

**Saudi Arabia: Financial Sector Assessment Program Update—Detailed Assessment of
Observance of the IOSCO Objectives and Principles of Securities Regulation**

This paper on Saudi Arabia was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed in September 2011. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Saudi Arabia or the Executive Board of the IMF.

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**International Monetary Fund
Washington, D.C.**

FINANCIAL SECTOR ASSESSMENT PROGRAM UPDATE

SAUDI ARABIA

THE IOSCO OBJECTIVES AND PRINCIPLES OF SECURITIES
REGULATION

DETAILED ASSESSMENT OF OBSERVANCE

SEPTEMBER 2011

INTERNATIONAL MONETARY FUND
MONETARY AND CAPITAL MARKETS
DEPARTMENT

THE WORLD BANK
FINANCIAL AND PRIVATE SECTOR DEVELOPMENT VICE
PRESIDENCY
MIDDLE EAST AND NORTH AFRICA REGION

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GLOSSARY

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AP	Authorized Person
APR	Approved person regulation
CEO	Chief Executive Officer
CGR	Corporate Governance Regulations
CIF	Collective Investment Fund
CIS	Collective Investment Schemes
CMA	Capital Market Authority
CML	Capital Market Law
CRSD	Committee for the Resolution of Securities Disputes
ETF	Exchange traded fund
GCC	Gulf Cooperation Council
IFRS	International Financial Reporting Standards
IOSCO	International Organization of Securities Commissions
MLRO	Money Laundering Reporting Officer
MMOU	Multilateral Memorandum of Understanding
MOCI	Ministry of Commerce and Industry
MOF	Ministry of Finance
MOU	Memorandum of understanding
OTC	Over-the-counter
SAMA	Saudi Arabian Monetary Agency
SOCPA	Saudi Organization for Certified Public Accountants
SRO	Self-regulatory organization
UASA	Union of Arab Securities Authorities

I. SUMMARY, KEY FINDINGS, AND RECOMMENDATIONS

A. Executive Summary

- 1. The regulatory framework for the securities market in Saudi Arabia has significantly developed since the enactment of legislation to regulate the capital markets.** The Capital Market Authority (CMA) has made significant progress in establishing its supervision credentials, including issuing implementing regulations. The CMA has also entered into information sharing arrangements with other regulators in the region, and is a party to the International Organization of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding (MMOU) Concerning Consultation and Cooperation and the Exchange of Information. However, no information sharing arrangement exists with the Saudi Arabian Monetary Agency (SAMA). Even so, refinements can be made to processes, the Capital Market Law (CML), and the Committee for the Resolution of Securities Disputes (CRSD).
- 2. There are no major gaps in the current regulatory and legal frameworks.** There are some transparency and procedural improvements that need to be made relating to how the CMA funds its operations, disciplines, and communicates with members and balances its potential conflicts of interest.
- 3. The framework contained in the CML and the implementing regulations is still relatively new. However, revision and updating of the requirements needs to be a continuing program, involving fuller regulated entity participation.** Unpublished, but mandatory regulatory instructions issued by the CMA Board to regulated entities need to be publicly available and revised, and Board-imposed disciplinary sanctions need to be overlaid with procedural fairness provisions.
- 4. The CMA approach to supervision is both risk-based and compliance-focused and the cost of compliance needs to be a more central focus when establishing mandatory obligations.**
- 5. More transparency should be provided by the CMA to cases of noncompliance since Board sanctions of Authorized Persons (APs) may not in all cases be published.** The CMA Board should reconsider its current publications policy so as to ensure that the appropriate transparency and regulatory effect is achieved in respect of regulated entities' noncompliance.

B. Introduction

- 6. The Saudi Arabian capital market has been in operation for many years with substantial trading since 1970.** It was regulated by a ministerial committee comprising Ministry of Finance (MOF), Ministry of Commerce and Industry (MOCI), and SAMA, but this changed when the CML came into legal effect on February 25, 2004 and the CMA was established. The CMA was given rule-making authority and enforcement powers necessary to fulfill its objectives (the protection of investors, reduction of systemic risk, and the fairness, efficiency, and

transparency of the capital market). The CMA possesses both civil and criminal authority and may seek civil sanctions ranging from warnings to monetary penalties, property seizure, and license suspension or revocation. The CML defines the duties and powers of the CMA, Tadawul (the Saudi stock exchange), the Securities Depository Center, the CRSD (a special body with jurisdiction over all claims and matters falling under the CML and its rules and regulations), and a final review authority, the Appeal Panel.

7. **The assessment is part of the Financial Sector Assessment Program Update made at the request of Saudi Arabia, and is the first assessment conducted of the implementation of the IOSCO Objectives and Principles of Securities Regulation.** The assessment was undertaken by Mr. Martin Kinsky, a consultant to the IMF for this purpose, and took place in Riyadh during April 2010.

C. Information and Methodology Used for Assessment

8. **The assessment was conducted based on available public information relevant to the regulatory operations of the CMA,** and contained in its regulatory supervisory material, and direct interviews of regulated entities and the staff of the CMA. The assessment was conducted based on the IOSCO Principles and Objectives of Securities Regulation and its Methodology adopted in 2003 and updated in 2008. In June 2010, IOSCO approved a revision to the IOSCO Principles, which mainly resulted in the addition of nine new Principles. However, a revised methodology has not been developed yet. As a result this assessment has been conducted based on the current methodology. Nevertheless the authorities agreed to hold exploratory discussions on the status of implementation of the new principles. A summary of such discussions is included as Annex 1 to this assessment. As has been the standard practice, Principle 30 is not assessed due to the existence of a separate standard for securities settlement systems.

9. **The official language in Saudi Arabia is Arabic.** Accordingly, official documents of the CMA are published in Arabic, and most are also available in English. The CMA has endeavored to make its website fully comprehensive. However, not all mandatory relevant rules and Board directions (Board decisions) are publicly available to participants.

D. Regulatory Structure and Market Structure

Regulatory Structure

10. **The CMA's regulatory responsibilities are broad and include the issuance of securities, listing, trading and settlement on Tadawul, credit rating agencies, investment funds, disclosure by issuers and governance, licensing, and supervision and enforcement of its regulations.** The CMA's remit includes all offers of securities in Saudi Arabia whether public offers or private placements, establishment, offering and management of funds and the regulation of participants in the capital market, including any over-the-counter (OTC) activity. Regulation of banks and insurers are responsibility of SAMA, except to the extent they have obligations as listed companies in respect of which they fall within the jurisdiction of the CMA.

11. **The CMA’s Board of Commissioners comprises five full time members appointed by Royal Order for a five-year term that is renewable only once.** The Chief Executive Officer (CEO) is chairman of the Board. Tadawul’s Board of Directors comprises nine members appointed by the Council of Ministers and includes representatives of MOF, MOCI, SAMA; two from listed companies and four from APs. The Depository is a department of Tadawul.

12. **The CMA is accountable to the President of the Council of Ministers and has by virtue of the CML (Article 13) access to a number of sources of funds, including fees, financial penalties, and funds provided by the government.** Financial accounts of the CMA and Tadawul (wholly owned by the government via an investment company) are not published.

Market Structure

13. **Tadawul operates the only licensed market in Saudi Arabia being established by the CML as a joint stock company under the Companies Law, but regulated by the CMA.** It conducts trading in equity securities and debt instruments (including sukuk) of listed companies, corporate bonds and Exchange Traded Funds (“ETF’s”). At the end of December 2010, there were 146 listed companies that issued securities for trading on the market with a total market capitalization of \$353.44 billion. There were 11 issuers of corporate bonds in 2010 (comprising 16 issues with a value of SR 49.159 billions). As at December 31, 2010, the CMA regulated 267 collective investment fund (CIF) operated by 29 fund managers. Tadawul facilitates fully electronic trading in shares (settled T+0) and sukuk and bonds (settled two days after trade date (“T+2”) but little traded), but it does not conduct a derivative market. Trading occurs on a time price priority basis via a central order book with one session per day (11a.m. to 3.30p.m.). Mutual funds release information publicly via Tadawul, but the funds are not traded on market. Direct foreign participation in equities is only permitted via swaps entered into with APs, although direct foreign participation is permitted in funds and ETFs. The CMA does not approve the clients of APs who invest through swaps, mutual funds or ETFs. The CMA is considering the nature of regulations necessary if direct foreign participation were to be permitted in equities; however, industry comment suggesting a qualified investor exemption will be introduced (under which criteria for the approval of individual foreign investors would be permitted) are the subject of preliminary discussions only. Gulf Cooperation Council (GCC) residents may also directly trade in the market. During 2010, there were 9 public offerings of equity securities for an aggregate value of \$1.86 billion and one public sukuk offering.

14. **At December 31, 2010, there were 97 APs engaged in some combination of regulated securities activities.** These comprised 65 APs engaged in dealing; 86 in arranging; 71 in managing; 88 in advising; and 75 providing custody services. Corporate finance business for APs is defined as securities business in connection with offering, issuing or underwriting of securities or a takeover. Arranging is defined as introducing parties in relation to securities business, advising on corporate finance business or acting in any way to bring about a deal in a security. Dealing is defined as the sale or purchase of securities whether as principal or agent and managing the subscription for or underwriting securities. Advising is defined as advising a

person on the merits of dealing in a security or exercising any right to deal conferred by the security. Custody is defined as safeguarding assets belonging to another person, including securities or arranging for another person to do so. In recent years, there have been new nonbank entrants, and some departures following the introduction of the CMA regulatory arrangements which required banks to conduct their securities activities in subsidiary companies. As at March 31, 2011, there were 93 APs (544 total licensed activities). Of these, 15 percent of APs are Saudi bank affiliated (99 licenses comprising 18 percent of the total); 42 percent are local Saudi (182 licenses comprising 33 percent of the total); and 43 percent are foreign affiliated (263 licenses comprising 48 percent of the total). Total paid up capital of APs was SR14.32 billion. There were 2,963 registered persons and there were a total of 4,221 persons employed by APs.

15. With respect to swaps, the CMA reviews and approves the master swap agreement between the AP and the foreign counter party. The CMA does not approve the clients investing through the swap agreement, but it must receive a copy of the signed (standard) agreement and it must be notified of the details of all executed deals, including identity of clients investing through the agreement and a monthly report of transactions. The swap effectively immobilizes the securities purchased for the benefit of the foreign interest, since the AP buys (or subsequently sells the securities) and receives the benefit of the securities while providing the economic benefit of the securities to the foreign client. The legal title to the securities held under the swap remains with the AP; however, no voting rights may be exercised in respect of such securities. Shares subject to a swap agreement are segregated in the Depository and the AP must maintain adequate systems and controls relating to the performance of the agreement.

16. Research is produced on local listed companies, but research as an activity is not specifically licensed (research that is related to securities may only be conducted by APs) and no credit rating agencies have yet sought to be established in Saudi Arabia. The CMA is responsible for the licensing provisions that were introduced to regulate these entities.

17. The equity market in Saudi Arabia is of significant size, but has undergone significant change following events of 2006 and the establishment of the CMA. The key indicators of the market (provided by the CMA) are set out below.

Indicator	2006	2007	2008	2009	2010
No of listed companies	86	111	127	135	146
No of newly listed companies	9	25	16	9	11
Domestic market capitalization (SR millions)	1,225,759.50	1,946,035.88	924,528.33	1,195,506.29	1,325,392.25
Share top 10 stocks in market capitalization (in percent)	72.56	67.87	60.89	58.51	61.78
Share of top 10 stocks in turnover value (in percent)	28.01	24.84	46.19	37.53	46.93
Daily average turnover value (SR millions)	19,856.04	10,313.36	7,820.50	5,056.05	3,048.93
No of initial public offerings	10	27	13	13	9
No of secondary offerings	2	4	5	3	1
No of intermediaries (AP members of Tadawul)	14	21	31	35	38

Indicator	2006	2007	2008	2009	2010
No of mutual funds	208	233	262	266	267
Assets under management of mutual funds (SR millions)	84,238.00	105,098.00	74,814.00	89,560.00	94,666.16
No of ETF	-	-	-	-	2
Share of turnover by value – Saudi private investors (in percent)	n/a	n/a	91.0	91.0	86.4

E. Effective Regulation

18. **Development of capital markets requires sound macroeconomic policies, appropriate legal, tax, and accounting frameworks and the absence of entry barriers to the market in addition to effective regulation and supervision of that market by the securities regulator.** Saudi Arabia is a sharia law jurisdiction which is adopting global standards. For that purpose the CRSD and the Appeal Committee are special purpose financial services tribunals/courts and, while operating under the CML, are defacto enforcing regulatory provisions which are global and dominated by the common law. The CMA has licensed new entrants as APs and yet the regulatory environment of the CMA requires numerous approvals or notifications by APs which may impede the conduct of business due to the processing time required.

19. **The operative regulation applying to the capital market has undergone significant reform in Saudi Arabia, since the CMA has taken responsibility from the ministerial committee and SAMA for regulating the capital market under the CML and the Implementing Regulations.** There has been the introduction of and some revisions to substantive regulation by virtue of the introduction of the CML and the Implementing Regulations. The regulated community has undergone a significant regulatory change requiring updating of compliance and other controls as a result of the introduction of these provisions. As the CMA gains more experience with the local industry further revision and adaption of the requirements will be warranted.

20. **The organization and internal structure and operations of the CMA have also been the subject of change.** A management organizational change took effect in 2010 and additional staff resources were acquired following implementation of the Fit for Future project. Under this project, the CMA looked at best practice, its functions and processes and determined how best to optimize and restructure the CMA operations to meet the challenges of the future. The outcomes sought to be achieved by this project are still being implemented by the CMA.

21. **Regulation is of a high standard, but the market requires further development.** Currently, the right to take up a new issue cannot be traded on the market. The CMA became rightly concerned about the position of shareholders who did not exercise their pre-emptive rights as shareholders to take up new shares. Such shareholders lost the benefit of any value in the rights and their holding became diluted because of the expanded capital of the company. While it has devised a process to enable such holders to obtain some recompense for their

“rights,” the CMA needs to work with Tadawul to trade these contractual entitlements on the market. While derivatives trading, regulated short selling, stock borrowing and lending and other features of mature markets are absent, the CMA needs to consider how best to get more liquidity into its market which is predominately comprised of individuals/retail investors.

F. Main Findings of Principle by Principle Assessment

22. **The CMA is a relatively new organization that has made substantial progress in establishing the regulatory framework for the capital market in Saudi Arabia.** These include the CML, the Implementing Regulations and the Fit for Future reorganization of the management and setting the strategy of the Agency.

23. **Regulatory theory and practice are rapidly changing in response to developments and issues arising around the globe.** Accordingly, if the CMA wishes to promote the development of its capital market, which is relatively large in the region, a number of important issues will need to be considered and appropriate regulation introduced, in addition to what has already been completed. In particular, the CMA needs to publicly demonstrate how it manages perceptions of potential conflict of interests/objectives when market development aims and investor protection issues clash.

24. **Principles related to the regulator.** The CMA is the single entity responsible for administering the primary securities law of Saudi Arabia. A comprehensive and integrated regulatory framework pursuant to the CML and Implementing Regulations is now in place. Under CML, the CMA’s objectives, responsibilities, powers and authorities are set out. There is a potential conflict since the CMA is responsible both for regulation and development of the capital market. Corporate governance matters can fall within the authority of both MOCI and the CMA.

25. **Principles for self-regulatory organizations (SROs).** There are no SROs as Tadawul does not exercise regulatory powers although it is responsible for operationally running the market and the Depository.

26. **Principles for enforcement.** The CMA has general and broad powers for inspection and investigation and it conducts full electronic surveillance of the market. The CMA has a dedicated enforcement division, but the track record of the CMA on enforcement is not fully transparent. The CMA has authority to investigate potential violations and to bring enforcement action seeking civil and criminal penalties. It may suspend or withdraw the license of an AP who deliberately violates the CML or its Implementing Regulations. An inspection program adopting a cycle of two to three years of APs (risk and compliance-based) is conducted via on-site inspections and review of specific regulations.

27. **Principles for cooperation.** The CMA has the power to share information with domestic and foreign regulators, is a full signatory to the IOSCO MMOU and is a member of the Union of Arab Securities Authorities (UASA), a cooperative body which inter alia, shares information. To

date, no release of confidential regulatory information has been required to be released, although the CMA is willing to do so if requested.

28. **Principles for issuers.** Issuers that offer securities by way of public offer are subject to disclosure requirements including shareholder voting decisions and provisions for equality of treatment. Prospectuses are approved by the CMA. Reporting and disclosure by significant shareholders of listed companies and by persons who would seek control of a listed company are also required. Minimum information requirements for prospectuses (debt and equity securities) require that the prospectus contain sufficient information to enable an investor to assess the issuer's activities, financial position, management and prospects as well as the rights and obligations attaching to the securities. A prospectus must include three years' operating financial results. Private placement activity is low.

29. **Principles for collective investment schemes (CIS).** Only a person authorized by the CMA to engage in "managing business" may operate and market a CIS who must demonstrate compliance with criteria relating to honesty and integrity, adequacy of resources, financial capacity, internal management procedures and systems. The manager is required to disclose sufficient information about the fund's management, objectives, strategies, risks and other information to enable potential investors to make an informed investment decision. A person seeking to offer units in an investment or real estate fund (fund types permitted) by way of a public offer must obtain the CMA approval. Investment funds may also be offered by way of a private placement to certain classes of sophisticated investors. Foreign investment funds may not be offered within Saudi Arabia without the CMA consent. The CMA regulations prescribe the legal form and structure of funds has not been tested as no judicial upholding of the protection of clients' rights in such schemes has occurred. When a manager applies for approval to offer and sell units in a fund, the CMA reviews the valuation method to ensure that it is fair and reliable. Fund managers must calculate asset valuations on a regular basis. Valuation of the assets of an investment fund must occur on each of at least two dealing days each week when units of the fund are sold and redeemed. Valuation of the assets of a real estate investment fund must occur at least once every six months.

30. **Principles for market intermediaries.** Market intermediaries require an AP license, depending on business category. The CMA will review an applicant's business plan, manuals, policies and procedures, and audited financial statements, including the skills, experience, competence and integrity of its employees, officers and agents, certain of whom must be registered and pass a qualification examination. Minimum paid up capital and net capital requirements based on risk (see Principle 22) apply for each security business category. Dealing, custody and managing requires paid capital of SR 50 million, but arranging is SR 2 million and advising requires SR 400,000. The CMA monitors APs' compliance with its capital adequacy and other obligations, but it has no specific or documented process or plan to assist it deal with an unexpected failure of an AP.

31. **Principles for secondary markets.** By law, the only securities exchange authorized is Tadawul which the CMA must oversee as a securities exchange and depository. The CMA must approve all rules and rule changes of the Tadawul. The CML does not allow for the establishment of a new securities exchange or of a trading system. No rules, procedures or guidance have been issued to set out how the CMA would deal with the regulatory oversight to apply to an alternative trading system or new exchange. Dealing may occur away from the market in limited circumstances as private transactions, but OTC activity would therefore appear to be low.

Table 1. Saudi Arabia: Summary Implementation of the IOSCO Principles

Principle	Grading	Findings
Principle 1. The responsibilities of the regulator should be clearly and objectively stated.	PI	<p>The CMA is the single entity responsible for administering the CML, which is the primary securities law of Saudi Arabia. The CML clearly defines the CMA's objectives, responsibilities, powers and authorities. The CMA has used its authority to establish a comprehensive and integrated regulatory framework pursuant to the powers provided in the CML by issuing (and updating) Implementing Regulations. There is no reference in the CML to the division of responsibility that occurs in practice between the CMA, MOCI and other government entities relating to the responsibilities of these regulators for corporations that operate in the capital market. Accounting and auditing standards are established by the Saudi Organization for Certified Public Accountants (SOCPA), a professional organization that operates under the supervision of the MOCI. Company incorporation, management and general assembly meetings are regulated by the companies law which is the responsibility of the MOCI and not the CMA. Capital increases and decreases of joint-stock companies fall under the jurisdiction of both the CMA and MOCI. Each has different responsibilities for these matters as set out in the memorandum of understanding (MOU), available only in Arabic version. A gray area relating to the corporate governance matters which could fall within the authority of both MOCI (companies law provisions) and the CMA (Corporate Governance Regulations, CGRs) exists. There also is a potential conflict since the CMA is responsible both for regulation and development of the capital market (the CMA has segregated the two functions by department). The CMA regulations are enforceable through the CRSD which is in effect a tribunal/court of exclusive jurisdiction relating to obligations imposed by the CML and decisions of the CMA.</p>
Principle 2. The regulator should be operationally independent and accountable in the exercise of its functions and powers.	PI	<p>The CML establishes the CMA as a legal entity to be a financially and administratively autonomous agency, invested with all authorities necessary to discharge its responsibilities and functions under the CML. The CMA is governed by a Board comprising five full time members who are each appointed by Royal Order for a five-year term that is renewable once. There is no express statutory protection for the CMA that would give it immunity from suit where it discharges its powers and responsibilities under the CML or Implementing Regulations. The CMA retains fees and fines as a revenue source (subject to the general reserve cap); however, the quantum of fines is not published, although some individual</p>

Principle	Grading	Findings
		<p>disciplinary fines have to be published. Members of the CRSD are appointed by the Board (for three-year terms, renewable); however, the CRSD is given exclusive jurisdiction to review CMA decisions. There are no statutory provisions or limitations on the circumstances for which a Board or CRSD member may be removed.</p> <p>The CMA Board has determined a publications policy which specifies the matters which must be announced to the public but not all regulatory decisions are public.</p>
<p>Principle 3. The regulator should have adequate powers, proper resources, and the capacity to perform its functions and exercise its powers.</p>	<p>FI</p>	<p>The CML grants the CMA all powers and authorities to carry out its functions under the CML and its Implementing Regulations. These include issuing Implementing Regulations, conducting inquiries and investigations regarding violations, defining and explaining the terms and provisions set out in the CML and performing such other functions and exercising such other powers as necessary or expedient to give full effect to the provisions of the CML and its Implementing Regulations. The powers and authorities are broad. Staff numbers are considerable and the division/department sizes appear to be adequate.</p>
<p>Principle 4. The regulator should adopt clear and consistent regulatory processes.</p>	<p>PI</p>	<p>The CMA advises regulated entities of Board resolutions which contain substantive compliance requirements. Some of these will not involve prior consultation and may not be public although they will be circulated to the entities directly affected once the content becomes mandatory.</p> <p>The CMA states that it considers the cost of compliance when it formulates new or amended regulations and by virtue of the consultation process although it has not published any statement explaining how it does so.</p> <p>The CMA is a relatively new organization (staff reorganization/recruitment has recently taken place) and it is adopting new/upgraded rules. Some regulated entities are not fully aware of the ambit of their responsibilities. There can be areas of ambiguity about the interpretation of obligations which may not become apparent until an inspection visit when the CMA staff advise their interpretation of them. The CMA's policy seems to be to educate participants via the supervision/inspection process often by the way of the CMA Board imposed fines although it also adopts other means to educate participants, including publications.</p> <p>All adverse actions of the CMA are appealable to the CRSD, which will investigate the claim and issue a reasoned decision and adverse actions may be further appealed to the Appeal Panel. The procedural obligations of the CMA are defined in the CML/Implementing Regulations including in some cases, the need for a hearing session. The CMA Board may never take an enforcement action unless</p>

Principle	Grading	Findings
		the investigation process is completed which will always include “interrogation.”
Principle 5. The staff of the regulator should observe the highest professional standards.	FI	The CML establishes standards of conduct designed to ensure the integrity and professionalism of the staff. Like members of the Board, the CMA employees are prohibited from engaging in any other job or profession and from providing advice to any company or private institution. On accepting employment, the CMA staff must disclose their securities holdings and the securities holdings of their relatives, which information must be updated. The CMA has adopted a Code of Conduct that incorporates relevant provisions of the CML and establishes additional prohibitions and requirements designed to avoid conflicts of interest, protect confidentiality and personal information and assure the appropriate use of information.
Principle 6. The regulatory regime should make appropriate use of SROs that exercise some direct oversight responsibility for their respective areas of competence and to the extent appropriate to the size and complexity of the markets.	N/A	Tadawul is not an SRO and does not exercise regulatory powers, although it is responsible for operationally running the market and the Depository. The future development of Tadawul may envisage it achieving a self-listing with direct public participation in its ownership, but any such development is presently deferred and not under active consideration by the CMA.
Principle 7. SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.	N/A	Tadawul does not exercise such powers or have delegated responsibility. See also comments above at Principle 6.
Principle 8. The regulator should have comprehensive inspection, investigation, and surveillance powers.	FI	The CMA has general and broad powers for inspection and investigation, including non licensees. It also conducts full electronic surveillance of the market and has access to changes in beneficial ownership. The CMA has a dedicated enforcement division, but the track record of the CMA on enforcement is not fully transparent.
Principle 9. The regulator should have comprehensive enforcement powers.	FI	The CMA has authority under CML to investigate potential violations and to bring enforcement actions seeking civil and criminal penalties (persons who engage in dealing activities without authorization or who violate prohibitions against market manipulation or insider trading). The CMA may bring an enforcement action against any person who has engaged, is engaging or is about to engage in an act or practice that violates the CML, its Implementing Regulations or the regulations of the Tadawul and seek appropriate sanctions. The CMA also may seek indemnification for persons harmed by the violation or require the violator to disgorge any gain realized from the violation. The Board may suspend or withdraw the license of an AP who deliberately violates the CML or its Implementing Regulations, submits false or misleading information in any document filed with the CMA. The level of fines stipulated in the CML for any violation of the law, regulations or rules are not high

Principle	Grading	Findings
Principle 10. The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance, and enforcement powers and implementation of an effective compliance program.	PI	and may not be appropriate in all cases of violations. The CMA implements a thorough inspection program of APs by carrying out on-site inspections and review of specific regulations. A cycle of two to three years for inspections has been adopted (unless an issue arises during a cycle to necessitate a visit, due to complaint or other intelligence). The inspection program is risk and compliance-based. The CMA's policy of not publishing all enforcement outcomes is underpinned by concern that disciplinary outcomes, specifically the announcement of sanctions against APs may affect the development of the local market by adversely affecting investor confidence in the market and investors willingness to continue to conduct business with the entity concerned.
Principle 11. The regulator should have the authority to share both public and nonpublic information with domestic and foreign counterparts.	FI	The CMA may share with other regulators information concerning matters of investigation and enforcement, determinations in connection with authorization, licensing and approvals, surveillance market conditions and events; client identification, regulated entities, and listed companies and companies that go public. The CMA also may obtain and share with its domestic and foreign counterpart's information and records identifying the beneficial owners or controllers of bank accounts relating to securities transactions. The CML and its Implementing Regulations expressly authorize the CMA to share information that it receives from issuers.
Principle 12. Regulators should establish information-sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.	PI	The CMA is a member of UASA (a cooperative body consisting of the securities market regulators of 14 Arab states). In June 2010, the CMA became a full signatory to the IOSCO MMOU Concerning Consultation and Cooperation and the Exchange of Information. In the past, the CMA voluntarily responded to requests for assistance from various regulators around the world although to date no confidential information has been required to be disclosed. There has been cooperation domestically and CMA has MOUs with MOCI (securities and related companies law matters), Minister of the Interior (anti-money laundering and combating the financing of terrorism, AML/CFT) and Minister of Justice (real estate funds ownership of assets). However, the CMA has not yet finalized an MOU with SAMA which is currently being drafted.
Principle 13. The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.	FI	Refer comments at Principle 11 and 12. The CMA's powers under the CML enable it to provide assistance to a foreign regulator by investigating an alleged breach of a legal or regulatory requirement or providing such other assistance as the CMA may deem appropriate. The CMA interprets this authority broadly.
Principle 14. There should be full, timely, and accurate disclosure of financial results and other information that	FI	Disclosure by issuers (listed companies) and relating to CIF that offer securities by way of public offer are subject to specific and general disclosure

Principle	Grading	Findings
is material to investors' decisions.		requirements that apply both to the prospectus used for a securities offering and on a continuing basis thereafter, including shareholder voting decisions. Reporting and disclosure by significant shareholders of listed companies and by persons who would seek control of a listed company are also required. Minimum information requirements for prospectuses (debt and equity securities) require that the prospectus contain sufficient information to enable an investor to assess the issuer's activities, financial position, management and prospects as well as the rights and obligations attaching to the securities. A prospectus must include three years' operating financial results (audited accounts must have been published for at least the previous three years) and comparative financial information of the company for the previous two years, unless exempted.
Principle 15. Holders of securities in a company should be treated in a fair and equitable manner.	BI	There are a numerous provisions governing shareholders' rights, including takeover regulations. A person who becomes owner of or interested in 5 percent or more of any class of voting securities or convertible debt securities of a listed company is published as are increases or decreases by 1 percent. The regulation of corporate governance for listed companies is a bifurcated approach. There is some overlap regarding the obligations imposed by the CMA and MOCI and there is a lack of clarity relating the jurisdiction of each agency to enforce corporate governance obligations. There is a lack of clarity as to how interdependent provisions are interpreted and operate in practice, particularly as some are comply and explain, some are, mandatory and the language of the Companies Act and the CMA requirements appears not to be identical. It is unclear how they would be enforced in the event of a major case of a listed company's failure to comply with these corporate governance obligations which involve serious breaches of director's duties.
Principle 16. Accounting and auditing standards should be of a high and internationally acceptable quality.	PI	Financial statements relating to CIF and of listed companies disclosed in offering documents and on a continuing basis are subject to accounting and auditing standards established by the SOCPA, a professional organization that operates under the supervision of the MOCI. Since IOSCO does not provide criteria for assessment of whether or not these standards are comprehensive and of internationally accepted quality, the assessor has noted the CMA's view that it considers SOCPA standards to be of international quality, and that there are differences in the treatment of certain issues such as valuation of real property, see comments at Principle 16. Audit reports of listed companies must be prepared by a certified independent accountant. Also, interim financial statements included in offering materials and the interim accounts of a listed company must be reviewed in accordance with standards established by the SOCPA. SAMA requires insurance companies and banks to

Principle	Grading	Findings
		<p>comply with International Financial Reporting Standards (IFRS) standards and as all but one of the banks is listed, this produces the anomalous situation that part of the market is reporting under IFRS and part under SOCPA standards. The CMA Board has issued a resolution that exempts listed banks and insurance companies from preparing their interim and annual accounts in accordance with the SOCPA standards as mandated under the Listing Rules and to use alternatively, IFRS standards.</p>
<p>Principle 17. The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a CIS.</p>	<p>FI</p>	<p>Only a person authorized by the CMA to engage in “managing business” may operate and market a CIS. Applicants must demonstrate compliance with criteria relating to honesty and integrity, adequacy of human and technical resources, financial capacity, internal management procedures and the maintenance of personnel, administrative systems and procedures and contractual arrangements necessary to fulfill its powers and duties as fund operator.</p> <p>Implementing Regulations distinguish between investment funds and real estate investment funds. A person seeking authority to offer units in either type of fund by way of a public offer must obtain the CMA approval.</p> <p>Investment funds may also be offered by way of a private placement in which the amount payable by each potential investor is not less than SR 1 million and the offer is limited either to 200 persons or to certain classes of sophisticated investors. An investment fund established in a jurisdiction other than Saudi Arabia may not be offered within the Saudi Arabia without the CMA consent.</p>
<p>Principle 18. The regulatory system should provide for rules governing the legal form and structure of CIS and the segregation and protection of client assets.</p>	<p>BI</p>	<p>The CMA regulations prescribe the legal form and structure of funds. Investment funds and real estate funds are established by a signed contract between the fund manager and fund investors, which must contain terms and conditions prescribed by the CMA regulations. These include provisions describing fund management, fund objectives, investment strategies, risks associated with investing in the fund and any fee payable by unit holders or out of the assets of the fund. Identical terms and conditions must apply to all investors who hold the same class of units in an investment fund.</p> <p>The manager of a fund must segregate fund assets from any other assets by establishing a separate bank account in the fund’s name and by registering securities and any other assets in the fund’s name.</p> <p>Deeds to real estate may be registered to the fund manager of a real estate fund or to any other person with a notation on the title of deed. Segregation can be better achieved by ensuring that there are checks and balances applicable to custody arrangements and the managers ability to deal with the fund assets.</p> <p>The CMA’s filing and approval process is designed to ensure compliance with applicable form and</p>

Principle	Grading	Findings
		structure requirements, but there has been no judicial upholding of the protection of clients' rights in such schemes.
Principle 19. Regulation should require disclosure, as set out under the principles for issuers, which is necessary to evaluate the suitability of a CIS for a particular investor and the value of the investor's interest in the scheme.	FI	<p>The manager of a fund is required under the Implementing Regulations to disclose sufficient information about the fund's management, objectives, strategies, risks and other information to enable potential investors to make an informed investment decision.</p> <p>The CMA approves the terms and conditions of the investment. The manager must present the information in a manner that is comprehensible and easy to understand. The fund's terms and conditions must be kept up-to-date.</p> <p>Managers of funds must make available to fund investors annual audited and interim financial statements that are prepared according to standards issued by the SOCPA.</p> <p>Any advertisement used in connection with an offer of interests in an investment fund or a real estate fund is subject to regulations that prescribe specific content requirements and generally require that the advertisement be clear, fair and not misleading, including material relating to fund performance.</p>
Principle 20. Regulation should ensure that there is a proper and disclosed basis for assets valuation and the pricing and the redemption of units in a CIS	BI	<p>Implementing Regulations require that the terms and conditions of funds describe the method of valuing the assets of the fund, the timing of the valuation and the method of publishing the price of its units.</p> <p>Valuations must be conducted in accordance with the SOCPA standards (provide direction for the fair valuation of assets for which market prices are not readily available). When a manager applies for approval to offer and sell units in a fund, the CMA reviews the valuation method to ensure that it is fair and reliable.</p> <p>Fund managers must calculate asset valuations on a regular basis. Valuation of the assets of an investment fund must occur on each of at least two dealing days each week when units of the fund are sold and redeemed. Valuation of the assets of a real estate investment fund must occur at least once every six months.</p>
Principle 21. Regulation should provide for minimum entry standards for market intermediaries.	FI	<p>The CMA assesses the applicant for an AP license by reviewing its business plan, manuals, policies and procedures, and audited financial statements. In considering whether an applicant is fit and proper, the skills, experience, competence and integrity of its employees, officers and agents are assessed. The applicant's personnel will be assessed against established criteria.</p> <p>The CMA also prescribes minimum paid up capital requirements for each security business category and minimum net capital requirements.</p> <p>The application also must include a list of each individual who is to be a "registered person" of the applicant, and each of those persons must include details of their qualifications and experience.</p>

Principle	Grading	Findings
		Applicants for registration must pass a qualification examination required by the CMA, or secure an exemption. The CMA has prescribed the examination requirements and guidance on eligibility qualifications and criteria for an exemption.
Principle 22. There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.	FI	APs are required to comply with initial and ongoing capital requirements. The details are set out in a Prudential Guidance Note issued by the Board and discussed at Principle 22 The initial requirement of paid capital must be not less than the following” dealing, custody and managing SR 50 million; arranging, SR 2 million; and advising SR 400,000. On an ongoing basis, APs which carry on dealing, managing or custody must comply with a net capital standard of the greater of SR 50 million, 5 percent of the AP’s annual revenue or an amount calculated based on aggregate indebtedness. Net capital is designed to permit, if need arises, an orderly liquidation of its business. Requirements applicable to margin lending are set out in Approved Persons Regulations (APR) Article 45 which specifies the circumstances under which AP may effect a margin transaction for a client. However, margin lending is primarily undertaken though banks. APs are required to self-report if net capital falls below the minimum and the CMA monitors the monthly capital adequacy returns submitted by them.
Principle 23. Market intermediaries should be required to comply with standards for internal organization and operational conduct that aim to protect the interests of clients, ensure proper management of risk, and under which management of the intermediary accepts primary responsibility for these matters.	FI	An AP must establish and maintain a division of responsibilities among its directors and senior management so that it is clear who is responsible for each function. APs must establish written risk management policies, compliance procedures, a compliance monitoring program, operating procedures and an employee code of conduct and appoint one of its senior officers as the compliance officer responsible for the compliance function and must appoint a money laundering reporting officer (MLRO) responsible for its AML/CFT program. The governing body of the AP must carry out a regular review of its internal controls and risk management program at least annually and monitor any action arising as a result of the review. The annual review must be documented. An AP’s internal and external auditors must review its books, accounts, and other records at least annually. As part of its review, the internal auditor is responsible for appraising risk management strategy and internal controls. If an external auditor comes across a material breakdown in the course of conducting an audit, it is their responsibility to report it to the AP. Under the APRs, an AP must establish written procedures to ensure the timely resolution of client complaints.

Principle	Grading	Findings
Principle 24. There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.	BI	The CMA monitors APs' compliance with its capital adequacy and other obligations, including reviewing market intermediaries' capital levels and taking action, where necessary. The CMA has extensive power to represent and protect the rights of clients to their funds and assets and supervise the compulsory or voluntary liquidation of an AP's business. However, the CMA has no specific or documented process or plan to assist it deal with an unexpected failure of an AP. It is unclear how the CMA would deal with an AP's failure/insolvency particularly if other regulatory agencies are involved.
Principle 25. The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.	BI	The only securities exchange authorized under the CML in Saudi Arabia is the Tadawul (which designates the CMA as the regulator), specifies its regulatory responsibilities, and grants to the CMA full responsibility and authority to oversee the Tadawul in its capacity both as a securities exchange and depository. The CML does not allow for the establishment of a new securities exchange or of a trading system. No rules, procedures or guidance have been issued to set out how the CMA would deal with the regulatory oversight to apply to an alternative trading system or new exchange. The CMA believes that there will never be an alternative trading system or new exchange.
Principle 26. There should be ongoing regulatory supervision of exchanges and trading systems, which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.	FI	The CMA is required to regulate and develop the Tadawul; seek to develop and improve methods of systems and entities trading in securities; develop procedures that would reduce the risks related to securities transactions; and seek to achieve fairness, efficiency and transparency in securities transactions. The CML gives the CMA plenary powers to achieve these objectives. The CMA is responsible for, and conducts ongoing regulatory supervision of the Tadawul. The CML also authorizes the Tadawul to adopt rules, subject to approval by the CMA, to govern its operations and, among other things, ensure fairness, efficiency and transparency in the exchange's affairs. Under the CML, the CMA must approve all rules and rule changes of the Tadawul.
Principle 27. Regulation should promote transparency of trading.	FI	Tadawul has adopted trading instructions (approved by the CMA with the force of regulation) governing the disclosure of information about any transactions on the market or affecting the Depository. Tadawul's trading system provides for the timely dissemination of pre-trade and post-trade information to market participants. The SAXESS electronic trading system continuously disseminates to the Tadawul members in real-time (as well as to information vendors and others with licensing agreements with the Tadawul) the 10 best bid and 10 best ask limits in the order book for each tradable listed security, including the number of orders and

Principle	Grading	Findings
		total disclosed order quantity at each price limit. Market information and trading date is available free after a five-minute delay. The SAXESS system also provides for the dissemination of information on completed transactions.
Principle 28. Regulation should be designed to detect and deter manipulation and other unfair trading practices.	FI	CML and provisions of the Market Conduct Regulations prohibit market manipulation, the dissemination of misleading information, insider trading, front running and other fraudulent or deceptive conduct. The CMA also has included disclosure requirements in the Listing Rules, in order to seek to ensure that material information is not omitted from prospectuses and company announcements on which investors rely.
Principle 29. Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.	FI	Trades in equities are settled on the trade date (T+ 0) basis and T + 2 for bonds, all electronically. Securities market open positions and credit exposures are limited to the credit extended and guaranteed to an AP and its customers by a clearing bank. The clearing banks are supervised by the SAMA. Before allowing entry of an order into the order book the electronic trading system automatically checks to ensure that execution of that order will not cause the AP to exceed its daily and intra-day credit limit set by its clearing bank. Any order that would cause an AP to exceed its credit limit is rejected by the electronic trading system.
Principle 30. Systems for clearing and settlement of securities transactions should be subject to regulatory oversight and designed to ensure that they are fair, effective, and efficient and that they reduce systemic risk.		Not assessed.
<p><i>Aggregate:</i></p> <p>Fully implemented (FI) – 16; Broadly implemented (BI) – 5; Partly implemented (PI) – 6; Not implemented (NI) – 0; Not applicable (N/A) – 2</p>		

G. Recommended Action Plan

Table 2. Saudi Arabia: Recommended Action Plan to Improve Implementation of the IOSCO Principles

Principle	Recommended Action
Principles Relating to the Regulator (Principles 1–5)	<p>The CMA should, without delay, clarify its role with respect to joint-stock companies by publishing its MOU with MOCI (in English, not just Arabic) and identify the current boundaries of each regulator’s jurisdiction. See also comments at Principle 15.</p> <p>The CMA should ensure that all mandatory obligations/regulations are publicly available, even though it may have distributed the relevant requirements to the persons affected when they first became operative.</p> <p>The settlement of any violation of the law and rules should be authorized, specifically under the CML, not just with respect to insider trading violations. The CMA should also seek to clarify the nature of the outcomes it is authorized to agree with the person involved and whether it has discretion to not publicize the terms of such settlement.</p> <p>The CMA should demonstrate publicly (in the CMA annual report or website) how it interprets and manages the competing obligations to develop and regulate its market, and articulate the measures in place to avoid conflicts of interest.</p> <p>The law should provide the CMA with clear immunity from civil suits for the bona fide exercise of its powers and authority under the CML and implementing regulations.</p> <p>Consider an amendment to the CML to permit the CMA to remit fine and sanction receipts to the government as a separate payment unrelated to its budgetary position. Alternatively, the CML should set out the circumstances when the CMA is authorized to utilize fine revenue, for example, to permit it to use such funds for investor compensation, public education, or similar purposes.</p> <p>The law should specify the permitted reasons for removal of a member of the Board or CRSD from office.</p> <p>Demonstrate operational independence (including having appropriate funding to exercise its powers and responsibilities) by the publication of regulatory information, fee schedules, and financial accounts, and achieve greater transparency.</p> <p>Eliminate the perception of conflict of interest by removing the CMA’s ability to appoint the CRSD members and expound the case to have this provision of CML amended.</p> <p>Ensure procedural rules give an applicant the right to be heard in respect of its application before a decision is formally taken to reject the application.</p> <p>Publish and make available on the CMA website all operative rules and regulations (including Board resolutions imposing substantive obligations) and hold more chief executive and compliance officer forums. Raise awareness about the CMA’s mandatory obligations and interpretation of its rules, including publication of general observations of weaknesses or best practices gleaned from inspection activities, and the program for updating and introducing new regulation.</p>

Principle	Recommended Action
	<p>Issue a publication confirming the CMA’s consultative process, including in detail its agenda for regulatory change and how it balances the costs of compliance in setting new rules.</p> <p>Publish Guidance Notes, setting out how the CMA interprets regulatory obligations applicable to APs.</p> <p>Seek to have the CML amended to set out the required procedural fairness obligations the CMA must follow before it sanctions violators using its power to refer these to the CMA Board for decision. This should include a hearing before an impartial/independent third party before the Board makes its decision.</p> <p>Consider implementing a formal recusal policy in the Staff Code of Conduct to require any staff member with a nonfinancial association with any parties that the staff member may become involved with while undertaking regulatory work to be excused from participating (whether or not it is clear at the outset that the association “may potentially impact the CMA or any of the market participants”). Consider obtaining a positive affirmation from the CMA staff at regular intervals (such as annually) that they have complied with the code of conduct (including any investment in mutual funds).</p>
Principles Relating to Self-Regulation (Principles 6–7)	The CMA should commence its consideration of the complex regulatory issues and changes to its existing method of operating it would need to implement if the government were to decide that it will proceed with a self-listing of Tadawul.
Principles Relating to Enforcement (Principles 8–10)	Exercise enforcement powers in a transparent way in all appropriate cases and publish all outcomes in order to demonstrate regulatory action and obtain deterrent effect by the CMA’s imposition of credible and proportionate sanctions. Consider if size of maximum fines is sufficient.
Principles Relating to Cooperation (Principles 11–13)	<p>Draft the nature of conditions on release of confidential regulatory information to foreign regulators so that the CMA can protect its rights in respect of such information when the circumstances arise in the future, keeping in mind requirements and limitations in IOSCO MMOU.</p> <p>Execute and publicly release the proposed MOU with SAMA to set out the relationship between the two agencies.</p>
Principles Relating to Issuers (Principles 14–16)	<p>Clarify the CMA’s role relating to corporate governance and the duties of directors of listed companies by seeking the appropriate amendments to MOCI and the CMA legislation, to give the CMA the unambiguous responsibility for enforcing these provisions in respect of listed companies. Once enacted, issue guidance to all listed companies together with appropriate explanation of the CMA’s interpretation of these requirements clearly setting out the mandatory provisions and those that are comply or explain.</p> <p>Review the CMA’s mandatory obligation to comply with SOCPA accounting standards for nonbank, noninsurance listed companies. Develop a timetable in which all companies will adopt and comply with IFRS.</p>
Principles Relating to (CIS)(Principles 17–20)	<p>Consider mandating specific disclosure of fund assets (for example the top 10 assets) to assist unit holders monitor their investment in the fund.</p> <p>Adopt requirements for a custodian to be someone other than the fund manager, preferably an independent third party; add specific audit requirements for independent operation and additional verification of assets</p>

Principle	Recommended Action
	<p>if custodian permitted to be an affiliate of the manager.</p> <p>Complete the CMA review of pricing and amend the regulations that apply to investment funds and its requirements relating to pricing errors and obtain specific authority to require notification and permit it to take appropriate action with respect to the suspension or deferral of redemption rights.</p> <p>Provide additional written guidance on the valuation of fund assets, particularly those where market prices are not available.</p>
Principles Relating to Market Intermediaries (Principles 21-24)	<p>Introduce an express provision for AP's to maintain copies of its calculations of capital adequacy on a daily basis.</p> <p>Revise the content of the Guidance Note on capital adequacy as proposed to make the content less technical and more flexible for large exposures and asset valuation and publish it as a separate implementing regulation.</p> <p>Determine whether professional indemnity and/or fidelity insurance should be mandatory (having regard to the risks to which an AP is exposed).</p> <p>Review the provisions regularly so as to take into account risk-based factors in the market.</p> <p>Prepare a plan to deal with an insolvency of a market intermediary.</p> <p>Obtain agreement internally and with other stakeholders such as SAMA and MOCI on a procedure to apply in the unlikely event of an unexpected AP insolvency and document same.</p>
Principles Relating to Secondary Markets (Principles 25-29)	<p>Develop strategy for the future of Tadawul, including whether it should conduct any regulatory functions and determine regulatory changes to CML required if it does not continue to be a wholly-owned entity of government under the full control of the CMA. Consider introducing a requirement to require licensing of any trading systems, including securities exchanges, setting out objective criteria for approval and providing a mechanism for regulatory authorization, should such a development eventuate in the future.</p> <p>Demonstrate publicly the CMA's track record of enforcement of its powers relating to market misconduct (appropriately specifying and articulating manipulative and other unfair market practices) and remedy the lack of transparency of the outcomes it has achieved by specifying for each case, the details of the conduct involved.</p>

H. Authorities' Response to the Assessment

32. **The authorities provided comments on the detailed assessment report, most of which have already been incorporated, including the correction of some factual errors.**

With regard to four substantive findings in the assessment, the authorities highlighted:

- The assumed conflict of interest that is arising from the CMA's power to appoint CRSD members is eliminated by the fact that the members of the Appeal Panel, whose decisions are final and supersede those of the CRSD, are appointed by the Council of Ministers.
- Although not all enforcement outcomes are publicized, the significant ones are, since all sanctions imposed by CRSD resolutions and some of the CMA's Board resolutions are announced to the public.
- There are no inconsistencies between the Companies Law and the CMA's corporate governance requirements. Listed Companies have to comply with the Companies Law and the mandatory articles of the CGR. None of the mandatory Articles in the CGRs are imposed by the Companies Law, nor are they inconsistent with any provision of the Companies Law.
- The CMA's Board members may only be removed by a Royal Order, which is subject to applicable procedural rules. Thus, this aspect of the assessment is unclear and would seem to be redundant.

Table 3. Authorities Responses by Principle

Executive Summary and Introduction.	<ul style="list-style-type: none"> • We believe that the CML is extremely flexible and do not require any refinements at this stage even when considering the action plan contained in the report as the CMA is able to implement it without significant amendment to the CML. • it should be noted that, prior to the existence of the CMA, the regulator of the stock market was a ministerial committee comprising MOF, MOCI, and SAMA, though some departments within SAMA were responsible for the supervisory and the operational roles. • Research that is related to securities may only be conducted by a duly AP.
Principle 1. The responsibilities of the regulator should be clearly and objectively	<ul style="list-style-type: none"> • There is no gray area when it comes to corporate governance matters. Listed Companies have to comply with the Companies Law and the mandatory articles of the CGR (none of the mandatory Articles in the CGRs are imposed by the Companies Law nor are they inconsistent with any provision of the Companies Law). As for nonmandatory articles of the CGRs. Listed Companies must disclose the extent to which they have complied with them and the reasons for noncompliance if any. To the extent that noncompliance of a nonmandatory requirement of the CGRs constitutes a violation of the Companies Law, this would be a matter handled by MOCI in coordination with the CMA if there is a need. • The observation that the CMA is only authorized to negotiate and settle with persons who committed insider trading, but not in relation to other violations of the CML or its Implementing Regulations is not supported by the provisions of the CML. The CMA has, as per the CML, all powers that are necessary to carry out its functions. The language of the CML is also intentionally broad to give the CMA all necessary powers to regulate the market and protect the investors. As to Article 64 which deals with settling insider trading violations, the language is not exhaustive and the purpose of it is to set out the criteria for settlement but not to allow it since it is already assumed under the general powers of the CMA that the CML provides for. The CMA's Board has issued a resolution that specifies the criteria for settlement in relation to the other violations. • The assumed conflict between regulating and developing the market does not exist in the CMA's case. Both roles are clearly defined in the CML and the CMA has been able to segregate the two functions within different departments. Appropriate measures are also in place to ensure that a balance will be struck between the two objectives. The CMA's policy and legal mandate require it to protect the market from undue risks and thus developments initiated by the CMA must be accompanied by appropriate and adequate regulations for them to be acceptable and approved by the Board. • please note that the MOU between the CMA and MOCI is already published and available on both the CMA's website and MOCI's website on the following links: http://cma.org.sa/Ar/News/Pages/CMA_N124.aspx; http://www.commerce.gov.sa/circular/10-40.asp#5 • Capital increase and decrease fall under the jurisdiction of both the CMA's and MOCI, each with different responsibilities. The published MOU specifies the respective responsibilities of each entity in this regard. On the basis of the above, we do believe that PI as a grading is too low.

Section	Comments
Principle 2. The regulator should be operationally independent and accountable in the exercise of its functions and powers.	<ul style="list-style-type: none"> • The assumed conflict of interest that is arising from the CMA's power to appoint CRSD members is eliminated by the fact that the members of the Appeal Panel, whose decisions are final and supersede those of the CRSD, are appointed by the Council of Ministers. In addition, the CRSD is operationally independent from the CMA and the CMA has implemented various measures to assure the public that the CMA has no influence over the CRSD. • It should be noted that the CMA's utilization of its funds is always for public purposes. All CMA's spending is directed to achieve its regulatory objectives as per the CML which all center around the protection of investors and the market. Furthermore, the CML currently requires that surplus funds be remitted to the MOF i.e., to the government. Therefore, we believe that the proposed amendment to the CML in relation to the CMA's use of fine sanctions is covered by the current provisions of the CML. • It must be noted that the CMA does report its financial position to the President of the Council of Ministers, the Shura Council and the MOF. • On the basis of the above, we do believe that PI as a grading is too low.
Principle 3. The regulator should have adequate powers, proper resources, and the capacity to perform its functions and exercise its powers.	<ul style="list-style-type: none"> • The CMA funding resources are sufficiently diversified to ensure it has appropriate funding to exercise its responsibilities. In case of shortage of funds, the CMA may seek funding from the government as per the CML.
Principle 4. The regulator should adopt clear and consistent regulatory processes.	<ul style="list-style-type: none"> • The CMA may utilize inspection\supervision to educate participants via communication with the concerned party and development of corrective actions. However, it should be clear that the CMA seeks various effective means to educate participants about its requirements e.g., forums, workshops, media publications, and conferences. • The agenda for regulatory change is included in the CMA's annual report. This would include new regulations that the CMA would issue and new amendments to existing regulation. Check 2009 annual report page 152 and 2008 annual report page 106 for this information. • The procedural obligations of the CMA are defined in the CML and its implementing regulations, including in some cases the need for a hearing session. Further, the CMA board may never take an enforcement action unless the investigation process is completed which will always include interrogation. In addition, the Resolution of Securities Disputes Proceedings Regulations set forth the procedures to be followed before the CRSD and the Appeal Panel including the process of appealing the CMA's Board decisions. • On the basis of the above, we do believe that PI as a grading is too low.
Principle 5. The staff of the regulator should observe the highest professional standards.	<ul style="list-style-type: none"> • The conflict of interest section in the current CMA's staff Code of Conduct requires any employees to disclose to the CMA's internal Compliance any relationship with any party if such relation may potentially impact the CMA or any of the market participants. This would include financial, family or personal relation with regulated entities. It also requires the staff to disclose any potential conflicts of interest that may arise from a family or personal or professional relationship with any of the CMA staff while he is performing his duties. • Investment in mutual fund is already included and is allowed by the code of conduct.
Principle 6. The regulatory regime should make appropriate use of SROs that exercise some direct oversight responsibility for their respective areas of competence and to the extent appropriate to the size and complexity of the markets.	<ul style="list-style-type: none"> • The CML requires Tadawul's board to establish the depository centre and allows it to be either a separate company or a department within Tadawul. Currently, it is a department within Tadawul, but the CML allows for it to be established as a separate entity subject to the CMA's Board approval.
Principle 9. The regulator should have comprehensive enforcement powers.	<ul style="list-style-type: none"> • We strongly believe that the enforcement outcomes for the past years are an evidence of the capabilities and powers of the enforcement division. Information included in the annual report demonstrates such capabilities.
Principle 10. The regulatory	<ul style="list-style-type: none"> • Although not all enforcement outcomes are publicized (for reasons discussed earlier and

Section	Comments
system should ensure an effective and credible use of inspection, investigation, surveillance, and enforcement powers and implementation of an effective compliance program.	elsewhere in this report), the significant ones are, since all sanctions imposed by CRSD resolutions and some of the CMA's Board resolutions are announced to the public. Further, the CMA in its annual report provides significant details about its enforcement activities and the number of cases completed which demonstrates to a large extent the nature of enforcement actions that the CMA takes each year and subsequently achieving regulatory effect. We therefore believe that this principle should not be partly implemented as this indicates a very low level of implementation which by all means is not the case.
Principle 12. Regulators should establish information-sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.	<ul style="list-style-type: none"> <li data-bbox="597 457 1507 548">• We believe that PI is too low, particularly when considering that the CMA is in the final stages of signing the MOU with SAMA. No other findings are applicable to this principle which could reduce the level of implementation.
Principle 14. There should be full, timely, and accurate disclosure of financial results and other information that is material to investors' decisions.	<ul style="list-style-type: none"> <li data-bbox="597 699 1089 726">• Refer to comments on the detailed assessment.
Principle 15. Holders of securities in a company should be treated in a fair and equitable manner.	<ul style="list-style-type: none"> <li data-bbox="597 852 1523 1121">• There is no gray area nor overlap between the CMA and MOCI when it comes to corporate governance matters. Listed Companies have to comply with the Companies Law and the mandatory articles of the CGRs (None of the mandatory Articles in the CGRs are imposed by the Companies Law). As for nonmandatory articles of the CGRs. Listed Companies must disclose the extent to which they have complied with them and the reasons for non compliance if any. To the extent that noncompliance of a nonmandatory requirement of the CGRs constitutes a violation of the Companies Law, this would be a matter handled by MOCI in coordination with the CMA if there is a need. <li data-bbox="597 1121 1528 1304">• The mandatory requirements of CGRs have been misstated in the report. They are as follows: Articles 9, 12\c, 12\e, 14 and 15. These are clearly set out as mandatory articles in The CMA's website (check the footnotes of the CGRs on the CMA's website) and it should be noted that there is no ambiguity whatsoever about what requirements that are mandatory in the CGRs. In addition, all requirements that the CMA make mandatory would be announced to the public and published in the official gazette. <li data-bbox="597 1304 1536 1367">• General assembly agenda and shareholders right to participate are covered by the Companies Law. Please refer to the table provided during the mission. <li data-bbox="597 1367 1328 1394">• Conflict of Interest within the Board is covered by the Companies Law. <li data-bbox="597 1394 1507 1457">• Capital increase and decrease fall under the jurisdiction of both the CMA and MOCI. The published MOU specifies the respective responsibilities of each entity in this regard.
Principle 16. Accounting and auditing standards should be of a high and internationally acceptable quality.	<ul style="list-style-type: none"> <li data-bbox="597 1497 1528 1610">• In case of translation of SOCPA standards no ambiguity will be expected. For example, all audit firms have a full translation of the SOCPA standards and they are broadly used and reflected in the English financial statements (English versions of financial statements would include SOCPA standards in English and they have never caused confusion).
Principle 17. The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a CIS.	<ul style="list-style-type: none"> <li data-bbox="597 1619 1536 1732">• Royal Decrees waive the requirement that a company must be in operation for the three years preceding the application for listing. Royal Decrees do not however waive any requirements in relation to investment funds. Funds may obtain waiver of a regulatory requirement by way of a Board resolution. Such waiver must be disclosed in the terms and conditions of the fund.
Principle 18. The regulatory system should provide for rules governing the legal form and structure of CIS and the	<ul style="list-style-type: none"> <li data-bbox="597 1772 1523 1885">• The inexistence of a legal test in an insolvency should not be viewed as an uncertainty over the protection of clients' rights in mutual funds. The legal provisions both in the CML and the Implementing Regulations are clear as to the entitlement of unitholders to the assets of the fund. The experiences of other GCC countries are different and not analogues with

Section	Comments
segregation and protection of client assets.	<p>unitholders rights in mutual funds that operate under the regulatory oversight of the CMA and which are subject to the judicial jurisdiction of the CRSD. There is no doubt that the mutual fund regime in Saudi Arabia is legally effective and bears no uncertainties over the rights of unitholders to funds' assets.</p> <ul style="list-style-type: none"> On the basis of the above, we strongly believe that this principle is fully implemented.
Principle 20. Regulation should ensure that there is a proper and disclosed basis for assets valuation and the pricing and the redemption of units in a CIS.	<ul style="list-style-type: none"> The fund manager is allowed to set a deadline for submitting redemption and subscriptions requests. The deadline can't be more than one day prior to the valuation time on the dealing day. The IFRs prohibit accepting subscription or redemption requests after the valuation time on each dealing day. Any received requests after the deadline must be transferred to the next dealing day. On the basis of our understanding to the term black out period, we believe that the above mechanism provides the same effect as a black out period.
Principle 24. There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.	<ul style="list-style-type: none"> The CMA is in the process of finalization of its new Prudential Rules. With these rules, the CMA will develop internal policies and procedures to include different stages of early warning system according to different levels of APs' capital adequacy. In the interim however, the net capital positions of APs are being closely monitored by the Prudential Department. APs that do not demonstrate a net capital position that is in line with the minimum recommended by the PGN are being requested to address their shortfall accordingly.
Principle 25. The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.	<ul style="list-style-type: none"> There will never be an alternative trading system or new exchange as the CML does not allow for this. Tadawul is the only authorized securities exchange in Saudi Arabia, and to the extent that in the future there will be a new trading system or exchange to trade in different type of securities e.g., derivatives, this would be under Tadawul and the CMA will have the same powers that it currently has over Tadawul. A trading halt must be approved by the CMA as per Article 23 of the Listing Rules. Tadawul will continue under the full regulatory control of the CMA even if its IPOed. On the basis of the above, we strongly believe that this principle is fully implemented.
Principle 28. Regulation should be designed to detect and deter manipulation and other unfair trading practices.	<ul style="list-style-type: none"> The CMA's enforcement track record is publicly demonstrated. The annual report contains a dedicated section that provides information on the CMA's enforcement actions and the details of the violations involved.

II. DETAILED ASSESSMENT

Table 4. Saudi Arabia: Detailed Assessment of Observance of the IOSCO Principles

Principles Relating to the Regulator	
Principle 1.	The responsibilities of the regulator should be clear and objectively stated.
Description	<p>The CMA is the single entity responsible for administering the CML which is the primary securities law of Saudi Arabia. The CML defines the CMA's objectives, responsibilities, powers and authorities, (see Article 5) which include the following:</p> <ol style="list-style-type: none"> 1. Issue regulations, rules and instructions for the implementation of the CML; 2. Regulate and develop the capital market in Saudi Arabia, improve methods of systems and entities trading in securities, and develop procedures to reduce the risk related to securities transactions; 3. Regulate issuance of securities and monitor securities and dealing in securities; 4. Regulate and monitor the works and activities of parties subject to the control and supervision of the CMA; 5. Protect investors in securities from unfair and unsound practices or practices involving fraud, deceit, cheating or manipulation; 6. Achieve fairness, efficiency, and transparency in securities transactions; 7. Regulate and monitor the full disclosure of information on securities, their issuers, dealings of informed persons, major shareholders and investors; and 8. Regulate proxy and purchase requests and public offer of shares. <p>Mandatory requirements are enforceable by the CMA action taken by its Board or at the CRSD. Decisions of either body can be enforced through an external government agency which will take the action necessary to collect a fine, seize property or restrict an offender's ability to leave the jurisdiction.</p> <p>The CMA has used its authority to establish a comprehensive and integrated regulatory framework pursuant to the powers provided in the CML by issuing (and updating) the following Implementing Regulations:</p> <ol style="list-style-type: none"> 1. APRs; 2. Securities Business Regulations; 3. Offers of Securities Regulations; 4. Market Conduct Regulations; 5. Listing Rules; 6. AML/CFT rules; 7. CGRs; 8. Merger and Acquisition Regulations; 9. Investment Funds Regulations; 10. Real Estate Investment Funds Regulations; and 11. Resolution of Securities Disputes Proceedings Regulations. <p>The CMA regulations are enforceable through the CRSD which is in effect a tribunal/court of exclusive jurisdiction relating to obligations imposed by the CML and decisions of the CMA. The CRSD is empowered under CML Article 59 a. to determine any of nine listed "sanctions" against "any person" who has violated the CML or the regulations of the CMA or the exchange. These include barring persons from working or trading, cease and desist orders and travel bans. CRSD is also authorized along with the CMA Board to impose fines (DR 10,000 to SR 100,000 per violation CML Article 59 b.) on any person responsible for violating the CML, Implementing Regulations, rules of the CMA and regulations of Tadawul. The language of Article 59 is not exhaustive and the CRSD may impose other sanctions.</p> <p>The CML (Article 6) grants the CMA all powers and authorities to carry out its functions under the CML and its Implementing Regulations. These include approving the offering of securities, determining the content of annual and periodical financial statements and reports, granting licenses, conducting inquiries and investigations regarding violations, defining and explaining the terms and provisions set out in the CML and performing such</p>

	<p>other functions and exercising such other powers as necessary or expedient to give full effect to the provisions of the CML and its Implementing Regulations. It is to be noted that the CMA may suspend trading on the entire Tadawul market (for no more than one day or longer with the approval of the MOF), approve all listings, suspensions or cancellations of listings on the Tadawul and regulate the operation of the Depository. Apart from running the Depository, Tadawul has no authority in respect of these matters.</p>
Assessment	Partly implemented
Comments	<p>Accounting and auditing standards are established by SOCPA, a professional organization that operates under the supervision of the MOCI. Company incorporation, management (composition/responsibilities of Boards, quorum, voting compensation and liabilities), general assembly meetings (holding of meetings/resolutions, quorum, voting) and capital increases and decreases of joint-stock companies are regulated by the Companies law which is the responsibility of the MOCI and not the CMA. Capital increases and decreases of joint stock companies fall under the jurisdiction of both the CMA and MOCI. Each has different responsibilities for these matters as set out in the MOU (available only in Arabic version). This law has extensive provisions and the Arabic version only is available. There is no reference in the CML to the division of responsibility that occurs in practice between the CMA, MOCI, and other government entities relating to the responsibilities of these regulators for corporations that operate in the capital market. There is an executed MOU between MOCI and the CMA (endorsed by Royal Decree) which recognizes that the CMA and MOCI responsibilities; however, there may be a gray area relating to the enforcement of corporate governance matters which may potentially could fall within the authority of both MOCI (Companies Law obligations) and the CMA (CGRs). The CMA should without delay clarify its role with respect to joint-stock companies by publishing its MOU with MOCI in English not just Arabic and identify the current boundaries of each regulator's jurisdiction. See also comments at Principle 15. Similarly, SAMA has the jurisdiction and responsibility for banks and insurance companies operations, but CML makes no reference to the division of responsibility that occurs in practice between these regulators in respect to these entities. A proposed MOU between the CMA and SAMA has not been finalized, Although there is a dialogue between the organizations concerned on an informal and ad hoc basis from time to time (see also comments below).</p> <p>The CMA has also issued a Glossary of Defined Terms used in its Rules and Regulations. The CMA has broadened the definition of securities to assert jurisdiction over new financial instruments, including warrants, options, futures, contracts for differences and long term insurance contracts (however, to date apart from two EFTs derivatives and new financial instruments have not been issued). It may be some time before derivatives or new financial instruments will be issued, due to the nature of these products and the legal complications of ensuring that they will be enforceable in the jurisdiction. The regulation of Insurance Companies and Banks remains the responsibility of SAMA, although all insurance and the majority of the banks are listed and therefore must comply with the CML and Implementing Regulations relating to their listing and obligations as listed companies.</p> <p>As authorized by the CML, the CMA publishes proposed regulations for comment by market participants and the public. The CMA publishes rules and regulations on its website, in Arabic and English although a small number of these (those currently undergoing revision like the Prudential Guidance Notes containing the substantive requirements to maintain net capital) are not public documents although copied to APs required to comply with them. The CMA has also issued to regulated entities the content of Board resolutions which contain substantive compliance requirements (see also comments at Principle 2 and 4). <i>The CMA should ensure that all mandatory obligations/regulations are publicly available, even though it may have distributed the relevant requirements to the persons affected when they first became operative. New APs are expected to be aware of these mandatory obligations and while they can ask the CMA to provide them, the content should be publicly available, not merely on request.</i></p> <p>A person charged with insider trading (specifically contained in CML Article 64) may avoid proceedings before the CRSD by reaching a private (non published) settlement with the CMA pursuant to which it agrees to pay a sum not exceeding three times the profit made (or loss avoided). See also comments at Principle 10. No specific provision is contained in the CML to empower the CMA to settle other violations, however, the CMA has done so and takes the view that it has inherent power to settle all violations under CML and the Implementing Regulations and thereby impose an appropriate sanction including a fine, derived from its general authority/responsibilities under the CML. The CMA argues that the provision relating to insider trading is only to set out criteria for settling such actions; however, the CML is otherwise silent on the power to enter into settlements. The CMA will not agree to such settlements unless there is an admission of liability. Refer also comments at Principle 10. <i>The power</i></p>

	<p><i>to negotiate a settlement of any violation of the law and rules should be authorized specifically under the CML, not just with respect to insider trading violations. The CMA should seek the amendment of the CML to give it such specific authority to settle all violations of the law and regulations and also clarify the nature of the outcomes it is authorized to agree with the person involved and confirm that it has discretion to not publicize the terms of the settlement.</i></p> <p>Under the CML, the CMA’s mandate includes the obligation to “regulate and develop the capital market in Saudi Arabia.” This is reflected in its mission statement, for example “develop the capital market in depth and breadth and enhance its innovativeness in collaboration with its players.” The responsibility to develop the market at the same time as regulating, notwithstanding that the CMA has segregated these two functions into separate departments, may give rise to a conflict of interest; however, the CMA does not expressly articulate how it balances such competing obligations and may not agree that such a perception of conflict is real.</p> <p>The Division of Corporate Finance and Issuance contains a Financial Instruments Department which has developed innovations in electronic methods to subscribe for securities, the equities swap framework and electronic shareholder voting. These enhancements to market operations are offered as illustrative of market development which does not conflict with the CMA’s regulatory obligations. However, the concern, that the CMA may not enforce its rules by appropriate and proportional enforcement actions so as not to discourage market participants is not dispelled by the outcomes it has achieved. Refer also Principles 8–10(Enforcement). <i>This is an issue the CMA may wish to more positively manage by demonstrating publicly (in its annual report or website) how it interprets and manages these competing obligations to develop and regulate its market and articulate the measures in place to avoid conflicts of interest.</i></p>
Principle 2.	The regulator should be operationally independent and accountable in the exercise of its functions and powers.
Description	<p>The CML (Article 4) establishes the CMA as a legal entity to be a financially and administratively autonomous agency. It is “vested with all authorities as may be necessary to discharge its responsibilities and functions” under the CML.</p> <p>The CMA is governed by a Board (see Article 7) comprising five full time members who are each appointed by Royal Order for a five-year term that is renewable once. The Board is empowered to exercise all authorities entrusted to the CMA on a day-to-day basis. Board members may not engage in any other profession or job and may not provide advice to any company or private institution. Upon accepting appointment, Board members must disclose their securities holdings and those of their relatives. The CML does not contain any criteria relating to the circumstances for terminating the Board or any board members during their term of office, so Board members are only subject to removal by Royal Order.*</p> <p>The CMA sources of funding are specified in CML Article 13. Its financial resources include:</p> <ol style="list-style-type: none"> (1) fees and commissions charged for the registration of investment funds, the registration, listing and trading of securities, and the licensing and renewal of licenses for APs; and (2) fines and financial penalties imposed for violations of the CML. <p>The CMA also may be funded from charges for using its facilities, returns on its funds and proceeds from the sale of its assets. The CML authorizes the CMA Board to determine the amount of fees and commissions that it charges. The CMA must maintain a general reserve fund equal to twice its expenditures reported in the previous annual budget.</p> <p>The CMA is not required to consult with or obtain approval from any other authority regarding its securities regulatory activities. The CMA issues decisions in writing and gives reasons for adverse actions after providing the party affected with an opportunity to make representations. The Implementing Regulations require the CMA to give reasons for its decisions. If it refuses an application to offer units in an investment fund or an application for authorization to conduct securities business it must give it reasons. Before notifying an issuer that its prospectus or private placement has not been approved or that the offer, sale or transfer of its securities is prohibited, the CMA must give the issuer a suitable opportunity to be heard. Similarly, the CMA, as required by the CML, may not suspend or revoke an AP’s license unless it has given the concerned AP an opportunity to be heard.</p> <p>All adverse decisions and actions of the CMA are appealable to the CRSD, which has jurisdiction over any dispute arising under the CML or its Implementing Regulations. The CRSD has all powers necessary to investigate and</p>

	<p>settle disputes, including the power to issue subpoenas, order the production of evidence, issue decisions and impose sanctions. Members of the CRSD, who are appointed by the Board for three-year terms, are legal advisors with expertise in capital markets and financial transactions and may not have any direct or indirect pecuniary interest in or a family relationship up to the fourth degree with a party to a complaint.</p> <p>Decisions of the CRSD are appealable to the Appeal Panel (appointed by the Council of Ministers) and comprise three members who represent the MOF, the MOCI and the Bureau of Experts at the Council of Ministers. Decisions of the Appeal Panel are final.</p>
Assessment	Partly implemented
Comments	<p>The CMA is not totally autonomous in its decision making due to the process/application of the Royal Decree exemption possibility mentioned in Principle 17 whereby funds may obtain “waivers” of regulatory obligations by way of Royal Decree (usually associated with government related IPO’s) This qualifies its independence and could compromise investor protection in such cases.</p> <p>The CMA treats all information that is not already publicly disclosed as confidential. The CMA may disclose this information as the Board deems necessary for the protection of investors.</p> <p>The CML (Article 480 protects the CMA and its staff from liability for any false information in or omission from prospectuses, periodic reports, advertisements or any other filed documents. Article 55 makes certain persons liable for incorrect statements or omitted material facts from a prospectus, where the prospectus is approved by the CMA. As the CMA is a government entity, members of the Board as well as the staff of the CMA are accorded legal protection for the bona fide discharge of their governmental, regulatory and administrative functions and powers. The CMA believes that the legal position is now well settled that an employee of a governmental body when discharging his/her responsibilities and roles is representing the entity and therefore any damages resulting from that persons actions can only be brought against the entity rather than their employee. However, there is no express statutory protection for the CMA that would give it immunity from suit where it discharges its powers and responsibilities under the CML or Implementing Regulations. <i>The law should provide the CMA with clear immunity from civil suits for the bona fide exercise of its powers and authority under the CML and Implementing Regulations.</i></p> <p>The CMA is accountable to the President of the Council of Ministers with respect to the use of its resources and its authority, but its fee schedules are not approved by that body. The CMA financial statements and accounts are reported annually to the President of the Council of Ministers as well as its activities within 90 days of the year end. The CMA’s financial position is not published. It has introduced an annual regulatory fee in 2011 payable to it by APs. The CMA regulatory actions are reflected in the Implementing Regulations and other documentation it publishes in the Official Gazette and on its website.</p> <p>The CMA establishes its fees and commissions at levels it believes will provide adequate funding to fulfill its regulatory responsibilities and it appears that sufficient funding is available to conduct its operations. As stated above, The CMA Board has determined a publications policy which specifies the matters which are made public. With the exception of trading commission fees, other fees mandated by the CMA are only circulated to concerned parties and not made publicly available. However, the CMA retains fees and fines as a revenue source (subject to the general reserve cap); however, the quantum of fines is not published, although some individual disciplinary fines may be published pursuant to the publications policy. Fine retention, depending on quantum, may be perceived to be inappropriate to the proper discharge of regulatory functions. This is unrelated to the CMA obligations to expend resources to achieve its regulatory purposes in the public interest.</p> <p><i>The CMA should consider an amendment to CML to permit it to remit such receipts to the government as a separate payment unrelated to its budgetary position. Alternatively, CML should set out the circumstances when the CMA is authorized to utilize fine revenue, for example, to permit it to use such funds for investor compensation or public education or similar purposes.</i></p> <p>The CMA Board has determined a publications policy which specifies the matters which must be announced to the public, but not all regulatory decisions are public (see comments below at Principle 4). While trading commission fees (prescribed by under CML Article 13) are available on Tadawul’s website, other fees mandated by the CMA are only circulated to concerned parties and not made publicly available. The recently introduced annual fee payable to the CMA by APs is not published. The CMA publishes an Annual Report on its website. However, this</p>

	<p>report does not include details of regulatory decisions not made public under its publication policy, the quantum of fines and other revenue it collects from APs and Tadawul or its financial statements. There is no obligation in CML to do so. As government entity, the CMA reports to the President of the Council of Ministers (the Shura Council and the MOF) as to its activities and financial position. As the CMA collects revenue from market participants as fee for services (including listing approvals, offer documents, applications by APs, annual fees and Tadawul remittances) and certain fine revenue which is not publicly disclosed, it is unclear why it is not transparent regarding its financial position, particularly if it is self-funding. <i>Operational independence and accountability can be publicly illustrated by the publication of regulatory information, fee schedules and financial accounts and the CMA may wish to consider (having regard to the current operation of government owned entities in Saudi Arabia) how best to achieve such transparency.</i></p> <p>The fact that Members of the CRSD are appointed by the Board (for three-year terms, renewable) is an issue that may be seen to compromise the independence and accountability of the CMA. This is notwithstanding the right to appeal to the Appeal Panel from decisions of the CRSD. CML is silent concerning the authority to remove Board or CRSD members for cause during the currency of their term. <i>The law should specify the permitted reasons for removal of a member of the Board or CRSD from office.</i></p> <p>As all decisions and actions of the CMA are reviewable by the CRSD, which has jurisdiction over any dispute arising under the CML or its Implementing Regulations, this important check and balance is potentially reduced due to the manner of its appointment. <i>The perception of conflict could be eliminated by removing the CMA's ability to appoint the CRSD members and the CMA should expound the case to have this provision of CML amended to vest this power in the Council of Ministers.</i></p>
Principle 3.	The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.
Description	<p>The CML grants the CMA all powers and authorities to carry out its functions under the CML and its Implementing Regulations. These include issuing Implementing Regulations, conducting inquiries and investigations regarding violations, defining and explaining the terms and provisions set out in the CML and performing such other functions and exercising such other powers as necessary or expedient to give full effect to the provisions of the CML and its Implementing Regulations. The powers and authorities are broad.</p> <p>The CMA prepares its annual budget to address its responsibilities. Funding is derived from:</p> <p>(1) fees and commissions charged for the registration of investment funds, the registration, listing and trading of securities, and the licensing and renewal of licenses for APs; and</p> <p>(2) fines and financial penalties imposed for violations of the CML.</p> <p>The CMA also may be funded from charges for using its facilities, returns on its funds and proceeds from the sale of its assets. The CMA also may seek funding from the government under the CML.</p> <p>By virtue of the CML, the CMA must maintain a general reserve fund equal to twice its expenditures reported in the previous annual budget.</p>
Assessment	Fully implemented
Comments	<p>The CMA determines the allocation of resources among its regulatory functions and in 2010 undertook a restructuring of regulatory divisions to more fully reflect the operational aspects of how it discharges its responsibilities. The CMA believes it has sufficient resources to attract professional and experienced staff and retain them, as it is able to offer attractive benefits (remuneration and performance bonuses, training, medical assistance etc.). Directors and managers at the CMA all have tertiary (university) education with 40m percent holding a bachelor's degree, 46 percent holding master's degrees and 6 percent holding doctorates. Further, the field of studies are 19 percent accounting, 22 percent financial, 15 percent legal, 19 percent management, 14 percent information technology, and 11 percent other disciplines. During 2010, the CMA hired an additional 97 employees to bring the total number of the CMA staff up to 633. Among the new employees were a number of experienced employees hired to fill consulting and specialist positions in various departments. The CMA staff is knowledgeable and experienced, with a number transferring from SAMA on the commencement of the CMA as a separate organization.</p> <p>The CMA conducts ongoing training that enables its staff further to develop their skills and expertise. In 2010,</p>

	<p>527 employees participated in different training programs; 242 attended offshore training programs; 40 participated in continuing education programs through correspondence and 11 received on-the-job training at international organizations or entities similar to the CMA.</p> <p>Staff numbers are considerable and the division/department sizes appear to be adequate (regulatory departments vary in size, from 3 in International Relations to 30 in Continuous Disclosure). <i>Publish financials to demonstrate that the CMA has the appropriate funding to exercise its powers and responsibilities.</i></p>
Principle 4.	The regulator should adopt clear and consistent regulatory processes.
Description	<p>The CMA's rulemaking process requires that it be transparent to the public. As authorized by the CML, the CMA publishes drafts of new and amended regulations before issuing them. The CMA posts new and amended regulations on its website for public comment and submits them to market participants for their comment. When necessary, the CMA holds meetings with market participants or members of the public to discuss comments and it may also form an advisory committee comprising representatives of the CMA and the industry to exchange views. As provided by the CML, Implementing Regulations are adopted by a published resolution of the CMA Board.</p> <p>To date, the CMA has published the following consultation documents for new Implementing Regulations/Rules: 2006. Investment Funds, Real Estate, Corporate Governance. 2007. Mergers and Acquisition. 2008. Offers of securities, AML/CTF. 2011. Listing rules (comments due Q2: 2011).</p> <p>Implementing Regulations contain the CMA's regulatory policy. The CMA publishes new and amended Implementing Regulations in the Official Gazette and on its website when issued and may include in the publication an explanation of its actions. The CMA provides further explanation of its policies and objectives in the Annual Report and in press releases and interviews of its officials that are distributed through media channels. The CMA generally does not publish reports on any investigation or inquiry.</p> <p>The CMA has also issued to regulated entities the content of Board resolutions which contain substantive compliance requirements.</p> <p>All adverse actions of the CMA are appealable to the CRSD, which will investigate the claim and issue a reasoned decision and adverse actions may be further appealed to the Appeal Panel. The procedural obligations of the CMA are defined in the CML/Implementing regulations including in some cases the need for a hearing session. The CMA Board may never take an enforcement action unless the investigation process is completed which will always include "interrogation."</p>
Assessment	Partly implemented
Comments	<p>The CMA states that the Implementing Regulations establish safeguards that ensure procedural fairness. The CMA has established processes and criteria for the exercise of its regulatory authority. These processes and criteria are illustrated, by way of example, by the regulations governing APs. These establish criteria for granting, denying or revoking licenses to engage in securities business, require the CMA to provide written notice of its decision and to provide reasons for rejecting any application. The APRs do not expressly give an applicant a right to be heard in respect of the application that the CMA determines to reject although it provides for a right of appeal to the CRSD from a decision to reject the application. Similar procedural requirements apply to applications to offer units by way of a public offer in an investment fund or a real estate investment fund. Implementing Regulations also establish criteria for disallowing an offer of securities by private placement or by way of a public offer and require the CMA to provide an issuer with a suitable opportunity to be heard before notifying it that its offer has not been approved or that the offer, sale or transfer of its securities is prohibited. Similarly, the CMA, as required by the CML, may not suspend or revoke an AP's license unless it has given the concerned AP an opportunity to be heard. <i>The CMA should allow an applicant the opportunity to be heard in respect of its application before a decision is formally taken to reject the application.</i></p> <p>As stated above, the CMA issues the content of Board resolutions which contain substantive compliance requirements to regulated entities. Some of these will not involve prior consultation and may not be public although they will be circulated to the entities directly affected once the content becomes mandatory. The CMA states that it considers the cost of compliance when it formulates new or amended regulations and by</p>

virtue of the consultation process, although it has not published any statement explaining how it does so. While it has conducted formal and informal consultation with APs regarding their obligations and new rules which will be issued as Implementing Regulations, anecdotal evidence from the industry would suggest that the CMA may need to do more consultation with participants before issuing new regulations and more education of them after issuing new regulations. For example, on January 23, 2011, the CMA issued a notice to APs to require them to have independent members (directors) of their boards, comprising not less than two members, or one-third of the Board, whichever is the greater. This requirement becomes mandatory from January 1, 2012; however, the cost and practicality of complying with this obligation in Saudi Arabia may need to be further discussed with participants to ensure that this obligation can and is appropriately implemented.

Further, as the CMA is a relatively new organization (staff reorganization/recruitment has recently taken place and gaps in the regulatory framework are being identified and addressed) and it is adopting new/upgraded rules, some APs are not fully aware of the ambit of their responsibilities. There can be areas of ambiguity about the interpretation of obligations applicable to APs which may not become apparent until an inspection visit when the CMA staff advises their interpretation of them. The CMA's policy seems to include educating participants via the supervision/inspection process, often by the way of the CMA Board imposed fines. (The CMA also undertakes other means to educate participants, including publications and various forms of communication). However, this takes time and is on a one to one basis only since the outcomes of these supervision visits which involve findings of violations and fines are not public and not made available to other APs which might also be affected.

The CMA should publish and make available on its website all operative rules and regulations (including Board resolutions imposing substantive obligations) and hold more chief executive and compliance officer forums. This is desirable to raise awareness about the CMA's mandatory obligations and interpretation of its rules and the program for updating and introducing new regulation. The CMA should consider issuing a publication confirming its consultative process, including its detailed agenda for regulatory change and how it balances the costs of compliance in setting new rules.

The publication of Guidance notes, setting out how the CMA interprets regulatory obligations applicable to APs is also highly desirable, as is regular publication of general observations of weaknesses or best practices gleaned from inspection activities.

As stated above, the Board of the CMA may impose fines on any person for violations of the law and regulations, see CML Article 59 b. These financial penalties shall be not less than SR 10,000 or more than SR 100,000 per violation. In respect of APs, the CMA staff conducts the inspection and it refers perceived violations to Enforcement. The enforcement division would typically receive referrals directly from the CMA's departments or external parties and CEO approval is not required for them to be referred.

Cases of AP noncompliance may then be determined by the CMA Board resulting in violators being fined. The Board of Commissioners Regulations stipulate that the Chairman of the Board shall organize the Board's Agenda, therefore "the Chairman of the Board in his capacity as such manages the agenda i.e., as a chairman of the board not as a CEO of the CMA." As mentioned above, the policy of the Board is not to publish in certain cases the outcomes of such actions. As the CMA is effectively acting as investigating, prosecuting and decision authority, it can be argued that the process lacks procedural fairness. This is notwithstanding the right of an AP to refer the outcome to the CRSD (and subsequently to the Appeal Panel) since the policy not to publish such outcomes. This provides a bias making it less likely that decisions of the Board will be challenged at the CRSD, because the affected party risks invoking publication. *The CMA should seek to have the CML amended to set out the required procedural fairness obligations it must follow before it sanctions violators using its power to refer these to the CMA Board for decision. This should include an opportunity for a hearing before an impartial/independent third party before the Board makes its decision.*

The CMA conducts programs throughout Saudi Arabia designed to raise community awareness of its activities and of the resources available to protect investors' interests. In 2010, the CMA worked with the mass media to make available more than 219 informational publications that explain and interpret regulations issued and actions taken by the CMA. The publications described standards of conduct applicable to market professionals in the Saudi market and procedures used by the CMA to detect and keep record of violations. In addition, the CMA distributed written material warning potential investors against dealing with persons who are not licensed to engage in securities business and to beware of practices and acts that may be deemed manipulative or misleading.

Principle 5.	The staff of the regulator should observe the highest professional standards including appropriate standards of confidentiality.
Description	<p>The CML establishes standards of conduct designed to ensure the integrity and professionalism of the staff. Like members of the Board, the CMA employees are prohibited from engaging in any other job or profession and from providing advice to any company or private institution. On accepting employment, the CMA staff must disclose their securities holdings and the securities holdings of their relatives, which information must be updated to reflect any change. Similar disclosure requirements apply to any person who becomes an agent of the CMA with respect to the work entrusted to them.</p> <p>The CMA has adopted a Code of Conduct which imposes a duty to take necessary precautions to prevent the disclosure of any confidential or inside information obtained in the course of their work for the CMA. The Code incorporates relevant provisions of the CML and establishes additional prohibitions and requirements designed to avoid conflicts of interest, protect confidentiality and personal information and assure the appropriate use of information. All CMA personnel, including employees, advisers, trainees, contract workers and any person working directly or indirectly at the CMA on a full-time or part-time basis, are subject to the Code of Conduct. For example, the CMA staff and their relatives may not directly or indirectly trade in shares in the Saudi capital market. While staff may participate in investment funds and invest in debt instruments, they must disclose their securities holdings and provide notification to the CMA's Internal Compliance Officer prior to selling any securities in the Saudi capital market.</p>
Assessment	Fully implemented
Comments	<p>The staff Code of Conduct requires the CMA personnel to (1) practice the best professional and ethical practices that engender confidence and trust and to deal with outside parties respectfully and in complete professionalism; (2) disclose to the CMA's Compliance Officer any relationship — professional, financial, personal, family or otherwise — that may give rise to a conflict of interest; (3) use information obtained through their work only for the performance of their duties and take necessary precautions to prevent the leakage of any such information that is not publicly available; (4) refuse gifts, hospitality or other benefits from any person with business before the CMA; (5) safeguard the CMA's assets and property; and (6) report to the Internal Compliance Officer any misconduct by members of the CMA staff.</p> <p>The Code of Conduct applies to all CMA's employees, Board members, advisers, trainees, contract workers and any other person working directly or indirectly at the CMA on a full-time or a part-time basis.</p> <p>The CMA may utilize a variety of methods to detect and resolve possible violations of its Code of Conduct. It monitors the securities trading of the CMA staff through "SMARTS," an electronic market surveillance system, to assist detect price or trading activity that exceeds certain predetermined parameters by the provision of "alerts" for examination. The CMA's internal management and Internal Compliance Unit monitor compliance with other requirements. Conduct that violates the CML or its Implementing Regulations may be subject to investigation and prosecution by the CMA's enforcement division. Sanctions for failure to adhere to the Code of Conduct vary with the nature of the violation. According to standards of the Saudi Labor Law, the CMA staff may be subject to verbal warnings, suspension or, in appropriate circumstances, termination. Conduct that violates the CML, its Implementing Regulations or other Saudi laws may be subject to civil or criminal penalties, which under the CML include fines, property seizures, travel bans and imprisonment. <i>The CMA should consider implementing a formal recusal policy in the Code. This would allow any staff member with a nonfinancial association with any parties that the staff member may become involved with while undertaking regulatory work to be excused from participating whether or not at the outset that the association "may potentially impact the CMA or any of the market participants."</i> In addition, <i>the CMA should consider obtaining a positive affirmation from its staff at regular intervals (such as annually) that they have complied with the code of conduct. This could include any investment in mutual funds which are included and allowed by the code of conduct which may not be able to be detected by SMARTS. Such affirmations reinforce the provisions of the code and obtain positive confirmation that the provisions are being complied with.</i></p>
Principles of Self-Regulation	
Principle 6.	The regulatory regime should make appropriate use of SROs that exercise some direct oversight responsibility for their respective areas of competence and to the extent appropriate to the size and complexity of the markets.
Description	There is no SRO operating in Saudi Arabia. The CML does not treat Tadawul as an SRO and the CMA does not

	<p>expect it to discharge regulatory functions. The CML requires Tadawul to establish and maintain the Depository of the Exchange (may be separate department as is the current position or a separate company) which must register ownership of securities traded on the Exchange. This is subject to ongoing CMA oversight.</p> <p>Tadawul does not license dealing firms, but they must become members to trade on its market (firms must be authorized by the CMA), nor does it have ongoing regulatory or disciplinary responsibilities in respect of these firms. The Listing rules which set out conditions for applicants to list on Tadawul are Implementing Regulations of the CMA and the CMA grants the approvals for companies to list on the market, not Tadawul. The CMA also monitors continuous disclosure by listed companies, not Tadawul.</p>
Assessment	Not assessed
Comments	<p>This Principle is rated 'not assessed' because IOSCO has set no criteria for the Principle and it is used for descriptive purposes only.</p> <p>Tadawul is not treated by the CMA as an SRO, nor in the short term is it expected to take up substantive regulatory responsibilities that SROs in other jurisdictions would exercise with regard to supervision of participants and the market it conducts. This view prevails notwithstanding CML Article 35 which empowers the "Exchange" to carry out inspections of licensed brokers to determine violations of regulations and instructions of the Exchange.</p> <p>Tadawul is a wholly-owned government entity having the legal status of a joint stock company under the Companies Law as provided for under the provisions of CML (Article 20). Its objects are set out in the CML which provides that it shall be the sole entity in Saudi Arabia authorized to carry out trading in Securities. Currently, Tadawul's focus is operationally running the market on a day to day basis and providing settlement and clearance rules and procedures through its Depository.</p> <p>Tadawul membership and trading rules have been issued to its members but are not publicly available. Although the CMA monitors the market, all Tadawul rules should be accessible publicly, although Tadawul is currently consolidating/updating its rules for publication.</p> <p>It was mooted some time ago that the future development of Tadawul may envisage it achieving a self-listing with direct public participation in its ownership, but any such development is presently deferred and not under active consideration by the CMA. Tadawul charges fees for trading and receives revenue from sale of trading data (market information and trading data is available free after a five-minute delay). It does not charge membership or listing fees. Its financial position is not published in an annual report. If a strategy is to be implemented for changing the regulatory model for Tadawul, then a variety of regulatory models are available. <i>The CMA should commence its consideration of the changes it would implement, should the government decide to proceed with a self-listing, as a number of complex regulatory issues will be raised by this change.</i></p>
Principle 7.	SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.
Description	See above.
Assessment	Not applicable
Comments	See also comments above at Principle 6.
Principles relating to Enforcement of Securities Regulation	
Principle 8.	The regulator should have comprehensive inspection, investigation, and surveillance powers.
Description	<p>Implementing Regulations subject APs to comprehensive recordkeeping and record retention requirements. An AP must record and maintain for 10 years information about its business activities sufficient to demonstrate compliance with the APRs and to permit the reconstruction of individual transactions, including the transfer of securities and funds in connection with transactions.</p> <p>The CMA may inspect the operations of its regulated entities (including its books and records) at any time without giving prior notification and may at any time obtain any record the entity is required to maintain under the CML or its Implementing Regulations.</p> <p>Regulated entities are also subject to the CMA's general authority to require any person to produce any book,</p>

	<p>paper or other document the CMA deems relevant to an investigation necessary for the enforcement of the CML, its Implementing Regulations or the Tadawul's rules.</p> <p>The CMA has direct regulatory authority over the Tadawul and conducts surveillance and inspections of its activities. The Tadawul is also subject to the CMA's general inspection authority, which empowers the CMA to inspect the records of any person for the purpose of investigating a potential violation of the CML or its Implementing Regulations and to require any person to produce records relevant to an investigation necessary for the enforcement of the CML, its Implementing Regulations or the Rules of the Tadawul.</p>
Assessment	Fully implemented
Comments	<p>The CMA may obtain documents or other information from its regulated entities, without a judicial order, even in the absence of a suspected violation in response to a particular inquiry or on a routine basis. The CMA has a dedicated enforcement division comprising five departments including Investigation, Prosecution and Electronic Enforcement. It does not delegate its enforcement responsibilities to any other entity.</p> <p>Record keeping and record retention requirements include the transfer of securities and funds in connection with transactions and include client name, date of birth, identification number, approximate annual income and net worth, and information on relating to their employer and bank account. APs must maintain records of client accounts that (1) at all times accurately reflect the assets and liabilities of each client and all clients collectively; (2) contain sufficient information to prepare a statement of each client's assets and liabilities and the details of transaction effected for the client; and (3) identify all client money and client assets for which the AP is responsible.</p> <p>Records must include details of all orders entered by a client, all purchases and sales of securities, all income and expenses for each client, details of all receipts and payments of client money and assets and a record of the cash and securities held in each client account.</p> <p>APs must maintain (1) a list of its active accounts, (2) a record of original entry of all purchases and sales, receipts and deliveries of securities or commodities, receipts and disbursements of money, and (3) ledgers showing assets, liabilities, income and expenses, all purchases, sales, receipts and deliveries of securities and related matters. APs must comply with the AML/CTF Rules issued by the CMA. They require an AP to adopt policies and procedures to prevent money laundering and terrorist financing and must include (1) taking all steps necessary to establish the identity of each client, their financial situation and investment objectives; (2) designing client acceptance policies and procedures to identify clients who are likely to pose a higher risk of illegal activity; and (3) monitoring business relationships on an on-going basis to detect any suspicious activity.</p> <p>An AP must immediately report any suspicious activity to the Financial Intelligence Unit. In addition to other applicable record keeping requirements, an AP must record and retain information it uses to verify a client's identity, the beneficial ownership and control of an account and the purpose and intended nature of a business relationship.</p> <p>The CMA has access to the identity of all customers of regulated entities through SMARTS as well as its power to access records maintained by regulated entity including those relating to the identity of customers and their transactions.</p> <p>The regulation of swaps is illustrative of the CMA's supervision of this aspect of APs activities. APs must notify the Corporate Finance & Issuance Division of all executed transactions under swap agreements, including the beneficiaries' names. APs must also submit a monthly report with all executed deals under such agreements. Tadawul will also submit to the division a monthly report of the positions taken under swap agreements. Coordination within the CMA divisions detects any unreported transactions by the AP. Corporate Finance & Issuance will provide information on swap agreements for the purposes of inspection visits. Prior to allowing an AP to engage in swap arrangements, the CMA will inspect the AP to ensure that it has the necessary systems and arrangements in place.</p> <p>In respect of research, the CMA does not approve research reports published by APs nor does it review them prior to publication. However, the CMA will review such reports after publication, during its inspection visits, to assess</p>

	<p>compliance with the requirements that such reports are not misleading or contain untrue information.</p> <p>The CMA does not outsource any of its functions.</p>
Principle 9.	The regulator should have comprehensive enforcement powers.
Description	<p>The CMA may subpoena witnesses, take evidence and require the production of any document it considers relevant to the investigation. The CMA may inspect records or other materials in the possession of any person to determine whether the person has violated or is about to violate the CML, its Implementing Regulations or other applicable requirements.</p> <p>The CMA has authority under CML Articles 5 and 25 to investigate potential violations and to bring enforcement actions seeking civil and criminal penalties against any entity or person.</p> <p>There are two methods of obtaining enforcement outcomes. Under the first method, the CMA may bring an enforcement action before the CRSD under Article 59 against any person who has engaged, is engaging or is about to engage in an act or practice that violates the CML, its Implementing Regulations or the regulations of the Tadawul and seek appropriate administrative, civil or criminal sanctions. Available sanctions include fines (cannot be lower than SR 10,000 or higher than SR 100,000), orders requiring a person to take or to refrain from taking certain actions, orders suspending trading in a security and orders barring a person from engaging in securities business or working with companies whose securities are listed on the Tadawul.</p> <p>The CMA also may seek indemnification for persons harmed by the violation or require the violator to disgorge any gain realized from the violation. Persons who engage in dealing activities without authorization or who violate prohibitions against market manipulation or insider trading may be subject to imprisonment.</p> <p>Under the second method, the CMA Board itself under the power contained CML Article 59 may impose a fine on any person who has violated the CML, its Implementing Regulations or the regulations of the Tadawul. The fine cannot be lower than SR 10,000 or higher than SR 100,000. The Board may also suspend or withdraw the license of an AP who deliberately violates the CML or its Implementing Regulations, submits false or misleading information in any document filed with the CMA, the Tadawul or a regulator in a foreign jurisdiction, or violates any judgment by the CRSD or any court which prohibits the carrying on of securities business.</p>
Assessment	Fully implemented
Comments	<p>The CMA may conduct inquiries and investigations regarding possible violations of the CML, its Implementing Regulations and other applicable requirements. In 2009, two persons (one CEO and one investor) were imprisoned for insider trading (see Principle 28). The CMA has a fully resourced enforcement division. One market conduct case is presently before the Appeal Committee.</p> <p>The level of fines stipulated in the CML for any violation of the law, regulations or rules are not high and may not be appropriate in all cases of violations. <i>The CMA should consider if the size of possible fines is sufficient.</i></p> <p>The CML enables investors harmed by violations of the CML and its Implementing Regulations to seek private remedies. The remedies include damages against any person responsible for making a material omission or misstatement of fact, damages against any person who participates in manipulating the price of any security and the recession of any securities-related contract with a person who engages in brokerage activity without a license. The CMA's enforcement powers do not compromise these private rights of action.</p>
Principle 10.	The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.
Description	<p>The CMA regularly inspects the activities of APs and monitors trading on the Tadawul (see also Principle 26). The CMA detects and investigates market manipulation, insider trading and non-compliance with its regulatory requirements primarily through the use of SMARTS. There is a full audit trail of order entry and execution of all transactions which is available to the CMA staff.</p> <p>It has established a department within the enforcement division dedicated to addressing investor complaints. Based on information obtained through these sources, it obtains intelligence on which to conduct investigations into possible violations and to bring actions before the CRSD.</p> <p>The CMA conducts routine and cause examinations of APs.</p>

	<p>An AP must establish internal compliance procedures designed to prevent violations of the CML and its Implementing Regulations and it must communicate the procedures to employees by documenting them in a compliance manual and providing appropriate employee training. The governing body of the AP is responsible for ensuring that appropriate procedures are in place and that the compliance function is adequately resourced. The CMA monitors the sufficiency of these arrangements as part of its inspection program and may take enforcement action against the AP for failure to establish, maintain or enforce the required compliance procedures.</p>
Assessment	Partly implemented
Comments	<p>The CMA selects APs for routine examination based on its risk assessment of the business activities described in the AP's annual business disclosure statement. In 2010, the Inspection Department completed 18 routine inspections. The risk assessment procedure is based on a mix of risk and compliance-based methodologies and is in accordance with a predetermined inspection cycle of 2-3 years. Prior to a routine examination, the CMA obtains documents from the AP that it uses to conduct a further risk assessment to establish examination priorities. It also conducts 'for cause' inspections of APs (the CMA does not provide any advance notice) to monitor compliance with other regulatory requirements including, conduct of business rules, capital adequacy (minimum capital requirements are primarily monitored by reviewing monthly financial reports filed by APs), disclosure and segregation of client assets. In 2010, the Inspection Department completed 54 inspections for cause and follow up.</p> <p>Capital and other applicable prudential requirements are also monitored by review of annual reports and reports of events that may cause or indicate deterioration in their financial position.</p> <p>The investor complaint department examines each investor complaint and ensures that the CMA has jurisdiction to conduct further investigation. If the complaint is not resolved within 90 days, the CMA issues a notice permitting the investor to file a complaint with the CRSD. During 2010, the CMA received 405 investor complaints. Of these complaints, 215 were resolved within the 90 day period, the CMA issued 126 notices permitting investors to file claims with the CRSD and 64 remained pending at year end.</p> <p>In 2009 and 2010, the CMA initiated, respectively, 157 and 253 investigations into suspected violations of the CML. The majority of these suspected violations involved conducting securities business and investment of funds without a license, manipulation and misleading information and insider trading. At the end of 2010, the CMA had completed 220 enforcement cases, including 37 cases involving conducting a securities business and investment of funds without a license, 44 involving manipulation and misleading information and 53 involving disclosure violations or insider trading. In 2010, the CMA filed 18 indictments with the CRSD on the basis of information developed during its investigations. The cases involved manipulation and fraud with the intention to create a false and misleading impression about market price and conducting securities business without a license.</p> <p>The CMA has adopted a process via its inspections of APs of effectively providing compliance advice to them thereby educating the regulated community which is expected to lift its standards of compliance following the inspections. This is not unreasonable given that the CMA is a relatively new regulator operating under recently enacted CML and Implementing Regulations. Some of the APs have needed to subsidiarize from banking parents and some new nonbank APs have recently been licensed. However, since the formation of the CMA, it has been levying disciplinary sanctions for violations of its rules via its enforcement capability following completion of its inspections.</p> <p>As stated above (see comments at Principle 2) the CMA Board has determined a publications policy which specifies the matters which must be announced to the public. Under this policy, the CMA has determined that only the following matters will be announced to the public:</p> <ol style="list-style-type: none"> 1. Final decisions of the CRSD or Appeal Panel that impose any type of sanction; 2. Penalties imposed on listed companies; 3. Withdrawal, cancellation and suspension of AP authorization; 4. Approval of AP application; 5. Amendments to AP's license; 6. Capital increases/decreases of listed companies; 7. Cash offer to acquire listed companies; 8. Approval of public offers of securities/mutual funds;

	<p>9. Issuance of implementing regulations and amendments thereof; 10. Suspension of public offering.</p> <p>The CMA Board may decide to announce any resolution that does not fall under the abovementioned categories, if it believes it is necessary to do so. The CMA believes that although not all enforcement outcomes are publicized, significant cases are since all sanctions imposed by the CRSD and some Board decisions are announced to the public. While disciplinary decisions of CRSD (and the Appeal Committee) will be published and criminal sanctions have been imposed, the CMA may impose sanctions or agree to settle actions by way of resolution of its Board pursuant to the exercise of its powers. Thus, pursuant to its publications policy, not all enforcement actions (and agreed settlements of action) will be published. The Annual report includes details of inspections and enforcement but not the case by case detail. The CMA Board outcomes can include fines, disgorgement of profit (as well as other outcomes). Such disgorgements have been ordered (in 2009 and 2010 disgorgement with respect to 62 violations involving market manipulation/insider trading have been ordered). The CMA’s policy appears to be underpinned by concern that disciplinary outcomes, specifically the announcement of sanctions against APs may affect the development of the local market by adversely affecting investor confidence in the market and investors willingness to continue to conduct business with the entity concerned. Although it is clear that substantial penalties have been levied by the CMA Board pursuant to the exercise of its powers, the regulatory effect of these actions are not being understood by the regulated or broader community due to the lack of transparency relating to the violating conduct and the sanctions that have been imposed in respect of them. The policy of the CMA also may be seen as discouraging regulated entities from proceeding to CRSD (or subsequent appeal) since anonymity may be more significant to them than obtaining a review of the efficacy of the CMA’s findings. See also comments at Principle 1 relating to the lack of specific provision in the CML to empower the CMA to settle violations.</p> <p><i>Enforcement powers need to be seen to be fully exercised and transparent in all appropriate cases and all outcomes published in order to demonstrate and obtain regulatory effect by the CMA imposition of credible and proportionate sanctions in order to be fully compliant with this principle. Relevant decisions taken should also be tested on appeal to ensure that the outcomes obtained are appropriate and reasonable tin the circumstances.</i></p>
<p>Principles for Cooperation in Regulation</p>	
<p>Principle 11.</p>	<p>The regulator should have authority to share both public and nonpublic information with domestic and foreign counterparts.</p>
<p>Description</p>	<p>The CMA may share information with other regulators, both domestic and foreign. Article 17 of the CML authorizes the CMA to disclose information and provides:</p> <p><i>“Any undisclosed information obtained by the [CMA] is considered confidential. The [CMA] may disclose any part of this information as the [CMA Board] deems necessary for the protection of investors.”</i></p> <p>The CMA may share with other regulators information concerning matters of investigation and enforcement, determinations in connection with authorization, licensing and approvals, surveillance market conditions and events; client identification, regulated entities, and listed companies and companies that go public. The CMA also may obtain and share with its domestic and foreign counterpart’s information and records identifying the beneficial owners or controllers of bank accounts relating to securities transactions.</p> <p>The CML and its Implementing Regulations expressly authorize the CMA to share information that it receives from issuers. Article 46 of the CML provides that “the [CMA] or the [Tadawul] may request the party issuing securities to provide any information or data pertaining to such party,” that “the [CMA Board] or the [Tadawul] may, after reviewing the facts, require the issuing party to disclose any information or data related to that party” and that “the [CMA Board] or the [Tadawul] shall also have the right to publish such information and data at the expense of the issuing party.” The CMA has further clarified this authority in the Offers of Securities Regulations and the Listing Rules. The Offers of Securities Regulations require from a person offering a security in a private placement and the AP acting on its behalf, a statement authorizing the CMA to share any relevant information with any authorities, agencies or bodies responsible for the supervision of financial services or any other relevant authorities. The Listing Rules require similar statements from the issuer of a listed security and each director, proposed director, or comparable official of such issuer.</p>

	Under article 17 of the CML, the CMA has discretion to share information with foreign regulators even if the offense being investigated is not recognized by the CMA.
Assessment	Fully implemented
Comments	<p>The CML grants the CMA authority to regulate the securities market and the conduct of persons engaged in the securities business for the purpose of protecting investors. The language of the CML does not distinguish between protecting domestic and foreign investors or between protecting investors in the Saudi market and investors in other capital markets. Although the CML uses the language of “necessary for the protection of investors” the CMA interprets this provision broadly and believes that it gives it complete authority and discretion to permit any release of information.</p> <p>The CMA takes the view that its ability to share information with domestic and foreign regulators falls within an administrative discretion of the Agency. It does not need to obtain approval from any other government agency or minister in order to share information with other regulators.</p> <p>Regulatory information has been provided to domestic and foreign agencies when requested without qualification, even in the absence of prior arrangements for sharing information.</p> <p>Other Saudi government agencies are obliged to provide the CMA with documents and information it requires for the purposes of carrying out its duties. In the exercise of its discretion, the CMA could contact a foreign regulator to provide information on an unsolicited basis, where the CMA deemed that this would further its regulatory objectives.</p> <p>It is customary (and good regulatory practice) for a regulator making a release of confidential information (particularly to regulatory agencies outside its own jurisdiction) to protect its rights over the information by imposing conditions on the other regulator receiving the release whether or not the recipient is also a signatory to the IOSCO MMOU. Such conditions are imposed to protect its legal rights to restrict the recipients of the information, the maintenance of the confidentiality of the information and to discharge its responsibilities under its operating legislation to maintain confidentiality. The CMA has stated that to date, its releases of information to foreign regulators has not involved confidential regulatory information. Accordingly, although it has the necessary authority to do so, to date, the CMA has not needed to formulate or impose any conditions on the release of confidential information. <i>The CMA should settle the nature of conditions it will impose on release of confidential regulatory information to foreign regulators so that it can protect its rights in respect of such information when the circumstances arise in the future. , keeping in mind requirements and limitations in IOSCO MMOU.</i></p>
Principle 12.	Regulators should establish information sharing mechanisms that set out when and how they will share both public and nonpublic information with their domestic and foreign counterparts.
Description	<p>The CMA is a member of the UASA, which is a cooperative body consisting of the securities market regulators of 14 Arab states. The UASA’s objective is to “enhance regulatory cooperation, increase technical collaboration and sharing of market and regulatory information to achieve the implementation of the IOSCO principles for securities regulation.” The arrangements for information sharing with UASA members are documented in its charter.</p> <p>In June 2010, the CMA became a full signatory to the IOSCO MMOU. In the past (before becoming a signatory to the IOSCO MOU) the CMA voluntarily responded to requests for assistance from various regulators around the world.</p> <p>The CMA is required to maintain the confidentiality of any information it receives under the terms of an information sharing arrangement. Under the CML, all nonpublic information is treated as confidential. However, the CMA may disclose such information as the CMA Board deems necessary for the protection of investors, as discussed above in Principle 11. Accordingly, the CMA may authorize a foreign regulator to make appropriate use, including use in public proceedings, of confidential information provided by the CMA, where disclosure is necessary for the protection of investors.</p> <p>Where the CMA receives confidential information from foreign regulators, it will seek to do so under conditions that provide confidentiality consistent with its potential use by the CMA, including its disclosure in public proceedings or otherwise where necessary for the protection of investors.</p>
Assessment	Partly implemented

Comments	<p>The CMA has stated that it took the initiative in entering into these information sharing arrangements with foreign regulators and where the securities trading activities of a non-resident foreign investor may be a matter of potential regulatory interest, the CMA may use these arrangements to seek to obtain relevant information concerning those activities. In addition, the CMA has the power to seek to enter into additional information sharing arrangements for any cross border activities. The CMA has also confirmed that it has shared information with securities regulators around the world and has maintained records of these activities.</p> <p>There has been cooperation domestically. The CMA has MOUs with MOCI (securities and related companies law matters), Minister of the Interior (AML/CTF) and Minister of Justice (real estate funds ownership of assets). The CMA has not yet finalized an MOU with SAMA which is currently being drafted. Some CMA staff has been derived from SAMA. Prior to the CMA, the regulator of the stock market was a ministerial committee comprising MOF, MOCI, and SAMA although some departments of SAMA were responsible for supervisory and operational matters. Thus although there is an ongoing relationship between the two bodies, it is desirable that it be formalized by way of MOU. <i>The proposed MOU between SAMA and the CMA is in the process of being drafted to set out the relationship between the two agencies but it needs to be executed and publicly released.</i></p>
Principle 13.	The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.
Description	<p>The CMA's powers under the CML enable it to provide assistance to a foreign regulator by investigating an alleged breach of a legal or regulatory requirement or providing such other assistance as the CMA may deem appropriate and in the interest of protecting investors.</p> <p>The CMA has several resources through which it could offer effective and timely assistance to a foreign regulator in obtaining contemporaneous records sufficient to reconstruct securities transactions (including relevant fund and asset transfers), the identity of the relevant parties (including the client and relevant APs) audit trail information and trade information (including amounts, time and price).</p> <p>Under the CML, the CMA may require a person to provide documents or oral statements, where the CMA deems it appropriate in assisting a foreign regulator. Under Article 5c of the CML the CMA possesses the authority to subpoena witnesses, take evidence, and require the production of documents. Article 18 of the CML requires that any person (not just an AP), provide the CMA with "documents and information it requires for the purposes of carrying out its duties in accordance with the provisions of this Law."</p> <p>The CMA possesses the authority over APs to access records. The APRs authorize the CMA to (i) demand that an AP provide the CMA without delay any information, records, or documents that the CMA may require, (ii) require that the governing body and employees of an AP must comply with any requirements issued by the CMA to appear to explain any matter or assist in any inquiry relating to the administration of the CML and its Implementing Regulations, and (iii) inspect any records required to be maintained by an AP either directly or through a person appointed by the CMA.</p> <p>The CMA may provide assistance to foreign regulators in connection with all types of securities law violations, including insider dealing, market manipulation, misrepresentation of material information and other fraudulent or manipulative practices relating to securities and derivatives, including solicitation practices, handling of investor funds, and customer orders; the registration, issuance, offer, or sale of securities and derivatives, and reporting requirements related thereto; market intermediaries, including investment and trading advisers who are required to be authorized, CIS, brokers, dealers and transfer agents; and markets, the Tadawul, and clearing and settlement entities. The CMA may provide assistance to foreign regulators regardless of whether the CMA has an independent interest in the matter, including assistance in obtaining court orders. The CMA also may provide information to foreign regulators concerning its regulatory processes, such as licensing and inspection procedures, as well as information obtained through those processes.</p>
Assessment	Fully implemented
Comments	APs are required to maintain comprehensive records of their securities business, including detailed client identification and asset information and records of all securities transactions effected. In addition, the Tadawul maintains detailed audit trail records of trades effected through its electronic trading system, and records of the holdings of beneficial owners of securities on deposit at the Tadawul. Pursuant to its authority, the CMA can obtain securities account and transaction records when needed to assist a foreign regulator.

	<p>The CMA also can obtain information identifying persons who beneficially own or control nonnatural persons organized in Saudi Arabia. Under Article 5 and 18 of the CML, the CMA can request corporate records to identify persons who beneficially own or control nonnatural persons. In addition, in opening a securities account with a client, an AP is required to obtain from the client information concerning the ultimate beneficial owner or owners of the accounts.</p> <p>The CMA may provide foreign regulators with information in its possession concerning APs and their affiliates, including information concerning their structure, capital requirements, and investments in affiliates, intra-group and group-wide risk exposures, shareholder relationships, and management structure. Under Article 6 of the APRs, APs must provide this information to the CMA in connection with their application for authorization, and must update this information to reflect any material change. To the extent that any of this information is not included in the application, as updated, the CMA may obtain it using its authority under Articles 5 and 18 of the CML.</p>
Principles for Issuers	
Principle 14.	There should be full, accurate and timely disclosure of financial results and other information that is material to investors' decisions.
Description	<p>The regulatory framework of CML and its Implementing Regulations (particularly the CMA Listing Rules) regulates disclosure by issuers (listed companies and CIF) that offer securities by way of public offer. It establishes minimum specific and general disclosure requirements that apply both to the prospectus used for a securities offering and on a continuing basis thereafter, including shareholder voting decisions. Reporting and disclosure by significant shareholders of listed companies and by persons who would seek control of a listed company are also required. Funds are restricted to a 10 percent maximum holding based on net value of the fund.</p> <p>Before an issuer may offer securities by way of public offer, it must publish a prospectus that has been approved by the CMA. The Implementing Regulations prescribe minimum information requirements for prospectuses (debt and equity securities) and require that the prospectus contain sufficient information to enable an investor to assess the issuer's activities, financial position, management and prospects as well as the rights and obligations attaching to the securities. A prospectus must include three years' operating financial results (audited accounts must have been published for at least the previous three years, see Listing Rule Article 8) and comparative financial information of the company for the previous two years. The three-year operating requirement doesn't apply to any company that is required by law or by Royal Decree to be listed upon its establishment (often start up insurance companies and telecommunication companies). A full report of an independent account may also be required on the financial statements in the prospectus in certain circumstances.</p> <p>The issuer must update the audited annual financial statements included in the prospectus whenever a material change has occurred in its group structure or business or a material adjustment has been made or is required to be made in its audited financial statements since the end of the period to which the most recent audited financial statements relate. Following publication of a prospectus, the issuer must provide a supplementary prospectus to provide details of any material change to the published information or any submitted documents or any additional significant matter, including any material change in its financial statements.</p> <p>If the period covered by the most recent audited accounts has ended more than six months prior to the expected date of approval of the prospectus, the CMA may require audited accounts covering any period that it deems appropriate from the date of the end of the period covered by the latest audited accounts until the expected date of approval of the prospectus.</p> <p>The CMA reviews all documents submitted and may refuse to approve a prospectus if it contains incorrect information pertaining to material matters or omits to state material information or statements that would under the circumstances render the prospectus misleading or incorrect. In practice the CMA requires that a prospectus include relevant risk disclosure statements and it does not approve a prospectus for publication until it is satisfied that the disclosure is adequate. In addition, the issuer and its officers and agents may be liable to investors for an incorrect statement of material matters or omitted material fact required to be stated in a prospectus. Persons subject to this provision include senior officers of the issuer, members of the issuer's board of directors, the underwriter of the offering, and any technical expert, including an accountant, engineer or appraiser, to the extent</p>

	<p>they have certified the accuracy of information included in the prospectus. The issuer is liable irrespective of whether it had acted reasonably, or it was not aware of the incorrect statements in connection with material matters, or of the omission of material facts that should have been disclosed in the prospectus. More generally, any person who makes, or is responsible for an untrue statement of material fact or an omission of a material fact may be liable if it causes another person to be misled in relation to the sale or purchase of a security.</p> <p>Securities advertisements (including advertising of public offering outside the prospectus) must comply with specific content requirements, but the CMA does not approve them. Article 16 (c) of the Listing Rules sets out the requirements of public announcements in relation to public offering of securities. It requires announcements to include a specific disclaimer of the CMA liability for the offering. In addition, Article 17 of the Securities Business Regulations states that a person must not make or communicate any securities advertisement unless that person is an AP or the contents of the advertisement have been approved by an AP. Article 33 of the APRs also imposes certain requirements on APs in relation to securities advertisements including content requirements.</p> <p>Pricing is now determined by a book building process (not fixed by the CMA) and public investors must receive allocations based on a minimum percentage of the free float. It should be noted that the CMA has confirmed that pricing has never been fixed by the CMA, even prior to book building becoming operative. Prior to book building, underwriting was the sole mechanism for price discovery /price reasonableness. Currently both book building and underwriting are required.</p> <p>Continuing reporting requirements aim to ensure that investors receive comprehensive, accurate and timely information on an ongoing basis in respect of all issuers. A listed company must make periodic information about its financial position and results of operations publicly available to investors by announcing its audited annual and interim accounts (quarterly) through the Tadawul's electronic information dissemination system. The company must make the accounts available to the market before publishing them to its shareholders within the timeframes prescribed by the Listing Rules (audited annual accounts within 40 business days of the end of the accounting year and interim accounts within 15 business days of the end of the period to which they relate).The company must include with its audited annual accounts a report issued by its board of directors that provides current information concerning its management and operations prescribed in the Listing Rules and the CGRs.</p> <p>In addition, the company must notify the CMA and the public without delay (at least two hours before the trading period following a major development) of any information that may have a material effect on its financial position or the market price of its securities.</p> <p>A listed company must provide shareholders with sufficient and timely information to enable them to participate effectively and vote in the company's general assembly. (A prospectus for shares or convertible debt instruments must contain a description of the voting rights of the securities holders). A listed company must notify shareholders of a general assembly by publishing on the Tadawul's website and in two newspapers of broad circulation the date, place and agenda of the general assembly at least 20 days before the date of the meeting. Under the Listing rules and the Companies law, matters presented to the general assembly must be accompanied by sufficient information to enable the shareholders to make a decision. Transactions, involving a proposed change in control of a company or seeking to prevent such change of control, must be subject to shareholder approval. Prior to a General Assembly at which such approval is sought, the company must provide shareholders with a complete description of the proposed transaction.</p> <p>Public offerings or listings by foreign issuers are currently not allowed, although proposed new listing rules have a provision that allows public offering of foreign issuers for the purpose of cross listing. Also, there are no derivative markets and they are prohibited from operating in Saudi Arabia until such time as the CMA agrees to allow them, as they currently fall within the definition of securities.</p>
Assessment	Fully implemented
Comments	Listed companies are obliged to disclose all material information to the market. Tadawul received many hundreds of disclosure announcements each year for public release. All are available on Tadawul's website. If a listed company believes that disclosure of a particular matter would be unduly detrimental to it and omission of the information is not likely to mislead investors, it may apply to the CMA for a waiver from the disclosure requirement. If the CMA approves the waiver, it may at any time require the listed company to prepare for

	<p>dissemination an announcement of the required information. The CMA has authority to suspend temporarily the trading in the security of any listed company. A listed company may also request the temporary suspension of trading (a trading halt) upon the occurrence of an event which requires immediate disclosure.</p> <p>CML prohibits any person in possession of material information that is not available to the general public from directly or indirectly trading in securities to which the information relates and authorizes the CMA to impose sanctions on persons who trade in violation of this prohibition. The Implementing Regulations (the Listing Rules), impose a specific prohibition on directors and senior executives of a listed company to deal in that company's securities during specified periods to prevent the misuse of nonpublic information.</p> <p>The CMA has in place measures to ensure the sufficiency, accuracy and timeliness of the required disclosure. Compliance with disclosure requirements is principally assured by reviewing disclosure documents filed by listed companies. A listed company may not publish a prospectus until the CMA has reviewed and approved it. The CMA also reviews financial accounts submitted by listed companies for compliance with accounting and auditing standards issued by SOCPA. The CMA may impose or seek sanctions for failure to comply with disclosure requirements, including failure to make timely disclosure. Among the sanctions the CMA may impose or seek are (1) obliging a person to take necessary corrective steps, (2) obliging a person to pay compensatory damages, (3) suspending trading in a security, and (4) imposing monetary fines.</p>
Principle 15.	<p>Holders of securities in a company should be treated in a fair and equitable manner.</p>
Description	<p>Under the Companies law eight types of company (for example, general partnerships, corporations, companies with variable capital) are permitted; however, only joint-stock companies can be listed.</p> <p>CML, its Implementing Regulations and the Companies Law require the accurate documentation of share ownership and transfer, the right to vote on critical matters and fundamental corporate changes, the right to fair and equal treatment and the right to hold management accountable for its actions. In addition, the Implementing Regulations establish a system for reporting and disclosing information about the shareholdings of directors, senior management and persons who hold a substantial interest in a company and procedural requirements that govern transactions by persons who would seek to acquire control of a company.</p> <p>The Listing Rules of the CMA contain specific provisions. A listed company must assure the equal treatment of all shareholders of the same class of its securities in respect of all rights attaching to the shares (Listing Rules Article 39). Shareholder rights include the right to a share of the distributable profits of the company and of the assets of the company on liquidation, the right to participate and vote in the company's general assembly, the right to have access to information about the company's affairs, to supervise the board of directors and to file responsibility claims against board members and the right to dispose of the shares (Corporate Governance Regulations Article 3). A prospectus for shares or convertible debt instruments must contain a description of the security holder's rights including voting rights, rights to dividends, rights to redemption or repurchase, to surplus assets on liquidation and any other significant right of the holder. (Listing Rules Annex 4, Item 2ci). Record of share ownership and transfer is maintained by the Depository.</p> <p>Voting is regarded as a fundamental shareholder right (Corporate Governance Regulations Article 6). See also comments below regarding overlaps of regulatory responsibility relating to corporate governance requirements. Thus, shareholders of listed companies must have the opportunity to participate effectively and vote in the company's general assembly (Corporate Governance Regulations Article 5). The company's general assembly must appoint members of the board of directors and have jurisdiction over all affairs of the company (Companies Law Articles 66 and 84). The general assembly may not amend rights of a particular group of shareholders unless those concerned approve the decision (Companies Law Article 86). A listed company must publish the date, place and agenda of the general assembly on the Tadawul's website and in two newspapers of broad circulation at least 20 days prior to the date of the meeting. Shareholders may appoint a proxy to attend the general assembly (Corporate Governance Regulations Article 6).</p> <p>Implementing Regulations require full disclosure of all information material to an investment or voting decision required in connection with shareholder voting decisions. A listed company must provide the shareholder with sufficient and timely information to enable the shareholder to exercise the fundamental right to vote (Corporate Governance Regulations Article 5 & 6). In addition, regulations that establish specific requirements governing the conduct, timing and disclosure of takeover bids and other transactions involving a possible change in control of a</p>

<p>listed company require that certain transactions must be subject to shareholder approval and require full disclosure of the proposed transaction prior to the shareholder vote (Merger and Acquisition Regulations Articles 36 and 24a).</p> <p>Takeover bids and other transactions involving a possible change in control of a listed company (a 30 percent threshold applies) are subject to procedural and substantive requirements designed to ensure the transaction is fair to public shareholders. A public announcement is required in circumstances specified in the Merger and Acquisition Regulations, including a mandatory offer where a person acquires 30 percent of a listed company. Implementing Regulations establish the following general principles governing such transactions (1) all shareholder of the same class of an offeree company must be treated equally by the offeror; (2) during the course of the offer, information must be furnished to all shareholders equally; (3) shareholders must have sufficient information and advice from their boards of directors and sufficient time to enable them to reach an informed decision; and (4) directors of an offeror or an offeree company, in advising shareholders, must act only in their capacity as directors without regard to any personal or family interest and must not vote on any resolution concerning the offer if there is a conflict of interest (Merger and Acquisition Regulations Article 3).</p> <p>A person intending to make an offer must approach the CMA to establish a timetable consistent with regulatory requirements that addresses (1) submission of the offer documents to the CMA for approval; (2) publication of the offer documents by the offeror; (3) distribution of a disclosure circular by the offeree company to its shareholders; (4) the earliest permitted closing date for the offer and the last date the offer may be declared unconditional as to acceptances; and (5) the date the transaction will be completed (Merger and Acquisitions Regulations Article 6d).</p> <p>The offer documents, published by the offeror, must contain information, prescribed by the CMA, about the terms of the offer, the offeror and the offeree company (Merger and Acquisition Regulations Articles 26 and 32). The disclosure circular provided by the board of the offeree company, in addition to describing the offer, must state the board's views on the offer (and any alternative offer) and the substance of advice given to it by the board's independent financial adviser for the transaction (Merger and Acquisition Regulations Article 27).</p> <p>Implementing Regulations also ensure that the terms of the offer are fair to minority shareholders. When an offeror has purchased shares in the offeree company within the three month-period prior to the commencement of the offer period, the offer to shareholders of the same class may not be on less favorable terms than that prior purchase (Merger and Acquisition Regulations Article 9a). When an offeror has purchased shares during the offer period or within 12 months prior to the offer period, the offer for the same class of securities must be in cash or accompanied by a cash alternative at not less than the highest price paid by the offeror for the shares (Merger and Acquisition Regulations Article 15). Where an offeree company has more than one class of share capital, a comparable offer must be made to each class, whether or not the securities confer voting rights (Merger and Acquisition Regulations Article 18a).</p> <p>Any person who becomes owner of or interested in 5 percent or more of any class of voting securities or convertible debt securities of a listed company must notify the company and the CMA at the end of the trading day on which the interest is acquired and provide subsequent notice any time the interest increases or decreases by 1 percent. (Listing Rules Article 30). For the purpose of this calculation, a person is deemed to be interested in shares owned by a spouse or minor child, a company controlled by the person or any other person who is acting in concert to acquire the securities. A list of such 5 percent shareholders must be included in a prospectus by which a listed company offers equity or convertible debt securities, and the ownership interests together with any change to such interests in the most recent year must be disclosed in the report issued by the board of directors with the company's annual accounts (Listing Rules Annex 4, Item 2a9 and Article 27). In addition, the Tadawul publishes information reported under these provisions on its website.</p> <p>Similarly, a director or senior executive of a listed company must notify the company and the CMA of any interest (direct or indirect) acquired in the company's voting securities or debt securities at the end of the trading day on which the interest is acquired and provides subsequent notice of certain substantial increases or decreases in the interests (Listing Rules Article 30). The company must include a statement about the direct and indirect interests of each director and senior executive of the company in the prospectuses by which it offers its securities and in the report of the board of directors issued with the company's annual accounts. As the Depository records the holder of securities by name on register, effective ownership limits can readily be monitored.</p>

Assessment	Broadly implemented
Comments	<p>The regulation of corporate governance for listed companies is a bifurcated approach.</p> <p>The CMA mandates requirements by virtue of the Listing Rules and its CGR Regulations (issued in 2006). These regulations, however, are based on a “comply or explain” model. The CMA has made certain of its corporate governance requirements mandatory (Articles 9, 12.c, 12.e, 14 and 15, namely:</p> <ol style="list-style-type: none"> 1. certain disclosures in directors reports (Article 9); 2. establishment of audit committees (Article 14) and nomination and remuneration Committees (Article 15); and 3. Some issues relating to formation of boards (parts of Article 12) such as requiring the majority of the members of boards to be nonexecutive directors. <p>Of the remaining articles in the CMA’s CGR, some are effectively mandatory because similar or related obligations are mandated by the Companies Law administered by MOCI. These include (i) general rights of shareholders (Article 3); (ii) facilitation of shareholders exercise of rights and access to information (Article 4); (iii) shareholders rights related to the general assembly (Article 4); (iv) voting rights (Article 6); (v) dividend rights (Article 7); (vi) main functions of boards (Article 10) and responsibilities of boards (Article 11); (vii) certain issues relating to the formation of boards (part Article 12); (viii) conflict of interest within board (Article 18); and (ix) general assembly agendas, participation of shareholders.</p> <p>The remaining provisions of CGR which are not mandatory and not covered by the Companies Act include (i) shareholders rights to peruse general assembly minutes and requirement to inform the Exchange of results of general assembly (part Article 5); (ii) accumulative voting and disclosure by investment funds of voting policies (part Article 6); (iii) written disclosure policies (Article 8); (iv) prevention of chairman and CEO being the same person, notification of reasons for termination of a board member, representatives not entitled to nomination vote (part Article 12); and (v) procedures for committees of boards (Article 13) and need to provide sufficient time for board members preparation and attendance at meetings (part Article 16).</p> <p>In essence, MOCI’s responsibilities relate to 5 broad areas, incorporation, management, general assemblies, capital increases and decreases and a range of other areas (see above) concerning the operation of joint-stock companies.</p> <p>The CMA has been monitoring compliance with the CGR and believes that MOCI will enforce the operative provisions of the Companies Act, since the CMA may take enforcement action against a director of a listed company in relation to a violation of its duties to shareholders as long as the action in question constitutes a violation of the CML or its Implementing Regulations. It points out that the Companies Law proscribes the responsibilities of the board of directors and gives the company and each shareholder the right to file a civil liability law suit against the board of directors due to errors that cause damage to all shareholders (Companies Law Articles 77 and 78).</p> <p>The CMA can monitor compliance by officers and directors and major shareholders of listed companies with the reporting requirements by accessing transaction information available through SMARTS or ownership information maintained by the Depository over which it has direct regulatory authority.</p> <p>The CMA may take enforcement action against any person who fails to comply with the reporting requirements (CML Article 59).</p> <p>The CMA states that (1) listed companies have to comply with the Companies Law and the mandatory articles of the CGR; (2) none of the mandatory Articles in the Regulations are imposed by the Companies Law; (3) listed companies must disclose the extent to which they have complied with the nonmandatory provisions and the reasons for noncompliance if any; (4) to the extent that noncompliance of a nonmandatory requirement of the Regulations constitutes a violation of the Companies Law, this would be a matter handled by MOCI in coordination with the CMA if there was a need.</p> <p>However, there is some overlap regarding the obligations imposed by the CMA and MOCI and there is a lack of clarity relating the jurisdiction of each agency to enforce corporate governance obligations arising from the</p>

	<p>bifurcated approach. In addition, there is a lack of clarity as to how these interdependent provisions (described above) are interpreted and operate in practice, particularly as some are comply and explain, some are, mandatory and the language of the Companies Act and the CMA requirements appears not to be identical. It is unclear how they would be enforced in the event of a major case of a listed company's failure to comply with the corporate governance obligations which involve serious breaches of director's duties.</p> <p><i>The CMA should clarify its role relating to corporate governance and the duties of directors of listed companies by seeking the appropriate amendments to MOCI and the CMA legislation, to give it the unambiguous responsibility for enforcing these provisions in respect of listed companies. Once enacted, guidance clearly setting out the mandatory provisions and those that are comply or explain should be issued to all listed companies together with appropriate explanation of the CMA's interpretation of these requirements.</i></p> <p>Public offerings or listings by foreign issuers are currently not allowed in Saudi Arabia; accordingly, fair and equitable treatment of holders of securities is set out under regulatory obligations of the CMA and MOCI. The register of holders of securities is not publicly available, so shareholders are unaware of who are the other shareholders at a given point of time. For listed companies, Tadawul acts as registrar. Although the CMA may attend general assembly meetings to observe the proceedings, proceedings at meetings, including verification of quorum, falls within the jurisdiction of MOCI. Achieving a quorum of shareholders may not always take place at a meeting.</p>
Principle 16.	Accounting and auditing standards should be of a high and internationally acceptable quality.
Description	<p>Financial statements of public issuers and listed companies disclosed in offering documents and on a continuing basis are subject to accounting and auditing standards to ensure their reliability and comparability. Listed companies must include audited financial information in their offering documents and annual reports. A prospectus must contain financial information from the company's most recent audited financial statements. Similarly, audited financial statements included in offering materials and the annual accounts of a listed company must be audited.</p> <p>The applicable standards are established by SOCPA, a professional organization that operates under the supervision of the MOCI. Audit reports of listed companies must be prepared by a certified independent accountant. Also, interim financial statements included in offering materials and the interim accounts of a listed company must be reviewed in accordance with standards established by SOCPA.</p> <p>Pursuant to SOCPA standards and the Listing Rules, audited financial statements included in the offering documents and the annual accounts of a listed company must include a balance sheet, an income statement (which includes a statement of the results of the company's operations), a cash flow statement, a statement of changes in ownership equity, accounting policies and notes covering the most recent three financial years.</p> <p>Both SOCPA standards and the Listing Rules require that an audit of a listed company be conducted by an independent accountant who is a current member certified by SOCPA. SOCPA has interpreted the independence requirement to ensure that the auditor is free of any influence, interest or relationship that might impair professional judgment or objectivity by addressing issues of self-interest, self-review, advocacy, familiarity and intimidation. Auditor independence is further ensured by the process of their selection by listed companies upon the recommendation of the company's audit committee (minimum 3 persons with no executive board members) and the approval of the general assembly of the company's shareholders. In addition, a listed company must promptly notify the CMA of any change in its external auditor. If a listed company seeks to change its external auditor before the elapse of three consecutive financial years, it must disclose this fact in its annual report and explain the reason for the change.</p> <p>The CMA has the authority to prescribe requirements governing the qualifications and competency of the external auditors of listed companies. Under this authority, it reviews financial statements filed by listed companies for compliance with SOCPA standards and other applicable requirements. It works with listed companies to resolve any qualifications in their audit reports and may require restatements of financial statements that deviate from applicable standards. Failure to comply with SOCPA standards is a violation of the Listing Rules and may be subject to the CMA enforcement action.</p>

Assessment	Broadly Implemented
Comments	<p>Public offerings or listings by foreign issuers are currently not allowed in Saudi Arabia, thus all listed entities are domestically incorporated companies.</p> <p>The CMA believes that SOCPA standards are comprehensive and of a high and internationally acceptable quality. It considers the processes by which SOCPA establishes and interprets accounting and auditing standards are open and transparent. They are subject to the oversight of the MOCI.</p> <p>The CMA has stated that in its view compliance with SOCPA standards and the requirements of the Listing Rules ensure that financial statements are comprehensive (i.e., describe significant accounting policies and include all material information, including any information necessary to understand required disclosures), understandable by investors, reflect the consistent application of accounting standards and are comparable among accounting periods. The CMA states that an English translation of the standards is available. .</p> <p>Since IOSCO does not provide criteria for assessment of whether or not these standards are comprehensive and of internationally accepted quality, the assessor has noted the CMA’s view that it considers SOCPA standards to be of international quality, and that there are differences in the treatment of certain issues such as valuation of real property,</p> <p>SAMA requires insurance companies and banks to comply with IFRS standards and as all but one of the banks is listed, this produces the anomalous situation that part of the market is reporting under IFRS and part under SOCPA standards. The CMA Board has issued a resolution (August 12, 2008) that exempts listed banks and insurance companies from preparing their interim and annual accounts in accordance with SOCPA standards as mandated under the Listing Rules and to use alternatively, IFRS standards.</p> <p>It is noteworthy that some listed companies in Saudi Arabia (apart from banks and insurance companies) may now have international operations in jurisdictions where IFRS standards are mandatory and which are reflected in group accounts. Some of these companies may wish to use foreign markets for credit or other facilities. There is a lead time to implement systems to account under IFRS and there is need to train affected accounting personnel. There appears to be a significant difference between IFRS and SOCPA on valuation of real property. SOCPA requires historical cost basis. SOCPA also does not require any write off on intangible assets. SOCPA has formed a Committee for Convergence of Saudi Accounting Standards with IFRS which is working on a detailed comparison between the two sets of standards.</p> <p><i>It is unclear why the CMA does not mandate IFRS standards for all listed companies, since the CMA considers SOCPA standards are “of international quality” Part of the market, banks and insurance companies are required by SAMA to comply with IFRS. It is recommended that the CMA review the mandatory obligation to comply with SOCPA standards for nonbank, noninsurance listed companies and develop a timetable in which to enable them to switch and adopt and comply with IFRS standards.</i></p>
Principles for CIS	
Principle 17.	The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a CIS.
Description	<p>Only a person authorized by the CMA to engage in “managing business” may operate and market a CIS. Applicants must demonstrate compliance with criteria relating to honesty and integrity, adequacy of human and technical resources, financial capacity, internal management procedures and the maintenance of personnel, administrative systems and procedures and contractual arrangements necessary to fulfill its powers and duties as fund operator. Compliance is verified by the CMA by review of the documentation submitted and an inspection process.</p> <p>Implementing Regulations distinguish between two types of CIS, investment funds and real estate investment funds. A person seeking authority to offer units in either type of fund by way of a public offer must obtain the CMA approval. The application must include information about the fund manager, a description of the type and objectives of the fund, a copy of the terms and conditions governing investment in the fund that will be provided to fund investors and copies of any contract that the fund manager enters into for the benefit of the fund. The funds terms and conditions must contain information necessary for investors to make an informed judgment</p>

regarding the investment proposed and must contain 36 mandatory minimum disclosures. The CMA may refuse an application if it believes the fund would not be in the best interests of investors. The CMA must notify the applicant in writing of its decision and provide reasons if it refuses the application. Units in a fund cannot be publicly offered or sold until the CMA has approved the application.

Investment funds may also be offered by way of a private placement in which the amount payable by each potential investor is not less than SR 1 million and the offer is limited either to 200 persons or to certain classes of sophisticated investors. A person seeking to make such an offer must notify the CMA at least 15 days in advance of the proposed date of the offer and provide a copy of the private placement memorandum or other offering document to be used in connection with the offer. If the CMA determines that the proposed private offer is not in the interest of investors or may violate the CML or its Implementing Regulations, it may, after giving the offeror an opportunity to be heard, issue a notification stating the offer is not to be made or issue a notice prohibiting the offer, sale or transfer of units to which the offer relates.

The CMA has authority to impose administrative penalties or commence an enforcement action before the CRSD against any person who operates an investment fund or a real estate investment fund without appropriate authorization or approval or who otherwise violates applicable regulatory requirements. The CMA may impose a fine or seek a range of sanctions including imprisonment. In addition, any securities related transaction with the unlicensed operator is subject to rescission.

An investment fund established in a jurisdiction other than Saudi Arabia may not be offered within Saudi Arabia without the CMA consent. The CMA may approve an investment fund to operate as an “international fund.” which invests substantially all of its assets in the securities of investment funds established and operating outside Saudi Arabia that invest all of their assets outside Saudi Arabia (that is, a fund of foreign funds). Any sub-manager operating in a jurisdiction other than Saudi Arabia must be established, authorized and supervised in a jurisdiction that employs regulatory standards and requirements at least equivalent to those of the CMA. Similarly, any person that provides custody services outside Saudi Arabia to an investment fund must be established, authorized and supervised in a jurisdiction that employs regulatory standards and requirements at least equivalent to those of the CMA. The CMA can utilize its ability to obtain foreign regulatory cooperation in respect of these funds. See comments at Principle 12.

A fund manager has a continuing obligation to maintain its qualifications for the businesses it is authorized to conduct. The CMA monitors the fund manager’s compliance with the requirements throughout the life of a fund. The CMA has authority at any time to examine the records of and to conduct on-site inspections of a fund manager or a fund custodian. The CMA conducts routine and cause examinations of fund managers and fund custodians as part of its inspection program, which examination normally involves the performance of an on-site inspection. Routine examinations, which the CMA bases on its risk assessment of the business of a fund manager or a fund custodian, are designed proactively to identify suspected breaches. Refer Principle 10.

The CMA also reviews financial statements that investment funds and real estate investment funds are required to submit on a regular basis. A manager of an investment fund must submit to the CMA as well as make available to unit holders audited financial statements of the fund within 90 calendar days of the end of the fund’s financial year and interim financial statements at a minimum on a semi-annual basis within 45 calendar days of the end of the financial period. A manager of a real estate investment fund must submit to the CMA annual and interim financial statements of the fund immediately after their approval by the fund’s board which must be available to unit holders within a specified timeframe. All the financial statements must be prepared in accordance with the accounting and auditing standards adopted by SOCPA. Regarding SOCPA standards, refer comments at Principle 16.

When an inspection or examination of a fund’s financial statements reveals non-compliance with an applicable requirement, the CMA can take remedial action. The CMA has comprehensive authority to investigate and bring an enforcement action for any violation of the CML and other regulations.

A fund manager must notify the CMA of material changes in its management, organization and by-laws. These requirements include providing immediate written notification of the resignation or dismissal of any member of its senior management, of any material event or change in its business or operations and of any matter material to the requirement that it remains fit and proper to conduct its authorized business.

	<p>As an AP, a fund manager must record and maintain sufficient information to demonstrate its compliance with the APR's. These include records of transactions, assets and liabilities of each client, including the cash and securities held in each client account, and details of all purchases and sales of a security made for a client. The fund manager must maintain a register of unit holders that identifies each unit holder and the number of units held by each unit holder and a record of the balance of outstanding units and of units created and cancelled.</p> <p>A fund manager must act for the sole benefit of fund unit holders and its officers and personnel are prohibited from engaging in transactions involving conflicts of interest. A manager may not act for its own account when dealing with a fund managed by it. Officers and personnel of a fund manager may not serve as directors or take up any other office of a company that forms part of the assets of the fund. A fund manager is also subject to a general obligation to disclose any actual or potential conflict to its customers in writing and may be liable to a customer for any loss incurred as a result of a conflict of interest unless it disclosed the conflict and received the customer's written approval.</p> <p>Fund managers are subject to rules governing best execution, the timely allocation of transactions, preventing churning and related party transactions and underwriting arrangements.</p> <p>A fund manager may appoint a third party or an affiliate to act as a sub-manager for the fund or to provide advisory or custody services. Any person that acts as a sub-manager operating in the Saudi Arabia must be authorized by the CMA, either to conduct managing activities or to provide custody services. The fund manager remains responsible for the investment management, administration and custody of the fund's assets notwithstanding the appointment of one or more third parties or affiliates. A fund's terms and conditions must disclose any function that the fund manager has delegated to a third party and identify the delegate. Any fees, commissions or charges made for administrative, custodial or other services by the fund manager or its affiliates may not be any higher than charges payable for similar services to a person dealing at arm's length. In addition, the CMA may impose a cap on any fee charged by a fund manager.</p> <p>A fund manager may delegate compliance or other functions to a third party. The manager retains full responsibility for assuring that the delegated function complies with all applicable regulatory requirements.</p>
Assessment	Fully implemented
Comments	<p>The number of mutual funds has grown from 208 in 2006 to 267 by the end of 2010. The majority of these are equity funds (107 in 2006 to 154 in 2010), but these are not traded on Tadawul, although they have reporting and disclosure requirements which are released through Tadawul. Real estate funds have grown from 3 to 6 in this period. The total assets under management have grown from SR 84,238 million in 2006 to SR 94,666 million by 2010. There are now approximately 320,000 unit holders in these funds. During this period sponsors of the funds have broadened from banks only to a wider group of APs. There are also 2 listed ETF's which track Saudi equities.</p> <p>Approval and ongoing monitoring of APs is the responsibility of the Capital Market Institutions Supervision Division. The CMA has established a dedicated Mutual Funds Department within the Corporate Finance and Issuance Division to regulate the submissions of applications for approval to establish a fund and the fund prospectus. The CMA is not merit-based reviewer of new funds, as the Mutual Funds Department responsibility is to ensure risks of investing are properly disclosed in the offer document and full disclosure is made of accounting and other information necessary for investors in the offer document. The Department also monitors the continuous disclosure and reporting obligations of funds, due to its expertise in these matters, rather than the Capital Market Institutions Division.</p> <p>It is important to note that funds are only "traded" or purchased and redeemed OTC and not on Tadawul.</p> <p>Funds may obtain "waivers" of regulatory obligations by way of Board resolution. These waivers must be disclosed in the terms and conditions of the fund.</p>
Principle 18.	The regulatory system should provide for rules governing the legal form and structure of CIS, and the segregation and protection of client assets.

Description	<p>The CMA regulations prescribe the legal form and structure of funds. Investment funds and real estate funds are established by a signed contract between the fund manager and fund investors, which must contain terms and conditions prescribed by the CMA regulations. These include provisions describing fund management, fund objectives, investment strategies, risks associated with investing in the fund and any fee payable by unit holders or out of the assets of the fund. Identical terms and conditions must apply to all investors who hold the same class of units in an investment fund. The terms and conditions ensure that the legal form and structure of a fund and the risks associated with the fund are disclosed to investors in a way that they are not dependent on the discretion of the fund manager.</p> <p>The CMA's filing and approval process is designed to ensure compliance with applicable form and structure requirements. Any person who seeks to offer units in an investment fund or a real estate investment fund by way of a public offer must obtain the CMA approval before offering or selling any units in the fund. A person who seeks to offer units in an investment fund by way of a private placement must notify the CMA of the offer and submit copies of the offering documents before offering or selling the units. If the CMA determines that the proposed private offer is not in the interest of investors or may violate the CML or its Implementing Regulations, it may, after giving the offeror a suitable opportunity to be heard, issue a notification stating the offer is not to be made or issue a notice prohibiting the offer, sale or transfer of units to which the offer relates.</p> <p>A person who offers or sells units in a fund without complying with the applicable approval or filing requirement may be subject to the CMA enforcement action.</p> <p>A fund manager must obtain the consent of the CMA prior to making any material change in the terms and conditions of a fund. A manager of an investment fund must notify all fund investors of such material change at least 60 days before the change takes effect. Notification of investors in a real estate fund is governed by the fund's terms and conditions.</p> <p>The manager of a fund must segregate fund assets from any other assets by establishing a separate bank account in the fund's name and by registering securities and any other assets in the fund's name. Deeds to real estate may be registered to the fund manager of a real estate fund or to any other person with a notation on the title of deed.</p> <p>Custody of the assets of an investment fund or real estate fund may be maintained by the fund manager. A fund manager may also appoint one or more third parties or affiliates, which must be appropriately authorized under the APRs, to provide custody services pursuant to a contract in writing in relation to part or all of the assets of an investment fund. The AP providing the custody services, whether the fund manager or a third party, must comply with the APRs (these provide requirements governing the segregation of the assets of the investment fund that ensure the protection and safekeeping of such). Fees, commissions and charges for custody services provided by the fund manager or by a person related to the manager may not be any higher than those payable to persons providing similar services at arm's length. The CMA may impose a cap on any service fee or commission charged by a fund manager.</p> <p>Both the fund manager and the custodian must record and maintain for a period of ten years sufficient information to establish its compliance with APRs. Among the records a fund manager or custodian must maintain with respect to each fund it serves are an accurate statement of the fund's assets and liabilities, details of transactions effected for the fund, records of the cash and securities held by the fund and details of all receipts and payments of fund money or assets. The fund manager must maintain a register of unit holders that identifies each unit holder and the number of units held by each unit holder and a record of the balance of outstanding units and of units created and cancelled.</p> <p>In addition, a manager of a fund must prepare financial statements at least twice a year and cause the annual financial statements to be audited according to the accounting and auditing standards issued by SOCPA. A fund manager must submit copies of the financial statements to the CMA and make them publicly available. Unless a fund terminates in circumstances specified in its terms and conditions, the fund manager must obtain consent from the CMA to terminate the fund. In the event a manager of an investment fund requests to cancel its authorization as a fund manager, ceases to carry on its business without notifying the CMA or becomes unable to fulfill its contractual obligations due to the death or incapacity of a portfolio manager or significant regulatory violations, the CMA may appoint a liquidator and take such other steps it deems necessary to conserve and</p>
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	manage fund assets in the best interests of unit holders, including appointing a new fund manager. In the event a manager of a fund becomes insolvent, the CMA has authority to supervise the manager's liquidation and to direct the liquidator to take such steps as necessary to establish the entitlements of the manager's clients.
Assessment	Partly implemented
Comments	<p>In 2010, the CMA initiated 39 investigations of persons suspected of conducting a securities business or the investment of funds without a license and 7 investigations of persons suspected of violating provisions of the Investment Funds Regulations or the Real Estate Investment Funds Regulations and finalized 37 cases related to conducting a securities business or investment of funds without a license. The CMA Board issued no decisions on cases related to the unlicensed investment of funds although 9 such decisions were issued in 2009. Funds are a small but important element of the capital market in Saudi Arabia since there have been numerous investigations and actions required to deal with noncompliance and that the CMA has been vigilant in upholding the integrity of its regulatory process relevant to this aspect of the market. Fund inspections are an important part of the supervisory process but it is critical that the assets of the fund be fully segregated and protected.</p> <p>The regulations permit the fund manager (or its affiliates) to hold and have full control of the assets of the fund. Segregation can be better achieved by ensuring that there are checks and balances applicable to custody arrangements and the managers ability to deal with the fund assets.</p> <p>Custody of fund assets should be held by an arm's length (separate) entity and the holdings verified by independent audit.</p> <p><i>To date there has been no legal test in an insolvency of fund situation and the experience in other GCC regions illustrates that the rights of investors to the assets of the fund may not be clear cut in the event of competing claims for the assets of the fund, particularly if complex structures are involved. Until the fund regime is tested and found to be legally effective in contested litigation, there will be uncertainty as to the effectiveness of the CMA regulations designed to achieve legal segregation and its full compliance with this principle.</i></p>
Principle 19	Regulation should require disclosure, as set out under the principles for issuers, which is necessary to evaluate the suitability of a CIS for a particular investor and the value of the investor's interest in the scheme.
Description	<p>The manager of a fund is required under the Implementing Regulations to disclose sufficient information about the fund's management, objectives, strategies, risks and other information to enable potential investors to make an informed investment decision.</p> <p>Prior to investment, the manager of a fund must provide to the investor a document approved by the CMA that sets forth the terms and conditions of the investment. The manager must present the information in a manner that is comprehensible and easy to understand. The terms and conditions for either a fund must include the date the document was issued and information on the fund's organization, management, custodian, use of external administrators or managers, investment policies, fees and charges, method of asset valuation and purchase and redemption procedures (including pricing). The terms and conditions must also address the rights of investors and the risks involved with the fund's investment objectives and strategies and fund's audited financial statements. Disclosure of fund fees must include any dealing or other costs payable out of fund assets.</p> <p>A manager seeking to offer interests in an investment fund or a real estate fund by way of a public offer must obtain the prior approval of the CMA. The CMA may prevent the offering by denying the manager's application. A manager who seeks to offer an investment fund by way of a private placement must notify the CMA and provide copies of the offering documents at least 15 days before the proposed offer. The CMA is empowered to prevent the proposed offer on a determination that it is not in the interests of investors or may violate the CML or its Implementing Regulations.</p> <p>Managers of funds must make available to fund investors annual audited and interim financial statements that are prepared according to standards issued by SOCPA. The fund's terms and conditions must be kept up-to-date. The CMA approval is required prior to making any material change to the terms and conditions. Unit holders must be notified at least 60 days in advance of the effective date. Managers must revise the terms and conditions annually to show actual fee and expenses and to update performance information and send copies of the updated terms and conditions to all fund investors. A manager of a real estate fund must ensure that informational material about the</p>

	<p>fund does not contain any incorrect or misleading information. In addition, a manager of an investment fund, at least once every three months, and a manager of a real estate investment fund, at least once every six months, must report to investors the net asset value of the fund, the number and value of the units in the fund held by the investor and a record of transactions specific to the investor, including any payment of dividends since the last report.</p> <p>Any advertisement used in connection with an offer of interests in an investment fund or a real estate fund is subject to regulations that prescribe specific content requirements and generally require that the advertisement be clear, fair and not misleading. Advertising requirements applicable to investment funds address the presentation of fund performance information, among other matters.</p>
Assessment	Fully implemented
Comments	<p>The CMA in its Investment Funds Regulations does not require disclosure of the assets of the fund. There is regular reporting (not less than three monthly) to unit holders. If a fund discloses a list of selected holdings in an advertisement, the holdings listed must be selected in an objective and balanced manner and must disclose the basis for selecting the holdings listed. The new IFRs will require the disclosure of top holdings.</p> <p><i>The CMA could give consideration to mandating specific disclosure of fund assets (for example the top 10 assets) to assist unit holders monitor their investment in the fund.</i></p> <p>Since the market in Saudi Arabia is largely retail and funds under management are significant, the CMA has a large Corporate Finance Division and within it a well-resourced Mutual Funds Department.</p>
Principle 20.	Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a CIS.
Description	<p>Investment fund and real estate fund assets are required to be valued at regular intervals. Open-ended investment funds, (which are investment funds with changing capital, the units of which increase with the introduction of new units, and decrease with redemption by unit holders of some or all of their units), must provide for the sale and redemption of their units of interest at regular intervals at a price that is calculated by reference to the net value of the fund's assets.</p> <p>Implementing Regulations require that the terms and conditions of funds describe the method of valuing the assets of the fund, the timing of the valuation and the method of publishing the price of its units. Valuations must be conducted in accordance with SOCPA standards, which standards provide direction for the fair valuation of assets for which market prices are not readily available. When a manager applies for approval to offer and sell units in a fund, the CMA reviews the valuation method to ensure that it is fair and reliable.</p> <p>Fund managers must calculate asset valuations on a regular basis. Valuation of the assets of an investment fund must occur on each of at least two dealing days each week when units of the fund are sold and redeemed. Valuation of the assets of a real estate investment fund must occur at least once every six months.</p> <p>Managers of investment funds and real estate funds must prepare financial statements at least twice a year and cause the annual financial statements to be audited. All financial statement must be prepared and annual financial statements must be audited according to the accounting and auditing standards issued by SOCPA. See comments at Principle 16. The audit must be conducted by an auditor who is independent from the fund manager and any of its affiliates. The external auditor verifies the manager's valuation of fund assets as part of the annual audit of the fund's financial statements.</p> <p>Units of interest in an Open-ended investment fund must be sold and redeemed on at least two dealing days during each week. The regulations require the fund manager to calculate the price of the units by reference to the net value of the fund assets on the relevant dealing day, as of a time no earlier than and up to one day later than the deadline for submitting instructions of purchases or redemptions. The fund manager may delay valuation of fund assets for two days if a substantial portion of fund assets cannot be valued promptly.</p> <p>The manager of an investment fund must disseminate information regarding the price of fund units at least weekly via the Tadawul, which the CMA monitors. If the CMA discovers a pricing error, it requests the fund manager to</p>

	<p>provide details of the error and to take necessary corrective action.</p> <p>An Open-ended investment fund may suspend the right of redemption only in limited circumstances that serve to protect the interests of investors remaining in the fund. Circumstances in which the right of redemption may be suspended must be described in the fund's terms and conditions. As a matter of practice the CMA must approve any suspension or deferral that is not in accordance with the regulations. In all cases, the fund manager must notify the CMA of such actions, and the CMA has the ability to demand or stop the redemption in the interests of fund investors.</p> <p>The subscription, redemption and trading of units in a real estate fund are subject to procedures described in the fund's terms and conditions. The regulations require a manager of a real estate fund to evaluate fund assets at least once every six months and in any event within three months of purchasing or selling any fund asset by obtaining valuations from two persons, independent from any party related to the fund, that are known for their experience, honesty and knowledge of real estate activity. The valuation report must describe the method of valuation, including any relevant assumptions, and an analysis of variables affecting the real estate market. The fund manager may postpone the valuation after obtaining the CMA approval. The manager of a real estate investment fund must maintain a register of all purchase orders and offers for sale of the fund's units and inform all investors willing to purchase or sell about the register and the benchmark price of the units.</p>
Assessment	Broadly implemented
Comments	<p>The CMA aims to ensure compliance with all regulations applicable to investment funds and real estate investment funds, including requirements respecting asset valuation and unit pricing, through the use of its enforcement authority. The CMA may bring an enforcement action before the CRSD against or impose a fine on any person who violates the CML, its Implementing Regulations, including requirements governing asset valuation and pricing of units in an investment fund. However no evidence was provided of action taken by the CMA to ensure compliance with the rules applicable to asset valuation and pricing other than that a Portfolio manager had been barred for a violation of the CMA rules in 2009. With respect to APs, including fund managers, it also may place restrictions on licensed activities or revoke the license.</p> <p>The CMA is currently reviewing and amending the regulations that apply to investment funds. As amended, the regulations will establish requirements addressing pricing errors and provide the CMA specific authority to require notification and to take action with respect to the suspension or deferral of redemption rights. As part of the review of the Investment Funds Regulations, the CMA is also considering the need for additional guidance on the valuation of fund assets, particularly those where market prices are not available.</p> <p><i>The CMA should complete its review and amend the regulations that apply to investment funds and its requirements relating to pricing errors and obtain specific authority to require notification and permit it to take appropriate action with respect to the suspension or deferral of redemption rights. The CMA should provide additional written guidance on the valuation of fund assets, particularly those where market prices are not available.</i></p>
Principles for Market Intermediaries	
Principle 21.	Regulation should provide for minimum entry standards for market intermediaries.
Description	<p>Market intermediaries must be authorized by the CMA in order to carry on securities business. Article 5 of the Securities Business Regulations provides that a person may not carry on a securities business in Saudi Arabia unless that person is an AP authorized by the CMA to carry on securities business. A securities business means carrying on any of the following securities activities by way of a business, unless an exclusion specified in the Securities Business Regulations applies:</p> <p>(i) Dealing -dealing in a security as a principal or as an agent, including selling, buying, managing the subscription for or underwriting securities;</p> <p>(ii) Arranging -introducing parties in relation to securities business, advising on corporate finance business, or otherwise acting to bring about a deal in a security;</p>

(iii) Managing -managing securities belonging to another person in circumstances involving the exercise of discretion;

(iv) Advising -advising a person on the merits of that person dealing in a security or exercising any right to deal conferred by a security; and

(v) Custody -safeguarding assets belonging to another person which include a security, or arranging for another person to do so, and custody includes taking the necessary administrative measures.

An AP must be authorized with respect to each securities business it conducts and authorization is only available to legally established entities in Saudi Arabia.

Individuals working for an AP and performing designated functions must register with the CMA as a registered person, except with the CMA's prior written consent. The registrable functions are CEO or managing director, finance manager, director or partner, senior officer or manager, compliance officer, MLRO, and client functions, including sales representatives, investment advisers, portfolio managers and corporate finance professionals. The application also must include details of their qualifications and experience sufficient to enable the CMA to assess whether the applicant for authorization is fit and proper. Applicants for registration must pass a qualification examination required by the CMA, or secure an exemption. The CMA has prescribed the examination requirements and guidance on eligibility qualifications and criteria for an exemption, as required under Article 21d of the APRs.

Under APR Article 5, APs must comply with principles which include integrity, skill care and diligence, efficiency of management and control, financial prudence, proper market conduct, protection of client assets, co-operation with regulators, clear, fair and not misleading communications with clients, pay due regard to customers' interests, manage conflicts of interest fairly, and provide suitable advice and appropriately manage discretionary decisions.

Articles 6 and 7 of the APRs prescribe the standards and criteria that all applicants for authorization must meet which are (i) it is fit and proper to carry on securities business of the kind and scale for which it seeks authorization; (ii) it has adequate expertise and resources for the kind of securities business for which it seeks authorization; (iii) it has managerial expertise, financial systems, risk management policies and systems, technological resources, and operational procedures and systems that are sufficient to fulfill its business and regulatory obligations and to conduct the kind of securities business for which it is seeking authorization; and (iv) its directors, officers, employees and agents have the necessary qualifications, skills, experience and integrity to carry on the kind of securities business for which it is seeking authorization.

The CMA may approve an application for authorization in whole or in part, or it may approve the application subject to conditions and limitations it considers appropriate. If a proposed registered person has committed securities violations or otherwise is unsuitable to participate in the applicant's proposed securities activities, the CMA may decline to approve the application for authorization or condition its approval on termination of the registered person's employment by the applicant or, the implementation of appropriate limitations on the person's activities. If an applicant fails to provide requested information on a timely basis, the CMA may decline to consider the application. If an applicant does not meet the applicable standards and criteria, the CMA may refuse the application, giving reasons. An applicant may appeal to the CRSD any decision or action of the CMA relating to the application.

Once authorized, an AP may vary or amend its permitted business profile to permit it to carry out additional kinds of securities business by making an application to the CMA. The CMA has all of the powers described above to consider the proposal, and may require some or all of the information that would be required in considering an initial application. The CMA's decision on an application for a variation or amendment is subject to review by the CRSD.

Articles 13 and 14 of the APRs require prior notice and approval by the CMA for changes in any controller or the establishment of close links with any person.

	<p>Article 15 of the APRs requires notification to the CMA within 24 hours of any material change to the AP's business or operations, any matter material to the requirements of the AP or any of its controllers or registered persons to remain fit and proper, and any other matter which would be material to the CMA's supervision of the AP or any of its registered persons, as well as specified events such as (1) changes in key management personnel, (2) mergers, acquisitions and reorganizations involving the AP, (3) significant misconduct by the AP or its registered persons, (4) the imposition of disciplinary measures or sanctions in relation to the AP's securities business, (5) the conviction of the AP for any offence under legislation, or for any offence involving fraud or any act involving a lack of integrity or dishonesty or the imposition of penalties for deliberate zakat or tax evasion, (6) the granting or refusal of any application for, or revocation to carry on securities, banking, or insurance business outside Saudi Arabia, (7) the withdrawal or refusal of an application for, or revocation of, membership of an exchange or clearing house, (8) the appointment of inspectors to investigate the affairs of the AP, (9) insolvency or consideration of winding up proceedings, (10) proposed reorganizations or business expansion that would have a material effect on the AP's business, risk profile or resources, (11) the establishment of, or significant changes to, a material outsourcing arrangement, (12) a significant failure in the AP's system or controls, and (13) any event that results in a material change to the AP's capital adequacy.</p> <p>On receiving such notification, the CMA may require the AP to provide additional information necessary to assess the matter and impose any condition, restriction or other requirement on the AP reasonably necessary to address the regulatory concern raised by the subject matter of the notification.</p> <p>The CMA publishes on its website the names of APs, and the types of securities business they are authorized to conduct.</p> <p>Article 16c of the APRs authorizes the CMA to inspect an AP's records directly or through a person it appoints for that purpose. Article 18 of the CML requires that any person (not just APs), provide the CMA with "documents and information it requires for the purposes of carrying out its duties in accordance with the provisions of this Law."</p> <p>APs are required to electronically submit a monthly prudential report to the CMA, including an income statement, computation of net capital and aggregate indebtedness. These reports must be submitted electronically to the CMA within 17 days of the month's end. APs also must submit their annual financial statements to the CMA.</p> <p>Investment advisers (APs who are authorized to only engage in advising activities) are not allowed to conduct any other types of securities business.</p> <p>Regulation also includes record keeping requirements, requirements as to the disclosures to be made by an investment adviser to potential clients, and rules and procedures designed to prevent guarantees of future investment performance, misuse of client assets, and potential conflicts of interest.</p> <p>Before conducting any business with a client, an AP must provide to the client a document setting out the basis on which the securities business is to be conducted with or for the client, which is required to include information on the investment strategies and the extent of the discretion to be exercised, the fee structure and other client charges, how performance will be measured and valuations made, risk warnings, arrangements for custody of client securities and money, and potential conflicts of interest.</p> <p>APs owe a fiduciary duty to clients and must act in good faith and in the interest of the clients and must exercise the care, skill and diligence that would be exercised by a person having the knowledge and experience that may reasonably be expected of a person in the position of the AP and the knowledge and experience of the AP.</p> <p>Authorization requirements must be met on an ongoing basis.</p>
Assessment	Fully implemented
Comments	The CMA assesses and analyzes the applicant for an AP's license by reviewing its business plan, manuals, policies and procedures, and audited financial statements. The CMA also may seek relevant information from other regulators for further assessment.

	<p>In considering whether an applicant is fit and proper, the skills, experience, competence and integrity of its employees, officers and agents are assessed. The applicant's personnel will be assessed against the following criteria that they must (i) possess adequate qualifications and professional expertise, including technical knowledge and skills, to carry out their responsibilities; (ii) have probity and soundness of judgment commensurate with their positions; (iii) must fulfill their responsibilities with diligence and to protect clients' interests; (iv) not have committed an offense involving fraud or dishonesty; and (v) not have broken any law or regulation governing the securities business or aimed at protecting investors.</p> <p>If the applicant has 'close links with another person (i.e., if the applicant controls, is controlled by or under common control with another person), the CMA also must be satisfied with the integrity, regulatory status, business record and financial soundness of that person, and that the close links will not impair the effective supervision of the applicant, or its operation or compliance with the APRs.</p> <p>The CMA also prescribes minimum paid up capital requirements for each security business category and minimum net capital requirements.</p> <p>The financial statements of an AP must be prepared in accordance with SOCPA or generally accepted accounting principles, and accredited and signed by the AP's accountant, who must be a member of SOCPA. See comments at Principle 22. The annual financial statements must include the AP's current and projected financial position, including capital, financial resources, revenues and expenses, computation of net capital and aggregate indebtedness, and determination of required minimum net capital.</p> <p>The CMA's Capital Market Institutions Division includes an Inspection Department that monitors and conducts routine and cause examinations of APs. In addition, the Prudential Department includes a Financial Oversight unit, which is responsible for supervising the financial activities of APs for compliance with the CML and its Implementing Regulations, and a Capital Adequacy unit, which is responsible for supervising the capital adequacy of APs for compliance with the CMA's capital adequacy requirements. CMA monitors the trading activity of APs on the Tadawul through SMARTS.</p> <p>Securities business (Securities Business Regulations, Article 3) may only be conducted by an AP or an exempt person as specified in Annex 1 of those regulations. If the activities of family offices constitute a securities business as defined and these activities are not exempted, authorization must be obtained from the CMA. This is appropriate as the definition of securities business in Article 3 requires the activities to be conducted "by way of business" so the activities of family offices could constitute securities business and hence need authorization in some situations.</p>
Principle 22.	There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.
Description	<p>All APs are required by the APR Article 6 to comply with initial and ongoing capital requirements. The details are set out in a Prudential Guidance Note issued by the Board. The initial requirement of paid capital must be not less than a set minimum amount in accordance with the nature of the APs business. Dealing, custody, and managing require SR 50 million, but arranging is SR 2 million, and advising requires SR 400,000. Some APs are licensed to conduct all activities and must comply with the highest requirement. On an ongoing basis APs must maintain sufficient net capital to permit, if need arises, an orderly liquidation of its business. Requirements applicable to margin lending are set out in APR Article 45 which specifies the circumstances under which AP may effect a margin transaction for a client and mandates a minimum margin of 25 percent of the value of a transaction to be effected. APs may make a secured or unsecured loan or grant credit to a client for a period of no more than five days for the purpose of margin.</p>
Assessment	Fully implemented
Comments	<p>All APs authorized to carry on dealing, custody or managing must comply with the Prudential Guidance Note issued by the Board as an Implementing Regulation in January 2007. The Note requires on an ongoing basis net capital standard of the greater of SR 50 million, 5 percent of higher reported total revenue for the preceding 12 months (or annualized reported monthly revenue for the most recent month), or 10 percent of Aggregated Indebtedness (plus the sum by which each net balance owed to the AP by a party exceeds 50 percent of the higher of any of these amounts). Net capital is defined as owners' equity (total assets less total liabilities) increased by</p>

<p>approved subordinated debt but reduced by illiquid assets, adjustments relating to those assets and operational charges. Aggregate indebtedness is calculated by adding the fair value of liabilities payable in cash, amounts owed to clients and other funding liabilities. The Note also sets out the circumstances when the CMA will allow subordinated debt for capital adequacy purposes. It also mandates “professional indemnity” insurance and prescribes the cover to be maintained.</p> <p>The effect of the net capital requirements is to provide a cushion sufficient to permit an AP to absorb some losses and still permit it to wind down its business over a relatively short time without loss to its customers or disruption to the orderly function of the markets.</p> <p>The minimum net capital requirement does not apply to APs authorized to carry out arranging or advising because those persons are not authorized to effect securities transactions or to have custody of client assets or money but they must continue to comply with the minimum paid capital requirement.</p> <p>Although APR Article 45 prescribes requirements for margin lending, the risks of this activity are borne via the AP’s clearing bank, since there is little such activity by AP’s themselves and the margin lending is provided by the customers bank. Banks and their affiliated APs are now separate legal entities and their operations are separated. The Tadawul trading and settlement system is T + 0 for equities and all funds are required before transactions are effected. The maximum intraday price movement cannot exceed 10 percent from the previous day’s close. Although some credit can be extended by an AP which is a member of Tadawul to its clients, this is not the current practice. Industry speculation that margin lending activity will become more active by APs because the CMA might change its requirements is not correct as the CMA does not presently contemplate changing the rules applicable to margin lending. With the increasing presence of non-bank APs, the current arrangements are now structured so as not to adversely affect a margin client that wants to use the facilities of its own bank for the lending when the AP uses a different clearing bank to that of its customer.</p> <p>An AP must maintain records such that its capital levels can be readily determined at any time. An AP must maintain complete financial records of its transactions and submit monthly prudential reports to the CMA that include its balance sheet, income statement, computation of minimum net capital requirements and computation of net capital. Deadlines for submission are set out at Principle 21. Under APR Annex 3.2 APs have an obligation to give a written notice to the CMA (prior to or where the event occurs, as soon as it becomes aware) of a material change in its capital adequacy, including any significant loss. <i>There does not appear to be an express provision for APs to maintain copies of its calculations of capital adequacy on a daily basis and the CMA should consider introducing such an obligation.</i></p> <p>The AP must notify the CMA immediately if its net capital falls below the minimum requirement or if there occurs one of certain specified events that are likely to cause deterioration in its financial position. Also, an AP must notify the CMA of any event that results in a material change in its capital adequacy. See Principle 23 regarding audit requirements.</p> <p>The net capital supervisory framework takes into consideration risks external to the AP, for example, risks from unlicensed affiliates and off-balance sheet risks. In addition, APs that are members of a group subject to consolidated financial supervision are required to notify the CMA of any proposal under which a member of the group may be considering an action that would result in a material change to the AP’s financial resources or financial resource requirements or the payment of a special or unusual dividend or repayment of share capital or a subordinated loan.</p> <p>Staff of the CMA’s Capital Markets Institutions Division- Prudential Department monitors capital adequacy compliance by way of review of monthly returns submitted by APs. If capital adequacy falls below the required amount, the CMA management will be advised and action taken as appropriate to the circumstances of the AP. To date, APs have made numerous capital increases in response to market developments and the CMA is confident that the quality of its monitoring and review of the APs returns on a monthly basis shouldn’t raise unexpected issues. Because securities transactions are settled on trade date (“T+0”) and APs are not funding clients except via margin lending, the exposure that could arise if large clients fail is borne by the banking system, not APs. SAMA, Tadawul and the CMA consider such risk issues at their regular standing committee meetings. However, the CMA has the power to require corrective action and may suspend, curtail or restrict the business activities of the AP if a</p>
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	<p>deteriorating financial position is uncorrected.</p> <p>The 2007 Prudential Guidance Note was legally issued by the CMA as an enforceable “instruction” pursuant to the power conferred on it by CML Article 6, but these Notes are not published on the CMA’s website. The reason for not publicly issuing the content was stated to relate to the highly technical nature of its provisions and that the content is to undergo revision and subsequent publication as an implementing regulation. The note was, however, issued to all APs by correspondence. The Note also mandates professional indemnity insurance and prescribes the cover to be maintained. The cost of the cover may be high for some APs and the cover appears more related to fidelity insurance than professional indemnity insurance. The CMA appears to be considering removing the obligation for such insurance.</p> <p><i>It is recommended that the content of the Guidance Note be revised as proposed to make the content less technical and more relevant for large exposures and asset valuation and that it be published as a separate Implementing Regulation. Whether professional indemnity and/or fidelity insurance should be mandatory (having regard to the risks to which an AP is exposed) should also be clarified. The provisions should be reviewed regularly so as to take into account risk-based factors in the market. As the market develops, capital requirements should be reviewed, particularly as world standards for identifying and covering risk in financial markets is changing and receiving more attention.</i></p>
Principle 23.	Market intermediaries should be required to comply with standards for internal organization and operational conduct that aim to protect the interests of clients, ensure proper management of risk and under which management of the intermediary accepts primary responsibility for these matters.
Description	<p>An AP must establish and maintain a division of responsibilities among its directors or partners and senior management so that it is clear who is responsible for each function. The CEO is responsible for arranging this division of responsibilities and overseeing the establishment and implementation of the AP’s systems and controls.</p> <p>APs must establish written risk management policies, compliance procedures, a compliance monitoring program, operating procedures and an employee code of conduct and appoint one of its senior officers as the compliance officer responsible for the compliance function. APs must appoint a MLRO responsible for its AML/CFT program.</p> <p>The governing body of the AP must carry out a regular review of its internal controls and risk management program at least annually and expeditiously monitor any action arising as a result of the review. Such annual review must be documented.</p> <p>An AP’s internal and external auditors must review its books, accounts, and other records at least annually. As part of its review, the internal auditor is responsible for appraising risk management strategy and internal controls. If an external auditor comes across a material breakdown in the course of conducting an audit, it is their responsibility to report it to the AP. Under the APRs APs must self-report any significant failure of its systems or controls, including those reported to the AP by its auditor.</p> <p>Under the APRs, an AP must establish written procedures to ensure the timely resolution of client complaints. The AP must design the procedures to ensure that a complaint is investigated promptly by an uninterested officer of the AP, that written complaints and any action taken on them are documented and that each employee working with clients made aware of the procedures.</p> <p>Chapters 1-3 of Part 7 of the APRs require all APs, including custodians, to clearly segregate client money and assets from their own, and that creditors of the AP do not have any claim or entitlement to segregated money and assets. Article 73 of the APRs requires that client money be held in a client account with a local bank. Article 74a of the APRs requires that within 20 days of opening a client account the AP obtain a written acknowledgement from the bank at which the client account has been opened that (i) the account will only hold client money and not money belonging to the AP; and (ii) the bank will not enforce against the funds held in the client account any right or claim that it has against the AP.</p> <p>If the AP does not timely receive the written acknowledgement, it must withdraw all money in the account and pay it into another client account with another local bank.</p>

	<p>Article 84 of the APRs provides that if client assets are held in an account with an AP, the AP must ensure that the title to the account makes clear that the assets belong to the client and are segregated from the AP's assets. Where client assets are recorded in an account with a custodian or with an overseas custodian, the AP must require that the custodian or overseas custodian makes clear in the title of the account that the assets in the account belongs to one or more clients of the AP and that the assets are segregated.</p> <p>The APRs also impose a duty of care and other requirements, including a duty to undertake a risk assessment, on an AP in deciding or recommending where to hold client assets.</p> <p>APs also are required to conduct periodic (at least once every 7 days) reconciliation of their records of client money and assets, correct any discrepancies, and make good any shortfalls. In addition, as often as necessary but at least every six months, an AP must conduct a (1) count of all client assets physically held by it, and reconcile the results of that count to its records, and (2) a reconciliation between its record of client holdings and its record of the location of client assets.</p> <p>Where an AP is unable to perform a reconciliation of client money, it must notify the CMA as soon as possible. If an AP is unable to resolve a discrepancy in a reconciliation of client assets within seven days, it must report the matter to the CMA.</p> <p>APs are required to maintain records of their securities business, including detailed client identification and asset information and records of all securities transactions effected. An AP also must maintain records such that its capital levels can be readily determined at any time.</p> <p>APs are subject to requirements on the segregation of key duties and functions as well as Chinese walls arrangements.</p> <p>An AP owes a fiduciary duty to its clients as prescribed in Annex 5.4 to the APRs.</p>
Assessment	Fully implemented
Comments	<p>An AP is required to establish and maintain appropriate systems and controls, including systems and controls relating to customer protection, risk management, and internal and operational controls, sufficient to enable the AP to comply with the CML and its Implementing Regulations.</p> <p>The governing body of the AP is responsible for supervising the following:</p> <ol style="list-style-type: none"> 1. ensuring that appropriate policies and procedures are in place to enable the AP to comply with the CML, its Implementing Regulations and all other applicable regulatory requirements; 2. ensuring that the compliance function is appropriately resourced and has access to all records of the AP; 3. the establishment, implementation, enforcement and maintenance of the compliance manual and the compliance monitoring program; 4. establishing and ensuring compliance with the code of conduct; 5. preparation of reports and notifications to the CMA; and 6. procedures for reporting to the governing body on compliance matters. <p>Depending on the nature, scale and complexity of its business, an AP may establish or be required by the CMA to establish a compliance committee to monitor its securities business and its compliance program.</p> <p>Under Article 59 of APR's an AP may delegate (outsource) specific compliance or other functions to an external party, provided that the AP performs adequate diligence to establish that the delegate is capable of performing the delegated task, the delegation is clearly documented, the AP monitors the delegate's performance, and appropriate remedial action is taken if concern arises as to the delegate's performance. Notwithstanding the delegation, the AP, its compliance officer and compliance committee (if any) remain responsible for fulfilling their respective regulatory obligations. Article 14 of the AML/CFT Rules know your client obligations can be outsourced to a third party under specified requirements. Under Article 21 of the Investment Fund Regulations, an AP that is managing a mutual fund may delegate specified activities to a third party subject to certain requirements.</p>

	<p>Depending on the nature, scale and complexity of an AP's business, it may delegate part of the task of monitoring the appropriateness of its systems and safeguards to an internal audit function. The internal audit function should have clear responsibilities and reporting lines to an audit committee or appropriate senior manager, be adequately resourced and staffed by competent individuals, be independent from the day-to-day-activities of the AP, and have appropriate access to the AP's records.</p> <p>Article 85 of the APRs includes additional provisions intended to ensure that client assets are held and title is registered or recorded in a way that makes clear that they are client assets, except that title to securities acquired overseas may be registered or recorded in the AP's name or in the name of the overseas custodian where it is not feasible to register or record title to the asset in the client's name and the client has previously been given specified disclosure in writing as to the risks of the arrangement and agreed in writing to the arrangement. The AP must repeat the risk assessment as frequently as is needed to be satisfied on a continuing basis that any custodian has in place adequate arrangements to safeguard the assets and is subject to appropriate standards of regulatory oversight. The APRs also require that an AP must enter into a written agreement with any custodian covering specified terms of business, intended to ensure the protection of the client assets.</p> <p>Before an AP deals, advises or manages for a customer it must obtain from the customer information (know your customer) about the customer's financial situation, investment experience and investment objectives relevant to the services to be provided. In addition, the AP must take reasonable steps to enable the customer to understand the nature of the risks involved in the type of transaction in which the customer is engaging. The APRs also require that an AP must provide a client with an agreement, setting forth the basis on which securities business will be conducted with or for the client, including among other things details of any payment for services payable by the customer.</p> <p>An AP must regularly report to clients certain information concerning the securities business it conducts for the client. An AP that carries out a purchase or sale of a security with or for a client must promptly send to the client a record of the transaction, which includes the AP's charges in connection with the transaction. An AP that provides management services must send a valuation report at least once every three months that identifies the securities in the portfolio, states the total value of the portfolio, describes the basis on which each security has been valued, reports transactions that occurred and the total amount of fees, charges and taxes paid out of the portfolio during the intervening period. In addition, an AP must provide to each client as often as necessary, but not less frequently than annually, a statement that, among other things, lists all client assets for which the AP is accountable.</p> <p>The CML and the APRs also include provisions designed to protect investors in the event of financial insolvency of APs, including provisions facilitating the transfer of securities positions. Article 96 of the APRs provides that if an insolvent AP has or may have insufficient client assets or money to satisfy its obligations to return that money and assets to its clients, the clients' claims in respect of that shortfall rank in priority to the claims of all other creditors. The CMA also has the authority to direct the liquidator to take whatever steps may be necessary to establish the entitlements of the insolvent AP's clients. The CMA also may require the transfer of client money and assets to another AP to protect investors and ensure that client money, assets and all other claims of clients are resolved. Although there has been no court case to-date to test the efficacy of these provisions, the CMA is confident that the CML will operate as intended to protect the claims of clients of APs.</p> <p>When an AP has an actual or potential conflict of interest in relation to a transaction it must disclose the conflict of interest to the client in writing. An AP is liable to the client for any loss that the client incurs as a result of such a conflict of interest unless the AP has disclosed the conflict to the client in writing and the client has agreed in writing that the AP can proceed notwithstanding the conflict.</p> <p>An AP must comply with Article 14 of the Market Conduct Regulations which requires an AP to provide best execution when dealing with or on behalf of a client.</p>
Principle 24.	There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.
Description	The CMA has processes in place to monitor an AP's compliance with its capital adequacy and other obligations. The Capital Market Institutions Supervision Division is responsible for reviewing market intermediaries' capital levels and taking appropriate action, where necessary. The Prudential Department within that division includes a

	<p>Financial Oversight Unit, which is responsible for supervising the financial activities of APs for compliance with the CML and its Implementing Regulations, and a Capital Adequacy Unit, which is responsible for supervising the capital adequacy of APs for compliance with the CMA's capital adequacy requirements.</p> <p>See also the comments under Principle 23 and 29 on the protections that apply to protect client assets on an insolvency of an AP.</p>
Assessment	Broadly implemented
Comments	<p>The CMA conducts regular capital adequacy monitoring of APs to seek early warning of potential failures, so that steps may be taken to avert default or minimize the effect on investors or the market when they do occur.</p> <p>The CMA has full powers to take appropriate action in the event of default. The Prudential Department receives monthly prudential reports from APs, which include an income statement, computation of net capital and aggregated indebtedness. The Prudential Department monitors these reports for early signs of financial problems, so that it can take appropriate action where an AP shows signs of financial deterioration. The CMA also may receive early warning of a potential default by an AP under provisions of the APs Regulations requiring an AP to provide (1) prior written notice of certain actions or events that might result in a material adverse change in the AP's financial resources or financial requirements under the APRs, or (2) at least 14 days' prior notice before submitting a petition to commence settlement proceedings.</p> <p>The CMA states that it is in the process of finalization of its new Prudential Rules and will develop internal policies and procedures to include different stages of early warning system according to different levels of APs' capital adequacy. In the meantime the Net Capital positions of APs are being monitored by the Prudential Department and APs that do not demonstrate a Net Capital position that is in line with the minimum are being requested to address their shortfall accordingly.</p> <p>The CMA has the power to restrict the activities of an AP in order to minimize loss to investors and the market. The Prudential Department will notify APs of any capital material deficiencies it discovers, and the APs are required to provide written notification of their corrective action within 24 hours.</p> <p>The CMA also has the power to place restrictions on the approved activities of an AP or revoke or suspend its authorization.</p> <p>A committee of representatives of SAMA, the CMA, and Tadawul also meets from time to time to review risks/exposures of the largest clients and APs to the Depository and the market conducted by Tadawul</p> <p>There is no documented procedure (involving at a minimum the CMA, Tadawul, and SAMA) to agree a process for dealing with an unexpected insolvency situation of an AP, or when such an event may occur. Such a procedure would guide the CMA operating units on the process they should follow in the event of the insolvency of an AP. There does not seem to be a rule requiring specific early warning to the CMA if a specific percentage deterioration in the financial position of an AP occurs. Although to date no such situation has arisen, this does not mean (notwithstanding the procedures for cash and securities operating at Tadawul) that an AP can't become insolvent unexpectedly. <i>The CMA should take the initiative and prepare and document a plan to deal with an insolvency of a market intermediary. It should obtain the agreement of other stakeholders, of the procedure to apply in the event of an unexpected AP insolvency and document same.</i></p>
Principles for the Secondary Market	
Principle 25.	The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.
Description	The only securities exchange authorized under the CML in Saudi Arabia is the Tadawul, which is regulated by the CMA. The CML designates the CMA as the regulator of the Tadawul, specifies its regulatory responsibilities, and grants to the CMA full responsibility and authority to oversee the Tadawul in its capacity both as a securities exchange and a clearing, settlement and depository center.

	<p>The CML does not allow for the establishment of a new securities exchange or other types of trading systems. Article 20 of the CML states that the Tadawul “shall be the sole entity authorized to carry out trading in Securities in Saudi Arabia.”</p> <p>No rules, procedures or guidance have been issued to set out how the CMA would deal with the regulatory oversight to apply to an alternative trading system or new exchange, as the current regulations only contemplate the Tadawul as providing trading facilities.</p>
Assessment	Broadly implemented
Comments	<p>There are no alternative or dealer trading systems/networks operating in Saudi Arabia. The CMA believes that there will never be an alternative trading system or new exchange. The CML authorizes and requires the CMA, among other things, to regulate and develop the Tadawul, seek to develop and improve methods and systems of trading, develop procedures that would reduce the risks related to securities transactions, achieve fairness, efficiency and transparency in securities transactions, and monitor the activities of parties subject to its control and supervision, including the Tadawul. Tadawul is not an SRO. The CMA has reviewed functionally the Tadawul trading system and closely monitors the efficacy of system changes. Should there be an outage or systems trading issue arise on Tadawul, the CMA will review and discuss the situation with Tadawul.</p> <p>Arrangements for monitoring, surveillance and supervising the Tadawul and its members to ensure fairness, efficiency, transparency and investor protection, as well as compliance with the CML, are the responsibility of, and are conducted by, the CMA (see Principle 26). Thus, the CMA is responsible for investigating reports of suspected violations of law and deciding whether enforcement action is warranted. The CMA also is responsible for assessing the Tadawul’s technical systems standards and procedures relating to operational failure, its record keeping systems, arrangement for holding client securities, and information concerning the procedures for trade clearance and settlement. The CML provides the CMA with full power to obtain information necessary to conduct such assessment through its inspection powers and its power to require any person to provide it with documents and information its requires to carry out its duties in accordance with the CML.</p> <p>The CMA also is responsible for identifying and addressing disorderly trading conditions on the Tadawul. Under the CML, in the event of a market disruption, the CMA has full powers to take appropriate action, including the power to suspend all trading on the Tadawul for up to one day on its own authority and for longer periods with the approval of the Minister of Finance, and to suspend trading in an individual security in circumstances specified in the Listing rules, including when the CMA “considers it necessary for the protection of investors or the maintenance of an orderly market”. The CMA also is responsible for assessing the adequacy of its powers and procedures with regard to disorderly trading conditions to enable it to fulfill its responsibilities, under CML Article 5.</p> <p>The Tadawul is not responsible for market surveillance and does not have the authority to suspend trading although it can implement (with approval from the CMA) a temporary halt of a company’s securities from trading at an entities request if the market is uninformed and an announcement is imminent. Tadawul cannot take steps to address disorderly trading conditions although it would inform the CMA of these conditions so that the CMA, with the Tadawul’s cooperation, could take appropriate action.</p> <p>Under the CML, the CMA has the authority to approve listing rules and standards, trading requirements and other requirements for the listing and trading of new securities products on the Tadawul. No security may be listed or traded unless the CMA has been informed and its approval has been secured. In addition, all rules governing the listing and trading of securities must be approved by the CMA. The Tadawul’s regulations, rules and instructions, are subject to the jurisdiction of the CRSD, with respect to public and private actions due to the CMA involvement in approving these requirements.</p> <p>The CMA reviews and considers the adequacy of the Tadawul’s operational and other competencies, to ensure that it has adequate premises and personnel, and that its automated systems have adequate and proper functionality, capacity, security arrangements and backup facilities. The CMA also considers whether the new product would cause the Tadawul to assume principal, settlement, guarantee or performance risk, and if so, the CMA may require the Tadawul or market participants to comply with any requirements that are necessary to</p>

	<p>mitigate the risk of non-completion of a transaction.</p> <p>Access to trading on the Tadawul is limited to APs, who are members of the Tadawul. Membership and Trading rules have been promulgated by the Tadawul in the form of instructions (approved by the CMA, and have the force of regulations). The CMA has the authority to instruct the Tadawul to amend its membership and trading rules if the CMA considers it necessary. The CMA's oversight and approval of Tadawul's membership rules are designed to provide fair access to the market.</p> <p>The trading rules are implemented through the SAXESS electronic trading system. Orders are matched automatically by the electronic trading system via a central order book which is time/price priority. See also comments at Principle 27. The Trading rules and electronic trading system ensure that all participants are treated equally in their access to the trading systems, subject to any electronic latency. Currently, members can trade equities, ETF's and certain fixed interest securities on this platform. With respect to new issues by listed companies, rights' trading does not take place on the exchange, although the CMA has developed a method with issuers by which appropriate recompense for the value of rights not taken up by shareholders will be provided to them at the conclusion of the issue.</p> <p>The electronic trading system automatically creates an audit trail from which trading activity can be reconstructed. The CMA has access to this information in real time, and conducts real time surveillance to detect unfair and illegal trading practices. The SAXESS system continuously disseminates in real time to the Tadawul members information from the order book and information concerning trades executed through the electronic order system (as well as to information vendors and others with licensing agreements with the Tadawul).</p> <p>The CMA and Tadawul are located in adjacent buildings in Riyadh but there is no interdependency regarding operational risk relating to systems, infrastructure or personnel. There appears to be no systemic risk, due to lack of capacity for trading (or the Depository) and the SAXESS trading system has significant excess capacity. Tadawul believes the system is becoming dated and a replacement will be required in due course.</p> <p>As stated above, the CMA is not considering whether it should make the Tadawul an SRO but there is a possibility that it will go public via an IPO and list on its own market. The current regulatory environment and the possibility of a publicly listed Tadawul raise issues that are extremely important to resolve as they will impact on the development and regulation of the market and the current regulation and supervisory arrangements which will no longer be relevant. No objective criteria have been set down for licensing or oversight of new or alternative trading systems or exchanges and the basis on which this would be handled from a regulatory perspective. If such a new trading system or market wished to operate in Saudi Arabia, special legislation would need to be enacted to address these gaps. Although it seems that there is no technical obstacle preventing such a trading system or exchange from setting up, in practice this is cannot occur without the CMA agreeing, since the legal framework of the CML would not permit such circumstances and would need to be amended.</p> <p><i>The CMA should develop of strategy for the future of the Tadawul, including whether it should conduct any regulatory functions and what regulatory changes will be required, if does not continue to be a wholly-owned entity of government under the full control of the CMA.</i></p> <p><i>The CMA could consider introducing requirements to require licensing of any trading systems including securities exchanges setting out object criteria for approval and to provide a mechanism for regulatory authorization, oversight and enforcement authority, should such a development occur.</i></p>
Principle 26.	There should be ongoing regulatory supervision of exchanges and trading systems, which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.
Description	The CML designates the Tadawul as the sole securities market for the trading of securities in Saudi Arabia. The CML sets out the respective responsibilities of the CMA and the Tadawul. The CMA is required to regulate and develop the exchange, seek to develop and improve methods of systems and entities trading in securities, develop procedures that would reduce the risks related to securities transactions and seek to achieve fairness, efficiency and transparency in securities transactions. The CML gives the CMA plenary powers to achieve these objectives. However, the situation results in a conflict of responsibilities for the CMA.

	<p>The CMA is responsible for, and conducts ongoing regulatory supervision of the Tadawul. The CMA achieves this through the exercise of its authorization powers over APs, its powers to adopt rules governing trading activity and conduct of market participants and to approve trading and other rules adopted by the Tadawul, its ongoing surveillance of trading on the Tadawul through SMARTS, and its inspection, investigative and enforcement powers over market participants.</p> <p>The CML also authorizes the Tadawul to adopt rules, subject to approval by the CMA, to govern its operations and, among other things, ensure fairness, efficiency and transparency in the exchange's affairs. Under the CML, the CMA must approve all rules and rule changes of the Tadawul.</p> <p>The CMA uses the SMARTS to monitor day-to-day trading activity on the Tadawul, including potentially illegal trading activity. SMARTS generates alerts if orders or trades in the market meet predefined parameters, which are designed to detect unusual movements of the price and trading volume for each security and potential insider trading, manipulation, front running and any other violations of the CML and its Implementing Regulations, including the Market Conduct Regulations.</p> <p>The CMA also uses its inspection program to monitor the conduct of market intermediaries and the Tadawul. Inspections are used to monitor the compliance by the Tadawul and market intermediaries with the CML and applicable rules and regulations. Information gathered in inspections is used both to analyze the integrity of the markets, market risks, and the adequacy of existing market surveillance. The CMA has conducted inspections of the Tadawul related to specific issues.</p>
Assessment	Fully implemented
Comments	<p>The CMA uses its authority to approve all rules, regulations and instructions of the Tadawul, including the current trading instructions promulgated by the Tadawul. The CMA's inspection authority includes the Tadawul and enables the CMA to check the Tadawul compliance with its membership and operating rules.</p> <p>The CMA has access to all pre-trade and post-trade information available to market participants. The CMA has access to the trading information disseminated by the SAXESS electronic trading system, including information from the order book and information concerning trades executed through the system.</p> <p>If the CMA were to determine that the Tadawul were unable to comply with the CML or its Implementing Regulations, the CMA has authority under the CML to impose a range of corrective actions correcting the violation and reestablish the integrity of the market. The CMA could use its regulatory powers to place restrictions on the activities of the Tadawul pursuant to the CMA's plenary powers under the CML, adopt regulations requiring change in the Tadawul's operations, or instruct the Tadawul to amend its own rules and procedures, subject to the CMA's approval. The CMA also has powers under the CML to prohibit or suspend the issuance or trading of any securities at the Tadawul, or suspend the Tadawul's activities for up to one day on its own authority. Suspension of the market for longer periods may occur but requires the approval of the Minister of Finance. In addition, the CMA could bring an enforcement action against the Tadawul before the CRSD, pursuant to Article 59 of the CML. A broad range of enforcement sanctions are available to the CMA in Article 59 proceedings, including cease and desist orders, orders compelling correction of the violation, and indemnification of persons affected by violations.</p> <p>These provisions result in a high level of the CMA day-to-day operational responsibility for the market, since they are set in the law/regulations that the CMA administers regarding conduct of business on the Tadawul, obligations placed on new issuers, setting of listing rules and other the requirements, referred to above.</p>
Principle 27.	Regulation should promote transparency of trading.
Description	<p>Tadawul has adopted trading instructions (approved by the CMA with the force of regulation) governing the disclosure of information about transactions on the market.</p> <p>In accordance with these instructions, the Tadawul's trading system provides for the timely dissemination of pre-trade and post-trade information to market participants. The SAXESS electronic trading system continuously disseminates to the Tadawul members in real-time (as well as to information vendors and others with licensing</p>

	agreements with the Tadawul) the ten best bid and ten best ask limits in the order book for each tradable listed security, including the number of orders and total disclosed order quantity at each price limit. The SAXESS system also provides for the dissemination of information on completed transactions.
Assessment	Fully implemented
Comments	<p>The CML requires that the Tadawul adopt rules requiring immediate and timely publication of transactions. The CML also imposes a general obligation on the Tadawul to ensure fairness, efficiency and transparency of its trading rules and technical mechanisms. All trades in listed securities are required to be executed through the Tadawul.</p> <p>Tadawul may not depart from real time transparency on a discretionary basis. Pre-trade information concerning certain large orders is not displayed in real time, but the handling of those orders is fully defined in the trading procedures posted on the Tadawul's website. For each of 2007, 2008, 2009 and 2010 these orders accounted for less than 0.2 percent of the overall value traded. The CMA has access to information concerning these large orders through SMARTS, as well as through its inspection powers and its powers to require production of information. The CMA can assess whether alternative procedures for the handling of pre-trade information concerning these large orders is appropriate.</p>
Principle 28.	Regulation should be designed to detect and deter manipulation and other unfair trading practices.
Description	<p>Articles 49 and 50 of the CML and provisions of the Market Conduct Regulations prohibit market manipulation, the dissemination of misleading information, insider trading, front running and other fraudulent or deceptive conduct.</p> <p>The CMA also has included disclosure requirements in the Listing Rules, in order to seek to ensure that material information is not omitted from prospectuses and company announcements on which investors rely and that disclosure of material changes is made promptly.</p>
Assessment	Fully implemented
Comments	<p>The CML authorizes and requires the CMA to monitor the activities of parties subject to its control and supervision and protect investors from unfair and unsound practices.</p> <p>The Surveillance Department of the CMA's Market Supervision Division uses oversight modules in SMARTS to oversee the daily trading activity on the Tadawul. SMARTS generates alerts that are triggered if orders or trades in the market meet predefined parameters, which are designed to detect unusual movements of the price and trading volume for each security and potential insider trading, market or price manipulation, front running and any other violations of the CML and its Implementing Regulations.</p> <p>The CMA also uses its inspection program to monitor the conduct of market intermediaries and the Tadawul. Inspections also can result in referrals for enforcement action where violations are found.</p> <p>The CMA also reviews offering documents and announcements for listed companies to check that they include all of the material information required by the applicable disclosure requirements. The CMA monitors listed companies announcements subsequent to their submission to the Tadawul to ensure their compliance with the continuous disclosure of information required under the Listing Rules. The CMA also conducts other market oversight activities in order to detect potential violations. The CMA receives and acts upon investor complaints. The CMA also monitors websites, internet forums, and audio-visual media as well as the recommendations of individuals or groups related to the capital markets.</p> <p>The CMA may seek warnings, an order to desist from the violative conduct, an order to avoid or correct violative conduct, damages, disgorgement of profits, trading suspensions, bars or suspensions from acting as a broker, portfolio manager or investment adviser, seizure of property, travel bans, bars from working with listed companies, and fines of up to SR 100,000 for each violation. Under Article 62 of the CML, CMA has power to suspend or revoke the license of an AP. In addition, under Article 57c of the CML, market manipulation and insider trading are punishable by imprisonment. These sanctions have been invoked. For example, in 2009, 11 persons were barred from working with companies whose securities were traded on the exchange (20 in 2010). In</p>

	<p>2009, seven persons were barred from acting as broker, portfolio manager or investment advisor (23 in 2010). In 2009, six persons were barred from trading a security (19 in 2010). In 2009, two persons (one CEO and one investor) were imprisoned for insider trading (nil in 2010). A public announcement via Tadawul's website was made in Arabic only announcing the outcome relating to the CEO. The announcement regarding the investor has not been publicly announced as the conviction is under appeal.</p> <p>There is no potential for domestic cross market trading in Saudi Arabia, because the Tadawul is the only domestic securities market. There are no direct foreign linkages to trading on Tadawul nor is there substantial foreign participation in the market.</p> <p>The CMA has appropriate powers to deal with market misconduct (including obtaining criminal sanctions at the CRSD). <i>The CMA needs to demonstrate publicly a track record of enforcement of its powers relating to such market misconduct (appropriately specifying and articulating manipulation and other unfair market practices) and remedy the lack of transparency of the outcomes it has achieved by specifying for each case, the details of the conduct involved. See comments at Principles 2, 3, 4 and 10 above.</i></p>
Principle 29.	Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.
Description	<p>Securities market open positions and credit exposures (including the credit extended by an AP to its clients) are limited to the credit extended and guaranteed to an AP and its customers by a clearing bank. The clearing banks are supervised by the SAMA. Before allowing entry of an order into the Tadawul order book its electronic trading system automatically checks to ensure that execution of that order will not cause the AP to exceed its daily and intra-day credit limit set by its clearing bank. Any order that would cause an AP to exceed its credit limit is rejected by the electronic trading system. The APRs also include provisions governing the extension of margin credit to customers by requiring that APs take steps to ensure that a customer is creditworthy before extending margin credit and establish minimum margin requirements. The minimum margin requirement is 25 percent of each applicable securities position.</p> <p>The CMA's powers include the power to institute liquidation proceedings against an AP. The CMA also may represent the interests of clients who may be entitled to the return of client money or assets in any insolvency, liquidation or settlement proceedings of an AP. The APRs also specify notice and pre-filing procedures to be followed by an AP proposing to commence settlement proceedings.</p> <p>In liquidation, the CMA may give instructions to the liquidator to establish client entitlements to client assets and securities. The CMA also may require a liquidator for an insolvent AP to move the clients' positions to a solvent intermediary. In the event of a liquidation of an AP, the CMA will coordinate with the Tadawul in relation to dealing activities of the AP, which would include settlement proceedings to ensure that client money and assets are protected from the AP's default, and to terminate the AP's connectivity to the trading system.</p>
Assessment	Fully implemented
Comments	<p>The CMA is responsible for monitoring large exposures. The CMA conducts on-going monitoring and APs submit prudential reports to the CMA, which include information on large exposures, at least monthly. APs also are required to give prompt (within 24 hours) notice to the CMA if they have a net capital deficiency or a counterparty defaults on a transaction constituting 25 percent or more of their net capital. In addition, the Tadawul provides daily reports to the CMA on the activity (buy, sell, and net position) of each AP and its clients, and the size of the clearing requirement (gross and net) of each clearing bank. All trading and collateral is managed at the beneficial owner level.</p> <p>Large exposures to a single counterparty will raise the minimum net capital requirement for dealers. The triggering level is when the amount due from any party exceeds 50 percent of the minimum net capital requirement (before taking large exposures into account). Undue concentration also reduces net capital. With regard to undue concentrations to a single class of security, the triggering level is upon exposure to a single class of securities whose fair value exceeds 10 percent of the AP's net capital before any deduction of any market risk charges.</p>

	<p>In a liquidation of an AP, the proceeds attributable to client transactions would be treated as protected client monies, which under the CML could not be disbursed by the AP in settlement or liquidation without the CMA's consent.</p> <p>The CMA has direct access through SMARTS and the Depository to information concerning the size and beneficial ownership of positions in securities held by the customers of APs.</p> <p>In the event of excess credit exposures or large positions or the failure of a market participant to provide information necessary to evaluate a credit exposure, the CMA may mandate whatever corrective action may be necessary, including reducing exposures, increasing margin requirements or revoking trading privileges.</p> <p>A committee consisting of representatives from the CMA, SAMA and the Tadawul exists to review the current clearing and settlement process for securities trading. The committee meets frequently to discuss and share any risks that may be associated with the current process. One of the issues that the committee may consider is the adequacy of the current procedures for monitoring large exposures.</p> <p>The CMA has the power to supervise the compulsory and voluntary liquidation of an AP's business under CML Article 38 and the APRs Part 8. These provisions give the CMA the power to take action to protect client money and assets in the event of the default of an AP.</p>
Principle 30.	Systems for clearing and settlement of securities transactions should be subject to regulatory oversight and designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.
Description	Not assessed and not required to be assessed under IOSCO methodology.

Annex 1. The Capital Market Authority Approach to Implementation of the IOSCO 2010 Principles

33. **IOSCO amended its IOSCO Principles in 2010; however, assessment of compliance with these principles is not required and has not been undertaken in this assessment, since the methodology to do so is not yet available.** In the meantime assessors are asked to have a discussion with the authorities about their ability to implement the new principles in the future. An extract of the key issues contained in the new 2010 IOSCO Principles, and the CMA's advice of its ability to implement them is summarized below.

New Principles

34. **The regulator should have or contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.** Systemic risk refers to the potential of any widespread adverse effect on the financial system and thereby on the wider economy. Factors which can give rise to systemic risk may include the design, distribution or behavior under stressed conditions of certain investment products; the activities or failure of a regulated entity; a market disruption; or an impairment of a market's integrity. Systemic risk can also take the form of a more gradual erosion of market trust caused by inadequate investor protection standards, lax enforcement, insufficient disclosure requirements, inadequate resolution regimes or other factors. Preliminary guidance indicates that implementation of this principle requires the regulator to contribute to the process to monitor, mitigate and appropriately manage systemic risk with particular regard to investor protection, market integrity and the proper conduct of business within markets as contributing factors to reducing systemic risk.

35. **The CML assigns the CMA specific responsibilities that contribute to reducing systemic risk.** These include: (1) regulating and developing the Tadawul, seeking to improve methods of systems and entities trading in securities and developing procedures to reduce risks related to securities transaction; (2) seeking to achieve fairness, efficiency and transparency in securities transactions; (3) regulating and monitoring the works and activities of parties subject to its supervision and control; and (4) regulating and monitoring the full disclosure of information regarding securities and their issuers. To discharge these responsibilities, the CMA is authorized to: (1) approve the regulations, rules and policies of the Tadawul and the Center; (2) determine the content of financial statements, reports and documents used by issuers offering securities for public subscription; and (3) prepare regulations and rules for the surveillance and supervision of entities subject to the CML. In addition, the CML requires the CMA to coordinate with the SAMA in connection with any action it undertakes that may have an impact on the monetary situation. The CMA has used its authority to adopt the following regulatory requirements that contribute to monitoring, mitigating and managing systemic risk:

- Listed Companies and investment funds and real estate investment funds that offer their units of interest by way of a public offering must disclose sufficient information to

investors to enable the investors to assess the risk associated with the investment. (Also see descriptions for principles 14, 16, and 19.)

- Persons who are authorized to engage in a dealing, advising or managing business must determine that a proposed transaction (including any use of margin) or their advice is suitable for the customer based on financial information that the customer must provide as a precondition to obtaining their services or any other facts of which the AP is, or reasonably should be, aware. That suitability determination should entail a review of the customer's knowledge and understanding of the relevant securities and their associated risk, the customer's financial profile the size and nature of the transactions and the customer's investment objectives. In addition, the AP must take reasonable steps to enable the customer to understand the risks of the transaction in which the customer is engaging. (Also see description for Principle 23.)
- APs are subject to financial responsibility requirement, which assure they have sufficient resources to conduct their business. The CMA has established capital requirements for APs that take into account the amount of indebtedness assumed by the AP and the nature of assets that the AP holds. APs who have custody of customer assets are subject to segregation and record-keeping requirements designed to assure the safe-keeping of such assets. Any customer who makes use of margin must maintain a minimum margin of 25 percent of the current value of a security position. (Also see descriptions for Principles 18, 22, 23, and 24.)
- The CMA also protects market integrity by monitoring large exposures and by requiring and encouraging the development of trading systems that provide for the prompt settlement of transactions in Listed Securities. (Also see descriptions for Principles 25 and 29.)
- The CMA monitors developments in the Saudi securities markets and studies the practices of financial market regulators in other jurisdictions. It continuously reviews existing regulations and policies to adopt measures to mitigate systemic risk as necessary.

36. **The regulator should have or contribute to a process to review the perimeter of regulation.** Preliminary guidance indicates that a regulator should conduct or participate in a rigorous and regular review of markets and market participants' activities so as to identify possible risks to investor protection, market fairness, efficiency, and transparency or risks to the financial system and review the exiting perimeter of regulation to mitigate risks to these regulatory objectives. Such review should include consideration on whether the effect of new developments in financial products ha an effect on the scope of regulation and whether existing exemptions continue to be valid. Preliminary guidance also indicates that regulators also should have a process for considering periodically and on an ad hoc basis whether the regulator's existing powers, operational structure and regulations are sufficient to meet potential emerging risks. Such process should allow for means for timely responses to identified risks.

37. **A principal legislative objective of the CMA is to develop the capital market, improve the practices of entities involved in trading securities, and develop procedures to reduce the risks related to securities transactions.** Under the CML, the CMA has broad powers to regulate the Saudi capital market, monitor the activities of persons engaging in securities activities and to issue regulations and guidance addressing changes in those markets so as to achieve those objectives.

38. **The CMA regularly reviews markets and market participants' activities so as to be able to identify emerging risks, consider the adequacy of existing regulation to address those risks, and consider possible mitigating action.** The CMA has active market surveillance, inspection and enforcement programs that enable it to keep apprised of developments in the securities markets. The CMA also solicits information from market participants concerning possible emerging risks. For example, in 2009, the CMA conducted a survey of investor and fund manager concerning regulatory oversight of trading, which among things sought responses concerning trading violations or practices that were not covered by regulation. Information about developments in the Saudi securities markets also is regularly gathered from public news sources. The CMA reviews this information in setting its regulatory agenda.

39. **The CMA has also established a Risk Management Department within its Strategy & Research Division that provides monitoring and analysis of capabilities with respect to developments of new products, trading activities and risks around the perimeter of capital markets.**

40. **The CMA also regularly evaluates whether new products present issues that require modified or additional regulation.** Before new products can be listed on the Tadawul, they must be approved by the CMA. In the review process for those new products, the CMA considers whether they are adequately covered by existing regulation and guidance or whether additional regulation or guidance would be required to ensure investor protection or market integrity. The CMA's plenary regulatory powers under the CML enable it to take whatever steps might be necessary to ensure that these goals are attained.

41. **The CMA also is attentive to considering whether its powers, structure and resources are adequate to address emerging risks.** For example, the CMA has recently conducted a program designed to enable its internal organization to keep pace with the latest developments and practices in the capital markets. The program focused both on the administration and operations of the CMA and on the individuals and institutions that comprise the Saudi capital market. The program began with an assessment of the capital market and the CMA's existing organization. Next, the CMA developed a blueprint for an ideal operating model that addressed responsibilities of its various divisions. The CMA has implemented the planned changes to its organization.

42. **The CMA also cooperates with other agencies to identify and address emerging regulatory risks.** A committee consisting of representatives from the CMA, the SAMA and the

Tadawul exists to review the current clearing and settlement process for securities trading. The committee meets frequently to discuss and share any risks that may be associated with the current process and to discuss means of addressing those risks. In addition, the CMA officials consult with their counterparts in other countries as well as other experts in securities regulation, to learn of and discuss developments in financial markets, financial markets, and regulation, and consider their applicability to the Saudi capital market.

43. **The regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed, or otherwise managed.** Preliminary guidance indicates that this principle requires the regulator to identify circumstances in which a conflict of interest is likely to arise between a market participant and those whose interests it has been entrusted to advance and to establish regulatory requirements designed to avoid, eliminate, disclose or otherwise manage the conflict. Examples of such measures include requiring sponsors of securitized products to retain economic exposure to the product and requiring the independence of service providers who may influence an investor's decision to acquire a securitized product.

44. **Securitized products are not sold or traded in Saudi Arabia.** The classes of service providers active in the Saudi securities market who are most likely to influence an investor's decision to engage in a securities transaction are persons authorized to engage in a securities business, particularly dealing, managing or advising, or accountants who prepare or audit the financial accounts of a Listed Company, an investment fund or a real estate investment fund. The Saudi securities regulatory system includes provisions designed to ensure that conflicts of interest or other misalignment of interests are avoided, disclosed and/or mitigated.

45. **Both the CMA regulations and SOCPA standards require an accountant who audits the financial statements of a Listed Company, an investment fund or a real estate fund to be independent.** SOCPA interpretations of this requirement assure that auditors are free from any influence, interest or relationship that might impair their professional judgment or objectivity.

46. **In addition, the CMA regulations place an obligation on all APs to assure that no conflict of interest affects a transaction or service that the AP executes to its customer and to disclose to the customer in writing any potential or actual conflict of interest, unless the disclosure constitutes a communication of inside information in which case an AP must take reasonable steps to ensure fair treatment for its customer.** An AP who does not disclose the conflict and obtain the written consent of the customer to proceed despite the conflict must pay to the customer the value of any loss incurred by the customer as a result of the conflict. In addition, any AP who manages an investment fund must further avoid any material conflict between itself and an investment fund that it manages or between an investment fund it manages and another client account unless it receives approval from the board (At least one third of its members must be independent) of the investment fund following full disclosure of the conflict.

47. **Implementing Regulations prevent any misalignment of incentives by requiring a Listed Company who offers its securities by way of a public offer, an investment fund or a real estate investment fund to make a full disclosure of the risks associated with investing in the relevant security.** The CMA enforces the disclosure requirement through its review of the application to make the proposed offering. Disclosure requirements are enforced through the CMA's review of securities offering documents and through provisions that subject the issuer and others involved in the offering of the securities of a Listed Company to potential liability for the failure to make required disclosure and that subject to potential liability any person who makes an untrue statement of material fact or who omits to state the material fact if it causes another person to be misled in connection with the sale or purchase of a security.

48. **Auditors should be subject to adequate levels of oversight.** Preliminary guidance indicates that the implementation of this principle requires that auditor oversight not be based exclusively or predominantly on self-regulation and auditors be subject to oversight by a body seen to act in the public interest. Such regulation should ensure that audit work is conducted pursuant to well-defined internationally acceptable standards, auditor independence and the enforcement of applicable auditing standards.

49. **The audited financial statements of Listed Companies, investment funds, real estate investment funds and APs are subject to high quality standards, including standards of auditor independence that are enforceable.** The financial statements must be prepared in accordance with standards issued by SOCPA, a professional organization that operates under the supervision of MOCI. SOCPA standards are of a high and internationally acceptable quality. Both the CMA regulations and SOCPA require auditor independence. SOCPA has interpreted the independence requirement to ensure that auditors are free from any influence, interest or relationship that might impair their professional judgment or objectivity. Under the CML, the CMA also has the authority to establish standards and conditions applicable to the auditors of Listed Companies. The CMA reviews financial statements filed by Listed Companies for compliance with SOCPA standards and other applicable requirements. It works with Listed Companies to resolve any qualifications in their audit reports and may require restatements of financial statements that deviate from applicable standards and take enforcement action in matters involving violations of the CML or its Implementing Regulations.

50. **Auditors should be independent of the issuing entity that they audit.** Preliminary guidance for this principle indicates that implementation requires that standards of auditor independence be designed to promote an environment in which the auditor is free of any influence, interest or relationship that might impair professional judgment or objectivity or that in the view of a reasonable investor might impair professional judgment or objectivity.

51. **SOCPA has interpreted the requirement for auditor independence to ensure that an auditor is free of any influence, interest or relationship that might impair professional judgment or objectivity by addressing issues of self-interest, self-review, advocacy, familiarity and intimidation.**

52. **Audit standards should be of a high and internationally accepted quality.** SOCPA standards are comprehensive and of a high and internationally accepted quality. The process by which SOCPA establishes and interprets accounting and auditing standards are open and transparent and subject to oversight of MOCI.
53. **Credit rating agencies oversight.** Currently there is no credit rating agency operating in Saudi Arabia. To the extent that regulations of credit rating agencies may become necessary in the future, the CML authorizes the CMA to grant licenses of credit rating agencies and prescribe the conditions thereof.
54. **Offering of analytical or evaluating services should be subject to oversight.** Preliminary guidance indicates that implementation requires identifying entities that provide analytical or evaluative services that assist investors in assessing the desirability of an investment opportunity and evaluating the impact such entities have on the market to determine whether they should be subject to regulation. The guidance specifically identifies sell-side research analysts as an example of such service providers.
55. **In Saudi Arabia, a person may be authorized to engage in dealing, managing and advising services as well as arranging services, which would establish circumstances in which sell side research may be provided.** The CMA regulations address this possibility by requiring any person authorized to engage in arranging services to establish Chinese Walls that prevent any individual engaged in dealing or advising activity from receiving advice from an individual who has received confidential or inside information in connection with arranging activity. In addition, the regulations prohibit an AP from dealing for its own account contrary to its investment recommendations or for the account of a client without disclosing the recommendation and the potential conflict of interest. More generally, any AP must assure that no conflict of interest affects a transaction or service that it executes for its customers and must disclose to the customer in writing any potential or actual conflict of interest, unless the disclosure constitutes a communication of inside information in which case an AP must take reasonable steps to ensure fair treatment for its customer. An AP who does not disclose the conflict and obtain the written consent of the customer to proceed despite the conflict must pay to the customer the value of any loss incurred by the customer as a result of the conflict.
56. **Regulation should ensure hedge funds /managers are subject to oversight.** All investment funds in Saudi Arabia must comply with the Investment Funds Regulations or the Real-Estate Investment Funds Regulations regardless of the strategy employed by the fund. Currently, no public or private fund operating in Saudi Arabia pursues an investment strategy that is commonly associated with hedge funds, such as frequent trading, short selling or the use of significant leverage. To the extent any fund pursues such a strategy in the future it would be subject to the CMA oversight. Like an investment fund offered by means of a public offer, an investment fund offered by means of a private placement must make a filing with the CMA and the CMA may prohibit the proposed offer, sale or transfer. In addition, the CMA, under general

regulatory authority granted by the CML, may impose reporting or other regulatory requirements on any investment fund that would permit monitoring of the fund's activities.