruments of investment.

- h) Frequent and abnormal sale and purchase transactions of travelers' cheques or sending foreign currency drafts in large amounts.
- i) Where the customer requesting opening a letter of credit is the beneficiary and the owner of the shipping company at the same time, or where the documents of the letters of credit submitted by the customer to the bank and the customs and port authorities do not match the original documents, or where the business covered by the letter of credit is not consistent with the nature of the customer's usual business.
- j) Unexpected repayment of previously classified loans or loans considered as bad debts, especially if repayment is made in large amounts, or where a loan is requested against assets held by an institution or a third party when the source of such assets is unknown or if the assets are inconsistent with the customer's net worth.
- k) Applications for insurance contracts in which the source of the money is unknown or is inconsistent with the financial status of the applicant, or where the applicant's previous contracts were far less in value than that applied for, or if payment is made from other than the applicant's account, or if the applicant was not interested in yield from insurance investment but in early withdrawal and termination of the insurance contract.
- l) Suspicious transactions, generally, when transacting in Muscat Securities Market, as when a customer refuses or shows reluctance to provide the intermediary with documents of identity or the purpose of conducting the transaction, especially if the customer is listed in the circulars of the competent authority and the competent supervisory authorities and is involved in large cash transactions disregarding or not caring for the prices, or if it appears that the customer is controlled by another person or persons, or if he has no apparent source of income which is consistent with the value of the transactions he conducts, or if he attempts to bribe or threaten the concerned employee with the purpose of finalizing a transaction or hindering record keeping or reporting, or if he segregates the transaction into small amounts to avoid identification or reporting requirements, or if the account shows an abnormally fast fund transfer activity, or when the person making the transaction is an agent or an advocate or a financial consultant acting on behalf of another person

without proper documentary authorization, or where the customer submits financial statements which are basically different from the statements of similar business, or if such statements were not audited by an audit firm although the customer is a big company.

Article (4):

Every institution shall appoint a compliance officer who shall be responsible, in addition to other things, of liaising with the competent authority and the competent supervisory authority, to report cases of money laundering and suspicious transactions and to prepare and maintain such reports in a proper manner, and to receive communications in this regard, and to ensure that the institution's internal controls system operates efficiently for the proper implementation of the provisions of the Law and this Regulation.

Article (5):

a) The Chairmen and members of boards of directors and managers and employees of institutions who suspect the existence of a suspicious transaction in the light of the provisions of Article (3) of this Regulation or for any other reason, are required to report the suspicious transaction instantly to the compliance officer, together with the reasons for such suspicion.

b) On receiving the report, the compliance officer shall review the transaction documents to ascertain whether the suspicions raised are justified, and shall, before finalization of the transaction, report the suspicious transaction to the competent authority and the Central Bank and the competent supervisory authority promptly, on the report forms attached to this Regulation.

c) The compliance officer shall observe confidentiality and honesty in performing his work, and shall ensure that the report is received only by the competent authority, the Central Bank and the competent supervisory authority.

d) The higher management of the institution shall not directly or indirectly influence the compliance officer in the performance of the duties imposed on him pursuant to the Law or this Regulation.

Article (6):

a) On receiving a suspicious transaction report from the compliance officer in an institution, the competent authority shall take measures to collect the evidence and investigate the background of the suspicious transaction including the financial status of the concerned person and the undertaken activities from which the proceeds subject of the

suspicious transaction were generated. Such information may be collected within or outside the Sultanate, and when there is evidence of the existence of a money laundering offence or an attempt thereof, the competent authority shall submit a written application to the Public Prosecution to consider stopping the transaction in accordance with Article (12) of the Law.

b) The application for stopping the transaction shall be submitted to the Public Prosecution by the competent authority through the Director General of Criminal Investigations or his assistant or the Director of the Directorate of Economic Offences or his deputy. The application shall include the following:

- 1- The name and address of the concerned person.
- 2- The number of the account (if any).
- 3- The name and address of the institution.
- 4- A brief description of the suspicious transaction.
- 5- The reasons for the application for stopping the transaction.

(c) If the competent authority deems it necessary to obtain any additional information relating to the suspicious transaction, it shall submit an application to that effect to the Public Prosecution specifying the nature of the information and the justifications for its obtention, to consider mandating the institutions and others to submit such information in accordance with Article (9) of the Law.

Article (7):

Concerned bodies under the Law and this Regulation shall observe the following on requesting confidential information:

(a) The required confidential information shall be within the limits necessary for the requirements of reporting and investigation of the suspicious transaction.

(b) Confidential information shall not be exchanged except by the concerned persons and shall not be disclosed to any other body.

(c) Confidential information shall not be used for any purposes other than those for which it was required.

(d) Confidential information shall not be copied or exchanged with any entity other than those concerned with combating money laundering.

(e) To maintain and protect the confidentiality of information exchanged with other countries and to ensure that it will not be used except for the purposes for which it was exchanged. An agreement to that effect may be made.

Article (8):

The training programs provided for in the Law shall include the following:

(a) The orientation in the Law of Money Laundering and its Executive Regulation, and the laws and regulations relating to combating money laundering, and the legal duties and obligations thereby imposed.

(b) Explanation of the recommendations, policies and instructions of the Financial Action Task Force (FATF) on combating money laundering and other regional committees, and the recommendations issued by international conferences on combating money laundering.

(c) Emphasizing the necessity of compliance with laws and regulations relating to combating money laundering and highlighting the importance of the relevant policies.

(d) To instruct the concerned employees in the nature of money laundering activities and the transactions which may furnish a basis for such activities, and the new developments in the area of money laundering and suspicious transactions and ways of identifying them, to enhance staff efficiency in identifying the offence and its typology, and detecting and combating suspicious transactions.

(e) Expounding the policies and systems of verification with special emphasis on verification of customers' identity and determining suspicious activities and submission of reports specifying the responsibility of each employee in accordance with the relevant laws.

(f) Any other issues the competent supervisory authorities and the institution deem appropriate for training purposes.

Article (9):

Each competent supervisory authority, the competent authority and the Public Prosecution, shall submit periodic reports on their work to the Committee, including their recommendations regarding the progress of their activities in combating money laundering pursuant to their obligations in accordance with the Law and this Regulation.

Article (10):

(a) In addition to its functions specified in the Law, the National Committee for combating money laundering shall undertake the following:

- 1- To propose the amendments it deems necessary to this Regulation, and submit a recommendation of the same to the Minister of National Economy.
- 2- To participate in international forums on combating money laundering in coordination with concerned bodies.

- (b) The Chairman shall appoint the coordinator of the Committee and determine his functions.
- (c) The Chairman shall convene the meetings of the Committee at the place and the time he specifies, provided that the Committee shall convene at least two meetings in a year, and whenever the need arises. The chairman may delegate one of the members to preside over the meeting in his absence.
- (d) The Committee shall submit its recommendations to the Minister of National Economy and such recommendations shall be effective from the date of his approval.

Article (11):

The Committee shall have a secretariat of full time staff members- if necessary- and the Chairman shall determine its functions, duties and financial emoluments.

Article (12):

- (a) The committee shall establish a technical committee with a representation at the level of director general from the committee members. The representative of the Ministry of National Economy shall be the chairman of the technical committee, and may delegate one of the members to preside over the meeting in his absence.
- (b) The technical committee shall have the following functions:
- 1- To study issues related to combating money laundering from a technical perspective.
 - 2- To prepare working papers and submit proposals concerning issues falling within the terms of reference of the committee.
 - 3- To study the reports, researches and recommendations issued by the Financial Action Task Force on combating money laundering (FATF) and other related international organizations, and submit recommendations on them to the Committee.
 - 4- To prepare and submit training programs to the committee.
 - 5- To study all issues referred to it by the Committee.
- (c) The technical committee shall convene periodic meetings of not less than three meetings in a year, and whenever the need arises.
- (d) The technical committee shall submit periodical reports on its work to the Committee.

Article (13):

The competent authority shall establish a database including, without limitation, the following:

- (a) A brief statement of the legislations and regulations and other measures undertaken to combat

money laundering and the names of the concerned authorities in this regard in the Sultanate.

- (b) Basic principles and general guidelines for use as educational means for training employees in institutions subject to the Law, to assist those institutions in identifying the typology of suspicious conduct and detecting suspicious transactions, and updating such principles and guidelines from time to time.
- (c) Information on recent developments in the area of money laundering and the technologies involved.
- (d) The reports on suspicious transactions within or outside the Sultanate submitted to it by the competent supervisory authorities or directly by financial institutions.
- (e) General statistics of detected money laundering cases and the action taken thereon.
- (f) Information exchanged with other countries concerning combating money laundering.
- (g) Any other information the Committee deems necessary.

Article (14):

The competent supervisory authorities and the competent authority, each within its jurisdiction, shall observe the following:

- (a) To cooperate, in consultation with Committee, with international organizations such as the International Customs Organization, Financial Action Task Force on combating money laundering, International Monetary Fund, Bank for International Settlements and other organizations, for the purpose of exchanging information about developments in the field of money laundering and combating it, and to assist in conducting studies relating thereto.
- (b) To exchange information relating to money laundering with the authorities concerned with combating money laundering in other countries, provided that the necessary controls are observed to ensure that exchange of information is not in conflict with the laws in force in the Sultanate.
- (c) To liaise with concerned entities in the Sultanate for the signing and approval of international treaties and agreements on combating money laundering.
- (d) To conduct, in liaison with concerned bodies in other countries, joint investigation operations in combating money laundering, such as surveillanced delivery of suspect funds or property.
- (e) To take the measures facilitating mutual assistance in cases relating to combating money laundering.
- (f) To coordinate with competent entities in other countries in the institution of Judicial proceedings in money laundering cases to avoid

conflict of jurisdiction on the occurrence of a case within both jurisdictions of the Sultanate and another country, and to consider the possibility of sharing in property confiscated in such cases.

(g) To take the necessary measures for extradition of the perpetrators in money laundering offences pursuant to the relevant legislations.

Article (15):

Importing and exporting foreign currency to and from the Sultanate are allowed for all travelers, provided that the amount should be declared in the form prepared by the Committee on importing, if such amount exceeds twenty thousand American Dollars (USD 20,000) or its equivalent in other currencies, except in regard to licensed banks and money exchange companies.

ANNEX 6: THE BANKING LAW

Royal Decree No.11/2004
Issued on: 28 January 2004

TITLE ONE: GENERAL PROVISIONS

ARTICLE 1 OBJECTIVE

The following are the objectives of this Law:

(a) To promote the development of banking institutions which will ensure the maintenance of financial stability, contribute to the economic, industrial and financial growth and enhance the position of the Sultanate in international financial affairs;

(b) To empower the central bank to issue currency and maintain the domestic and international value of that currency, to supervise banks and the banking business in the Sultanate and to advise the Government of the Sultanate on domestic and international economic affairs.

(c) To facilitate the expansion of the free market economy of the Sultanate through greater use of recognized banking institutions and methods; and

(d) To contribute to the fiscal and monetary development of the Sultanate through active participation in the international monetary community and in the proceedings, negotiations and decisions of international monetary organizations in which the Sultanate shall participate.

ARTICLE 2 RULES OF INTERPRETATION

(a) This Law shall be construed in accordance with the general rules of construction.

(b) References to persons shall be read as including references to natural or juristic persons.

(c) Unless otherwise provided by regulations of the Central Bank, the interpretation, application, administration and enforcement of this Law, as it relates to documentary credits and collection of international commercial paper, shall be in accordance with Uniform Customs and Practice for Documentary Credits as adopted by the Council of the International Chamber of Commerce in 1993, as amended from time to time, and the Uniform Rules for the Collection of Commercial Paper as adopted by the Council of the International Chamber of Commerce in 1995, as amended from time to time.

ARTICLE 3 APPLICATION OF GENERAL PRINCIPLES OF LAW

Except where otherwise provided in this Law, the provisions of the Commercial Law, the Commercial Companies Law, the law relative to capacity to contract and the procedural laws and remedies related thereto, shall supplement the provisions of this Law.

ARTICLE 4 SETTLEMENT OF CLAIMS

(a) The Commercial Court established pursuant to Royal Decree 13/97 and such successor or other judicial body as may be established or specified by the laws of the Sultanate, shall have general jurisdiction to hear and decide all civil disputes and claims which arise under this Law, including claims by and against the Central Bank and its governors and officers in the performance of their duties under this Law. Such jurisdiction shall include, but not be limited to, general jurisdiction to hear and decide any claims which arise between persons subject to or seeking to enforce this Law and all disputes concerning the interpretation and application of the provisions of this Law, any rules and regulations of the Central Bank and any agreements, contracts or other documents entered into pursuant to the provisions of this Law.

(b) Notwithstanding the provisions of Article 4 (a) of this Law, and unless otherwise provided by this Law, persons may vary, by a written agreement entered into by such persons, their obligations under this Law, provided, however, that any such agreement must specify the law to be applied in an action arising under the agreement, including the choice of law rules to be applied in any such action, and the forum, jurisdiction or jurisdictions in which such claim or action may be heard. Notwithstanding any agreement to the contrary, any action which involves either or both a domestic bank or an Omani person in a transaction occurring within the Sultanate and which affects the rights or liabilities of an Omani national shall be within the jurisdiction of the Commercial Court and any successor thereto.

ARTICLE 5 DEFINED TERMS

In the interpretation, application, administration and enforcement of this Law, the following definitions shall be applied, unless otherwise specifically provided or the context otherwise requires:

“Acceptance” is the drawee’s signed engagement to honor the instrument as presented. It must be written on the instrument and becomes effective when completed by delivery or notification to the drawer or to the holder or according to other instructions given by the drawer.

“Bank” is any person licensed by the Central Bank or authorized by the jurisdiction in which it is organized to carry on the banking business.

“Banking business” is the undertaking as the principal and regular course of business conduct, as such business conduct may be defined and interpreted by the Board of Governors of the Central Bank, any one or more of the following activities or such additional activities as may be specifically authorized in amendments to this Law or by the Board of Governors of the Central Bank in a license issued pursuant to this Law: the operation of receiving monies as demand or time or savings deposits; the opening of current accounts and credits; the unsecured loan of money or extension of credit; the loan of money on personal, collateral or real property security; operation of credit card business; the issuance and negotiation of letters of guarantee and letters of credit; the payment and collection of checks, orders, payment vouchers and other negotiable instruments; the acceptance, discounting and negotiation of notes and promissory notes and other negotiable instruments; the sale and placement of bonds, certificates, notes or other securities; the acceptance of items for safekeeping; the exercise of fiduciary powers; the undertaking of Investment and Merchant Banking and other Financial activities which may include but not be restricted to corporate finance, project finance, investment brokerage and investment advisory services, investment management, the underwriting of securities, custodian and fiduciary services, leasing, factoring, hire purchase financing and any other similar activities approved by the Board of Governors as banking business or the purchase, sale and exchange of foreign and domestic currency or other monetary assets in the form of cash, coins and bullion, provided, however, that natural persons who deal exclusively in the business of exchanging foreign and domestic currencies on a retail basis and persons engaged in the operation of retail business establishments and places of public accommodation who exchange foreign currencies only as a convenience to their customers

shall not be deemed to be engaged in the banking business.

“Banking day” includes that part of any day during which the Central Bank and licensed banks and any branches or subsidiaries thereof transact business on behalf of their customers or are open within the Sultanate to the public for the transaction of banking business.

“Bearer” is the person in possession of an instrument, document of title or security which is “payable to bearer” or which has been endorsed in blank.

“Board of Governors” is the Board of Governors of the Central Bank.

“Branch” includes any branch office, branch agency, additional office, or any branch place of business of a licensed bank, which is located within the Sultanate or outside and which engages in banking business.

“Central Bank” is the Central Bank of Oman, established in accordance with The Banking Law 1974 as the Central Bank of the Sultanate, and as successor to the Oman Currency Board established by the Currency Board Decree 1394H.

“Certificate of deposit” is an instrument which consists of an acknowledgement by a bank of the receipt of money and an engagement by the bank to repay such money on a specified date or on demand to a specified person or to bearer together with any interest or other benefits accruing on the instrument.

“Clearing house” is the Central Bank when it functions as a clearing house pursuant to the provisions of Article 29(b) of this Law or an association of banks formed to clear checks and drafts and other persons regularly clearing items through clearing house associations or contractual arrangements within or outside the Sultanate.

“Collecting bank” is any bank within or outside the Sultanate which handles an item for collection but which is not the payer bank.

“Commercial Companies Law” is the Commercial Companies Law of the Sultanate.

“Council of Ministers” is the Council of Ministers of the Government of the Sultanate.

“Creditor” includes any general creditor, any secured creditor, any lien creditor or any representative of creditors including an assignee for the benefit of creditors, a trustee in bankruptcy or an executor or administrator charged with the administration and distribution of the assets of a debtor or other assignor who has been declared insolvent or is involved in insolvency proceedings within or outside the Sultanate.

“Customer” is any person who transacts or has transacted any banking business with a bank or for whom the bank has agreed to collect items. It includes a bank from within or outside the Sultanate carrying an account with another bank within the Sultanate.

“Delivery” is the voluntary transfer of possession of items, documents of title or securities.

“Demand deposit” is a deposit the payment of which legally can be required by the depositor on demand or at time within not more than seven days.

“Depository bank” is the first bank to which an item is transferred for collection, even though such depository bank is also the payer bank.

“Document of title” is any document which, in the regular course of business or financing arrangements, constitutes sufficient evidence that the holder is entitled to receive, hold and dispose of both the document and any goods it may represent.

“Documentary draft” is a negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered at the time of and against the acceptance or payment of such draft.

“Domestic bank” is any Omani person licensed as a bank and authorized to engage in banking business under the laws of the Sultanate.

“Draft” is an instrument which is an order to pay.

“Endorsee” is any person to whom an instrument has been endorsed even though he may subsequently endorse it to another person.

“Endorser” is any person who endorses an instrument even though he may be an endorsee or may subsequently endorse the instrument to another person.

“Endorsement” is a signature, or other mark intended as a signature accompanied by a statement designating the person to whom the instrument shall be payable and placed on the instrument by the payee, by an endorsee from the payee or by any person who is designated under an uninterrupted series of such endorsements. An endorsement which consists solely of the signature of the endorser means that the instrument is payable to bearer.

“Foreign bank” is any person authorized to engage in banking business in the jurisdiction, other than the Sultanate, in which it is organized or domiciled.

“Holder” is a person who is in possession of an item.

“Instrument” is an instrument for the payment of money which is in writing, signed by the maker or drawer, contains an unconditional promise

or order to pay a certain amount of money and contains no other promise, order, obligation or power (except as may be specifically authorized by Law) is payable on demand or on a definite time and is payable to order or to bearer.

“Intermediary bank” is any bank within or outside the Sultanate to which an item is transferred in the course of collection, but does not include the depository or the payer bank.

“Issue” is the first delivery of an instrument to a holder or to a person receiving the instrument for subsequent delivery to a third person.

“Item” is any instrument for the payment of money, even though such item is not a negotiable instrument. Item does not include money but shall include, but not be limited to, negotiable instruments, documents of title, warehouse receipts, bills of lading and documentary drafts.

“Letter of Advice”, is a drawer’s communication to the drawee that a described draft has been drawn.

“Licensed bank” is any domestic bank or foreign bank or any other financial institution licensed by the Central Bank to engage in banking business in the Sultanate.

“Mortgage” is a security interest in real property, airplanes, ships, insurance policies or other items of tangible and intangible personal property which secures a debt or other obligation to pay or perform and which by its terms allows the holder of such mortgage to cause the sale or other liquidation of the property upon default on the debt and upon such sale to recover the amount in default, with costs.

“Net worth” of a licensed bank is the aggregate amount, as determined in accordance with regulations of the Central Bank, of the assets less liabilities, other than capital and surplus, of a licensed bank and shall include the aggregate of assets and liabilities both within and outside the Sultanate, except as otherwise specifically provided by this Law.

“Note” is a negotiable instrument which is a promise to pay and which is not a certificate of deposit.

“Order” is a direction to pay one or more persons jointly or in the alternative and which identifies those persons with certainty. An order may not be made payable to two or more persons in succession.

“Payable on demand” means that an instrument is payable at sight or on presentment or that no time of payment has been stated in the instrument.

“Payment deadline” with respect to a bank is either the time at which the bank closes on the second banking day following the banking day on which it has received the relevant item or notice concerning an item, or the time from which the time for taking action by the bank begins to run, whichever time is later.

“Payer bank” is the bank within or outside the Sultanate by which an item is payable as drawn or as accepted.

“Presenting bank” is any bank within or outside the Sultanate presenting an item other than the payer bank.

“Presentment” is a demand for acceptance or payment made by or on behalf of the holder upon the maker, acceptor, drawee or other payer.

“Process of posting” is the procedure followed by a payer bank in making a determination as to whether to pay an item and, subsequent to such determination, the procedure followed in recording the payment. It may include, but not be limited to, verifying a signature; ascertaining that sufficient funds are available in the account to be charged; affixing to the item a notation of “paid” or other notation of payment; entering a charge or deposit to the account to be charged or to which a deposit is made; and correcting or reversing an entry or erroneous action previously taken by the bank with respect to such item.

“Promise” is an undertaking by a person to pay and must be more than a mere acknowledgment by such person of the existence of a current or future obligation to pay.

“Properly payable” includes the availability of funds for payment at the time of the decision by a bank to pay or dishonor an item or instrument.

“Remitting bank” is any collecting or intermediary bank within or outside the Sultanate remitting an item.

“Security interest” includes the following: an interest in personal property or equipment which secures payment or performance of an obligation to pay; the interest of a buyer on accounts, commercial paper or contract rights arising from commercial instruments.

“Settlement” means any payment in cash, by clearing house settlement, by a charge or credit, by remittance or as otherwise instructed by the payer. A settlement may be either provisional or final, and shall include, but is not limited to, payment in cash, through the adjustment and offsetting of balances held by a bank with or through a clearing house or clearing house association, by debit and credit entries in accounts held by one bank with another bank within

or outside the Sultanate or through the forwarding, use and payment of remittance instruments covering a particular item or a group of items.

“Supranational Organisation” is an organisation which does not belong to any specified country, such as the European Union.

“Suspend payment”, with respect to a bank, means that a bank has been closed by order of the Central Bank, or by the supervisory agency with such authority in the jurisdiction in which the bank is domiciled or organized; that an official of the Central Bank or another person has been appointed to conduct the affairs of the bank as an administrator; or that the bank has ceased or refuses to make payments in the ordinary course of business.

“Time deposit” shall mean a deposit which is made for some specified period of time and must be made for not less than seven days. It may be payable to the depositor prior to the expiration of such a period with a reduction or penalty in the interest rate or payment of interest, payable to the depositor only after such additional period as provided for in the contract between the bank and depositor or payable only on the expiration of a period of notice by the depositor of not less than seven days.

“Treasury bill” is a negotiable short term bill with a maturity date not exceeding one year, issued by the Government to raise money for a temporary need.

“Writing” when referring to the requirements for effective notice to, from and within the Central Bank, by and among banks within and outside the Sultanate shall be deemed to include telegrams and telex transmissions, fax messages, electronic mail, written notices delivered in person or by mail, or by such other medium of communications as may be acceptable to the Central Bank of Oman from time to time provided, however, that persons may, by agreement, deem only certain forms authorized herein to be sufficient as a writing between or among such persons.

* “Corporation” is the company licensed in accordance with the Commercial Companies Law and the provisions of this Law.

*Added by R.D.No. 11/2004

TITLE TWO: CENTRAL BANK OF OMAN

CHAPTER ONE:FORMATION

ARTICLE 6 JUDICIAL PERSONALITY

The Central Bank shall be a juristic person, financially and administratively independent.

ARTICLE 7 OFFICES

The headquarters and main depository of the Central Bank shall at all times be located within the Capital District of the Sultanate. Such other offices or facilities as the Board of Governors may determine may be established within or outside the Sultanate to implement the authority and duties of the Central Bank.

ARTICLE 8 THE BOARD OF GOVERNORS

(One)The management of the Central Bank shall be entrusted to the Board of Governors which shall have full authority to perform all acts required for the management and operations of the Central Bank and the supervision of banking business in the Sultanate including the enumerated and residual powers set forth in Articles 14 and 15 of this Law.

(Two)The Board of Governors shall consist of seven governors appointed by His Majesty the Sultan, of whom one shall be designated Chairman and one shall be designated Deputy Chairman by His Majesty the Sultan.

ARTICLE 9 QUALIFICATIONS OF GOVERNORS

The Board of Governors shall at all times include at least one governor, other than the Chairman or Deputy Chairman, who is an individual experienced in private commercial or mercantile enterprises in the Sultanate, at least one governor, other than the Chairman or Deputy Chairman, who is an individual with knowledge in matters of economics or fiscal policy formation and one governor, other than the Chairman or Deputy Chairman, who is a representative of the Ministry of Finance.

ARTICLE 10 CONFLICT OF INTEREST

(One) No governor shall occupy the position of an officer, director or employee of a bank licensed or seeking to be licensed in the Sultanate. Any person who occupies the position of an officer, director or employee shall forthwith resign his office when appointed as governor.

(Two) No governor, except the representative of the Ministry of Finance appointed pursuant to Article 9 of this Law shall, while holding office, occupy any other office in the Government of the Sultanate provided,

however, that a governor may do any one or more of the following:

1. Act as a member of any commission or committee appointed in the Sultanate to enquire into matters affecting currency control, banking or other fiscal matters;
2. Become a director, governor or member of a board, by whatever name denominated, of any international bank, fund or authority to which the Sultanate shall have become a party or participant; or
3. Undertake such other responsibilities and duties as His Majesty the Sultan may direct.

ARTICLE 11 TERMS OF OFFICE AND REMUNERATION

(a) Members of the Board of Governors shall be appointed by His Majesty the Sultan for a five year term, renewable at the discretion of His Majesty the Sultan.

(b) The term of office of the Chairman and Deputy Chairman shall not exceed their respective terms of office as a governor, subject to reappointment by His Majesty the Sultan.

(c) The term of office on the Board of Governors of the governor who is a representative of the Ministry of finance shall not exceed his term of office in the Ministry.

(d) Whenever a vacancy shall occur among the Board of Governors, other than by the expiration of a term of appointment, a successor shall be appointed by His Majesty the Sultan to fill such vacancy. When appointed, the successor shall hold office for the duration of the unexpired term.

(e) The remuneration for each governor shall be fixed by the Board of Governors subject to the approval of His Majesty the Sultan.

(f) Every governor shall be allowed his reasonable expenses incurred in attending meetings of the Board of Governors or when officially representing the Central Bank or the Board of Governors.

ARTICLE 12 RESIGNATION

Any governor may submit a written resignation of his office to His Majesty the Sultan, provided, however, that the resignation shall not become effective for 30 days from the date of submission, unless otherwise determined by His Majesty the Sultan.

ARTICLE 13 REMOVAL

(a) The Board of Governors shall recommend to His Majesty the Sultan that a governor be removed from office by His Majesty the Sultan when any one or more of the following occur:

(1) If he becomes of unsound mind or is found to be incapable of carrying out his duties for health or other reasons;

(2) If he is adjudged bankrupt, suspends payments or improperly gives priority to personal or business creditors;

(3) If he is convicted of any felony or any offense involving fraud or dishonesty;

(4) If he is found guilty of any serious dereliction or misconduct in his duty as a governor;

(5) If he is found to have violated the provisions of Article 10 of this Law;

(6) If he repeatedly fails to attend meetings of the Board of Governors without cause; or

(7) If he is disqualified or suspended from practicing a profession as a disciplinary measure by order of the authority or group organized and responsible for the supervision of that profession.

(b) Notwithstanding the provisions of Article 13 (a) of this Law, by a two-thirds vote of those present at a meeting, the Board of Governors may recommend to His Majesty the Sultan that a governor be removed from office for cause by His Majesty the Sultan.

(c) Whenever a recommendation that a governor be removed from office has been made to His Majesty the Sultan, such governor shall be suspended from office and ineligible to exercise functions assigned to him under this Law, pending action by His Majesty the Sultan.

ARTICLE 14 POWERS

The Board of Governors shall be authorized and empowered to do the following:

(a) To establish the appropriate monetary policy for the Sultanate

(b) To examine at its discretion, the accounts, books, records and other affairs of any bank licensed or seeking to be licensed by the Central Bank. The Board of Governors may, in its discretion, delegate responsibility for undertaking any such investigation provided that appropriate action is taken to ensure that such investigation is held in the strictest confidence and that a full report of such investigation is submitted for review to the Board of Governors;

(c) To review the reports prepared pursuant to Article 14 (b) of this Law; to review the applications of banks seeking to be licensed in the Sultanate in accordance with Article 54 of this Law; to entertain requests by licensed banks to establish branches in accordance with Article 56 of this Law and to take such action as may be required to properly supervise and regulate banking in the Sultanate pursuant to Title Four of this Law;

(d) To set the standards and rates at which the Central Bank may purchase, sell, enter into repurchase

or reverse repurchase agreements, discount or rediscount the following held by licensed banks or by other banking institutions with which the Central Bank has been authorized to interact:

(1) commercial paper, including promissory notes maturing within 90 days, promissory notes for seasonal fishing and agriculture operations maturing within 180 days

(2) treasury bills and Bonds of the Sultanate

(3) Bills, bonds, debts and commercial paper for any of the Ministries, institutions or corporations of the Government of the Sultanate if they are guaranteed by the Government of the Sultanate.

Provided that the Board of Governors may, in its discretion, delegate the undertaking of such responsibilities within the Central Bank.

(e) To supervise and regulate all matters related to the currency of the Sultanate including the printing of currency notes, the minting of coins and the safeguarding, issuance and retirement of such notes and coins, as provided by Title Three of this Law;

(f) To require the creation of adequate provisions for treatment of or for the writing off of doubtful or worthless assets on the books and balance sheets of licensed banks in reports submitted to the Central Bank pursuant to Article 72 of this Law and published and displayed in accordance with Article 72 (d) of this Law;

(g) To withdraw the license or suspend the operation of any licensed bank in the Sultanate or to impose such other sanctions as have been authorized by the regulations of the Central Bank and as may be appropriate under the circumstances for failure to comply with directives or policies of the Central Bank or for any violation of the provisions of this Law, the rules and regulations of the Central Bank and other applicable laws of the Sultanate or if the Board of Governors determines that such bank is in an unsound or unsafe condition or that such suspension or other sanction would be to the best interest of depositors in the Sultanate and to take possession of any suspended bank, administer it during the period of suspension and, when deemed necessary, to liquidate and close or to reorganize such bank or to reopen or to order, at any time, the sale in whole or in part of business, property, assets and/or liabilities of such bank or take any other similar actions pursuant to Title Four of this Law and the rules and regulations of the Central Bank promulgated there under;

(h) To exercise general administrative supervision over the Central Bank, its officers and its employees;

(i) To receive and review the annual report of the Central Bank, to make recommendations that will improve the effectiveness of the Central Bank in

fulfilling its own mandate and contributing to the goals of the Government of the Sultanate and to forward the report of the Central Bank by the Chairman to His Majesty the Sultan with the recommendations of the Board of Governors thereon;

(j) To select, designate or employ officials, employees, advisers, special experts or consultants necessary to the proper and effective functioning of the Central Bank and to delegate to such officials, employees, advisers, special experts and consultants such powers and duties which the Board of Governors may, from time to time, decide are necessary to the effective functioning of the Central Bank or to ensure compliance with the rules and regulations of the Central Bank;

(k) To determine by a two thirds vote of all members of the Board of Governors present at a meeting the level of the reserves against deposits or any other reserves required pursuant to Articles 62 and 63 of this Law to be maintained with the Central Bank by the licensed banks and to adjust such reserve requirements within the limits set by Articles 62 and 63 of this Law or amendments thereto;

(l) To promulgate regulations of the Central Bank related to currency control including, but not limited to, limitations on the foreign currency to be held within the Sultanate by licensed banks, the interest to be paid on non-resident accounts held by such banks within the Sultanate and restrictions or limitations on the foreign transfer of currency of the Sultanate or its removal from the Sultanate should such action be required to maintain the value, supply and stability of credit and currency in the Sultanate;

(m) To promulgate regulations of the Central Bank prescribing limitations on the amount and nature of foreign currencies and securities held within the Sultanate by licensed banks, procedures to be followed by licensed banks in trading therein, and the uncovered foreign exchange position which may be maintained by licensed banks;

(n) To establish the legal frame work or structure necessary to provide insurance for the deposits of licensed banks and to issue the necessary regulations and rules for that purpose.

(o) To promulgate and enforce rules and regulations related to the provisions of this Law; banking regulations generally, and any activities undertaken by the Central Bank in relation to banking business or the use of banking instruments.

(p) To form committees within the Board of Governors to consider matters referred or delegated to the Board of Governors by His Majesty the Sultan, the Council of Ministers, members of the Board of Governors or other designated officials of the Central Bank; or any others deemed competent by the Board.

(q) To promulgate regulations of the Central Bank and to issue directives to particular licensed banks concerning the relationship between collateral and the purposes of the loan secured by such collateral and the limitations on the amount of collateral which a licensed bank may require as security for the loan of money or the extension of credit;

(r) To promulgate regulations of the Central Bank establishing rates of interest to be paid on time and demand deposits and of interest to be charged for the loan of money or extension of credit by licensed banks;

(s) To undertake such other responsibilities and projects as may be specifically delegated to the Board of Governors by His Majesty the Sultan, or by the provisions of other laws of the Sultanate; and

(t) To represent the Government of the Sultanate, when so designated by His Majesty the Sultan, in international financial and monetary agencies in which the Sultanate shall participate and to appoint representatives, committees or to otherwise participate in the activities, proceedings and negotiations of other central banks or international financial and monetary agencies.

*(u) To consider the banking and financial recommendations made by international agencies and supranational organizations, and adopt those which are consistent with public interest without conflicting with the provisions of applicable laws of the Sultanate.

ARTICLE 15 RESIDUAL POWERS

In addition to the powers and duties specifically enumerated and reserved to the Board of Governors by the provisions of this Law, it shall have such other authority necessary to perform all acts required for the proper administration of the Central Bank, the issuance of currency and the regulation of the banking institutions engaged or seeking to engage in banking business in the Sultanate, when such actions or acts are pursuant to the objectives of this Law and are not in conflict with the provisions of this Law and other laws of the Sultanate.

*Added by R.D.No 11/2004

ARTICLE 16 MEETINGS OF THE BOARD

(a) The Chairman shall preside at all meetings of the Board of Governors. In the absence or incapacity of the Chairman, the Deputy Chairman shall preside at meetings of the Board.

(b) Regular meetings of the Board of Governors shall be held according to a regular schedule set by the Board of Governors which shall provide for meetings at least quarterly. Agenda for regular meetings shall be distributed to the governors

in writing so as to reach the governors at least five days before a regular meeting.

(c) Officials of the Central Bank and officials of licensed banks may propose items for the agenda of regular meetings of the Board by submitting such matters to the Chairman or his designee at least two weeks before the scheduled date of the meeting.

(d) Special meetings of the Board of Governors may be convened by the Deputy Chairman, or upon the request of two or more governors, at such time and such place as necessary. Notice of a special meeting shall be given to each governor in sufficient time to allow attendance and shall include an agenda of all items to be considered at that meeting.

(e) Four governors, one of whom shall be the Chairman or Deputy Chairman, shall constitute a quorum at any regular or special meeting. Governors shall not have the right or authority to give their proxy or designate any person to represent them at a meeting of the Board of Governors.

(f) Unless otherwise specified by this Law, decisions of the Board of Governors shall be made by a majority vote of the governors present and voting and, in the case of an equality of votes, the Chairman of the meeting will have a casting vote.

(g) Actions or proceedings of the Board of Governors shall not be held invalid because of a vacancy on the Board of Governors or because of a defect in the appointment or qualification of a governor.

(h) Accurate and complete minutes of all actions and proceedings of the Board of Governors shall be maintained in the permanent records of the Central Bank.

(i) Action by the Board of Governors may be taken without a meeting, provided, however, that all members of the Board of Governors have consented in writing to the action.

(j) Whenever any notice concerning a meeting or agenda of the Board of Governors is required under this Law, a written waiver of the notice signed by the party entitled to notice, whether before or after the time designated for the notice, shall be deemed to be notice.

(k) Meetings of the Board of Governors may be held within or without the Sultanate at such place as may be set by the Board of Governors or as may be provided by notice. If no specific place for a meeting has been designated, the meeting shall be held at the principal office of the Central Bank in the Capital District of the Sultanate.

(l) Deliberations of the Board of Governors shall be in confidence and parties participating in the deliberations shall not reveal the substance of these discussions or deliberations except to His Majesty the Sultan or to other members of the Board of

Governors. The Board of Governors may nevertheless invite such consultants, advisers and officers as it may deem appropriate or necessary to attend meetings of the Board.

(m) The Board of Governors may, by a two-thirds vote of members of the Board of Governors present at a meeting adopt by-laws and other rules of procedure for the meetings and decisions of the Board of Governors.

(n) The Board of Governors may, by a two-thirds vote of all members of the Board of Governors present at a meeting, create an Executive Committee consisting of three or more members of the Board of Governors, one of whom shall be the Chairman or Deputy Chairman. The Executive Committee shall have such powers as the Board of Governors may delegate, provided, however, that the Board of Governors may not delegate its authority under Article 14 (i), (k), (l) or (m) of this Law.

ARTICLE 17 REPORTS

(a) The Central Bank shall prepare a monthly statement for distribution to each governor showing the financial condition of the Central Bank, including a statement of the domestic and foreign currencies held as reserves, the amount, nature and maturity of commercial papers and other negotiable instruments owned or held by the Central Bank and a statement of the assets and liabilities of the Central Bank. A summary of such statements shall be prepared for publication in the official Gazette quarterly.

(b) Within 120 days of the close of the fiscal year of the Central Bank, unless an extension is granted by His Majesty the Sultan, the Board of Governors shall submit to His Majesty the Sultan a full written report of the affairs of the Central Bank during the previous year, including, but not limited to, the following:

(1) A detailed statement of its internal and external achievements;

(2) A detailed statement of the status of any international organizations and funds in which the Sultanate has become a member;

(3) A compilation of all rules and regulations relating to the Central Bank and to the conduct of banking business in the Sultanate promulgated during the fiscal year, with a summary of any rules or regulations which have been superseded, cancelled or have otherwise become inapplicable;

(4) A report of all actions taken to stabilize or otherwise maintain the international exchange rate of the currency of the Sultanate;

(5) A statistical analysis of the currency in circulation in the Sultanate for the year then ended and projections therefore for the ensuing year;

(6) A report of the banking business in the Sultanate and of the activities of licensed banks for the year then ended;

(7) A full fiscal report including a balance sheet showing the financial condition of the Central Bank at the close of the fiscal year, a profit and loss statement for such fiscal year and a proposal for the allocation of any net profit;

(8) Recommendations for future programs within the scope of authority of the Central Bank, with recommendations for programs and policies to improve the security, stability and progress of the Sultanate;

(9) Such additional reports as may have been requested by His Majesty the Sultan.

(10) Such additional matters as the Board of Governors believes should be brought to the attention of His Majesty the Sultan.

(c) The Board of Governors shall prepare and submit such interim and additional reports in such manner and at such times as His Majesty the Sultan may prescribe.

ARTICLE 18 ANNUAL BUDGET AND AUDITS

(a) The Central Bank shall finance its operations from the income earned on its paid-in capital and other investments and from additional appropriations provided, as necessary, by the Government of the Sultanate.

(b) The Central Bank shall prepare an annual budget for its operation and submit it to the Board of Governors for approval.

(c) The Central Bank shall place at the disposal of auditors, independent of the Central Bank, selected by His Majesty the Sultan, all documents and other information necessary to enable such auditors to conduct a full and complete audit of the Central Bank and make their report thereon.

ARTICLE 19 EMERGENCY PROVISIONS

The Board of Governors shall, by regulation, specify special procedures to be followed when a national emergency has been declared by His Majesty the Sultan and at such other times when domestic or international monetary conditions require immediate action by the Central Bank. Such regulations shall set forth guidelines for the exercise of discretion by the Chairman, Deputy Chairman or committees of the Board of Governors, and by other specified officials of the Central Bank or the Government of the Sultanate. Any exercise of such discretion by the Chairman, Deputy Chairman or committees of the Board of Governors or by other officials of the Central Bank shall be referred to the Board of Governors for ratification or modification at a special meeting called immediately by the Chairman

or Deputy Chairman of the Board of Governors. However, any action taken in the exercise of such discretion by the Chairman, Deputy Chairman or Committees of the Board of Governors or by other officials prior to such meeting shall remain in full force and effect.

ARTICLE 20 ACTS OF OFFICERS

(a) Unless otherwise provided in this law, it shall be within the scope of the authority of the Chairman of the Board of Governors, the Deputy Chairman or their designees, except as otherwise provided by specific provisions of this Law, to exercise contractual powers and powers pertaining to the acquisition, use, appropriations, sale, transfer or other disposition of real or personal property as such powers are necessary to the conduct of the business of the Central Bank subject to the laws of the Sultanate applicable to contracts entered into by or on behalf of the Government; to solicit legal advice and expert opinion; to support co-operation and interaction among the ministries of the Government of the Sultanate; to prepare budgets, fiscal reports, audits and annual and interim reports required under this Law or by the Board of Governors; and to undertake such other duties as the Board of Governors or His Majesty the Sultan may determine.

(b) Any third party without knowledge shall be entitled to assume that any action taken by the Board of Governors or committees thereof, the Chairman, Deputy Chairman and other officers of the Central Bank in pursuance of the business of the Central Bank was within their scope of authority provided such action was within the scope of their apparent authority. The Central Bank shall be bound by any such action.

(c) The Central Bank shall be bound by the acts performed by its Board of Governors or committees thereof, the Chairman, Deputy Chairman and by officers of the Central Bank appointed by the Board of Governors, when they are acting in the name of the Central Bank and within the scope of their authority as provided in this Law.

ARTICLE 21 OFFICERS AND EMPLOYEES OF THE CENTRAL BANK

(a) The Executive President of the Central Bank shall be appointed by Royal Decree, and the Board of Governors may empower him what it sees fit and appropriate of its powers. The Executive President of the Central Bank shall be responsible for implementing the policies and decisions issued by the Board of Governors and shall also be responsible for the executive management in the Central Bank pursuant to this law and the Regulation issued in accordance thereto.

(b) The Board of Governors or designated officials may employ, hire or otherwise appoint such officials, employees, advisers, special experts or consultants as the Board may deem necessary to the conduct of the activities of the Central Bank.

(c) The Board of Governors or designated officials shall determine and specify the qualifications of officials, employees, advisers, special experts or consultants necessary to the conduct of the activities of the Central Bank and shall specify the procedures for the recruitment, selection and appointment of such officials, employees, advisers, special experts or consultants from within or outside the Sultanate.

(d) In accordance with the applicable laws of the Sultanate, the Board of Governors or designated officials shall specify the procedures for making appointments, and the remuneration and benefits to be paid to officials, employees, advisers, special experts or consultants appointed hereunder, provided, however, that no salary, fee, wage or other remuneration or allowance paid by the Central Bank shall be computed by reference to the net or other profits or reserves of the Central Bank.

ARTICLE 22 LIABILITY OF GOVERNORS, OFFICIALS AND OTHER EMPLOYEES

(a) The members of the Board of Governors, and any other official, employee, adviser, special expert or consultant of the Central Bank shall not be held liable for any loss or damage suffered by the Central Bank, unless such loss or damage is caused by the fraudulent or willful act or failure to act of that governor, official, employee, adviser, special expert or consultant in which case any of such persons may be held personally liable in any proceeding brought in a forum of competent jurisdiction by the Board of Governors.

(b) The Central Bank shall provide by regulation for the reimbursement to any governor, official, employee, adviser, special expert or consultant of the cost of defense in any proceedings, whether civil or criminal, alleging liability for acts in the management of the Central Bank, unless a final judgment in such proceeding shall find the governor, official, employee, adviser, special expert or consultant personally liable for any loss by or damage caused to the Central Bank.

ARTICLE 23 EFFECTIVENESS OF REGULATIONS

Regulations promulgated by the Board of Governors, pursuant to the provisions of this Law and amendments thereto, shall become effective 30 days after publication thereof in the Official Gazette or on any other date as may be specified by the Board of Governors in the Official Gazette.

ARTICLE 24 DECLARATION OF CONFIDENTIALITY

(a) Members of the Board of Governors and all officials, employees, advisers, special experts or consultants appointed hereunder shall not disclose any information acquired in the performance of their functions except when such disclosure is necessary to the fulfillment of their duties and is made to other Central Bank personnel or other authorized representatives of the Central Bank, when such person is called to give evidence in a judicial or similar proceeding before a tribunal created under the laws of the Sultanate or when such disclosure is necessary to the fulfillment of obligations imposed by other laws of the Sultanate or to foreign Central Banks or other regulators responsible for the supervision of any aspect of activities of banks in Oman or their branches or affiliates abroad.

(b) Any former member of the Board of Governors and any former official, employee, adviser, special expert or consultant of the Central Bank shall not disclose any information, whether documentary or otherwise, acquired in the performance of his functions, without the express permission of the Board of Governors.

(c) Any person who contravenes the provisions of this Article shall be subject to prosecution under the provisions of Chapter Two, Title Two, Book Two of the Penal Code of Oman as amended from time to time.

ARTICLE 25 BONDING

All members of the Board of Governors, any official or employee of the Central Bank with the authority to bind the Central Bank and any employee or other person whose duties include the safeguarding, signing or transferring of any collateral, bond, currency or other property of the Central Bank may be required to be bonded at the expense of the Central Bank, in such amounts and in such manner as may be determined by the Board of Governors.

CHAPTER TWO: FUNCTIONS OF THE CENTRAL BANK

ARTICLE 26 OFFICIAL BANK OF THE GOVERNMENT

(a) The Central Bank shall act as the depository bank for the Government of the Sultanate and may act for each Ministry, institution or corporation thereof, by accepting for deposit government revenues in lawful money, notes, checks or other drafts payable on demand or at a certain time and by borrowing funds for the Government of the Sultanate.

(b) Upon the lawful direction of any persons so authorized by the Government of the Sultanate or by any Ministry, institution or corporation thereof, the Central Bank shall effect transfers and issue checks and advances drawn against deposits made pursuant to Article 26 (a) of this Law.

(c) The Central Bank may make advances to the Government of the Sultanate in respect to temporary deficiencies in recurrent revenues, provided, however, that the total amount of advances made under this provision plus the face value of outstanding treasury bills issued by the Central Bank on behalf of the Government shall not exceed ten percent of the budgeted recurrent revenue of the Government of the Sultanate for the fiscal year in which such advances are made and provided, further, that any advance so made shall be entirely repaid within 90 days. Should any advance remain unpaid after such date, the Central Bank shall make no further advances until the amount due on the outstanding advance has been fully repaid.

(d) Pursuant to regulations established by the Board of Governors, the Central Bank may issue and/or manage treasury bills, bonds, commercial paper and any other debts of the Government of the Sultanate or any Ministry, institution or corporation thereof if they are guaranteed by the Government of the Sultanate.

ARTICLE 27 DEPOSITORY FUNCTIONS

(a) The Central Bank may open accounts for and accept deposits from licensed banks, from central banks of other countries and from international financial or monetary agencies, each of which may utilize the Central Bank as correspondent bank in the Sultanate.

(b) The Central Bank may open and maintain accounts with licensed banks and with international financial or monetary agencies in which the Sultanate is a participant and with central banks of other countries provided, however, that if any such account is maintained with a licensed bank, such licensed bank shall be required to increase its deposits with the Central Bank by a sum equal to not less than the average daily amount of such account during a month or such amount as may be determined by the Board of Governors at the close of business on the last Thursday of every month.

(c) The Central Bank may open and maintain accounts with foreign banks not licensed to engage in banking business in the Sultanate, provided, however, that the deposits with such foreign banks are necessary to the effective operation of the Central Bank.

ARTICLE 28 INVESTMENT AND CREDIT FUNCTIONS

The Central Bank, when so authorized by the Board of Governors and except as otherwise provided by this Law, may undertake to do any one or more of the following:

(a) Purchase, sell, enter into repurchase or reverse repurchase agreements, discount and rediscount the following at rates determined pursuant to Article 14 (d) of this Law:

(1) Promissory notes held by licensed banks and maturing within 90 days, exclusive of days of grace, if any, from the date of acquisition by the Central Bank;

(2) Promissory notes drawn or issued to finance seasonal, agricultural and fishing operations in the Sultanate held by licensed banks and maturing within 180 days, exclusive of days of grace, if any, from the date of acquisition by the Central Bank; and

(3) Treasury bills, bonds, commercial paper and any other debts of the Government of the Sultanate or any Ministry, institution or corporation thereof, if they are guaranteed by the Government of the Sultanate.

(b) Issue bills, certificate of deposits and other similar Central Bank instruments and purchase, sell, discount and rediscount and enter into repurchase agreements for such instruments.

(c) Purchase and sell securities of or which have been guaranteed by the Government of the Sultanate when such securities have or will have a public market at the time of acquisition and when such securities are to mature within a period of not more than ten years, provided, however, that the Central Bank at the discretion of the Board of Governors may also hold such securities when such securities have been deposited with the Central Bank pursuant to Article 62 of this Law as a reserve against the deposits of a licensed bank.

(d) Grant advances to licensed banks for fixed periods not to exceed 90 days at a rate of interest determined by the Board of Governors, provided, however, that such advances are evidenced by promissory notes secured by a pledge of one or more of the following collateral:

(1) Securities of the Government of the Sultanate which have or will have a public market and are to mature within a period of not more than ten years, provided, however, that any such advance may not at any time exceed 75 percent of the current market value of the security pledged;

(2) Promissory notes and other negotiable instruments eligible for purchase, discount or rediscount by the Central Bank under this Article 28, provided, however, that any advance shall not

exceed 75 percent of the principal amount of the instruments pledged.

(e) To issue checks, demand drafts and other instruments payable at the office of the Central Bank.

(f) Purchase, hold and sell foreign currencies and purchase, sell, discount and rediscount bills of exchange or Treasury bills drawn on or in governments and places outside the Sultanate, provided, however, that such instruments mature within a period as determined by the Board of Governors.

(g) Purchase, hold and sell securities of the central bank or monetary authority of a nation other than the Sultanate.

(h) Purchase, hold and sell securities issued or guaranteed by a government of a nation other than the Sultanate provided, that such assets are held as an external asset under Article 32 of this Law.

(i) Purchase, hold and sell notes, deeds and other securities issued by international financial institutions, monetary authorities and organizations in which the Sultanate is a participant provided that such securities are denominated in freely convertible foreign currency, Special Drawing Rights, or other monetary measure or numeraire recognized by international financial markets.

(j) Purchase, hold and sell notes, deeds and other securities issued by foreign governments or international financial institutions, monetary authorities and organizations in which the Sultanate is a participant, provided, however, that they are readily negotiable or are traded on recognized exchanges and provided, further, that the maturity date of such type of securities does not exceed the period determined by the Board of Governors.

(k) In any transaction under the provisions of Articles 28 (f), (g), (h), (i) and (j) of this Law, the security shall be payable in a currency which is freely convertible at the time of the transaction.

ARTICLE 29 CURRENCY AND CLEARING HOUSE FUNCTIONS

The Central Bank, when so authorized by the Board of Governors, may undertake to do the following:

(a) Issue, hold and recall the currency of the Sultanate as provided by Title Three of this Law;

(b) Serve as the clearing house either directly or through contractual arrangements with all licensed banks;

(c) Purchase and sell, as principal or as an agent for a correspondent bank or other person approved by the Board of Governors, gold and silver coins and bullion and coins and bullion of such other

metals as may, from time to time, be utilized as a monetary asset; and

(d) Purchase, sell, collect and pay, as principal or as an agent for a correspondent bank or other person approved by the Board of Governors, securities, currency and credit instruments within and outside the Sultanate.

ARTICLE 30 RESIDUAL FUNCTIONS

The Central Bank may undertake the following:

(a) Purchase, acquire or lease property necessary for the conduct of the business of the Central Bank and necessary for the housing of employees of the Central Bank within or outside the Sultanate;

(b) The Central Bank may also, on specific authorization of the Board of Governors or His Majesty the Sultan, carry out all other operations that are usually undertaken by central banks, which are not inconsistent with the exercise of its powers and responsibilities under this Law or under any other applicable law of the Sultanate.

CHAPTER THREE: ASSETS AND CAPITAL OF THE CENTRAL BANK

ARTICLE 31 LEVEL OF EXTERNAL RESERVES

The Central Bank shall at all times maintain a reserve of external assets which shall be related in value to the value of currency notes and coins in circulation in such ratio as may be prescribed from time to time by the Board of Governors subject to the approval of His Majesty the Sultan.

ARTICLE 32 CATEGORIES OF EXTERNAL ASSETS

Notwithstanding the provisions of Article 28 of this law, the reserve of external assets may consist of any one or more of the following, provided they adhere to all limits, classifications, constraints, restrictions and qualifications whatsoever laid down by the Board of Governors:

(1) Gold or silver coins, which are legal tender.

(2) Bullion of gold, silver or such other precious metals as may, from time to time, be utilized as a monetary asset and freely traded on international exchanges.

(3) Foreign currencies or basket of currencies.

(4) Bank demand and time deposits, certificates of deposit and acceptances denominated in freely convertible foreign currencies.

(5) Treasury Bills, commercial papers and any other short term money market instruments denominated in freely convertible foreign currencies and issued by foreign banks, foreign governments, foreign public agencies or supranational organisations.

(6) Floating Rate Notes denominated in freely convertible foreign currencies and issued by foreign banks, foreign governments, foreign public agencies or supranational organisations.

(7) Fixed interest securities and notes denominated in freely convertible foreign currencies and issued or guaranteed by foreign banks, foreign governments, foreign public agencies and supranational organisations.

(8) Any internationally recognized reserve asset, including special drawing rights, issued by the International Monetary Fund.

ARTICLE 33 CAPITAL

The Central Bank shall have a minimum capital of two hundred and fifty million Rials Omani which may be increased from time to time by the Board of Governors subject to the approval of His Majesty the Sultan. The increase may be effected by transfer from internal reserves of the Central Bank or by contribution from the Government of the Sultanate.

ARTICLE 34 GENERAL RESERVE FUND

(a) The Central Bank shall establish a general reserve fund and the annual net profit accruing each year shall be transferred into the general reserve fund until the balance of such fund equals not less than 25 percent of the value of currency in circulation or such greater amount as the Board of Governors may determine.

(b) At such time as the balance of the general reserve fund attains 25 percent of the value of currency in circulation, the amount of profits to be distributed to the Government of the Sultanate out of the remaining net profits after appropriation to additional reserves shall be decided by the Board of Governors pursuant to Article 37 of this Law.

(c) For the purpose of payment to the general reserve fund, net profits at the end of any fiscal year shall be profits realized by the Central Bank, less allowances made for the expenditures of the Bank, reserves for bad debts, depreciation of assets and contributions to pension or trustee funds formed for the benefit of the employees of the Central Bank.

ARTICLE 35 DEFICIENCIES IN GENERAL RESERVE FUND

If at the conclusion of any annual accounting period, the general reserve fund is insufficient to

cover the losses of the Central Bank for the previous year, the deficiency shall be a liability of the Government of the Sultanate and shall be paid by the Government of the Sultanate within 90 days. Any deficiency shall continue to be a liability of the Government until such payment is made to cancel the liability.

ARTICLE 36 INVESTMENT OF GENERAL RESERVE FUND

The general reserve fund shall be invested at the discretion of the Board of Governors.

ARTICLE 37 ADDITIONAL RESERVES

Additional reserves may be created out of profits of the Central Bank for specific purposes by a resolution of Board of Governors. These reserves and retained profits may be held by the Central Bank in domestic or foreign currencies or may be invested at the discretion of Board of Governors. The amount of profits that may be distributed to the Government, after the minimum requirement under Article 34 of this Law is met, shall be determined by Board of Governors.

ARTICLE 38 ACCOUNTING

The amount of profits, losses, credits, debits, depreciation, funded and unfunded reserves and other financial analyses, required under this chapter, shall be determined according to the generally accepted principles of accounting, including the International Accounting Standards in so far as they do not contradict any provisions of this Law, agreed by the Auditors appointed pursuant to Article 18 (c) of this Law and approved by the Board of Governors.

ARTICLE 40 CURRENCY AND BONDS VALUATION ADJUSTMENTS

Unrealized profit and losses arising from revaluation of net assets or liabilities whether in gold, silver, other precious metals, foreign currencies, bonds or shares, as a result of the change in the par value or international exchange value of Rial Omani, external value of currency of another nation or change in market values of bonds and shares, shall be excluded from the computation of the annual profits and losses of the Central Bank as determined under the provisions of this Law. Provisions of this Article do not apply to clearly determined realized gains and losses.

TITLE THREE: CURRENCY

ARTICLE 41 CURRENCY UNIT

(a) The unit of currency of the Sultanate shall be the Rial Omani and shall be sub-divided into 1,000 baizas.

(b) Any reference to the Rial Omani in any enactment, instrument or any other document shall be construed as a reference to the equivalent amount of currency under this Law.

ARTICLE 41 PARITY

(a) The par value of the Rial Omani shall be determined from time to time by His Majesty the Sultan.

(b) The par value of the Rial Omani, or any change thereof, shall be declared in terms of gold, units of special drawing rights, a foreign currency, or a basket of currencies, or an internationally recognized unit of account for currencies, provided, however, that any such determination shall be in accordance with the conditions of any international monetary agreement to which the Sultanate is then a party.

ARTICLE 42 DENOMINATION

Subject to the approval of His Majesty the Sultan, the Board of Governors shall determine the denomination, the form, the design, the material and all other characteristics of currency notes and coins to be circulated.

ARTICLE 43 RIGHT OF ISSUE

(a) The Central Bank shall have the sole right to issue currency notes and coins to be circulated as legal tender. No other ministry, department or agency of the Government of the Sultanate and no other person or entity may issue currency notes or coins to be circulated as legal tender.

(b) Any violation of this Article shall be an offense against public confidence as provided in Chapter One, Title Three, Book Two of the Penal Code of Oman as amended from time to time.

ARTICLE 44 PRINTING OF NOTES AND MINTING OF COINS

(a) The Central Bank, through its own facilities or by contractual arrangements, shall cause notes, as determined by the provisions of Article 42 of this Law, to be printed and numbered in such quantities as are required to supply the needs of the Sultanate and in such manner as to guard against counterfeiting and fraudulent alterations.

(b) The Central Bank, through its own facilities or by contractual arrangements, shall cause coins of

weights, compositions and denominations, as determined pursuant to Article 42 of this Law, to be minted in such quantities as are required to meet the needs of the Sultanate and in such a manner as to guard against counterfeiting and fraudulent alterations.

ARTICLE 45 LEGAL TENDER

(a) Currency notes and coins minted of gold or silver issued by the Central Bank shall be legal tender at their face value for payment in any amount, provided, however, that such currency note has not been mutilated or is otherwise imperfect and that such coin has not been tampered with or otherwise impaired.

(b) Coins, other than those minted of gold or silver, shall be legal tender up to and including an amount of two Rials Omani, provided, however, that such coins have not been tampered with or otherwise impaired.

(c) Any coin shall be deemed to have been tampered with if it is impaired, diminished or lightened other than by normal wear and tear or defaced by stamping, engraving or piercing, whether or not the coin shall have been diminished or lightened thereby.

(d) The Board of Governors may authorize the Central Bank to terminate use of currency notes or coins as legal tender by publishing a notice in the Official Gazette setting the date on which such currency note and coin shall cease to be legal tender. Until the date on which such note or coin shall cease to be legal tender, the Central Bank shall tender payments of the face value of the note or coin upon surrender thereof, provided, however, that if such date is less than 360 days from the date on which notice is published in the Official Gazette, payment shall be tendered for a period of 360 days from the date of such publication.

ARTICLE 46 SPECIAL ISSUES

Subject to the approval of His Majesty the Sultan, the Board of Governors may and, at the direction of His Majesty the Sultan, the Board of Governors shall, cause the Central Bank to issue coins and sets of coins of special weights, compositions and denominations. Such coins shall be denominated as special issues of the Central Bank, shall be legal tender at their face value for payment in any amount and may be offered at face value or at a premium.

ARTICLE 47 LOST OR IMPERFECT CURRENCY NOTES AND COINS

No person shall be entitled, as of right, to recover from the Central Bank the value of any lost, stolen, mutilated or otherwise imperfect currency note

or coin, but the Central Bank may, within the absolute discretion of the Board of Governors, refund as of grace the value of any mutilated or imperfect currency note or of any coin which has been tampered with.

ARTICLE 48 CURRENCY IN CIRCULATION

The Central Bank shall publish in the Official Gazette, at least once a month, the aggregate value of all currency then in circulation and the aggregate value of any special issues authorized by the Central Bank.

TITLE FOUR: REGULATION OF BANKING

CHAPTER ONE: GENERAL PROVISIONS

ARTICLE 49 SCOPE AND PURPOSE

Pursuant to its authority under this Law, the Board of Governors shall have the authority to regulate and supervise the banking business in the Sultanate.

ARTICLE 50 USE OF WORDS BANK OR BANKING

It shall be unlawful for any person other than a licensed bank to use the word “bank” or “banking” in its name or to imply by advertising or otherwise that it is engaged in the banking business, provided, however, that a foreign bank may use its name and publicize its business activities if such use and publicity clearly establish that such foreign bank does not engage in the banking business within the Sultanate. Licensed financial institutions may however advertise the banking business they are authorized to engage in by the Central Bank.

Any person who violates the above provision shall be penalized by a fine not less than 100 Rials Omani and not exceeding 250 Rials Omani for each day of violation.

ARTICLE 51 BANKING HOURS

(a) The Central Bank may establish regulations prescribing hours and days during which licensed banks are required to be open for the transaction of banking business and designating days of the week, holidays and other days on which licensed banks are prohibited from being open for the transaction of banking business.

(b) Any obligation which may be discharged only at a licensed bank and which becomes due on a day on which licensed banks are not open for the transaction of banking business or at an hour which is not a part of the banking day shall be deemed to become due at the opening of the licensed bank on the next banking day.

CHAPTER TWO: LICENSING OF BANKS AND BRANCH AUTHORIZATION

ARTICLE 52 LICENSING REQUIREMENTS

No person shall engage in banking business in the Sultanate as either a domestic or foreign bank, or practice any other banking activity whatsoever, unless such a person has been granted a license by the Central Bank, provided, however, that financial institutions other than banks may engage in activities falling within the definition of banking business, except receiving deposits, and provided that those financial institutions are regulated pursuant to other Laws of the Sultanate by a recognized regulator.

Any person who violates the above provision shall be penalized by a fine of not less than 100 Rials Omani and not exceeding 250 Rials Omani for each day of violation in addition to imprisonment for a period not less than 10 days and not exceeding 3 years or by one of the two mentioned penalties plus the closure of the place wherein he practices the banking business.

ARTICLE 53 APPLICATIONS FOR BANKING LICENSES

(a) Any person seeking to be licensed to engage in banking business in the Sultanate shall submit the following to the Central Bank:

(1) An “Application for a Banking License” in the form prescribed by regulations of the Central Bank;

(2) If the applicant is to be a domestic bank, a copy of the proposed articles of incorporation of the applicant in the form required by the Commercial Companies Law;

(3) If the applicant is a foreign bank, a copy of its constitutive contract or articles of incorporation and proof of its authority to engage in banking business in the jurisdiction in which it is organized or domiciled and undertakes banking business.

(4) A “Plan of Operation” in the form prescribed by regulations of the Central Bank which shall include, but not be limited to, information concerning the geographical and commercial communities to be served by the applicant, the specific kind of banking business in which the bank intends to engage and the need for the particular bank or banking business in the communities to be served; and

(5) Such other materials as may be prescribed by regulations of the Central Bank.

(b) Any submissions to the Central Bank under this Article 53 shall not relieve a person of submitting any documents which may be required by any laws of the Sultanate, including, but not limited

to, submissions required by the Commercial Companies Law and the Commercial Register Law.

ARTICLE 54 REVIEW AND APPROVAL OF LICENSE

(a) The Central Bank shall forward written notice to the applicant for a license to engage in banking business in the Sultanate specifying the date that the application was completed, provided, however, that such notice shall not be considered as passing upon any requirement imposed by any other laws of the Sultanate.

(b) The Board of Governors shall review each application for a license to engage in banking business in the Sultanate and shall determine whether such application meets the requirements of this Title, the commercial, financial and economic needs of the Sultanate, the objectives of this Law and such other factors as may be required by regulations of the Central Bank.

(c) Not later than 120 days after the applicant is notified that his application is complete, if the application has met the requirements of Article 54 (b) of this Law, the Board of Governors shall approve the application. If the Board determines that the applicant has not met such requirements, it shall so notify the applicant specifying the basis for the Board's determination.

(d) Approval of the application to engage in banking business in the Sultanate shall be made by the Board of Governors. Failure to approve or disapprove such an application within such 120 days shall constitute a disapproval of the application.

ARTICLE 55 COMMENCEMENT OF BANKING ACTIVITIES

(a) A person applying to engage in banking business in the Sultanate shall have full power to undertake banking business in such manner and at such location as approved and authorized pursuant to this Title from the date on which a license is granted, provided, however, that a domestic bank may not exercise such power until it has completed its incorporation in accordance with and has been authorized to begin its business under the Commercial Companies Law.

(b) Within 360 days of the date provided by Article 55 (a) of this Law, or within 360 days of the date on which a domestic bank has been listed in the Commercial Register as a joint stock company, whichever date is later, a licensed bank under this Title must have fully complied with all applicable requirements and conditions to the commencement of operations as required by this Title, the Commercial Companies Law and any other applicable laws of the

Sultanate or of the jurisdiction in which the bank is organized or domiciled.

(c) The failure by any bank to which a license to engage in banking business in the Sultanate has been granted to commence its operations within the period provided in Article 55 (b) of this law shall result in an automatic revocation of the license unless the Board of Governors has authorized an extension of such period.

ARTICLE 56 BRANCHES OF BANKS

(a) Any licensed bank may, with the approval of the Board of Governors, establish and operate branch offices within or outside the Sultanate.

(b) Any licensed bank seeking to establish a branch office within or outside the Sultanate shall submit the following to the Central Bank:

(1) A request for authorization of each branch to the Central Bank in the form prescribed by regulations of the Central Bank;

(2) A "Plan of Operation", which shall include, but not be limited to, information concerning the types of geographical and commercial communities to be served by the applicant, the specific kind of banking business in which the bank intends the proposed branch to engage and the need for the particular bank or banking business in the communities to be served;

(3) Such other materials as may be prescribed by regulations of the Central Bank.

(c) The Board of Governors shall review the request for authorization of a branch office and shall grant approval if, in its discretion, it determines that the branch will contribute to the economic needs of the community to be served and that the licensed bank has the banking, managerial and economic resources to accommodate branch expansion.

(d) Approval or disapproval of any request for authorization of a branch office shall be made by the Board of Governors within 90 days from the date the application was submitted. A bank shall be authorized to undertake banking activities at the authorized branch from the date on which approval is granted.

(e) The failure by any bank to commence operations at the authorized branch within 180 days from the date of approval by the Board of Governors in accordance with Article 56 (d) of this Law shall result in an automatic revocation of the authorization unless the Board of Governors has authorized an extension of such period.

ARTICLE 57 REORGANIZATION AND CHANGE IN CONTROL OF LICENSED BANKS

(a) No licensed bank shall amend its constitutive contract or articles of incorporation or

effect any change in its organization or operation in a manner which would have required such licensed bank to furnish different information in its application for a banking license submitted to the Board of Governors in accordance with Article 54 of this Law without obtaining the prior approval of the Board of Governors to such amendment or change.

(b) No person or a group of persons acting individually or jointly or for a common purpose shall own, or authorize or record the transfer of more than ten per cent of the voting shares, or the equivalent thereof, of a licensed bank without obtaining prior approval of the Board of Governors to such ownership or transfer, provided also that the licensed bank shall not effect such record or transfer without obtaining prior approval of the Central Bank.

(c) No commercial company or other business entity holding ten percent or more of the voting shares, or the equivalent thereof, of a licensed bank shall merge into or combine with or effect a consolidation with any other business entity or issue, authorize or record the transfer of any interest in itself in excess of 25 percent of its outstanding voting shares, or the equivalent thereof, to any person or any group of persons acting jointly or to a common purpose without obtaining prior approval of the Board of Governors to such merger, consolidation, issuance or transfer.

(d) No licensed bank shall merge into or combine with or effect a consolidation with any other business entity without obtaining prior approval of the Board of Governors to such merger or consolidation.

(e) Applications for approval of any transaction specified in this Article 57 shall be submitted to the Board of Governors in such form as may be required by regulations of the Central Bank.

(f) Any application filed pursuant to this Article 57 shall be approved or denied by the Board of Governors within 90 days of the date on which such application was filed and shall be approved by the Board of Governors if it determines, in its discretion, that such approval will not adversely affect the depositors or creditors of the licensed bank within the Sultanate.

(g) Any act undertaken or committed in contravention of Article 57 shall be construed as null and void. The Board of Governors shall have the power to take appropriate action on such offenses including the right to order the immediate reversal of ownership of the shares.

ARTICLE 58 APPLICATION FOR RECONSIDERATION

Any person adversely affected by any decision of the Board of Governors under this Chapter may request the Board to reconsider such decision at

such time and in such manner as may be prescribed by regulations of the Central Bank.

ARTICLE 59 APPLICATION AND LICENSE FEES

The Board of Governors may require the payment of reasonable application and licensing fees by persons seeking to be licensed in the Sultanate or banks requesting authorization to establish branches and by domestic and foreign banks engaged in banking business in the Sultanate. Such fees shall be established and collected pursuant to regulations of the Central Bank.

CHAPTER THREE: FINANCIAL REQUIREMENTS OF LICENSED BANKS

ARTICLE 60 INITIAL CAPITAL

(a) Any domestic bank shall have and at all times maintain a paid-in capital of not less than Twenty Million Rials Omani or such higher amount as may be determined from time to time by the Board of Governors.

(b) Any foreign bank shall have and at all times maintain within the Sultanate a paid-in capital of not less than Three Million Rials Omani as initial capital or such higher amount as may be determined from time to time by the Board of Governors. This amount shall be maintained at all times within the Sultanate, shall be available for the transaction of banking business within the Sultanate and shall be in addition to and exclusive of funds required to be maintained with the Central Bank as capital deposits pursuant to Article 61 of this Law and as reserves against deposits pursuant to Article 62 of this Law.

ARTICLE 61 CAPITAL DEPOSITS

(a) In addition to the initial capital required pursuant to Article 60 of this Law and the reserves against deposits required by Article 62 of this Law, a licensed bank shall be required to make a capital deposit under this Article 61 before commencing banking business and shall be required at all times to maintain a capital deposit with the Central Bank.

(b) The Central Bank may require the capital deposit of a licensed bank to be at all times equal to the greater of 10 percent of the deposits made in Rials Omani in such bank which have been transferred by the licensed bank into an account maintained in a currency other than Rials Omani or the amount provided by Article 61 (c) of this Law.

(c) The capital deposit of a licensed bank shall be equivalent to one-tenth of one percent of all the banking resources of the business entity,

corporation or other business combination which includes the subject bank, as computed annually pursuant to regulations of the Central Bank, provided, however, that the minimum capital deposit shall not be less than the equivalent of 50,000 Rials Omani and the maximum capital deposit required shall not be greater than the equivalent of 500,000 Rials Omani.

(d) The capital deposit made by a bank pursuant to the requirements of this Article 61 shall be in Rials Omani. The Board of Governors may authorize a loan to be extended by the Central Bank to a licensed bank in the amount of the capital deposit required under this Article 61, at an interest rate which is not less than the interbank rate, provided, that such loan is secured by assets which qualify as external assets under Article 32 of this Law and which have, at all times, a value equivalent to not less than the amount of the loan.

(e) The capital deposit required pursuant to Article 61 shall be determined for each licensed bank on the effective date of a license granted pursuant to Article 54 of this Law and thereafter shall be adjusted annually within 29 days of the date on which such bank's annual report is required to be submitted pursuant to Article 72 of this Law.

(f) Any excess in the amount of the capital deposit required of a bank, as determined pursuant to the provisions of this Article 61, shall be remitted to such bank by the Central Bank, provided, however, that any excess shall first be applied to any deficiency in the reserves against deposits of such bank. If a deficiency shall exist in the capital deposit required of a bank, such bank shall make the additional payment within ten days of the date on which notice is forwarded to such bank by the Central Bank.

(g) All capital deposits required pursuant to this Article 61 shall bear interest at a rate determined by the Board of Governors, provided, however, that such rate shall be in line with the prevailing rate within the Sultanate on time deposits of one year.

(h) All interest accruing to a bank pursuant to Article 61 (g) of this Law shall be paid to such bank in Rials Omani, provided, however, that the Central Bank may first apply any such interest to any deficiency in the amount required as reserves against deposits pursuant to Article 62 of this Law to the extent that such deficiency is in excess of the amount available for application under Article 61 (f) of this Law.

(i) Any capital deposit made by a licensed bank pursuant to this Article 61 shall be remitted, with accrued and unpaid interest, to such bank at such time as it terminates the conduct of the banking business within the Sultanate, provided, however, that such deposit shall be remitted only after all obligations and

claims under Chapter Seven of Title Four of this Law have been fully met.

ARTICLE 62 RESERVES AGAINST DEPOSITS

(a) The Central Bank may require every licensed bank to maintain a deposit with the Central Bank, in accordance with regulations of the Central Bank, in an amount, which, when added to the aggregate amount of currency and coin, foreign and domestic, held by such bank within the Sultanate, shall be:

(1) Not more than 40 percent of the total daily amount of all demand and savings deposits made with such bank within the Sultanate.

(2) Not more than 30 percent of the total daily amount of all time deposits made with such bank within the Sultanate.

(b) The percentage of the total amount of reserves against time, savings and demand deposits required under this Article 62 shall be determined or adjusted, from time to time, by the Board of Governors within the limitations provided by this Article 62, provided, however, that any percentage requirements hereunder shall be identical for every licensed bank and adjusted only by notice sent to every bank not less than 20 days before the effective date of such adjustment.

(c) All deposits under this Article 62 shall be held by the Central Bank in non-interest bearing accounts.

(d) All deposits required pursuant to this Article 62 shall be maintained with the Central Bank in Rials Omani, provided, however, that a bank may deposit, in an amount and type to be determined by the Board of Governors, securities issued by the Government of the Sultanate or guaranteed by the Sultanate which are freely transferable and are to mature within a period of not more than ten years.

(e) The reserves against deposits required to be maintained by a bank, if any, shall be determined in accordance with regulations of the Central Bank.

(f) Any deficiency in the reserves against deposits, required pursuant to this Article 62, which exists at the close of any monthly computation period shall be cured by depositing with the Central Bank the amount required to cure such deficiency not later than the tenth business day following the close of such monthly computation period.

(g) Any excess in a bank's reserves against deposits shall be remitted to such bank immediately.

ARTICLE 63 RESERVES FOR THE PROTECTION OF DEPOSITORS

(a) The Board of Governors may require licensed banks to maintain reserves within the Sultanate in an amount equal to the greater of:

- 1) Not more than 15 percent of the total daily amount of all time, savings and demand deposits held by a licensed bank from the conduct of banking business within the Sultanate; or
- 2) The aggregate of deposits required by Article 61 of this Law.

(b) The application of and requirements under this Article 63 shall be determined and adjusted, from time to time, by the Board of Governors within the limitation provided by Article 63 (a) of this Law, provided, however, that any percentage requirement there under shall be identical for every licensed bank and adjusted only by notice sent to every bank not less than 30 days before the effective date of such adjustment.

CHAPTER FOUR: POWERS OF LICENSED BANKS

ARTICLE 64 AUTHORIZATION AND DISCLOSURE OF BANKING ACTIVITIES

(a) A licensed bank operating within the Sultanate or a branch of a domestic bank operating outside the Sultanate shall be authorized to undertake any one or more of the activities constituting banking business as defined in Article 5 of this Law, to the extent that such activities have been authorized in the license granted to such bank.

(b) A licensed bank shall display the license issued hereunder and shall, upon request, disclose to customers and to any other person the banking activities which the licensed bank has been authorized to undertake.

(c) A licensed bank operating within the Sultanate or a branch of a domestic bank operating outside the Sultanate shall not, directly or indirectly, as principal or agent, engage in any business or other activity other than that authorized by Article 64 (a) of this Law.

ARTICLE 65 GENERAL CREDIT AND INVESTMENT POWERS

(a) Except as otherwise provided by a specific provision of this Law, by limitations in the banking license granted under this Law or by limitations imposed by the law of the jurisdiction in which a foreign bank is domiciled or organized as such law is applicable to the banking business of the foreign bank within the Sultanate, a domestic bank or a licensed foreign bank, to the extent that it has been authorized to undertake the banking business in the

Sultanate, may undertake to do any one or more of the following, subject to regulations of the Central Bank:

- (1) Purchase, sell, accept or otherwise negotiate and discount:
 - i) Items and bonds, notes, debentures and other evidences of loans made by the licensed bank;
 - ii) Treasury bills, bonds of the Government of the Sultanate, or securities guaranteed by the Sultanate which have been publicly issued;
 - iii) Written obligations to pay in installments or pursuant to other arrangements all or a part of the price of tangible and intangible personal property;
- (2) Receive upon deposit or for safekeeping, money, securities, papers of any kind or any other personal property and hold such property in vaults or other receptacles upon such terms and conditions as may be set by the licensed bank;
- (3) Open accounts with the Central Bank, utilize the Central Bank as a clearing house either directly or through contractual arrangements, and otherwise utilize the services of and be subject to obligations imposed by the Central Bank; and
- (4) Open accounts with other banks within and outside the Sultanate and become a customer, depositor and correspondent for such banks.

(b) Except as otherwise provided by specific provision of this Law, by limitations in the banking license granted under this Law or by more restrictive limitations imposed by the law of the jurisdiction in which a foreign bank is domiciled or organized as such law is applicable to the banking business of the foreign bank within the Sultanate, a licensed bank may purchase, hold and sell for its own account, the following:

- (1) Bonds, notes, debentures and other evidences of an obligation for the payment of money other than those included in Article 65 (a)(1)(i) of this Law, when such obligations are not in default as to either principal or interest at the time of acquisition by the bank and the aggregate value of such investments does not exceed 10 percent of the amount of the net worth of the licensed bank and when any investment in a particular security does not exceed five percent of the net worth of the licensed bank; and provided further that the investments in the above instruments of companies domiciled outside the Sultanate shall not exceed 25 percent of the 10 percent ceiling mentioned hereunder.

(2) Securities issued or guaranteed by the Government of the Sultanate and Ministries, institutions or corporations thereof or by foreign governments and agencies thereof, when such securities have or are to have a public market and are to mature within a period of not more than 90 days from the date of acquisition, provided, however, that securities issued by a government of a nation other

than the Sultanate must be payable in a currency which is freely convertible at the time of acquisition;

(3) Shares and securities of corporations formed by the Government of the Sultanate and exercising proprietary functions within the Sultanate, provided, that any such investment in a particular corporation may not exceed 5 percent of the net worth of the licensed bank;

(4) Shares and securities of corporations, domiciled and organized within or outside the Sultanate, not authorized for investment under the provisions of this Article 65 (b), provided, however, that such investment if made in related companies or other licensed banks has been approved by the Board of Governors and provided, further, that any such investment in a particular corporation does not exceed 5 percent of the shares of such corporation and that all such investments do not exceed 20 percent of the net worth of the licensed bank and provided further that the investments in companies domiciled outside the Sultanate shall not exceed 25 percent of the 20 percent ceiling mentioned hereunder.

(5) (a) The limitations imposed by Article 65 (b) (3) and (4) of this Law shall not apply to shares and securities, securing a loan by a licensed bank which are transferred to such licensed bank after default in repayment of such loan, provided, however, that the retention of any such shares and securities is specifically approved by the Central Bank and said shares or securities are disposed of by the licensed bank within 12 months unless a longer retention period is approved by the Central Bank.

(5) (b) With exception to the limitations imposed by Article 65 (b) (3) and (4) of this law, the licensed bank may, after approval of the Central Bank, convert the loans to shares of any corporation's capital, under a restructuring programme of such corporation, through conversion of a defaulted loan or obligation, provided that the value of such shares and securities in a particular corporation shall not exceed 20 percent of the shares of such corporation, and provided further that such shares and securities are disposed of by the licensed bank within twelve months, unless a longer retention period is approved by Central Bank. The licensed bank shall reserve full provisions against the classified loans which have been converted to shares or securities of such corporation.

(6) Foreign currency or other monetary asset in the form of cash and bullion and coins of gold, silver or such other metal as may, from time to time, be utilized as a monetary asset, subject to such regulations of the Central Bank as may be promulgated pursuant to Article 14 (l) of this Law.

(c) The limitations on investments set forth in Article 65 (a), (b) and (d) and Article 66 of this

Law shall not apply to the underwriting of shares in any company provided that all of the following conditions are met:

(1) A licensed bank has been authorized in the license issued pursuant to Article 54 to undertake underwriting activity.

(2) The investments are in the classes and types of securities authorized for investment under Article 65 (a), (b) and (d) of this Law;

*Added by R.D.No. 11/2004

(3)(i) A licensed bank, amongst such activity, may undertake underwriting up to 20 percent of the shares on offer of a given company. This 20 percent underwriting should however, not exceed 5 percent of the net worth of the underwriting licensed bank. Such bank is, however not permitted to undertake underwriting activities pertaining to a company whose shares will be owned by itself or by any related party in the following manner:

a) In a company under formation, a related party owns 5 percent or more of shares as a founder member or related parties collectively own 10% or more of shares as founder members.

b) In an existing company, a related party owns 10 percent or more of shares or related parties collectively own 15 percent or more of shares.

c) A related party for this purpose shall be defined by Regulations issued by the Board of Governors.

ii) The aggregate of all underwriting outstanding at any time should not exceed 20 percent of the net worth of the licensed bank.

iii) Every underwriting transaction, if not marketed within the time frame specified in the prospectus shall continue to be held by the licensed bank for a period of six months with each such transaction identified separately. If provided with convincing reasons, the Board of Governors may give a further extension of six months for the bank to retain the shares in question. Otherwise, the bank shall take over the unsold portion of the underwritten transaction and compute it within the ceiling on investments provided for under Article 65(b) (4).

(4) All other requirements of this Law are met and all computations and investments under this Article 65 (c) are fully reflected in any reports filed pursuant to Article 72 of this Law.

(d) In addition to the credit and investment functions authorized for a licensed bank under this Article 65 (a), (b) and (c) a licensed bank shall be authorized to purchase, hold and sell securities authorized for investment by the Central Bank pursuant to Article 28 (c), (d), (h), (i), (j) and (k) of this Law provided, however, that the aggregate value

of such investment does not exceed 20 percent of the net worth of the licensed bank, unless otherwise decided by the Board of Governors in respect of development bond held for trading purposes only.

(e) The limitations on investments set forth in Article 65 (a), (b), (c) and (d) and Article 66 of this Law shall not apply to the extent that all of the following conditions are met:

(1) A licensed bank has been authorized in the license issued pursuant to Article 54 to undertake the investment, industrial or merchant banking business;

(2) The investments are in the classes and types of securities authorized for investment under article 65 of this Law;

(3) Each investment is made from funds of which not less than 50 percent consists of the net worth of the funds of the licensed bank and the balance on each banking day is from "five year time deposits" held by the licensed bank, such "five year time deposits" for purposes of this Article 65 (e) being those time deposits held by such licensed bank for a period of not less than five years from the day on which the computation of fund available for investment is made;

(4) Any funds used for investments under this Article 65 (e) shall be excluded from all calculations of net worth available for other investments under this Article 66 and computations required under Articles 68 and 69 of this Law; and

(5) All other requirements of this Law are met and all computations and investments under this Article 65 are fully reflected in any reports filed pursuant to Article 72 of this Law.

ARTICLE 66 POWERS RELATED TO REAL AND PERSONAL PROPERTY AND SECURED TRANSACTIONS

(a) Subject to applicable laws of the Sultanate relating to ownership of property, a licensed bank may purchase, acquire or lease real and personal property necessary for the conduct of its banking business within or outside the Sultanate including such housing as may be required for employees of the licensed bank.

(b) A licensed bank may purchase, acquire, hold, lease or otherwise convey real and personal property which has been conveyed to it in satisfaction of debts previously contracted within the normal course of the banking business, which it has acquired at sales under judgment decrees or as a result of defaults or foreclosure sales on mortgages held by it, provided, however, that all real property acquired by a bank pursuant to this Article 66 or acquired by it in a settlement due to it, shall be conveyed to it in its name or, subject to regulations of the Central Bank,

may be held in the name of a duly authorized nominee of such licensed bank. All such acquisitions shall be recorded or registered to the extent required by the laws of the Sultanate.

(c) Real and personal property acquired by a licensed bank pursuant to Article 66 (b) of this Law shall be sold or otherwise disposed of by such bank within 12 months of the date on which it shall have been acquired unless an extension is granted by the Central Bank.

(d) A licensed bank shall have and may enforce a general lien against any goods which are the subject of a documentary letter of credit, to the extent that such licensed bank has already paid money pursuant to such documentary letter of credit, if there has been a default on the underlying obligation to the bank by the debtor, and such licensed bank may acquire, hold, sell or otherwise dispose of any such goods in accordance with the provisions of this Article.

(e) The proceeds of any sale or disposition of any goods acquired pursuant to Article 66 (d) of this Law or any other property acquired pursuant to Articles 65 and 66 of this Law shall first be applied against any costs of collection and attorney's fees reasonably incurred by the licensed bank and the balance shall be applied against the amount due to the licensed bank on the underlying obligation, including any accrued and unpaid interest thereon. Any excess proceeds realized by the licensed bank and not required for payments pursuant to this Article 66(e) shall be remitted to the debtor. To the extent that any deficiency remains after the application of proceeds pursuant to this Article 66 (e), the licensed bank shall have a claim against the debtor for the full amount of such deficiency, including any unsatisfied portion of the underlying obligation and any unreimbursed costs of collection and attorney's fees.

ARTICLE 67 FIDUCIARY POWERS

(a) A licensed bank may be authorized in the license issued pursuant to Article 52 of this Law, to act as trustee, executor, administrator, transfer agent for shares and bonds, registrar of shares and bonds, guardian of estates, assignee or receiver, administrator of the estate of a minor, lunatic or other adjudged incompetent or in any other fiduciary capacity in such manner and to the extent that the laws of the jurisdiction in which such bank is domiciled or organized authorize the exercise of fiduciary powers by such bank.

(b) The rights, duties, liabilities and obligations associated with the exercise of such fiduciary powers by a licensed bank or by any director, officer, manager or employee of such bank

shall be governed by the laws of the jurisdiction in which the bank is domiciled or organized.

(c) Assets held by a licensed bank in a fiduciary capacity and obligations incurred by it in a fiduciary capacity shall not be considered to be assets or obligations of such bank for purposes of this Chapter Four, and furthermore, a licensed bank, when acting on behalf of a customer in a fiduciary capacity shall not enter into transactions with itself, acting on its own account

ARTICLE 68 BORROWING AND LENDING LIMITATIONS OF LICENSED BANKS

(a) No licensed domestic bank shall make any loan or discount on the security of its own shares nor shall it be the purchaser or holder of any such shares, unless such security or purchase is necessary to minimize or avoid loss upon an obligation previously contracted in good faith by such bank. Any shares so purchased shall be sold at a public or private sale, or shall otherwise be disposed of, within six months of the date of acquisition by the bank unless an extension is granted by the Board of Governors.

(b) The total direct or contingent obligation to any licensed bank by a person and his related parties, other than the Government of the Sultanate shall not exceed 15 percent of the amount of the net worth of such licensed bank. In case of a senior member in the management of the licensed bank and any related parties, the total obligation shall not exceed 10 percent of the amount of the net worth of such bank. Provided further that, the aggregate of lending to all senior members and any related parties, shall not exceed 35 percent of the amount of the net worth of such bank or up to any other limit specified by Board of Governors.

(c) The Board of Governors may determine, by regulations of the Central Bank, the maximum total direct or contingent obligation of the major shareholders and their related parties to the licensed bank.

(d) The limitations of Article 68 (b) of this Law shall not apply to any loan, to the extent that such loan is secured by collateral in cash or in a cash equivalent not subject to withdrawal from the licensed bank, to the extent such loan is guaranteed, in a manner satisfactory to the Central Bank, by a bank or financial institution within or outside the Sultanate or to the extent that a payment of the principal and interest of such loan has been guaranteed by the Government of the Sultanate or by any Ministry or corporation thereof, or to the extent that such loan is secured in such other amount by such other collateral as has been specifically authorized by regulation or a particular directive of the Central Bank.

(e) A licensed bank shall not at any time make any loan secured by real estate when either the total value of real estate held by the bank, or the aggregate of the outstanding of loans against which such securities are held, whichever is lower, other than real estate held pursuant to Article 66 (a) of this Law, exceeds or by the making of such loan will exceed, 60 percent of the net worth of such licensed bank within the Sultanate or 60 percent of all time and saving deposits other than government and inter-bank deposits of such licensed banks, whichever is greater.

ARTICLE 69 LENDING RATIO

(a) Notwithstanding any other provision of this Law to the contrary, a licensed bank shall not make any loan or other advance of money, whether secured or unsecured, if the aggregate amount of all loans within the Sultanate by such licensed bank exceeds, or by the making of such loan will exceed the ratio of loans to deposits within the Sultanate, set from time to time by the Central Bank, provided that any adjustment in such ratio will not affect the validity of loans outstanding on the date on which the Central Bank announces such adjustment.

(b) The ratio requirements set by regulations of the Central Bank pursuant to Article 69 (a) of this Law shall be identical for every licensed bank, provided, however, that the Board of Governors may authorize loans in excess of this ratio if the Board of Governors finds that the making of such loan will not impair the financial condition of the licensed bank.

ARTICLE 70 CONFIDENTIALITY OF BANKING TRANSACTIONS

(a) No Government Agency nor any person shall ask a licensed bank directly to disclose any information or to take any action relating to any customer. Such request in all cases shall be submitted to the Central Bank. A committee shall be established at Central Bank to decide on whether to release the information or to take the action requested or not. If the Central Bank finds the request acceptable, the licensed bank shall be informed to release such information or to take such action according to the way and method instructed by Central Bank. The decision of the Central Bank regarding the disclosure of information or taking the action shall be final.

(b) No licensed bank, nor any director, officer, manager or employee of such bank, shall disclose any information relating to any customer of the bank except when such disclosure is required under the laws of the Sultanate and as instructed by the Central Bank. In any case a licensed bank should inform its customer promptly of such disclosure.

(c) Except as provided by Article 70 (a) of this Law, disclosure of information relating to any customer of a licensed bank shall be made only with the consent of such person, provided, however that a customer of a licensed bank may give general consent to use of banker's advisements related to his banking business.

(d) Any former director, officer, manager or employee of a licensed bank shall be bound by this Article 70.

ARTICLE 71 FREEDOM OF BANKING RELATIONSHIPS

No licensed bank shall, as a condition of undertaking the transaction of banking business with any person or customer or of continuing to transact banking business with any customer, require any action which would unreasonably preclude such person or customer from being a customer of another bank.

CHAPTER FIVE: BANK REPORTS AND EXAMINATIONS

ARTICLE 72 REPORTS BY LICENSED BANKS

(a) Each licensed bank shall submit to the Central Bank an annual report, audited by independent auditors, pursuant to procedures established by the Central Bank, and such other interim reports, and a monthly report, at such times and in such form as may be prescribed by regulations of the Central Bank.

(b) Reports required by this Article 72 shall be accurate and shall include, but not be limited to, information reflecting the financial condition within and outside the Sultanate of the bank and showing in detail the assets and liabilities of the bank, the amount and character of domestic and foreign currency held by such bank and the amount, nature and maturities of all items and instruments, securities and other investments owned or held by such bank, to the extent that such information is related to the conduct of banking business within and outside the Sultanate. Licensed foreign banks shall also file copies of all reports prepared within the Sultanate for submission to banking authorities which have jurisdiction over the licensed foreign bank and which reflect the aggregate financial condition of all operations of such licensed bank.

(c) Each licensed bank shall also submit such other reports concerning the condition of the bank or of any one or more of its branch offices at such times and in such form as may be prescribed by regulations of the Central Bank.

(d) The sections of any reports required under this Article 72 which show the assets and liabilities of the reporting bank shall be published in such manner and at such times as may be prescribed by regulations of the Central Bank and shall be displayed in such bank and each of its branches, if any, in a conspicuous place, accessible to any interested party within five days after submission of the reports in accordance with this Article 72 and shall remain on display for a period of not less than one month.

(e) Notwithstanding the provisions of Article 72 (d) of this Law, any report submitted to the Central Bank pursuant to this Article 72 shall be made available to the depositors of a bank and to the public in such manner as the Central Bank may determine and with such protection as may be necessary to ensure the confidentiality of relations between a licensed bank and its customers.

(f) The Central Bank shall establish regulations regarding the accounting and reporting procedures to be utilized in the preparation and submission of reports under this Article 72 to ensure accuracy and uniformity in the collection, compilation and distribution of information submitted or requested pursuant to any provision of this Law.

(g) Pursuant to regulations promulgated by the Central Bank, each licensed bank shall make available to its depositors within the Sultanate on demand, a copy of its annual report submitted to its shareholders.

ARTICLE 73 BANK EXAMINATIONS

(a) The Central Bank shall appoint bank examiners, who shall be employees of the Central Bank or under contract to the Central Bank, to examine the affairs of licensed banks and shall establish the procedures for such examinations.

(b) At such times as the Central Bank may deem necessary and at least once during each fiscal year of the Central Bank, a bank examiner shall make a thorough examination of the banking activities and fiscal affairs of each licensed bank and of any or all of the branches of such licensed bank.

(c) The bank examiner shall submit to the Board of Governors promptly after the completion of any such examination a full and detailed report of the condition of the bank so examined in the form prescribed by regulations of the Central Bank.

(d) All expenses incurred by the Central Bank in examinations made pursuant to this Article 73 shall be expenses of the Central Bank.

ARTICLE 74 FAILURES TO SUBMIT REPORTS

A licensed bank which shall fail to cooperate in any examination by the Central Bank or to submit reports required under this Law shall be subject to suspension or withdrawal of its license or such other sanctions as may be appropriate pursuant to Articles 14 (g) and 83 of this Law.

***ARTICLE 74 REPEATED**

(a) The Board of Governors shall determine the minimum conditions, professional qualifications and practical experience required for nominating external auditors, and may establish the rules it deems fit for the said purpose.

(b) Licensed banks shall notify the Central Bank in writing of the nomination/ removal of external auditors within 30 days from the date of issuance thereof, and the Central Bank shall have the right to issue a decision for cause objecting to the nomination of external auditors, or for their removal after contracting with them.

(c) The external auditors shall comply with the instructions issued by the Central Bank regarding issues which are relevant to the management of the licensed bank and which have impacts on the supervisory functions.

CHAPTER SIX: OBLIGATIONS OF BANK PERSONNEL

ARTICLE 75 DUTY OF CARE OF DIRECTORS, OFFICERS, MANAGERS AND EMPLOYEES

(a) Each director, officer, manager and employee of a licensed bank shall be personally liable for any losses or damages suffered by the bank as a result of his fraudulent or willfully negligent performance of duties, or his failure to act as a reasonable and prudent person under the circumstances. A person so charged shall be subject to the civil, criminal and other obligations imposed by this Law or any other applicable law of the Sultanate in any proceeding brought in a forum of competent jurisdiction by the licensed bank, by the Central Bank or by a depositor or creditor of the licensed bank.

(b) A licensed bank in its articles of incorporation or other constitutive contract may provide for reimbursement to any director, officer, manager or employee of the cost of defense in any proceedings, whether civil or criminal, alleging liability for acts in the management of the bank, unless a final judgment in such proceedings shall find the director, officer, manager or employee personally liable for the losses or damages caused to the licensed bank.

*Added by R.D.No. 11/2004

ARTICLE 76 ACTS OF OFFICERS AND EMPLOYEES

(a) A licensed bank shall be bound by the acts performed by its directors or any committees thereof, officers, managers and employees when such persons are acting in the name of the licensed bank and within the scope of their authority.

(b) Any third party shall be entitled to assume that any action taken by the licensed bank, or by a director or committee thereof, officer, manager or employee having apparent authority to take such action in pursuance of the business of the licensed bank, was within the scope of authority of such person or group. The licensed bank shall be bound by any such action.

ARTICLE 77 OFFICERS, MANAGERS AND EMPLOYEES OF LICENSED BANKS

(a) The Board of Governors may determine and specify the minimum professional qualifications for appointment as the chief executive officer of each domestic bank and the senior executive officer within the Sultanate of each licensed foreign bank, may recommend procedures for the appointment of such persons and shall assist in the education, recruitment and training of directors, officers, managers or employees through activities undertaken within or outside the Sultanate.

(b) Central Bank should be officially notified of any decision taken by the licensed banks with regard to the appointment of chairmen, directors, executive officers, general managers, deputy general managers, in the Sultanate, within thirty days from the date of issuance of such decision. Such notification should be made in the manner and form prescribed by the Central Bank, which shall have the right to object to the appointment of any chairman or member of a board of directors, chief executive officer, general manager, deputy general manager, if it considers that such appointment will be detrimental to the management of that bank or to the interests of the depositors.

(c) The Board of Governors may, within its discretion, displace any of the directors, executive officers, general managers or deputy general managers by a detailed note to safeguard the depositors and net worth interests.

ARTICLE 78 BONDING

All directors, officers, managers and employees of any licensed bank or branch thereof with the authority to bind such bank or branch and any employee or other person whose duties include the safeguarding, signing or transferring of any collateral, bond, currency or other property of any such bank or branch shall be bonded at the expense of

the licensed bank, in such amount and in such manner as may be determined by the bank pursuant to regulations of the Central Bank and policies promulgated by the Central Bank.

ARTICLE 79 REPORTS BY DIRECTORS, OFFICERS, MANAGERS AND EMPLOYEES OF LICENSED BANKS

Every director, officer, manager and employee of a domestic bank and every director, officer, manager and employee of a foreign bank who has been charged with responsibilities within the Sultanate shall file such reports as may be required by regulations of the Central Bank, provided, however, that such regulations shall include provisions for such confidentiality as may be necessary. Such reports shall include, but not be limited to, statements of the obligations which such person has to licensed banks and information concerning any financial or business affiliations which are related to the banking activities of the licensed bank with which such person is affiliated.

ARTICLE 80 RESTRICTIONS ON DIRECTORS, OFFICERS, MANAGERS AND EMPLOYEES OF LICENSED BANKS

(a) No director, officer, manager or employee of a licensed bank shall:

(1) With an intent to avoid the previous refusal, discount or directly or indirectly make any loan upon any note or other evidence of indebtedness which he knows to have been offered for discount to the licensed bank and to have been refused by such licensed bank;

(2) Purchase or be interested in the purchase of any promissory note or any other evidence of indebtedness issued by the licensed bank on terms more favorable than those available to other customers of the bank, provided, however, that any director, officer, manager or employee who is a shareholder of a licensed bank may purchase, on terms more favorable than those available to other customers of the bank, promissory notes, debentures or other evidences of a debt issued by it in the same ratio as his shares have to the total shares outstanding in the same class.

(b) Without the express authorization of the Central Bank, no person who is a director, officer, manager or employee of a licensed bank shall hold any office in another licensed bank, accept membership on the board of directors of any commercial company or participate in the management of another banking or financial enterprise if such an office or participation is in conflict with the responsibilities delegated to such person by this Law or by the licensed bank.

ARTICLE 81 RESIDUAL RULES GOVERNING DIRECTORS, OFFICERS, MANAGERS AND SHAREHOLDERS

All matters relating to the appointment, functions, powers, duties, obligations, liabilities or other legal relationships of any director, officer, manager or shareholder of a licensed bank not otherwise provided for by this Law shall be governed by the law regulating the applicable form of commercial organization in the jurisdiction in which such bank is organized or domiciled.

CHAPTER SEVEN: DISSOLUTION, LIQUIDATION AND TERMINATION OF BANKS

ARTICLE 82 VOLUNTARY DISSOLUTION AND LIQUIDATION OF BANKS

(a) A licensed bank may enter into voluntary liquidation, dissolution or termination of its banking business in the Sultanate by submitting a request to the Central Bank in such manner and in such form as may be prescribed by regulation.

(b) The Board of Governors may, in its discretion, upon review of a request by a bank for voluntary dissolution, liquidation or termination of its banking business in the Sultanate, approve the request, prescribe such conditions as the Board of Governors may deem necessary for the orderly termination of such business or deny the request for voluntary liquidation, termination or dissolution and apply the provisions of Article 83 of this Law. The Board of Governors shall have the right to revoke its approval of a request for voluntary dissolution, liquidation or termination of the banking business in the Sultanate and to apply the provisions of Article 83 of this Law, if during the course of such dissolution, liquidation or termination any conditions prescribed hereunder are violated, the assets of the bank are improperly applied or if there is evidence of other improper conduct.

(c) Unless otherwise provided by this Chapter or other applicable provisions of this Law, the voluntary dissolution, liquidation or termination of banking business by a bank in the Sultanate shall be governed by the applicable laws of the jurisdiction in which such bank is organized or domiciled.

(d) The Board of Governors shall have the right to designate or otherwise approve any person who is to act as the liquidator of a licensed bank to the extent that such liquidation is of banking business and operations in the Sultanate and to the degree that such designation or approval is necessary to assure compliance with this Law and to represent the interests of all depositors of such bank.

(e) The termination of the operation of a branch authorized under Article 56 of this Law shall not constitute a liquidation, dissolution or termination under this Article 82 and shall be authorized and administered pursuant to regulations of the Central Bank.

ARTICLE 84 ADMINISTRATION OF BANKS AND INVOLUNTARY DISSOLUTION AND LIQUIDATION OF BANKS

(a) Pursuant to Article 14 (g) of this Law, the Board of Governors may take possession of the business and property of any domestic bank and the business and property within the Sultanate of any licensed foreign bank, suspend the license of any licensed bank and administer the business and property of such bank during any period of suspension, suspend the operations of any licensed bank for a specified period, or cause the liquidation or termination of the business of any licensed bank and authorize the reopening, or require a reorganization before a subsequent reopening, or to order, at any time, the sale in whole or in part of business, property, assets and/or liabilities of such bank whenever it shall appear that any such bank:

(1) Has actually failed or the circumstances indicate that it will fail to comply with the orders, directives or policies of the Board of Governors;

(2) Has actually violated or the circumstances indicate that it will violate any provisions of this Law, regulations of the Central Bank or of any other law of the Sultanate;

(3) Has accepted or may accept deposits at a time when the bank is in an unsafe or insolvent condition or it appears that the licensed bank is or may be unable to pay valid claims fully as they become due;

(4) Is conducting its business or the business of any authorized branch in an unauthorized, unsafe manner or is in an unsound, unsafe condition to transact or continue to transact banking business;

(5) Has an impairment of its capital;

(6) Has suspended or is in danger of suspending the payment of any of its obligations; or

(7) Has not been carrying on banking business.

(b) In addition to the provisions of Article 83 (a) of this Law, the Board of Governors, in the case of a licensed foreign bank, shall have the authority to exercise its powers under Article 83 (a) of this Law, if such foreign bank has got its license revoked or suspended or prohibited to carry on that business or is the subject of a liquidation or administration proceeding or any other proceeding having an equivalent effect in the jurisdiction in which it is

organized or domiciled or in any other jurisdiction in which it is conducting a banking business or if it appears that a licensed foreign bank is carrying on a banking business in any jurisdiction without a valid license or if the Central Bank is not satisfied that the bank is subject to adequate supervision by the appropriate regulator in its home state or if there is a reason to believe that such bank will or may be unable to fully pay valid claims as they become due.

(c) The Board of Governors shall personally notify all officers, directors and shareholders of any action taken by the Central Bank under this Article 83 and shall cause a notice to all shareholders of any liquidation hereunder to be published in the Official Gazette in the same manner as notice to depositors and claimants pursuant to Article 84 of this Law.

(d) The Board of Governors shall appoint an administrator for any bank whose operations have been suspended or otherwise affected by actions of the Board of Governors under this Article 83. Under the direction of the Board of Governors, the administrator shall take possession of the books, records and assets of each and every description of such bank and shall be authorized to take such action as may be necessary to conserve the assets of such bank, pending the further disposition of its business as provided by law, to operate or supervise the continued operation or reorganization of such bank, or to supervise the liquidation and cessation of banking activities by the bank. The Board of Governors may delegate the administrator to acquire all rights, title and interest in all property, assets and liabilities of such bank and its branches and shall, at any time, discharge them in whole or in part whether they are located within or outside the Sultanate, such right of discharges includes the right of sale, in whole or in part, or any other similar actions pursuant to any directions of the Board of Governors and the bank shall be bound by and liable in respect of all actions performed and all documents executed by the administrator whatsoever in the exercise of such power and authority. The administrator shall be liable according to the provisions of Article 22 of this Law.

(e) Without prejudice to the provisions of Article 83(d), an administrator appointed hereunder shall be authorized to operate or supervise the operation of a bank for a period of not more than one year from the date of action by the Board of Governors under this Article 83. If the Board of Governors determines, at the conclusion of such one year period, that the bank continues to be subject to the conditions which necessitated the initial action by the Board of Governors under this Article 83, the administrator appointed hereunder shall be required to undertake the liquidation of such bank.

(f) Without prejudice to the provisions of Article 83(d) if the Board of Governors determines that the business of a bank shall be terminated and that such assets shall be liquidated, the administrator appointed hereunder shall make provision for the payment of persons protected by this Chapter and the Law Regulating the Bank Deposits Insurance Scheme and shall then pay the remainder of the proceeds, if any, to a liquidator or other administrator, authorized to take possession of and distribute the assets of each and every description pursuant to the Commercial Companies Law or the applicable law of the jurisdiction in which such bank is organized or domiciled, as the case may be. Such person shall then become responsible for the liquidation or other distribution of the assets of the bank pursuant to the provisions of the Commercial Companies Law or the applicable law of the jurisdiction in which the bank is domiciled or organized, as the case may be.

ARTICLE 84 NOTICE TO DEPOSITORS AND CLAIMANTS

In a proceeding for the liquidation of a bank instituted by the Board of Governors under this Chapter, the administrator shall set an expiration date for the presentation of all claims and proof thereof. He shall give notice to all persons shown in the records of the bank in liquidation as having claims against such bank not less than 60 days prior to such expiration date. In addition, the administrator shall cause a notice to all depositors and persons who may have claims against the bank in liquidation to be published in each issue of the Official Gazette for a period of at least two consecutive months immediately preceding the expiration date.

ARTICLE 85 TRUST AND OTHER FUNDS HELD IN A FIDUCIARY CAPACITY

When an administrator is charged with the supervision or distribution of assets of a bank which has been authorized to exercise fiduciary powers under this Title, the administrator shall identify, segregate and hold, as trustee for the benefit of the beneficiaries, all assets held by the bank in a fiduciary capacity. The administrator shall distribute such assets to the beneficiaries on a schedule without reference to any priorities established by Article 87 of this Law.

ARTICLE 86 EXPENSES OF ADMINISTRATION

All expenses of any administration of a bank by an administrator acting under this Chapter, including compensation of the administrator in such amount as may be set by the Board of Governors, shall be paid from the assets of such bank before any

distribution is made by the administrator pursuant to Article 87 of this Law.

ARTICLE 87 PRIORITY OF PAYMENT OF CLAIMS

Except as provided by Articles 85 and 86 of this Law, and any other applicable law, claims filed and proved to the administrators pursuant to this Chapter shall be paid in proportion to the assets of the bank in liquidation available to the administrator for such distribution on a pro-rated schedule in the following order of priority:

(a) Unpaid monthly salaries within the limit of three months, or 1,000 Rials Omani whichever is less plus the employees' claims related to other unpaid entitlements.

(b) The following claims by the Bank Deposits Insurance Scheme Fund, as a guarantor to the deposits:

1) The net amount payable to depositors in accordance with the Law of Bank Deposits Insurance Scheme.

2) Premiums payable to the Bank Deposits Insurance Scheme Fund;

3) Loans and advances;

4) Any other dues to the Bank Deposits Insurance Scheme Fund pursuant to the Law.

c) Claims of the Central Bank other than those enumerated above.

d) Claims of other creditors of the bank in liquidation including the depositor's rights which are not covered pursuant to the Law of Bank Deposits Insurance Scheme.

ARTICLE 88 TERMINATION OF SUSPENSION

Notwithstanding any of the provisions of this Chapter to the contrary, the Board of Governors, upon recommendations of an administrator appointed hereunder, shall have the authority to terminate the suspension of a bank under this Chapter and to authorize the reopening of the bank in such manner and form as the Board of Governors may determine to be fiscally sound and otherwise appropriate.

ARTICLE 89 DUTY OF CARE AND BONDING OF ADMINISTRATOR

An administrator appointed under this Chapter shall be subject to the provisions of Title Two of this Law, as such provisions relate to liabilities, powers, duties and confidentiality of dealings of employees and other officials of the Central Bank. The administrator shall be bonded at the expense of the Central Bank in such amount and in such manner as may be determined by the Board of Governors.

TITLE FIVE: BANK DEPOSITS AND COLLECTIONS

CHAPTER ONE: GENERAL PROVISIONS

ARTICLE 90 PURPOSE

The purpose of this Title is to establish and define the following:

(a) The rules related to the processing of checks, drafts, and any instruments or items recognized within the banking system, including their deposit, collection and payment;

(b) The rights, liabilities and duties of persons participating in the processing, collecting and payment of checks and other drafts, including, but not limited to, banks within and outside the Sultanate, depositors within those banks and commercial and other business enterprises which utilize the processing; and

(c) The procedures for the collecting and depository functions to be performed by licensed banks.

ARTICLE 91 STANDARD OF CARE: EFFECT OF VARIATION BY AGREEMENT BETWEEN PARTIES

(a) Provisions of this Title as they affect persons obligated under this Law may be varied by agreement between such persons, provided, however, that no agreement may disclaim a bank's responsibility for its own lack of good faith; may excuse a bank's failure to exercise the ordinary care of a prudent business person charged with similar responsibilities; or may limit the measure of damages for such lack of good faith or failure to exercise such care.

(b) Persons entering into agreements provided for by the Article 91(a) of this Law, may specify in such agreements the law to be applied in an action arising under the agreement, including the choice of law rules to be applied in any such action, provided, however, that any action involving a domestic bank, or a transaction occurring within the Sultanate and affecting the rights or liabilities of an Omani national, notwithstanding any agreement to the contrary, shall be within the jurisdiction of the Commercial Court, or any successor there to.

(c) In interpreting and applying provisions of this Article 91, the measure of damages for a failure to exercise ordinary care in handling an item or instrument shall be limited to the amount of the item or instrument reduced by the amount, if any, which could not have been realized had ordinary care been exercised in the handling of the item or instrument. Where it is shown that the bank acted in bad faith, the

measure of damages may also include other damages, if any, suffered by the claimant as a proximate consequence of such failure, provided, however, that this Article 91(c) shall not limit or otherwise affect the rights of a person to damages for wrongful dishonor by a payer bank pursuant to Article 110 of this Law.

(d) Notwithstanding the provisions of this Article 91, the liability of any bank for action or non-action with respect to an item handled by it for the purposes of presentment, payment or collection, shall be governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, liability shall be governed by the law of the place where the branch or separate office is located, including, but not limited to, a licensed foreign bank or a branch or subsidiary thereof.

ARTICLE 92 SIGNATURE REQUIREMENTS AND PRESUMPTIONS RELATING TO SIGNATURES

(a) A person is not liable on an instrument unless his signature appears thereon.

(b) A person who signs a name which is not his own shall be liable as if he had signed in his own name.

(c) A signature is made by the use of any name upon an instrument including a trade or assumed name or by use of a word or mark in lieu of a written signature, provided, however, that when a mark is used in lieu of a written signature, it shall be made and authenticated in such manner as may be prescribed by regulations of the Central Bank.

(d) Unless the instrument clearly indicates that a signature is made in some other capacity it is an endorsement of such instrument.

(e) A signature may be made by an agent or other representative of the maker of the instrument. Authority to make the signature may be established under the laws of another jurisdiction when such laws are properly applicable to the transaction.

(f) An authorized representative who signs his own name to an instrument shall be personally obligated if the instrument neither names the person represented nor shows that the representative signed in a representative capacity. Except as otherwise established between the immediate parties to the instrument, the authorized representative is personally obligated if the instrument names the person represented but does not show that the representative signed in a representative capacity or if the instrument does not name the person represented but does show that the representative signed in a representative capacity.

(g) Except as otherwise established, the name of an organization preceded or followed by the

name of an authorized representative is a signature made in a representative capacity.

(h) Any unauthorized signature, including a forgery or other illegal signature, is inoperative as that of the person whose name it purports to sign unless that person ratifies the signature or through his own negligence is precluded from denying to a third party seeking to enforce the instrument that the signature is genuine.

(i) Notwithstanding the provisions of Article 100(c) of this law, an unauthorized signature, including a forgery or other illegal signature, will operate as the signature of the person who affixed such unauthorized signature to an instrument as to any third person who in good faith pays the instrument, takes it for value or otherwise qualifies as a protected holder.

(j) Any unauthorized signature, including a forgery or other illegal signature, may be ratified for all purposes of this Title, provided, however, that such ratification does not of itself affect any right which the person ratifying the signature may have against the actual signer.

(k) Each signature on an instrument is presumed to be effective, provided, however, that when the effectiveness of a signature is put in issue the burden of establishing its effectiveness shall be on the party seeking to claim under the signature in issue.

(l) When signatures are admitted or established by proof, production of the instrument will entitle a holder to recover on the instrument unless the defendant establishes a defense effective under this Law.

ARTICLE 93 ENFORCEABILITY OF INSTRUMENTS PAYABLE WITH WORDS OF DESCRIPTION TO TWO OR MORE PERSONS

a) An instrument which is payable to the order of two or more persons shall be payable to any one of them if it is made payable to them in the alternative, and may be negotiated discharged or enforced by any one of the persons who has possession of the instrument.

b) An instrument which is payable to the order of two or more persons which is not payable in the alternative, shall be payable to all of them and may be negotiated, discharged or enforced only by all of them acting together.

ARTICLE 94 STATUS OF SEPARATE OFFICES OR BRANCHES OF BANKS ON COMPUTING TIME

(a) A branch bank office, branch agency, additional office or any other branch place of business of a domestic or foreign bank within or outside the Sultanate shall be considered a separate bank for the

purposes of computing the time within which and the place to or at which action is to be taken or orders are to be given pursuant to the requirements of this Title.

(b) In processing items, proving balances and making necessary entries on its books, a bank as defined in Article 94(a) of this Law, may set a time of 12:00 A.M. or such other later time as may be provided by regulations of the Central Bank as the final time for the handling of money and items and for making entries on its books and, any item or deposit of money received on any day after such cut-off hour or after the close of the banking day may be treated as having been received at the commencement of the next banking day.

CHAPTER TWO: COLLECTION OF ITEMS

PART A - DEPOSITING AND COLLECTING BANKS

ARTICLE 95 AGENCY STATUS

(a) A bank is an agent or sub-agent of the owner of the item. Until settlement of such item becomes final, any settlement given for the item shall be provisional. The agency relationship applies and shall exist regardless of the form of endorsement or lack of endorsement on an item, regardless of whether or not credit given for the item is subject to immediate withdrawal as of right and regardless of whether or not a credit is in fact withdrawn, provided, however, that the ownership of an item and any rights of such owner to the proceeds of an item shall be subject to the rights of a collecting bank under this Law, including, but not limited to, those rights resulting from outstanding advances which have been made on the item and those rights resulting from setoff.

(b) If an item is endorsed with words "pay any bank" or words of similar import, only a bank may become a holder of such item until the item has been returned to the customer initiating collection or until the item has been specially endorsed by a bank to a person who is not a bank.

(c) Subject to the provisions of this Law concerning the enforceability and impact of restrictive endorsements, only the immediate transferor shall have authority to give instructions affecting the bank or constituting notice to such bank. A collecting bank may not be held liable to prior persons for any actions it takes pursuant to such instructions from its transferor.

ARTICLE 96 RESPONSIBILITIES OF A COLLECTING BANK

(a) A collecting bank, subject to the standards of good faith and care set forth in Article 91

of this Law, must exercise good faith and, in addition, must use ordinary care in taking the following actions:

(1) Presenting an item or sending such item for presentment, provided, however, that a bank shall not be liable for the insolvency, neglect, mistake or default of another bank or person or for any loss or destruction of an item while in transit during the collection process or while the item is in the possession of other banks or persons;

(2) Sending notice of dishonor or non-payment or returning an item, after it learns that the item has not been paid or accepted, provided, however, that a documentary draft need not be returned to its transferor;

(3) Settling an item when a bank receives final settlement after making any protest necessary on the item; and

(4) Sending notice, within a reasonable time after discovery thereof, to its immediate transferor of any loss or delay which has occurred during the transit of the item.

(b) A collecting bank shall be deemed to have taken proper action if it acts before the termination of the payment deadline immediately following the receipt of the item, notice or payment.

ARTICLE 97 ESTABLISHMENT OF METHODS FOR SENDING AND PRESENTING

(a) The Central Bank shall promulgate regulations hereunder which establish the general standards applicable to the sending and presenting of items and which prescribe or proscribe methods and procedures for the transmittance and presentation of items by collecting banks, provided, however, that any regulations shall allow a collecting bank to send any item directly to a paying bank or to transmit any item to a non-bank payer where such transfer has been authorized by the bank's immediate transferor or by the rules, regulations or procedures of an established banking community within or outside the Sultanate provided, however, that such rules, regulations or procedures shall have been approved by the Board of Governors.

(b) An item is duly presented for acceptance if it is presented in accordance with the following:

(1) An item drawn upon two or more drawees may be presented to any one of them unless the item states otherwise:

(2) Where the drawee is dead, presentment may be made to the person or authority who is entitled to administer the estate of the deceased drawee under the applicable law of the Sultanate or of the jurisdiction in which presentment is made:

(3) When the drawee is in the course of insolvency proceedings, presentment may be made to

a person who is authorized to act in the place of the drawee under the applicable law of the Sultanate or the jurisdiction of such insolvency proceedings.

ARTICLE 98 RIGHT OF BANKS TO SUPPLY MISSING ENDORSEMENTS

a) A depository bank, taking an item for collection, is authorized to supply any endorsement of the customer necessary to perfect the title to the item, unless the item contains words indicating that the payee's endorsement is required. A statement by the depository bank on the item indicating that it has been deposited by a customer or credited to his account shall be effective as the endorsement of such customer.

b) An intermediary bank and a payor bank, which are not also depository banks for the item, may ignore restrictive endorsements added to an item by any person other than their immediate transferor. A depository bank must give full effect to any restrictive endorsement on the instrument at the time it receives it.

ARTICLE 99 PRESUMPTIONS RELATED TO SUCCESSIVE ENDORSEMENTS

When an instrument being negotiated contains two or more endorsements there is a presumption, unless the contrary is established by the facts of the transaction, that each endorsement was made in the order in which it appears on the instrument, provided, however, that the endorsers will be held liable to one another in the order in which the instrument was in fact endorsed.

ARTICLE 100 WARRANTIES MADE BY A CUSTOMER AND COLLECTING BANK DURING THE TRANSFER OR PRESENTMENT OF ITEMS

(a) Every customer or collecting bank who obtains payment or acceptance of an item, each prior customer and each prior collecting bank shall warrant to the payor bank or to any other payor, who in good faith has paid or accepts the item, that such customer or collecting bank has good title to the item or is authorized to obtain payment or acceptance as agent on behalf of a person who has good title to the item. Each customer or collecting bank also shall warrant that he has no knowledge that the signature of the maker or drawer is unauthorized, except that, as provided in this Title, such warranty shall not be given to a maker or drawer with respect to his signature or to any acceptor of an item by any customer or collecting bank that is a protected holder and acts in good faith if such protected holder takes the item without knowledge that the drawer's signature is unauthorized. Each customer or collecting

bank that obtains payment or acceptance of an item also shall warrant that the item has not been materially altered, except that such warranty may not be given by any customer or collecting bank that is a protected holder and acts in good faith to the maker of a note, to the drawer of a draft, to the acceptor of an item who is a protected holder, when the alteration was made prior to acceptance or to the acceptor of an item where the alteration was made after acceptance.

(b) Every customer or collecting bank which transfers an item and receives a settlement for it shall warrant to its transferee and to any subsequent collecting bank which takes the item in good faith that such customer or collecting bank has a good title to the item or is authorized to obtain payment or acceptance on behalf of a person who has a good title, that the transfer is otherwise proper, that all signatures on the item are authorized, that the item has not been materially altered, that there is no defense of any party against the customer or collecting bank which is effective on the item and that such customer or collecting bank has no knowledge of any insolvency proceedings being instituted within or outside the Sultanate with respect to the maker, acceptor or drawer of an item which item later may be unaccepted. Every customer or collecting bank transferring an item pursuant to this provision and subsequently receiving a settlement on the item also shall engage, upon dishonor and any necessary notice of protest when such protest is required for items drawn on banks outside the Sultanate, that such customer or collecting bank will accept the item.

(c) The warranties required in Article 100(a) and (b) of this Law and the promise to honor as set forth in Article 100(b) of this Law are effective notwithstanding the fact that an endorsement, words of guarantee or warranty, either in the transfer or presentment, are absent on the item. A collecting bank remains liable for the failure to comply with requirements of Articles 100(a) and (b) of this Law, even if such collecting bank has made a remittance to its immediate transferor.

(d) The measure of damages for failure to comply with requirements of this Article 101 shall not be in excess of any amounts paid and received by the customer or collecting bank, together with any additional charges and expenses related to the item and proved by the claimant.

ARTICLE 101 SECURITY INTEREST OF A BANK

(a) A bank shall have a security interest under this Law, or under the applicable law agreed to pursuant to Article 91 of this Law, in any item or documents accompanying such item to the extent that credit or advances have been given for the item, that

amounts have been withdrawn from any account to which the item has been deposited or credited or that any credit has been given where such credit is available for withdrawal as of right, whether or not such credit has been drawn upon and whether or not the customer has a right of charge-back.

(b) When credit has been given for several items received for the account or accounts of a particular party pursuant to a single agreement or on the same banking day, and such credit is withdrawn or applied in part, the security interest shall be effective upon all the items received for the account or accounts of a particular party pursuant to a single agreement or on a single banking day to the extent of such security interests.

(c) When a collecting bank receives a final settlement for an item, such final settlement shall constitute a repayment of the security interest of the item or any accompanying document. If the collecting bank does not receive a final settlement constituting payment of the security interest, the bank shall continue to have a security interest in the item according to the applicable laws of the Sultanate or of the jurisdiction agreed to by the parties pursuant to Article 91 of this Law.

ARTICLE 102 APPROVED REMITTANCES AND EFFECTIVENESS OF PROVISIONAL AND FINAL SETTLEMENTS IN REMITTANCE TRANSFERS

(a) A collecting bank may accept the following in settlement of an item:

(1) A check of the remitting bank or of another bank on any bank except the remitting bank;

(2) A cashier's check or similar primary obligation of a remitting bank when such bank is a member of or clears through a member of the same clearinghouse as the collecting bank;

(3) Appropriate authority to charge an account of the remitting bank or of another bank with the collecting bank;

(4) A cashier's check, certified check or other bank check or obligation, if the item is drawn upon or payable by a person other than a bank; or

(5) Cash, an obligation, authority or other document approved by regulations of the Central Bank and used and recognized by commercial banking authorities within or outside the Sultanate.

(b) If, before its payment deadline, the collecting bank properly dishonors a remittance check or authorization to charge on itself or presents or forwards for collection a remittance instrument of or on another bank which is of a kind approved by Article 102 (a) of this Law or which has not been authorized by it, the collecting bank is not liable to

prior parties in the event of the dishonor of such check, instrument or authorization.

(c) A settlement for an item by means of a remittance instrument or authorization to charge is or becomes a final settlement as to both the person making and the person receiving the settlement at the time of receipt of such remittance, check or obligation:

(1) If the remittance instrument or authorization to charge is of a kind approved by Article 102(a) of this Law or has not been authorized by the person receiving the settlement and in either case the person receiving the settlement acts seasonably before its payment deadline in presenting, forwarding for collection or paying the instrument or authorization.

(2) If the person receiving the settlement has authorized remittance by a non-bank check or obligation, by a cashier's check or similar primary obligation or by a check upon the payer or other remitting bank which is not of a kind approved by Article 102(a)(2) of this Law.

(d) In a case not covered by Article 102(c) of this Law, a settlement for an item by means of a remittance instrument or authorization to charge is or becomes a final settlement as to both the person making and the person receiving the settlement if the person receiving the settlement fails to seasonably present, forward for collection, pay or return a remittance instrument or authorization to the person making the settlement for proper charging before the payment deadline of the person receiving the settlement.

ARTICLE 103 RIGHT OF CHARGE-BACK AND REFUND

(a) If a collecting bank has made a provisional settlement with a customer for an item and such collecting bank fails to receive a settlement for the item by reason of a dishonor, a suspension of payment by a bank or otherwise, and the provisional settlement is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit which has already been given for the item to the account of its customer or obtain a refund from its customer. The bank shall have a right to make such charge-back or to obtain such refund even if it was unable to return the item, provided, however, that by its payment deadline or within a similar reasonable period of time after it learns of the facts it returns the item or sends notification of the facts to the customer. Such right of charge-back or refund shall terminate as soon as a settlement received by the bank for an item is or becomes final, but if a bank has failed to receive such final settlement, the right of charge-back or refund must be exercised promptly.

(b) An intermediary or payor bank may return an unpaid item directly to the depository bank and may send for collection a draft on the depository bank to obtain reimbursement, provided, however, that such return is made within the time and manner prescribed by this Article 103 and Article 106 of this Law. If the depository bank has already received a provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and shall remain final.

(c) A depository bank which is also the payor bank is authorized to charge back the amount of an item to its own customer's account or to obtain a refund in accordance with Article 106 of this Law.

(d) A depository bank may exercise its right of charge-back under this Article 103 notwithstanding the fact that there has been a prior use of the credit given for the item, that the bank has not met its good faith obligation under Article 91(a) of this Law and that the bank has been negligent, provided, however, that a charge-back does not relieve the bank from any liability for failure to exercise ordinary care in handling an item. Damages for any failure to exercise ordinary care shall be governed by Article 91(c) of this Law.

(e) When a credit is given in Rials Omani but such item was payable in a foreign currency, the amount of any charge-back or refund shall be calculated on the basis of the parity rate for the foreign currency which prevailed on the day when the person entitled to the charge-back or refund first learned that he would not receive payment.

ARTICLE 104 REQUIREMENTS FOR FINAL PAYMENT, FINAL DEBITS AND CREDITS AND WITHDRAWAL OF CREDITS

(a) An item shall be finally paid by a payor bank when the first of any one of the following occurs:

(1) The payor bank has paid the item in cash;

(2) The payor bank has settled for the item and, in making such settlement, has no reservation of right to revoke the settlement;

(3) The payor bank has completed the process of posting the item to the account of the drawer, maker or other person to be charged with the item; or

(4) The payor bank has made a provisional settlement for the item and failed to revoke the settlement as such right to revoke is permitted by this Law.

(b) Final payment under Article 104(a) of this Law shall be effective where payment is made by a remittance draft.

(c) When provisional settlement for an item between the presenting and payor banks is effected to the Central Bank acting as a clearing house, through some other clearing house or by debits and credits in an account held between such presenting and payor banks, such provisional settlements shall become final within the presenting and at the successive prior collecting banks in the order of such collection upon the final payment of the item by the payor bank.

(d) When a collecting bank receives a settlement for an item, which settlement is or becomes final, the collecting bank is accountable to its customer in the amount of the item. Any provisional credit given for the item in the account of a customer at such bank shall become final.

(e) Credit by a bank for an item in the account held by a customer in such bank is made available for withdrawal as of right when a previously made provisional settlement becomes final or, in the case where the bank is both a depository bank and payor bank, upon the opening of the bank on the second banking day following receipt of the item as finally paid.

(f) Any deposit of money in the bank becomes final when made, provided, however, that a bank may first apply the deposit to any obligation of the customer to the bank and the deposit or any balance thereof shall become available for withdrawal as of right when the bank opens on the first banking day following receipt of the deposit.

(g) Each branch office of a licensed bank shall be deemed a separate bank for purposes of Article 104 (e) and (f) of this Law.

ARTICLE 105 ORDER OF PAYMENT AND PREFERENCE ON INSOLVENCY OF A BANK

(a) If a payor or collecting bank suspends payment, any item which is then in the possession of such bank or which comes into the possession of such bank shall be returned to the presenting bank or to the customer of the insolvent bank if such item has not already been finally paid.

(b) If a payor bank makes final payment on an item and suspends its payments without making a final settlement for the item with the customer of that bank or the presenting bank, and such provisional settlement is or becomes final, the owner of the items shall have a claim which shall be preferred above any claim of the payor bank on such item.

(c) If a payor bank gives a provisional settlement for an item or a collecting bank gives or receives a provisional settlement for an item, and subsequently suspends payment on such item, the suspension shall not prevent or interfere with the settlement becoming final, if such final settlement has

already occurred automatically pursuant to the provisions of Article 102 or 104 of this Law.

PART B - PAYOR BANK

ARTICLE 106 LEGAL EFFECT AND RESPONSIBILITY FOR DEFERRED POSTING OR DELAYED RETURN

(a) A payor bank may revoke a settlement it has made on a demand item which is not a documentary draft when such item is received by the payor bank otherwise than for immediate cash payment. The payor bank may recover any payment or credit it has made, provided, however, that it has not made final payment pursuant to Article 104(a) of this Law and that before its payment deadline, the payor bank returns the item or sends written notice of dishonor or nonpayment to the intermediary, depository or collecting bank.

(b) When a demand item is received by a payor bank for credit, the payor bank may return the item or send notice of dishonor, revoke any credit given by it and recover the amount withdrawn on the item by a customer, provided, however, that there has been no final payment under the provisions of Article 104(a) of this Law and that the bank takes such action before its payment deadline.

(c) An item shall be dishonored when such item is returned or notice concerning such item is sent pursuant to provisions of this Article 106, unless a previous notice of dishonor has already been sent. An item shall be considered returned when it is delivered by the Central Bank acting as clearing house to the presenting or final collecting bank.

(d) When a payor bank has failed to act within the time limits provided by Article 106(a) and (b) of this Law, the payor bank shall be accountable for the amount of any demand item other than a documentary draft or any other properly payable item, provided, however, that this provision shall not limit or otherwise affect the provisions of Article 100 of this Law.

ARTICLE 107 TERMINATION OF RIGHT TO SUSPEND OR REVOKE PAYMENT

Notwithstanding any provisions of this Law to the contrary, a payor bank may not suspend payment of an item or charge a customer's account for an item if such bank has already accepted or certified the item, paid the item in cash, settled for the item without reserving the right to revoke, completed the process of posting the item, evidenced its decision to pay an item or become accountable by late return of such item under the provisions of this Article 107 or Article 106 of this Law, provided, however, that a

bank may determine the order in which items shall be accepted, paid, certified or charged to the subject account of the customer.

**ARTICLE 108 RIGHTS AND OBLIGATIONS
RELATED TO INTERNATIONAL SIGHT
DRAFT**

(a) Unless otherwise agreed, when a bank receives from another bank a letter of advice of an international sight draft, the drawee bank may immediately debit the drawer's account and stop the running of interest pro tanto. Such a debit or any resulting credit to any account covering outstanding drafts leaves in the drawer full power to stop payment or otherwise dispose of the amount and creates no trust or interest in favor of the holder.

(b) Unless otherwise agreed and except where a draft is drawn under a credit issued by the drawee, the drawee of an international sight draft owes the drawer no duty to pay an unadvised draft, but if it does so and the draft is genuine, he may appropriately debit the drawer's account.

**PART C LIABILITY OF PAYOR BANK TO ITS
CUSTOMER**

**ARTICLE 109 RIGHT OF BANK TO
CHARGE A CUSTOMER'S ACCOUNT**

(a) A bank may charge a customer's account for any item which is otherwise properly payable from that account, even though the charge may create an overdraft.

(b) A bank which in good faith makes payment to a holder may charge the indicated account of its customer according to the original tenor of an altered item or the tenor of a completed item, even though the bank has knowledge that the item has been completed, unless the bank has actual notice that any such completion was improper.

**ARTICLE 110 LIABILITY OF A BANK TO A
CUSTOMER FOR WRONGFUL DISHONOR**

The payor bank shall be liable to its customer for all damages actually caused by any wrongful dishonor of an item, provided, however, that when the dishonor occurs through mere mistake of the bank, liability of such bank shall be limited to the actual damages proved by the customer claiming on the item.

**ARTICLE 111 RIGHT OF A CUSTOMER TO
STOP PAYMENT**

(a) A customer may stop payment on any item payable from his account by delivering to his bank an order received by the bank at such time and in

such manner as shall afford the bank a reasonable opportunity to act on the stop order before the bank has taken any action with respect to the item under Article 105 of this Law.

(b) An oral stop order, if accepted by a bank, shall bind a bank for ten banking days unless the order is confirmed in writing within such period and any such written order shall be effective for six months unless a renewal in writing is delivered to the bank before the expiration of such six-month period.

(c) If a bank pays an item on which an effective stop order exists, the bank shall be liable for the amount of the item and any resulting damages to the customer, but the customer shall have the burden of proving the actual damages suffered.

**ARTICLE 112 LIABILITY OF A BANK IN
RELATION TO CERTIFIED CHECKS**

When a holder procures a certification, the drawer and all prior endorsers are discharged and the certifying bank becomes primarily liable on the check. However, unless otherwise agreed to by contract, a bank has no obligation to certify a check. A bank may certify a check before returning it for lack of a proper endorsement and, if the bank so certifies the check, the drawer is discharged.

**ARTICLE 113 OBLIGATION TO PAY OUT-
OF-DATE CHECKS**

The payor bank shall be under no obligation to a customer having a checking account with it to pay any check, other than a certified check, which is presented to such bank more than six months after its date of issue, provided, however, that such bank may charge a customer's account for a payment made after six months when such payment was in good faith and did not violate any instructions from the customer.

**ARTICLE 114 OBLIGATION OF BANK TO
PAY SUBSEQUENT TO DEATH OR
INCOMPETENCE OF CUSTOMER**

The authority of the payor or collecting bank to accept, pay or collect an item, when such authority is effective under this Law, shall not be rendered ineffective because of the mental incompetence or the death of the customer, provided, however, that if the bank has actual knowledge that a customer has been adjudged incompetent by a court of competent jurisdiction the bank shall not pay the item or if a bank has actual knowledge of the death of a customer, the bank shall not pay an item drawn subsequent to the death of such customer or presented to it for payment more than five days after the death of such customer.

ARTICLE 115 DUTY OF A CUSTOMER TO DISCOVER AND REPORT UNAUTHORIZED SIGNATURES OR ALTERATIONS OF ITEMS

(a) A customer has a duty to exercise reasonable care and promptness in examining any statements received by him or held for him to discover any unauthorized signature or alterations of an item, whether such customer receives statement of account from his bank or instructs the bank to hold or otherwise treat the statement and the bank follows its instructions.

(b) Upon such discovery, a customer shall notify the bank of any alteration or unauthorized signature and, if such notification is received within ten days of the delivery of the statement to the customer, the bank shall have a right to charge back the item under this Law. If such notice is not delivered to the bank within 30 days, the account of the customer shall be charged and the risk of loss shall be on the customer.

ARTICLE 116 RIGHT OF PAYOR BANK TO SUBROGATION SUBSEQUENT TO ANY IMPROPER PAYMENTS

When a payor bank has paid an item over a stop payment order of the drawer or maker or has paid an item under other circumstances which give rise to an objection by the drawer or maker, to prevent unjust enrichment and to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights of any one or more of the following:

(a) Any protected holder of the item according to such protected holder's rights against the drawer or maker;

(b) The payee or any other holder of the item according to the rights of such payee or other holder against the drawer or maker either of the item or with respect to the transaction out of which the item arose; and

(c) The drawer or maker according to the rights of such drawer or maker against a payee or any other holder of the item with respect to the transaction out of which the item arose.

PART D COLLECTION OF DOCUMENTARY DRAFTS

ARTICLE 117 PROCESSING DOCUMENTARY DRAFTS

(a) A bank which takes a documentary draft for collection must present or send the draft and accompanying documents for presentment and, upon learning that the draft has not been paid or accepted in due course, must seasonably notify its customer of

such fact even though it may have discounted or bought the draft or extended credit which was available for withdrawal as of right.

(b) When a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present the draft until, in its judgment, a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor but the bank must notify its transferor of such refusal and need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

(c) Unless otherwise instructed, a bank presenting a documentary draft must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment and if payable less than three days after presentment, only upon payment.

(d) A presenting bank is under no obligation with respect to goods represented by the documents accompanying a documentary draft except to follow any reasonable instructions seasonably received. It shall have rights to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for such expenses.

(e) A presenting bank which, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell or otherwise deal with the goods in any reasonable manner and have a lien upon the goods.

CHAPTER THREE TIME DEPOSITS

ARTICLE 118 RESTRICTIONS ON PAYMENTS OF TIME DEPOSITS

(a) A licensed bank authorized to accept time deposits, pursuant to regulations of the Central Bank, shall provide to a depositor evidence of his ownership of any time deposit made with the bank.

(b) A bank shall not pay and a depositor, his assignee or anyone claiming through a depositor shall not be entitled to receive any dividend or interest on a time deposit or portion of a time deposit, unless the prescribed evidence of ownership of the depositor is produced and the proper entry has been made at the time of payment, subject, however, to such exceptions or additional requirements as may be prescribed by regulations of the Central Bank.

(c) A bank shall bear the full risk of any actual loss suffered by a depositor on account of the wrongful payment by the bank under Article 118(b) of this Law. A depositor may be required, by contract with the bank, to give notice of any theft or loss of evidence of ownership of a time deposit within a

reasonable time after the depositor has actual or constructive knowledge of such loss or theft. In any claim under this provision, the depositor shall have the burden of proving his actual damages and shall have a claim only to the extent of such actual damages.

ARTICLE 119 RIGHT TO HOLD TIME DEPOSITS

Notwithstanding any other law of the Sultanate or of the jurisdiction in which a bank is domiciled or organized to the contrary, a minor or other person lacking legal capacity shall have a right to make such time deposits as a licensed bank shall be authorized to accept and shall have capacity to enter into any contracts related to such deposits in such manner and subject to such conditions on withdrawal as the bank may be authorized to require pursuant to regulations of the Central Bank.

ARTICLE 120 INTEREST AND DIVIDENDS ON TIME DEPOSITS

Interest or dividends payable to a depositor on time deposits shall be as provided for by contract between the bank and depositor pursuant to any restrictions or conditions thereon prescribed by regulations of the Central Bank.

ANNEX 7: THE CAPITAL MARKET LAW

Royal Decree No.1/2009
Issued on: 18 March 2009

Part I

Definitions and General Rules

Article (1): In the application of this Regulation, words and expressions shall have the same meaning assigned to them in Article (1) of the Capital Market Law and the following words and expressions shall have the following meanings unless the context requires otherwise:

| | |
|------------------------------------|--|
| Law | Capital Market Law |
| Board | Board of Directors of the Capital Market Authority |
| Issuer | Issuer of Securities |
| Management | Managing director, chief executive officer, general manager and financial manager and any person who directly reports to any of the above or reports to the board of directors of the issuer |
| Board of directors | Board of directors of the issuer or management of the investment fund |
| Trading | Sale and purchase of securities listed in a market |
| Director General | Director General of Muscat Securities Market |
| Related party of the issuer | Includes: 1. Directors of the company or the parent company or any of the subsidiaries or associates, during the period of last twelve months. 2. Chief executive officer or general manager or any employee who directly reports to the board of directors of the issuer. 3. Any person who holds 10% or more of the voting rights in the company or the parent company or the subsidiaries or |

| | |
|-------------------------------|--|
| | associates. 4. Any person who is related to any of the natural persons mentioned in (1, 2, and 3 above) including the father, mothers, sons, daughters, husbands, wives as well the entities in which they jointly or severally hold 25% or more of the voting rights. 5. Any person who is associate of any of the juristic persons mentioned in (1,2,3) including the parent company, subsidiaries, associates and the companies in which he severally holds at least 25% of the voting rights as and the entities their directors acts on the volition of the issuer. |
| Fund | Investment fund |
| Units | Units comprising the capital of the investment fund |
| Investment Manager | Juristic Person licensed by the CMA to carry investment fund management |
| Founder | Juristic or natural person who contributes to the establishment of the investment fund through payment of portion of the capital |
| Appeal Committee | The committee referred to in Article 61 of the law |
| Disciplinary Committee | The committee referred to in Article 63 of the law |

Article (2): All entities carrying out all or part of the activities provided for in the law or the regulation shall keep the documents and registers relating to the operations for ten years from the date of their creation and shall comply with the laws and decision issued by the competent authorities in respect of money laundering.

Article (3): The Authority shall conduct inspection of the entities governed by the provisions of the Capital Market Law and the regulations thereof, at any time, to examine their compliance with the provisions of the law and regulations and take appropriate action. Such entities shall facilitate the mission of the audit and inspection team and provide all information they request. All information and data accessed by the audit or inspection team shall be treated as confidential information and shall not be disclosed or published.

Part II

Issuance of Securities

Chapter I

Issue of Shares in public offering and right issue

Article (4): Any public joint stock company desirous of issuing shares in public offering or rights issue shall obtain the Capital Market Authority's (CMA) approval thereto after making an application along with the required documents.

Article (5): The issuing company shall appoint an issue manager from among the companies operating in securities and licensed by CMA to act as issue manager. For initial public offerings, the issue manager shall not be a related party of the issuer of the securities.

The issue manager may assign part of its functions to another entity without prejudice to his responsibility towards the company, CMA and investors.

Article (6): The issuing company shall, through the issue manager, file a prospectus in Arabic, in the format prescribed by CMA, disclosing the financial statements and all relevant information regarding the issuing company. The issue manager may translate the prospectus into English with an indication that the Arabic version approved by CMA shall prevail in the event of dispute. The company shall not issue before obtaining the approval of the prospectus from CMA.

Article (7): The content of the prospectus shall represent the statements and information required to be disclosed to the investors. The company shall include in the prospectus all the necessary information that would allow the investor to take the investment decision.

Where the company conceals material information to protect the interests of the company and the investors it shall indicate that in the prospectus showing the reasons and justifications for that and its impact.

The company and issue manager shall be responsible for the accuracy of the information in the prospectus.

Article (8): The company shall file the following documents:

1. Receipt evidencing payment of the prescribed fees for the approval of the prospectus.
2. Draft prospectus in Arabic.
3. Draft offering notice in Arabic
4. Draft subscription application form.
5. Copy of the constitutive memorandum and articles of association of the company any all amendments till date.
6. Bank certificate evidencing payment of the founders' contribution.
7. Economic feasibility study of the project or work plan prepared by a professional entity for new projects or expansion of existing projects.
8. Copy of the agreement between the company and underwriters.
9. Copy of the agreement between the issuer of the security and the issue manager.
10. Copy of the agreement between the issue manager and collecting banks.
11. Copy of the report by the expert on the evaluation of the shares in kind.
12. Any other documents CMA deems necessary.

CMA may not commence the review of the prospectus unless all the above documents have been duly completed.

Article (9): The following procedures shall take place on filing and approval of the prospectus:

1. The issue manger shall file the draft prospectus and the attachments with CMA, thirty (30) days prior to the date of opening the subscription. Such drafts may not be made available to the public prior to CMA's approval. Subsequent drafts shall indicate the amendments made by the issue manager to the initial draft.
2. CMA shall approve the prospectus if the information contained therein is duly complete and satisfy all the prescribed requirements.
3. CMA may require additional information from the issue manager or conduct discussions and inquiries, if it deems fit, in relation to the preparation of the prospectus.
4. The final draft of the prospectus shall be filed with CMA signed by the issuer of the security, issue manage, legal advisor and the underwriter/s.

Article (10): Where any amendment or modification is made to the prospectus or the information contained therein after the prospectus has been approved by CMA, the issuer shall forthwith notify the issue manager of such amendment or modification and the issue manager shall lodge the same with CMA within three working days (3) to obtain its approval.

The issue manager shall, after obtaining CMA's approval, publish the amendments in two daily newspapers and at least one of them shall be Arabic daily.

If the amendments were material and affect the company's financial position, CMA may order cancellation of the offering and obligate the issue manager to refund the collected funds to the subscribers.

Article (11): 1. The issue manager shall, within two days from the date of approval of the prospectus, provide CMA and MSM with soft, protected copies of the prospectus for posting them on their web sites.

2. The issue manager shall publish the offering notice, after approval of the prospectus, in two daily newspapers, one of them being an Arabic daily, at least one week prior to the subscription date (for initial public offerings) and five days prior to the date of record for right issues.

3. The offering notice shall at least include:

- a. Company name, legal form, principal place of business, object and term.
- b. Date of the decision confirming the incorporation of the company.
- c. Capital of the company, number of shares and their nominal values.
- d. Names of founders, addresses, nationalities, number of shares held by each, paid up amounts (for newly constituted companies), names of directors and the ratio of their holdings for existing companies.
- e. Major shareholders who hold 5% or more of the capital.
- f. Description of payments in kind (if any) and name of the owners, the value and the method of valuation.
- g. Subscription period and terms and conditions of subscription.
- h. Number of shares offered for subscription, their nominal value, and method of payment and issue expenses if any.
- i. Collecting banks.

j. Indicate where an investor can obtain the prospectus including internet addresses.

k. Any other information CMA deems necessary to be disseminated.

Article (12): 1. Where the company intends to publish promotional advertisements about the offered shares, the draft advertisement shall be presented to CMA for approval. CMA may require the issuer to make amendments as it deems fit.

2. If the issuer intends to carry out promotional campaigns, the issue manager shall inform CMA of the time schedule of such campaigns and the issues to be highlighted.

3. Advertising and promotional campaigns shall introduce the investor to the risks in such investment.

Article (13): The issue manager shall have the following duties and responsibilities:

1. Act as the coordinator between the issuer, collecting banks, underwriter and CMA.
2. Ensure that the issuer has satisfied all the requirements for the issue of securities as per the requirements of CMA, in particular, the issuer obtaining all the approval whether from the competent authorities and the approval of the extraordinary general meeting.
3. Provide advice on capital restructurings, acquisitions, takeovers and mergers.
4. Professional due diligence on the management and organization of the issuer. This includes ensuring that the prospectus contains all the material information necessary to enable the investor to make a thorough analysis and form opinions about the costs, rewards and risks of the investment in the offered securities and that the prospectus doesn't contain any misrepresentation or misleading information or that material information have not been omitted. It should sign an undertaking as per the prescribed format, in the prospectus.
5. Review the basis on which the issue price was set in consultation with the issuer of the security and ensuring the disclosure of this basis of price determination.
6. Appoint collecting banks in consultation with the issuer of the security and enter into agreements with them, setting out their duties and responsibilities as per the requirements of CMA.
7. File the prospectus with CMA after preparing it, getting it reviewed by the issuer of the security and the legal advisor (who should issue a certificate in the

prescribed format evidencing the same) and follow it up until approval.

8. Prepare the offering notice and publish them in the local newspapers after approval by CMA, at least one week prior to the subscription date (for initial public offerings) and five working days prior to the record date for rights issue.

9. Provide sufficient number of prospectuses and subscription forms at collecting banks and brokerage companies and ensure availability of the same throughout the subscription period through continuous follow up of the subscription process.

10. Inform CMA within three (3) days of any change or amendment to the information in the prospectus after approval by CMA. The change shall be subject to approval by CMA.

11. Lodge the approved copy of the prospectus and any amendments thereto with CMA and the protected electronic copy with CMA and MSM within the prescribed period.

12. Obtain CMA's approval for the advertisement and promotional campaigns on the offered securities that the company intends to carry out.

13. Provide CMA with periodical reports during the offering period as mentioned in the prospectus, on the subscription results including number of subscribers, their nationalities, the number of subscribed shares, rejected applications showing reasons for rejection and other related data during the period. The alternatives for allocation in case of oversubscription or how to deal with the unsubscribed shares as per the terms of the prospectus and obtain CMA approval for allocation of shares to subscribers should also be clearly informed to CMA.

14. Send allocation notices to all successful investors and write to the collecting banks to refund the surplus funds as per the time schedule specified in the prospectus.

15. Prepare subscribers' register as per MSM and Muscat Depository and Securities Registration Company (MDSRC) requirements and coordinate with MSM to finalize the share listing procedures.

16. Coordinate with MDSRC and MSM to list right issues within five days from the date of record, in order to prepare a record of beneficiaries of rights issue so that the allotments can take place within the specified period.

17. Review subscribers' names in the rights issue and match the subscribed shares with final rights holders' record with MDSRC.

18. Prepare for the constitutive general meeting and send invitations to the shareholders and follow up the preparation of founders' report and auditors' report during the pre-constitution period.

19. Redress subscribers' complaints made by in coordination with collecting banks.

20. Any other duties and responsibilities required for the issue process.

Article (14): The issue manager shall appoint at least three licensed national banks so that investors can subscribe through them. The collecting banks shall have the following responsibilities:

1. Allocate sufficient human, technical and financial resources to support the subscription process at the head office and the branches.

2. Designate one or more of the bank's competent employees to manage the subscription process; they shall be directly responsible to the issue manager and subscribers for subscription affairs. The prospectus shall indicate the names, addresses, telephone and fax numbers and email addresses of such employees.

3. Employ procedures and systems that help to verify subscription applications to ensure fulfillment of all requirements. The collecting bank shall assign an IT employee to coordinate with MDSRC and the issue manager to manage all the aspects of IT of the issue and subscription process.

4. Adopt subscription procedures in accordance with the terms and conditions set out in the prospectus approved by CMA.

5. Ensure that the bank's employees receive adequate training to perform their duties.

6. Accept subscription applications satisfying the requirements of the prospectus and indicate in the receipt that the bank shall return incomplete applications.

Wherever the bank receives incomplete applications, it should contact the subscriber to complete the application.

7. File reports to the issue manager on the subscription results (volume, value and number of applications) within the period set out by the prospectus or by the agreements with the issue manager.

8. Address and settle complaints from subscribers and forward the unresolved complaints to the issue manager.

9. Ensure availability of application forms and prospectuses at all collecting branches.

10. Refund surplus funds to the bank accounts of the subscribers immediately on receiving orders from the issue manager and within three (3) days; provide the issue manager with a report on the refunds, indicating the refunds completed and those which are pending along with the specific reasons.

11. Provide information as required by the issue manager immediately, subject to the provision of the banking law on confidentiality.

12. Applications shall not be admitted after bank working hours on the last day of the subscription period. The advertisement in the newspaper shall clearly indicate this. If the collecting banks officially open in the evening they shall clearly inform the public.

13. Open other outlet for subscription such as internet websites of the banks or communication centers.

Article (15): Subject to the other terms and rules set out in this chapter, newly constituted public joint stock companies may issue their shares for public subscription provided that a company approved by CMA shall be appointed as underwriter and disclose the direct and indirect expenses relating to the underwriting. The underwriter shall provide a certificate confirming it has verified the feasibility study of the project.

Article (16): The Subscription form shall be in accordance with format prescribed by CMA with the original and attachments for the collecting banks, one copy for the issue manager and the second copy for the subscriber. The reverse side of the subscriber's copy shall contain all the terms and conditions of the subscription.

Issue manager and subscription banks may allow subscribers to obtain subscription forms from their websites provided that a pre-numbering system is available.

Article (17): CMA in coordination with the issue manager may have the power to specify the procedures, terms and conditions of subscription including the subscription method, minimum and maximum number of shares that can be subscribed, the cases where subscription applications shall be accepted or rejected, the method for allotment of shares among the subscribers, and the time limit for refund of surplus subscription funds.

Article (18): Without prejudice to the penalties provided for in the Capital Market Law and the Commercial Companies Law, the issue manager and collecting banks shall be liable toward the issuer and subscribers for any damage caused by their omission in the performance of their duties.

The agreement between the issue manager and collection banks may include clauses on imposing fines on the collecting banks for delay in the processing of subscription applications within the period specified in the prospectus.

Chapter II

Issue of shares in private placement

Article (19): Every public joint stock company interested in increasing its capital through private placement of shares to specific person (s) shall convene an extraordinary general meeting to obtain the approval on such a proposal. The company shall send, along with the agenda, the summary of the proposal including pricing along with the rationale, identity and background of the proposed allottees, the perceived value addition to the company and any other information as deemed necessary to be disclosed.

The company shall obtain undertaking from the person to whom the private placement is addressed, prior to the general meeting, that they will pay the full value of shares on allotment.

Where the persons to whom the shares are allotted are related parties, the company shall disclose the same to the shareholders in the notice to the general meeting showing the nature of interests related to the company.

The resolution of the general meeting shall include explicitly the names of the proposed allottees, number of shares and the issue price.

Article (20): The company, after obtaining the approval of the general meeting, shall submit to the CMA the initial draft of the prospectus containing the following information and documents:

1. Receipt evidencing payment of prescribed fees for the approval of the prospectus.
2. Purpose of the issue and proposed use of subscription proceeds.
3. Issue price and basis of calculation.
4. Investors' names, nationality, and number of proposed subscription shares for each person and percentage to the company's capital, and the reasons for their selection.
5. Details of experience and qualifications of the investors to whom private placement is to be made. In the event that the investor being a juristic person, identity of the major owners of the juristic person shall be mentioned, and if the juristic person is a public joint stock company, members of the board of

directors and all owners of 5% or more of the company's capital shall be identified.

6. Details of the estimated issue expenses of the private placement and modes of payments.

7. Restrictions on investors with regard to ownership percentage and disposition of equity.

8. Explanation on the advantages and benefits that will accrue to the company from the proposed subscription and justification for selecting the method of private placement instead of a rights issue.

9. Disclosures on whether the persons targeted for private placement are related parties and their interests associated with the company, if any.

10. Terms and conditions of subscription and the schedule for the implementation of the private placement procedures.

11. Declaration by the issuer confirming:

A. Information provided in this prospectus is complete, true, and the issuer has carried out due diligence to ensure that.

(i) Investors to the private placement are informed of all information that are required to make their investment decision on whether to subscribe to the company's shares.

(ii) All relevant provisions of the Capital Market Law, the Commercial Companies Law and the regulations, directives issued there-under, have been complied with.

12. Declaration by the Legal Advisor confirming that he has verified the prospectus from the perspective of the company's compliance to the legal requirements related to private placement.

CMA may, before approving the prospectus, require further information or documents.

The company may act as its own issue manager.

Article (21): The company shall collect the subscription amounts within sixty days from date of the general meeting. Where such procedure is not completed within the said period the board of directors of the company shall invite for another extraordinary general meeting to renew the approval if the company is willing to go ahead with the proposal of private placement.

Article (22): The company shall determine the issue price as it sees fit as follows:

1. Where capital increase shares are to be issued only through private placement, the issue price shall not be less than the average of the weekly high and low

closing prices of the relevant shares quoted in MSM in the last twenty six (26) weeks or such average during four (4) weeks before the date of official disclosure of the private placement agreement, whichever is higher.

2. Where the shares being offered through private placement after issue on rights basis under the provisions of the Commercial Companies Law, the issue price shall not be less than the price at which it was offered in the rights issue, provided that collection of subscription funds and completion of the private placement issue shall be completed within sixty (60) days from the date of the closure of the rights issue.

Article (23): The privately placed shares shall be locked in for a period of one year from the date of listing in MSM without affecting the right of the shareholder to affect a secondary pledge on the same.

The restriction shall not apply, if the shares are allotted from the unsubscribed portion of a rights issue to the existing shareholders.

Chapter III

Issue of Bonds

Article (24): A joint stock company desirous of issuing bonds pursuant to the provisions of the Commercial Companies Law shall obtain the Capital Market Authority's approval.

The following documents shall be submitted together with the application:

1. Receipt evidencing payment of the prescribed fees to CMA for the approval of the prospectus.
2. Certified copy of the articles of association, as amended till that date.
3. The resolution of the extraordinary general meeting approving the issue of bonds certified by the competent authority together with the documents and reports presented to the meeting.
4. Resolution appointing bondholders' agent.
5. Draft prospectus as per the format prescribed by CMA.
6. Any additional information or documents as required by CMA.

Article (25): A certificate of credit rating of the company which intends to issue bonds in public offering or rights issue shall be provided in the following cases:

1. Bonds of more than 24 months maturity.

2. Bond issued by a company whose capital has eroded.

3. Bonds issued by a private joint stock company (S.A. O.C)

CMA may also require credit rating in cases other than those mentioned above. It may also request another institution to carry out another credit rating at the issuer's expense.

The credit rating/s shall not be lower than the rating which indicates that the company is able to discharge its obligation toward bondholders as and when they fall due.

Article (26): The company while producing the credit rating certificate shall enter into contract with a professional rating institution to carry out continuous credit rating of the bonds until their maturity falls due. The contract shall provide for the obligations of each party. The prospectus shall include summary of the terms and conditions of the contract.

Article (27): Bondholders' agent shall monitor the company's performance in respect of its obligations as mentioned in the prospectus and to protect bondholders' interests. In particular, it shall be responsible for the following:

1. Calling for periodical reports from the company and inspecting its books of accounts, records, registers, the company's assets and the documents and reports related to the credit rating of the company.
2. Ensuring that the interest due on the bonds have been paid to the bondholders on due dates.
3. Monitoring the issuer's execution of the terms and conditions for providing security for the bonds and ensuring that the security is sufficient to discharge the claims of bondholders as and when they become due.
4. Verifying that the bonds are redeemed or converted into sharers in accordance with the provisions and conditions contained in the prospectus.
5. Calling or causing to be called, the general meeting of bondholders on any event which may affects the interests of the bondholders or on a requisition by one or more bondholders who own at least 10% of the total issued bonds.
6. Ascertaining that the funds raised through the issue of the bonds are utilized in accordance with the prospectus.
7. Carrying out such other acts as necessary for the protection of the interests of the bondholders.

Bondholders' agent may seek the assistance of experts and professionals to perform its duties, without prejudice to his responsibility.

Article (28): Where secured bonds are issued the security shall be created as stipulated in the prospectus within six months from the close of subscription period. Where no security is created within the prescribed period the company shall be liable to refund the money to the bondholders within thirty (30) days.

The creation of security for the bonds issued by banks shall be in accordance with the rules prescribed by the Central Bank of Oman.

Article (29): Convertible bonds may be converted into shares on due dates in accordance with the prospectus.

The issuer company may roll over the bonds subject to compliance with the following:

1. Approval of the bondholders in a general meeting.
2. A fresh credit rating of the bonds carried out no more than 6 months prior to maturity and after making the same available to the bondholders.
3. Create new security for the secured bonds which the company wishes to rollover.

Article (30): The company shall comply with the listing rules stated in this regulation.

Article (31): The rules stipulated in Chapter Two of this Part shall be adapted for issue of convertible bonds through private placement.

Such bondholders may not dispose of the bonds until maturity or conversion date.

Article (32): If the issue terms and conditions include the issuer company's right to redeem the bonds before the maturity date the same right shall be disclosed to the bondholders.

Article (33): The company shall obtain CMA's approval prior to any solicitation or promotion for bond issues.

Part III

Listing, trading, clearance and settlement provisions

Chapter I

Listing of Securities

Article (34) The Omani joint stock company shall submit a listing application within one month from the date of registration along with the following documents and information:

1. Certificate of commercial registration and attachments thereto.
2. List of authorized signatories and specimens of their signatures.
3. Copies of the company's memorandum, article of association and the prospectus.
4. An attested copy of the minutes of the constitutive general meeting.
5. Any additional requirements CMA prescribed deems fit.

This provision with the exception of Clause (4) shall apply to the companies under transformation to public joint stock companies after closure of subscription and allotment. The company shall complete the procedures for registration in the Commercial Register within two (2) months from the date of listing.

Article (35): Notwithstanding the provisions of the previous Article, listing of shares issued to increase the capital shall be as follows:

- a. Bonus shares shall be listed within four (4) business days maximum from the date of record.
- b. Shares issued to increase the capital shall be listed on the date specified in the prospectus.

Muscat Depository and Securities Registration Company (MDSRC) shall complete the preparation of shareholders' register before the end of the period prescribed above.

Article (36): Bond issuers shall file the listing application as per the terms specified in the prospectus in accordance with the format prescribed by CMA.

Article (37): Listing of securities in the Market shall be pursuant to the decision of the General Manager of MSM which shall be issued within one week from receiving complete application and the decision shall also indicate the appropriate Market segment where the security would be listed.

Article (38): Terms and conditions applicable for Omani public joint stock companies shall be adapted for investment funds that are obligated to list their securities.

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Article (39): Securities shall be listed in the Market as follows:

- a. Regular Market: Shares of companies and units of investment funds shall be listed in this market, subject to the following terms and conditions:

1. The paid-up capital is not less than R.O. 2 million.
2. Shareholders' equity is not less than the paid-up capital.
3. The company has earned achieved net profits in the last two years.
4. The number of days during which the shares and units are traded are not less than 30 trading days in a year and annual turnover of the share or unit is not less than 5%.

Share of Omani public joint stock companies resulting from privatization processes shall be listed in this market. The provisions for transfer between market segments shall apply.

b. Parallel Market: Shares of companies and units of investment funds shall be listed in this market in case of the following:

1. Newly established joint stock companies and investment funds.
2. Joint stock companies and investment funds whose shareholders' equity is not less than 50% of the paid – up capital.
3. Public joint stock companies and investment funds who fail to satisfy the requirements of listing in the Regular Market.

c. Third Market: Shares of companies and units of investment funds shall be listed in this market in case of the following:

1. Closed joint stock companies.
2. Joint stock companies and investment funds whose shareholders' equity is less than 50% of the paid-up capital.
3. Public joint stock companies and investment funds who fail to satisfy the requirements of listing in the Regular Market

d. Bond Market: Bonds shall be listed in this market segment.

Article (40): Where the market administration notices that any company or fund is eligible for listing in a higher market segment or ineligible to retain its position in the current market segment, the Market shall transfer its listing to the appropriate market segment.

Article (41): Non Omani issuers who are desirous of listing their securities in the market may file an application in the format prescribed by the Market.

Article (42): The Market may conclude cross listing agreements with other stock exchanges including

terms and conditions for such listing without being restricted by the provisions of this Chapter.

Article (43): Delisting may take place in the following cases:

- a. Change of the legal form to another legal form that is not eligible for listing.
- b. Merger or takeover.
- c. Dissolution or liquidation
- d. Maturity of the security

Chapter II

Trading of Securities

Section I

General Provisions

Article (44): All securities listed in the Market are tradable unless pledged or attached or blocked from trading.

Article (45): The Board of Directors of CMA shall determine the weekly trading days.

The Board of Director of MSM shall determine daily timings. These shall be announced one week before coming into effect.

Article (46): The Director General shall stop trading in the market in the event of any technical failure in the electronic trading system affecting at least one third of all brokerage companies. He may make up for such stoppage with additional time after repairing the failure or start new trading session if such an adjustment would be unfair to brokers and market participants.

Article (47): The Director General may extend or reduce the specified time of the trading session as per the rules approved by Board of Directors of the Market. All principles and measures of the original session shall apply to such extended sessions. The extended periods shall also constitute a part and parcel of the trading session.

Article (48): Access to the trading platform shall be limited to the staff of MSM, the staff of CMA and licensed brokers. The Director General shall determine the number of staff of the brokerage companies who shall have the right to access the trading platform. Entry to the traders' arena may be allowed to official delegations, visitors, guests and students through approval by the Director General or his deputy.

Article (49): Brokerages shall keep the usernames and passwords given to them by the Market to access the trading system and take the necessary measures to

maintain the secrecy of the same. Brokerages shall be responsible for orders and transactions executed through their usernames.

Article (50): The Director of Operations of MSM shall have the powers to execute trading measures and directives. Brokers shall not have the right to interfere in the powers of the Director of Operations or object his decisions during the trading sessions.

Article (51): The Market may temporarily suspend trading of any listed security if there is of information or rumor that may affect the price of the security or in case the company restructures its capital or splits its shares.

Trading of the securities of any company shall be suspended if the company is dissolved or liquidated.

Article (52): The Director General may increase the price fluctuations of a certain security by 10% over the original percentage at the same trading session if there are orders or offers that exceed the applicable ceiling in the Market. The Market shall announce this modification and suspend trading in the security for 15 minutes to allow dealers to amend their orders.

Article (53): No person shall enter bid/ask orders with the intention of misleading market participants that there is active market for one security or more, which would lead to price increase or fall. Any person or group of persons may not conduct a series of transactions on securities in order to manipulate the price.

Article (54): A brokerage company may trade in securities in favor of a member of its Board of Directors, its managers, their spouses and relatives up to first degree. It may also deal in securities in favor of its accredited brokers and its staff provided that it fully and immediately discloses such relationships and dealings.

Article (55): Declared dividends shall accrue on the date of the general meeting which approved such dividends or any other date determined by the general meeting. In all cases dividends shall accrue to the holders at the end of working hours on the record date.

Article (56): The buying client shall be considered as holder of the securities from the moment of execution of the purchase order. Where the client fails to discharge his financial obligations during the settlement period the broker shall deal with such

securities in accordance with rules applicable in the market.

Article (57): The broker shall charge the client a trading commission of not less than 0.04% and not

exceeding 0.075% for each transaction inclusive of the market's share which is 0.015% of the transactions value.

Section II

Authorization

Article (58): Selling and purchasing of securities by brokerages shall only be executed on the basis of written or verbal authorization or any other method agreed upon between customers, their agents or their legal representatives and the brokerage company, provided that that such unwritten orders shall be made in written down later and signed by the client or his authorized agent. Client's authorization shall not be absolute.

Article (59): Client's orders shall only be received by the broker the general manager of the brokerage or his/her equivalent.

Article (60): Orders given to the broker shall specify the conditions or limits of the client within which the broker can act on his behalf in accordance with the form issued by CMA.

Article (61): Upon receiving the authorization the broker shall verify the identity of the client and his capacity to trade.

Article (62): The signature of the client on the authorization given to the broker shall be deemed as acknowledgment of the validity of the information contained therein. The broker shall act within the terms and conditions of such authorization.

Article (63): The broker should maintain a telephone conversation recording machine to receive authorization by telephone. In case of any authorization received by a telephone which is not connected to telephone conversation recording machine, the broker shall be liable in case a of any dispute with the client.

Article (64): The brokerage company should block the securities it wants to sell before sending the selling order. This excludes the shares registered under custodian's account.

Article (65): The Authorization System shall automatically block the securities purchased for clients of the brokerage company in favor of the brokerage company which made the purchase. The brokerage company shall lift the block as per the agreement shown in the authorization order unless the buyer client infringes his obligations with the brokerage company.

Article (66): The broker shall observe the priority of executing clients' orders as per their time of receipt.

The broker shall be responsible for the accuracy of such priority. The broker shall execute buy and sell orders in the nearest trading session unless the authorization provides otherwise.

Article (67): a. The broker shall open a trading account in favor of the client and ensure that the client has an account with Muscat Depository and Securities Registration Company.

b. The broker shall endeavor to execute purchasing or selling orders in favor of his client at the best possible price at the time of executing the order as per the authorization.

Article (68): a. The purchasing client shall, upon the execution of the purchasing order by the broker, pay the value of the purchased securities and the commission to the broker as per the clearance and settlement rules applicable in the Market a- The selling broker should pay the value of the sold securities to his client as per the applicable clearance and settlement rules applicable in the Market.

Section III

Trading Through the Internet

Article (69): Companies licensed for brokerage may provide the ability to trade in the Market, through the Internet.

Article (70): Brokerage companies desirous of providing trading through the internet shall obtain the Market's approval by filing an application and signing the relevant agreement on the form prescribed by the Market.

Article (71): Brokerage companies desirous of providing this service shall:

- 1- Install and maintain an order management system as per the technical specifications determined by the Market.
- 2- Provide information protection system against hacking through the Internet.
- 3- Provide electronic means necessary to receive and register clients' order safely and in consistence with the company's procedures.
4. Conduct surveillance of Internet trading operations.
5. Create technical mechanism to ensure that client's transactions are not executed without sufficient balance of funds or securities.
6. Set out written disclosures to explain the steps for trading through the Internet.

7. Assign the compliance officer of the company to follow up clients' complaints regularly and ensure that they are resolved within a reasonable period.

8. Sign contracts with its clients that take into account the following, in addition to the requirements of the laws that regulates Internet based dealings in the Sultanate:

- a. Adherence to "Know Your Customer" requirements.
- b. Specifying responsibilities of the parties of the contract.
- c. Specifying the duration of the contract.
- d. Specifying cases that require manual signature.
- e. Providing alternative contact channels.
- f. Specify cases that lead to the cancellation of clients' orders.
- g. That each of the contracting parties shall comply with local laws, irrespective of the place where the order has been entered from.
- h. Disclose all risks related to trading through the Internet and investment in securities.
- i. Any other requirements prescribed by the Market.

Article (72): Brokerages licensed to provide this service shall enable their clients to route their buy and sell orders to the electronic trading system.

Article (73): Orders through the Internet shall be subject to the same provisions regulating the ordinary orders.

Article (74): Brokerages shall cancel the orders coming from clients through the Internet if the orders infringe the applicable directives and regulations of the Market or infringe the agreement with the client or are intended to create false impression of purchasing or selling orders. In such cases, the brokerages shall also inform their clients.

Article (75): The Brokerage Company shall not bear any responsibility for such orders placed through the internet which have failed to reach it due to any reason. The client may use the available alternative methods to have his orders delivered to the brokerage company. The agreement between the client and the brokerage company shall provide for this condition.

Section IV

Orders

Article (76): The priority for execution of orders in the trading system shall be based on:

1st - price

2nd - time of entry

3rd - type of order

Article (77): The price shall determine the priority of executing orders. Orders entered into the electronic trading system shall be either a Limit Order, or a Market Order.

Priority shall be based on prices as per the following rules:

- a- Priority of buy orders shall be separate and independent from selling orders.
- b- Higher-price buy order shall take precedence over lower-price buy orders.
- c- Lower-price sell orders shall take precedence over higher-price sell orders.
- d- Best prices shall get priority in execution.

Article (78): Time of entry of the order shall be subsequent to the price in determining the precedence in the sequence of priorities as per the following rules:

- a- Once an order is entered, the system shall determine time and date of entry.
- b- Entry time of the order is the time upon which priority is determined.
- c- Orders carried forward from previous day shall take priority over orders that are entered for trading during the pre-opening session or during the continuous trading session if the price is the same.

d- Any amendment in the information of an order entered into the system shall lead to a change in the time of entry of the order and its rank in the priority except in case of reduction in the quantity.

e- Where an order is partially executed, the remaining portion shall retain its priority.

Article (79): All bids and offers shall be in units specified by the Board of Directors of the Market.

Article (80): Types of orders:

- 1- Limit Price Order: Order at specific execution price.
- 2- Cross Order: An order to the same broker for the same securities, asking to buy and sell for the same quantity. This order shall be executed directly at the best price limits.
- 3- Market Order: Order which the client accepts its execution at the current market price.
- 4- Market To Limit Order: An order without specifying the price. It shall be executed at the best available price (the order is cancelled if there is no

corresponding order at the time it was sent). In case of partial execution of the order, the bid/ask price for the unexecuted portion shall be equal to the price of the executed part.

5- Opening Price Order: Order sent without price during the pre-opening session.

The execution price shall be equal to the opening price. Should any quantity remain unexecuted after the opening of the market it shall become a limit order at a price equal to the opening price.

6- Stop Order: An order at market price that automatically becomes active only when the price of the security reaches the specified trigger price.

7- Stop Limit Order: An order which specifies maximum/minimum price for execution (Limit Price). It shall be triggered automatically if the security reaches the specified Stop Limit Price.

8- On 1st Limit Order: An order which has one tick priority over Limit Price Orders.

It can be sent during the pre-opening session or during the continuous trading session.

9- Fill and Kill (FAK) Market Order: This is a market price order. It is executed at the opening of the market if it was sent during the pre-opening session. It shall be executed directly if it was sent during the continuous trading session fully or partially depending on the existence of one or more corresponding orders. The order shall be cancelled if no matching order is available at the time of transmission. Any unexecuted quantity of the order shall automatically be cancelled.

Article (81): Validity of the orders entered into the electronic trading system shall be as follows:

- 1- (Day): Valid for one day.
- 2- Valid for immediate execution (Fill And Kill)
- 3- Valid for a certain date (Good Till Date)
- 4- Valid for one year (Sliding Validity).

Article (82): The broker may, in addition to the type and validity of order, specify:

1. Minimum limited for execution of the order.
2. Number of securities appearing in the order.

Article (83): The Brokers may cancel any order entered into the electronic trading system if not executed. If part of the order is executed, the broker may cancel the unexecuted part.

Section V

Trading Sessions

Article (84): Trading shall take place through the electronic trading system in regular sessions as follows:

- 1- Pre-opening session
- 2- Opening session
- 3- Continuous trading session
- 4- Closing session

The electronic trading system shall continue in operation for the period set by the Director General of the Market.

Article (85): a. The Market shall hold the pre-opening session on every trading day. It shall run till the beginning of the continuous trading session. Unexecuted and valid orders of the previous day shall be carried forward to this session. Brokers shall, during the preopening session, undertake preliminary measures including entering, amending, or canceling orders and review the available data through the electronic trading system.

b. During the pre-opening session, the electronic trading system shall prioritize entered selling and purchasing orders and the existing orders in accordance with applicable priority rules. No trading shall take place during this session. The System shall calculate the opening price for companies for which there are executable selling and purchasing orders.

c. The opening price shall be determined during the pre-opening session in accordance with the following rules:

- 1- The opening price is the price which would lead to the trading of the largest possible quantity of securities at the opening.
- 2- In the event that there is more than one price meeting this condition, the price which keeps the least quantity unexecuted shall be chosen.
- 3- Where more than one price achieves the same results in terms of the traded quantity and the remaining securities, the higher price shall be chosen in case the remaining quantity is more on the demand side and the lesser price in case the remaining quantity is more on the supply side.
- 4- The price that is nearest to the benchmark price.

Article (86): a. At the end of the opening session, selling and purchasing orders shall be executed at the opening price where this price is better than or equal to the prices specified in purchasing and selling

orders. Unexecuted orders and the remaining quantities of the partially executed orders shall be transferred to the continuous trading session.

b. Entered orders which were not fully executed in the opening session shall be included in the priorities schedule in accordance with their prices and the time they were entered into the system. Orders transferred from previous days shall take precedence over those orders which were entered during the pre-opening stage in case prices are equal.

Article (87): During the continuous trading session, purchasing and selling of listed securities shall be executed through entering purchasing or selling orders followed by automatic matching of corresponding orders.

Section VI

Measures of Execution of Special Orders

Article (88): Special orders shall be executed through TCS trading system. The Board of Directors of the Market shall determine the number of securities required to qualify as such orders

Article (89): Special orders shall be allowed a flexibility of 15% from the previous day's closing price. The Director General may change this percentage as appropriate.

Article (90): Executed special orders may be split through the clearance and settlement entity on the condition that one party to the contract is one individual person or one person and his wife and/or his parents and/or children up to second degree or his sole commercial enterprise.

Article (91): The Broker may demand the announcement of the existence of a special order (bid, ask) to other brokers through the Operations Department.

Section VII

Measures for calling the Un-paid capital

Article (92): The company may, prior to calling for the unpaid capital, coordinate with the Market and MDSRC to create the mechanism for registration of payment and trading of its shares during capital call period.

Article (93): Following a decision of its board of directors, the company shall, by registered mail send to their addresses in the shareholders' register, call upon shareholders who are yet to pay the outstanding capital, to do so, within thirty (30) days from the date of sending the call. The company shall advertise the same in two daily newspapers of Oman, one Arabic and one English.

Article (94): Where a shareholder defaults on payment despite calling upon him to do so, the company shall send him a warning by registered mail to his address recorded in the shareholders' register to pay within 21 days of the date of the warning. The warning shall inform the defaulting shareholder that his shares will be placed for sale in a public auction in the Market, in case the warning period elapses without payment has being made.

Article (95): Where the warning period mentioned in the above article passes without the shareholder making the payment, the company shall publish an advertisement at its own expense once in two daily newspapers in one Arabic and one English indicating that the company intends to sell the shares owned by defaulting shareholders in an auction ten days prior to the date of auction. The advertisement shall contain the date of the auction.

Article (96): The company, wishing to sell the shares of the defaulting shareholders in a public auction shall submit an application to this effect to the Market. The application shall include the following documents:

- a- A written statement showing that the company has taken all the necessary legal measures in this respect.
- b- Copies of the advertisements in which the company called upon the shareholders to pay the required unpaid capital.
- c- Detailed statement approved by the company's management showing the names of defaulting shareholders who failed to pay the unpaid capital, the number of shares and their serial numbers.

Article (97): The Market shall announce the date of the auction three (3) working days prior to the date of auction and the auction shall continue for five (5) days. Where all the shares offered in the auction are not sold within the specified term, the auction shall continue for another five (5) working days after the date of commencement and the same trading session. If the shares are still not sold the company may request for extension of the time.

Article (98): The sale of the auction shares shall be through only one brokerage company which shall be authorized by the concerned company to execute the selling process.

Article (99): The brokerage company executing the sale of the shares in a public auction shall place selling orders in the form of ordinary orders on the trading screen.

Article (100): The Broker authorized to execute the auction shall observe the following measures when presenting the selling of auction shares orders:

a- To start with offering the highest price allowed by trading measures or with the highest price recorded during the last fifteen 15 days.

b- The prices of offers that follow the first offer shall be determined and put up for auction sale in accordance with the auction method.

Article (101): The brokerage company authorized to manage the auction shares selling process may purchase in favor of its clients or its own portfolio.

Article (102): The brokerage company shall issue a cheque with the net value of the sales in the name of the company together with the detailed selling invoice, the quantity and the net value after commission.

Article (103): The company shall take precedence over all the shareholder's creditors in recovering its unpaid dues from the value of the sold shares in the public auction in addition to the accrued interest and expenses. It shall pay the balance to the shareholder.

If the selling proceeds were inadequate to pay all the company's dues, it may recourse to the court to recover the remaining amount from the private money of the shareholder.

Article (104): The average price of the total shares sold in the auction shall appear in the company's register in calculating the share-selling price in order to make the final settlement with the shareholder after deducting all related expenses.

Section VIII

Bonds Trading

Article (105): Selling and buying bonds shall only be on the trading platform. Bonds may not be traded in any other place without a decision from the Board of Directors of CMA.

Article (106): Bonds unit, for the purpose of trading, shall consist of one bond based on its face value in every issue. A transaction executed shall consist of one unit and its multiples. A broker shall be obligated to buy or sell at least one bond (one unit). The buyer shall pay the price of the purchased units as per its market value in addition to the accruing interest up to the date of purchase.

Article (107): Interest shall accrue to the bond bearer on the date of maturity.

Article (108): Public auction measures shall apply for determining bond prices in accordance with supply and demand on the issue and its instruments without any limit for daily increase or fall and without any limit on the number of bonds included in one order.

Section IX

Measures for selling securities by court orders or orders or competent authorities

Article (109): Securities may be sold as per directions in final judgments or orders by the competent authorities in accordance with the provisions of the law against debtors.

Article (110): To enforce the selling process in accordance with the previous Article the creditor or his agent shall present the judgment or the order of the competent authority in accordance with the law together with any documents or identification documents required by the market.

Article (111): Where a broker is not assigned by the judgment or order to execute the sale process the Market shall appoint a broker to do so.

Article (112): a. The broker who executed the selling process shall issue a cheque at the net value of the sold securities in the name of the entity that issued the selling order. A selling invoice showing the number of securities sold, their market price and the net amount after deducting the required commissions shall be attached with the cheque.

b. The broker shall hand over the cheque and the sale invoice to the Market management upon the completion of the selling process.

c. The Market shall hand over the cheque and the selling invoice to the entity that ordered the sale, after recording his signature in the register.

d. Securities selling processes which are executed by virtue of final judgment or order of competent authority in accordance with the law shall be recorded in a special register with in the Market.

Chapter III

Clearance and Settlement

Article (113): Brokerage companies shall be obliged to carry out settlement of financial obligations resulting from securities trading operations.

Article (114): Brokerage companies and clients shall be obliged to carry out settlement of financial obligations resulting from securities trading operations.

Part IV

Companies operating in the field of securities

Chapter I

Incorporation and Licensing

Article (115): Applications for establishment of companies and branches of foreign companies desirous of carrying out businesses in the field of securities shall be submitted to CMA on the prescribed form together with the following statements and documents, in order to obtain the initial approval:

- a. Payment receipt of application vetting fees.
- b. Names and nationalities of founders.
- c. Evidence of the founders' good reputation and that they were not declared bankrupt during the last five years preceding the application or convicted in a felony or dishonorable crime or for breach of trust or any of the crimes stipulated in the Commercial Companies Law, Commercial Law and Capital Market Law or have been rehabilitated.
- d. Statement of the activities the company is desires to carry out.
- e. Authorization by the founders or directors or their deputies to carry out establishment procedures and obtaining the license.
- f. Approval of the Central Bank of Oman if applicant is a bank with a separate investment banking division.
- g. Any other documents or statements.

Article (116): CMA may issue an initial approval for the establishment if the initial requirements are fulfilled. The company shall be registered in the Commercial Register and complete all technical and legal procedures required for licensing the company within not more than six months from the approval otherwise such approval shall become null and void.

Article (117): Any activities in the field of securities shall not be carried out unless the specific license has been obtained from CMA. This provision shall also apply to the branches of foreign companies.

Article (118): Application for the license to carry out the business for the first time or for renewal shall be submitted in the prescribed format together with the following documents and statements:

- a. Payment receipt of licensing fees and the fees for carrying out the business.
- b. Certificate of registration in the Commercial Register and date, number and place of registration.

c. Copy of constitutive memorandum and articles of association and any amendments thereto for companies incorporated in the Sultanate of Oman.

d. Evidence of bank guarantee.

e. Statement on the directors and officers and their qualifications and experience.

f. Statement of fulfillment of the minimum number of employees.

g. Confirmation that the auditor is appointed from among the audit firms accredited by CMA.

h. Proof of insurance policy taken out against liability for loss or damage to clients due to fault on the part of the company or officers or employees or due to loss or damage or theft of clients' documents or funds.

i. Copy of internal regulations of the company.

j. Any other documents that CMA may require.

For branches of foreign companies the followed documents and statements shall be attached in addition to the above:

a. True copy of constitutive memorandum and articles of association of the parent company in the country of origin and any other documents relating to the incorporation of the company.

b. Statement that the parent company is carrying out the activities the branch is desires to carry out.

c. The license granted to the parent company in the country of origin has been valid for not less than last five years.

d. Copy of the annual reports of parent company containing the audited financial statement for the past five years.

e. Statement on the business of the parent company, subsidiaries and associates and their locations.

f. Statement that the paid up capital and shareholders' equity of the parent company is not less than RO 2 Million as per the last audited financial statements.

g. Statement that the parent company will supervise the branch in the Sultanate and its compliance with the applicable laws, regulations and directives.

h. Certificate from the regulatory authority in the county where the principal place of business of the applicant is located indicating the license granted to the company, date of commencement of business and continuation.

i. Statement from the regulatory authority in the country where the principal place of business is located indicating approval for the company to carry

out the business of the companies operating in securities in the Sultanate.

j. Any other documents that CMA may require.

Article (119): The company shall provide evidence, when submitting the application, that it has fulfilled the minimum requirements of employees and their educational qualification and experience to satisfy the standards that CMA deems necessary. CMA may request the employees to undergo tests it sees fit to satisfy this requirement.

Article (120): The company shall deposit with CMA, together with the application, unconditional bank guarantee issued by a bank operating in the country and authorized to the extent of 1% of the paid up capital of the company but not exceeding RO 15,000 on the format prescribed by CMA for this purpose.

The bank guarantee for the branch of a foreign company shall be RO 50,000.

The guarantee may be increased by resolution by the Board of Directors of CMA if the public interest so requires. The company shall top up the guarantee to the required limit within one week from the date of the resolution of the Board or from the date of increase of the company's capital.

Article (121): The Executive President shall decide on the license or renewal application within one month from the date of receipt of the duly completed application. The decision shall be informed in writing.

Article (122): Licensed companies and branches shall be registered in a special register maintained by CMA. Each company shall have serial number specifying the type of business for which it is licensed including the company details, capital, directors, officers and branches.

Every licensed company shall receive a certificate showing its types of licensed activities and it should be placed in a conspicuous place at all its offices.

Article (123): a. The company shall commence the business within one month from the date of the license.

b. The license shall be for three years ending at the end of December in the third year from the year in which the license is granted. Renewal application shall be submitted during the last month of such year.

Article (124): Licensed company may establish branches and appoint agents inside or outside the country after obtaining approval from CMA pursuant to the directives of CMA in this respect.

Chapter II

Activities of the companies operating in securities

Article (125): Licensed companies may carry out the following activities respectively provided the paid-up capital and shareholders' equity shall not be less than the specified limit:

1. Market Maker in MSM: RO 5 Million
2. Custodian: RO 3 Million
3. Margin Financing: RO 1 Million
4. Issuer of Structured Instruments: RO 1 Million
5. Brokerage: RO 700,000
6. Portfolio Management RO 200,000
7. Managing Investment Funds RO 200,000
8. Issue Management RO 200,000
9. Investment Advice and Research RO 200,000
10. Marketing non- Omani Securities RO 200,000
11. Agent for Bondholders RO 200,000

The licensed company that seeks to carry out more than one activity shall satisfy the minimum limit of capital and shareholders' equity separately for each activity for which it has applied.

Article (126): Licenses for branches of foreign companies shall be limited to the following activities:

1. Investment Advice and Research
2. Marketing non- Omani Securities
3. Issue Management
4. Portfolio Management

Article (127): Licensed companies and branches of foreign companies may underwrite the issues approved by CMA after obtaining CMA' approval and paying the fees for each issue. The company shall prove to CMA its solvency prior to obtaining the approval. The company which obtains the approval may engage a sub-underwriter provided that such contract shall not exonerate the company from its liabilities.

Article (128): The company licensed as market maker shall provide liquidity to one or more securities listed in the market. It may not carry out any other activity.

Article (129): The custodian is licensed to:

- a. Hold and keep track of customers' securities and funds in segregated accounts and monitor them to ensure that the investment mandate basis and objects is followed.

b. Ensure the safekeeping of the securities and rights associated with these securities, including the right to receive dividends and the right to vote.

c. Provide customers' directly with safekeeping functions, which are independent from the customer's relationship with the broker.

d. Ensure accuracy of transactions undertaken by the broker.

e. Receive, hold and pay out customer funds as settlement of executed transactions for securities listed on MSM or not listed on the MSM.

f. Other custodial and related functions requested by the customer or Global Custodian.

Article (130): The company licensed for margin financing is licensed to:

1. Provide customers with financing for investment in securities, collateralized by securities held in the name of the licensed company pursuant to the rules issued by CMA.

2. Operating trust accounts.

Article (131): The company licensed as issuer of structured instruments shall create, distribute and manage structured products based on securities and/or index and/or any products traded in any stock exchange. It may also create Special Purpose Vehicles (SPV), employ leverage, arrange securitization or use its own balance sheet for the primary purpose.

Article (132): The company licensed for brokerage is licensed to:

1. Execute trades on stock exchanges inside and outside the Sultanate.

2. Manage trust accounts.

3. Provide advice only to the company's customers.

4. Market GCC public offerings in the Sultanate.

5. Distribute of investment units registered with CMA.

Article (13): The company licensed to carry out brokerage business shall:

1. Ensure that the seller owns the securities prior to execution of sell orders.

2. Ensure that the buyer can pay the price prior to execution of buy orders.

3. Shall not provide investment advice unless licensed to do so.

4. Refuse any order by the customer if it infringes the laws and regulations or the fairness and integrity of

dealing in securities. The broker shall record on the authorization the reasons for refusal and keep the same in the records.

Article (134): The Company licensed for brokerage or portfolio management or margin trading, with the exception of the branches of foreign companies, may operate trust accounts. They shall observe the following:

a. Arrangement shall be under written contract concluded between the company and the customer. The contract shall specify the fees received by the company and where the securities are to be kept, kind of reports to be sent to customers, basis for allocation of orders among the customers in the event of execution of consolidated orders, procedures for dividends, bonus shares, rights issue, attendance of general meeting and voting rights.

b. Keep customers securities in segregated accounts under the name and surveillance of the company.

c. Ensure safekeeping of the securities and rights associated with these securities, including the right to vote, receive dividends, notices and financial statements.

d. Any other requirements prescribed by CMA.

Article (135): Securities portfolio management shall be on the basis of the following rules:

1. Arrangement shall be pursuant to written contract between the company and the customer. The contract shall specify whether or not the company has the discretion or it shall the decisions of the customer, terms of operation of the account, fees and where to keep the securities.

2. The contract shall stipulate the customer's or the company's right to terminate the contract at any time, after giving notice to the other party.

The company shall receive fees for the term during which the portfolio is managed.

Article (136): The company licensed for investment funds management shall create the fund after obtaining approval from CMA for each fund. It may also carry out, further to acting as investment manager, the following:

a. Calculation of Net Asset Value (NAV) and Net Realized Value (NRV)

b. Processing issue and redemption of units.

c. Calculation and payment of dividends.

d. Maintenance and updating of the fund's financial books and records, the calculation of the funds income

and expenses accruals and preparation of periodical financial statements.

e. Supervising orderly liquidation and dissolution.

f. Corporate governance of the fund.

g. Carry out daily processes of the back office including settlement of daily trading and bank settlements.

Article (137): The company licensed for issue management shall carry out the functions stipulated in Article (13) of this regulation.

Article (138): The company licensed for securities investment advice and research shall prepare and publish research and investment advice, provide financial news services and provide customized analysis on demand. The company shall inform the customer of any conflict of interest that may affect its objectivity. CMA may prescribe the requirements.

Article (139): The company licensed for marketing non-Omani securities shall observe the following:

a. Marketing and advice shall be limited to regulated securities.

b. Information pertaining to the security shall be provided to investors including the approved prospectus, any amendments thereto and copy of their due diligence report.

c. Provide statement to CMA every six months within seven days from the end of the term including the details of the issuer of the security, number and value of the marketed securities.

d. The company shall not use fraudulent or deceptive methods or provide false or incomplete information or conceal any material information in order to promote the security that it distributes.

e. Shall not use the media to promote the security.

f. Marketing shall be limited to investors who are financially solvent, have experience in securities investments and have indicated the same in the (Investor Qualification Form).

g. Statement that the investor is acquainted with all the documents relating to the security and that he is aware of the rewards and risks of the security.

h. Initial investment of any investor in any security shall not be less than RO 5,000 (Five Thousand).

i. Keep detailed register of investors who subscribed to the security including the documents and statements relating to such investors.

Above provisions shall not be necessary for securities issued in GCC States and offered as public offerings.

Article (140): The company licensed as agent of bondholders shall carry out the functions stipulated in Article (27) of this regulation.

Chapter III

Obligations of the companies operating in securities

Article (141): The company shall prepare internal rules describing their processes and control mechanism, in compliance with all applicable laws, regulations and directives to avoid conflict of interests and ensure that they are followed in practice. Such internal rules shall at least cover the following areas:

1. Organizational structure of the company which shall show the powers, function and responsibilities of executive management and other functions in the company and reporting methods.

2. Flow of document.

3. Determination of authority regarding approval of expenses.

4. Purchases and services contracts policy.

5. Human resources policies which include salaries, appointment, development, training, promotion, termination and other relevant matters.

6. Investment policies of the company.

7. Processing related party transaction.

8. Processing investors' complaints.

9. Any other rules prescribed by CMA.

Article (142): The company shall comply with internationally accepted rules of professional and ethical code of conduct in the field of securities and shall maintain its own code of conduct in accordance with the minimum requirements set out by CMA.

Article (143): The board of directors shall review the efficiency and adequacy of the whole internal control mechanism and code of conduct at least once in every year.

Article (144): The board of directors shall make reasonably adequate efforts to ensure that all employees and agents and other representatives of the company are ethical, honest and of good character and that they are properly qualified for whatever tasks they carry out.

Article (145): the board of directors shall appoint a general manger who acts as the executive manager of the licensed company or the investment banking division of the licensed banks and the like. The person who occupies this position shall have at least five

years of experience in the field of securities or related areas.

Article (146): The company shall appoint a compliance officer who shall be a whole time employee on the following terms and conditions:

1. The power to appoint and terminate the compliance officer shall vest with the board of directors. The compliance officer shall be a top management officer.
2. Compliance officer shall not carry out any duties to be reviewed or audited by him and shall act independently from the executive management.
3. Compliance officer shall have unfettered right to access the documents and records.
4. Compliance officer shall act in accordance with internationally accepted standards.
5. Compliance officer shall report to the general manager or the like and shall provide copy to the board of directors and the audit committee.

Article (147): Compliance officer shall ensure the company's compliance with legal requirement provided in the Capital Market Law, the regulation and directives and any other requirements specifically:

1. Act as the liaison between the company and CMA and cooperate with CMA's staff who inspect or audit the company.
2. Continuously and independently, monitor and review the company to ensure compliance with statutory and regulatory requirements.
3. Identify shortcomings in regulatory compliance and violations (if any) and immediately
 - Report to their board of directors and to the CMA
 - Take all remedial actions to minimize chances of recurrence or to control the damage, either directly or through the top management.
4. Ensure that all the reports and information required by CMA are properly prepared and filed on time.
5. Ensure adequacy of internal regulation and audit, verify implementation and ensure that improvements are introduced to the systems and control processes.
6. Provide advice to the top management regarding financial risks, market risks and credit and operational risks.
7. Maintain written records as evidence of carrying out surveillance functions.
8. Ensure that training courses are provided to the company staff on statutory and anti money laundering

requirements and ensure they are notified of any developments in regulation.

9. Review customers' complaints and assist in resolving the same.

Article (148): Securities can be lent to brokerage companies in accordance with the rules prescribed by CMA.

Article (149): No person may own, without CMA's approval, more than 15% of the voting shares in any company licensed pursuant to this regulation. Person in this Article means a natural person, spouse, relatives up to first degree and business concerns in which such person own 20% of the voting share or a juristic person and the business concern in any of which the person owns 20% or more of the voting shares.

Article (150): The company shall not own shares in another company carrying out the same activity except if that company is listed.

Article (151): The company may not merge with any company or person or to be taken over or increase or reduce its capital or dissolve or liquidate its business except with the prior approval of CMA.

Article (152): There shall be "Chinese Wall" rules and procedures to ensure that the company or any related party does not improperly utilize undisclosed information.

All licensed banks shall have "Chinese Walls" between the commercial banking and investment banking division.

Article (153): All customer information and orders shall be classified as confidential and treated accordingly and shall be used only for the purpose for which they are given.

Article (154): Access to information stored in the computers or modification thereof shall only be by the authorized personnel in accordance with internal regulation of the company.

Article (155): The company shall maintain a "watch list" for the securities for which it possesses undisclosed information and shall follow such procedures necessary to ensure that such information will not be misused. The company shall prohibit its staff from trading in these securities.

Article (156): Trading by the staff of the company shall be pursuant to the following rules:

1. Trading shall only be through the company for which the staff is working and shall disclose this account to the company. The provision shall also apply on the partners and directors.

2. Prior approval shall be obtained from the compliance officer of the company or the general manager/equivalent.

3. Inform the compliance officer of all their accounts and the accounts of their spouses, minor children, their sole companies and institutions. They shall also provide the compliance officer with any additional information they request on these accounts.

4. The company shall inform the Department of Trading Surveillance of all trading accounts stated in the above clause.

5. Compliance officer shall review all the trading by the staff to ensure they are not trading on the basis of undisclosed information or in breach of the statutory requirements.

6. The company shall keep a register on the trading by each staff member and shall review this register regularly.

Article (157): Segregation of customers funds shall be pursuant to the following rules:

1. All funds belonging to customers shall be deposited and kept in a separate bank account (account) of the company, which shall be titled as "customer account".

Customer funds would include amounts received from customer for purchases, amounts received from settlement of his sales and dividends received on his account.

2. The company shall use the funds deposited in customer's account to fulfill the settlement of obligations due to MSM and other brokers arising from the purchases for the account of that customer.

3. If the customer does not have sufficient deposits to cover his purchases or a customer's cheque fails to clear the bank, the deficit shall not be covered from the funds of other customers.

4. The funds deposited in the customer's account may not be lent or used by the company for its other operations or purposes or pledged or otherwise used as collateral.

5. The company shall appropriate its commissions and fees earned to the general bank account of the company.

6. The audited and un-audited reports of the company's account shall reflect both the amounts due to customers, and the amounts deposited in the customer's account.

7. The licensed company may not charge the customer interest on amounts due to the company unless the company is licensed to provide margin financing.

Article (158): The securities held by the company shall be segregated pursuant to the following rules:

1. No licensed company shall hold customer securities except pursuant to a written contract. The contract must be signed by the customer and the general manager of the company. The contract must state the conditions of operation of the account.

2. Companies holding customer securities in the name of the company must continuously maintain accurate separate accounts clearly identifying the assets and transactions belonging to each customer and portfolio. The back office shall record the transactions and make reconciliations on a daily basis.

Article (159): The following rules shall be observed in account opening and customer files:

1. The licensed company shall prepare its internal rules detailing the conditions and procedures for account opening and maintenance of customer files.

2. Open a customer account with the company and MDSRC if the securities are listed in the Market.

3. The company shall maintain a written record documenting the identity of the customer.

4. The company shall comply with all the applicable agreements, laws and regulation pertaining to anti money laundering.

Article (160): The licensed company which receives and processes orders to buy or sell securities shall have reasonable systems to ensure fairness in order placement, execution and allocation.

Article (161): The Company shall be responsible towards the customer and CMA for the actions of its branches or agents licensed by CMA in accordance with the rules issued by CMA.

Article (162): The licensed company while carrying out promotions to its customers or the public shall not publish any misleading or incorrect information.

Promotion shall include advertisements in any media, publication, web pages, text of signs or billboards, circulars, all regular or occasional research reports, material used in seminars, press releases, articles and interviews with staff and all material distributed or promoted by the company that refers or explains the products and services offered by the company.

Article (163): The liabilities of the company shall not exceed at any time 200% of the net assets. CMA shall issue capital adequacy rules in accordance with the following provisions:

1. The company shall maintain the minimum capital adequacy specified by CMA. The company shall have

adequate systems to monitor capital adequacy and ensure it does not fall below the prescribed ratio.

2. The company shall top up the capital to the required minimum adequacy level within thirty (30) days from the date it falls below the prescribed level.

3. CMA shall take appropriate decision where the capital adequacy falls below the prescribed level.

4. Capital adequacy rules shall not apply to banks licensed by the Central Bank of Oman.

Article (164): The licensed company shall not buy or sell such securities where it is aware that they are subject of any dispute or pay the value of securities before settlement of sale transaction.

Article (165): The licensed company shall not charge any fee or impose any requirement on its customers for rendering services which the company has announced as free of charge.

Article (166): The company shall not conceal material differences in comparing different securities or the performance of different companies.

Chapter IV

Disclosure by companies operating in securities

Article (167): The licensed company shall maintain the required accounting books and registers to properly carry out its business in accordance with the international accounting standards and shall prepare its statements adequately in a manner that truly reflect its financial position and satisfies all the requirements prescribed by CMA.

Article (168): The licensed company shall prepare quarterly un-audited financial statements for the first, second and third quarters of the financial year and file the same to CMA on the prescribed form within thirty (30) days from the end of the quarter and forty five (45) days for those with subsidiaries. Annual audited financial statements shall be prepared in accordance with International Accounting Standards and filed to CMA within two months from the end of the financial year or fourteen (14) days prior to the general meeting for public joint stock companies.

Financial statements mean the balance sheet, income statement, cash flow statement, statement of change in shareholders' equity, notes to the financial statements and board of directors' report.

Article (169): a. The licensed company shall submit capital adequacy reports to CMA within thirty (30) days from the end of each quarter. CMA may require additions reports on capital adequacy.

b. The company shall submit to CMA audited capital adequacy report annually within the period prescribed for submitting financial statements. CMA may require the company to also submit the report for any lesser period. The external auditor, while auditing the report, shall comply with the standards issued by CMA and the report shall state whether or not the system of the company ensures that the capital adequacy does not fall below the required level.

Article (170): The licensed company shall provide CMA, within the prescribed time period, any information or statements or reports.

Article (171): The licensed company shall, prior to contracting with the customer, disclose all the services that it provides and the commissions and expenses he would incur for dealing with it.

Article (172): a. The licensed company authorized to hold customers assets, whether securities or funds, shall send a statement of the account every month in which transactions are made and at least once every six months where there is balance of funds or securities in the account. Proper confirmations shall be sent for each buy or sell transaction within twenty four hours from the execution of the transaction and the reasons should be disclosed in the event the transaction is not executed.

b. The licensed company, on request by the customer, shall provide the customer with its annual and quarterly financial statements and inform him on any change in its board of directors or major shareholders or owners or executive management.

Article (173): The licensed company shall immediately inform CMA in the event of any of the following:

1. Change of name and address of its offices in the Sultanate or any of its branches.
2. Change in the memorandum and articles of association.
3. Change of the chairman or any director or members of the top managements showing the reasons in the event of resignation or termination or change of office.
4. Closure of any branch or termination of dealing with any agent in the Sultanate or abroad.
5. Change of external auditor of the company.
6. Any attachment or mortgage on the company's assets.
7. Any unexpected losses that affects the financial position of the company showing the reasons.

8. Proceedings instituted by the company or against the company that may have a material impact on the financial position and the magnitude of the expected impact on the company's profitability.

9. Financial distress or where it is likely to be financially distressed in the near future.

10. Appointment or termination of any of the employees of the executive management including the brokers, compliance officer, internal auditor and managers.

Chapter V

Brokers Association of the Companies Operating in Securities and

Investor Protection Fund

Article (174): The Association of the Companies Operating in Securities shall be established by resolution of the Board of Directors of CMA and shall operate in accordance with the provisions of the law and shall abide by the following rules:

a. The association shall be a professional, non-commercial, nonprofit organization. It shall not carry out commercial activities or distribute profits to its members. The association may carry out any non commercial activity for its purpose for fees in accordance with its internal rules.

b. Membership of the association is compulsory for the licensed companies.

c. Members shall enjoy equal rights and obligations including the right to vote.

Article (175): The constitutive contract and internal rules of the association shall contain a code of conduct that obligates the members to comply with integrity, competence and moral soundness in the market in carrying out the businesses of the companies operating in securities and shall set out how to inform CMA and the MSM of the action taken against the members including penalties and appeal procedures. The association shall maintain books and registers for its activities.

Article (176): The association shall submit to CMA, within ninety (90) days from the end of its financial year, audited accounts and all relevant documents, statements and information.

Article (177): The association shall establish an investor protection fund in accordance with the following:

a. Membership of the funds shall be mandatory for all the companies operating in securities that keep customers' assets.

b. Rules for management of Investor Protection Fund.

c. Limits of coverage and contribution by the members in the fund

d. Rules for dissolution and liquidation of the fund.

e. Penalties for infringements by members.

Article (178): The sources of funding of the Fund shall comprise the following:

a. Registration fees of the members

b. Annual subscriptions

c. Proceeds of the Fund's claims

d. Proceeds of investment of the Fund's funds in government bonds and bank deposits.

e. Annual contributions of the Market at not less than RO 5,000.

f. Any other sources approved by the Board.

Article (179): Registration fee shall be RO 2,000. The member shall pay annual subscription fee at 0.025% of its total revenue at not more than RO 3,000.

Article (180): Where the member fails to pay its obligations toward the investors due to bankruptcy, the investor shall be compensated from the Fund at 50% of the due amount from a member or more, up to a maximum of RO 50,000. The total compensation to the investors of a single member shall not exceed 25% of the net assets of the Fund.

Where more than one member is insolvent the compensation due to a single investor shall be reduced. Total compensation for all investors shall not exceed 75% of the net assets of the Fund.

Pension funds and investment funds, insurance companies, banks, directors of the failing member and employees shall not be entitled to such compensation.

Article (181): The Fund's money shall be deposited with more than one bank operating in the country. The money shall be invested only in government bonds and bank deposits.

Article (182): The Fund shall be managed by a board of directors comprising of five to seven representatives of the members. They may elect the chairman and secretary from themselves. The board of directors may establish an executive body for the Fund or contract with another entity to undertake the executive management function within the available resources and approval of the general meeting.

Article (183): The Fund's board of directors shall maintain registers to record the revenues and expenses

and shall prepare a file for each case in which compensation is granted to the members' clients.

Article (184): The board of directors of the Fund shall provide CMA and MSM with quarterly reports on the activity of the Fund, its financial position and the compensations to the members' clients. CMA and MSM may access and view the registers and documents.

Part V

Credit Rating Companies

Chapter I

General Provisions

Article (185): Credit Assessment companies are those whose activities are limited to carrying out one of the following activities:

1. Credit rating agencies.
2. Credit Bureaus.

Article (186): Application for establishment of credit assessment companies shall be made on the form prepared by CMA to obtain initial approval together with the following documents:

- a. Names of founders, nationalities and qualifications.
- b. The business the company is desirous to carry out.
- c. Proposed capital provided it is not less than RO 200,000.
- d. Receipt for payment of application vetting fees.
- e. Any other documents CMA may require.

Article (187): CMA shall issue initial approval for the establishment if the initial requirements are fulfilled. The company shall be registered in the Commercial Register and complete all technical and legal procedures required for licensing the company within not more than six months from the approval otherwise such initial approval shall be null and void.

Article (188): Any activities of credit assessment companies shall not be carried out unless after obtaining the license from CMA.

Article (189): Application for the license to carry out the business for the first time or for renewal shall be submitted on the prescribed form together with the following documents and statements:

1. Payment receipt of licensing or renewal fees.
2. Certificate of registration in the Commercial Register and date, number and place of registration.
3. Copy of constitutive contract and articles of association and any amendments thereto.

4. Statement on the company ownership, management, staff and relationship with the foreign partner if any and any amendments thereto.

5. Any other documents relating to the organization of the company's business and capital adequacy.

6. CMA may require any other documents or statements.

Article (190): The Executive President shall decide on the license or renewal application within one month from the date of receiving the completed application. The decision shall be conveyed to the applicant in writing. Where such period passes without any decision on the application, it shall be deemed as rejected.

Article (191): Licensed credit assessment companies shall be registered in special register maintained by CMA. Each company shall have serial number specifying the type of business for which it is licensed including company details, capital, directors, officers and branches. Every licensed company shall receive a certificate showing the types of licensed activities to be placed in a conspicuous place at all its offices.

Article (192): a. The company shall commence the business within one month from the date of the license.

b. The license shall be valid till the end of December in the third year following the year in which the license is granted. Renewal application shall be submitted during the last month of such year.

Article (193): Credit Assessment company's capital and shareholders' equity shall not be less than RO 200,000 at any time.

Article (194): The company shall inform CMA of any dispute with any of its customers and the result of such dispute.

Article (195): The company shall provide CMA, within the specified term, with any information, statements or reports.

Article (196): The company shall prepare its internal code of conduct in which it should undertake to adhere to the ethics of the profession, refrain from violating the laws and refrain from manipulating the assessment results. The company shall make fair and timely disclosure of the results and shall maintain confidentiality of information obtained from clients in addition to other obligations specified by CMA on the prescribed form.

Article (197): The company shall conclude written agreement with its clients including all the data, information, terms and condition as well as the rights

and obligations of each party such as fees charged by the company and client's pledge to cooperate with the company and consent to access its information and data with various entities and by providing data and information that help fair, integral and sound assessment and consent to periodic review of the assessment.

Chapter II

Types of Credit Rating companies

Section I

Credit Rating Agencies

Article (198): The activity of credit rating agencies shall be limited to providing opinion on the potential credit solvency of banks, companies, securities and loans through analysis of available information relating to issuers and borrowers and the background information relating to the sector they represent and the economic factors that affect such sector.

Article (199): The company wishing to carry out the business of credit rating agencies shall comply with the following:

1. Senior managers and analysts of the agency shall have an experience of not less than five years in the financial sector after obtaining certification in the field of rating or financial analysis or related specializations from an educational institution recognized by the Sultanate.
2. Shall have professional engagement with international rating agency (foreign partner) with sound reputation and professional experience of not less than five years in this field. The latter shall be obliged to provide physical and technical capabilities and human resources that enable the agency to provide assessment services.
3. Any other conditions that CMA deems necessary.

Article (200): The company shall not provide its services to related parties.

Article (201): International rating agencies who do not have offices or branches in the Sultanate but are desirous of providing their services in the local market may be exempted from establishing licensed local company or representative office or branch in the Sultanate. They are also exempt from licensing procedures. Such agencies shall be identified by the Board's resolution.

Section II

Credit Bureaus

Article (202): The activity of credit bureaus shall be limited to collecting information on the clients of

providers of credit facilities and matching and processing of such information to prepare credit reports and any other analysis on the credit history in a certain activity or sector.

Article (203): Credit facilities providers are banks, financing institutions regulated by CBO, companies and commercial institutions regulated by the Ministry of Commerce and Industry that provide credit facilities through selling by any form of transfer of ownership in installments for goods and services and private and public institutions that provides paid services to the consumers.

Article (204): Credit bureaus shall comply with the following:

a. Maintain confidentiality of information. They shall not use the information except for the purpose of issuing reports on the credit history, for use by the provider of credit facilities.

Credit bureaus may publish reports generally without indication to specific persons to assess the credit position of certain sector or industry.

b. Shall not give opinion in the credit report to grant or not to grant credit facilities to the client, whether directly or indirectly.

c. Update the credit record of each client continuously and ensure that the information contained in the report is accurate and correct prior to submitting to the requesting entity.

d. Put in place appropriate mechanism for receiving clients' complaints and follow up.

e. Provide any information or statements required by CMA.

Article (205): Credit facilities providers shall not send clients' information to credit bureaus except those pertaining to the nature, type and size of loans and installments due from client and their commitment to pay.

Article (206): The client may obtain copy of his credit report from the credit bureaus or credit facilities providers free of charge, at least twice per annum. He may apply to the credit bureau to correct the information in his report. The bureau shall examine the application and ensure the data are correct and modify the credit report if there is error in the details.

Part VI
Investment Funds

Chapter I
General Rules

Article (207): The funds aim to pool funds from investors for the purpose of investing on their behalf, in various fields in accordance with the principles of professional management of collective investments.

Article (208): The capital of the fund shall be divided into investment units with equal rights. The liability of the unit-holders shall be limited to the value of their contributions.

The value of the units shall be payable upon subscription.

Article (209): The fund shall be a legal entity in itself and may take any of the following forms:

1 – Open –end investment fund is a fund with variable capital. The capital of this fund may be increased with the issue of new investment units and may be reduced by the redemption of part of its units during a period prescribed in its articles of association.

2 – Closed-end investment fund is a fund with fixed capital whose investment units are only redeemable after the expiry of its term. The capital of this fund may be increased pursuant to the provisions of its articles of association. The units of this fund shall be listed in the Market.

Funds aiming to invest in real estate shall only be in the form of closed-end fund.

Article (210): The ownership of the fund's assets shall be registered in the name of the fund and shall not be registered in the financial accounts of the investment manager or any other service provider and shall not be affected by any claims resulting from liquidation or bankruptcy of any of such persons.

Article (211): The fund on making any contact or disclosure to market investment units shall disclose all facts and information pertaining thereto without exaggeration. Further, in all cases, marketing and promotional advertising shall be subject to prior approval by CMA.

Article (211): The management of the fund, investment manager and the service providers shall provide all the information, documents and statements requested by CMA within the prescribed period. CMA may visit and inspect the offices and the records of the fund or any of the abovementioned and may get all the necessary information and statements for the sake of audit and inspection processes.

Chapter II
Establishment of the fund

Article (213): Any person desirous of establishing a fund shall appoint a company licensed by CMA to be the investment manager for funds, to coordinate with CMA in respect to all matters pertaining to the process of establishment of the fund, issuing and listing its units.

Article (214): The investment manager shall apply to CMA to obtain approval to establish the fund and shall attach with the application, the draft articles of association, draft prospectus in accordance with the format prescribed by CMA as well as any statements or documents that CMA may require.

Article (215): CMA shall consider the application and issue its decision within fifteen (15) days from the date of receipt of the duly completed application. Where such period passes without a decision in the application, the application shall be deemed to have been rejected.

Article (216): The investment manager shall complete the process of establishing the fund within three (3) months from the date of notice of the approval by CMA as otherwise such approval would be considered void.

Article (217): Issuance of investment units as regards issue, subscription and allocation processes shall be subject to the provisions of Part I of this regulation in accordance with the provisions of this Part.

Article (218): CMA shall prepare a register for funds in which the fund which fulfills the terms and conditions of establishment, after the end of subscription period, shall be registered.

Article (319): The articles of association of the fund shall contain the following information at minimum:

1. The form of the fund (closed- end or open-end).
2. Name
3. Capital
4. Currency
5. Constitution of the management for the Fund.
6. Investment objectives of the fund
7. Method of transfer, issue and redemption of its units.
8. Frequency of redemption (if any).
9. Dissolution and liquidation of the fund.
10. Commencement and end of the financial year of the fund.

11. Any other items that CMA desires to be incorporated in the articles of association.

Article (220): The investment manager shall, in collaboration with the sponsors, appoint the service providers prior to approval of the prospectus by CMA.

Article (221): The fully paid-up capital of the fund at the time of establishment shall not be less than RO 2 million. The share of the sponsors shall not be less than 5% of this capital. The sponsor shall not sell or redeem its share except after three years from the date of closure of subscription.

Chapter III

Investment Rules

Article (222): The fund shall invest at least 75% of its capital to achieve its main investment objects.

Article (223): Fund aiming to invest in securities shall comply with following rules:

1. The fund shall not hold more than 10% of the outstanding securities of any issuer.
2. The fund's investments in any securities issued by any single issuer shall not exceed 10% of the net asset value of the fund (NAV). This provision shall not apply to index funds.
3. The investment fund shall not borrow more than 10% of its net asset value.

Article (224): Fund investing in real estate shall not borrow more than 30% of its net asset value.

Chapter IV

Net Asset Value (NAV) and Net Realized Value (NRV)

Article (225): Calculation of NAV and determination of NRV for open-ended funds, as per the terms prescribed in the articles of association, shall be carried out and disclosed immediately, at least once in a week.

NAV shall be calculated and stated in the same way it was calculated and stated in the financial statements.

Article (226): a. Open- end funds may issue and/or redeem units on the basis of NRV calculated in accordance with International Financial Reporting Standards.

b. Where units are redeemed at a NRV which is lower than the NAV, the discount from the NAV may not be more than 10%. This limitation shall not apply to redemption at the time of liquidation of the fund.

Article (227): Front end load and back end load which may be charged to investors at the time of issue or

redemption shall not enter into the calculation of NAV or NRV.

Article (228): Each purchase or sale of securities made by the investment fund shall be reflected in the first calculation of NAV following the transaction.

Article (229): Issue and redemption of investment unit shall be reflected in the first calculation of NAV of the fund made after the issue or redemption.

Article (230): The article of association of the fund shall establish the method of valuing listed or unlisted securities or other illiquid assets that have not been traded during the preceding twenty working days. Valuation method for illiquid securities shall be established for the calculation of NAV and NRV.

Chapter V

Listing and Trading of Units

Article (40): Investment units of closed-end funds shall be listed and traded in the Market in accordance with the provisions of the Capital Market Law and this regulation.

Open- ended fund may also list its units in the Market.

Article (232): Listed funds shall be governed by the same listing and trading terms and conditions stipulated in Part III of this regulation subject to the provisions of this Part.

Article (233): Un-listed fund shall prepare and maintain a register for investors. It may appoint another entity through a management contract to prepare and maintain such register after verifying the fitness of the entity. Ownership of units shall transfer on registration in the register. The fund's management shall register transfer of ownership free of charge within three days from the date of receipt of the necessary documents.

Chapter VI

Issue and Redemption of Unit

Article (234): The provisions of this Chapter shall apply to the issue and redemption procedure for units of open-end investment funds.

Article (235): Open- end fund shall issue simplified prospectus at least once in every year, incorporating the annual report.

Article (236): All orders for issue or redemption of the fund's units shall be executed at a price equal to the NAV or NRV determined after the receipt by the fund of the order.

The fund shall consider orders received after specific time on any business day or any day which is not a

business day to be deemed as received by the fund on the next business day following the day of actual receipt. The fund shall maintain a register for all issue and redemption orders.

Article (237): As soon as the NAV and/or NRV is calculated, the investment fund shall send a confirmation to the investor including the nature of the transaction, the amount issued or redeemed, sale or redemption charge, NAV or NRV and the number of units issued or redeemed and the date of the transaction.

Article (238): Front end load shall be expressed at percentage of the net amount issued and the back end load shall be expressed at percentage of the net amount redeemed.

Article (239): Investor shall pay the amount of purchase order of the issued units immediately or at a date not later than three (3) days from the date on which the issue price was determined.

Article (240): The fund shall make annual disclosures on the procedures to be followed for the issue and redemption of units and the documents required to be furnished in connection with redemption order. Relevant statements shall be included in the simplified prospectus.

Article (241): If the fund determines that its requirements for redemption have not been satisfied, the fund shall notify the investor who has given the redemption order, by the end of the business day following the receipt of the redemption order, that its requirements have not been satisfied and further specify the procedures that would have to be completed or the documents which are needed to be submitted by the investor.

Article (242): The fund shall pay the price of redeemed units to the investor after deducting the charges, on or before the third business day after the date of calculation of the NAV or NRV which was used in establishing the redemption price.

Article (243): The fund may not suspend the right of the investor to redeem the value of his units except:

1. For any period during which trading is suspended on securities representing at least 51% of the total assets of the fund.
2. In accordance with any limits or provisions clearly stated in the articles of association of the fund.
3. In exceptional circumstances approved by CMA.

The fund that has suspended redemption shall, within the next business day after the date of suspension, send a notice to CMA and shall disclose the same.

Chapter VII

Fund Management

Article (244): The fund shall be managed and supervised by a management body elected by the general meeting in accordance with the provisions of the articles of association.

The members of the management body shall not be less than three and not more than seven including the chairman and vice chairman. The chairman or his deputy shall represent the fund in courts and in its relations with third parties.

The articles of association shall determine the term of office of the management body provided it shall not be more than five years from the date of formation.

The first management body shall be appointed by the investment manager in coordination with the sponsors, provided its term shall not be more than one year from the date of its registration in the funds' register.

Article (245): Members of the management body are liable before the investors and CMA, to supervise and oversee the investment manager and other service providers and to safeguard the interests of the fund and investors in accordance with the law.

Article (246): Meetings of the fund's management body shall observe the following:

1. The number of attending members shall not be less than two third of the total strength.
2. The members shall not take part in discussions and/or voting on matters if he or his spouse or relatives up to second degree have interest.
3. Approval of resolutions shall need support from majority of the members.
4. Objection by a member to any resolution shall be recorded in the minutes of the meeting.
5. The management body shall meet at least four times per year with a maximum time gap of four months between any two consecutive meetings.

Article (247): The members of the management body shall satisfy the following criteria:

1. Having good conduct and sound reputation.
2. Not convicted in any crime or an offence involving honesty of breach of trust or a crime stipulated in the Capital Market Law, Commercial Companies Law or Commercial Law unless rehabilitated.
3. Not declared as bankrupt.

Article (248): Where any member's position falls vacant prior to the end of the term, the other members may co-opt member as replacement until the end of the term.

Article (249): The fund's management shall carry out oversight and supervision of the fund's business and shall undertake the following:

1. Evaluation of the fund's investment performance compared to similar funds or any other benchmark taking into account investment objectives of the fund.
2. Ensure the fund's compliance with the prospectus, articles of association and statutory requirements.
3. Evaluation of the performance of investment manager and other service providers.
4. Ensure adequacy of the fund's systems to safeguard its assets and ensuring that adequate accounting controls are in place.
5. Ensure the investment manager's system and controls are adequate to ensure compliance with the interests of the fund and investors.
6. Avoidance of conflicts of interest and ensuring that adequate measures are in place to resolve any conflict of interest in the best interest of the fund and investors.
7. Ensure segregation of function when one company is acting as provider of more than one service to the fund.
8. Approve the transactions with related parties and disclose the same.
9. Approve the annual report, financial statements and other information and disclose to the public and investors to ensure that disclosure is fair, timely, transparent and not misleading.
10. Appointment and removal of service providers and determining their fees.
11. Take resolutions pertaining to distribution of dividends.

Article (250): Investors who holds at least 5% of the investment units may request the fund management to cancel any resolution adopted by the funds management or in the general meeting as the case may be, if such resolution is detrimental to the fund or investors. The request shall be referred to the same body which has issued the resolution, to decide on it.

Chapter VIII

General Meeting

Article (251): The general meeting is the supreme authority of the fund and shall comprise of all unit holders.

Article (252): Every unit holder or his proxy carrying a written authorization may attend the general meeting and shall have one vote for every investment unit held by him.

Article (253): The general meeting shall be held in accordance with the articles of association. The extraordinary general meeting may be held if the fund's interest so requires or in accordance with the law or regulation or on request by an investor or more who hold 10% or more of the fund's capital. However, in case of all of the following issues, the extraordinary general meeting shall be convened to consider:

1. Amendment to the articles of association.
2. Change of main investment objectives of the fund.
3. Change in the frequency of calculation of NAV or NRV.
4. Reducing the frequency or limits on redemption.
5. Change of the funds status such as a merger, spinoff or conversion or other.
6. Dissolution and liquidation of the fund.

Article (254): Where the fund management fails to convene the general meeting the investment manager shall convene it. Notice to attend the general meeting shall not be valid unless it also includes the agenda. Notice to attend the general meeting shall be published, after approval by CMA, in at least two daily newspapers for two consecutive days. The notice shall be sent to the investor by ordinary post or delivered by hand or to his representative after recording his signature, at least two weeks prior to the date of the meeting together with authorization form, agenda, memos and documents to be discussed by the meeting.

Article (255): The fund management shall establish the agenda of the general meeting or it may be established by investment manager if the meeting is convened by the investment manager. The agenda shall also include proposals by any investor who holds at least 5% of the capital, at least two weeks prior to the date of sending the notice to the unit-holders to attend the meeting.

The general meeting shall not consider any issues that are not included in the agenda.

Article (256): Investors and proxies who hold all the units of the fund may hold a general meeting without regard to the rules stipulated for such meeting. The meeting may adopt any resolutions within the authority of the general meeting.

Article (257): The general meeting shall be valid if attended by investors or proxies representing at least 50% of the investment units in case of an ordinary general meeting and at least 60% for extraordinary general meetings. Where the required quorum is not present, a second general meeting shall be called within one month from the date of the first meeting. The notice shall be published in the daily newspapers at least one week prior to the date of the meeting. The second ordinary general meeting shall be valid regardless of the percentage of attendance. The second extraordinary general meeting shall require attendance by investors holding at least 50% of the investment units.

Article (258): Resolutions of the ordinary general meeting and extraordinary general meetings shall be adopted by absolute majority unless the articles of association of the funds provides for a higher percentage.

Article (259): The general meeting shall be chaired by the chairman of the fund's management body or its vice chairman and by the investment manager if it has called for the general meeting but the chairman and vice chairman are absent. The meeting shall appoint a secretary to record the minutes including deliberations, resolutions and votes.

Every investor shall have the right to access the minutes.

Article (60): CMA may send an observer to attend all general meetings, supervise its procedures and ensure that resolutions are adopted in accordance with the law. The minutes signed by the secretary and approved by the chairman of the meeting, auditor and the legal advisor, shall be filed with CMA within fifteen days from the date of the meeting.

Chapter IX

Service Providers

Article (261): Service provider means the juristic person who provides service to the fund or investors in consideration of fees under a contract with the fund. Service providers include the investment manager, custodian and external auditors.

Article (262): The service provider shall be a person licensed or approved by CMA and shall have adequate human and financial resources to carry out its obligations.

Article (263): A service provider may provide its services for more than one fund provided that proper segregation of functions is in place to avoid conflicts of interests.

The service shall be provided with due diligence and in the best interest of the fund and investors.

Article (264): The fund shall conclude a contract with the service provider setting out the rights and obligations of each party. The contract shall be reviewed at least once in every year.

Section I

Investment Manager

Article (265): The fund shall entrust the management of its investment to the investment manager.

Article (266): Investment manager shall undertake the following:

1. Manage the portfolio of the fund in the best interest of the investment objectives of the fund as stipulated in the articles of association.
2. Take all investment decision or other decisions in the best interest of the fund and investors.
3. Accurately record all purchase and sale transactions undertaken in favor of the fund and in keeping with their time sequence
4. Shall have an accounting system to classify, monitor and check all transactions in the fund's portfolio which are entered into the system and adjust to the cash and securities accounts opened in the name of the fund with the custodian.
5. Provide liquidity for the fund to discharge any obligations.
6. Safeguard the fund from any unnecessary investment risks.

Section II

Custodian

Article (267): Assets of an investment fund shall be kept with a custodian whose principal place of business is within the Sultanate. They may be kept outside the Sultanate to facilitate transactions abroad. The custodian may appoint a sub-custodian to keep the assets located outside the Sultanate of Oman. Appointment of sub-custodian shall not exonerate the custodian of any of its obligations.

Article (268): Written consent of the fund's management body shall be obtained for all the contracts concluded with the sub-custodian and such contracts shall provide adequate protection for the

assets on terms and conditions consistent with the contract with the main custodian.

Article (269): All contracts concluded with the main custodian or sub-custodian shall at least cover:

1. Requirements that enable the fund to exercise all the rights pertaining to the assets kept with the sub-custodian.
2. Requirements pertaining to the location where the fund's assets are kept.
3. Method of holding the assets.
4. Review and compliance reports.
5. Fees, method of payment and timing of payment.

Article (270): No contract concluded with the main custodian or sub-custodian shall provide for creation of any encumbrance on the assets of the fund, except for claims of payment of fees and charges to the custodian or the sub-custodian for acting in such capacities. The contracts shall not contain any provision that would require the payment of fees or expenses to the custodian or sub-custodian in the form of transfer of ownership of assets belonging to the fund.

Article (271): Subject to Article 225, the assets of the fund shall be registered in the name of the custodian or sub-custodian or their respective nominee with an account number or other designation in the records of the custodian or sub-custodian or the nominee, to establish that the ownership of the assets is vested with the fund.

Article (272): The custodian or sub-custodian shall exercise due diligence in keeping the assets of the fund and shall protect the interests of the fund in every act, and they shall be liable for any loss to the fund's assets resulting from any omission or wrongful act by them or their respective employees, directors or managers.

Section III

External Auditor

Article (273): The management body of the fund shall appoint an external auditor from among the audit firms accredited by CMA.

Article (274): The auditor shall have the right to access the books of the fund and request any statements or notes verify the assets and liabilities and submit its report to the fund's management body.

Article (275): The external auditor of the fund shall not serve as external auditor of the investment manager.

Article (276): The external auditor shall be appointed for one financial year and shall not act as the external auditor for more than four consecutive years and before the expiry of a cooling period of two years.

Chapter X

Dissolution and liquidation of the fund

Article (277): The management of the fund shall recommend to the extraordinary general meeting to dissolve and liquidate the fund for any reason including:

1. Expiration of its term.
2. Accomplishment of the objective for which the fund was established pursuant to the articles of association and the prospectus.
3. Reduction of the net asset value (NAV) of the fund to less than RO 500,000
4. The fund stops carrying out its business without legitimate reason.
5. Reduction in the net asset value (NAV) to the extent that expenses incurred by the investors are unreasonably high.
6. On recommendation by the investment manager.
7. On request by CMA.

The general meeting shall issue the resolution to dissolve and liquidate the fund including appointment of liquidator, setting its fees and the liquidation process. The powers of the fund's management and service providers shall end immediately on appointment of the liquidator.

Article (278): The proceeds of the liquidation shall be used to discharge the due and payable obligations of the fund, after payment of dissolution and liquidation expenses.

The balance shall be distributed to investors on pro rata basis according to their holdings.

Part VII

Provisions for Disclosure of Issuers of Securities and Insider Trading

Chapter I

Disclosure of issuers of securities

Section I

Disclosure of financial statements

Article (279): Every issuer shall prepare un-audited interim financial statements for first, second and third quarters of the financial year and disclose the same immediately after approval by the board of directors and within not more than thirty (30) days from the end

of the quarter. However, the issuers who have subsidiaries and are required to prepare consolidated financial statements would be allowed forty five (45) days for the same.

Financial statements mean the balance sheet, income statement, cash flow statement, statement on change in shareholder's equity and the notes to the financial statements.

Such disclosures shall be accompanied by a report containing the material events that affected the issuer's performance and its financial position during the financial period of the report and reasons for material changes in figures compared to the same financial period of the previous year.

Article (280): Issuer shall disclose the initial annual un-audited financial results immediately after preparation, within the periods indicated in the previous Article.

The initial annual results shall include the following:

- Total sales or revenues
- Sales costs or total expenses.
- Net profit after deduction of tax
- Comparison with the same items for the previous year
- Any other items required by CMA or the issuer feel necessary to disclose.

It shall be noted in the disclosure that the results are initial and un-audited.

Article (281): Issuer shall prepare audited annual financial statements and disclose the same immediately, after approval by the board of directors, not less than two weeks prior to the annual general meeting, together with the following reports:

1. Directors' report
2. Management discussions and analysis report
3. Corporate governance report
4. Auditors' report on corporate governance report
5. Auditors' report on audited financial statements

Issuer shall include in the above reports the statements prescribed by CMA in the forms.

Article (282):

1. Financial statements shall be prepared in accordance with International Financial Reporting Standards (IFRS) and shall include all required information to fairly reflect the financial position of the company and its performance during the relevant

financial period. Any changes in the accounting policies of the issuer and their effects shall be disclosed in the financial statements.

CMA may prescribe additional disclosure requirements.

2. Where there is conflict between any of the IFRS /IAS and the legislation applicable in the Sultanate, such legislation shall prevail and the issuer shall disclose such conflict and disclose its impact on the financial statements.

Article (283): Audit Committee shall review the financial statements prior to approval by the board of directors.

Article (284): Issuer shall disclose audited and un-audited financial statements and initial results for the year through the electronic transmission system of MSM in Arabic and English within the statutory time limits.

Electronic transmission system is the system provided to send the information of the issuer to the Information Centre of MSM on its website.

Article (285): Issuer shall publish statements including the balance sheet, income statement and an adequate summary of the most important events that affected the company's performance and its financial position in respect of un-audited quarterly financial statements and adequate summary of the directors' report in respect of audited annual financial statements.

Publication shall be in two daily newspapers, at least one being Arabic immediately after filing it through the electronic transmission system and no later than five days after the regulatory deadline for filing the statements.

The published statement shall include the contact addresses through which a complete copy of the statements can be obtained.

Article (286): Issuer shall make the financial statements available both in Arabic and English through the head office during business hours and by posting the statements on the issuer's web site.

Article (287): Issuer's auditor shall audit the financial statements in accordance with International Standards of Auditing. The report shall include the following:

1. The responsibility of the issuer's management for the financial statements
2. Whether the financial statements are prepared in accordance with IFRS/IAS.

3. Whether the issuer is in compliance with these rules and guidelines and the requirements of the Commercial Companies Law and other relevant laws.

4. Indicate any qualification to the accounts and the effect of such qualification on the figures of the financial statements of the company.

Article (288): External Auditor shall issue separate report including its opinion on the Corporate Governance Report of the issuer certifying that the report is free of any material misrepresentation and that the report fulfills the requirements of CMA.

Article (289): External Auditor shall inform shareholders of any significant affairs of the issuer such as:

1. Adequacy and efficiency of the issuer's internal regulation, their suitability for the issuer's position and implementation thereof.
2. Whether the business of the issuer is 'a going concern'.
3. Adequacy and efficacy of issuer's internal control systems in place.

Article (290): Issuer that changes its financial year shall observe the following rules:

1. Where the financial period from the end of the previous financial year (before change) to the end of the new financial year (after change) is not exceeding six months then the first financial year shall be extended to not more than eighteen (18) months and the issuer shall continue filing un-audited quarterly financial statements until the end of the new year. Issuer shall prepare annual report for the first financial year and invite the general meeting to approve it.
2. Where the financial period stated in the previous clause is more than 6 months the audited annual report shall be for the previous financial year (before change) as well as audited financial report for the new financial year which will be less than 12 months. The annual general meeting shall be called separately for each financial year to approve them.

Section II

Timely Disclosure of Material Information

Article (291): Issuers shall disclose all its material information and those pertaining to its subsidiaries immediately through the electronic transmission system. The issuer shall disclose such material information or events amply before the trading session for any information or events occurring before it.

Issuer shall take due care to maintain confidentiality of such information until they are disclosed to the public.

Material information means those if disclosed are price sensitive and that would impact investment decisions of market participants or market trends.

CMA may issue forms determining material information to be disclosed immediately.

Article (292): Material information shall be disclosed by written announcement in Arabic and English to be sent to the MSM through the electronic transmission system. MSM shall duly disseminate and circulate the information by suitable means to make it available to market participants. MSM shall also create proper communication channels between it, CMA and the media to circulate the information disclosed by the issuers of securities.

Article (293): On preparation, the statement containing material information issuers shall observe the following:

1. The statement shall be realistic and clear. Disclosure of negative information shall be at the same level of disclosing positive information.
2. The statement shall include adequate details so that investors could understand the issue, evaluate the information and its impact on the financial position of the company and profit performance.
3. The statement shall be balanced, fair and shall not omit material facts that may negatively affect the financial position of the company. It shall not portray potential situation as certain or overstate them, and shall not present any expectation or estimation without being supported by adequate facts.
4. It shall avoid complex technical jargon, unnecessary details or promotional remarks.
5. If it is not possible to evaluate impact and effect of the information on the issuer's future this shall be made clear with substantiation.

Article (294): The issuer, on request by MSM, shall hold a press conference on any information that has been disclosed, if the matter needs more clarification. Market intermediaries, local media and investors shall be invited to attend the conference.

Article (295): If the issuer has reasonable reason to believe that disclosure of material information or events would cause damage to its interests, such information may be treated as confidential information. It may not disclose such information until such reason cease to exist provided that it shall ensure the confidentiality of the information and

ensure that no transactions are made by insiders. The issuer may refrain from disclosing in the following cases:

1. If the disclosure can prejudice the issuer's ability to achieve its objects and objectives.
2. If the information to be disclosed is unstable and volatile especially for matters at the stage of negotiations.
3. If disclosure of such information would compromise the company's competitive advantages.

Article (296): The issuer shall ensure that its advisors or any other expected parties who would have access to such information by virtue of their relation with the issuer, are refrained from using them for purposes other than those required in the interest of the business, through confidentiality agreements.

Article (297): Issuer shall monitor trading movements of its securities while maintaining undisclosed confidential information. Where there is unusual trading activity it shall disclose the information forthwith.

Article (298): The issuer shall immediately comment on any undisclosed material information or incorrect information taken up by the daily press or analyst reports or through rumors, by confirmation or denial of such information. If the information is untrue, it shall send the correction.

Article (299): Issuer may request MSM for temporary suspension of trading of its securities where there is an event requiring timely disclosure provided that timely disclosure is made as soon as possible after the suspension if the issuer perceives maintaining confidentiality of information is not possible.

Such request may be made orally by the spokesperson of the company to be confirmed later in writing. The request shall be supported by reasons of suspension and period of suspension.

The MSM may accept or reject suspension applications. It may reduce the requested suspension period. The suspension shall be lifted at least half an hour after disclosure of information.

Chapter II

Insider Trading

Article (300): Insider is the person who has access to undisclosed material information by virtue of his position and includes the directors, executive management and every person who may obtain such information through his family or personal relations or work relations or otherwise.

Article (301): Insiders shall not deal in the securities of the issuer on the basis of undisclosed material information especially during the following periods:

1. The period during which there is material information undisclosed to the public until the date of disclosure of such information.
2. Closing Period of un-audited interim accounts from the end of the quarter until the date of disclosure of such information.
3. Closing Period of the audited annual accounts from the end of the financial year until the date of disclosure of the un-audited initial results of the year.

Insiders shall not facilitate other person's access to material information before it is disclosed.

Article (302): Issuer, within a month from the end of the financial year, shall provide the Department of Trading Surveillance of MSM with names of directors, executive management and their spouses and relatives up to first degree (father, mother, and children). It shall inform MSM in writing of any change to such information within a week from its occurrence, in accordance with the procedures prescribed by the Market.

Chapter III

General Provisions

Article (303): The MSM shall put in place electronic transmission systems through which issuers can send financial statements and information required by disclosure rules. Issuer shall be obligated by the terms and conditions set out by MSM for use of such systems.

Article (304): Design and use of electronic transmission system shall observe the following terms and conditions:

1. The system shall be used by persons responsible for disclosure at the end of the issuer of the security. User name and password shall be given to the person designated by the issuer after signing undertaking that he/she is aware of disclosure rules and the rules for use of such system.
2. Technical mechanisms shall be put in place to prevent abuse of the system by other parties.
3. Timings and period set for disclosure of information shall be observed.
4. System user shall sign an electronic undertaking each time he/she enters information confirming his/her responsibility for correctness of the entered information and that the information is identical to the information approved by the issuer.

5. Issuer shall maintain chronological register showing date and time of entry and user's name (log record).

6. The MSM shall review the information coming through the electronic system to ensure they satisfy formal and substantive elements before posting and dissemination on its web site.

Article (305): Issuer shall be legally liable for accuracy and adequacy of the information sent through the electronic system. It shall ensure that the sent information was disseminated through the system. Issuer shall maintain a register showing information and data sent through the system, date and time of transmission and name of sender. Such register shall be available for inspection by CMA on request.

Article (306): Any failure in the electronic transmission system whether on the part of the MSM or the issuer shall not absolve the issuer from legal liability of failure to disclose information as per regulatory requirements. Issuer shall coordinate with the Market to disclose the information as they see fit.

Article (307): The board of directors of the issuer shall set out internal disclosure policies and procedures to ensure the following:

1. Fair and timely disclosure of material information of the issuer.
2. That the disclosed information is sound, true, reasonably adequate and not misleading the investors.
3. Prevent any dealings in its securities based on undisclosed information.

Article (308): The board of the issuer shall be responsible for ensuring the issuer's compliance with disclosure rules. The board shall appoint one or more persons from among the directors or executive management to perform the following:

1. To act as spokesperson of the issuer
2. Preparing written announcement about the information to be disclosed.
3. File information to CMA, MSM, market participants, financial analysts and the media in accordance with disclosure provisions.
4. Follow up the trading movement of the issuer's securities and take immediate action where there is unusual movement on the trading thereof.
5. Inform the directors and management on the importance of disclosure and related policies, procedures and legal obligation for non-compliance.

The issuer shall inform CMA and MSM of the names and contact addresses of such persons.

Article (309): The person or persons appointed by the board to take over the above mentioned tasks shall be:

1. Aware of the requirements of the provisions related to disclosures and well informed about the disclosed information.
2. Shall be continuously available to solve problems that may come up suddenly or unexpectedly.

Article (310): Issuers operating in securities, insurance companies, investment funds, banks and financial institutions shall observe other disclosure provisions and rules.

Article (311): Issuer shall disclose the resolutions of the general meetings immediately or with sufficient time before commencement of trading on the next day. The Market may suspend trading of the issuer's security in case it fails to file such information.

Minutes of the general meeting shall be filed with CMA after approval by the chairman, auditor, legal advisor and secretary within fifteen (15) days from the date of the meeting.

Article (312): The issuer shall disclose the board's resolution or recommendation to declare dividends at least ten days prior to the date of record. The board shall not amend such resolution or recommendations after disclosure to the public unless there is adequate justification acceptable to CMA.

Article (313): Subject to the cross listing agreements between the MSM and other jurisdictions, if the issuer has securities listed in more than one market, information disclosed under disclosure rules in a certain market shall be simultaneously disclosed in the other market where it is listed, regardless of either being the main market in which the stocks are listed.

Article (314): The issuer is prohibited from making selective disclosure of material information to certain parties including initial results of the financial statements, especially to financial analysts or financial institutions before being disclosed to the public in accordance with disclosure provisions.

Article (315): Issuer shall disclose any changes or amendments to the previously disclosed information providing reasons for change or amendments. Issuer shall indicate the current information is a corrected version of the previously disclosed information.

Article (316): CMA or the Market may request from the issuer and its auditor to provide additional clarification on the previously disclosed information

or other statements or information or documents within the prescribed time limit.

Part VIII

Conciliation and Committees

Chapter I

Conciliation

Article (317): The Board may conciliate with the violator for the violations he committed in breach of the provision of the law, regulations and directives, after payment of the amounts stipulated in the table below:

| S | Violation Conciliation amount | Conciliation amount |
|---|--|-----------------------------|
| 1 | Failure to include all material information or statements pertaining to the issuer in the prospectus | From RO 10,000 to RO 30,000 |
| 2 | Prospectus includes incorrect information or false statements. | From RO 20,000 to RO 50,000 |
| 3 | Issue of securities or raising funds in violation of the provisions of the law, regulation or directives | From RO 5,000 to RO 50,000 |
| 4 | Publication or allowing the public to access the prospectus prior to obtaining CMA's approval | RO 1,000 |
| 5 | Failure to file any change or amendment in the prospectus with CMA within the prescribed period or effecting the same without CMA's approval | RO 500 |
| 6 | Failure to publish the change or amendment in the prospectus in two daily newspapers at least one is Arabic daily, within the prescribed period. | RO 500 |
| 7 | Failure to provide CMA with protected soft copy of the approved prospectus within two days from the date of approval | RO 500 |
| 8 | Failure to publish offering notice after approval within prescribed period and by the prescribed method. | RO 2,000 |
| 9 | Advertising or conducting promotional campaign relating to issuance of securities without approval | RO 1,000 |

| S | Violation Conciliation amount | Conciliation amount |
|----|--|------------------------------|
| | by CMA | |
| 10 | Failure of the issue manager to perform any of the functions entrusted to it | From RO 1,000 to RO 10,000 |
| 11 | Failure of the collecting bank to perform any of the functions entrusted to it | From RO 1,000 to RO 5,000 |
| 12 | Failure to list shares or bonds or any securities in the Market during the prescribed period | RO 5,000 |
| 13 | Failure of the listed company under conversion to finalize the registration processes within two months from the date of listing | RO 500 |
| 14 | Failure of brokerages to protect the user name and password given by the market to access the trading system | From RO 500 to RO 5,000 |
| 15 | Broker executing an order in breach of the laws, regulations and directives or infringing integrity and fairness in dealing in securities | RO 500 |
| 16 | Any act regarding securities that may mislead market participants or lead to creating false impression of active market for the security | From RO 20,000 to RO 100,000 |
| 17 | Any fraudulent act aimed at fixing the price of a security, infringing the applicable laws, regulation and directive. | From RO 20,000 to RO 100,000 |
| 18 | Failure of the brokerage company to disclose the trading made in favor of its directors, managers, their spouses and relatives up to first degree as well as its brokers and staff | RO 500 |
| 19 | Infringement of the provisions regulating authorization | From RO 1,000 to RO 5,000 |
| 20 | Infringement of the processes and timing for capital call | RO 300 |
| 21 | Carrying out the businesses in the field securities without being licensed by CMA | From RO 50,000 to RO 100,000 |

| S | Violation Conciliation amount | Conciliation amount |
|----|---|----------------------------|
| 22 | Failure of the company licensed to carry out business in the field of securities to commence business within one month from the date of the license | RO 1,000 |
| 23 | Failure to top up the bank guarantee within the prescribed period | RO 1,000 |
| 24 | Failure of a company operating in securities to apply for renewing its license | RO 300 |
| 25 | Failure of the company operating in securities to inform CMA of any of the events that requires notice to CMA | RO 300 |
| 26 | Failure of a company operating in securities to put in place internal rules and code of professional conduct or failure to comply therewith | From RO 500 to RO 5,000 |
| 27 | Failure of a company operating in securities to appoint compliance officer or failure to comply with appointment requirements | From RO 1,000 to RO 3,000 |
| 28 | Failure of a company operating in securities to comply with capital adequacy requirements | From RO 1,000 to RO 5,000 |
| 29 | Failure of a licensed company to prepare "watch list" and failure to take procedures required to ensure such information is not used | RO 300 |
| 30 | Failure of a licensed company to maintain register on the trading of its staff or failure to update such register | RO 300 |
| 31 | Promotion by a company operating in securities in misleading or incorrect manner | From RO 500 to RO 3,000 |
| 32 | Failure of a company operating in securities to comply with the rules on segregation of customers funds or securities segregation | From RO 1,000 to RO 10,000 |
| 33 | Non compliance of the company operating in securities of any of the | From RO 200 to RO 5,000 |

| S | Violation Conciliation amount | Conciliation amount |
|----|---|------------------------------|
| | disclosure provisions | |
| 34 | Failure of a credit assessment company to renew the license | RO 300 |
| 35 | Failure of a credit assessment company to prepare internal code of conduct as required | RO 500 |
| 36 | Failure of a credit assessment company to conclude a contract with the customer in accordance with the requirements | RO 500 |
| 37 | 37 Licensed credit rating company providing services to related party | RO 500 |
| 38 | Failure by a credit assessment company to provide CMA with the required statements or reports on time | RO 500 |
| 39 | Failure of a credit rating bureau to comply with any of its obligations | RO 500 |
| | 40 Failure of an investment fund to comply with the required investment rules | RO 2000 |
| 41 | Failure of an investment fund manager to observe timing and method of calculation of NAV of NRV | RO 500 |
| 42 | Failure of an investment fund manager to comply with mechanisms and timings for issue and redemption of investment units | RO 500 |
| 43 | Trading based on undisclosed information whether directly or indirectly by insiders | From RO 20,000 to RO 100,000 |
| 44 | Dissemination of rumor on the position of any company to impact share prices | From RO 10,000 to 30,000 |
| 45 | Infringement of IFRS in preparing financial statements | From RO 3,000 to RO 3,0,000 |
| 46 | Infringement of International Auditing Standards in auditing financial statements | From RO 3,000 to RO 30,000 |
| 47 | Failure to transmit all quarterly un-audited financial statement and the required accompanying reports through electronic transmission system within the period prescribed in the | RO 1,000 |

| S | Violation Conciliation amount | Conciliation amount |
|----|--|---------------------|
| | Regulation | |
| 48 | Incomplete quarterly un-audited financial statements and the required accompanying report transmitted through the electronic system | RO 500 |
| 49 | Failure to publish quarterly un-audited financial statements in the daily newspapers within the period prescribed in the Regulation | RO 500 |
| 50 | Publication of quarterly un-audited financial statements in only one daily newspaper within the period prescribed in the Regulation | RO 250 |
| 51 | Failure to send the un-audited annual results through the electronic transmission system within the period prescribed in the Regulation | RO 500 |
| 52 | Failure to send contents of un-audited annual results through electronic transmission system | RO 250 |
| 53 | Failure to send all the contents of audited annual financial statements and the accompanying reports through the electronic transmission system | RO 1,500 |
| 54 | Incomplete audited annual financial statements and accompanying report transmitted through the electronic transmission system | RO 750 |
| 55 | Failure to publish audited annual financial statements and summary of the board of directors report in the daily newspapers within the period prescribed in the Regulation | RO 750 |
| 56 | Publication of audited annual financial statements and summary of the board of directors report in only one newspaper or the statements being incomplete | RO 350 |
| 57 | Delay in lodging the soft copy of the prospectus with | RO 300 |

| S | Violation Conciliation amount | Conciliation amount |
|----|---|---------------------|
| | CMA and MSM | |
| 58 | Delay in publication of offering advertisement in the daily newspapers | RO 300 |
| 59 | Failure to make timely disclosure of material information | RO 500 |
| 60 | Failure to file minutes of the general meeting with CMA | RO 250 |
| 61 | Failure on the part of the issuer company to file list of the names of insiders to MSM or modification within the prescribed term | RO 300 |

Article (318): where the violator makes any financial gains from the violation that shall be refunded to the person who incurred damage or where there in no such person they shall accrue to CMA.

Article (319): If the violation is related to a failure in complying with the requirements within the prescribed time limit mentioned in this Regulation, the conciliation amount shall be increased for each day of delay at 15% of the reconciliation amount up to a maximum of fifteen days.

Article (320): Violator shall pay the conciliation amount to the Department of Financial Affairs of CMA within ten days from the notice. CMA may bring legal proceedings against the violator if he fails to pay the reconciliation amount within the prescribed time period.

Chapter II

Appeals Committee

Article (321): Appeals from the decisions of the Minister or Executive President of CMA pursuant to the provisions of the law, the regulation and or the decisions or circulars shall be to the Appeals Committee. Appellant shall deposit the prescribed fees which shall be refunded if the requests in the appeal are granted.

Article (322): Appeal shall contain the following information:

1. Name, profession and address of the appellant.
2. Date of the appealed decision and date of notice to the appellant.
3. Subject matter and grounds of the appeal

Supporting documents shall be attached with the appeal.

Article (323) The Department of Legal Affairs of CMA shall receive the appeals and register the same in a register on the date of filing and shall return a copy of the appeal to the appellant showing the registration number and the date and shall present the appeal immediately to the Chairman of the Appeals Committee for action. The committee may request any further explanation or documents.

Article (324): The Committee shall issue its substantiated decision on the appeal within thirty days from the date of filing or the date of receiving the explanations and the documents it requested as the case may be.

The deliberations of the Committee shall be confidential and the decisions shall be taken by majority. The Department of Legal Affairs shall inform the appellant through an approved copy of the Committee's decision.

Chapter III

Disciplinary Committee

Article (325): The Board shall form from among its members a disciplinary committee comprising three members including the chairman. The secretary shall be an employee of CMA who is also qualified to act as a legal practitioner.

The secretary shall receive all the papers and requests by the concerned party and present them to the Chairman of the Disciplinary Committee and inform the concerned party of the time appointed for the Committee's meeting and any other matter assigned by the Chairman. The Secretary shall not have a vote in the deliberations.

Article (326) The Secretary shall inform the violator of the time appointed by the Disciplinary Committee for consideration of the violation attributed to it by written notice to be delivered at least three days prior to the date of appointment. The notice shall include a summary of the violation.

Article (327): The Secretary shall enable the defendant or his attorney to access all the papers pertaining to the violation and provide copy of the documents on payment of the prescribed fees.

Article (328): The Disciplinary Committee shall confront the defendant with the violation attributed to him, enable him to defend himself personally or through an attorney and hear witnesses' statements on their own or on request by the violator or his attorney.

Absence of the violator to whom a notice has been served shall not prevent the Committee from hearing the violation and issuing its decision.

Article (329): Deliberations of the Committee shall be in camera. Decisions to impose any of the penalties stipulated in Article 63(a) of the law shall be taken by majority vote except for the penalty of final termination of the Market's membership which shall be taken unanimously.

The concerned party may obtain a copy of the Disciplinary Committee's decision within five days from its issuance.

Article (330): The Secretary shall notify CMA and the Market of all the decisions of the Disciplinary Committee within three days from their date of issuance.

Part IX

Fees

Article (331): CMA shall collect the following fees:

| S | Fee | Fee Amount | Due |
|---|---|--|--|
| 1 | Fee for approval of prospectus for the issue of shares and investment units | 0.05% (Five in ten thousands) of the total value of the securities including the nominal value, issue premium together with nominal value of founders' shares subject to a maximum of RO 25,000 and minimum of RO 2,000. | Once on filing the initial draft prospectus |
| 2 | Fee for approval of prospectus for issue of bonds | 0.05% (Five in ten thousands) of the total nominal value of the issued bonds subject to a maximum of RO 2,000 and minimum of RO 1,000. | Once on filing initial draft proposal |
| 3 | Fees for listing shares of public joint stock companies and units of investment funds | 0.05% (Five in ten thousands) of the nominal value of the listed securities subject to a maximum of RO 25,000 and | Annually on January 1st of every year and on listing any new securities during the course of the year, |

| S | Fee | Fee Amount | Due |
|---|---|--|---|
| | | minimum of RO 2,000. | proportionately for the remaining months of the year. Fraction of a month shall be rounded up to a whole month. |
| 4 | Fees for listing shares of closed joint stock companies | RO 100 | Annually on January 1st of every year and on listing any new securities during the course of the year, proportionately for the remaining months of the year. Fraction of a month shall be rounded up to a whole month |
| 5 | Fees for listing of corporate bonds | 0.01% (One in ten thousand) of the nominal value of bonds subject to a maximum of RO 2,500. | Annually on January 1st of every year or on listing any new securities during the course of the year, for the remaining months of the year. Fraction of a month shall be rounded up to a whole month. |
| 6 | Fees for listing government development bonds | 0.015% (One and half in ten thousand) of the value of the bonds subject to a maximum of RO 3,000 and | Annually on January 1st of every year or on listing any new securities during the course of the |

| S | Fee | Fee Amount | Due |
|---|--|--|--|
| | | minimum of RO 200. | year, for the remaining months of the year. Fraction of month shall be rounded up to month |
| 7 | Fees for processing of application for establishment of a company operating in securities or a branch of a foreign company | RO 500 | Once on submission of application |
| 8 | Licensing fees for Omani company or branch of any foreign company to operate in the field of securities | RO 150,000 | Once on issuance of the license |
| 9 | Fees for carrying out any of the activities of licensed companies | 1. Brokerage: RO 50,000 2. Portfolio management: RO 5,000 3. Investment fund Management: RO 5,000 4. Issue management: RO 10,000 5. Marketing of non Omani securities: RO 10,000 6. Investment Advice and research: RO 5,000 7. Market maker: RO 10,000 8. Custodian: | Once on approval to carry out the business |

| S | Fee | Fee Amount | Due |
|----|--|---|--|
| | | RO 10,000 9. Margin financing: RO 10,000 10. Issuer of structured instrument: RO 10,000 11. Agent for bondholders: RO 10,000 | |
| 11 | License renewal fees for an company or a branch of foreign company to operate in the field of securities | RO 500 | Once on renewal |
| 12 | Membership fees for companies and branches of foreign companies operating in securities | RO 3,000 plus RO 1,000 for each licensed activity | Annually on January 1st every year or on licensing the company during the course of the year, proportionately for the remaining months of the year. Fraction of a month shall be rounded up to a whole month |
| 13 | Application vetting fee for establishment of credit assessment company | RO 500 | Once on submission of application |
| 14 | Licensing fee for credit assessment company | RO 1,000 | Once on licensing |
| 15 | License renewal fee for credit | RO 500 | Once on renewal |

| S | Fee | Fee Amount | Due |
|----|---|-----------------------|--|
| | assessment company | | |
| 16 | Annual membership fees for credit rating companies | RO 500 | Annually on January 1st of every year or on licensing the company during the course of the year, proportionately for the remaining months of the year. Fraction of a month shall be rounded up to a whole month. |
| 17 | Fees for filing minutes of the general meeting or amendments to the articles of association | RO 10 for each filing | Once on filing |
| 18 | Fees for obtaining a true copy of documents, registers and minutes filed with CMA | RO 5 for each copy | Once on obtaining the copy |
| 19 | Fees for filing appeal to the Appeals Committee | RO 50 | Once on filing the appeal |
| 20 | Fees for obtaining copy of the violation documents referred to the Disciplinary Committee | RO 20 | Once on obtaining the copy |

ANNEX 8: CAPITAL MARKET AUTHORITY CIRCULAR E 6/2009

**To The General Managers of
All Insurance Companies and
All Insurance brokers and agents**

After Compliments,

In the frame of CMA's concern to enhance the procedures of combating money laundering and terrorism financing in line with the international requirements, we are pleased to attach herewith notes to the provisions and measures stipulated in the Money Laundering Law promulgated by Royal Decree No (34/2002) and its Executive Regulations with regard to insurance companies business.

The attached circular identifies the procedures that would prevent money laundering and terrorism financing operations and the factors that should be considered when insurance contracts are concluded and it emphasizes the importance of ongoing monitoring of insurance business relationships. This circular also obligates the parties operating in insurance sector to set out internal regulatory controls to detect and abort money laundering crimes and to report to CMA and Financial Investigations Unit, RPO any suspicious transaction that is thought to be, with justified reasons, related to money laundering acts according to the information mentioned in Annexure (1), (2).

Looking forward to enforcing this circular.

Best regard,

**Yahya bin Said bin Abdullah Al Jabri
Executive President**

Issued on: 7 June 2009

GUIDELINES ON PREVENTION OF MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM FOR INSURERS AND BROKERS

1. Introduction:

Money laundering and terrorism financing crimes are economic crimes that require intensive efforts for combating them in the various sectors. Insurance sector can be used as a direct target for money laundering and terrorism financing operations.

This circular is based on Article (4) of Money Laundry Law promulgated by Royal Decree No (34/2002) which stipulates: "Institutions, natural and juristic persons shall verify their customers' identity and addresses, pursuant to the instructions issued by the competent supervisory authority before opening accounts, taking stocks, bonds or other securities for safe custody, granting safe deposit facilities or engaging in any other business dealings".

This circular aims at introducing money laundering operations and their role, measures that should be taken by insurance operators, policies that should be followed, suspicious transactions reporting measures and punishments. These would form effective measures and procedures to combat money laundering and terrorism financing.

2. Money Laundering and Financing of Terrorism

'Money Laundering' is a term used to describe a number of techniques, procedures or processes in which funds obtained through illegal and criminal activities are converted into other assets in such a way as to conceal their true origin or ownership or any other factors that may indicate an irregularity, so that they appear to have originated from a legitimate source.

Article 2 of the Law of Money Laundering defines the offence of money laundering as under:

"Any person who intentionally commits any of the following acts shall be deemed to have committed the offence of money laundering:

a) Transfer or movement of property or conducting a transaction with the proceeds of crime knowing, or with reason to know, that such property is derived directly or indirectly from a crime or from act or acts of participation in a crime, with the purpose of concealing or disguising the nature or source of such

proceeds or of assisting any person involved in a crime

(b) The concealment, or disguise of the nature, source, location, disposition, ownership and rights in or with respect of proceeds of crime, knowing or with reason to know, that such proceeds were derived directly or indirectly from a crime or from act or acts of participation in a crime.

(c) The acquisition, receipt, possession or retention of proceeds of crime knowing, or with reasons to know, that it was derived directly or indirectly from a crime or from an act or acts of participation in a crime.”

‘Financing of terrorism’ can be defined as the willful provision or collection, by any means, directly or indirectly of funds with the intention that the funds should be used to facilitate or to carry out terrorist acts

“*The Competent Authority*” means “The Directorate General of Inquiries and Criminal Investigations of the Royal Oman Police”

“*The Competent Supervisory Authority*” for insurance licensees means “The Capital Market Authority”

3. Money Laundering and Financing of Terrorism in Insurance

The insurance sector and other sectors of financial service industry are at risk of being misused for money laundering and financing of terrorism. Although, vulnerability of use of insurance sector for money laundering and financing terrorism is not as high as in other financial sectors like banking, the insurance sector (which includes insurers, reinsurance companies, brokers and agents) may be used as a possible target for money launderers and those seeking financing of terrorism as stated below:

A) Life Insurance

Life Insurance business is the predominant class of insurance business being used by money launderers.

The most common form of money laundering is to enter into a single premium contract or policy. The money launderer will then look to take back the monies by early surrender or by way of fraudulent claim.

Examples of life insurance contracts, which can be used for laundering money or terrorism financing are products, such as:

- Unit linked premium contracts which provide for withdrawals and unlimited top up premium

- Single premium life insurance policies where the money is invested in lump sum and can be surrendered at the earliest opportunity
- Fixed and variable annuities
- (Second hand) endowment policies
- When a life insurance policy matures or is surrendered, funds become available to the policyholder or other beneficiaries. The beneficiary under the contract may be changed before maturity or surrender in order that the payments are made by the insurer to a new beneficiary.

(B) General insurance

Money laundering or terrorism financing can be made through inflated and totally bogus claims, e.g. by arson or other means to recover part of the invested illegitimate funds. Other examples include cancellation of policies for the return of premium by insurers’ cheque, and the overpayment of premiums with request to refund the amount overpaid. Workmen compensation payments may be used to support terrorists awaiting assignments. Primary coverage and trade credit for transport of terrorist material may be provided.

(C) Reinsurers

Money laundering and the financing of terrorism using reinsurance could occur either by establishing fictitious reinsurance companies or reinsurance brokers, fronting arrangements or by misuse of normal reinsurance transactions, for example the deliberate placement via the insurer of the proceeds of crime or terrorist funds with reinsurers to disguise the source of funds.

(D) Insurance Intermediaries

Intermediaries are direct link to policyholders for distribution of insurance products, underwriting and claims settlement. The person who wants to launder money or finance terrorism may seek an insurance intermediary who is not aware of or does not follow prescribed anti money laundering procedures or who fails to recognize and report information regarding suspicious transactions.

Examples of money laundering involving insurance are provided in CMA’s website.

4. CONTROL MEASURES AND PROCEDURES AGAINST MONEY

LAUNDERING AND FINANCING OF TERRORISM

Every insurance licensee needs to have procedures and control measures preventing money laundering and terrorism financing which should include:

- Customer due diligence(Know your customer)
- Record keeping and ability to reconstruct a transaction
- Recognition and reporting of suspicious customers /transactions to the competent authorities
- Establishing and implementing internal policies, procedures and controls and appointment of competent officer at management level for implementation of such policies
- Establishing screening procedures when hiring employees and arranging ongoing training of employees and officers.

5. CUSTOMER DUE DILIGENCE (CDD)

5.1 Article 4 of the Law of Money Laundering, prescribes that

“ Institutions and natural and juristic persons shall verify their customers’ identity and addresses, pursuant to the instructions issued by the competent supervisory authority before opening accounts, taking stocks, bonds or other securities for safe custody, granting safe deposit facilities or engaging in any other business dealings.”

5.2 Insurance licensees shall undertake customer due diligence measures (CDD),* when:

- (a) Establishing business relation i.e. when a person applies to do business with or through them.
- (b) A significant or unusual transaction takes place or an occasional transaction above R.O. 6000 takes place in a single operation or in several operations that appear to be linked
- (c) A change in policyholders’ beneficiaries is made.
- (d) There is a material change in the terms of insurance policy or the manner in which the business relationship is conducted.
- (e) Claims, commissions and other monies are to be paid to persons other than the policyholder.
- (f) There is suspicion of money laundering or terrorism financing.
- (g) The insurance licensee has doubt about the veracity or adequacy of previously obtained customer data.

5.3 Customer due diligence (CDD) measures

The following CDD measures should be taken by the insurance licensees:

- (a) Obtaining sufficient and satisfactory evidence to establish the customers’ identity and his legal existence.
- (b) Determining whether the customer is acting on behalf of another person, and then taking reasonable steps to obtain sufficient identification data to verify the identity of that other person as per para 5.4 and whether the customer is authorized to do so.
- (c) Identifying the (ultimate) beneficial owner (especially for life and other investment related insurances) and taking measures to verify the identity of the beneficial owner.
- (d) Obtaining information on the purpose and intended nature of business relationship.
- (e) Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship.

5.4. Methods of identification and verification

5.4.1. For individuals

If, customer is an individual, the insurance licensee must obtain and record the following information:

- (a) Full name and any other names used
- (b) Current permanent address including postal code, and current mailing address
- (c) Date and place of birth
- (d) Nationality
- (e) Sex: Male/Female
- (f) Current Passport number and/or current National Identity Card /Resident Card number/Driving license details
- (g) Occupation and position held
- (h) Employers name and address (If, self employed, the nature of self employment)
- (i) Telephone number, fax number, e-mail address (where applicable)
- (j) Signatures of the individual

The insurer must obtain supporting documents of the customer.

5.4.2. For Legal entities (companies and other legal arrangements)

If customer is a juristic entity, the insurance licensee should obtain and record the following information:

- (a) the entity’s full name
- (b) date and place of incorporation and registration number
- (c) legal form

- (d) registered address and trading address
- (e) names, nationalities and addresses of persons owning more than 10% of the capital.
- (f) type of business activity
- (g) telephone, fax, e-mail
- (h) identification of the person/s purporting to act on behalf of the customer and verification that he person/s are so authorized

The information furnished shall be verified by obtaining certified copies of the following documents:

- (a) certificate of incorporation/commercial registration
- (b) memorandum of association
- (c) articles of association
- (d) partnership agreement
- (e) copy of the latest annual report of the company
- (f) board resolution providing the list of authorized signatories/ copies of power of attorney
- (g) identification documentation of the authorized signatories.

5.4.3. Certification

Any document used for the purpose of identification/verification should be original document. Where a copy of an original document is made by the insurance licensee, the copy should be dated, signed and marked 'original sighted' by the authorized official of the insurance licensee.

Any documents which are not obtained and certified by an authorized official of the insurance licensee should be certified and signed by any of the following from the country of residence of the customer:

- (a) a registered notary
- (b) a government ministry
- (c) an official of an embassy or consulate
- (d) a registered auditor
- (e) a registered lawyer

5.4.4. Group life insurance policies

Where there are large number of policyholders (e.g. in case of group life insurance), it may be sufficient to carry customer identification on a limited group only, such as the principal shareholders, the main directors of the company and the holder of the master policy.

5.4.5. Keeping data up-to-date

Insurance licensees shall ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of the existing records.

5.4.6. Policy to insure life other than the proposer

Where a person applies for a policy to insure a life other than himself, it is the applicant for the policy whose identity has to be verified rather than the life to be insured.

5.5. CDD for existing customers and on business relationship and transactions throughout the course of relationship

- a. Business relationship with the customer shall be subjected to ongoing follow up and operations resulting of such relationship shall be verified.
- b. Customer particulars shall be reviewed and updated periodically.

Examples of transactions or 'trigger events' after establishment of the insurance contract are:

- A change in beneficiaries (for instance , to include non-family members, or a request for payment to be made to person other than the beneficiaries)
- A change/increase of the capital sum insured and /or of the premium payment (for instance, which appear unusual in the light of policyholders' income or where there are several over payments of policy premiums after which the policyholder requests that reimbursement is paid to a third party)
- Use of cash and/or payment of large single premiums
- Payment/surrender by a wire transfer from/to foreign parties
- Lump sum top up of existing life insurance contracts
- Request for prepayment of benefits
- Use of policy as collateral security (Unless required for financing mortgagee by a reputable financial institution)
- Change of the type of benefit (for instance, change from an annuity to lump sum payment)
- Early surrender of policy or change of duration (where this causes penalties)

This list is not exhaustive.

5.6. Timing of identification and verification

The identification and verification of customers and beneficial owners should take place before or during the course of conducting transaction.

An insurance licensee may start processing the business while taking steps to verify the customers' identity. Pending receipt of required evidence, insurer shall "freeze" the rights attaching to the policy, and

shall not issue documents of title. In case of failure by a customer to provide satisfactory evidence of identity, the transaction in question should not proceed further and relationship be terminated. The insurance licensee shall consider making a suspicious transaction report (STR) as this circular's requirements.

In case of life insurance, where a business relationship has been established after due verification of the policyholder, it is permissible to do the identification and verification of the beneficiary after the establishment of business relationship with the policyholder.

However, such identification and verification must occur before the time of payout to the beneficiary or before the time the beneficiary intends to exercise vested rights under the policy.

5.7. Classification of customers

Based on the customer and the product profile, the insurance licensee may classify the customers into low risk and high risk category.

5.7.1 Low risk category:

If the risk of money laundering or financing of terrorism is lower (based on insurance licensee's assessment), and if information on the identity of the customer or beneficial owner is publicly available, or adequate checks and controls exist elsewhere in the national systems it would be reasonable to apply, simplified and reduced CDD measures when identifying and verifying the identity of the customer or the beneficial owner.

Examples of customers, transactions or products where the risk may be lower is as under:

- (a) Financial institutions—Banks and financial institutions regulated by the Central Bank of Oman.
- (b) Companies listed on a stock exchange recognized by CMA
- (c) Government administrations or government enterprises and companies where government is a major shareholder.
- (d) Life insurance policies where annual premium is NO more than RO 500, or, a single premium of NO more than RO 1000 or equivalent.
- (f) Insurance policies for pension schemes, if there is no surrender clause and policy cannot be used as security for loan.
- (g) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a members' interest under the scheme.

Simplified CDD measures shall not apply, where the insurer suspects or has reason to suspect that the customer is engaged in money laundering or that transaction has been carried out on behalf of another person engaged in money laundering

5.7.2 Enhanced measures with respect to high risk customers

Enhanced CDD measures should apply to all business relationships, clients and transactions where the risk of money laundering is high.

Examples of high risk categories are:

- (a) Non-resident customers
- (b) High net worth individuals of non Omanis.
- (c) Private banking
- (d) Legal persons or arrangements such as trusts which are created for holding personal assets; charities and organizations.
- (e) companies having closed family shareholding; firms with sleeping partners etc.
- (f) Politically exposed persons (PEP*) i.e. the individuals who are or have held prominent public positions in a foreign country, for example head of state and government, senior politicians, senior government, judicial and military officials, senior executives of state owned corporations, important political parties officials.

With regard to enhanced due diligence, the following, additional measures should be taken, as required:

- (a) Certification of documents by appropriate authorities and professionals
- (b) Requisition of additional documents to complement those which are otherwise required
- (c) Performance of due diligence on identity and background of the customer and/or beneficial owner, including the structure in the case of a corporate customer
- (d) Performance of due diligence on source of funds and wealth
- (e) Obtaining senior managements approval for establishing business relationship
- (f) Conducting enhanced on going monitoring of the business relationship

For PEPs an insurance licensee must observe measures (d), (e) and (f) stated in the above para.

5.8. Complex, large and unusual transactions

Insurance licensees should pay special attention to all complex, unusual large transactions, and all unusual

patterns of transactions, which have no apparent economic purpose. The background of such transactions should be as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.

“Transactions” include enquiries and application for an insurance policy, premium payments, request for changes in benefits, beneficiaries, duration, etc

5.9. New and developing technologies.

New and developing technologies can be used to market insurance products.

E-commerce or sales through the internet is an example. Insurance licensees shall take particular care in accepting new business through internet, post or telephone.

Although, a non face-to-face customer can produce the same documentation as face-to-face customer, it is more difficult to verify their identity. Therefore, in accepting business from non face-to-face customer an insurer should use equally effective identification procedures as those available for face to face customer acceptance, supplemented with specific and adequate measures to mitigate the higher risk

Examples of such risk mitigating measures are:

- Certification by appropriate authorities and professionals of the documents provided
- Requisition of additional documents to complement these which are required for face-to face customers
- Telephone contact with the customer at an independently verified home or business number
- Requiring the first payment to be carried out through an account in the customers’ name with a licensed bank in Oman.

5.10 Failure to satisfactorily complete CDD

Where an insurance licensee is unable to comply with the Customer Due Diligence criteria as this circular requires;

- a) It should not establish insurance business relationship.
- b) It should consider making suspicious transaction report (STR).

Where the insurance licensee has already commenced the business relationship and the insurance licensee is unable to comply with the CDD criteria (a) to (d) of para 5.3 it should terminate the business relationship and consider making a suspicious transaction report (STR).

5.11 Reliance on Insurance Intermediaries for CDD measures

5.11.1 Insurance Brokers

The insurance companies may accept the customers introduced to them by the licensed brokers subject to the following conditions:

- (a) Although, the insurance brokers are responsible for implementing all CDD measures, the ultimate responsibility for customer and/or beneficial owner identification and verification shall remain with the insurer relying on the insurance broker.
- (b) Insurer shall obtain the necessary information concerning elements (a) to (d) of para 5.3 of the CDD measures from the broker.
- (c) Insurer shall obtain a written confirmation from the broker that all CDD measures required by this circular have been followed and customers’/beneficial owners’ identity has been established and verified. In addition, the confirmation must state that any identification documents and other customer due diligence material can be accessed by the insurer and copies of the documents and material shall be supplied to the insurer on request, without delay.

5.11.2 Insurance agents

Insurers shall be responsible for complying with the CDD measures for the business introduced by their agents and any third parties and for keeping records of the business introduced by them.

6. RECORD KEEPING

Article 5 of the Law on Money Laundering requires the institutions to maintain and hold documents of identification and addresses of customers and record of transactions for a period not less than ten years commencing the day following the finalization of transaction or closure of the account or termination of business relation, whichever is later.

Insurance licensees should, therefore, keep record on the

- risk profile of each customer and/or beneficial owner and the data obtained through the CDD process (i.e. copies of records of official identification documents like passport, identity cards, driving licenses or similar other documents), and
- the account files, business correspondence and record on business transactions for at least ten

years after the end of business relationship i.e. at least ten years after the expiry of the policies and/or ten years after settlement of claims, surrender or cancellation. Such record should be sufficient to permit reconstruction of individual transactions so as to provide, if required, evidence for prosecution of criminal activity.

In situations, where the records relate to on-going investigations or transactions which have been subject to suspicious transaction reports, they should be retained until it is confirmed that the case has been closed.

7. SUSPICIOUS TRANSACTION REPORT (STR)

7.1 Reporting of suspicious transactions

Article 9, of the Law on Money Laundering prescribes that:

“Notwithstanding any provision relating to the confidentiality, institutions shall report to the competent authority on the transactions which are suspected to be in contravention of this Law. The report shall include all available information and documents relating to the transaction.

Institutions may be required by the public prosecution to submit any additional information relating to suspicious transactions. The information shall be submitted through the Central Bank or the competent supervisory authority”.

7.2 Reporting suspicious transactions before finalization of the transaction

Article 11 of Law of Money Laundering, prescribes that:

“In the existence of information showing that the customer is not acting on his own behalf and the transaction is suspicious, the institutions shall immediately and before the finalization of the transaction, report such information and suspicions to the competent authority (Directorate general of Inquiries and Criminal investigations of the Royal Oman Police). Customers with profession such as lawyers or those with public powers of attorney may not invoke professional secrecy in order to refuse to disclose the true identity of the beneficiary”

Insurance licensees shall comply with the statutory obligation of reporting suspicious transactions.

7.3 Prohibition to tip off the customer

Article 8, of the Law of Money Laundering, prescribes that:

“Institutions and their directors and employees shall not advise their customers when reporting information relating to them or the existence of suspicions of contravention of this Law in their activities, to the competent authority.”

Insurance licensees should note that ‘tipping off’ the customer about reporting to the competent authority is prohibited by the Law and is a punishable offence.

7.4 Recognizing suspicious transactions

(a) Suspicious transaction may fall into one or more of following examples of categories:

- Any unusual financial activity or transaction of the customer
- Any unusually linked transaction
- Any unusual or disadvantageous redemption of an insurance policy
- A claim made in suspicious circumstances.
- Any unusual method of payment
- Any involvement of any person subject to international sanctions.

An important condition for recognition of a suspicious transaction is for the insurance licensee to know enough about the customer and business relationship to recognize that a transaction or a series of transaction is unusual.

(b) When an insurance licensee is unable to complete CDD measures as required under Para 5 of this circular, it should consider making suspicious transaction report.

The process of verification of customers’ identity, once begun, should be pursued either to a conclusion or to the point of refusal. If a prospective policyholder does not pursue an application, this may be considered suspicious in itself.

It is likely, that if an insurance licensee performs additional CDD because of suspicion, it could unintentionally tip off the policyholder or beneficiary of the suspicious transaction report. If the insurance licensee believes that performing the CDD process may tip off the customer, it may choose not to pursue that process and should file a STR. The insurance

licensee should ensure that their employees are aware of and sensitive to these issues when conducting CDD. Examples of suspicious transactions may be found in CMA's website.

7.5 Internal Reporting

An insurance licensee must take reasonable steps to ensure that any member of staff who handles transactions which may involve money laundering makes a report promptly to the compliance officer, if he suspects that a customer or a person acting on behalf of a customer is engaged in money laundering and or that transaction is unusual or suspicious.

7.6 External Reporting

An insurance licensee shall ensure that any report required by para 7.5 above is considered by the compliance officer, and that if, having considered the report, he suspects that a person has been engaged in money laundering, he must make a report to the competent authority.

7.7 Suspicious Transaction Report (STR)

STR may be made as perform given in the Annexure-1.

8. ORGANIZATION AND STAFF

Article 6 of Law of Money Laundering states:

“Institutions shall establish internal control arrangements for detection and prevention of money laundering and shall further comply with the instructions issued by the competent supervisory authority.

Institutions shall develop programs for combating money laundering. Such programs shall include the following:

(a) Enhancing and implementing internal policies, procedures and controls including designation of competent officers at management level for implementation of such policies.

(b) Preparation of ongoing training programs of concerned officials to keep them well informed on the latest developments in money laundering offences to enhance their abilities in detecting and combating such offences.”

8.1 Establishing and implementing internal policy, procedures and controls

A detailed internal policy, procedures and control system for combating money laundering and terrorism financing shall include:

- procedures for customer due diligence (CDD);
- monitoring of transactions, identification and reporting of suspicious transactions;
- compliance management and appointment of compliance officer;
- standards for hiring employees and
- ongoing employee training programme.

The policy, procedures and controls shall be approved by the Board of insurance licensees who are companies incorporated in Oman, and by the senior management or head office in case of foreign branches and a copy shall be filed with the CMA.

8.2 Appointment of compliance officer

Article 5/15 of the ‘Code of Corporate Governance for Insurance Companies’ prescribes the appointment of a senior manager of appropriate standing, knowledge and experience as compliance officer. The compliance officer appointed as per Article 5/15 of the ‘Code of Corporate Governance’ shall also be entrusted with the responsibility of monitoring AML and CFT measures and reporting suspicious transactions. However, an insurance company may appoint an exclusive senior officer for AML/CFT measures and reporting of STRs if the work load so demands.

Insurance brokers shall also designate a senior and competent officer as compliance officer. The compliance officer should be well versed in different types of products and transactions which the insurance licensee handles and which may give rise to opportunities for money laundering and the financing of terrorism.

Name and particulars of the compliance officer shall be communicated to the CMA

8.3. Duties of compliance officer

The compliance officer shall have sufficient authority and resources to enable him to perform his duties which shall comprise of

- Establishing the insurance licensees’ AML/CFT measures
- Ensuring the licensees’ compliance with the Money Laundering Law and instructions issued by the CMA
- Verifying the internal reports and assessing CDD information

- Making external reports as per this circular to the Competent authorities
- Maintaining record of internal reports received and external reports made
- Arrangements for staff awareness and training by himself or someone else and keeping record of such training
- Making annual reports to senior management
- Having clear procedures for employees to immediately report cases suspicious as money laundering cases to the compliance officer.
- Compliance officer shall be aware of every related information including CDD information.
- Having clear verification methods and procedures for STR by the compliance officer, and reporting immediately and directly to the competent authority and competent supervisory authority without the need of any person's approval.
- All employees shall be aware to whom to report in case of any suspicious.
- Maintaining a record of all reports submitted by employees and all reports the compliance officer submitted to the competent authority.

8.4 Internal Audit

Insurance licensee's internal audit shall verify on a regular basis, compliance with the policy, procedures and controls relating to AML/CFT measures and submit its report to the audit committee.

8.5 Compliance monitoring

The Board of the insurance licensee/senior management shall review the effectiveness of its AML/CFT controls and procedures at least once each calendar year. The scope of review shall include:

- (a) Number of internal reports made analytical breakdown of the results of those reports and their outcome
- (b) Number of external reports made how many internal reports were not converted into external reports and reason for the same.
- (c) Internal Auditors' report of sample testing of CDD measures and the quality and effectiveness of anti money laundering controls and procedures.
- (d) Action plan to remedy deficiencies identified in the report.

8.6 Screening of staff

Insurance licensees are required to put in place screening procedures to ensure high standards of ability and integrity when hiring employees. Insurance licensees should identify the key staff within their organization with respect to AML/CFT and define fit and proper requirements which these staff should possess.

8.7 Training of staff

Each insurance licensee shall train its staff and agents in

- Nature and process of money laundering and terrorism financing, including current money laundering and terrorism financing techniques, methods and trends and new developments
- All aspects of Anti Money Laundering Law, regulations, guidelines on AML and CFT measures set out in this circular by CMA, and in particular, the requirements concerning CDD and suspicious transaction reporting and the company's commitment to that.
 - Licensees' own AML/CFT policies and procedures for CDD, verification, record keeping, and reporting.
 - The identity and responsibility of the compliance officer.

(a) “Front-Line Staff

“Front-line” staff who deal directly with public are first point of contact with the money launderers. They deal with:

- New business and the acceptance either directly or through agents and brokers
- Settlement of claims
- Collection of Premium and payment of claims.

In addition to the training in Para (a) above, they should be trained in:

- CDD measures , client acceptance policy and procedures for verification and record keeping
- Dealing with non regular customers when large transactions are involved
- Dealing with single premium and investment related life insurance policies
- Their responsibility under AML/CFT policies and procedures.

(b) supervisors/ Managers/ Senior Management and Directors

A higher level of training covering all aspects of money laundering and

AML/CFT measures should be provided. This should include:

- Offences and penalties arising from the Law
- Procedures relating to the service of production and restraint orders (to stop writing new business)
- Internal reporting procedures
- The requirements of verification and records

(c) Compliance Officer

The compliance officer should receive in depth training concerning all aspects of the Money laundering Law, Regulations and instructions issued by the supervisory authorities and AML/CFT policies and procedures. In addition, the compliance officer shall require extensive initial and continuing instructions on the validation and reporting of suspicious transactions and on the feedback arrangements.

9. Penalty stated according to the Money laundering Law

Penalty stated in Money Laundering Law and its executive regulations are applied to any violation or incompliance to this circular's requirements.

Annexure (1)**STR (Suspicious Transactions Report)**

1. Reporting insurance licensee/ broker:
 - a. Name
 - b. Address
 - c. Phone
 - d. Fax/ e-mail
2. Reporting employee:
 - a. Name
 - b. Job
 - c. Report reference number
3. Customer's details:
 - a. Name
 - b. Passport/ identical card number
 - c. Nationality
 - d. Address
 - e. Phone/ fax/ e-mail
 - f. Profession
 - g. Type of activity
4. Policy's details:
 - a. Policy number
 - b. Policy type
 - c. Start date
 - d. Insured sum
 - e. Payment method: annual/ semiannual/ monthly
 - f. Premium required: regular/ one payment
 - g. Origin of cash
 - h. Agent's name
 - i. Agent's passport/ identical card number
 - j. Other business relations
5. Suspicious transactions:

| Sum | Date | Transaction description |
|-----|------|-------------------------|
| | | |
6. Suspicious reasons:
7. Other related information
8. Copy of attached documents
 - a. Offer's sample
 - b. Other communications
 - c. Agent's report
 - d. Related documents supporting suspicious transactions

Signature of employee:

Date

Annexure (2)**Phone and fax numbers of Insurance Operations Department, CMA**

| | | |
|---|----------------------------------|--|
| 1 | Director of Insurance Operations | 24823440 |
| 2 | Insurance auditor | 24823122 |
| 3 | Insurance auditor | 24823328 |
| 4 | Insurance auditor | 24823114 |
| 5 | Fax | 24817383 |
| 6 | e-mail | info@cma-oman.gov.om |

Phone and fax numbers of Financial Investigations Unit

| | | |
|---|--|--|
| 1 | Director of Unit | 24562856 24563372 |
| 2 | Administration Affairs and Services | 24569459 |
| 3 | Phone exchange | 24569601 |
| 4 | Director's office fax | 24569601 |
| 5 | Administration Affairs and Services' fax | 24569165 |
| 6 | e-mail | ropfiu@omantel.net.om |

ANNEX 9: CAPITAL MARKET AUTHORITY CIRCULAR E 8/2009

**Chief Executive Officers and General Managers
Compliance Officers
Companies Operating in Securities**

After Compliments,

In the framework of CMA's concern to enhance the procedures of combating money laundering and terrorist financing in line with the international requirements, we are pleased to attach herewith guidelines on the provisions and processes stipulated in the Money Laundering Law promulgated by Royal Decree No (34/2002) and its Executive Regulations promulgated by Royal Decree 72/2004 and the Executive Regulation of the Capital Market Law issued by Administrative Decision No. 1/2009 with regard to the business of the companies operating in Securities.

The attached guidelines identifies the procedures that would prevent money laundering and terrorist financing operations and the procedures that should be taken on commencing a business relation with customer and continuous monitoring of the existing relations. This circular also obligates the parties operating in securities to set out internal regulatory controls to detect and abort money laundering crimes and discourage them and to report to CMA and the Financial Investigations Unit, RPO any suspicious transaction that is thought to be, with justified reasons, related to money laundering acts according to the information mentioned in Annexure (1), (2).

Looking forward to enforcing this circular.

Best regard,

**Yahya bin Said bin Abdullah Al Jabri
Executive President**

Issued on: 5th July 2009

I. Introduction

Money laundering operations are increasing in the world due to increased activity of organized crime gangs, thus money laundering and combating topped the political agenda beside international terrorism issues.

The companies operating in securities are one of main elements in money laundering and combating as a conduit for such operations. Hence our role is to highlight the responsibilities of the companies operating in the field of securities toward money laundering operations and combating such operation whether from the perspective of the national legislation or through international treaties.

Money Laundering Law was promulgated by Royal Decree No. 34/2002 and its Executive Regulation was promulgated by Royal Decree No. 72/2004. CMA is keen to secure the safety of the companies operating in securities and enhance their efficiency and protect them from getting involved in money laundering and terrorist financing operations and to establish sound practices to contribute to increased awareness of the employees of such companies of the risks of money laundering and terrorist financing crimes because we are aware that the real protection from exploitation in illegal operations depends on the awareness of the staff and their compliance with the code of ethics, the directives and the applicable laws.

In this circular:

1. **Competent Authority:** means Financial Investigation Unit, Royal Oman Police.
2. **Authority/ Competent Regulatory Authority:** Capital Market Authority.
3. **Competent Department:** Department of Market Operations, Capital Market Authority.

II. Money Laundering and Financing of Terrorism

‘Money Laundering’ is a term used to describe a number of techniques, procedures or processes in which funds obtained through illegal and criminal activities are converted into other assets in such a way as to conceal their true origin or ownership or any other factors that may indicate an irregularity, so that they appear to have originated from a legitimate source.

Article 2 of the Law of Money Laundering Law defines the offence of money laundering as under:

“Any person who intentionally commits any of the following acts shall be deemed to have committed the offence of money laundering:

a) Transfer or movement of property or conducting a transaction with the proceeds of crime knowing, or with reason to know, that such property is derived directly or indirectly from a crime or from act or acts of participation in a crime, with the purpose of concealing or disguising the nature or source of such proceeds or of assisting any person involved in a crime.

(b) The concealment, or disguise of the nature, source, location, disposition, ownership and rights in or with respect of proceeds of crime, knowing or with reason to know, that such proceeds were derived directly or indirectly from a crime or from act or acts of participation in a crime.

(c) The acquisition, receipt, possession or retention of proceeds of crime knowing, or with reasons to know, that it was derived directly or indirectly from a crime or from an act or acts of participation in a crime. Knowledge of the illicit source of the property shall be imputed unless the owner, or possessor proves otherwise.”

Article 3 of the same law Stipulates “ Directors, owners, authorized representatives, auditors or employees of an institution who in such capacity participate, abet, aid or conspire in the commission of a money laundering offence shall be considered original offenders. Provided that the institution shall be criminally liable of that offence if it is committed on its behalf or for its benefit.

‘Financing of terrorism’ can be defined as the willful provision or collection, by any means, directly or indirectly of funds with the intention that the funds should be used to facilitate or to carry out terrorist acts

III. Money Laundering and Terrorist Financing in the Securities Market

Cash transactions are relatively rare in the securities markets which limits misuse of the market in money laundering and terrorist financing operations in the initial stages, however owing to the complexity of transactions in the securities markets they are enticing for money laundering and terrorist financing at the advanced levels which are difficult to detect.

Though the Forty Recommendations on Money Laundering and the Nine Recommendations on Terrorist Financing are applicable to the securities markets it is clear they took into account deposit taking institutions, thus interpretation and application of the recommendations shall be in the context of the securities markets.

Facts, international laws and regulations on money laundering and terrorist financing may be viewed on the Financial Action Task Force (FATF) website www.fatf-gafi.org or the Middle East and North Africa Financial Action Task Force www.menafatf.org

IV. Control Measures and Procedures against Money Laundering and Financing of Terrorism

Every licensed company needs to have procedures and control measures preventing money laundering and terrorism financing which should include:

- Customer due diligence(Know your customer)
 - Record keeping and ability to reconstruct a transaction
 - Recognition and reporting of suspicious customers /transactions to the competent authorities
 - Establishing and implementing internal policies, procedures and controls and appointment of competent officer at management level for implementation of such policies
 - Establishing screening procedures when hiring employees and arranging ongoing training of employees and officers.
-
- Compliance officer shall provide the Competent Department with quarterly report within two weeks from end of each quarter on the licensed company's compliance with the money laundering requirements provided in the Money Laundering Law and the Executive Regulation in addition to CMA's requirements in this regards.

V. CUSTOMER DUE DILIGENCE (CDD)

1. Article 4 of the Law of Money Laundering, prescribes that
“ Institutions and natural and juristic persons shall verify their customers' identity and addresses, pursuant to the instructions issued by the competent supervisory authority before opening accounts, taking stocks, bonds or other securities for safe custody, granting safe deposit facilities or engaging in any other business dealings.”
2. Clauses a, b and c of Article 2 of the Executive Regulation of the Money Laundering Law stipulates that the company shall:
 - a. Verify the identity of the customer in accordance with Article (4) of the law and ensuring obtaining all the information and documents which include:
 1. For Omani natural persons: Full name, current address, copy of passport or ID or driving license.
 2. For Non Omani natural persons: Full name, current address, copy of passport, copy residence card or labor card for residents.
 3. For juristic persons: copy of commercial register certificate, authorized signatories form, memorandum and articles of association of the company.
 4. For clubs, cooperative societies, charities, social and professional associations: Official certificate from the competent ministry including authorized managers and signatories.Institutions shall request their customers to update all information and statements whenever necessary.
 - b. Take the required measure to ensure obtaining information on the real identity of the persons for whom the account is opened or the transaction is carried out on their behalf if there is suspicion that such persons are not acting for their account especially to asset management companies which are not carrying out any commercial or industrial activity or any of the commercial activity in the country where it is registered.
 - c. Shall not open anonymous accounts or accounts in fictitious names or secret numbers or codes or provide any services thereto.
3. Ability to verify the identity of customers is essential to detect, prosecute and deter those who carry out money laundering and terrorist financing. FTAF recommends that financial institutions shall not keep anonymous accounts or accounts in fictitious names and such institutions shall verify the identity of account owner by any official document. Thus the licensed companies shall do the following:

a. General Rules

1. Customer due diligence (CDD) means identifying and verifying the identity of the customer and real beneficiary and continuous follow up of the transactions made in continued relationship in addition to identifying the nature of the future relation between the company and the customer and the purpose of such relationship.
2. The company should not be permitted to enter into relationship with anonymous persons or with fictitious names.
3. The company should not be permitted to keep anonymous accounts or accounts in fictitious names. Where numbered accounts exist the company shall be required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations. For example the company should properly identify the customers in

accordance with these criteria and the customer identification records should be available to the compliance officer, other competent authorities and Financial Investigation Unit.

4. The licensed company shall be required to undertake customer due diligence when establishing business relations and maintain it for permanent customers.

5. The licensed company shall take customer due diligence measures before or during the business relation or in executing transaction for the account of occasional customers on the bases of relative importance and risks and take the required due diligence toward business relations in proper timings:

- a. A transaction of significance takes place.
- b. Customer documentation standards change substantially.
- c. When there is material change in the way the account is operated.

6. Ongoing due diligence should include scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transaction being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and where necessary the source of funds.

7. Licensed companies should be required to ensure that documents, data or information collected, under CDD process is kept up-to-date and relevant y undertaking reviews of existing records, particularly for higher risk categories of customers or business relations.

8. The licensed company shall be required to undertake CDD if carrying our occasional transaction of more than RO 6,000. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked.

The licensed company shall be required to undertake CDD if there is suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere or the company has doubts about the veracity or adequacy of previously obtained customer identification data.

9. Where the licensed company fails to undertake CDD it shall not open accounts or commence business relations with customer or perform the transaction and consider making a suspicious transaction report.

10. Verification may be postponed to after the establishment of the business relationship provided:

- a. Situations where it is essential for the normal conduct of business are:
 1. Non face to face business.
 2. Securities transactions where intermediaries may be required to perform transactions very rapidly, according to market conditions at the time the customer is contacting them, and the performance of the transaction may be required before verification of identity is completed provided this will not result in money laundering or terrorist financing.
- b. Verification shall occur as reasonable practicable.
- c. The company should be required to adopt risk management procedures. These procedures should include a set of measures such as limitation of the number, type and amount of transactions that can be performed prior to verification.

11. Where the licensed company commence the business relationship prior to CDD and is unable to comply later it shall be required to terminate the business relationship and to consider making a suspicious transaction report.

12. The licensed company shall update customer identification information periodically or where it has reasons to suspect accuracy or adequacy of the previously obtained information.

b. Customer due diligence (CDD) measures

1. The licensed company should be required to identify the customer (whether permanent or occasional or legal person of nonprofit seeking entity) and verify that customer's identity in accordance with the requirements states in the clause on verification of the customer's identity.
2. The licensed company should be required to access the official identification documents of the customer and obtain copy of such documents signed by the competent staff indicating they are true copies.
3. The licensed company shall take the required measures to verify the accuracy of the information obtained from the customer especially to higher risks categories of customers, business relations or transactions through credible and impartial sources including contacting the competent authorities that issued the official documents.
4. Identification of the natural person shall include:
 - a. The identification information shall include full name, date of birth, nationality, ID number and type (civil card, passport, commercial register etc.) permanent residence address, work address, type of business, purpose of transaction, name of authorized persons and their nationalities (if any), type and number of ID(civil card, passport, commercial register etc) and any information the company deems necessary.
 - b. For minors the company shall obtain the document pertaining to their legal representatives in dealing with such accounts.
 - c. Where another person deals with the company on behalf of the customer it shall ensure there is a power of attorney and keep copy of the power of attorney duly certified in addition to identification of the attorney in accordance with CDD measures.
5. Identification of the legal person shall include:
 - a. The information shall include identity of the legal person, name of the companies, legal status, address of principal place of business, type of business, capital, date of registration, registration number, names of authorized persons to deal in the account, nationalities, telephone numbers, purpose of dealing and any other information the licensed company deems necessary.
 - b. Existence of the legal person and its legal status shall be verified through documents such as commercial register certificates issued by the Secretariat of the Commercial Register at the Ministry of Commerce and Industry. Where the person is registered abroad an official registration certificate shall be obtained from the competent authorities.
 - c. Obtain documents evidencing authorization by the legal person to the natural persons authorized to deal in the account in addition to identification of the person who is authorized in accordance with CDD measures.
6. Identification measures of non- profit organizations shall include:
 - a. The identity of the non- profit organization, legal status, address, type of business, date of incorporation, names of authorized persons to deal in the account, nationalities, telephone numbers, purpose and any other information the licensed company deems necessary.
 - b. Existence of the legal person and its legal status shall be verified through documents such as certificates issued by the Ministry of Social Development or any other competent authority.
 - c. Obtain documents evidencing authorization by the non profit organization to the natural persons authorized to deal in the account in addition to identification of the person who is authorized in accordance with CDD measures
7. Beneficial owner:
 - a. The licensed company shall request from each customer written statement specifying the identity of the beneficial owner of the transaction including customer identification information.
 - b. The licensed company shall be required to identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from official sources

such as the name of the customer, names of trustees (Trust Funds) legal status, addresses of managers (legal persons) such that the company is satisfied that it knows who the beneficial owner is.

- c. For customers that are legal persons or legal arrangements, the licensed company shall be required to take reasonable measures to understand the ownership and control structure of the customer and determine who are the natural persons that ultimately own or control the customer.

Examples of the types of measures that would be normally needed to satisfactorily perform this function includes:

- For companies: Identifying the natural persons with a controlling interest and the natural persons who comprise the mind and management of the company.
- For Trusts: Identifying the settler, the trustee or person exercising effective control the trust and the beneficiaries.

C. Due Diligence Requirements for additional cases

1. United Nations Sanctions Committee Lists 1267

The licensed company shall put in place a regime to identify the individuals and terrorist entities that finance terrorists stated in the lists of the United Nation's Sanctions Committee 1267 and report immediately.

2. Politically Exposed Persons:

- a. The licensed company shall be required to put in place appropriate risk management systems to determine whether a customer or beneficial owner is a politically exposed person.
- b. The approval of the general manager or the like shall be obtained for establishing business relationship with politically exposed persons.
- c. The licensed company shall be required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as politically exposed persons.
- d. The licensed company shall be required to conduct enhanced ongoing monitoring of its relationship with such customers.

3. Higher Risk Categories of Business Relationships or Transactions

1. The licensed company shall categorize its customers in accordance with the degree of risks relating to money laundering and terrorist financing taking into account:
 - a. Appropriateness of the transaction with the nature of the business
 - b. The extent of branching of the accounts opened with the company and overlapping and activity.
2. The customer shall be deemed of high risk if:
 - a. Non-resident customer.
 - b. Legal persons or arrangements such as trusts that are personal asset holding vehicles.
 - c. Companies that have nominee shareholders or shares in bearer form.

4. Low Risk Categories of Business Relationships or Transactions

1. The general rule is that customers must be subject to the full range of CDD measures, including the requirements to identify the beneficial owner. Nevertheless there are circumstances where the risk of money laundering and terrorist financing is lower, where information on the identity of a customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in the national systems. In such circumstances it could be reasonable for the licensed company to apply simplified or reduced CDD measures when identifying and verifying the identity of the customer and beneficial owner.
2. Examples of customers' transactions or products where the risk may be lower could include:

- a. Financial institutions- provided that they are subject to requirements to combat money laundering and terrorist financing consistent with FATF Recommendations and are supervised for compliance with those requirements.
- b. Public companies that are subject to regulatory disclosure requirements. This refers to companies that are listed on a stock exchange or similar situation.
- c. Government administrations or enterprises.
- d. Pension superannuation or similar schemes that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.
- e. Beneficial owner of pooled accounts held by designated non-financial businesses and professions (DNFBP) provided they are subject to requirements to combat money laundering and terrorist financing consistent with FATF Recommendations and are subject to effective systems for monitoring and ensuring compliance with those requirements.
- f. Non- resident customers in countries that have effectively implemented the FATF Recommendations.
- g. Simplified CDD measures are not acceptable whenever there is suspicion of money laundering or terrorism financing or specific higher risk scenario applies.

5. Customers who belong to countries with insufficient measures to combat money laundering and terrorist financing

1. The licensed company shall give special attention to transactions with persons from countries which do not or insufficiently apply measure for combating money laundering and terrorist financing and shall provide the competent department with adequate details on such customers.
2. If the transaction in Paragraph (1) above has no apparent economic purpose it shall take the required procedures to examine the background and purpose of such transaction and record the findings in its books.

6. External Entities

1. The licensed company shall apply CDD measures on establishing business relations with external entities.
2. The licensed company shall check the nature of the business of the external entity and reputation in combating money laundering and terrorist financing.
3. The licensed company shall not enter in business relationship with fictitious entities.
4. Approval of the general manager or the like shall be obtained on establishing business relation with external entity.
5. Licensed company shall ensure that the external entities are subject to effective regulatory supervision by the regulatory authority in the home country.
6. Licensed company shall verify that adequate systems are in place at the external entities to combat money laundering and terrorism financing.
7. Licensed company shall ensure that external entity implement CDD measures to its customers and are able to provide information pertaining to such customers.

7. Non-face to face business relationships

1. The licensed company shall be required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and when conducting ongoing due diligence.

Examples of non-face to face operations include: Business relationships concluded over the Internet or by other means such as through post services and transactions over the Internet including trading in securities by retail investors over the Internet or other interactive computer services, use of ATM machines, telephone banking, transmission of instructions or applications via facsimile or similar means and making payment and receiving cash withdrawals as part of electronic point of sale transaction using prepaid or reloadable or account linked value cards.

2. Measures for managing the risks should include specific and effective CDD procedures that apply to non-face face customer.

Examples of such procedures include: the certification of documents presented; the requisition of additional documentation to complement those are required for face to face customers; develop independent contract with the customer; rely on third party introduction and require the first payment to be carried out through an account in the customer's name with another bank subject to similar customer due diligence standards.

3. For electronic services the licensed companies could refer to the “ Risk Management Principles for Electronic Banking” issued by the Basel Committee in July 2003 in the website of the Bank of International Settlements <http://www.bis.org/publ/bcbs98.pdf>

VI. Intermediaries and Third Parties

1. This does not apply to:
 - (a) Outsourcing or agency relationships i.e. where the agent is acting under a contractual arrangement with the financial institution to carry out its CDD functions because the outsourced or agent is to be regarded as synonymous with the financial institution i.e. the processes and documentation are those of the financial institution.
 - (b) Business relations, accounts or transactions between financial institutions for their clients.
2. If the licensed company is permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business then the following criteria should be met.
 - (a) Immediately obtain from the third party the necessary information concerning certain elements of the CDD process.
 - (b) Take adequate steps to satisfy themselves that copies of the identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay.
 - (c) Satisfy themselves that the third party is regulated and supervised and has measures in place to comply with CDD requirements in accordance with FATF Recommendations.
3. The licensed company shall bear responsibility for verifying and identifying the customer even if relied on third parties.

VII. Record Keeping and capacity to construct financial transactions

1. Article 5 of the Money Laundering Law stipulates that institutions shall maintain documents of identification and addresses of customers and records of transactions for a period of not less than ten years commencing on

the day following finalization of the transactions or closure of the account or termination of business relationship whichever is later.

2. Clause (e) of Article (2) of the Executive Regulation of the Money Laundering Law stipulates that institutions shall follow a system of keeping document and records specified in Article (5) of the Law, in additions to accounts' files and commercial correspondence to expedite their response when required by the competent bodies to provide any information or documents whenever the need arises.
3. Article (2) of the Executive Regulation of the Capital Market Law stipulates that All entities carrying out all or part of the activities provided for in the law or the regulation shall keep the documents and registers relating to the operations for ten years from the date of their creation and shall comply with the laws and decisions issued by the competent authorities in respect of money laundering.
4. Transactions records should be sufficient to permit reconstruction of individual transactions so as to provide evidence for detection and prosecution of those who carry out money laundering and terrorist financing. Licensed companies shall comply with the following:
 - a. Licensed companies shall maintain records and customer due diligence documents for at least ten years following the completion of the transaction or closure of accounts and termination of business relationship whichever is later.
 - b. The licensed companies shall maintain records and supporting evidence on the ongoing relationship and transaction including originals or copies accepted by courts in accordance with the applicable legislations for at least ten years commencing on the date of finalization of the transaction or the closure of the accounts or termination of the business relationship.
 - c. The licensed company shall develop integrated information system for record keeping enabling it to promptly respond to the requests of the Financial Investigation Unit and CMA for any information especially the data showing the ongoing relationship with specific person during the past ten years and provision of information on such relationship.

VIII. Unusual and Suspicious Transactions:

1. Clause (L) of Article (3) of the Executive Regulation of the Money Laundering Law stipulates that employees in institutions which are subject to the law shall review and carefully scrutinize suspicious transactions generally, when transacting in Muscat Securities Market, as when a customer refuses or show reluctance to provide the broker with documents of identity or the purpose for conducting the transaction, especially if the customer is listed in the circulars of the competent authority and regulatory authorities and is involved in large cash transactions regardless of the price, or if it appears the customer is controlled by another person or persons, or if he has no apparent source of income which is consistent with the value of the transaction he conducts, or if he attempts to bribe or threaten the concerned employee with the purpose of finalizing a transaction or hindering record keeping or reporting, or if he splits the transaction into small amounts to avoid identification or reporting requirements, or if the account shows an abnormal fast fund transfer activity, or when a person making the transaction is an agent or lawyer or financial consultant acting on behalf of another person without proper identification documentary authorization, or where the customer submits financial statements which are basically different from the statements of similar business, or if such statements were not audited by an audit firm although the customer is a big company.

2. The licensed company should be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transaction that have no apparent or visible economic or lawful purpose.

Examples of such transactions include:

- a. Significant transactions relative to a relationship.
 - b. Transactions that exceed certain limit.
 - c. Very high account turnover inconsistent with the balance.
 - d. Transactions which fall out of the regular pattern of the account's activity.
3. Licensed companies should be required to examine as far as possible the background and purpose of such transaction and to set forth their findings in writing. Such findings shall be available for Financial Investigation Unit and auditors for at least five years.

4. It is not possible to set out inclusive list of suspicious activities, however Appendix 3 contain additional list of such activities which could assist in better understanding of money laundering operations and identification of suspicious transactions in the securities field.

IX. Detection and Reporting of Suspicious Transactions

1. Article 9, of the Law on Money Laundering prescribes that:

“Notwithstanding any provision relating to the confidentiality, institutions shall report to the competent authority on the transactions which are suspected to be in contravention of this Law. The report shall include all available information and documents relating to the transaction.

Institutions may be required by the public prosecution to submit any additional information relating to suspicious transactions. The information shall be submitted through the Central Bank or the competent supervisory authority”.

2. Article 11 of Law of Money Laundering, prescribes that:

“In the existence of information showing that the customer is not acting on his own behalf and the transaction is suspicious, the institutions shall immediately and before the finalization of the transaction, report such information and suspicions to the competent authority and CMA. Customers with profession such as lawyers or those with public powers of attorney may not invoke professional secrecy in order to refuse to disclose the true identity of the beneficiary”

3. Licensed companies should be required to pay special attention to all complex and unusual patterns of transactions and are required to report to the authorities who are entrusted with detection and prosecution of those who carry out money laundering and terrorists financing if they suspect that the funds moving through their accounts are generated by criminal activity as follows:

- a. Where any employee or director of the licensed company suspects that the transaction is suspicious regardless of the amount they shall report to the compliance officer.
- b. Compliance officer shall immediately report to the Financial Investigation Unit the suspicious transaction whether or not occurred in the designated form in the Executive Regulation of the Money Laundering Law Attachment (1) with copy to the competent department and CBO.
- c. Notice of suspicious transactions apply also to moneys where reasonable suspicion is available as regards its relation or link to terrorists or terrorist acts or they may be used for terrorist purposes or acts by terrorist organization or financiers.
- d. Reporting of suspicious transactions shall apply regardless of any other matters such as taxes.
- e. Compliance officer shall provide Financial Investigation Unit with information and ease their access to the records to perform their duties.
- f. The licensed company shall maintain files to keep copies of the reports on suspicious transactions, statements and documents pertaining to such transactions to follow up the developments. Such files shall be kept for not less than ten years or a final judgment is rendered in respect of the transaction whichever is later.
- g. Licensed companies shall provide the competent department and Financial Investigation Unit with the information required to perform their duties in combating money laundering and terrorism financing efficiently.

X. Prohibition to tip off the customer

1. Article 8, of the Law of Money Laundering, prescribes that:

“Institutions and their directors and employees shall not advise their customers when reporting information relating to them or the existence of suspicions of contravention of this Law in their activities, to the competent authority.”

2. The customer or beneficial owner shall not be informed directly or indirectly or in any means of any of the procedures taken in respect of the suspicious transaction or any of the statement pertaining to it.

XI. Licensed company branches and agents outside the Sultanate

1. Article 161 of the Executive Regulation of the Capital Market Law provides that the licensed company shall be responsible towards the customer and CMA for the actions of its branches or agents licensed by CMA in accordance with the rules issued by CMA.
2. The licensed company shall ensure that its branches and agents abroad comply with the anti money laundering and terrorism financing arrangements in line with requirements imposed in the Sultanate and the recommendations of FATC to the extent allowed by the locally applicable laws and regulations (in host country).
3. Licensed companies shall pay special attention to this principle in respect of its branches and agents in countries which do not or sufficiently apply the FATF Recommendations.
4. Where the minimum requirements for anti money laundering and terrorism financing differ in the Sultanate and the host country the branches and agents shall apply the highest standards to the extent allowed by the locally applicable laws and regulations (in the host country).
5. The licensed company shall report to the competent department where a branch or agent is unable to implement proper anti money laundering and terrorist financing procedures because the locally applicable laws, regulations and arrangements (in the host country) prohibit that.

XII. Internal controls, compliance and audit

1. Article 6 of the Law of Money Laundering states:

“Institutions shall establish internal control arrangements for detection and prevention of money laundering and shall further comply with the instructions issued by the competent supervisory authority.

Institutions shall develop programs for combating money laundering. Such programs shall include the following:

(a) Enhancing and implementing internal policies, procedures and controls including designation of competent officers at management level for implementation of such policies.

(b) Preparation of ongoing training programs of concerned officials to keep them well informed on the latest developments in money laundering offences to enhance their abilities in detecting and combating such offences.”

2. Article 146 of the Executive Regulation of the Capital Market Law states:

The company shall appoint a compliance officer who shall be a whole time employee on the following terms and conditions:

- a. The power to appoint and terminate the compliance officer shall vest with the board of directors. The compliance officer shall be a top management officer.
- b. Compliance officer shall not carry out any duties to be reviewed or audited by him and shall act independently from the executive management.
- c. Compliance officer shall have unfettered right to access the documents and records.
- d. Compliance officer shall act in accordance with internationally accepted standards.
- e. Compliance officer shall report to the general manager or the like and shall provide copy to the board of directors and the audit committee

3. Article 147 of the Executive Regulation of the Capital Market Law states:

Compliance officer shall ensure the company’s compliance with legal requirement provided in the Capital Market Law, the regulation and directives and any other requirements specifically:

- a. Act as the liaison between the company and CMA and cooperate with CMA’s staff who inspect or audit the company.

- b. Continuously and independently, monitor and review the company to ensure compliance with statutory and regulatory requirements.
 - c. Identify shortcomings in regulatory compliance and violations (if any) and immediately
 - Report to their board of directors and to the CMA
 - Take all remedial actions to minimize chances of recurrence or to control the damage, either directly or through the top management.
 - d. Ensure that all the reports and information required by CMA are properly prepared and filed on time.
 - e. Ensure adequacy of internal regulation and audit, verify implementation and ensure that improvements are introduced to the systems and control processes.
 - f. Provide advice to the top management regarding financial risks, market risks and credit and operational risks.
 - g. Maintain written records as evidence of carrying out surveillance functions.
 - h. Ensure that training courses are provided to the company staff on statutory and anti money laundering requirements and ensure they are notified of any developments in regulation.
 - i. Review customers' complaints and assist in resolving the same.
4. Circular 2/2005 issued by CMA dated 7/6/2005 states that the licensed company shall put in place internal audit system to combat money laundering and to verify the source of funds, record the details, transfer and cash transfers and extraordinary transfer and report to the compliance officer/regulatory authority or any authority. CMA's requirements shall be clearly indicated.
5. Internal controls, compliance and review system shall include the following:
- a. Clear policy for combating money laundering and terrorist financing approved by the board of directors or regional manager for branches of foreign companies to be continuously updated. Where the branch is unable to enforce the national laws for combating money laundering and terrorist financing for whatever reason it shall immediately inform the competent department.
 - b. Detailed written procedures for combating money laundering and terrorism financing taking into account accurate specification of duties and responsibilities consistent with approved policy and the directives issued by CMA in this regard.
 - c. Detailed written procedures to follow up the lists issued by UN Security Council 1267 to identify the individuals and terrorist entities that finance terrorists or related to terrorist organizations and report immediately.
 - d. Appropriate mechanism for verification of compliance with the directives policies and processes put in place to combat money laundering and terrorist financing and coordination as regards distinction between the powers and responsibilities of internal auditor and compliance officer.
 - e. Where the client is allowed to benefit from the business relationship prior to the verification the company shall apply risk management procedures in such circumstances, the procedures shall include restriction on the number of transaction, types and /or amounts as well as monitoring large and complex transactions which are not within the usual scope of such transactions.
 - f. Identify the name of the compliance officer and the person who replaces him in his absence and notify the competent department in case of change of any one and they shall have appropriate qualifications.
 - g. Specify the functions of the compliance officer stated in the Executive Regulation of the Capital Market Law which shall at least include:
 - 1. Receive information and reports on unusual and suspicious transactions, examine and take proper action by reporting to Financial Investigation Unit or discontinue the process of reporting and such decision to discontinue shall be justified.
 - 2. Report to the Financial Investigation Unit any suspicious transaction.
 - 3. Keep all document and reports he receives.
 - 4. Prepare periodical reports to the board of directors on all unusual and suspicious transactions.
 - h. The power of the compliance officer shall be specified to include at least what enables him to carry out his duties independently and maintaining confidentiality of the information he receives. He shall have access to the registers and data required to carry out examination and review of the systems and procedures put in place by the company to combat money laundering and terrorist financing.

- i. Set training and awareness programs and plans for the company employees as set out below. The programs shall include money laundering methods and ways of detection and reporting, how to deal with suspicious customers and keep the records of all training programs for at least four years including the names of trainees, their qualifications and the entity that conducted the training whether in the Sultanate or abroad.

1. Each licensed company shall train its staff and agents in

- Nature and process of money laundering and terrorism financing, including current money laundering and terrorism financing techniques, methods and trends and new developments
- All aspects of Anti Money Laundering Law, regulations, guidelines on anti money laundering and terrorist financing measures set out, and in particular, the requirements concerning CDD and suspicious transaction reporting and the company's commitment to that.
- The identity and responsibility of the compliance officer.
- Explanation of the licensed company's policies and procedures for CDD, verification, record keeping, and reporting of suspicious transactions to the compliance officer.

2. “Front-Line Staff

“Front-line” staff who deal directly with the public are first point of contact with the money launderers. They deal with new customers. In addition to the training set out in (1) above they should be trained in:

- Identification of suspicious customers and transactions and reporting to the compliance officer.
- Dealing with non regular customers when large transactions are involved.
- Their responsibility under anti money laundering and terrorist financing policies and procedures.

3. Supervisors/ Managers/ Senior Management and Directors

A higher level of training covering all aspects of money laundering and terrorist financing measures should be provided. This should include:

- Offences and penalties arising from the Law
- Procedures relating to the service of production and restraint orders to deal with new or old customers.
- Internal reporting procedures
- The requirements of verification and records

Compliance Officer

The compliance officer should receive in depth training concerning all aspects of the Money laundering Law, Regulations and instructions issued by CMA and anti money laundering and terrorist financing policies and procedures. In addition, the compliance officer shall require extensive initial and continuing instructions on the validation and reporting of suspicious transactions and on the arrangements for maintaining confidentiality of the responses received from the competent authorities.

1. Put in place measures to classify the customers in accordance with the risks in view of the information available to the company.
2. Apply measures of examination to ensure high standards of efficiency of the staff.
3. Put in place system to ensure the internal audit is checking internal control systems to ensure efficiency in combating money laundering and terrorism financing and propose any further measure or updating or development for more efficiency.

XIII. Penalties

Penalties stated in Money Laundering Law and the Capital Market Law are applicable to any violation or incompliance with the requirements this of circular.

Attachment No. (1)**Suspicious Transaction Reporting Form****First: Particulars of the company operating in securities**

1. Date:
2. Reporting Company name:
 - a. Address:
 - b. Telephone and Fax:
3. Name of reporting employee:
 - a. Designation:
 - b. Telephone: Mobile:

Second: Suspicious Transaction:**a. General information pertaining to the person or institution concerned with the suspicious transaction.**

1. Name of person or institution:
2. Date of birth/establishment:
3. Nationality:
4. Resident//Non resident:
5. Type of institution Public joint stock /limited liability/General partnership/limited partnership/sole trader/other
6. No. of ID or passport or labor card:
7. No. of Commercial Register:
8. Address: Governorate/Region: Wilayat:
9. Street/Way: Building No.: Telephone:
10. Nature of business:

b. Statement of the suspicious transaction:

1. Date of transaction:
2. Amount of transaction (RO):
3. Nature of transaction:
4. Name of beneficiary or authorized person by official power of attorney:
5. Address and place of domicile:
6. Necessary telephone numbers:
7. Type of identification (commercial register for companies and establishments):
8. Nationality:
9. Account(s) No. with Muscat Depository and Securities Registration Company:

Third: Brief description of the suspicious transaction (attaching supporting documents and explanation if necessary)

Fourth: Licensed company shall attach account statement of customers and evaluation statement of the customer's portfolio with this form.

Fifth: Name and signature of compliance officer.

Sixth: copy to CMA and CBO

Attachment No. (2)**First: List of telephones and faxes of Financial Investigation Unit, Royal Oman Police**

| S | Statement | Office Telephone |
|---|-----------------------|-------------------|
| 1 | Director of the Unit | 24562856/24563372 |
| 2 | Director's office fax | 24563757 |
| 3 | Unit telephone | 24569192 |

| | | |
|---|-------------|--|
| 4 | Switchboard | 24569601 |
| 5 | Email | ropfiu@omantel.net.om |

Second: List of telephones and faxes of the Market Operations Department

| S | Statement | Office Telephone |
|---|----------------------------|--|
| 1 | Director of the Department | 24823250 |
| 2 | Switchboard | 24823100 |
| 3 | Financial Auditor | 24823132 |
| 4 | Financial Auditor | 24823122 |
| 5 | Fax | 24816691 |
| 6 | Email | info@cma-oman.gov.om |

Attachment No. (3)

Brief list of activities that could be considered suspicious

a. Generally suspicious activities

1. The customer refuses to provide the broker with his identification papers or refuse to explain the purpose of the transaction.
2. The customer has criminal background and takes part in huge transactions.
3. The customer is not concerned by the prices and costs.
4. The customer is controlled by another person especially if the customer is disabled or aging or unconscious and accompanied by a person who is not a relative.
5. The customer transacts in cash while his job doesn't generate such amounts.
6. The customer has no apparent source of income and makes frequent transactions.
7. The customer makes gifts or bribes to complete the transaction.
8. The customer splits the transaction into small amounts to avoid identification or avoid reporting requirements.

b. Suspicious conduct

1. Customer is confused and nervous.
2. Customer discusses record keeping and reporting to avoid the same.
3. Customer threatens a staff to hinder record keeping or reporting.
4. Customer is public employee and opens an account in the name of a family member and such person makes huge transaction incommensurate with the source of income known to the family.
5. Deposits huge amount of cash without counting.
6. Cash deposits of the customer contain forged banknotes.
7. Customer is student and enters into huge transactions.
8. Account shows fast movement of funds.
9. Transaction includes communication not in the original but copies.
10. Transaction pertains to foreign institutions with name similar to well known financial institutions.
11. Transactions relate to unknown countries and islands non existing on the world map.
12. He is attorney or lawyer of financial advisor acting on behalf of another person without proper documents such as power of attorney from that person.

c. Suspicions about the identity of the customer

1. Customer provides unusual or suspicious identification documents and is unwilling to give any information on his identity.
2. Customer unwilling to give identification information on opening the account.
3. Customer opens the account without providing identification documents or local address (Muscat Depository and Securities Registration Company insists on such statements).

4. Customer's work or residence telephone number is incorrect.
5. Customer is reluctant in disclosing any details on the business or financial statements or documents on related business entity.
6. Customer alleges he is secret agent of law enforcement authority and carrying out undercover operation without supporting indications to such allegation.

d. Suspicious activities in credit facilities

CMA directives do not allow the licensed companies to provide credit facilities to the customers. In case such facilities are allowed CMA would put in place the required directives.

e. Activities of suspicious account

1. Customer provides financial statement different from any similar commercial customer.
2. Big company provides unaudited financial statements.
3. Customer has many accounts numbers (in different names).

f. Suspicious investment activities

1. Customer uses the account to transfer funds abroad.
2. Customer seems to be unconcerned with ordinary decisions on the account such as fees or investment area.
3. Customer seeks to dispose of big positions through series of small transaction without apparent justification.
4. Customer deposits few amounts in cash to finance investment account.

g. Suspicious activity of an employee

1. Employee exaggerates his credentials or the customer's financial ability and resources in the reports required by the company.
2. Employee frequently takes part in exceptions.
3. Employee living beyond his means and salary.
4. Employee disregards internal controls and approval of regulatory authority or disregard company policy.
5. Employee uses company resources for his personal interests.
6. Employee not taking annual leave.

h. Other

1. Customer transaction with the licensed company in cash not through banking channels.
2. Customer give unreal buy or sell orders (wash dealings) to give the impression of dealing in the securities which could be a cover for money laundering and terrorist financing.
3. Wash dealings through multiple accounts may be used to transfer funds between the accounts by creating equal profits and losses. Transfer between unmonitored account could be an alert.
4. Pumping huge funds to the company without employing in dealing in securities.
5. Condensed cash transactions.
6. Wash sell and buy transactions (that entails transfer between accounts at abnormal prices).
7. Transfer of positions among parties that looks unrelated (scrutiny of such accounts may detect they are related).
8. Customer with known criminal record carry out huge abnormal transactions.
9. Customer unconcerned by prices or gaining profits without risk.
10. Customer dealing beyond his apparent income.
11. Customer frequently presents gifts and bribes to the employees.
12. Transactions are divided into small amounts.
13. Account shows unusually fast movement of funds.
14. Account shows unusually fast movement of fund