



# **OFFERING OF SECURITIES MODULE**

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MODULE	OFS: Offering of Securities
CHAPTER	OFS-A: Introduction

## OFS-A.1 Purpose

### *Legal Basis*

OFS-A.1.1 Module OFS formulates the regulatory framework of the Central Bank of Bahrain ("CBB") to govern the issuing and offering of securities in/from the Kingdom of Bahrain. It incorporates the requirements of Articles 80-85, 96 and 166 of the CBB Law. These regulations are issued pursuant to the authority of CBB under Article 37 to establish and enforce rules, while meeting the specific requirements of Part 4 of the Central Bank of Bahrain and Financial Institutions Law of 2006 ("CBB Law").

OFS-A.1.2 This Module contains the CBB's Directive (as amended from time to time) relating to the issuing and offering of securities and is issued under the powers available to the CBB under Article 38 of the CBB Law, together with the abovementioned provisions of the CBB Law. The Directive in this Module is applicable to all market participants and relevant persons, including but not limited to issuers of securities or any person acting on their behalf, licensed exchanges, licensed market operators, licensed clearing houses, depositories, market intermediaries, business trusts, listed companies, any person acting for or on behalf of listed companies, shareholders of listed companies, securities ownership transfer agents, lead managers, underwriters, professional advisors, listing agents, auditors, financial analysts and any other person who engages or encourages others to engage in any acts of commission or omission covered by the scope of this Module, irrespective of whether such person is a market participant or not. OFS-A.2.3

This Module should be read in conjunction with Resolution No.(16) of 2013 with respect to Financial Services Marketed in the Kingdom of Bahrain.

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## OFS-A.2    Division of Responsibilities

### *Responsibility of the CBB*

OFS-A.2.1    A clear division of responsibilities between the CBB as the securities regulator, the issuer of securities and the licensed exchanges or the licensed market operators as a self-regulatory organisation (SRO) is required:

- (a) To maximise the regulatory effectiveness;
- (b) To permit flexibility to the licensed exchanges or the licensed market operators in their functioning;
- (c) To achieve greater efficiency and transparency in the enforcement of the laws, rules and regulations; and
- (d) To minimise the regulatory cost.

OFS-A.2.2    As a regulator, the CBB's role is as follows:

- (a) Regulatory supervision;
- (b) Maintaining and promoting fairness, efficiency and transparency within the capital market;
- (c) Enhancing the efficiency of the capital-raising process;
- (d) Ensuring full, timely and accurate disclosure of financial and other information material to investors;
- (e) Ensuring fair and equal treatment to all securities, subscribers, allottees, and holders;
- (f) Ensuring adherence to international accounting, reporting and auditing standards;
- (g) Ensuring that the issuer of securities, the licensed exchanges, licensed market operators, licensed clearing houses, depositories' institutions, and other capital market advisory services providers and members of SROs have appropriate systems and procedures for ensuring compliance with the CBB Law and disclosure requirements by listed companies and issuers; and
- (h) Facilitating the introduction of a broad range of capital market products and services.

### *Responsibility of SROs*

#### **OFS-A.2.3**

The licensed exchange or the licensed market operator established as an SRO must comply with the requirements laid down under the CBB Law, this Module and other applicable laws and regulations.



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## OFS-A.2 Division of Responsibilities (continued)

- OFS-A.2.4 As an SRO, the main objective of the exchange or the operator would be to:
- (a) Promote fairness and investor protection;
  - (b) Ensure fair access to market facilities and information;
  - (c) Provide timely and accessible relevant market data;
  - (d) Ensure the efficient regulation of its members;
  - (e) Ensure compliance with CBB Law, listing rules and disclosure requirements by listed companies and issuers;
  - (f) Ensure immediate dissemination and publication of relevant information related to issuers;
  - (g) Report any non-compliance to the regulator; and
  - (h) Take disciplinary action against any contravention by listed companies.

### *Responsibility of Issuers and Advisors*

#### OFS-A.2.5

The issuer of securities in/from Bahrain or any person acting on its behalf must comply with the requirements laid down under the CBB Law, this Module and the other applicable laws, rules and regulations.

- OFS-A.2.6 The main responsibility for the issuer of securities or any other person acting on its behalf is to:
- (a) Adhere to the CBB Law, rules and regulations and any other applicable laws, rules and regulations;
  - (b) Ensure and accept responsibility for the information contained in the prospectus or other offering documents and that these documents do not contain any false or misleading information or data and omissions likely to affect the importance and completeness of the prospectus, or offering documents;
  - (c) Ensure fair and equal treatment of all subscribers, allottees and holders of each type of securities;
  - (d) Use an effective and efficient mechanism for capital raising for financing their businesses or any expansions thereof;
  - (e) Using the most professional capital market advisory services provider; and
  - (f) Ensure adherence of all capital market advisory services providers involved to all requirements regarding protecting and maintaining the subscribers money, in accordance with the applicable laws, rules and regulations.



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<b>CHAPTER</b>	<b>OFS-A: Introduction</b>

## OFS-A.3 Module History

### *Evolution of Module*

OFS-A.3.1 This Module was first issued in January 2014 by the CBB. Any material changes that are subsequently made to this Module are annotated with the calendar quarter date in which the change is made; Chapter UG-3 provides further details on Rulebook maintenance and version control.

OFS-A.3.2 The most recent changes made to this Module are detailed in the table below:

Module Ref.	Change Date	Description of Changes
OFS-1.6.11, OFS-1.10.5, OFS-3.5.26, OFS-4.1.1, OFS-4.3.2, OFS-4.4.1, OFS-4.4.4, OFS-7.1.2, OFS-7.1.3	04/2014	Added links to Glossary for the words 'days' and 'licensed exchange'.
OFS-1.14	04/2014	Corrected reference to Glossary for the term 'overseas issuer(s)'.
OFS-3.2.6	04/2016	Added reference to securities market regulation certification and other qualifications.
OFS-3.3.8	04/2016	Corrected cross reference to CBB Law.
OFS-1.4.1(e)	10/2017	Amended sub-paragraph based on changes made to the definitions section.
OFS-7.5.1	01/2018	Amended Paragraph.
OFS-2.6.7A	07/2018	Deleted Paragraph.
OFS-3.2.19 (c)	07/2018	Amended sub-paragraph.
OFS-3.4.6 (a)	07/2018	Amended sub-paragraph.
OFS-3.5.7 (c)	07/2018	Amended sub-paragraph.

### *Superseded Requirements*

OFS-A.3.3 This Module supersedes the following provisions contained in circulars or other regulatory instruments:

Circular/ other references	Provision	Subject
BSE Resolution No. 4 of 1992	All	Prospectus Requirements
ODG/407/03 Disclosure Standards	Chapter 1	Prospectus and ongoing disclosure requirements in relation to equity securities
ODG/74/04 Guidelines for the Issuing, Offering and Listing of Debt securities	All parts	Issue, offer and listing of debt securities
EDBS/KH/0688/2008 on Private Placement of Securities Issued by or Promoted by Banks Licensed in Bahrain.	All parts	Private placement requirements
EDFIS/C/039/2017	Module	Issuance of the Amended Offering of Securities Module – Volume 6





<b>MODULE</b>	<b>OFS: Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-B: Scope of Application</b>

## **OFS-B.1 Scope**

OFS-B.1.1 In accordance with Article 81 of the CBB Law, this Module applies to all types of securities issued and offered in/from Bahrain, whether offered publicly or privately.

OFS-B.1.2 A person makes an offer “in the Kingdom of Bahrain” when;

- (a) It is made to another person in the Kingdom which upon acceptance would give rise to a contract for the issue, sale, allotment or allocation of those securities by him or another person with whom he has made arrangements for that issue, sale or allotment within Bahrain, regardless of whether such acceptance actually takes place; or
- (b) He invites personally or through an agent, another person in the Kingdom to make an offer which upon acceptance would give rise to the issue, sale or allotment of those securities within Bahrain.

OFS-B.1.3 A person makes an offer “from the Kingdom of Bahrain” when;

- (a) It is made to another person outside the Kingdom which upon acceptance would give rise to a contract for the issue, sale, allotment or allocation of those securities by him or another person with whom he has made arrangements for that issue, sale or allotment within Bahrain, regardless of whether such acceptance actually takes place; or
- (b) He invites personally or through an agent, another person outside the Kingdom to make an offer which upon acceptance would give rise to the issue, sale or allotment of those securities within Bahrain.



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## OFS-1.1 General Eligibility

OFS-1.1.1 Article 81 of the CBB Law states that: “no person may issue any securities in the Kingdom unless the Central Bank of Bahrain’s written approval is granted. The CBB shall specify the information and documents that are required for obtaining permission to issue securities.”

**OFS-1.1.2** Before securities can be issued, a person must meet the criteria detailed in this Module for:

- (a) The various types of securities that can be issued; and
- (b) The specific requirements pertaining to issuer eligibility.



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## OFS-1.2 Types of Securities

### OFS- 1.2.1

In accordance with Article 86 of the CBB Law of 2006, the following types of securities may be offered to the public:

- (a) Equity securities of joint stock companies incorporated in the Kingdom of Bahrain;
- (b) Equity securities of non-Bahraini companies that are approved by the CBB;
- (c) Bonds and debt securities approved for offering and listing by the CBB;
- (d) Shari'a compliant securities approved for offering and listing by the CBB;
- (e) Securities issued by corporations situated within the jurisdiction of any of the states who is a member of the Gulf Cooperation Council; and
- (f) Any other securities approved by the CBB including but not limited to futures and other derivatives on currencies and commodities.

### OFS-1.2.2

For the purpose of Rule OFS-1.2.1 (f) “any other securities” includes those defined as securities not already included in Rule OFS-1.2.1 (a), (b), (c),(d) and (e), as well as any other financial investment approved by the CBB as a security from time-to-time.

### OFS-1.2.3

For the purpose of this Module, equity securities include:

- (a) Voting and non-voting shares;
- (b) Participating and non-participating shares;
- (c) Preference shares, whether convertible or non-convertible, accumulated or non-accumulated and redeemable, or irredeemable; and
- (d) Any class of securities being part of the shareholders' equity fund being represented in the form of shares.



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### OFS-1.3 Types of Offer

#### OFS-1.3.1

This Module applies to the following types of offer of securities:

- (a) Public offering (including Initial Public Offering (IPO));
- (b) Rights offering;
- (c) Private placement;
- (d) Employee share benefit scheme;
- (e) Capitalisation issue;
- (f) Consideration issue;
- (g) Exchange, swapping or substitution of securities;
- (h) Listing of closed or private companies;
- (i) Global Depository Receipts; or
- (j) Other offering approved by the CBB.



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## OFS-1.4 Exempt Offers

### OFS-1.4.1

The following offerings are exempt from this Module:

- (a) Securities approved or authorised as part of a collective investment undertaking and offered or marketed subject to CBB Rulebook Volume 7;
- (b) Securities offered, allotted, or to be allotted in connection with securities offered because of a take-over, merger, acquisition and share repurchase by means of an exchange offer; these are subject to Module TMA;
- (c) Equity securities offered, allotted or to be allotted free of charge to existing shareholders if dividends are paid out in the form of shares of the same class;
- (d) Securities utilised for lending and borrowing transactions concluded under the CBB Rules and the relevant licensed exchange's requirements for such transaction; and
- (e) An offering of ordinary shares by means of an equity crowdfunding offer by an equity crowdfunding issuer through a crowdfunding platform operated by a licensed crowdfunding platform operator and subject to the requirements of Module MAE of the CBB Rulebook Volume 6.

### OFS-1.4.2

An offer made outside Bahrain, but marketed from within Bahrain is subject to the filing requirement as laid out in this Module.

### *Structured Products*

### OFS-1.4.3

Where structured products are offered outside but marketed inside the Kingdom of Bahrain, the following must be adhered to by the issuer and any advisor or agent acting on behalf of the issuer, in addition to the general requirements for exempt offers laid out below:

- (a) The marketing may only relate to offers to accredited investors who are existing account holders of the issuer or its agent (dealer);
- (b) The securities related to the structured product is in registered form;
- (c) The specific structured product disclaimer, as prescribed by the CBB, is contained in the base prospectus which is filed with the CBB; and
- (d) An approval of the issuer's home securities or financial market regulator (which must be a full member of IOSCO) for such structured product(s) being marketed in other jurisdictions must be obtained.

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## OFS-1.4      Exempt Offers (continued)

### OFS-1.4.4

The offering document of any securities to be offered exclusively outside Bahrain, and marketed through a roadshow, must contain the following prominent statement under the heading “Important Notice”, of the prospectus (or such other offering documents) of such offer:

“In relation to investors in the Kingdom of Bahrain, securities issued in connection with this prospectus and related offering documents must be in registered form and must only be marketed to existing account holders and accredited investors as defined by the CBB in the Kingdom of Bahrain where such investors make a minimum investment of at least US\$ 100,000, or any equivalent amount in other currency or such other amount as the CBB may determine.

This offer does not constitute an offer of securities in the Kingdom of Bahrain in terms of Article (81) of the Central Bank and Financial Institutions Law 2006 (decree Law No. 64 of 2006). This prospectus and related offering documents have not been and will not be registered as a prospectus with the Central Bank of Bahrain (CBB). Accordingly, no securities may be offered, sold or made the subject of an invitation for subscription or purchase nor will this prospectus or any other related document or material be used in connection with any offer, sale or invitation to subscribe or purchase securities, whether directly or indirectly, to persons in the Kingdom of Bahrain, other than as marketing to accredited investors for an offer outside Bahrain.

The CBB has not reviewed, approved or registered the prospectus or related offering documents and it has not in any way considered the merits of the securities to be marketed for investment, whether in or outside the Kingdom of Bahrain. Therefore, the CBB assumes no responsibility for the accuracy and completeness of the statements and information contained in this document and expressly disclaims any liability whatsoever for any loss howsoever arising from reliance upon the whole or any part of the content of this document.

No offer of securities will be made to the public in the Kingdom of Bahrain and this prospectus must be read by the addressee only and must not be issued, passed to, or made available to the public generally.”

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## OFS-1.4   Exempt Offers (contined)

**OFS-1.4.5**   Any offering document for marketing and/or a foreign private placement that does not include the statement, in Paragraph OFS-1.4.4 may not be circulated or used in the Kingdom of Bahrain.

### *Filing Requirements*

**OFS-1.4.6**   Where an offer of securities is not being made in or from the Kingdom of Bahrain, but such offer is to be marketed in Bahrain as part of a roadshow, the issuer and or his advisor or marketing agent is required to provide prior notification to the CBB of such roadshow and to file a copy of the prospectus with the Capital Markets Supervision Directorate (CMSD).

**OFS-1.4.7**   The offering document for any securities not to be offered in or from Bahrain but to be marketed in Bahrain as part of a roadshow, must contain the following prominent statement on the cover page of the offering document:

“A copy of this prospectus has been submitted and filed with the Central Bank of Bahrain. Filing of this prospectus with the Central Bank of Bahrain does not imply that any Bahraini legal or regulatory requirements have been complied with. The Central Bank of Bahrain has not in any way considered the merits of the Securities to be offered for investment whether in or outside of the Kingdom of Bahrain.

Neither the Central Bank of Bahrain nor the licensed exchange assumes responsibility for the accuracy and completeness of the statements and information contained in this prospectus and each expressly disclaims any liability whatsoever for any loss howsoever arising from reliance upon the whole or any part of the contents of this prospectus.

The Issuer together with any local agent or adviser accepts responsibility for the information contained in this prospectus. To the best of the knowledge of the Issuer (having taken all reasonable care to ensure that such is the case) the information contained in this prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.”



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## OFS-1.5 General Requirements for the Issuing of Securities

OFS-1.5.1 The following general requirements for issuing of securities represent the minimum requirements applicable to all issuers and/or all types of offers. The CBB reserves the right to add to, amend or vary such requirements, depending on the nature of the issuer and/or the offering to be made. Specific exemptions may be granted to small and medium enterprises.

**OFS-1.5.2** The issuers of any securities in the Kingdom of Bahrain must meet the following general requirements:

- (a) Be incorporated or in the process of applying to be incorporated, in accordance with the applicable laws, rules and regulations;
- (b) Have produced or will produce audited financial statements in accordance with the International Financial Reporting Standards (IFRS), Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), or other accounting standards acceptable to the CBB. If the financial statements have not been prepared in accordance with IFRS, AAOIFI or other accounting standards acceptable to the CBB, the issuer must restate the financial statements in accordance with IFRS or AAOIFI, as the case may be;
- (c) Its annual financial statements must be audited in accordance with the international auditing standards issued by International Auditing Practices Committee of the International Federation of Accountants;
- (d) Its interim financial statements must be reviewed and be in accordance with OFS-1.5.2(b);
- (e) Provide to the CBB an appropriate confirmation and evidence and disclose in the offering document that there has been no material adverse change in the financial condition of the issuer (or the guarantor, in the case of a guaranteed issue) since the end of the period last reported on by the external auditor;
- (f) Appoint an eligible CBB Licensee as receiving bank and paying agent that is approved by the CBB;
- (g) Its appointed capital market advisory services providers (CMSPs) must meet the requirements of this Module and/or other requirements imposed in this respect by the CBB;
- (h) May not allocate or allot any securities without meeting the CBB's requirements for that type of securities offering with respect to the final allocation or allotment;
- (i) Must ensure that they adhere to the utilisation of proceeds statement in the prospectus and obtain the securities holders consent and CBB prior approval for any alteration thereto;



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## OFS-1.5      General Requirements for the Issuing of Securities (contined)

- (j) When considering the currency of issue, that it may issue securities denominated in Bahraini Dinars, currencies of the Gulf Cooperation Council (GCC) or United States Dollars (US\$) and other international currencies on approval of the CBB;
- (k) Should ensure conflicts of interest do not arise during either the issuing of securities or through the offering and relevant appointments or transactions;
- (l) Must protect and act in the interests of securities holders;
- (m) Must provide equal treatment to all securities subscribers and/or holders for each issue of securities. No discrimination among subscribers and/or holders in any form or by any means may be made by the issuer. Special attention of the issuer in this context shall be drawn particularly to the subscription or offer price of the securities;
- (n) Must adhere to the issuing timetable contained in its offering documents, or as amended upon the CBB approval;
- (o) The issuer and appointed CMSPs must fulfil all obligations in their respective capacities in accordance with the signed written agreements concluded between them in respect of the issue and must provide a written declaration of due diligence in respect of their obligation within the offering document;
- (p) The founders, promoters, or the Board of Directors of the issuer must confirm in writing to the CBB that it is responsible for complying with the CBB Law, rules and regulations and any other applicable laws, rules and regulations in accordance with the CBB's standard statement;
- (q) The founders, promoters, or the Board of Directors of the issuer must not establish any restrictions on the rights of the securities holders not provided for in law, particularly regarding voting and granting of proxy to any eligible person(s) (no irrevocable proxies or any term of issue subject to a grant of proxy will be permitted);
- (r) Any special purpose vehicle acting as an issuer and used in the securitisations of assets located in the Kingdom of Bahrain must be incorporated as a company under the laws of the Kingdom of Bahrain;
- (s) All issues of securities must be in response to the receipt of consideration (cash or in kind). An issuer may not offer a substitution of one investment for another unless such substitution is part of an approved corporate event conducted on a licensed exchange; and



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## OFS-1.5 General Requirements for the Issuing of Securities (contined)

- (t) The securities issued by the issuer must have a registered International Securities Identification Number (ISIN) issued by a national numbering agent.

### OFS-1.5.3

In addition to the requirements of Paragraph OFS-1.5.2, and in order to meet the general requirements the issuer must:

- Submit to the CBB the draft or final, duly signed Memorandum and Articles of Association;
- Submit all the relevant information in due time and form as required under this Module;
- Submit to the CBB all attachments with its application including the required declarations, as stipulated under this Module;
- Appoint its relevant advisors for the purposes of its application, as required under this Module and disclose these to the CBB;
- Confirm that it will comply with all the “fit and proper” provisions contained in the relevant Bahraini Corporate Governance Code and Module HC (Corporate Governance) Volume 6, as applicable;
- Confirm that it will adhere to its ongoing obligations and the disclosure requirements; and
- Submit to the CBB at least 2 independent valuation reports in respect of the assets used as underlying assets for asset backed securities being issued or offered.

### OFS-1.5.4

The founders of the public shareholding company or listed company are not entitled to dispose of their shareholding for a period of 1 year, starting from the date of listing on a licensed exchange.

### OFS-1.5.5

Unless otherwise permitted by the CBB, securities issued after the effective date of this Module must be in dematerialised form and the issuer is required to designate the clearing house, or depository facilities in which such securities are deposited.

### OFS-1.5.6

All securities issued under this Module must be in registered form and no bearer securities may be issued without CBB permission.

### OFS-1.5.7

The issuer or any person acting on its behalf or providing any services to the issue is prohibited to use any part of the proceeds of the issue before the issuer is fully incorporated and the proceeds are placed with the Board of Directors.



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## OFS-1.5 General Requirements for the Issuing of Securities (contined)

**OFS-1.5.8** Issuers and market participants are required to adhere to the fees and charges imposed outlined in Chapter OFS-8, or as required by the CBB from time-to-time.

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## OFS-1.6      Eligibility to Issue and Offer Equity Securities

### *Issuing of Equity Securities to the Public*

#### OFS-1.6.1

Issuers of equity securities to the public must meet the following additional eligibility criteria in order to obtain approval from the CBB:

- (a) The issuer, under formation, must prior to submitting its application to the CBB, submit an application to the Ministry of Industry & Commerce for the purpose of obtaining its no objection for incorporation purposes;
- (b) Existing issuers intending to list on a main board of a licensed exchange, should have 100 or more shareholders who are not employees or associated persons. New issuers must have 100 or more shareholders after the completion of the initial public offering or public offering;
- (c) The issuer must issue to the above mentioned shareholders free float of at least 10% of the total issued outstanding shares. The CBB reserves its right to amend this amount taking into account the interest of the market;
- (d) Securities are readily transferable and not subject to any restrictions other than those restrictions stipulated on the Memorandum and Articles of Association or such other applicable laws, rules and regulations;
- (e) For equity securities issued at a premium, the issue shall be underwritten by an independent underwriter through the conclusion of a firm commitment and irrevocable underwriting agreement; and
- (f) Each type of securities issued shall be equal in respect of rights and obligations, particularly in respect of voting and receipt of dividends and/or profits.

OFS-1.6.2      With respect to Subparagraph OFS-1.6.1(c), the CBB reserves its right to amend such percentage in accordance with the type and size of the issue.

OFS-1.6.3      With respect to Subparagraph OFS-1.6.1(e), the CBB may exempt any issue from the underwriting requirements where the offering price is equal to or below the average market price for the last six months, or where it is issued at the flat par value.

#### OFS-1.6.4

The ownership of equity securities of the issuer must not be restricted otherwise than in accordance with the issuer's Memorandum and Articles of Association, or the applicable laws, rules and regulations.



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## OFS-1.6 Eligibility to Issue and Offer Equity Securities (continued)

**OFS-1.6.5** The founders of the issuer must confirm and submit bank certificates to the CBB that their contribution in the share capital of the issuer is paid before the CBB grants its approval to issue its securities to the public.

**OFS-1.6.6** The issuer's preliminary contract must include the details as specified in this Module.

**OFS-1.6.7** Any newly established issuer must submit to the CBB a duly signed and irrevocable agreement entered into between financial institutions or other third party in respect of procuring partial finance of an issuer's project if such project is required to be financed by the total proceeds of the issue together with such finance.

**OFS-1.6.8** For listed or existing issuers, the issuance and offering of additional and/or new equity securities must obtain the approval of the General Assembly of its shareholders, in accordance with the issuer's Memorandum and Articles of Association or such other applicable laws, rules and regulations.

### *CBB's Right of Refusal or Restriction on Issue*

OFS-1.6.9 The CBB may reject the registration and issuance of any securities if it is found that the issuance thereof might cause damage, dilute or be contrary to the interests of the owners or holders of the issuer's securities or public investors in general.

OFS-1.6.10 The CBB may refuse to grant its approval, postpone granting such approval, or fix the timeframe for the offering period, if the CBB deems that the market condition or circumstances justifies such action.

OFS-1.6.11 The CBB will decide on the application within sixty calendar days from the date of its submission. Any rejection by the CBB will contain reasons for the decision. The applicant whose application has been rejected has the right to be heard by the CBB within thirty days from the date of notifying it of the rejection of its application. The CBB's decision is final.

**OFS-1.6.12** The founders do not have the right to re-apply for the issuance of securities before addressing the reasons for the rejection or the lapse of six months from the date of the CBB's rejection decision.



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## OFS-1.7 Eligibility to Issue and Offer Debt Securities

### OFS-1.7.1

Any issuer of debt securities and the guarantor, in the case of a guaranteed issue, must each be duly incorporated, or otherwise established, under the laws of the place where they are incorporated, or otherwise established, and must be in conformity with those laws and its Memorandum and Articles of Association, or equivalent documents.

### OFS-1.7.2

Issuers of debt securities must ensure that the issuance of debt securities is approved by the General Assembly, or any other equivalent body in accordance with the Memorandum and Articles of Association of the issuer and/or originator.

### OFS-1.7.3

Any change, alteration, or modification in the issued debt securities' rights, obligations, terms and conditions is subject to the approval of the debt securities holders meeting. The trustee is responsible for preparing and presenting at the debt securities holders' meeting a report through which the holders must be advised whether to accept or reject the proposed changes, alterations or modifications, or arrangements that will be made by the issuer in this respect.

### OFS-1.7.4

The debt securities must be in registered form, having equal par value in each issue. Debt securities of the same issue must confer upon their holders' equal rights towards the issuer and every condition to the contrary must be null and void.

### OFS-1.7.5

The debt securities must be freely transferable.

### OFS-1.7.6

A debt securities holder must have the right to receive an interest or income as per the terms of the security and also to receive the nominal value upon its maturity.

### OFS-1.7.7

If the issuer of debt securities is a listed company, any convertible debt securities issue must first be offered to the existing shareholders unless a whitewash resolution is passed by the shareholders' General Assembly.

### OFS-1.7.8

Debt securities to which options, warrants or similar rights to subscribe or purchase equity securities or debt securities are attached, must also comply with the requirements applicable to such options, warrants or similar rights.



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## OFS-1.7 Eligibility to Issue and Offer Debt Securities (continued)

OFS-1.7.9 The issuer may issue discount debt securities that may be sold at its redemption value at the time of issuance.

**OFS-1.7.10** Public offers of debt securities must be offered to the market either through a lead manager, or an eligible primary dealer who is required to make the necessary arrangements to re-sell debt securities to the public. The eligible primary dealer must be a CBB licensee under Volumes 1 or 2 and be a member of a licensed exchange.

**OFS-1.7.11** The issuer, the originator and/or the guarantor, in the case of a guaranteed issue, must have produced audited financial statements in accordance with the International Financial Reporting Standards, or other accounting standards acceptable to the CBB covering at least the last 2 financial years preceding the application date.

**OFS-1.7.12** The financial statements must be audited to a standard comparable to that required by the International Auditing Practices Committee of the International Federation of Accountants.

**OFS-1.7.13** In the case of a new applicant, if the period since the last financial year of audited financial statements exceeds 15 months at the time of the offering, interim period financial statements, which may be unaudited but reviewed by an external auditor, as compared with the same period in the previous financial year, must also be provided.

**OFS-1.7.14** If the debt securities are guaranteed by tangible assets, properties, or any other assets, the issuer must provide asset valuation reports prepared by at least two independent valuers and submit these to the CBB and be disclosed in the offering documents, or made available for inspection by potential subscribers.

**OFS-1.7.15** The issuer of public offers of debt securities must provide the depository arrangements through which the issued debt securities can be maintained.

**OFS-1.7.16** The issuer must confirm to the CBB that it will maintain a paying agent at an address in the Kingdom of Bahrain until the date on which no debt securities are outstanding, unless the issuer performs that function himself.



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## OFS-1.7 Eligibility to Issue and Offer Debt Securities (continued)

### OFS-1.7.17

If debt securities are:

- (a) Redeemable by the issuer, either in whole or in part, by an issue of shares;
- (b) Convertible into shares, either in whole or in part, by the holder; or
- (c) Issued in conjunction with separate options to subscribe for shares;

then, the terms of the issue of the securities must provide for all appropriate adjustments to the conversion rights in the event of any alteration to the capital of the issuer, and whether the holders of the debt securities and/or options have any participating rights in the event of a takeover offer for the issuer.





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## OFS-1.8 Eligibility to Issue Asset-backed Securities

**OFS-1.8.1** For the issue of asset-backed securities, which include mortgaged-backed securities (certificates), the issuer must be a single purpose entity (vehicle) (SPV).

OFS-1.8.2 The requirement to be a SPV does not preclude the addition to the pool of further assets during the life of the securities. Furthermore, other classes of debt securities may be issued by the SPV, backed by separate pools of similar assets.

**OFS-1.8.3** The audited financial statements requirements for previous years' statements do not apply to issuers of asset-backed securities (SPVs), but are required for the issue's originator and/or guarantor, as the case may be.

**OFS-1.8.4** Where an issue of asset-backed securities is backed by equity securities:

- (a) Those securities must be listed on an exchange;
- (b) The equity securities must represent minority interests in and must not confer legal or management control of the companies issuing the equity securities; and
- (c) Where options or conversion rights relating to equity securities are used to back an issue, these requirements apply in respect of the securities resulting from the exercise of those options or rights.

**OFS-1.8.5** There must be, until the date on which no debt securities are outstanding, an eligible independent trustee representing the interests of the holders of the asset-backed securities and with the right of access to appropriate, timely information relating to the assets.

**OFS-1.8.6** If the issuer issues debt securities guaranteed by mortgages on its property or any other collaterals, the legal procedures for mortgages must be undertaken in favour of the debt-holders, or a trustee representing them before offering the debt securities for subscription. The issuer itself must undertake such procedures or they may be undertaken by the party presenting the guarantee, if it is presented by a party other than the issuer. The issuer must, within a period not exceeding one month from the closing date of subscription, take the necessary measures to enter the loan value, together with all related details in the register in which the mortgage has been entered.



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## **OFS-1.9 Eligibility to Issue Shari'a Compliant (Islamic) Securities**

**OFS-1.9.1** For the issue of Islamic debt securities or Sukuk, the issuer must be a single purpose entity (vehicle) (SPV).

**OFS-1.9.2** The issuer and/or originator must appoint either:

- An independent Shari'a advisor or committee who has been approved by the CBB, in case of an issuer who does not have an existing Shari'a advisor or committee; or
- An Islamic bank or a licensed institution approved by the CBB to carry out Islamic banking to advise on all aspects of the Islamic private debt securities.

OFS-1.9.3 The CBB may, where it is of the view that the structure of the offering poses undue risks to the investor, reject the application to issue and offer such securities or require the issuer to satisfy the CBB that such risks have been addressed.

**OFS-1.9.4** The issuer of Islamic debt securities must comply with Shari'a principles and the Shari'a pronouncement report.

**OFS-1.9.5** The Shari'a advisor appointed in accordance with Rule OFS-1.9.2 must advise the issuer on all aspects of the Islamic securities, including documentation, structuring, investment, as well as other administrative and operational matters in relation to the Islamic securities, and ensure compliance with applicable Shari'a principles.

**OFS-1.9.6** The issuer is responsible for the compliance of the instrument with Shari'a principles. The Shari'a advisor's role does not release management from their responsibility in ensuring such compliance. The issuer must not restrict the activities of the Shari'a advisor in any way. In any case where restrictions are imposed these must be disclosed by the Shari'a advisor to the CBB, as well as disclosed in the offering document.

OFS-1.9.7 For the purposes of Rule OFS-1.9.1, types of Islamic securities or Sukuk that may be issued include all Islamic Sukuk that are eligible to be issued under the CBB Volume 2 Rulebook, but are not limited to:

- Ijara contract (similar in structure to a standard lease);
- Salam contract (payment in advance of goods to be delivered at a date in the future);
- Murabaha contract (asset financing);
- Modarabah contracts;
- Istisna'a contract;
- Bai Bithaman Ajil contracts;
- Intifaa; or

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## OFS-1.9      Eligibility to Issue Shari'a Compliant (Islamic) Securities (continued)

- (h) Any other Islamic contracts approved by a Shari'a Advisory Committee, or considered as an eligible issue under the CBB Volume 2 Rulebook.

### OFS-1.9.8

For the purpose of this Module, the Islamic or Shari'a compliance contracts or transactions must have the following meaning:

- (a) Ijara Sukuk is issued on stand alone assets identified on the balance sheet. For this purpose, the assets identified can be land which is to be leased, or equipment (e.g. aircraft, ships) to be leased. The rental rates of returns on these Sukuk can be both fixed and floating, depending on the particular originator;
- (b) Salam contracts are issued when payment is made in cash at the point of contract, but the delivery of the asset purchased is deferred to a pre-determined date;
- (c) Murabaha contracts are those that cover the sale and purchase transaction for the financing of an asset whereby the cost and profit margin (mark-up) are made known and agreed by all parties involved. The settlement for the purchase can be a deferred lump sum payment or an instalment basis of payments;
- (d) Modarabah contracts are used to finance a project or business venture whereby the investor (Rabb Al Maal) provides capital and a manager (Mudarib) manages the project or the business. A financial institution may act as the Mudarib for funds it mobilizes for investments in Shari'a compliant products. If the venture is profitable, the profit will be distributed based on a pre-agreed ratio and losses if any are to be borne solely by the provider of the capital (Rabb Al Maal);
- (e) Istisna'a contracts are used primarily in project finance. Such contracts are not tradable securities since the underlying asset does not yet exist. The proceeds of such an issue would typically be used to construct the base infrastructure through multiple Istisna'a agreements;
- (f) Mixed Ijara contracts are contracts where the underlying assets can comprise of Istisna'a or Murabaha receivables in addition to Ijara; and
- (g) Mixed Ijara Sukuk allows for a greater variety of funds to be used since previously inaccessible Murabaha and Istisna'a assets can be used in the portfolio.

OFS-1.9.9      The listing and tradability of the various Islamic contracts is subject to the Shari'a rules and principles and Shari'a Pronouncement Report in respect of each contract.



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## OFS-1.10 Eligibility to Issue Convertible Debt Securities

### OFS-1.10.1

All convertible debt securities which are convertible into equity securities or outstanding securities of the issuer, or a company in the same group as the issuer for which an issuance or offering is to be sought, must comply both with the requirements applicable to the debt securities for which an issuance is sought, and with the requirements applicable to the underlying equity securities to which such convertible debt securities relate. In the event of any conflict or inconsistency between the various requirements, those applicable to such equity securities prevail.

### OFS-1.10.2

Where convertible debt securities are convertible into equity securities of a listed issuer, these convertible debt securities must also be listed on the same licensed exchange.

### OFS-1.10.3

Convertible debt securities which are convertible into assets, properties, or securities other than equity securities may be listed only if the CBB and the licensed exchange are satisfied that holders have the necessary information available to form an opinion concerning the value of the other property to which such convertible debt securities relate. This principle does not apply to an issue of convertible debt securities by a state or a supranational.

### OFS-1.10.4

Any alterations in the terms and conditions of convertible debt securities after issue must be approved by the debt securities holders and on obtaining such approval by the CBB, except where the alterations take effect automatically under the existing terms and conditions of such convertible debt securities.

### OFS-1.10.5

The issuer's shareholders must have priority right to subscribe for the convertible debt securities if they express their desire to do so within a period not exceeding 15 days from the date of calling them to exercise such right. The shareholder may use his priority to subscribe for such debt securities in excess of his share in the issuer's capital if the offered debt securities allow this.

### OFS-1.10.6

The issuer must not distribute bonus equity securities or profits from the reserve or issue new convertible debt securities, except after taking the necessary measures to safeguard the rights of the holders of the convertible debt securities who elect to convert them into equity securities, by granting them bonus shares or profits from the reserve or some of these debt securities as if they were shareholders.



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## OFS-1.10 Eligibility to Issue Convertible Debt Securities (continued)

**OFS-1.10.7** Any changes to the conversion rights attached to convertible securities must be brought to the attention of the CBB immediately and is subject to CBB approval.

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## OFS-1.11   Eligibility to Issue Warrants and Other Securities

### *Warrants*

**OFS-1.11.1**   Where the issuer directly issues warrants, he must satisfy the requirements relating to the underlying securities in accordance with this Module.

### *Structured Warrants*

**OFS-1.11.2**   Structured warrants or such similar instruments must be issued by a third-party issuer which is:

- (a) A Volume 1, or Volume 2 licensee authorised by its relevant supervisory directorate of the CBB to conduct such issue (offer); or
- (b) A foreign financial institution subject to appropriate supervision acceptable to the CBB.

**OFS-1.11.3**   Structured warrants and other similar instruments may only be issued in relation to:

- (a) Securities that are listed on a licensed or regulated exchange;
- (b) Commodities or metals, provided that they are traded on a licensed or regulated exchange and regularly operating open market;
- (c) Currencies; or
- (d) Stock indices or basket of listed securities.

### *Placement and Holder Size*

**OFS-1.11.4**   At least 50% of an issue must be placed out to a minimum of 50 persons. This requirement does not apply if there is a designated market maker for the structured warrants or other instruments.

**OFS-1.11.5**   The minimum board lot size, the issue size, issue price and any other details for structured warrants based on listed or quoted securities are subject to the licensed exchange business rules.

### *Tenure of Issue*

**OFS-1.11.6**   The tenure of the structured warrant must not exceed three years from the date of issue, or such longer time as the CBB may allow.



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## OFS-1.11 Eligibility to Issue Warrants and Other Securities (continued)

### *Exercise Settlement*

**OFS-1.11.7** On exercise, structured warrants must cash settled unless the CBB has approved physical settlement where the underlying securities are cash or cash equivalent securities. The settlement method must be specified in the offering document. The issuer thereafter must not have an option to elect for settlement either in shares or cash upon exercise of the structured warrants.

**OFS-1.11.8** An issuer must decide on the method for determining the cash settlement price at the time of the launch of an issue, and this must be stipulated in the offering document and or term sheet. The settlement price must be either:

- The average of the closing prices of the underlying securities (subject to any adjustment to reflect any capitalisation issue, rights issue, distribution or the like) for the five market days prior to, and including, the market day immediately before the relevant exercise/expiry date;
- The closing price of the underlying securities on the market day immediately before the exercise/expiry date; and
- For securities regarded as illiquid, a cash settlement price determination agreed between the issuer and the CBB for that particular security.

### *Conversion Ratio*

**OFS-1.11.9** For the exercise of structured warrants based on individual securities, the conversion ratio must avoid using fractions of securities.

### *Adjustments*

**OFS-1.11.11** The terms of the issue must provide for adjustment to the exercise price and, where appropriate, the number of securities which each structured warrant carries the right to sell or purchase, in the event of any capitalisation issue, rights issue, distribution or the like relating to the underlying securities.

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## OFS-1.11 Eligibility to Issue Warrants and Other Securities (continued)

### *Designated Market Maker*

**OFS-1.11.12** If there is a designated market maker in respect of the issue, the CBB together with the licensed exchange must be satisfied that the designated market maker's obligations are being fulfilled.

### *Underlying Securities*

**OFS-1.11.13** Necessary arrangements must be made for the underlying securities to be held by a trustee or custodian to meet the exercise of all obligations of the outstanding warrants.

**OFS-1.11.14** Where the warrants relate to securities issued by a third party, the declaration by the issuer should take the following form:  
 “Subject as set out below, the issuer whose name appears on page [the issuer’s Board of Directors and management] accepts responsibility for the information contained in this document. To the best of the knowledge and belief of the issuer (who has taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with the facts and does not omit anything likely to affect such information.  
 The information contained herein with regard to [name of issuer of underlying securities], its subsidiary undertakings and the [description of underlying securities], consists of extracts from or summaries of information contained in financial and other information released publicly by [name of issuer of underlying securities] and summaries of certain provisions of [jurisdiction of issuer of underlying securities] law. The issuer accepts responsibility for accurately reproducing such extracts or summaries. The issuer accepts no further or other responsibility in respect of such information.”

**OFS-1.11.15** In the case of warrants related to anything other than securities, the declaration in Paragraph OFS-1.11.14 should be appropriately modified.

**OFS-1.11.16** Where the issue of warrants is guaranteed, the information requirements which apply to the issuer must also be applied to the guarantor, depending on whether the guarantor is listed or is the guarantor of other listed securities.





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## OFS-1.11 Eligibility to Issue Warrants and Other Securities (continued)

### OFS-1.11.17

The equivalent offering document must include details of conditions of and procedures for exchange, exercise or cash settlement and details of the situations in which they may be amended, including any provisions for the adjustment of the terms of the warrants.

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## **OFS-1.12   Eligibility for States and Supranationals to Issue Securities**

**OFS-1.12.1**   For issues by states and supranationals, copies of all enabling governmental or legislative laws, authorisations, consents or orders must be submitted to the CBB.

OFS-1.12.2   The requirements for submission of the following documents do not apply to the securities issued by states and supranationals:

- (a)   Certificate of incorporation or equivalent document;
- (b)   Memorandum and Articles of Association;
- (c)   Annual financial statements;
- (d)   The resolutions of the issuer at the general meeting authorising the issue of the security;
- (e)   The resolution(s) of the board of directors; and
- (f)   Notice(s) of shareholders meeting.



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### OFS-1.13 Eligibility for State Corporations to Issue Securities

**OFS-1.13.1** The accountants' report in relation to an issuing of debt securities issued by a state corporation incorporated or otherwise established in Bahrain is not required. In such case, the latest audited financial statements, which must relate to a financial period ended not more than 15 months before the date the document is issued, must be included in or appended to the issuing and offering document.

**OFS-1.13.2** The issuance of securities issued by a state corporation incorporated or otherwise established outside Bahrain, where the latest financial period reported on by the external auditor exceeds 15 months before the date of the issuing document, requires reviewed interim financial statements relating to a period ended not more than 9 months before the date of the issuing and offering document, and appropriate evidence must be given to the CBB that there has been no material adverse change in the financial condition of the issuer or the guarantor, in the case of a guaranteed issue since the end of the period last reported on by the external auditor.

OFS-1.13.3 The requirement of submission of the following documents does not apply to the securities issued by a state corporation:

- (a) Certificate of incorporation or equivalent document of the issuer and guarantor, in the case of a guaranteed issue;
- (b) Certificate entitling the issuer and the guarantor, in the case of guaranteed issue, to commence business; and
- (c) Notice(s) of shareholders meeting.

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<b>CHAPTER</b>	<b>OFS-1:        Issuance of Securities</b>

## **OFS-1.14   Eligibility for Overseas Issuers to Issue Securities**

**OFS-1.14.1**   The issuance and offering requirements for local issuers apply equally to overseas issuers, subject to the additional requirements, modifications or exceptions below.

OFS-1.14.2   The CBB reserves the right, in its absolute discretion, to refuse any issuing, offering or listing application of securities of an overseas issuer if:

- (a) It believes that it is not in the public interest to approve such application; or
- (b) The overseas issuer's securities, particularly equity securities, has not obtained the approval of its home market regulator or licensed exchange for offering or listing, as the case may be and the CBB is not satisfied that the overseas issuer is incorporated or otherwise established in a jurisdiction where the standards of securities holders' protection are at least equivalent to those provided in Bahrain.

**OFS-1.14.3**   In the case of registered securities, provision must be made for a depository or securities ownership transfer agent, to register holders to be maintained in Bahrain, or such other place as the CBB may accept, and for transfers to be registered locally.

OFS-1.14.4   For purposes of Paragraph OFS-1.14.3, the CBB may consider an alternative proposal for registering transfers for holders in Bahrain, in exceptional circumstances.

**OFS-1.14.5**   The following modifications apply:

- (a) The references in this Module to "Directors" must be read as references to members of the overseas issuer's governing body;
- (b) The issuing and offering documents must be signed by at least two members of the governing body of the overseas issuer or guarantor, in the case of a guaranteed issue, or by their agents authorised in writing rather than signed by or on behalf of every director or proposed director; and
- (c) The declaration to be submitted to the CBB may require adjustment by virtue of the laws to which the overseas issuer is subject and may be signed by a director's and secretary's agent, authorised in writing, rather than by a director and the secretary.



<b>MODULE</b>	<b>OFS: Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-1: Issuance of Securities</b>

## **OFS-1.14 Eligibility for Overseas Issuers to Issue Securities (continued)**

OFS-1.14.6 The CBB may be prepared to accept modifications to the offering document and/or listing application as it considers appropriate in a particular case. In particular, in the case of an overseas issuer whose home market or primary listing is on another regulated exchange recognised by the CBB, particularly for those jurisdictions who are IOSCO members, and signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMoU), the CBB may accept an offering document or listing application which incorporates equivalent continuing obligations to those imposed by that other market or exchange.

OFS-1.14.7 Conversely, the CBB may impose additional requirements in certain instances. In particular, if the overseas issuer's securities has or is to have a primary listing on the exchange, or obtained the approval of the securities regulator, the CBB may impose such additional requirements as it considers necessary to ensure that investors have the same protection as that afforded to them in Bahrain.

**OFS-1.14.8** Issuers must fulfil their obligations regarding the circulation and contents of annual and interim financial statements and accounts, to ensure simultaneous release of information to other exchanges and to the market in Bahrain.

**OFS-1.14.9** The external auditor must be independent, both of the overseas issuer and of any other company concerned.

**OFS-1.14.10** Financial statements in respect of overseas issuers are required to conform with accounting standards acceptable to the CBB which must meet at a minimum the IFRS, as promulgated from time-to-time by the International Accounting Standards Committee. The relevant standards will normally be those current in relation to the last financial year reported on and, wherever possible, appropriate adjustments must be made to show profits for all periods in accordance with such standards.

OFS-1.14.11 Where the CBB allows reports to be drawn up otherwise than in conformity with accounting standards set by the International Accounting Standards Committee, the CBB may, having regard to the jurisdiction in which the overseas issuer is incorporated or otherwise established, require the report to contain a statement of the financial effect to the financial statements of the use of accounting standards other than IFRS.

**OFS-1.14.12** Where the figures in the report differ from those in the audited annual financial statements, a statement of adjustments must be incorporated in the offering documents and submitted to the CBB which enables the figures to be reconciled.

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<b>CHAPTER</b>	<b>OFS-2:        Offering of Securities</b>

## **OFS-2.1      Permission Requirements**

**OFS-2.1.1**      Offers in relation to an overseas issuer may only be made through a person acting as a lead manager or placement agent who is licensed as and eligible to undertake such activity in terms of its relevant CBB Volume.

OFS-2.1.2      The CBB may grant a waiver to an issuer on eligibility conditions if the interests of the investors, or the capital market in general will not be compromised.



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## OFS-2.2 Methods of Offering

OFS-2.2.1 The following are non-exclusive examples of the types of offering that may take place in the Kingdom of Bahrain with specific eligibility and other approval requirements for each type to be found later in this Chapter:

- (a) Initial Public Offering: An offer for subscription to the public by or on behalf of a newly-established company, or an unlisted issuer of its own securities;
- (b) Initial Offer for Sale: An offer for sale to the public by or on behalf of existing companies or unlisted issuers or its securities holders or part of its securities holders, whose securities are already in issue or subscribed;
- (c) Subsequent Public Offer: An offer for subscription to the public by or on behalf of a listed issuer of its own securities other than by a rights issue, after obtaining the approval on waiving of the pre-emptive rights of the existing securities holders;
- (d) Rights Issue: A rights issue offer by way of exercising the pre-emptive rights by existing holders of securities which enables those holders to subscribe to those securities in proportion to their existing holding, or otherwise on the basis of allotment approved by those holders;
- (e) Private Placement: Private placement is an offer to accredited investors, as defined in this Module, selected or accepted by the issuer or the appointed lead manager for obtaining subscriptions for securities of an issue, or for obtaining subscription for sale of securities by an underwriter or lead manager;
- (f) Employee Share Benefit Plan: Offering of securities which is made by the issuer on the exercise of options granted to or for the benefit of management and/or employees, after obtaining the approval of securities holders and the CBB;
- (g) Capitalisation Issue: A capitalisation issue is an allotment of further securities to existing securities holders, credited as fully paid-up out of the issuer's reserves or profits, in proportion to their existing holdings, or otherwise not involving any monetary payments;
- (h) Consideration Issue: A consideration issue is an issue of securities as consideration, other than cash, in a transaction or in connection with a takeover or merger or the division of an issuer;
- (i) Swapping, Exchange or Substitution of Securities: Securities issued through an exchange or a substitution, swapping or conversion of securities into other classes of securities;
- (j) Initial Listings for Publicly Traded Companies: For non-Bahraini issuers whose securities are issued in other markets, or listed on another regulated exchange and who wish to list on a licensed exchange in Bahrain; or
- (k) Listing of Closed or Private Companies (including Small and Medium Enterprises SME's); and
- (l) Closed, private, family companies, or such other non-public companies that offer their securities to the public and list.



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## OFS-2.3 Public Offering

### OFS-2.3.1

All public offering applications must meet the eligibility criteria under Section OFS-1.5 and the eligibility criteria related to the type of security or issuer and follow the requirements outlined in Appendix OFS-1.

#### *Corporate Governance*

### OFS-2.3.2

Issuers of securities in a public offering must confirm to the CBB before the registration of the offering document that it is able to comply with the CBB Law, rules and regulations, as well as with all other applicable laws, rules and regulations.

### OFS-2.3.3

The issuer must meet the following requirements in order for a public offer to be approved by the CBB:

- (a) The issuer is a duly incorporated entity under the laws of the Kingdom of Bahrain, or in case of an overseas issuer, under the laws of its place of incorporation;
- (b) The issuer operates in conformity with its Memorandum and Articles of Association or equivalent constitutional documents;
- (c) The securities are freely transferable and free from any encumbrances;
- (d) The offered securities are to be listed on a licensed exchange in the Kingdom of Bahrain, and there are adequate assurances between the issuer and the licensed exchange that they will be admitted to such a platform;
- (e) The necessary custodial and/or central depository arrangements have been made including the deposit of securities with an entity eligible to provide depository services under Article 94 of the CBB Law;
- (f) The necessary clearing and settlement arrangements have been made that give effect to Article 108 of the CBB Law;
- (g) The issuer has made the appointment of the eligible advisors, as per this Module including the appointment of a listing agent to liaise with the licensed exchange and the CBB where the CBB deems necessary; and
- (h) The issuer meets such other requirement as determined by the CBB from time to time.





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## OFS-2.3 Public Offering (continued)

### OFS-2.3.4

The issuer must appoint a lead manager for any public offer.

### OFS-2.3.5

An issuer in an initial public offering of equity securities must ensure that the issue is underwritten, unless an exception is made by the CBB, in accordance with Paragraph OFS-2.3.6.

### *Underwriting*

### OFS-2.3.6

The CBB may approve an issue without an underwriter where:

- More than one institution who are not related parties provide the proposed offering price; or
- The lead manager has established the issue price through a book building mechanism; and
- The lead manager has signed a declaration of due diligence and has submitted a declaration confirming to the issuer and the CBB that the issue will be fully subscribed, which declaration must be included in the offering document.

### OFS-2.3.7

Where the issue is to be underwritten, full details of the underwriter and the underwriting arrangement must be disclosed in the prospectus and the full underwriting agreement as signed by the parties must be made available for inspection by the subscribers.

### OFS-2.3.8

Where the issue is not to be underwritten, the CBB retains its right to impose full or partial underwriting based upon pricing of the securities to be issued and market conditions.

### OFS-2.3.9

Where the issue is underwritten the:

- Underwriter must not be a related party; and
- Lead manager and/or underwriter must directly or through an authorised market maker, establish a price stabilisation mechanism for the securities for a period of at least six months starting from the first day of trading on a licensed exchange. The CBB may require a longer period of price stabilisation where it considers it necessary.

### OFS-2.3.10

Details of underwriting agreements must be disclosed in the offering document and the agreement must be capable of being enforced under any circumstance.

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## OFS-2.3    Public Offering (continued)

**OFS-2.3.11**   In respect of public offers of debt securities, where the issue is to be underwritten or sold through primary dealer arrangements, full details of the underwriter, primary dealer, the underwriting arrangement and/or primary dealer arrangements must be disclosed in the prospectus and the underwriting agreement must be made available for inspection by the subscribers.

### *Book Building*

**OFS-2.3.12**   The preliminary/red herring prospectus containing all the information except the information regarding the price at which the securities are offered, must be filed with the CBB prior to it being used in any manner by the issuer or its advisors.

**OFS-2.3.13**   The lead manager and/or the underwriter to the issue must be nominated by the issuer as a book runner and his name must be disclosed in the prospectus.

OFS-2.3.14    The preliminary/red herring prospectus to be circulated may indicate the price band within which the securities are being offered for subscription.

**OFS-2.3.15**   The book runner, on receipt of the offers must maintain a record of the names and number of securities ordered and the price at which the investors are willing to subscribe to securities under the placement portion.

**OFS-2.3.16**   On receipt of the information, the book runner and the issuer must determine the price at which the securities are to be offered to the public.

**OFS-2.3.17**   The book runner and other appointed advisors associated with the book building process must maintain records of the book building process and the CBB has the right to inspect and obtain a copy of such records.

**OFS-2.3.18**   Details of the outcome of the book building process must be disclosed in the prospectus or offer document and must include information such as the general range of the prices at which the institutional investors are willing to subscribe to under the placement portion, the total number of securities ordered and the total number of institutions involved. The CBB shall have the right to require the disclosure of any other additional information if it deems necessary.

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## OFS-2.3      Public Offering (continued)

**OFS-2.3.19**   The issuer, lead manager and/or underwriter must consider the outcome of the book building process and/or any other processes or arrangements employed, when establishing the final offer price at which the securities are to be offered to the public. A statement to the effect must be duly disclosed in the prospectus.



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## OFS-2.4 Private Placement

**OFS-2.4.1** Offers made by private placement pursuant to a Private Placement Memorandum (PPM) are subject to the general eligibility criteria and requirements stipulated under this Module.

**OFS-2.4.2** A private offer must only be made to accredited investors and must be for a minimum investment of USD 100,000.00. A private offer, excluding those offers made by way of private equity, is limited to a take up by less than 100 accredited investors.

**OFS-2.4.3** Any subsequent issues or offering of securities by a publicly listed issuer, for its own securities, must first be offered to its existing shareholders (rights offering) and then to the public. Any listed issuer that would like to make a private placement must obtain CBB approval and the approval of the shareholders' General Assembly.

OFS-2.4.4 Issuers must combine all offers of securities that are in substance part of a single offering. The CBB will consider if the offer occurs in the six-month period before or the six-month period after the completion of an offer, for the purpose of the above determination.

OFS-2.4.5 In order for the CBB not to regard the offer as a public offer, the issuer must exercise reasonable care to ensure that the purchasers of securities are not acquiring them for resale, redistribution to other investors within a period not less than one year.

**OFS-2.4.6** The issuer, lead manager and any appointed advisor to the private placement offer must not disseminate or make available any information related to the private placement offer to the public prior to the subscription being closed and must not at any time disclose or make available any information that could be regarded as an inducement to deal in these securities.

**OFS-2.4.7** Any private placements marketed or promoted by licensees of the CBB must set fees within the actual cost and must be within reasonable and justifiable levels that do not materially compromise the interests of the issuer or the investor. The private placement fees or any other fees or charges related to the placement and any other related cost must be disclosed clearly in the PPM.

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## OFS-2.4      Private Placement (continued)

OFS-2.4.8      The level of fees for issuers of differing sizes of issue is given below as a guidance:

Size of Issue	Maximum Fee Percentage
Up to BD100,000,000	3%
BD100,000,001 to BD500,000,000	2%
BD500,000,001 and above	1%



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## OFS-2.5 Rights Offering

- OFS-2.5.1** Rights offerings of listed equity securities are subject to the eligibility criteria under this Module.
- OFS-2.5.2** The CBB may only grant its approval for a rights issue where the General Assembly of the issuer has issued a resolution approving such offer.
- OFS-2.5.3** An Offering Period of a Rights offering must be approved by the CBB and must be close to the public announcement of financial statements so that shareholders and potential subscribers have the most recent financial information of the issuer.
- OFS-2.5.4** An application for approval of a rights issue must include the issue price and principal terms and conditions of the issue.
- OFS-2.5.5** If the rights offering is made at a high share premium or above the market price on a licensed exchange, such issue shall be subject to the underwriting requirement under Subparagraph OFS-1.6.1 (e).
- OFS-2.5.6** The content of the rights offering document must meet the minimum requirements provided in Appendix OFS-1, where relevant.
- OFS-2.5.7** To accommodate for the possibility of under subscription by the existing shareholders, issuers must prepare rights offering documents in line with public offering documents to avoid any delay regarding the approval of a further public offering where the rights issues are not fully underwritten or taken up.
- OFS-2.5.8** If the rights issue is not fully subscribed or fully underwritten and thereafter is made to the public, the prospectus requirements of Section OFS-5.1 apply in relation to the offering document.
- OFS-2.5.9** Any announcement made by the issuer or his advisors prior to receiving the approval of the CBB must clearly state that the rights issue is subject to the approval of the CBB.
- OFS-2.5.10** The issuer must disclose the price, terms and the purpose of the rights issue, as well as the financial circumstances that call for the rights issue.



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## OFS-2.5 Rights Offering (continued)

**OFS-2.5.11** The offering period for a rights issue must be at least 15 calendar days.

**OFS-2.5.12** A rights issue which allows holders of securities to participate in proportion or pro rata to the amount of existing shares held, must allow for renunciation, in part or whole, in favour of a third party at the option of the entitled shareholders.

OFS-2.5.13 The CBB will not allow any rights issue in which the rights cannot be renounced, in part or whole, in favour of a third party at the option of the entitled shareholders, unless the issuer made the necessary arrangements with a licensed exchange to trade the rights, subject to such renunciation.

**OFS-2.5.14** Subsequent to a rights issue, the issuer must submit to the CBB the results of the issue including an allotment report and, if any rights are not taken up or are sold, the details of the sale, including the date and price per share.



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## OFS-2.6 Employee Stock Option Plan

**OFS-2.6.1** Any employee stock option plan of a listed issuer utilising its equity securities requires CBB approval.

OFS-2.6.2 The issuer may reserve up to 10% of its total issued securities, for its directors and employees through an employee stock option plan.

**OFS-2.6.3** The employee stock option plan must be approved by the shareholders at the General Assembly. The issuer must provide the shareholders' General Assembly with full details and information about the terms, conditions, eligibility criteria and timeframe and all information included under Rule OFS-2.6.4.

**OFS-2.6.4** The employee stock option plan must contain provisions relating to:

- (a) The persons to whom securities may be issued or sold under the plan ("participants");
- (b) The total number and/or amount of the securities to be issued or purchased on a licensed exchange;
- (c) Entitlement in terms of number and amount of securities for any one participant;
- (d) The amount payable on application or acceptance, and the basis for determining the subscription or sale or option price, and the period in or after which payments or calls or loans to provide the same, may be paid or called;
- (e) The time limit for the plan;
- (f) The period during which the participants must not dispose of the allotted securities, if applicable; and
- (g) The voting, dividend, transfer and other rights, including those arising from the liquidation of the company attached to the securities.

**OFS-2.6.5** Any announcement made prior to receiving the approval of the CBB must clearly state that the employee stock option plan is subject to the approval of the CBB.

**OFS-2.6.6** The resolution must approve a specific plan and refer to either the plan itself, or to a summary of its principal terms included in the circular, which must contain all the provisions set out in Rule OFS-2.6.4. Where directors of the issuer are trustees of the plan, or have a direct or indirect interest in the plan, the circular must disclose the interest.





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## OFS-2.6 Employee Stock Option Plan (continued)

### OFS-2.6.7

All listed companies' securities held on behalf of the employees under an employee stock option plan or employee share benefit plan, must be held in trust by a trustee subject to the prior written approval of the CBB. The securities account opened and maintained at a licensed central depository for this purpose must be clearly identified as a trust account for the employee stock option plan or employee share benefit plan accordingly. Where employees are eligible to trade in the securities of the issuer held on their behalf in an employee stock option plan, the directors, executive management and any other key persons must not be eligible to hold the position of trustee of such plan.

### OFS-2.6.7A [This Paragraph was deleted in July 2018].

### OFS-2.6.8

Unless the securities subject to the same plan are identical with other securities, they must be separately designated.

OFS-2.6.9 The plan may provide for an adjustment of the subscription or option price, or the number or amount of securities subject that such variation provides a participant the same portion of the equity capital as that to which he was previously entitled.

OFS-2.6.10 The issue of securities as consideration for an acquisition will not be regarded as a circumstance requiring adjustment.

### OFS-2.6.11

An adjustment other than on a capitalisation issue must be confirmed in writing by the company's auditor and in its opinion be fair and reasonable.

### OFS-2.6.12

The plan must provide, or the circular must state, that the provision relating to the matters contained in Rule OFS-2.6.4 cannot be altered to the advantage of participants, without the shareholders' prior approval at a General Assembly.

### OFS-2.6.13

The plan and any other subsequent renewal or amendments to the terms of the plan are subject to the prior approval of the CBB.



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## OFS-2.6 Employee Stock Option Plan (continued)

### OFS-2.6.14

The holders or the owners of securities issued or subsequently issued under any employee share benefit plan, whether the issuer or the directors of the issuer are trustee of the plan or not, are subject to the provisions related to prohibition of abuse of inside information and insider trading laws including but not limited to those set out in Module MAM of CBB Rulebook Volume 6.



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## OFS-3.1 Capital Market Advisory Services Provider

OFS-3.1.1 For the purpose of this Module, a Capital Market Advisory Services Provider (appointed advisor) means any person who provides or involves himself with any activity or services stipulated under Article 80 of the CBB Law.

### *Definition of Advisors*

OFS-3.1.2 For the purpose of this Module, in addition to any other designation by the CBB, a Capital Market Advisory Services Provider may be classified as follows:

- (a) Auditors;
- (aa) Financial Advisors
- (b) Custodian;
- (c) Independent Reporting Accountant;
- (d) Independent Valuer;
- (e) Issue Agent;
- (f) Lead Manager;
- (g) Legal Advisor;
- (h) Paying Agent;
- (i) Receiving Bank;
- (j) Securities Depositor and ownership transfer agent;
- (k) Trustee;
- (l) Shari'a Advisor;
- (m) Promoter;
- (n) Listing Agent;
- (o) Underwriter; or
- (p) Any other person designated as a Capital Market Advisory Service Provider by the CBB from time to time.

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<b>CHAPTER</b>	<b>OFS-3: Capital Market Advisory Services Provider</b>

## **OFS-3.2 General Eligibility**

### *Incorporation, Licensing and Acceptance*

**OFS-3.2.1** The appointed advisor must be either incorporated in the Kingdom of Bahrain and licensed by the CBB or authorised to provide this service by the CBB.

**OFS-3.2.2** The Memorandum and Articles of Association and/or the by-laws of the advisor must allow it to provide such service.

**OFS-3.2.3** Where applicable, the appointed advisor must be incorporated in, be a member, associate or registered with the relevant local, and/or international professional body of a jurisdiction which is a signatory to the IOSCO MMoU.

### *Ability to Provide the Service*

**OFS-3.2.4** In addition to incorporation and licensing, the CBB will review the ability of the advisor to provide the service. The CBB will consider the following in such determination:

- (a) Historical records and prior performance;
- (b) Maintenance of systems and controls set-up by the advisor; and
- (c) Number of suitably experienced and qualified employees.

Moreover, advisors' fees and charges should be fixed reasonably in order to ensure that the costs associated with raising capital or initial public offerings are competitive.



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## OFS-3.2 General Eligibility (continued)

### *Controlled Functions*

**OFS-3.2.5** All persons proposed to undertake any of the controlled functions must be subject to the provisions and requirements related to these functions, particularly in respect of anti-money laundering and financial crime, the compliance function and any person directly involved in the preparation of the prospectus or offering documents.

**OFS-3.2.6** All persons proposed to undertake any controlled functions and any other persons recruited or employed by the capital market advisory service provider must meet the relevant examination and qualification requirements of the CBB, including qualifications such as the Securities Market Regulation Certification Programme (Series 7), the General Securities Representative Qualification (Series 79), and/or any other relevant examinations and qualifications recognised by the CBB that are appropriate to capital market functions, as the case may be. However the CBB reserves the right to impose a higher level of qualifications as it deems necessary.

**OFS-3.2.7** Capital market advisory services providers must maintain and keep records of agreements, contracts, correspondence and other information to demonstrate their compliance with the requirements of this Module. These records must be kept for at least 10 years.

### *Appointment, Change, Termination*

**OFS-3.2.8** Any appointment of an advisor must be made in the form of a written agreement, contract and/or official letter issued by the issuer or lead manager as applicable.

**OFS-3.2.9** The acceptance of the appointment by the advisor must be made in the form of an official written confirmation.

**OFS-3.2.10** The name of the appointed advisors must be prominently disclosed in the offering document and in all advertising materials.

**OFS-3.2.11** A person appointed to act as an appointed advisor shall not cease to act as such until another has taken office with CBB approval.



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## OFS-3.2 General Eligibility (continued)

**OFS-3.2.12** An issuer must notify the CBB in writing immediately of the appointment or dismissal or replacement of an advisor that had been appointed. In the case of a dismissal, the reasons for dismissal must be provided.

### *Transparency and Disclosure*

**OFS-3.2.13** Where a prospectus or offering document includes a statement purporting to be made by, or based on a statement made by an expert, the prospectus or offering document must not be issued unless:

- The expert has, before the approval and registration of the prospectus or offering document, as the case may be, provided his written consent to the issue thereof; and
- There appears in the prospectus or offering document, a statement that the expert has given such consent.

**OFS-3.2.14** The appointed advisor must provide a statement regarding its due diligence with regard to its appointed responsibility and this statement must be included in the prospectus or offering document.

**OFS-3.2.15** The appointed advisor must disclose in the prospectus and/or offering documents, whether it has any capital of the issuer under option, or agreed conditionally or unconditionally to be put under option, including:

- The title and amount of securities covered by the options;
- The exercise price;
- The purchase price, if any; and
- The expiration date of the options.

OFS-3.2.16 Where options have been granted, or agreed to be granted to all the holders of shares or debt securities, or of any class thereof, or to any appointed advisor, or to employees under the employees' share benefit plan, a general disclosure of such fact may be made.

**OFS-3.2.17** The information provided in Rule OFS-3.2.15 must also be disclosed where there is authorised but unissued capital, or an undertaking to increase the capital in connection with warrants, convertible obligations or other outstanding equity-linked securities, or subscription rights granted or to be granted to any appointed advisor. Such information must indicate:

- The amount of outstanding equity-linked securities and of such authorised capital or capital increase and where appropriate, the duration of the authorisation;



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## OFS-3.2 General Eligibility (continued)

- (b) The categories of advisors having preferential subscription rights for such additional portions of capital;
- (c) The terms, arrangements and procedures for the share issue corresponding to such portions; and
- (d) That no subscription is made by the issuer in contravention of Subparagraph OFS-1.5.2(s).

### OFS-3.2.18

In regard to the implementation of the granting of capital in Paragraphs OFS-3.2.15 and OFS-3.2.17:

- (a) The General Assembly of the securities holders must approve a separate resolution of the rights or options through a majority of disinterested securities holders;
- (b) It must be implemented, exercised and/or allocated separately from the process of the related offering of securities, i.e. either before or after the offering period; and
- (c) For issuers under formation, the implementation, exercising and or allocation of the required securities must take place only after the publication of the issuer's incorporation order in the Official Gazette.

### *Independency and Avoidance of Conflict of Interest*

### OFS-3.2.19

An appointed advisor must be independent of the issuer. An appointed advisor will not be considered independent by the CBB if:

- (a) He owns an interest of 5% or more of equity securities of the issuer or any other company within the issuer's group;
- (b) He has a business relationship with, or financial interest in the issuer or any other entity in the issuer's group that would give the appointed advisor, or the appointed advisor's group a material interest in the outcome of the transaction;
- (c) He **provides** and has **provided** in the previous 2 years any service, assurance, or guidance in any event to the issuer, other than the offering or listing in which he is appointed as an appointed advisor, or to another entity in the issuer's group; or
- (d) A director, partner or employee of the appointed advisor or another entity in the appointed advisor's group has a material interest in the issuer or any other entity in the issuer's group.



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## OFS-3.2 General Eligibility (continued)

### OFS-3.2.20

When an appointed advisor undertakes business other than the capital market advisory services, or undertakes two or more of the capital market advisory services, the appointed advisor must ensure that the performance of such business is subject to the avoidance of any conflict of interest.

### *Confidentiality and Prohibition of Insider Trading*

### OFS-3.2.21

Appointed advisors are subject to confidentiality requirements which must be explicitly stated in the respective agreements, contracts and/or letters.

### OFS-3.2.22

All advisors must abide by the rules relating to the Prohibition of Market Abuse and Manipulation contained in Module MAM of Volume 6 CBB Rulebook, as well as the relevant rules of the licensed exchange regarding the prevention of insider trading, in their capacity as a temporary insider.

### *Reporting and Notification to the CBB*

### OFS-3.2.23

An appointed advisor is responsible, in addition to the reporting and disclosure requirements stipulated under this Module, for immediate notification to the CBB of any offence involving money laundering, fraud, theft, or other dishonest conduct related to the offer or listing, irrespective of whether such conduct is reported to the CBB by the issuer and/or the lead manager.

### *Declaration and Accountability*

### OFS-3.2.24

An appointed advisor is required to provide the CBB with a declaration confirming his acceptance to the accountability and enforceability of the CBB Law, rules and regulations, and all other applicable laws, rules and regulations, and in particular to the CBB Law Articles 82, 84, 85, 106, 166, 167 and 168.

### *CBB Approval*

### OFS-3.2.25

The CBB shall decide on the eligibility of the appointed advisor(s) on a case by case basis, taking into consideration, the nature and complexity of the offering, as well as, the nature of involvement and commitment of the appointed advisor(s).





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## OFS-3.3 Role and Responsibilities of the Appointed Advisors

### OFS-3.3.1

An appointed advisor is required to fulfill the applicable role and responsibilities as laid out in this Section and contained in the agreement signed between the issuer and advisor.

#### *Role and Responsibilities of the Lead Manager*

### OFS-3.3.2

All issuers must engage a CBB licensee to act as a lead manager or to fulfil the obligations of a lead manager as defined in this Section.

### OFS-3.3.3

The lead manager is in addition to Paragraph OFS-3.2.24 required by the CBB to act with appropriate care and skill and perform the following:

- (a) Prepare and file the application for approval of a securities offering to the CBB;
- (b) Report to the CBB on the due diligence undertaken in respect of the issue and the issuer;
- (c) Make a declaration that is provided to the CBB and included in the offering document, that the offering document does not contain information that is false or misleading, in its opinion does not prejudice the interests of present or future investors and does not omit any material information;
- (d) Make a declaration that is provided to the CBB and included in the offering document that the offering document is in accordance with all the CBB Law, other rules and regulations and this Module;
- (e) The lead manager's declaration under (d) is only acceptable to the CBB, if it is attached with a duly signed and fully completed offering prospectus checklist prescribed under Appendix OFS-7; and
- (f) Where the issue is not underwritten, the lead manager must provide the CBB with the method of price determination and price stabilisation for a period of one year or such other period as the CBB may determine.

### OFS-3.3.4

For the purposes of Rule OFS-3.3.3, the outstanding underwriting commitments of a lead manager should not exceed reasonable limits including in relation to its capital and capital adequacy requirements.



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### OFS-3.3 Role and Responsibilities of the Appointed Advisors (continued)

OFS-3.3.5 The lead manager is expected to also assist the issuer with the appointment of other advisors.

**OFS-3.3.6** Where the lead manager is also acting as a listing agent or sponsor in relation to a planned listing, the lead manager is also responsible for:

- (a) Advising the issuer on its suitability for listing;
- (b) Ensuring the applicant, as well as the listing documents, meet admission requirements;
- (c) Preparing the application and listing documents for listing;
- (d) If the securities listing application for obtaining the CBB approval is made separately from the application for the offering of securities, ensuring that in the case of the listing documents the requirements related to the declaration under Subparagraph OFS-3.3.3 (d) and prospectus checklist under Subparagraph OFS-3.3.3 (e) are also applied;
- (e) Ensuring that the issuer is sufficiently set up to comply with the continuing listing obligations under the licensed exchange's listing rules including meeting the corporate governance requirements;
- (f) Ensuring the CBB is informed of all matters which should be brought to its attention; and
- (g) Notifying the CBB of any amendments to the application or listing documents after submission.

**OFS-3.3.7** The lead manager must inform the CBB where:

- (a) It is no longer able to satisfy the criteria for approval;
- (b) Any of the approved executives of the lead manager are convicted of an offence involving fraud, theft or other dishonesty, or are the subject of a bankruptcy proceeding; or
- (c) It resigns as a lead manager, listing agent or sponsor. In this case, the lead manager must provide written notification to both the CBB and the relevant issuer.

#### *E-Subscription*

**OFS-3.3.8** In line with Articles 83 and 178 of the CBB Law and the dematerialisation of securities requirements under Paragraph OFS-1.5.5, issuers and lead managers must put in place appropriate technical infrastructure and other arrangements to encourage subscribers to use e-subscription facilities.



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## OFS-3.4 Role and Responsibilities of Auditor and Independent Reporting Accountant on Financial Projections

**OFS-3.4.1** Newly-established issuers or small and medium enterprises who cannot provide financial statements, or historical records must include projected financial statements in the prospectus or offering document.

OFS-3.4.2 Other than for newly-established issuers, financial projections, forecasts, or estimates of future operating results are not required to be included in offering documents, unless otherwise stated in this Module or by the CBB. However, if the issuer decides to disclose such information, it has to justify its projections adequately. The issuer should provide an explanation as to how the projections were calculated, taking into account all assumptions and risks.

**OFS-3.4.3** Where the projections of financial statements, or forecasted financial information are disclosed in the prospectus or offering document, the projections must be reviewed and reported on by an independent reporting accountant or other expert and such report must be set out in the offering document, in accordance with the International Standards on Assurance Engagement (ISAE), or any other applicable international standards required from time-to-time and the declaration required under Paragraph OFS-3.2.24 must be in line with this standard.

**OFS-3.4.4** The issuer, lead manager and the independent reporting accountant must ensure that sufficient details on the bases and assumptions of the projections are disclosed to enable the investor to assess the reliability of the projections and the effect of any changes to the assumptions used. The bases and assumptions must:

- (a) Provide useful information to investors to assist them in forming a view as to the reasonableness and reliability of the projections;
- (b) Draw the investors' attention to, and where possible quantify, those uncertain factors which could materially affect the achievement of the projections;
- (c) Avoid generalisations and all-embracing assumptions (general assumptions, where applicable, could be made) and those relating to the general accuracy of the projections; and
- (d) Be clearly stated and reviewed for reasonableness by the directors who are responsible for the projections, bases and assumptions.



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## OFS-3.4 Role and Responsibilities of Auditor and Independent Reporting Accountant on Financial Projections (continued)

### OFS-3.4.5

The following requirements are applicable in respect of profit/cash flow projections:

- (a) The projections must be realistic and achievable to provide investors with information on the issuer's prospects;
- (b) The projections must be compiled with utmost care and objectivity; and
- (c) Where the projections are subject to high probability of variation, the issuer must provide a sensitivity analysis based on any one of the key variables such as sales price, volume of sales, production costs, production capacity, operating expenses and financing costs.

### OFS-3.4.6

In addition to the above, owing to the specific nature of profit/cash flow projections, the issuer must take note of the following:

- (a) A projection, being a representation of financial information based on a set of assumptions which are uncertain and hypothetical, must be qualified as to its **achievability** for those reasons;
- (b) The qualifications of projected financial information must draw attention to the fact that the presentation is based on hypothetical assumptions, and that actual events may differ from those assumed and may materially affect the financial information projected; and
- (c) Notwithstanding the uncertainties and hypothetical assumptions associated with projections, the projections must be prepared with care, skill and objectivity so as to represent the stated assumptions and not to purport unreasonable hypotheses and assumptions.

### *Eligibility*

### OFS-3.4.7

The independent reporting accountant is required to adhere to the independence and other standards applicable to auditors, in addition to the general eligibility under Section OFS-3.2.

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## OFS-3.5      Role and Responsibilities of Trustees and Custodians

**OFS-3.5.1**      Borrowing corporations and issuers of debt securities (hereinafter referred to as borrowing corporations) must appoint trustees to whom the ownership of the trust property must be transferred.

### *Eligibility*

**OFS-3.5.2**      A Bahrain domiciled trustee must be established and authorised in accordance with the Bahrain Trust Law of 2006. In the case of overseas domiciled trustees, they must be registered in their own jurisdiction and be acceptable to the CBB.

### *Appointment of Trustee*

**OFS-3.5.3**      Every issuer of debt securities must make provision in those debt securities, or in a trust deed relating to those debt securities, for the appointment of a trustee corporation as trustee for the holders of the debt securities within a maximum of one month from the allotment date.

### *Independence*

**OFS-3.5.4**      A trustee corporation must not be appointed, hold office or act as trustee for the holders of debt securities of a borrowing corporation if that trustee corporation is:

- (a) A shareholder who beneficially holds shares in the borrowing corporation;
- (b) Beneficially entitled to monies owned by the borrowing corporation to it;
- (c) A corporation that has entered into a guarantee in respect of the principal debt secured by those debt securities or in respect of interest thereon; or
- (d) A corporation that is related to:
  - (i) Any corporation referred to in Subparagraphs (a), (b) or (c); or
  - (ii) The borrowing corporation.

**OFS-3.5.5**      The trustee must be independent of the issuer, or any of the issuer's related party, subsidiaries and/or associates, and must exercise the powers and duties as defined in the Trust Law of 2006 and the trust deed, without interference or guidance from the issuer.

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## OFS-3.5      Role and Responsibilities of Trustees and Custodians (continued)

**OFS-3.5.6**      An issuer may remove a trustee after obtaining CBB approval if he exceeds the limits or is otherwise in contravention of the trust deed, or if he violates the provisions of the Trust Law of 2006.

### *Contents of a Trust Deed*

**OFS-3.5.7**      Where a corporation or any other entity makes an offer or invitation in respect of debt securities, the debt securities or the relevant trust deed must contain a limitation on the amount that the borrowing corporation may borrow, pursuant to those debt securities or that deed and must contain covenants by the borrowing corporation, or if the debt securities do not or the trust deed does not expressly contain those covenants, they or it are deemed to contain covenants by the borrowing corporation, to the following effect:

- (a) That the borrowing corporation will use its best endeavours to carry on and conduct its business in a proper and efficient manner;
- (b) That the trustee or any auditor or director appointed by the trustee shall:
  - (i) Be entitled to require the borrowing corporation to make available for its or his inspection the whole of the accounting or other records of the borrowing corporation; and
  - (ii) Give to it or him such information as it or he requires with respect to all matters relating to the accounting or other records of the borrowing corporation; and
- (c) That the borrowing corporation must, on the application of persons holding at least 10% in nominal value of the issued debt securities **give** notice:
  - (i) To each of the holders of those debt securities at his address as specified in the register of debt securities;
  - (ii) By an advertisement in at least two local daily newspapers, one each published in the Arabic and English languages addressed to all holders of those debt securities; and



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## OFS-3.5 Role and Responsibilities of Trustees and Custodians (continued)

- (iii) Call a meeting of the holders of those debt securities to consider the accounts and balance sheet which were last submitted to the trustee for the holders of the debt securities by the borrowing corporation, and to give to the trustee directions in relation to the exercise of the trustee's powers. Such meeting is to be held at a time and place specified in the notice and advertisement under the chairmanship of a person nominated by the trustee, or such other person as appointed on behalf of the holders of those debt securities present at the meeting.

### OFS-3.5.8

Trust deeds for convertible securities must not include any provisions for:

- (a) The extension or shortening of tenure of the convertibles; and
- (b) Changes to the number of shares received for the conversion of each convertible security, or changes to the pricing mechanism for the conversion of the convertible security, except where these changes are adjustments pursuant to capitalisation issues, rights issues, or consolidation or sub-division of shares or capital reduction exercises.

### OFS-3.5.9

Any changes in the terms of convertible securities must be clearly determined and disclosed in the trust deed and offering document/listing document/circular, or any other documents issued in relation to the proposal.

### OFS-3.5.10

Once determined, the terms and conditions of the convertible securities may not be altered unless approved by the holders of the securities and the CBB.

### *Retirement of Trustees*

### OFS-3.5.11

A trustee for the holders of debt securities must not cease to be the trustee until a corporation qualified for appointment as trustee for the holders of debt securities has been appointed and has taken office as such. The holders of the securities and the CBB must be informed immediately of this event.





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## **OFS-3.5 Role and Responsibilities of Trustees and Custodians (continued)**

- OFS-3.5.12 Where provision has been made in the debt securities or in the relevant trust deed for the appointment of a successor to a trustee for the holders of the debt securities upon retirement or otherwise, the successor may be appointed in accordance with such provision.
- OFS-3.5.13 Where no provision has been made in the debt securities or in the relevant trust deed for the appointment of a successor to a retiring trustee, the borrowing corporation may appoint a successor which is qualified for appointment.
- OFS-3.5.14 Notwithstanding anything in any debt securities or trust deed, a borrowing corporation may, with the consent of an existing trustee for the holders of the debt securities, appoint as successor to the existing trustee any corporation which is qualified for such appointment.
- OFS-3.5.15 Where the trustee for the holders of the debt securities has ceased to exist or to be qualified, or fails or refuses to act or is disqualified, the court may, on the application of the borrowing corporation or the CBB, appoint any corporation qualified to be the trustee for the holders of the debt securities in place of the trustee which has ceased to exist or to be qualified, which has failed or refused to act as trustee, or which is disqualified.

**OFS-3.5.16** Where a successor is appointed to be a trustee in place of any trustee, the successor must immediately after the appointment submit to the holders of the securities and the CBB notice of such appointment.

### *Roles and Responsibilities of the Trustees*

- OFS-3.5.17** A trustee for the holders of debt securities must:
- Exercise reasonable diligence to ascertain whether or not the assets of the borrowing corporation and of each of its guarantor corporations which are or may be available, whether by way of collateral or security or otherwise, are sufficient or are likely to be or become sufficient to discharge the principal debt as and when it becomes due;
  - Satisfy itself that each prospectus relating to the debt securities does not contain any matter which is inconsistent with the terms of the debt securities or with the relevant trust deed;
  - Ensure that the borrowing corporation complies with the CBB Law, rules and regulations and any other laws, rules and regulations related to the debt securities as applicable;





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### OFS-3.5 Role and Responsibilities of Trustees and Custodians (continued)

- (d) Exercise reasonable diligence to ascertain whether or not the borrowing corporation and each of its guarantor corporations have committed any breach of the covenants, terms and provisions of the debt securities or the trust deed;
- (e) Except where it is satisfied that the breach will not materially prejudice the collateral or the security, if any, for the debt securities or the interests of the holders of the debt securities, take all steps and take all such actions as it is empowered to do to cause the borrowing corporation and any of its guarantor corporations to remedy any breach of those covenants, terms and provisions;
- (f) Where the borrowing corporation or any of its guarantor corporations fails when so required by the trustee to remedy any breach of the covenants, terms and provisions of the debt securities or the trust deed, place the matter before a meeting of holders of the debt securities and submit such proposals for the protection of their interest as the trustee considers necessary or appropriate and obtain the directions of the holders in relation thereto; and
- (g) Where the borrowing corporation submits to those holders a compromise or arrangement, give to them a statement explaining the effect of the compromise or arrangement and, if it or he thinks fit, recommend to them an appropriate course of action to be taken by them in relation thereto.

#### OFS-3.5.18

Where a trustee for the holders of the debt securities after due enquiry, at any time is of the opinion that the assets of the borrowing corporation and of any of its guarantor corporations which are or should be available, whether by way of collateral or security or otherwise, are insufficient, or likely to become insufficient, to discharge the principal debt as and when it becomes due, it must apply to the CBB for an order under Paragraph OFS-3.5.19.

OFS-3.5.19 The CBB, on receiving an application under Paragraph OFS-3.5.18 may:

- (a) After giving the borrowing corporation an opportunity to make representations in relation to the application, and by order in writing served on the corporation at its registered office in Bahrain, impose such restrictions on the activities of the borrowing corporation, including restrictions on advertising for deposits or loans and on borrowing by the corporation as proposed by the trustee and/or issuer or the CBB considers necessary for the protection of the interests of the holders of the debt securities; or

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## **OFS-3.5      Role and Responsibilities of Trustees and Custodians (continued)**

- (b) If the CBB so requires, direct the trustee to apply to the court for an order; and the trustee shall act in accordance with the court order.

OFS-3.5.20      Where:

- (a) After due enquiry, the trustee is at any time of the opinion that the assets of the borrowing corporation and of any of its guarantor corporations which are or should be available, whether by way of collateral or security or otherwise, are insufficient or likely to become insufficient to discharge the principal debt as and when it becomes due; or
- (b) The borrowing corporation has contravened an order made by the CBB under Paragraph OFS-3.5.19.
- the trustee may apply to the court for an order.

### ***Powers of the Trustee to Apply to Court***

OFS-3.5.21      A trustee for the holders of debt securities may apply to the court:

- (a) For directions in relation to any matter arising in connection with the performance of the functions of the trustee; or
- (b) To determine any question in relation to the interests of the holders of debt securities.

**OFS-3.5.22**

**Prior to making any application to the CBB or to the court, a trustee must consider the nature and kind of collateral or security given when the offer or invitation in respect of the debt securities was made to the public, and if no security was given must consider the position of the holders of the debt securities as unsecured creditors of the borrowing corporation.**

OFS-3.5.23      A trustee may rely upon any certificate or report given or statement made by any legal advisor, auditor or officer of the borrowing corporation or guarantor corporation, if it reasonably believes that such legal advisor, auditor or officer was competent to give or make the certificate, report or statement.

### ***Obligations of the Issuer or Borrowing Corporation***

**OFS-3.5.24**

**The directors of the borrowing corporation must:**

- (a) At the end of a period not exceeding 3 months (being a day after the date of the issue of the relevant prospectus); and

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## OFS-3.5    Role and Responsibilities of Trustees and Custodians (continued)

- (b) At the end of each succeeding period thereafter, being a period of 3 months or such shorter time as the trustee may, in any special circumstances allow, prepare a report that relates to that period and complies with the requirements of Paragraph OFS-3.5.25, and within one month after the end of each such period submit a report relating to that period to the trustee with a copy being submitted to the CBB.

### OFS-3.5.25

The report referred to in Paragraph OFS-3.5.24, must be signed by not less than two of the directors on behalf of all of them and must set out in detail any matters adversely affecting the collateral or security, or the interests of the holders of the debt securities and, without affecting the generality of Paragraph OFS-3.5.24, state:

- (a) Whether or not the limitations on the amount that the corporation may borrow have been exceeded;
- (b) Whether or not the borrowing corporation and each of its guarantor corporations have observed and performed all the covenants and provisions binding upon them respectively by or pursuant to the debt securities or any trust deed;
- (c) Whether or not any event has happened which has caused or could cause the debt securities or any provision of the relevant trust deed to become enforceable and, if so, particulars of that event;
- (d) Whether or not any circumstances affecting the borrowing corporation, originator, group companies or its guarantor corporation(s) or any of them have occurred which materially affect any collateral or security or charge included in or created by the debt securities or any trust deed and, if so, particulars of those circumstances;
- (e) Whether or not there has been any major change in the nature of the business of the borrowing corporation or any of its group companies, originator or any of its guarantor corporation(s) since the debt securities were first issued which has not previously been reported upon as required by Section OFS-3.5 and, if so, particulars of that change; and
- (f) Where the borrowing corporation has deposited money with or lent money to or assumed any liability of a corporation which is related to the borrowing corporation, particulars of:

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### OFS-3.5     Role and Responsibilities of Trustees and Custodians (continued)

- (i) The total amounts so deposited or lent and the extent of any liability so assumed during the period covered by the report; and
- (ii) The total amounts owing to the borrowing corporation in respect of money so deposited or lent and the extent of any liability so assumed as at the end of the period covered by the report, distinguishing between deposits, loans and assumptions of liabilities which are secured and those which are unsecured, but not including any deposit with or loan to or any liability assumed on behalf of a corporation if that corporation has guaranteed the repayment of the debt securities of the borrowing corporation, and has secured the guarantee by a charge over its assets in favour of the trustee for the holders of the debt securities of the borrowing corporation.

#### OFS-3.5.26

The trustee must demand that the borrowing corporation and each of its guarantor corporation(s) which has guaranteed the repayment of the monies raised by the issue of debt securities to:

- (a) Furnish in writing to the trustee, within 30 days after the creation of a charge, with the particulars of any charge created by the corporation or the guarantor corporation, as the case requires; and
- (b) When the amount to be advanced on the collateral or the security of the charge is indeterminate, furnish the trustee in writing within 10 days after the advance, particulars of the amount or amounts actually advanced.

OFS-3.5.27     Where any such advance referred to in Subparagraph OFS-3.5.26(b) is merged in a current account with bankers or trade creditors, it shall be sufficient for particulars of the net amount outstanding in respect of any such advance to be furnished every 3 months.

OFS-3.5.28     The trustees must submit to the CBB a report addressing the requirements stipulated under Paragraph OFS-3.5.17 on a regular basis but not later than each occurrence of the payment of periodic interest or income or when the trustee deems necessary to keep the CBB informed about the compliance with those requirements.

#### OFS-3.5.29

The directors of every borrowing corporation and of every guarantor corporation must cause to be made out and submitted to the CBB and trustee:

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## **OFS-3.5     Role and Responsibilities of Trustees and Custodians (continued)**

- (a) A profit and loss account for the first 3 months of every financial year of the corporation and a balance sheet as at the end of that period, not less than 3 months after the expiration of the period of 6 months; and
- (b) A profit and loss account for every financial year of the corporation and a balance sheet as at the end of that period, not later than 3 months after the end of that financial year.

### **OFS-3.5.30**

Where:

- (a) The directors of a borrowing corporation do not submit to the trustee the report as required by Paragraph OFS-3.5.25; or
  - (b) The directors of a borrowing corporation or the directors of a guarantor corporation do not submit with the trustee the balance sheets and profit and loss accounts as required by Paragraph OFS-3.5.29, within the time prescribed;
- the trustee must immediately notify the CBB of this fact.

### *Obligations of Guarantor*

OFS-3.5.31     For the purpose of the preparation of a report that, by this Module, is required to be signed by or on behalf of the directors, or persons approved by the CBB of a borrowing corporation or any of them, that borrowing corporation may, by notice in writing, require any of its guarantor corporations to furnish it with any information relating to that guarantor corporation which is, by this Module, required to be contained in that report.

### **OFS-3.5.32**

The guarantor corporation must furnish the borrowing corporation with that information required under Paragraph OFS-3.5.31 before the specified date, being a date not earlier than one month after the notice is given.



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## OFS-3.6 Role and Responsibilities of the Underwriter

### *Eligibility*

**OFS-3.6.1** Any person acting as an underwriter to any offering, must be licensed or otherwise authorised by the CBB to undertake such activity.

OFS-3.6.2 For the purpose of this Module, the definition, role and requirements related to the underwriter also apply to co-underwriters.

OFS-3.6.3 The CBB may investigate the financial suitability of a proposed underwriter and may reject the appointment of the underwriter and/or the application for offering if it is not satisfied as to the underwriter's ability to meet its commitment under the proposed underwriting agreement and its potential impact in its capital adequacy.

### *Firm Commitment Underwriting*

**OFS-3.6.4** Where an underwriter has been appointed and the securities are not fully subscribed during the offering period, the underwriter must purchase the balance of the securities through a firm commitment underwriting arrangement.

**OFS-3.6.5** The firm commitment underwriting arrangement must be detailed in an underwriting agreement, which must be submitted to the CBB as part of the offering of securities application.

**OFS-3.6.6** For the purpose of this Module, the total of all the underwriting undertakings of the underwriter, the company that controls it, its subsidiary, a subsidiary of the company that controls it and a company affiliated with it, are calculated as one underwriting undertaking.

OFS-3.6.7 The underwriter may appoint or form an underwriting group for any underwritten issue.

**OFS-3.6.8** The underwriter must comply with the CBB Law, rules and regulations, including Volume 6 of the CBB Rulebook, and the issuer's Memorandum and Articles of Association, particularly in respect of the eligibility of the expected subscribers to acquire the issuer's securities and related disclosure requirements.

**OFS-3.6.9** After the approval of the offering documents (including the underwriting agreement) neither the issuer nor any advisor or person acting on its behalf, nor the underwriter or any person acting on its behalf, has the right to change any provision or commitments stipulated in the underwriting agreement.



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## OFS-3.6 Role and Responsibilities of the Underwriter (continued)

**OFS-3.6.10** All commitments, terms and conditions stipulated in the underwriting agreement must be enforced and implemented without any change or alterations, including the relevant timeframes.

**OFS-3.6.11** The CBB may consider amendments to an underwriting agreement where the stability of the financial sector and/or capital market will be adversely affected by the agreement's current provisions. In this regard, the CBB must be provided with a supporting application signed by both the issuer and the underwriter, before considering such amendment.

### *Firm Commitment Underwriting*

**OFS-3.6.12** A firm commitment underwriting arrangement is required for all public offerings. However, the CBB may accept other underwriting arrangements other than firm commitment underwriting, in the following cases:

- (a) Offering of securities below the average market price during the last six months; or
- (b) Offering of securities at the flat par value.

OFS-3.6.13 A firm commitment underwriting arrangement may also be done through a bought-out deal wherein the underwritten issue is bought entirely by the underwriter to re-sell to investors.

OFS-3.6.14 In case of issues which are exempted from firm commitment underwriting arrangements (non-public offers), the CBB may accept partial underwriting commitment arrangements, or best-efforts underwriting.

### *Disclosure*

**OFS-3.6.15** The name of the underwriter and the terms of the underwriting agreement must be prominently disclosed in the offering document and in the application for approval.

**OFS-3.6.16** A summary of the underwriting agreement or arrangements must be provided in the prospectus or offering document, including but not limited to the cost of underwriting and other related fees and charges.



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## **OFS-3.6      Role and Responsibilities of the Underwriter (continued)**

**OFS-3.6.17**   The underwriter is required to provide sufficient and adequate information to the CBB and disclose the same in the prospectus or offering documents as to the method, bases, mechanism, assumptions, and all other related information used to reach the offering price.

**OFS-3.6.18**   In cases where the offering price is determined by the underwriter jointly with any other advisor or third party, the name and role of such advisor or person must be provided to the CBB and disclosed in the prospectus or offering document.

**OFS-3.6.19**   The underwriting agreement must be provided as a document available for inspection to the subscriber.

**OFS-3.6.20**   For purposes of Paragraph OFS-3.6.17 and item 25.1(b) under Section 17 of Appendix OFS-1, relating to the pricing of securities and bases or methods for determining the issue or offer price and for prospectus disclosure purposes, the bases used for determining the pricing of securities must be elaborated on and general statements must be avoided.

OFS-3.6.21   For purposes of Paragraph OFS-3.6.20, factors that are commonly cited in pricing determination which should be elaborated may include, but are not limited to, prevailing market performance and condition (e.g. price earnings ratio, dividend yield, etc.), financial and operating performance (e.g. earnings per share, etc.), consolidated net tangible assets per share and/or net assets per share (or liabilities as to the case may be), earnings potential, assessment of management, market valuation of companies in related businesses, intellectual property and technology, etc. Where appropriate, cross-references should be made to the relevant and specific sections of the prospectus.





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## OFS-3.7 Role and Responsibilities of the Paying Agent

**OFS-3.7.1** The paying agent must be licensed by the CBB to undertake this activity.

**OFS-3.7.2** For an issue of debt securities, the issuer must appoint and maintain a paying agent, or where appropriate, a central depository in Bahrain until all outstanding obligations relating to those securities have been met, unless the issuer itself performs these functions.

**OFS-3.7.3** The paying agent must provide facilities for obtaining new debt securities, in accordance with the terms and conditions of the debt securities, to replace those debt securities which have been damaged, lost, stolen, or destroyed, and for all other purposes provided for in the terms and conditions of the debt securities, trust deed and/or offering documents.

**OFS-3.7.4** The paying agent must undertake responsibility for timely disbursement of funds made available by the issuer or the trustee, as the case may be, to investors in accordance with the terms of the security and the timelines stipulated by the CBB.

**OFS-3.7.5** The paying agent must notify the CBB immediately when the issuer, originator and/or guarantor delays in meeting any required payments, whether in whole or in part.

**OFS-3.7.6** The paying agent or any other party must not issue a new certificate mentioned under Rule OFS-3.7.3, without mandating the certificate holder to publish in a local newspaper and the market that such certificate has been damaged, lost, stolen, or destroyed. A new certificate may only be issued 15 calendar days from the date of the above mentioned publication date.



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## OFS-3.8 Role and Responsibilities of the Shari'a Advisor

- OFS-3.8.1** The Shari'a advisor must review the key aspects of the issue of Islamic securities, including documentation, structuring, investment, as well as any operational matters in relation to the Islamic securities and ensure compliance with applicable Shari'a principles.
- OFS-3.8.2** The Shari'a advisor must produce and sign a Shari'a pronouncement report or declaration that the issue is in compliance with the principles of Shari'a and include the report in the offering documentation which is submitted to the CBB.
- OFS-3.8.3** The Shari'a advisor must be of good reputation and character and must possess the necessary qualifications and expertise in relevant Islamic jurisprudence. He must possess a minimum of three years experience in Islamic finance.
- OFS-3.8.4** The Shari'a advisor must be independent of the issuer. The issuer must not restrict the activities of the Shari'a advisor in any way. In a case where restrictions are imposed, these must be disclosed by the Shari'a advisor to the CBB.



MODULE	OFS:	Offering of Securities
CHAPTER	OFS-3:	Capital Market Advisory Services Provider

## OFS-3.9 Role and Responsibilities of the Legal Advisor

### OFS-3.9.1

A legal advisor must be appointed for every offering of securities and its name must be included in the offering document and in any advertisement or announcement.

### OFS-3.9.2

The lead manager may appoint a legal advisor to assist in carrying out legal due diligence, the results of which must be included in the declaration by the lead manager (See Appendix OFS-8).



MODULE	OFS: Offering of Securities
CHAPTER	OFS-3: Capital Market Advisory Services Provider

## OFS-3.10 Role and Responsibilities of the Receiving Bank

**OFS-3.10.1** A receiving bank must be licensed or otherwise authorised by the CBB.

OFS-3.10.2 For any offering made in or from Bahrain (overseas issuers), co-receiving banks may be exempted from the requirements under Rule OFS-3.10.1.

**OFS-3.10.3** The issuer, lead manager, and the receiving bank must designate a separate bank account for each issue of securities. The name(s) of the designated bank(s) must be provided in detail in the offering document.

**OFS-3.10.4** The receiving bank must notify the CBB immediately upon its appointment and must receive the CBB's approval before entering into an agreement or contract with the issuer or lead manager.

**OFS-3.10.5** The receiving bank must not activate the designated bank account or receive any payment from the subscribers other than during the date, time and working hours stipulated in the prospectus or offering document. Where there is a change, amendment or alteration to the date, time or working hours, a copy of the CBB's prior approval issued separately to this extent must be received in advance by the receiving bank before implementing such change or alteration.

**OFS-3.10.6** The receiving bank must not activate the subscription bank account, or accept any subscription form or payment, or continue to accept receiving such forms and payment without ensuring that for each application and payment a final printed copy of the offering document was made available to the subscriber.

**OFS-3.10.7** The receiving bank is responsible for the accuracy and completeness of all information provided in the subscription form in accordance with the Know Your Client requirements under Module AML or other relevant standard and has the authority to reject any form which is not complete or which contains inaccurate information. The receiving bank in cooperation and coordination with the issuer or lead manager is responsible for the avoidance of any duplicate applications for the same beneficiary (subscriber).

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## **OFS-3.10    Role and Responsibilities of the Receiving Bank (continued)**

**OFS-3.10.8**   The receiving bank must adhere to the laws, rules and regulations related to anti-money laundering and financial crime.

**OFS-3.10.9**   The receiving bank must not transfer the issue's total proceeds in whole or part to the Board of Directors of the issuer, without receiving the CBB's approval on the allotment and the receiving bank is required to notify and provide the CBB with a bank certificate or transfer notice upon the transfer of such proceeds.

**OFS-3.10.10**   The receiving bank must not charge the subscriber for any additional costs, fees, or charges other than those costs, fees, or charges stipulated in the offering document. Such costs, fees, or charges must be provided and displayed for the subscribers in a clear and readable place in the offering document.

**OFS-3.10.11**   The receiving bank must be responsible for meeting the refunding and dispatching deadline with respect to the subscription money and shall ensure that all required arrangements are in place before entering into an agreement or contract with the issuer or lead manager.

**OFS-3.10.12**   Where the refunding and dispatching deadline could not be met due to negligence or without prior approval of the CBB, the receiving bank, jointly with the issuer and lead manager, is liable to pay to the subscriber interest or penalty on the subscription money equal to BIBOR for any day or part thereof after the deadline.

**OFS-3.10.13**   Receiving banks should lay down technical infrastructure and other arrangements for promoting the electronic subscription and receipt of moneys (e-subscription) in Bahrain.

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<b>CHAPTER</b>	<b>OFS-3:       Capital Market Advisory Services Provider</b>

## **OFS-3.11   Role and Responsibilities of the Securities Ownership Transfer Agent**

**OFS-3.11.1**   If the issued securities are not dematerialised, all issuers of securities must appoint a securities ownership transfer agent to perform the required function of the issuer in respect of the creation, maintenance and update of the securities register in terms of this Module.

**OFS-3.11.2**   The securities ownership transfer agent must comply with the CBB Law, rules and regulations including those relating to Anti-Money Laundering and Financial Crime and must be subject to an audit according to control and inspection procedures stipulated by the CBB. In addition, the securities ownership transfer agent must provide the issuer with a declaration that the shareholder list is up to date and is accurate.

**OFS-3.11.3**   All securities ownership transfer agents must provide the CBB on request as well as on a quarterly basis, a summary of the list of securities holders they maintain in the form required by the CBB.

**OFS-3.11.4**   Securities ownership transfer agents shall be responsible for any loss or damage to the securities holder due to any inaccurate information or entries made in the securities holders register.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-3: Capital Market Advisory Services Provider

## OFS-3.12 Role and Responsibilities of Other Experts or Advisors

### OFS-3.12.1

Where an offer of securities is made in or accompanied by a prospectus or offering document which includes a statement purporting to be made by, or based on a statement made by an expert, the prospectus or offering document must not be issued unless:

- (a) The expert has given and has not before the registration of the prospectus or offering document, as the case may be, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) There appears in the prospectus or offering document, as the case may be, a statement that the expert has given and has not withdrawn his consent.

### OFS-3.12.2

Every person making the offer must cause a true copy of every written consent referred to under Paragraph OFS-3.12.1 to be deposited within a maximum 7 calendar days after the registration of the offering document at the registered office of the issuer in Bahrain or, if the issuer has no registered office in Bahrain, at the address in Bahrain specified in the offering document for that purpose.

OFS-3.12.3 The CBB may require a declaration from any appointed expert as per their role and responsibility in the preparation of any offering document as per Article 85 of the CBB Law.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-4: Submission of Offering Application with CBB

## OFS-4.1 Application Requirements

### OFS-4.1.1

An application for the offering of securities must be made in accordance with Paragraph OFS-4.1.2, accompanied by the required information, documentation and the fee to the CBB for approval at least 30 days prior to commencement of the intended offering period.

### OFS-4.1.2

The application must be submitted under cover of a letter signed by two authorised signatories of the applicant, together with all supporting documentation as outlined in Section OFS-4.2. The authorised signatories are persons authorised as such by the Board of Directors of the issuer.

### OFS-4.1.3

The CBB requires the submitted application and supporting documents to be comprehensive, accurate and complete in all respects. If the CBB has any further concerns, or is dissatisfied with the application it will not be able to grant approval on a timely basis, and the abovementioned timeframe of the CBB approval will start only upon receipt of all information and documentation related to the offer. The CBB will not grant its approval unless and until all such information and documentation required is submitted to the CBB.





MODULE	OFS: Offering of Securities
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## OFS-4.2 Information and Documentation Requirements

### OFS-4.2.1

Any application under Section OFS-4.1 must include the following minimum information:

- (a) A copy of the issuer's Board of Directors proposal in respect of the issue to its General Assembly;
- (b) A copy of the General Assembly resolution through which the issuing and offering of securities is approved;
- (c) A copy of the duly signed Board of Directors' responsibility statement, signed by all directors in the standard statement stipulated by this Module (Appendix OFS-9);
- (d) A copy of the duly signed declaration by the lead manager, based on a due diligence exercise of all relevant conditions, facts and arrangements, as appropriate (Appendix OFS-8);
- (e) A copy of the duly signed declaration by the legal advisor for the offer, based on a due diligence exercise of all relevant legal conditions, facts and arrangements, as appropriate (Appendix OFS-10);
- (f) A final ratified Memorandum and Articles of Association, or relevant constitutional documents for existing issuers, or a draft copy thereof for issuers under formation;
- (g) A draft of the offering document prepared in line with the CBB requirements as stipulated under this Module;
- (h) A copy of all arrangements, contracts and/or letters signed with the issuer and or lead manager with all appointed advisors;
- (i) Duly completed term sheet on the offering, as stipulated by the CBB from time to time in this Module;
- (j) The expected offering timetable;
- (k) A bona fide copy of either the issuer's external auditor unqualified report on the annual audited financial statements, or interim period reviewed financial statements prepared by the issuer's external auditor;
- (l) A copy of the audited financial statements, including the balance sheet, income statement, cash flow statement and change in shareholders' fund, for the period required under this Module for each type of offer, and the interim period reviewed financial statements for the period required under this Module;
- (m) A copy of the duly signed report prepared by an independent accountant on any estimates, projections of the financial statements, or future operating results of the issuer, if applicable;

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<b>CHAPTER</b>	<b>OFS-4:       Submission of Offering Application with CBB</b>

## OFS-4.2      Information and Documentation Requirements (continued)

- (n) A copy of at least two independent valuer's reports if the proposed offering of securities is guaranteed, is made up of physical assets or property or backed by any assets, property, or any form of collateral;
- (o) A copy of all documents available for inspection by the potential subscribers and/or allottees;
- (p) Information on the legal structure of the company and company registration; and
- (q) Any other information as required by the CBB.

### *Lead Manager Declaration*

#### OFS-4.2.2

The declaration by the lead manager (Appendix OFS-8) required under Paragraph OFS-4.2.1 must consider and contain the following:

- (a) A confirmation that all compliance requirements, including those specified in the CBB Rulebook Volume 6 are met;
- (b) A due diligence of the commercial and business prospects based on the analysis of past and current circumstances, both in relation to the issuer and in relation to the external market or industry in which it operates;
- (c) An analysis of the macroeconomic factors affecting the issuer or the underlying securities being offered;
- (d) Due consideration for the reasonableness of the issuer's business strategy and related business plan and budgets where appropriate;
- (e) In the case of asset-backed securities, warrants and Islamic securities, the quality of the underlying assets and anticipated future cash flows and relevant risk factors; and
- (f) The price stabilisation method, limits and determination of issue price where the issue is not underwritten.

### *Issue of No Objection by the CBB*

OFS-4.2.3      The CBB will notify an applicant of its decision in writing within 15 business days of the receipt of the offering of securities application, complete in all respects and complying with the provisions of this Module. If permission is granted, it may be conditional or unconditional.

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<b>CHAPTER</b>	<b>OFS-4:       Submission of Offering Application with CBB</b>

## **OFS-4.2      Information and Documentation Requirements (continued)**

- OFS-4.2.4      The CBB may refuse an application on any ground, including but not limited to the following conditions:
- (a)   The requirements of the CBB Law and Rulebook Volume 6 are not met comprehensively;
  - (b)   The issuer, the lead manager or other appointed advisors do not meet the requirements of this Module;
  - (c)   False or misleading information has been provided to the CBB or to another regulator of the issuer or in the offering documents;
  - (d)   Information otherwise specified by the CBB has not been provided;
  - (e)   If the offer is associated with a listing on a licensed exchange, the CBB may consider that admission to listing of the securities may be detrimental to the fair, orderly and efficient operation of the Bahraini securities market or to the reputation of CBB;
  - (f)   A security is already admitted to listing on another market and the issuer is in breach of listing rules or other relevant regulations; or
  - (g)   The CBB believes it is necessary to refuse permission in order to safeguard the interests of potential investors.
- OFS-4.2.5      A notification under Paragraph OFS-4.2.4 will set out:
- (a)   Grounds for proposed refusal, and
  - (b)   The rights of the applicant to appeal the CBB's decision.
- OFS-4.2.6      The applicant is allowed to make representation to the CBB within 30 calendar days of the receipt of a notification under Paragraph OFS-4.2.5. The applicant can undertake this through the lead manager to clarify any grounds set out in the notification. The CBB will consider any such representations before issuing a final decision.
- OFS-4.2.7      The CBB will make a decision which is final within 30 calendar days of receiving the representation under Paragraph OFS-4.2.6.



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### OFS-4.3 Additional Requirements and Exceptions

#### OFS-4.3.1

In addition to the requirements under Section OFS-4.2, the following specific requirements or exemptions are applicable.

#### *Public Offering*

#### OFS-4.3.2

For public offerings, the following additional requirements and documentation are required:

- (a) A draft of the summary prospectus to be published in two daily local newspapers, one in Arabic and the other in English, at least 5 days before the start of the offering period;
- (b) If the offer is subject to the listing requirements, the issuer or lead manager must provide information on the listing arrangements and information on the designated listing agent if different from the lead manager;
- (c) If, in addition to listing on a licensed exchange, the offer will be listed on an exchange outside the Kingdom of Bahrain, a copy of the approval of the relevant regulator within that jurisdiction;
- (d) If the offer will be made in countries other than the Kingdom of Bahrain, a copy of such other country's regulatory approval for such offer;
- (e) If the securities under the proposed offer are already listed on an exchange, details of the current listing requirements and performance of the securities;
- (f) If the securities under the proposed offer have been placed through private placement prior to the date of submission of application, full details about such placement;
- (g) Draft or proof print of any application form to subscribe or purchase the securities;
- (h) A copy of the draft or any temporary document of title proposed to be issued; and
- (i) For initial public offerings, initial offer for sale of securities and foreign listings, the issuer is required to provide the CBB with a draft of agreements or contracts related to the depositing of securities and registration arrangements.

#### *Rights Offering*

OFS-4.3.3 An application to the CBB for a rights issue by a listed issuer need not contain the following:



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### OFS-4.3 Additional Requirements and Exceptions (continued)

- (a) A copy of the Memorandum and Articles of Association, if such document has already been submitted to the CBB, as amended; nor
- (b) A separate copy of the previous annual audited financial statements and/or interim period reviewed financial statements, but these must be included in the rights issue offering document.

#### *Private Placement*

##### OFS-4.3.4

An application for private placement of any securities must include the following additional information and documents:

- (a) A confirmation from the issuer and/or lead manager that the offer will not be offered to the public and only offered in line with requirements of Section OFS-2.4;
- (b) A copy of the subscription form which must include the accredited investor status confirmation; and
- (c) A list of the expected accredited investors, if available at the time of submission.

#### *Employee Stock Option Plan*

##### OFS-4.3.5

An application for employees stock option plan proposed by a listed issuer is subject to requirements under Subparagraphs OFS-4.2.1(a) and (b).

#### *Capitalisation Issue*

##### OFS-4.3.6

If the capitalisation issue is made in the form of a rights issue, then the same requirements stipulated under Section OFS-4.2 as well as Paragraphs OFS-4.3.2 and OFS-4.3.3 will apply.

##### OFS-4.3.7

If the capitalisation issue is made in the form of a stock dividend for free it is only subject to the requirements under Subparagraphs OFS-4.2.1(a) and (b).

#### *Consideration Issue*

##### OFS-4.3.8

An application for a consideration issue by a listed issuer, or listing applicant through which an issue of securities as a consideration other than cash in a transaction, or in connection with a take-over or merger or the division of an issuer is subject to the Take-over, Mergers Acquisitions and Share Repurchases (TMA) Module.

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## OFS-4.3      Additional Requirements and Exceptions (continued)

### *Swapping, Exchange and Substitution of Securities*

**OFS-4.3.9**      An application for the swapping, exchange or substitution of listed securities must be made as an application for listing, rather than as an offering of securities.

### *Applications of Listings for Publicly Traded Securities*

**OFS-4.3.10**    An application for the listing of publicly traded securities must be dealt with either as an initial public offering, or an initial offer for sale of securities, as mentioned above.

### *Issuing of Securities under Privatisation Programmes*

**OFS-4.3.11**    For any state owned entity, or government owned company planning to issue shares to the public, it must either be made as a public offering, or initial offer for sale of securities, as the case may be, and is subject to the abovementioned requirements provided for public offering as per Paragraph OFS-4.3.2 unless otherwise exempted by the CBB under Section OFS-1.13.

### *Debt Securities*

**OFS-4.3.12**    The following additional information and documents must be provided with an application for the offering of debt securities:

- (a) A copy of the trust deed or other document securing the debt securities;
- (b) A copy of any collateralising instruments or details of underlying assets;
- (c) A copy of any intended guarantees provided to holders of debt securities; and
- (d) A copy of the underlying asset valuation report produced by at least two independent valuers.

### *Warrants and Other Certificates*

**OFS-4.3.13**    Where appropriate, a copy of the custodial or trusteeship agreement for the underlying securities must be provided with the application for the offering of warrants and other certificates.



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### OFS-4.3 Additional Requirements and Exceptions (continued)

#### *Islamic Securities*

##### OFS-4.3.14

The following additional information and documents must be provided with the application for the offering of Shari'a compliant securities:

- A copy of Shari'a Pronouncement report that the transaction is in compliance with the principles of Shari'a;
- A copy of the trust deed or other document securing the Shari'a compliant securities together with any trustees agreement;
- A copy of any collateralising instruments and details of underlying assets;
- A copy of the underlying asset valuation report produced by at least two independent valuers; and
- Any other documents made available for inspection.

#### *Assets-Backed and Mortgage-Backed Securities*

##### OFS-4.3.15

The following additional information and documents must be provided with an application for the offering of assets-backed and mortgage-backed securities:

- A copy of the trust deed or other document securing the assets-backed and mortgage-backed securities; and
- A copy of the underlying asset valuation report produced by at least two independent valuers.

#### *Offers by Overseas Issuers*

##### OFS-4.3.16

The following additional information, documents (to be provided with the application) are required for an offering of securities by overseas issuers:

- A copy of any necessary approval from the home regulator;
- A copy of the home market's relevant laws, rules and regulations that show that no restrictions are imposed on the transferability of the securities;
- Detailed information on listing requirements and securities performance on the home or other market(s);
- Confirmation by the overseas issuer that it will adhere to the general requirements as well as with the additional requirements and declarations, either in accordance with the type of offer or type of securities, as stipulated in this Module;

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### **OFS-4.3      Additional Requirements and Exceptions (continued)**

- (e) An appointment of a listing agent where the securities are to be listed on a licensed exchange; and
- (f) The issuer to bear the costs of any investigation or inspection by the CBB.

OFS-4.3.17      The CBB may grant exemptions to any overseas issuer's application, depending upon the type of offer and type of securities on a case-by-case basis.

#### ***Other Offering Approved by the CBB***

OFS-4.3.18      The CBB may impose additional requirements in respect of the offer of securities by way of a guaranteed issue.

OFS-4.3.19      The CBB (in conjunction with the licensed exchange where relevant) may exempt start-up or small and medium size companies from parts of this Module, as it deems appropriate.





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#### OFS-4.4 Preliminary/Red Herring Prospectus to be Made Public

##### OFS-4.4.1

The draft offering document or red herring prospectus filed with the CBB must be made public for a period of 15 days from the date of filing the offering document with the CBB.

##### OFS-4.4.2

The lead manager must, while filing the draft offering document with the CBB:

- (a) File the draft offering document with the stock exchanges where the securities are proposed to be listed; and
- (b) Make copies of the draft offering document available to the public, host the draft and final offering documents on the websites of the issuer, lead manager and underwriters associated with the issue as the case may be, and also ensure that the contents of documents hosted on the websites are the same as that of their printed versions.

##### OFS-4.4.3

Public investors may provide the CBB with their comments and complaints, and the lead manager must make available to the CBB all comments and complaints received by it.

##### *No Complaints Certificate*

##### OFS-4.4.4

After a period of 21 days from the date the draft offering document is made public, the lead manager must file a statement with the CBB giving a list of complaints received, a statement whether it proposes to amend the draft offering document or not, and highlight those amendments.



<b>MODULE</b>	<b>OFS: Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-5: Offering Documents</b>

## OFS-5.1 Prospectus Requirements

**OFS-5.1.1** A prospectus must be drawn up for every offer of securities. The prospectus must contain the minimum information requirements set out in Sections OFS-5.2 to OFS-5.10 and in this Module and must be submitted to the CBB for approval.

OFS-5.1.2 Issuers of securities, depending on the industry that the issuer is involved in (e.g. banking, insurance, mining, telecommunications and oil and gas companies as well as any other specialised industries), are required to provide additional information as directed by the CBB.

### *Material Information*

**OFS-5.1.3** The issuer must disclose any information that would be material to an investor's investment decision.

**OFS-5.1.4** In addition to the information prescribed under this Module, a prospectus must include all such information within the knowledge of those preparing the prospectus so that investors may make an informed assessment.

OFS-5.1.5 It is the responsibility of each issuer and lead manager to determine the material information:

- (a) According to the particular nature of its own affairs and the nature and type of securities for which an offering or listing is sought;
- (b) Necessary to enable a person who invests or seeks to invest in securities to make an informed assessment of the activities, assets, liabilities, financial position, management and prospects of the issuer, and of its profits and losses and the rights attached to such securities; and
- (c) The implicit risk associated with such investment.

OFS-5.1.6 For the purpose of Paragraph OFS-5.1.5, material information consists of both material facts and material changes related to the business and affairs of the issuer, taking into account qualitative and quantitative facts, developments and events capable of influencing the offering or market price or value of issued securities.

### *Omission of Information*

**OFS-5.1.7** If a disclosure requirement is not applicable to an issuer's sphere of activity or legal form, no information need be provided in response to that requirement, although equivalent information must be given.



<b>MODULE</b>	<b>OFS: Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-5: Offering Documents</b>

## OFS-5.1 Prospectus Requirements (continued)

OFS-5.1.8 For purposes of Paragraph OFS-5.1.7, the CBB may authorise the omission of information from the prospectus if it considers that:

- (a) Such information is of minor importance only and as such, will not influence the assessment of the activities, assets, liabilities, financial position, profits and losses, or implicit risks and prospects of the issuer;
- (b) Such information required in the prospectus represents a competitive advantage for the issuer, and its disclosure could affect its financial situation or operating results; or
- (c) Disclosure of such information would be contrary to the public interest, or be seriously detrimental to the issuer, provided that such an omission would not be likely to mislead the public with regard to facts and circumstances, knowledge of which is essential for the assessment of the securities in question.

OFS-5.1.9 To be granted the right to omit information as noted in Paragraph OFS-5.1.8, the issuer must obtain the CBB's authorisation by explaining in writing to the CBB the reasons for not making information public.

### *Replacement and Supplementary Document*

OFS-5.1.10 A supplementary or replacement prospectus is a prospectus that has the same wording as the original prospectus, except for the provision of new or additional information, or the correction of deficiencies in the original prospectus.

**OFS-5.1.11** A supplementary or replacement prospectus must be submitted to the CBB as soon as practicable if, during the validity period of a prospectus, the issuer becomes aware that the prospectus is deficient or outdated in that:

- (a) The prospectus contains a material statement that is false or misleading;
- (b) There is a material omission from the prospectus;
- (c) There has been a significant change affecting information in the prospectus; or
- (d) A significant new matter has arisen, and the prospectus content requirements would have required information on that matter to have been included in the prospectus, if the matter had arisen when the prospectus was being prepared.

**OFS-5.1.12** The supplementary and/or replacement prospectus must be approved by the CBB and published in summary form in accordance with Article 81(b) of the CBB Law.

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<b>CHAPTER</b>	<b>OFS-5:       Offering Documents</b>

## OFS-5.1   Prospectus Requirements (continued)

OFS-5.1.13   The supplementary or replacement prospectus may be used to correct, update or add to the original prospectus at any time before the date of the CBB approval and/or start of the offering period.

**OFS-5.1.14**   All supplementary or replacement prospectuses must contain the following:

- (a) A statement that it is a supplementary or replacement prospectus;
- (b) An identification of the prospectus it supplements or replaces;
- (c) An identification of any previous supplementary or replacement prospectus in relation to the same offer;
- (d) A statement that it is to be read together with the prospectus, as well as any previous supplementary or replacement prospectus; and
- (e) A responsibility statement from the board of directors of the issuer.

**OFS-5.1.15**   All supplementary and/or replacement prospectuses must clearly indicate the changes and revisions made.

**OFS-5.1.16**   For purposes of Paragraph OFS-5.1.15, such changes must be made clear in all copies provided to the CBB and the investing public.

### *CBB Approval*

**OFS-5.1.17**   Application for approval for any changes to the prospectus must be accompanied by the following:

- (a) The supplementary and/or replacement prospectus containing at least the minimum information set out in this Module;
- (b) A declaration by the issuer and the lead manager that the changes to the supplementary and/or replacement prospectus are free from false or misleading statements, or information biased towards any of its present shareholders and future investors;
- (c) A declaration by the issuer and the lead manager that the changes to the supplementary and/or replacement prospectus do not omit any material information; and
- (d) A declaration by the issuer and the lead manager that the changes to the supplementary and/or replacement prospectus are to the best of their knowledge in accordance with all the applicable laws, rules and regulations.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.1 Prospectus Requirements (continued)

### *Announcement*

#### OFS-5.1.18

For public offers, the issuer must inform the public of the changes and make the supplementary and/or replacement prospectus available to it. In accordance with Article 84 of CBB Law of 2006, issuers of securities must publish a summary of the supplementary and/or replacement prospectus in two daily local newspapers, one in Arabic and the other in English and disclose the material amendments therein.

### *Equivalent Information*

#### OFS-5.1.19

For Bahraini issuers who made an offer or listed their securities outside Bahrain, and for overseas issuers who made an offer or listed their securities in Bahrain, all information of importance to shareholders made public about the issuer in other markets must be made public in Bahrain, whether or not disclosure of such information would otherwise be required by the CBB.

### *Presentation*

#### OFS-5.1.20

Although the information sections and order of presentation are not mandatory, the CBB recommends that the format of the standards outlined in this Module be followed to enhance comparability. If the same information required by this Module is also required by the body of accounting principles used in preparing financial statements, the information need not be repeated, as long as there is a cross-reference to the location of the information. It is also recommended that a table of contents be provided at the beginning of the document.

### *Validity of the Offering Document*

#### OFS-5.1.21

The prospectus must remain valid for a maximum period of six months from the date of notification of the CBB approval. After this period no person shall offer securities based on such prospectus, unless approved by the CBB.

### *Preliminary or Red Herring Prospectuses*

#### OFS-5.1.22

When a draft prospectus is submitted to the CBB or to any appointed advisor, the final offering price is not required to be disclosed. The offering price must however be included in the final printed proof prospectus and before the start of the offering period is set.



MODULE	OFS: Offering of Securities
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## OFS-5.1 Prospectus Requirements (continued)

### *Responsibility for Offering Document*

OFS-5.1.23 In accordance with Article 85 of the CBB Law, the person responsible for the preparation of the prospectus must ensure that it is free of incorrect or misleading information. Furthermore, Article 166 (b) makes it an offence to intentionally include false or misleading information and that the responsible persons may, subject to any greater penalty under the penal code, be punished by imprisonment or a fine not exceeding BD3,000.

**OFS-5.1.24** The following persons are responsible for the reliability and accuracy of the prospectus or offering documents:

- (a) The issuer of the securities covered by the prospectus;
- (b) The board of directors of the issuer of the securities;
- (c) The lead manager of the securities offered; and
- (d) Any other appointed advisor or person whose name appears in the prospectus or offering document each in their respective capacity according to the declaration made by him.

### *Consent and Declaration*

**OFS-5.1.25** The issuer and/or lead manager must obtain confirmation and/or consent letters from the appointed advisors or experts acknowledging their responsibilities and obligations under Article 85 of the CBB Law of 2006.

### *Registration and Publication*

**OFS-5.1.26** If the prospectus is approved by the CBB subject to changes, the final corrected copy must be registered with the CBB within 24 hours prior to the date of commencement of the offering period.

### *Documents Available for Inspection*

**OFS-5.1.27** The prospectus must be attached with all agreements, contracts, arrangements and documents required under this Module, or as referred to in the prospectus as being available for inspection.



MODULE	OFS: Offering of Securities
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## OFS-5.1 Prospectus Requirements (continued)

### *Preparation of the Prospectus*

#### OFS-5.1.28

The issuer, lead manager, or any other appointed advisors or persons involved in the preparation of any offering documents must ensure that the content and the statements included in such documents will meet, but not be limited to the following requirements:

- (a) The prospectus and all statements included therein must be factual, clear and succinct;
- (b) Must be balanced and fair;
- (c) Must contain sufficient quantitative information to allow investors to make informed decisions regarding their participation in the offer;
- (d) Must avoid any omission of important and favourable facts, or minimising such facts by “burying” them at the end of the related statement or at the end of a section of information, or provided as an appendix to the prospectus, instead of including such facts in the main body of the prospectus;
- (e) Must not include a presentation of estimates, projections, forecasts, or forward looking statements or overviews, without sufficient qualification, or without a sufficient factual basis;
- (f) Must not include any promotional jargon calculated to excite rather than to inform;
- (g) Must avoid using negative statements phrased so as to create a positive implication like “The company cannot now predict whether the development will have a materially favourable effect on its earnings,” (creating the implication that the effect will be favourable even if not materially favourable), or “The company expects that the development will not have a materially favourable effect on earnings in the immediate future,” (creating the implication that the development will eventually have a materially favourable effect);
- (h) Must avoid over-technical language, and where possible, use language comprehensible to laymen; and
- (i) Must avoid presentation of providing information in the form of diagrams and charts, without first presenting the same information in the form and style of written statements.



MODULE	OFS: Offering of Securities
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## OFS-5.1 Prospectus Requirements (continued)

OFS-5.1.29 For the purpose of Paragraph OFS-5.1.28, unwarranted promotional information means disclosing information beyond that necessary to inform investors and used only as an attempt to influence potential subscribers.

OFS-5.1.30 In order to meet the requirements under Paragraphs OFS-5.1.31 and OFS-5.1.32, the contents of the prospectus and statement therein should either be prepared, reviewed, or edited by the legal advisor or other related appointed advisors, depending on the importance and complexity of the concerned contents or statement.

### *Use of Prospectus*

#### OFS-5.1.31

No person shall use any offering document unless:

- (a) It has been submitted to and approved by the CBB and published; and
- (b) Where required, a summary of the offering document has been published in one Arabic and one English language daily newspaper published in Bahrain.





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## OFS-5.2 Contents of the Prospectus

### *Specific Content for Equity Securities*

#### OFS-5.2.1

An offering document in respect of equity securities must contain the minimum content requirements of this Section and be prepared in accordance with Appendix 1.

### *Front Cover Page*

#### OFS-5.2.2

Front cover page: The cover page of the offering document must contain the following particulars:

- (a) Full name and registration number of the issuer;
- (b) Type and amount of securities;
- (c) Date of the offering document;
- (d) Date of expiry of validity of the prospectus;
- (e) Logo and full name of each advisor;
- (f) Logo and full name of the lead manager and co-managers;
- (g) Logo and name of the underwriter, if any;
- (h) Face or par value of the securities;
- (i) Offer price;
- (j) Premium (if applicable);
- (k) Placement fee or charge (if applicable);
- (l) Minimum subscription limit (if applicable);
- (m) Maximum subscription limit (if applicable);
- (n) Eligible subscribers (general classification by nationality or region); and
- (o) Standard disclaimer statement, written in capital letters and box framed, as follows:

THE CENTRAL BANK OF BAHRAIN AND [NAME OF THE LICENSED EXCHANGE] ASSUME NO RESPONSIBILITY FOR THE ACCURACY AND COMPLETENESS OF THE STATEMENTS AND INFORMATION CONTAINED IN THIS DOCUMENT AND EXPRESSLY DISCLAIM ANY LIABILITY WHATSOEVER FOR ANY LOSS HOWSOEVER ARISING FROM RELIANCE UPON THE WHOLE OR ANY PART OF THE CONTENTS OF THIS DOCUMENT.

#### OFS-5.2.3

If the offer is planned to be issued in any other jurisdiction or is planned to be listed on any other regulated exchange(s) then the name of the securities regulator of such jurisdiction and/or the name of the other regulated exchange may be added to the above disclaimer statement, if such regulator or regulated exchange has the same or equivalent requirement.



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## OFS-5.2 Contents of the Prospectus (continued)

OFS-5.2.4 The CBB will not permit any change, alteration, modification, reduction and/or addition in the above disclaimer statement, other than the cases mentioned under Paragraph OFS-5.2.3.

### *Inside Cover Page*

**OFS-5.2.5** The prospectus must include on the inside cover page the following standard prominent and legible declaration and responsibility statement within a box frame:

THE DIRECTORS OF THE COMPANY, WHOSE NAMES APPEAR HEREIN, ACCEPT RESPONSIBILITY FOR THE INFORMATION CONTAINED IN THIS DOCUMENT. TO THE BEST OF THEIR KNOWLEDGE AND BELIEF, THE DIRECTORS, WHO HAVE TAKEN ALL REASONABLE CARE TO ENSURE THAT SUCH IS THE CASE, THE INFORMATION CONTAINED IN THIS DOCUMENT IS IN ACCORDANCE WITH THE FACTS AND CONTAINS NO OMISSIONS LIKELY TO AFFECT THE IMPORTANCE AND COMPLETENESS OF THE DOCUMENT.

**OFS-5.2.6** The abovementioned standard responsibility statement must be duly signed by the issuer's board of directors.

**OFS-5.2.7** The standard responsibility statement must be produced in the prospectus and the same must be submitted to the CBB.

OFS-5.2.8 The CBB will not normally accept any board of directors responsibility statement, unless it is duly signed by all directors. In cases where one or more of the directors cannot provide their signature on such statement, the issuer is required to provide to the CBB and disclose in the prospectus itself the actual reasons and justification.

**OFS-5.2.9** In addition to the information required to be included on the front and inside cover pages of the prospectus, the prospectus must contain, at the minimum, the following information:

- (a) Important Notice - which may include:
  - (i) Important notice to subscribers;
  - (ii) Due diligence statements;
  - (iii) Forward looking statements; and
  - (iv) General risk statement;



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## OFS-5.2 Contents of the Prospectus (continued)

- (b) Applicants Identification and Anti-Money Laundering requirement;
- (c) Table of contents;
- (d) Glossary of the defined terms and abbreviations;
- (e) Offering timetable;
- (f) Resolutions and approvals;
- (g) Summary of the offering;
- (h) Offering statistics and expected timetable;
- (i) Information on the issuer, which may include:
  - (i) Background and history;
  - (ii) Principal activities;
  - (iii) Business strategy;
  - (iv) Organisational structure;
  - (v) Corporate governance practices;
  - (vi) Board of Directors
  - (vii) Board of Directors practices;
  - (viii) Senior management team;
  - (ix) Employees;
  - (x) Compensation;
  - (xi) External auditor;
  - (xii) Legal advisor and other advisors;
  - (xiii) Major shareholders and transactions;
  - (xiv) Related party transactions;
  - (xv) Interests of experts and counsel;
  - (xvi) Material contracts;
  - (xvii) Business overview;
  - (xviii) Key financial information;
  - (xix) Operating and financial review and prospects;
  - (xx) Property, plant and equipment;
  - (xxi) Research and development, patents and licenses;
  - (xxii) Significant assets and liabilities;
  - (xxiii) Liquidity and capital resources;
  - (xxiv) Consolidated financial statements;
  - (xxv) Material changes to financial statements;
  - (xxvi) Restatement of financial statements;
  - (xxvii) Ratios and analysis;
  - (xxviii) Projections of financial statements; and
  - (xix) Subsidiary's separate financial statements;

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## OFS-5.2      Contents of the Prospectus (continued)

- (j) Industry analysis which may include:
  - (i) Economic overview;
  - (ii) Sectoral performance and overview; and
  - (iii) Sub-sectoral performance and overview;
- (k) Investment considerations, which may include:
  - (i) Equity securities' rights and obligations;
  - (ii) Ranking of shares;
  - (iii) Dividend policy;
  - (iv) Listing of shares;
  - (v) Description of the offering;
  - (vi) Underwriting arrangements;
  - (vii) Commitments to the offering arrangements;
  - (viii) Contracts or arrangements with the appointed advisor;
  - (ix) Expenses of the issue;
  - (x) Use of proceeds; and
  - (xi) Dilution;
- (l) Risk factors, which may include:
  - (i) General risks;
  - (ii) Business risks;
  - (iii) Legal and regulatory risks; and
  - (iv) Other specific risks;
- (m) Disputes, litigations and court orders;
- (n) Subscription terms and conditions, which may include:
  - (i) Application procedures;
  - (ii) Subscription restrictions;
  - (iii) Subscription period;
  - (iv) Receiving banks;
  - (v) Mode of payment;
  - (vi) Fund transfer fees and charges;
  - (vii) Rejected applications;
  - (viii) Allotment;
  - (ix) Over-subscription allotment;
  - (x) Dispatching and refunds; and
  - (xi) Announcements and acknowledgements;
- (o) Additional information, which may include:
  - (i) Share capital structure; and
  - (ii) Memorandum and Articles of Association;
- (p) Applicable law;
- (q) Documents available for inspection; and
- (r) Appendices.



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### OFS-5.3 Additional and Specific Content for Debt Securities

#### OFS-5.3.1

An offering document in respect of debt securities must contain the minimum content requirements of this section and be prepared in accordance with Appendix 3.

#### *Front Cover Page*

#### OFS-5.3.2

Front cover page:

The cover page of the debt securities offering document must contain the following particulars:

- (a) Full name and registration number of the issuer;
- (b) Full name and registration number of the originator;
- (c) Logo and full name of the guarantor, if any;
- (d) Type and amount of debt securities;
- (e) Date of the offering document;
- (f) Date of the expiry of the validity of the prospectus;
- (g) Logo and full name of each advisor;
- (h) Logo and full name of the lead manager, primary dealer, issuing house;
- (i) Logo and full name of co-managers;
- (j) Logo and name of the underwriter, if any;
- (k) Logo and full name of the trustee;
- (l) Rating of debt securities, if any;
- (m) Face or par value;
- (n) Offer price;
- (o) Premium (if applicable);
- (p) Placement fee or charge (if applicable);
- (q) Minimum subscription limit (if applicable);
- (r) Maximum subscription limit (if applicable);
- (s) Eligible subscribers (general classification by nationality or region); and
- (t) Standard disclaimer statement, written in capital letters and box framed, as follows:

THE CENTRAL BANK OF BAHRAIN AND [NAME OF LICENSED EXCHANGE] ASSUME NO RESPONSIBILITY FOR THE ACCURACY AND COMPLETENESS OF THE STATEMENTS AND INFORMATION CONTAINED IN THIS DOCUMENT AND EXPRESSLY DISCLAIM ANY LIABILITY WHATSOEVER FOR ANY LOSS HOWSOEVER ARISING FROM RELIANCE UPON THE WHOLE OR ANY PART OF THE CONTENTS OF THIS DOCUMENT.



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### OFS-5.3 Additional and Specific Content for Debt Securities (continued)

#### *Inside Cover Page*

##### OFS-5.3.3

The offering document must include on the inside cover page the standard prominent and legible declaration and responsibility statement within a box frame:

THE DIRECTORS OF THE COMPANY, WHOSE NAMES APPEAR HEREIN, ACCEPT RESPONSIBILITY FOR THE INFORMATION CONTAINED IN THIS DOCUMENT. TO THE BEST OF THEIR KNOWLEDGE AND BELIEF, THE DIRECTORS, WHO HAVE TAKEN ALL REASONABLE CARE TO ENSURE THAT SUCH IS THE CASE, THE INFORMATION CONTAINED IN THIS DOCUMENT IS IN ACCORDANCE WITH THE FACTS AND CONTAINS NO OMISSIONS LIKELY TO AFFECT THE IMPORTANCE AND COMPLETENESS OF THE DOCUMENT.

##### OFS-5.3.4

The abovementioned standard responsibility statement must be duly signed by the issuer's/originator's board of directors.

##### OFS-5.3.5

The standard responsibility statement must be produced in the offering document and the same must be submitted to the CBB.

##### OFS-5.3.6

The CBB will not normally accept any board of directors' responsibility statement unless it is duly signed by all directors. In cases where one or more of the directors cannot provide their signature on such statement, the issuer is required to provide to the CBB and disclose in the offering document itself, the actual reasons and justifications.

##### OFS-5.3.7

In addition to the information required to be included on the front and inside cover pages of the prospectus or offering documents, the offering documents of debt securities must contain, at the minimum, the following sections of information:

- (a) Important Notice - which may include:
  - (i) Important notice to subscribers;
  - (ii) Due diligence statements;
  - (iii) Forward looking statements; and
  - (iv) General risk statement;



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### **OFS-5.3 Additional and Specific Content for Debt Securities (continued)**

- (b) Applicants Identification and Anti-Money Laundering requirement;
- (c) Table of contents;
- (d) Glossary of the defined terms and abbreviations;
- (e) Offering timetable;
- (f) Resolutions and approvals;
- (g) Summary of the offering;
- (h) Offering statistics and expected timetable;
- (i) Structural overview of the securitisation transaction:
  - (i) Summary of transaction;
  - (ii) Transaction overview diagram;
  - (iii) Cash flow description;
  - (iv) Cash inflow;
  - (v) Monthly instalment;
  - (vi) Cash outflow;
  - (vii) Issuance cost;
  - (viii) Annual expenses;
  - (ix) Delinquencies and defaults;
  - (x) Investment parameters for the investment of temporary liquidity surpluses;
  - (xi) Source of payments;
  - (xii) Order of priority of payments;
  - (xiii) Fees payable;
  - (xiv) Sale of the underlying assets;
  - (xv) Nature of the sale;
  - (xvi) Terms of the sale;
  - (xvii) Underlying assets;
  - (xviii) Purchase consideration;
  - (xix) Cancellation;
  - (xx) Debt securities issuance;
  - (xxi) Partial early redemption;
  - (xxii) Mandatory redemption in full;
  - (xxiii) Formula for optional/mandatory redemption in full;
  - (xxiv) Debt securities redemption table;
  - (xxv) Servicing function;
  - (xxvi) Servicing by the originator;
  - (xxvii) Servicing of the debt securities by the issuer; and
  - (xxviii) Utilisation of proceeds;





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### OFS-5.3 Additional and Specific Content for Debt Securities (continued)

- (j) The following minimum information must be provided for:
- (i) Details of the issuer (for all issues);
  - (ii) Details of the originator (if different from the issuer);
  - (iii) Details of the guarantor (for all guaranteed issues):
    - Background and history;
    - Principal activities;
    - Business strategy;
    - Organisational structure;
    - Corporate governance practices;
    - Board of Directors
    - Board of Directors practices;
    - Senior management team;
    - Employees;
    - Compensation;
    - External auditor;
    - Legal advisor and other advisors;
    - Major shareholders and transactions;
    - Related party transactions;
    - Interests of experts and counsel;
    - Material contracts;
    - Business overview;
    - Key financial information;
    - Operating and financial review and prospects;
    - Significant assets and liabilities;
    - Property, plant and equipment;
    - Research and development, patents and licenses;
    - Liquidity and capital resources;
    - Consolidated financial statements;
    - Material changes to financial statements;
    - Restatement of financial statements;
    - Ratios and analysis;
    - Projections of financial statements; and
    - Subsidiary's separate financial statements;
- (k) Industry analysis which may include:
- (i) Economic overview;
  - (ii) Sectoral performance and overview; and
  - (iii) Sub-sectoral performance and overview;



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### OFS-5.3    Additional and Specific Content for Debt Securities (continued)

- (l) Investment considerations, which may include:
  - (i) Limited recourse;
  - (ii) The debt securities;
  - (iii) No prior market for the debt securities;
  - (iv) Market value of the debt securities;
  - (v) Fluctuation of interest rates;
  - (vi) Inflation risks;
  - (vii) Partial early redemption of the debt securities;
  - (viii) Legal investment considerations;
  - (ix) Investment in the debt securities may not be suitable for all investors;
  - (x) The underlying assets;
  - (xi) Timeliness of collections;
  - (xii) Conditions of the sector/sub-sector/market;
  - (xiii) Obligor's obligations;
  - (xiv) No perfection of the issuer's interests in the underlying assets;
  - (xv) No assurance on conformity with eligibility criteria;
  - (xvi) Reliance on the servicer;
  - (xvii) Rescheduling of payment obligations;
  - (xviii) Replacement of servicer and transaction administrator;
  - (xix) The issuer;
  - (xx) Bankruptcy risk;
  - (xxi) Dependence on key personnel;
  - (xxii) No recourse to shareholder;
  - (xxiii) No operational history;
  - (xxiv) Limitation on enforcement of security and foreclosure;
  - (xxv) Tax risks;
  - (xxvi) Absence of independent valuation of the underlying assets;
  - (xxvii) General risk associated with emerging markets; and
  - (xxviii) Political, economic and social consideration relating to home market;
- (m) Risk factors, which may include:
  - (i) Credit risk;
  - (ii) Legal risk;
  - (iii) Interest rate risk;
  - (iv) Operational risk;



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### OFS-5.3 Additional and Specific Content for Debt Securities (continued)

- (v) Currency risk;
- (vi) Liquidity risk;
- (vii) Maturity risk;
- (viii) Other risks;
- (n) Disputes, litigations and court orders;
- (o) Subscription terms and conditions, which may include:
  - (i) Type and nominal amount of debt securities;
  - (ii) Ranking of debt securities;
  - (iii) Issue price;
  - (iv) Interest/coupon/profit rate/ income;
  - (v) Minimum subscription required of the debt securities in order to satisfy the objectives of the issue, offer or invitation (to include procedures for refund if this requirement is not met);
  - (vi) Tenor (nature) of the debt securities;
  - (vii) Form and denomination of debt securities on issuance;
  - (viii) Underwriting arrangements;
  - (ix) Events of default;
  - (x) Details of any security for the debt securities;
  - (xi) Rating assigned to debt securities (together with a description of the rating);
  - (xii) Type of listing that is sought;
  - (xiii) Summary of rights conferred upon the holders of debt securities;
  - (xiv) Governing law – any special legislation under which the debt securities have been created and the choice of jurisdiction in the event of litigation;
  - (xv) Repayment terms and frequency of interest/profit/income payments;
  - (xvi) Shari'a principle and concept adopted (for Islamic debt securities);
  - (xvii) Types of underlying assets of the transaction;
  - (xviii) Details of any sinking fund requirement; and
  - (xix) Regulatory approvals required including dates of approval;
- (p) Announcements and acknowledgements;
- (q) Additional information, which may include:
  - (i) Share capital structure;
  - (ii) Memorandum and Articles of Association;
- (r) Applicable law;
- (s) Documents available for inspection; and
- (t) Appendices.



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## OFS-5.4 Additional and Specific Content for Convertible Securities

**OFS-5.4.1** The issuer of convertible securities must disclose in the offering document the extent to which the shareholder may subscribe for the convertible securities.

**OFS-5.4.2** For the purpose of this Section, securities may be converted into other types of securities, or these can be converted into another class of the same securities. The conversion of securities may also take place within the same securities issuer's company and/or group, or in relation to another company or group.

**OFS-5.4.3** In the case of convertible securities which are exchangeable for securities of another company, an issuer must submit to the CBB the annual report and accounts of that other company unless that company is listed or adequate information is otherwise available.

**OFS-5.4.4** If the debt securities are convertible into equity or are issued with warrants, whether or not detachable, the following detailed information (where applicable) must be made available:

- (a) Mode of conversion;
- (b) Number of warrants;
- (c) Conversion period;
- (d) Price of warrants;
- (e) Conversion ratio;
- (f) Rights attached to warrants;
- (g) Conversion price;
- (h) Warrant exercise period; and
- (i) Warrant exercise price.



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## OFS-5.5 Additional and Specific Content for Asset-backed Securities

### OFS-5.5.1

With regard to asset-backed securities, the following information must be disclosed in addition to the minimum content requirements set out in section OFS-5.3 and Appendix 4:

- (a) Under a separate section of the offering document, a description of the assets used to back the asset-backed securities, giving at least the following (where relevant):
- (i) The legal jurisdiction(s) to which the assets are subject;
  - (ii) The types of assets;
  - (iii) The expiry or maturity date(s) of the assets;
  - (iv) The amount of the assets;
  - (v) Where the assets are secured on or backed by real property or other physical assets, or rely on such security, the ratio of the amount of the assets to the value or amount of such security at origination, if available;
  - (vi) For loans and credit agreements, the principal lending criteria and extent to which loans may be included which do not meet these criteria;
  - (vii) An indication of significant representations and warranties given to the issuer relating to the assets;
  - (viii) The method of origination or creation of the assets;
  - (ix) Any rights to substitute the assets and a description of the assets which may be substituted for the original assets;
  - (x) For loans and credit agreements, any rights or obligations to make further advances;
  - (xi) A description of the principal insurance policies, including the names, and where appropriate, the addresses and a brief description of the providers. Any concentration with one insurer should be disclosed if it is material to the transaction;
  - (xii) Where the assets consist of obligations of an obligor's accounts for 10% or more of the assets, so far as the issuer is aware and/or is able to ascertain from information published by the obligor(s), the information required in respect of each obligor will be the same as that which would be required if it were itself the issuer of the securities to be listed;



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## OFS-5.5 Additional and Specific Content for Asset-backed Securities (continued)

- (xiii) Where it is already listed on a regulated stock exchange or the obligations are guaranteed by an entity listed on a regulated stock exchange, in this case only the name, address, country of incorporation, nature of business and name of the exchange on which its securities are listed need be disclosed in respect of the obligor and the guarantor (if applicable);
- (xiv) Any relationship between the issuer, guarantor and obligor, if any, must be included. The principal terms and conditions of the obligations must be stated, except where the obligations are debt securities listed on a regulated stock exchange;
- (xv) Where the assets consist of obligations of more than 10 obligors, or where an obligor accounts for less than 10% of the assets the general characteristics and descriptions of the obligors must be given; and
- (xvi) Where the assets consist of equity securities, the information under section OFS-5.2 should be included in respect of those securities.
- (b) Investment considerations:
  - (i) An explanation of any matter of significance to investors relating to the issue. Any such explanation should be given appropriate prominence depending on the nature of the matter concerned and its significance to investors; and
  - (ii) Where the issuer proposes to or may issue further debt securities backed by the same assets, a prominent statement to that effect and unless those further debt securities are fungible with or are subordinated to any class of existing listed debt security, a statement that the prior approval of the holders of that class will be sought.
- (c) A description of the method and a statement of the date of the sale, transfer or assignment of the assets or of any rights in the assets to the issuer;
- (d) A description of the structure of the transaction;



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## OFS-5.5 Additional and Specific Content for Asset-backed Securities (continued)

- (e) An explanation of the flow of funds stating:
  - (i) How the cash flow from the assets is expected to meet the issuer's obligations to holders of the securities;
  - (ii) Information on any credit enhancements;
  - (iii) An indication of where material potential liquidity shortfalls are expected to occur;
  - (iv) The availability of any liquidity supports as an indication of provisions to cover interest shortfall risks;
  - (v) An indication of any investment parameters for the investment of temporary liquidity surpluses;
  - (vi) How payments are collected in respect of the assets;
  - (vii) The order of priority of payments made by the issuer to the holders of the class of debt securities in question;
  - (viii) Any fees payable by the issuer;
  - (ix) Details of any other arrangements upon which payments of interest and principal to investors are dependent;
  - (x) Information regarding the accumulation of surpluses in the issuer; and
  - (xi) Details of any subordinated debt finance.
- (f) The name, address, description and significant business activities of the originator, or creator of the assets backing the issue;
- (g) The name, address, description and significant business activities of the administrator or equivalent, (if any), together with a summary of the administrator's responsibilities and a summary of the provisions relating to the termination of the appointment of the administrator and the appointment of an alternative administrator;
- (h) The names and addresses and brief description of:
  - (i) Any swap counterparties and any providers of other material forms of enhancement; and
  - (ii) The banks with which the main accounts relating to the transaction are held.
- (i) If applicable, a statement that the issuer does not intend to publish annual reports and accounts and that the trust deed constituting the issue requires the issuer to provide written confirmation to the trustee (or equivalent), on an annual basis, that no event or default or other matter which is required to be brought to the trustee's attention has occurred.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.5 Additional and Specific Content for Asset-backed Securities (continued)

### OFS-5.5.2

If applicable, all information under Paragraph OFS-5.5.1 must be disclosed in the offering document in respect of any underlying assets used to secure the issued securities, whether classified as asset-back securities or otherwise.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.6 Additional and Specific Content for Special Purpose Vehicles (SPV)

**OFS-5.6.1** In respect of a Special Purpose Vehicle (SPV) created for the purpose of issuing debt securities, the appointed advisor, or issuer, or other sponsor for the issue, must disclose to the CBB all relevant facts and information relating to the legal, commercial and economic structure associated with the issue.

**OFS-5.6.2** The Memorandum and Articles of Association, or copy of such document of the SPV as an issuer, must be submitted to the CBB along with the offering application and must be made available for inspection to the subscriber.

**OFS-5.6.3** SPVs are responsible to meet all ongoing obligations related to the securities issued.

### *Additional Issue*

**OFS-5.6.4** In the case of an issuer wishing to issue more debt securities which are:

- (a) Backed by the same assets;
- (b) Not freely exchangeable with existing classes of debt securities;  
or
- (c) Not subordinated to existing classes of debt securities;

then the issuer must inform the debt security holders of the existing classes.





MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.7 Additional and Specific Content for Islamic Securities

- OFS-5.7.1** The application for approval from the CBB for making an offering of Islamic securities must include the following attachments:
- (a) A declaration by the Shari'a advisor that the transaction is in compliance with the principles of Shari'a;
  - (b) A declaration by the issuer that the vehicle issuing the securities will remain subject to proper Shari'a review, until the maturity date of the security; and
  - (c) A copy of the trust deed or other document securing or constituting the Islamic securities.

### *Appointed Shari'a Advisors*

- OFS-5.7.2** The offering document must contain the identity of the appointed advisors, including the Shari'a advisor.

### *Shari'a Advisor's Report*

- OFS-5.7.3** The offering document must contain a Shari'a advisor's report that, at the minimum, covers the compliance of the security and its structure with the Shari'a principles.



MODULE	OFS: Offering of Securities
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## OFS-5.8 Additional and Specific Contents of the Offering Document for Warrants

**OFS-5.8.1** The offering document must contain all the information that reasonable investors would require in order to make an informed decision of:

- (a) The capacity of the issuer and guarantor (if any) to fulfil the obligations specified under the terms of the issue; and
- (b) The risks, rights and obligations associated with the warrants.

**OFS-5.8.2** The offering documents for warrants must contain, at the minimum, the following information:

- (a) Terms and structure of the issue;
- (b) Financial information on the issuer and its guarantor (if any);
- (c) Financial information on the entity whose securities are the subject of the issue of warrants;
- (d) Whether the issuer has authority to issue further warrants; and
- (e) If the warrants are not fully covered by the underlying securities held by a trustee, a declaration that the issuer has appropriate risk management capabilities to manage the warrants issue.

**OFS-5.8.3** In the case of warrants relating to equity or debt securities, the offering document must contain at the minimum:

- (a) The names of the regulated exchange (if any) on which equity securities are already listed or traded;
- (b) The name, registered office and, if different, head office of the issuer;
- (c) The country of incorporation of the issuer; and
- (d) The title of the securities including nominal value.

**OFS-5.8.4** Additional information to be contained in the offering document, where warrants offer rights to acquire securities:

- (a) In the case of warrants offering rights to acquire equity securities:
  - (i) A statement regarding tax on the income from the shares withheld at source in the country of origin;
  - (ii) A statement whether the issuer assumes responsibility for the withholding of tax at source;
  - (ii) Arrangements for transfer of the shares and (where permitted) any restrictions on their free transferability (for example, provisions requiring transfers to be approved); and
  - (iv) A statement whether the shares are in registered or bearer form.



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## OFS-5.8 Additional and Specific Contents of the Offering Document for Warrants (continued)

- (b) In the case of warrants offering rights to acquire debt securities:
- (i) A statement regarding tax on the income from the debt securities withheld at source in the country of origin;
  - (ii) A statement whether the issuer assumes responsibility for the withholding of tax at source;
  - (iii) A statement whether the debt securities are in registered or bearer form; and
  - (iv) Details of any arrangements for transfer of the securities and any restrictions on the free transferability of the debt securities.

### OFS-5.8.5

Where any security represents 10 percent or more of the total value of the securities underlying the warrant, a table showing the price range of each such security for each of the last three years must be included.

### OFS-5.8.6

In the case of warrants relating to indices, the offering document must contain at the minimum:

- (a) A description of the index, including the name of the publisher of the index, its date of establishment, how it is compiled and a summary of its components;
- (b) An explanation of the computation of the index;
- (c) The frequency with which the index is updated and published; and
- (d) The provisions in the event of modification and discontinuance of the index.

### OFS-5.8.7

In the case of warrants relating to other types of securities, assets or variables, the offering document must contain at the minimum:

- (a) A description of the securities, assets or variables;
- (b) A description of the market on which they are traded, including its date of establishment, an indication of daily trading volumes, how price information is published, information as to the standing of the market in its country and the name of the market's regulatory authority; and
- (c) The frequency with which prices of the relevant securities, assets or variables are published.

<b>MODULE</b>	<b>OFS:           Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-5:       Offering Documents</b>

## OFS-5.9      Additional and Specific Content for Private Placement Memorandum (PPM)

**OFS-5.9.1**      An offering document for a private placement of securities must meet the requirements of the particular security, as laid out in OFS-5.1, OFS-5.2 and OFS-5.3, and Appendix 2 in regard to preparation. In addition to the above, it must meet the specific requirements for private placement as outlined in this Section.

### *Confirmation as Accredited Investor*

**OFS-5.9.2**      The issuer must obtain a signed confirmation from its investors as to their status as accredited investors using the “Accredited Investors” Form (Appendix 11).

**OFS-5.9.3**      The issuer must submit a copy of the status confirmation contained in Rule OFS-5.9.2 on submission of the offering document.

### *Suitability of Investors and Risk Statements*

**OFS-5.9.4**      The offering document must contain the following statement in respect of suitability of investors:

“This offer is a private placement. It is not subject to all of the regulations of the Central Bank of Bahrain that apply to public offerings of securities. This Memorandum is therefore intended only for “Accredited Investors” as defined in the Glossary to this Memorandum.

The securities offered by way of Private Placement may only be offered in minimum subscriptions of \$100,000 (or equivalent in other currencies).

The Central Bank of Bahrain assumes no responsibility for the accuracy and completeness of the statements and information contained in this document and expressly disclaims any liability whatsoever for any loss howsoever arising from reliance upon the whole or any part of the contents of this document.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.9 Additional and Specific Content for Private Placement Memorandum (PPM) (continued)

The Board of Directors and the management of the issuer accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Board of Directors and the management, who have taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the reliability of such information”.

### OFS-5.9.5

The offering document must contain statements covering the risk of investment to the effect that:

- (a) All prospective investors should make their own investigation into the offer, and consult their own advisors concerning the risks of the investors and the suitability of the securities for their individual requirements; and
- (b) There may be a lack of liquidity and lack of public market for the securities on offer.

### OFS-5.9.6

Issuers must ensure that all relevant financial and risk information is placed in the offering document to allow investors to make an informed decision.

#### *Utilisation of Proceeds and Disclosure of Fees*

### OFS-5.9.7

In line with Subparagraph OFS-1.5.2(i), all funds collected through an offering document must only be utilised as prescribed in the offering document, and such condition must be clearly stated in the prospectus under the related section ‘Use of Proceeds’. Any usage of funds that is not as stated in the offering document is prohibited without the consent of the securities holders and the approval of the CBB. All applications to the CBB for approval must include evidence of the consent of the securities holders.

### OFS-5.9.8

The PPM must disclose the estimated total amount of the proceeds of the issue, and the proposed timetable for their utilisation. Disclosure must also be made of the total amount of fees payable by the investors, up-front discount or placement commission agreed by the underwriters or other placement or selling agents and the issuer of selling shareholders, as well as the percentage such up-front discounts or placement commissions represent of the total amount of the offering, and the amount of up-front discount or placement commission per security.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.9 Additional and Specific Content for Private Placement Memorandum (PPM) (continued)

**OFS-5.9.9** The document must highlight to the investor the ultimate dilution of proceeds through the disclosure of fees, offering expenses or up-front discounts or placement commissions. There must be a statement of the major categories of expenses incurred in connection with the issuance and distribution of securities to be offered, and by whom the expenses are payable, if other than by the issuer. If any of the securities are to be offered for the account of an existing holder of securities in the issuer, the PPM must indicate the portion of expenses incurred by him.

**OFS-5.9.10** Any private placement of securities offered in the Kingdom of Bahrain should meet the requirements as set out in OFS-2.4.7 and must set fees within reasonable and justifiable levels that do not materially compromise the interests of the issuer or the investor. The above disclosures of fees and utilisation of proceeds must be made prominently and clearly for the attention of investors.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-5: Offering Documents

## OFS-5.10 Additional and Specific Content for Guaranteed Issues

### *Guarantees*

- OFS-5.10.1** With regards to the guaranteed issues, the following information must be disclosed in addition to the minimum content requirement set out in Section OFS-5.3:
- (a) Nature of guarantee, including description of any arrangement intended to ensure that any obligation material to the issue will be duly serviced, whether in the form of a guarantee, surety, keep well agreement, mono-line insurance policy or other equivalent commitment; and
  - (b) Scope of guarantee:
    - (i) Details regarding the terms and condition and scope of guarantee; and
    - (ii) Details of any guarantors power of veto in relation to changes to security holder's rights.
- OFS-5.10.2** Where issuing and offering is sought for debt securities of an issuer guaranteed or secured by another legal entity other than its holding company, the guarantor will be required to comply with the requirements of this Section to the same extent as if such guarantor were the issuer of the relevant debt securities.
- OFS-5.10.3** An offering document issued in relation to a guaranteed issue must contain the same information regarding the guarantor as that regarding the issuer, so that, where appropriate the “issuer” should be read as applying equally to the guarantor.
- OFS-5.10.4** The relevant guarantee must be issued in conformity with the law of the place where the guarantor is incorporated or otherwise established and in conformity with the guarantor's Memorandum and Articles of Association or equivalent documents, and all authorisations needed for its issue under such law or documents must have been duly given.



MODULE	OFS:	Offering of Securities
CHAPTER	OFS-6:	Registration of Prospectus and Offering Documents

## OFS-6.1 General Requirements

**OFS-6.1.1** The issuer, lead manager, or principal advisor must provide 2 copies to the CBB of the draft prospectus, together with a completed prospectus checklist (Appendix OFS-7). The CBB will not commence its review of a draft prospectus unless the prospectus is complete and attached with all required documents and information, as stipulated under Paragraph OFS-6.1.5.

**OFS-6.1.2** Once the CBB has completed its review of the draft prospectus and notified the issuer accordingly, the issuer is required to make any changes determined by the CBB and to submit the printed proof of the prospectus to the CBB for registration.

### *Registration*

**OFS-6.1.3** A copy of the prospectus submitted for registration must be signed by each director of the issuer.

**OFS-6.1.4** If the prospectus is signed by an agent or alternate director, the printer's proof prospectus and the printed prospectuses must disclose this to be the case under the place where the respective director is meant to have signed the prospectus.

**OFS-6.1.5** The printed proof copy of the prospectus must be accompanied by the following:

- (a) An application for registration of the prospectus;
- (b) Any fees payable to the CBB as per Appendix OFS-6 and Section OFS-8.2;
- (c) A letter of approval from any other relevant regulator or other authority;
- (d) Original copies of all letters of confirmation, declaration or consent;
- (e) A certified copy of all material contracts and documents available for inspection disclosed in the prospectus, and in the case of contracts not reduced into writing, a memorandum which gives full particulars of the contracts;
- (f) A certified copy of underwriting agreements (if applicable);
- (g) Memorandum and Articles of Association of the issuer, originator and/or guarantor and Certificate of Incorporation or Commercial Registration (or equivalent documents);
- (h) Original written authority by directors appointing any agents to sign the prospectus on their behalf;





MODULE	OFS: Offering of Securities
CHAPTER	OFS-6: Registration of Prospectus and Offering Documents

#### OFS-6.1 General Requirements (continued)

- (i) Letter of confirmation from the issuer and/or lead manager, that the printed proof copy of the prospectus has incorporated all changes as required by the CBB; and
- (j) Letter of confirmation from the issuer, lead manager, or other appointed advisors that the final printed copy of the prospectus will be the same as the printed proof of the prospectus registered with the CBB.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.1 Prior Request for Announcement and Invitation for Subscription

### OFS-7.1.1

No person may make an announcement for invitation for subscription of an offering of securities, unless he makes sure that the following requirements are met:

- (a) The prospectus or offering document has been duly approved and registered with the CBB;
- (b) All designated advisors have been duly appointed and are ready to undertake their roles and responsibilities;
- (c) All requirements and arrangements related to the offer are in place or it has made sure that such requirements and arrangements will be in place in due course before the announcement of the offer, or commencement of the offering period;
- (d) The availability of a sufficient number of final printed copies of the prospectus or offering document being not later than the date of the commencement of the offering period, and free of charge to potential subscribers on request;
- (e) Confirmation to the CBB that no more changes, amendments or alterations in respect of the information contained in the prospectus or offering document, appointment of the advisors or any information related to the issuer itself, or to the issue will take place after the announcement of the offer or thereafter and a supplementary or replacement prospectus will have to be made as per Paragraph OFS-5.1.11;
- (f) No press releases, press articles and/or interviews or any other form of dissemination of information related to the issue will take place before the subscription invitation announcement in the local daily newspaper; and
- (g) Ensure that all permanent and temporary insiders fully adhere to the insiders' trading rules and confirmation to this extent is submitted to the CBB not later than the commencement of the offering period.

#### *Timetable and Record Date*

### OFS-7.1.2

No person may make an announcement or invitation for subscription of securities, without determining the final record date, which must be a future date after the announcement of the offer but before the commencement of the offering period:

- (a) In relation to a public offer, the CBB must be notified at least 10 days before the intended record date;



MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.1 Prior Request for Announcement and Invitation for Subscription (continued)

- (b) The offering document and public announcement must disclose the record date; and
- (c) Once announced, the issuer must not make any subsequent alterations to the record date.

### *Offer Period*

#### OFS-7.1.3

Unless otherwise determined in law or agreed by the CBB, the offer period for subscription of securities must be open for subscription as follows:

- (a) For equity securities, the offer period cannot be less than 10 calendar days after the day of commencement of the offer and must not exceed a maximum period of 6 months;
- (b) For a secondary listing involving an offer of shares or in the case of a rights issue, 5 days from the issue of an announcement stipulating the issue is fully subscribed;
- (c) For other securities the offer period must not be less than 15 calendar days after the day of commencement of the offer. Additionally, it must not exceed a maximum period of 6 months from the date of opening unless extended by the CBB in writing;
- (d) For any offering of securities, the offering period must not extend beyond the validity of the date of the prospectus or offering document, which is a period of 6 months; and
- (e) Must not allow for the closing of the offering period to be less than 1 month from the publication of annual audited financial statements, or interim unaudited but reviewed financial statements.

### *Offer Price*

#### OFS-7.1.4

An issuer, when stating an offer price must also make reference to and provide a description in the prospectus or offering document of the bookbuilding, underwriting, price stabilisation or other relevant price factors.

#### OFS-7.1.5

Where an issuer is making a public offer following a rights share offering or a private offer, it may price the offers differently for the public offer or private placement. In such cases, the differential pricing must also consider the market trends and the justification for the price difference must be outlined in the offering document. The CBB will determine whether the differential pricing is in the best interests of the investors and the market in general.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.1 Prior Request for Announcement and Invitation for Subscription (continued)

### *Listings*

#### OFS-7.1.6

Where the securities are to be listed on a licensed exchange, this must be disclosed in the offer and must provide the following information:

- (a) Location and name of the exchange;
- (b) Listing agent, if any;
- (c) Planned listing timeline;
- (d) The percentage of the total issued and outstanding securities to be made available for public subscription and trading on a licensed exchange;
- (e) Any market making or price stabilisation arrangements;
- (f) Any anticipated buy back agreement or related intention of the issuer;
- (g) Any lock up period of major or other class of securities holders;
- (h) The necessary clearing, settlement, central depository and securities transfer ownership arrangements; and
- (i) Any intention or agreement for a secondary (cross) listing.

#### OFS-7.1.7

Where the offering document states that the offer will be listed on issue, the CBB may prevent allotment from taking place where the issuer has not obtained the authority to list from the licensed exchange at the time of issue, and order that the issuer refund any monies paid by subscribers in respect of such issue.

#### OFS-7.1.8

The issuer, lead manager and/or any other appointed advisor must ensure that the requisite listing agreement is signed within a maximum of 10 calendar days from the closing date of the offering period, and that the date for commencement of trading on a licensed exchange is within a maximum of 15 calendar days from the closing date of the offering period. Immediately upon the signing of the listing agreement with the licensed exchange, the lead manager must notify the CBB confirming the signing of the listing agreement and inform the CBB of the date for the commencement of trading.

#### OFS-7.1.9

As the listing authority under Article 86 of the CBB Law, the CBB shall retain the right to determine and decide on the final date of listing and/or date of commencement of trading of securities on a licensed exchange.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.2 Announcement

**OFS-7.2.1** No person may make a public offer of securities unless a summary of the offering document has been published in two local daily newspapers, one in Arabic and one in English.

**OFS-7.2.2** The summary of the offering document must be published in at least a 52 cm x 31.5 cm format. For those papers whose pages are smaller than the prescribed size noted in this Paragraph, the publication must take place over 2 pages or more to meet the total size specified and must be clear and legible.

**OFS-7.2.3** The offering document must be made available to the public at least 5 calendar days prior to the commencement of the offering period and at the same time as publishing the summary of the offering document.

**OFS-7.2.4** The offering document available to the public must be identical to the printed proof version approved by the CBB.

**OFS-7.2.5** The offering document is available to the public when:

- (a) An announcement is made in accordance with Rule OFS-7.2.1;
- (b) It is publicly available in final printed form free of charge at the registered office of the issuer, lead manager and receiving bank for public offering and, if applicable, at the offices of the principal advisor or other designated advisor placing or selling the securities; and
- (c) If available in electronic form, it is available on the issuer's, lead manager's or other principal advisor's website.

**OFS-7.2.6** Announcements for a public offering must:

- (a) Contain a prominent statement to the effect that the advertisement is not an offering document and investors should not subscribe for any securities, except on the basis of information in the offering document;
- (b) Indicate the date of approval by the CBB of the offering document;
- (c) Indicate how the offering document may be obtained, including particulars of the internet website where a soft copy of the document can be found if available;
- (d) Include clear risk warnings, including the potential for loss that is to be prominently presented and not obscured or disguised; and
- (e) Be consistent with the information contained in the offering document.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.2 Announcement (continued)

### OFS-7.2.7

An issuer and its affiliated employees and professional advisors are prohibited from stating or disseminating any statements during the offering period that may lead to:

- (a) Encouragement of subscription for the securities;
- (b) Inducement of a particular person to deal in the securities;
- (c) Sale or purchase of the securities; or
- (c) Raising, lowering, maintaining or stabilising the market price of the securities in conjunction with dissemination or statement of misleading information.

### OFS-7.2.8

No announcement, advertisement or promotion of an offer of securities that would constitute or induce a person to subscribe for such securities may be made without meeting the requirements of Paragraph OFS-5.1.28.



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### OFS-7.3 Stop Order for Offering Document

- OFS-7.3.1 The following is a non-exclusive list of examples under which the CBB may issue an order under this Section:
- (a) If there exists any statement or matter which, in the opinion of the CBB, is false or misleading;
  - (b) Omission of information that should have been included in the offering documents in accordance with this Module;
  - (c) There is a change in circumstances of the issuer or conditions;
  - (d) If the offering period is fixed or extended to be close to the date of the next declaration of the issuer's financial statements for a period not less than 30 calendar days;
  - (e) Receipt of any serious complaint from the subscribers, particularly relating to the availability of the final printed offering document, or the imposition of additional cost or charges which have not been stipulated in the offering document;
  - (f) The raising of new litigation or a court order related to the issuer and/or to the offering itself in or outside Bahrain; or
  - (g) The withdrawal of any declaration or consent that has been given by any appointed advisor.
- OFS-7.3.2 The CBB may, by an order in writing, prevent any further use of a prospectus or offering document or issue, sale or allotment of securities connected to an offer where the issuer or any person acting on its behalf has committed a violation of the CBB Law, CBB rules or this Module. The CBB may in addition, issue such order where it believes such action is in the best interest of investors or the capital market in general.



MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.4 Subscription Results and Allotment

### *Announcement of Subscription*

**OFS-7.4.1** Subscription monies received in respect of a public offer must be held in a separate bank account with an approved receiving bank, until the final allotment of such securities has been approved by the CBB.

**OFS-7.4.2** The issuer, lead manager or other principal advisor must publish the results of the subscription of a public offer in at least two local newspapers, one in Arabic and the other in English, stating all facts related to the outcome of the subscription in at least a 26 cm x 31.5 cm format. The announcement must be published within a maximum period of two calendar days from the closing date of the offering period and must include the final allotment basis. The declared allotment basis must not be subject to any change thereafter.

**OFS-7.4.3** The issuer must allot or allocate securities within 6 calendar days of the closing date of the offer in accordance with the allotment basis stipulated in the offering document or otherwise approved by the CBB upon the subscription results and publication referred to in Paragraph OFS-7.4.2.

### *Under-subscription*

**OFS-7.4.4** The offering document must provide full information about the possibility of an under-subscription event, particularly regarding the treatment of unsubscribed shares for those issues which are not fully underwritten.

**OFS-7.4.5** In the event that the issue is not underwritten no allotment may be made of any securities unless the subscription received is, at least equal to the minimum subscription amount set out in the offering document.

**OFS-7.4.6** If a public offering of equity securities has not been fully subscribed and the offer is underwritten, the underwriter must purchase the unsubscribed shares and after obtaining the CBB approval, may then re-offer or resell the unsubscribed shares. For the avoidance of doubt, any unsubscribed shares that might be re-offered or re-sold to a related company of the underwriter such as the company that controls it, its subsidiary, a subsidiary of the company that controls it and a company affiliated with it, shall be subject to the same underwriting commitment of the underwriter.





MODULE	OFS: Offering of Securities
CHAPTER	OFS-7: Distribution and Subscription

## OFS-7.4 Subscription Results and Allotment (continued)

OFS-7.4.7 If a rights offering of equity securities which is underwritten has not been fully subscribed during the offering period, the underwriter may either re-offer the unsubscribed shares to the public or purchase the unsubscribed shares.

**OFS-7.4.8** If a public offering of debt securities or other which is underwritten has not been fully subscribed for during the offering period, the underwriters must purchase the unsubscribed securities and after obtaining the CBB approval, may then resell these securities.

### *Over-subscription*

**OFS-7.4.9** If an offer of securities is over-subscribed after the closing of the offering period, the issuer must allot the shares in accordance with the pre-determined basis of allotment which must be described in the offering document or otherwise approved by the CBB.

**OFS-7.4.10** Issuers and lead managers must make sure conditions relating to allotment basis and minimum subscription amounts are in compliance with the Memorandum and Articles of Association, or equivalent constitutional documents of the issuer, as well as in accordance with the applicable laws, rules and regulations.

### *General Guidance on the Allotment*

**OFS-7.4.11** The basis of allotment of any securities offered, must be clearly stated in the offering document.

**OFS-7.4.12** While exercising the allotment of securities the issuer, lead manager, or any appointed advisor must ensure that:

- (a) For any new public offering of equity securities, no subscriber is allotted more than 10% of the total shares offered;
- (b) All subscribers are treated equally and in accordance with the allotment basis in all aspects, particularly when the rounding up rule is applied;
- (c) No payment, direct or indirect in the nature of a discount, commission and allowance or otherwise may be made either by the issuer or the promoters in any public offer to the parties who received firm allotment;
- (d) No shareholder of the issuer may receive, directly or indirectly, any consideration in the nature of fees, commission, allowance or other benefit, whether in cash or in kind, in a public offering;



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#### OFS-7.4 Subscription Results and Allotment (continued)

- (e) The total securities allotted must in any case not exceed the total securities offered and approved by the General Assembly and the issuer, lead manager and any other appointed advisor must establish the allotment basis to avoid such possibility;
- (f) Allotment of securities must avoid allocation of any securities fraction, and therefore the issuer must provide provisions related to the possibility of fractions of securities remaining after final allotment; and
- (g) For any rights issue, the pro-rata allotment basis must be applied, or otherwise the General Assembly of securities holders must have approved such other allotment basis.

##### *Over-allotments*

**OFS-7.4.13** The “over-allotment option” may only be exercised if such an option is disclosed and provided for in the offering document.

**OFS-7.4.14** While exercising the over-allotment option, the issuer, lead manager or any other appointed advisor must fully adhere to general guidelines under Paragraph OFS-7.4.12.

OFS-7.4.15 The CBB may allow the extension of the allotment period up to 6 calendar days to exercise the over-allotment option upon the request of the issuer, lead manager or any other appointed advisor on application, which contains the reasons and justifications for such extension.

**OFS-7.4.16** In the event of the over-allotment option, the issuer, lead manager or any other appointed advisor is not allowed to exercise any discrimination, whether in cash or in kind among the subscribers or allottees.

##### *Trading of Underwritten Securities Subscribed by the Underwriter*

**OFS-7.4.17** Where the underwriter has subscribed for, or purchased securities under an underwriting or sub-underwriting agreement following the under-subscription of the offering of securities, any intention to sell those securities in the ordinary course of trading on a licensed exchange shall, in the interest of maintaining market integrity, not be sold against any price stabilisation fund or the designated market maker as the buying counterparty.



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## OFS-7.5 Refunding and Dispatching

**OFS-7.5.1** The issuer, lead manager or any other appointed advisor must refund the excess subscription money and dispatch securities within a maximum of 9 calendar days from the closing date of the offering period.

**OFS-7.5.2** A record for such refunding and dispatching must be maintained for further reference and CBB inspection requirements.

**OFS-7.5.3** If the issuer fails to meet the refunding and dispatching date under Rule OFS-7.5.1, an interest at one month BIBOR is payable to the subscriber with respect to the subscription amounts received for the period from the required refunding and dispatching date to the actual refunding or dispatching date.

### *Dematerialised Securities*

**OFS-7.5.4** As per Paragraph OFS-1.5.5, securities issued to the public after the effective date of this Module must have an allocated ISIN and be in dematerialised form and the issuer is required to designate the clearing house, or depository facility in which such securities will be deposited.

**OFS-7.5.5** For the purposes of Article 178 of the CBB Law and Volume 6, dematerialised securities shall mean securities issued and entered in the registry in an electronic format and dematerialisation means the conversion of a security certificate from a physical form to an electronic form for securities that have already been issued before the effective date of this Module.

**OFS-7.5.6** For the purposes of dematerialisation, each subscriber or shareholder will have to open an account with a licensed clearing house or a licensed central depository, acceptable to the CBB, and then request for dematerialisation of his certificates through the depository.

**OFS-7.5.7** The dispatching of the dematerialised securities must be done in accordance with the CSD Module and SROs business rules.

OFS-7.5.8 The ownership and entitlement of allotted securities for each subscriber or allottee is established by book entry in the register maintained by the licensed clearing house and or licensed central depository, rather than through the issuing of a physical share certificate.



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## OFS-7.5 Refunding and Dispatching (continued)

### *Physical Securities*

#### OFS-7.5.9

Subject to the requirements of the CSD Module, unless the security is required to be in dematerialised form, the subscriber may request a certificate as evidence of his shareholding, which certificate must contain or be in the following form:

- (a) The serial number;
- (b) The par value and class of the security;
- (c) The name of the issuer and the authority under which it was incorporated;
- (d) The address of the registered office of the issuer;
- (e) The name and address of the clearing house, central depository institution, and/or securities ownership transfer agent, if it is different from the registered office of the issuer;
- (f) Where a rubber seal is imprinted, original signatures must support it;
- (g) Where an embossed seal is used, it may, subject to the Articles of Association of the issuer, be supported by facsimile signatures only;
- (h) Where only the seal is used without supporting signatures, the method or system of control by the issuer on the application of the seal must be approved by the auditor of the issuer, and a copy of such approval forwarded to the CBB;
- (i) The certificate security must be designed so that the paper quality and watermark forgery and/or alterations are easily detectable;
- (j) The printing of securities certificates must only be entrusted to recognised securities printers; and
- (k) The size of the certificate is prescribed by the clearing house and/or central depository, which is used by the issuers.

#### OFS-7.5.10

[This Paragraph was deleted in October 2017]



<b>MODULE</b>	<b>OFS:           Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-8:       Fees and Charges</b>

## **OFS-8.1     Introduction**

<b>OFS-8.1.1</b>	Offering of securities is subject to fees levied by the CBB, pursuant to Article 180 of the CBB Law and Resolution No.(1) of 2007 with respect to determining fees categories due for licenses and services provided by the CBB. The fees charged vary depending on the nature of the offering and is payable at the time of submission of application.
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<b>MODULE</b>	<b>OFS: Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-8: Fees and Charges</b>

## **OFS-8.2 Fees for Offering of Securities**

**OFS-8.2.1** Subject to any regulation issued by the CBB in respect of fees and charges, for any offering of securities, certain non-refundable fees are payable to the CBB as set out in Paragraph OFS-8.2.3.

OFS-8.2.2 An application for approval or reviewing an offering document related to an offering of securities will not be regarded as complete or submitted until the fee has been paid in full.

**OFS-8.2.3** The following table outlines the fees payable to the CBB for the various approvals granted:

(amount in BD)

<b>No.</b>	<b>Type of Approval</b>	<b>% of N.V</b>	<b>Min Amount</b>	<b>Max Amount</b>
<b>A</b>	<b>Equity Securities Applications</b>			
1	Public Offering.	0.005%	1000	5000
2	Rights Offering for Listed Issuer.	0.00125%	500	1000
3	Private Placement for Listed Issuer.	0.00125%	500	1000
4	Private Placement for Unlisted Issuer.	0.005%	1000	5000
5	Options, warrants ... etc on Equity.	0.00125%	500	1000
6	Stock Dividend and Capitalization Issues.	<b>Fixed</b>	<b>100</b>	<b>100</b>
7	Going Public Issues (SMEs and private companies).	0.00125%	500	1000
8	Listing profiles or documents.	0.00125%	500	1000
<b>B</b>	<b>Preference Shares &amp; Debt Securities Applications</b>			
1	Applications from Listed Issuers or to be Listed. (Public)	0.005%	1000	5000
2	Applications from Unlisted Issuers and not to be Listed.(PPM)	0.006%	2000	6000
3	Other Applications.	0.006%	2000	6000
<b>C</b>	<b>Convertible into Equity Applications</b>			
1	Application from Listed Issuers or to be Listed.(Public)	0.003%	1000	5000
2	Application from Unlisted Issuers and not to be Listed.(PPM)	0.006%	2000	6000
3	Other Applications.	0.006%	2000	6000

<b>MODULE</b>	<b>OFS:           Offering of Securities</b>
<b>CHAPTER</b>	<b>OFS-8:       Fees and Charges</b>

## OFS-8.2     Fees for Offering of Securities (continued)

(amount in BD)

<b>D</b>	<b>Structured Products Applications (Accredited Investors)</b>			
1	Applications from CBB Licensees.	0.006%	2000	6000
2	Other Applications	0.007%	3000	7000
<b>E</b>	<b>Replacement and Supplementary Prospectus</b>	<b>Fixed</b>	<b>100</b>	<b>100</b>
<b>F</b>	<b>Filling of Offering Documents Applications</b>			
1	Applications from CBB Licensees.	<b>Fixed</b>	<b>1000</b>	<b>1000</b>
2	Other Applications	<b>Fixed</b>	<b>2000</b>	<b>2000</b>
<b>G</b>	<b>Commodities, Futures or Derivatives Contracts</b>			
1	Applications from Licensed Exchange.	<b>Fixed</b>	<b>100</b>	<b>100</b>
2	Applications from other CBB Licensees.	<b>Fixed</b>	<b>100</b>	<b>100</b>