



## The Draft Regulatory Framework to The Financing Investment Funds

### A) Introduction:

As part of the Capital Market Authority's ("CMA") strategic objectives to develop the capital market, and based on the Capital Market Law issued by Royal Decree No. (M/30) dated 2/6/1424 H, the CMA Board issued its resolution to publish the draft regulatory framework to the Financing Investment Funds ("Draft Regulatory Framework") for public consultation for a period of (30) calendar days.

### B) Objectives of the Draft Regulatory Framework and their Main Elements:

The Draft Regulatory Framework aims to develop the draft regulatory framework for public and private financing investment funds in accordance with international best practices, introducing financing mechanisms through these funds, and promoting the availability of new products in the Saudi Capital Market.

The main elements of the Draft Regulatory Framework are as follows:

- 1) Enabling additional structures for financing funds by permitting the public offering of such funds and allowing their listing on both the Main Market and the Parallel Market.
- 2) Developing the regulatory requirements for financing funds.
- 3) Consolidating the regulatory provisions governing financing funds into one regulatory document.

### C) Proposed Amendments to the Instructions on the Direct Financing Investment Funds Compared with the Current Provisions:

Instructions on the Direct Financing Investment Funds		
Current Provision	Proposed Amendments	Explanation
Instructions on the <b>Direct</b> Financing Investment Funds	Instructions on the Financing Investment Funds.	It is proposed to amend the title "Instructions on the Direct Financing Investment Funds" to "Instructions on the Financing Investment Fund", to reflect that the scope of the instructions now includes both direct and indirect financing for public and private investment funds. The provisions set out in the circular on investment funds engaging in indirect financing funds, which was issued accordance to the Capital Market Authority Board Resolution No. (1-11-2018) dated 24/01/2018, have been incorporated into these Instructions.



Instructions on the Direct Financing Investment Funds		
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<p><b>First: Preamble</b></p> <p>a) These Instructions aim to regulate the offering of units of investment funds that are established for the purpose of carrying out direct financing activity, and the management and operations of those funds.</p> <p>b) These Instructions are without prejudice to the Capital Market Law and its Implementing Regulations, including the provisions of the Investment Funds Regulations and other relevant regulations.</p>	<p><b>Chapter One: General Provisions</b></p> <p><b>First: Preamble</b></p> <p>a) These Instructions aim to regulate the offering of units of investment funds that are established for the purpose of carrying out financing activities, and the management and operations of those funds.</p> <p>b) These Instructions are without prejudice to the Capital Market Law and its Implementing Regulations, including the provisions of the Investment Funds Regulations and other relevant regulations.</p>	<p>- It is proposed to add Chapter One, titled “<b>General Provisions</b>,” as part of the draft amendments to the Instructions on the Direct Financing Investment Funds, to reflect that the scope of the instructions now includes both direct and indirect financing for public and private investment funds.</p> <p>- It is proposed to amend paragraph (a) of Clause (First) under the newly proposed Chapter One in the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>
<p>...</p> <p><b>Second: Definitions</b></p> <p>d) For the purpose of implementing the requirements of these Instructions, expressions and terms shall have the meaning they bear as follows, unless the context indicates otherwise:</p> <p>- <b>Direct Financing Fund:</b> An investment fund established for the purpose of carrying out the activity of direct financing for legal persons and investment funds.</p>	<p><b>Chapter One: General Provisions</b></p> <p>...</p> <p><b>Second: Definitions</b></p> <p>d) For the purpose of implementing the requirements of these Instructions, expressions and terms shall have the meaning they bear as follows, unless the context indicates otherwise:</p> <p>- <b>Financing Fund:</b> A Direct Financing Fund and Indirect Financing Fund.</p> <p>- <b>Direct Financing Fund:</b> An investment fund established for the purpose of carrying out the activity of direct financing for legal persons and investment funds.</p> <p>- <b>Indirect Financing Fund:</b> An investment fund established for the purpose of carrying out the indirect financing activities stipulated in Clause (Sixth) of Chapter One of these Instructions.</p> <p>- <b>Default:</b> The beneficiary’s full or partial failure to pay any amount due under the financing agreement for a period of (90) days or more from its due date.</p>	<p>It is proposed to add the definition of “<b>Financing Fund</b>”, the definition of “<b>Indirect Financing Fund</b>”, and the definition of “<b>Default</b>” to Clause (Second) under the newly proposed Chapter One in the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>



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<p><b>Third: General Provisions</b></p> <p>The offering of the units, operations and management of the <b>Direct Financing Fund</b> in the Kingdom must be in accordance with these Instructions and the Investment Funds Regulations.</p>	<p><b>Chapter One: General Provisions</b> ...</p> <p><b>Third: Compliance with the provisions of the Instructions and the Investment Funds Regulations</b></p> <p>The offering of the units, operations and management of the Financing Fund in the Kingdom must be in accordance with these Instructions and the Investment Funds Regulations.</p>	<p>It is proposed to amend Clause (Third) under the newly proposed Chapter One in the draft amendments to the Instructions on the Direct Financing Investment Funds, to reflect that the scope of the instructions now includes both direct and indirect financing for public and private investment funds.</p>
-	<p><b>Chapter One: General Provisions</b> ...</p> <p><b>Fourth: Permissible Investment Areas for Financing Funds</b></p> <p>The fund manager of a Financing Fund may only invest the fund's assets and monies in the following areas:</p> <p>a) Financing activities.</p> <p>b) Money market transactions concluded with a party subject to Saudi Central Bank (SAMA) supervision or equivalent regulator to the Saudi Central Bank (SAMA) in a jurisdiction outside the Kingdom.</p> <p>c) Bank deposits with institutions regulated by the Saudi Central Bank (SAMA) or subject to a regulatory authority equivalent to the Saudi Central Bank (SAMA) outside the Kingdom.</p> <p>d) Units of money market funds registered with the Authority, or units of money market funds outside the Kingdom subject to an equivalent regulatory oversight in a jurisdiction recognised by the Authority as having equivalent regulation.</p>	<p>It is proposed to amend Clause (Fourth) under the newly proposed Chapter One in the draft amendments to the Instructions on the Direct Financing Investment Funds, to clarify the areas in which the investment fund manager is allowed to invest.</p>
-	<p><b>Chapter One: General Provisions</b> ...</p> <p><b>Fifth: Prohibition on Direct Financing to Individuals</b></p> <p>A Direct Financing Fund is prohibited from carrying out the activity of direct financing to individuals.</p>	<p>It is proposed to amend Clause (Fifth) under the newly proposed Chapter One in the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>



Instructions on the Direct Financing Investment Funds		
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	<p><b>Chapter One: General Provisions</b> ...</p> <p><b>Sixth: Engaging in Indirect Financing Activities within the Kingdom</b> A Financing Fund must engage in indirect financing activities within the Kingdom through any of the following:</p> <p>a) Purchasing financing portfolios originated by entities regulated by the Saudi Central Bank (SAMA). b) Concluding agreements or partnerships with financing companies licensed by the Saudi Central Bank (SAMA) to carry out one or more financing activities for the purpose of providing joint financing. c) Investing alongside financing companies licensed by the Saudi Central Bank (SAMA), provided that the credit granting decisions are made solely by the financing companies.</p>	<p>It is proposed to amend Clause (Sixth) under the newly proposed Chapter One in the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>
	<p><b>Chapter Two: Public Financing Funds</b> <b>First: Scope and Application</b> a) Public Financing Fund units shall be offered in accordance with the provisions of this Chapter and Chapter Four of the Investment Funds Regulations. b) As an exception to paragraph (a) of this Clause, paragraphs (b) and (e) of Article 41, and paragraph (s) of Article 49 of the Investment Funds Regulations shall not apply to Public Financing Funds. c) Public Financing Funds are considered as a type of specialised public fund in accordance with the provisions of the Investment Funds Regulations.</p>	<p>- It is proposed to add Chapter Two, titled “<b>Public Financing Funds</b>,” to include provisions related to the offering of public direct and indirect investment financing funds.</p> <p>- It is proposed to add Clause (First) to the newly proposed Chapter Two in the draft amendments to the Instructions on the Direct Financing Investment Funds.</p> <p>Paragraph (b) of Clause (First) of the draft amendments to the Instructions on the Direct Financing Investment Funds includes an exemption for public financing funds from the provisions of the following paragraphs of the Investment Funds Regulations: Paragraph (b) of Article (41) of the Investment Funds Regulations, which states the following: <b>“b. The fund manager must invest the assets and money of a public fund, in the following types of investments only:</b></p>



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		<p>1) securities;</p> <p>2) money market transactions <b>concluded with a party subject to Saudi Central Bank supervision or equivalent regulator to the Saudi Central Bank in a jurisdiction outside the Kingdom;</b></p> <p>3) Bank deposits with a local <b>bank or institution regulated by an equivalent regulator to the Saudi Central Bank in a jurisdiction outside the Kingdom;</b></p> <p>4) real estate assets, without <b>prejudice to the provisions of Paragraph (h) of this Article; and</b></p> <p>5) commodities.”, <b>And</b> paragraph (e) of Article (41) of the Investment Funds Regulations, which states the following: <b>“e. With regards to the provision of Paragraph (b) of this Article, the public fund manager may not lend the fund’s assets or money to any person, except in these two cases:</b></p> <p>1. The lending of securities by <b>a closed-ended public fund.</b></p> <p>2. The lending of securities by <b>an open-ended public fund in a maximum of (30%) of the fund’s net assets value.”</b>, And paragraph (o) of Article (49) of the Investment Funds Regulations, which states the following: <b>“o. As an exception from the provisions of Paragraph (h) of Article (43) of these Regulations, the loans of a closed-ended investment traded fund in the Parallel Market may not exceed (100%) of the fund’s net assets value.”</b></p>



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-	<p><b>Chapter Two: Public Financing Funds</b></p> <p>...</p> <p><b>Second: Type of Public Financing Fund</b></p> <p>A Public Financing Fund must be a closed-ended fund.</p>	It is proposed to amend Clause (Second) under the newly proposed Chapter Two in the draft amendments to the Instructions on the Direct Financing Investment Funds.
-	<p><b>Chapter Two: Public Financing Funds</b></p> <p>...</p> <p><b>Third: Public Financing Fund's Investments Limitations</b></p> <p>a) The total borrowing of a Public Financing Fund must not exceed (15%) of its net asset value. And in case the fund is listed on the Parallel Market, its total borrowing must not exceed (50%) of its total size.</p> <p>b) A Public Financing Fund must not have exposure to a single beneficiary or to multiple beneficiaries belonging to the same group to (25%) or more of the fund's total size.</p>	It is proposed to amend Clause (Third) under the newly proposed Chapter Two in the draft amendments to the Instructions on the Direct Financing Investment Funds.
-	<p><b>Chapter Two: Public Financing Funds</b></p> <p>...</p> <p><b>Fourth: Additional Duties on the Public Financing Fund Manager</b></p> <p>a) In addition to the requirements for the Terms and Conditions of a public investment fund under the Investment Funds Regulations, the Terms and Conditions of a Public Financing Fund must include the following:</p> <ol style="list-style-type: none"> <li>1) The Terms and Conditions must disclose whether the financing is concentrated in a specific industry or sector, and specify the minimum and maximum targeted percentages of the financing to be granted to that industry or sector out of the total financing granted.</li> <li>2) In the case of a public Direct Financing Fund, the Terms and Conditions must include the collection provisions and procedures. The Board of Directors of the fund must</li> </ol>	It is proposed to amend Clause (Fourth) under the newly proposed Chapter Two in the draft amendments to the Instructions on the Direct Financing Investment Funds.



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	<p>ensure the completeness and accuracy of those provisions and procedures.</p> <p>3) In the case of a public Direct Financing Fund, the Terms and Conditions must include aspects related to granting credit. The Board of Directors of the fund must ensure the completeness and accuracy of those aspects.</p> <p>4) In the case of a public Indirect Financing Fund, the Terms and Conditions must disclose the following:</p> <p>(a) Aspects related to the evaluation of financing portfolios to be purchased, in cases where indirect financing activities are conducted through the purchase of such portfolios.</p> <p>(b) Aspects related to joint financing with financing companies, in cases where indirect financing is conducted through agreements or partnerships with such companies.</p> <p>(c) Aspects related to the investment decision-making mechanism with financing companies, in cases where indirect financing is conducted through co-investment with such companies.</p> <p>The Board of Directors of the fund must ensure the completeness and accuracy of the aspects set out in subparagraphs (a), (b) and (c) of this paragraph.</p> <p>5) In the case of a public Indirect Financing Fund, if the fund manager intends to invest through the acquisition of financing portfolios, the Terms and Conditions must disclose the acquisition policy and criteria, including at a</p>	



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	<p>minimum the following information:</p> <p>(a) The average days of default in the portfolio to be acquired.</p> <p>(b) The sectors in which the actual or potential beneficiaries of the portfolio to be acquired operate, and the exposure percentage to each sector.</p> <p>(c) The time elapsed since the financing was granted to the beneficiaries in the portfolio to be acquired, which must not be less than six months.</p> <p>b) In case of a traded Financing Fund, the fund manager must immediately disclose any default by a beneficiary if the amount of financing granted to that beneficiary represents (5%) or more of the fund's net asset value.</p>	
-	<p><b>Chapter Two: Public Financing Funds</b></p> <p>...</p> <p><b>Fifth: Reporting to Unitholders</b></p> <p>a) The public financing fund manager must include in his annual report stipulated in paragraph (a) of Article (78) of the Investment Funds Regulations, the following additional information:</p> <p><b>1) The ratio of the fund's lending to the fund's total assets value.</b></p> <p><b>2) The dual unit price of the fund.</b></p> <p><b>3) Beneficiaries default ratio</b> (90) days or more and (180) days or more of the total financing provided through the fund (if any).</p> <p><b>4) The actual ratio of asset-backed loans out of the total financing provided through the fund.</b></p>	<p>It is proposed to add Clause (Fifth) to Chapter Two of the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>



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	<p>b) The Public Financing Fund manager must include the following information in the fund's quarterly statement:</p> <p><b>1) An update on financing contract data, which should include the following information at a minimum:</b></p> <p>(a) The number of days of default for each financing contract.</p> <p>(b) The percentage of default in relation to the total value of the contract granted.</p> <p>(c) The elapsed period since the financing was granted, and the new financing contracts that were concluded during that period.</p> <p>(d) Any change in the exposure ratio to the sectors to which the beneficiaries belong.</p> <p><b>2) Revenue on financing contracts.</b></p> <p><b>3) Any change in the payment schedule due to the fund.</b></p> <p><b>4) Details of the new financing contracts concluded by the fund, including the beneficiary sector and the payment schedule due for each financing.</b></p> <p><b>5) A list of the ten largest beneficiaries or financing portfolios in the fund, including disclosure of their total value, the sectors to which they belong, and their percentage of the fund's size.</b></p> <p><b>6) Any transaction involving the purchase, sell or mortgage an asset at a price equal to or greater than (10%) of the fund's net assets according to the latest reviewed interim</b></p>	



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	<p>financial statements or audited annual financial statements, whichever is later. The transaction information must include -at a minimum- disclosure of the asset's purchase or sale price, the purchase or sale valuation price, and the followed purchase or sale valuation mechanism.</p> <p><b>7) The fund's borrowing ratio</b> to its net asset value.</p> <p>c) In the case of the Public Direct Financing Fund, if the Terms and Conditions of the fund stipulated that investment in financing granted with a guarantee is permitted, the Public Financing Fund manager must include in the fund's quarterly statement disclosure of any financing guarantee obtained by the fund, the percentage of that guarantee of the size of the guaranteed financing, and the priority of the fund in that guarantee in the case of the beneficiary's bankruptcy.</p>	
-	<p><b>Chapter Three: Private Financing Funds</b> <b>First: Scope and Application</b> Private Financing Fund units shall be offered in accordance with the provisions of this Chapter and Chapter Five of the Investment Funds Regulations.</p>	<ul style="list-style-type: none"> <li>- It is proposed to add Chapter Three to the draft amendments to the Instructions on the Direct Financing Investment Funds, titled: "<b>Private Financing Funds</b>", to reflect that the scope of the instructions now includes both direct and indirect financing for private investment funds.</li> <li>- It is proposed to add Clause (First) to Chapter Three of the draft amendments to the Instructions on the Direct Financing Investment Funds.</li> </ul>



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<p><b>Fourth: Conditions for Establishing and Offering Units of the Direct Financing Fund</b></p> <p>The following conditions must be satisfied when offering units and establishing the Direct Financing Fund:</p> <ol style="list-style-type: none"> <li>1) The fund's units shall be offered by a way of a private placement in accordance with the provisions of Part (5) of the Investment Funds Regulations.</li> <li>2) The fund shall be closed ended.</li> <li>3) The fund shall take the form of a special purpose entity in accordance with the Capital Market Law and its Implementing Regulations.</li> <li>4) The total fund size at establishment shall not be less than (50) Million Saudi Riyals.</li> <li>5) The Fund Manager shall submit to the Authority a detailed feasibility study that includes the targeted sectors and its details.</li> <li>6) The fund's terms and conditions shall include the investment decision-making mechanism, and any relationships that may lead to a conflict of interests when the fund's practice its activity, and a statement that the fund investment would be in grant finance processes and the investment risk may extend to lose the value of the fund's assets.</li> </ol>	<p><b>Chapter Three: Private Financing Funds</b></p> <p><b>Second: Conditions for Offering Units of the Private Financing Fund</b></p> <p>a) The following conditions must be satisfied when offering units and establishing the Private Direct Financing Fund:</p> <ol style="list-style-type: none"> <li>1) The fund shall be closed ended.</li> <li>2) The fund shall take the form of a special purpose entity in accordance with the Capital Market Law and its Implementing Regulations.</li> <li>3) The total fund size at establishment shall not be less than (50) Million Saudi Riyals.</li> <li>4) The Fund Manager shall submit to the Authority a detailed feasibility study that includes the targeted sectors and its details.</li> <li>5) The fund's terms and conditions shall include the investment decision-making mechanism, and any relationships that may lead to a conflict of interests when the fund's practice its activity, and a statement that the fund investment would be in grant finance processes and the investment risk may extend to lose the value of the fund's assets.</li> </ol> <p>b) The following conditions must be met upon offering units and establishing of the Private Indirect Financing Fund:</p> <ol style="list-style-type: none"> <li>1) The fund shall be closed-ended.</li> <li>2) The fund's total borrowings must not exceed (50%) of the total value of the fund's assets.</li> <li>3) The risk management procedures and policies shall be defined, including the fund's risk level.</li> </ol>	<p>- It is proposed to remove paragraph (1) of Clause (Fourth) of the draft amendments to the Instructions on the Direct Financing Investment Funds, and transfer its content to Clause (First) of Chapter Three of the draft amendments to the Instructions on the Direct Financing Investment Funds, to include the private financing funds that engage in direct and indirect financing funds.</p> <p>- It is proposed to add paragraph (b) to Clause (Second) of Chapter Three of the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>



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<p><b>Fifth: Investments Limitations</b> a) The Direct Financing Fund is prohibited from practicing in the activity of direct financing to individuals. b) The duration of the financing granted through the Direct Financing Fund may not exceed the remaining period of the fund's lifetime, including any rescheduling or extension of the financing. ...</p>	<p><b>Chapter Three: Private Financing Funds</b> ... <b>Third: Private Direct Financing Fund's Investments Limitations</b> a) The duration of the financing granted through the Direct Financing Fund may not exceed the remaining period of the fund's lifetime, including any rescheduling or extension of the financing. ...</p>	<p>It is proposed to remove paragraph (a) of Clause (Fifth) of the draft amendments to the Instructions on the Direct Financing Investment Funds, and replace it with a general provision in Clause (Fifth) of Chapter one of the draft amendments to the Instructions on the Direct Financing Investment Funds, to include public and private direct financing funds.</p>
<p><b>Seventh: Credit Information of the Beneficiary</b> ... e) Subject to Article (59) of the Regulations of Capital Market Institutions, the Fund Manager may contract with finance companies licensed by the Saudi Central Bank (SAMA) to delegate any of the duties described in these Instructions.</p>	<p><b>Chapter Three: Private Financing Funds</b> ... <b>Fifth: Credit Information of the Beneficiary in Private Direct Financing Fund</b> ... e) Subject to Article (59) of the Regulations of Capital Market Institutions, the Fund Manager may contract with finance companies licensed by the Saudi Central Bank (SAMA) to delegate any of the duties related to the financing activity stated in these Instructions.</p>	<p>It is proposed to amend paragraph (e) of Clause (Seventh) of Chapter Three of the draft amendments to the Instructions on the Direct Financing Investment Funds.</p>
<p><b>Ninth: Reporting to Unitholders</b> The Fund Manager must include, as additional information, in its annual report stipulated in paragraph (a) of Article (95) of the Investment Funds Regulations the following: 1. The ratio of the fund's lending to the Direct Financing Fund's Total Assets Value. 2. The dual unit price of the fund. 3. Beneficiaries default ratio (90) days or more and (180) days or more of the total financing provided through the Direct Financing Fund (if any). 4. The actual ratio of asset-backed loans out of the total financing provided through the Direct Financing Fund.</p>	<p><b>Chapter Three: Private Financing Funds</b> ... <b>Sixth: Reporting to Unitholders</b> The Private Financing Fund Manager must include, as additional information, in its annual report stipulated in paragraph (a) of Article (95) of the Investment Funds Regulations the following: 1. The ratio of the fund's lending to the fund's Total Assets Value. 2. The dual unit price of the fund. 3. Beneficiaries default ratio (90) days or more and (180) days or more of the total financing granted through the fund (if any). 4. The actual ratio of asset-backed loans out of the total financing granted through the fund.</p>	<p>It is proposed to amend Clause (Ninth) of Chapter Three of the draft amendments to the Instructions on the Direct Financing Investment Funds, to clarify the provisions of the private financing fund.</p>