

Implementing Regulation of the Real Estate Finance Law



Chapter One

Definitions and General Provisions

Article 1

The following terms and phrases – wherever mentioned in this Regulation – shall have the meanings assigned thereto unless the context requires otherwise:

Law: Real Estate Finance Law.

Regulation: Implementing Regulation of the Real Estate Finance Law.

SAMA: Saudi Arabian Monetary Agency.

PIF: Public Investment Fund.

Governor: Governor of SAMA.

Real Estate Finance: Extending credit to a borrower for the purpose of owning a dwelling.

Real Estate Finance Contract: A deferred payment contract extended to a borrower to own a dwelling.

Real Estate Finance Contractual Rights: cash flows, mortgages, collaterals and other rights arising under a real estate finance contract.

Transfer of Rights: transfer of a right to recover a debt or execute upon a mortgaged real estate, or any other right arising from a real estate finance contract.

Sector: real estate finance sector.

Real Estate Finance Company: a joint stock company licensed to engage in real estate finance activity.

Real Estate Finance Entity: commercial banks and real estate finance companies licensed to engage in real estate finance activity.

Real Estate Refinance Company: a joint stock company licensed to engage in real estate refinance activities.

Originator: a real estate finance entity originating a real estate finance contract.

Borrower: a natural person who obtains real estate finance.

Consumer: any person targeted by real estate finance services.

Housing Subsidy: a financial or credit subsidy provided by the government, housing societies, or the like to make housing affordable.

Real Estate Housing Finance Subsidized Product: a product subsidized by a housing subsidy provider through a real estate finance entity.

Secondary Market: trading of the rights of real estate finance entities resulting from primary market contracts.

Article 2

SAMA shall, pursuant to Article 2 of the Law, regulate the real estate finance sector. For this purpose, SAMA may:

1. license real estate finance companies to engage in real estate finance activities in accordance with the provisions of the Law, Finance Companies Control Law and their regulations;
2. Take necessary measures for maintaining the integrity and stability of the sector and fairness of transactions;
3. Take necessary measures for promoting fair and effective competition between real estate finance entities;
4. Issue rules and instructions to regulate the sector; and
5. Take proper means for the development of the sector, Saudization, and raising the employees' competency through regulating the obligations of the real estate finance entities regarding the training of human resources, improving their skills and developing their knowledge.

Article 3

A real estate finance entity shall not engage in any activity not licensed by SAMA, including real estate investment, marketing, development and valuation. It may own dwellings for the purpose of financing borrowers, provided that the ownership is a condition for the validity of real estate finance contract and does not create non-finance earnings.

Article 4

A real estate finance company shall not extend any type of finance other than the real estate finance.

Article 5

1. Insurance against real estate finance risks shall be in accordance with the Cooperative Insurance Companies Control Law and its Implementing Regulation as well as instructions issued by SAMA.
2. A real estate finance entity shall disclose, in its annual report, the risks that can be hedged by insurance and manner of dealing with such risks.

Article 6

Pursuant to the provision of Article 4 of the Law, the Ministry of Commerce and Industry, the Ministry of Justice and the Ministry of Housing shall compile data relating to real estate market activity and periodically publish such data on their websites including data on sale, lease and mortgage of real estate.

Article 7

Pursuant to the provision of Article 5 of the Law, bodies entrusted with registration of real estate ownership (courts, notaries public and real estate registration and documentation departments) shall grant real estate finance entities access to information recorded in real estate registers in accordance with the following procedures:

1. The real estate finance entity shall submit an application – in a written or electronic form – requesting access to the information.
2. The real estate finance entity shall attach a copy of the real estate finance license to access the information.
3. The body entrusted with the registration of real estate ownership shall, as the case may be, issue a certificate in the form prepared by the Ministry of Justice that includes the following:
 - a The name of real estate owner at the time of submitting the application;
 - b Validity and integrity of the real estate title deed based on its records or its invalidity– as the case may be – and rights related thereto.
 - c The certificate shall be valid for a period not exceeding 30 days from the date of its issuance.
4. The bodies entrusted with the registration of real estate ownership shall provide the required information to the real estate finance entity within a period not exceeding five working days from the date of receipt of the application.

Article 8

A real estate finance entity may refinance real estate in accordance with Article 11 of the Law through the following:

1. Real estate refinance companies licensed by SAMA.
2. Issuance of securities in accordance with the provisions of the Capital Market Law after obtaining a no objection letter from SAMA.

Chapter Two

Real Estate Finance Contract

Article 9

1. A real estate finance entity shall comply with the requirements stipulated in the Law, this Regulation, other related laws and regulations as well as rules and instructions issued by SAMA relating to real estate finance. Real estate finance contracts and products shall comply with the Law and relevant laws, regulations, rules and instructions.
2. SAMA may draft standard real estate finance contracts and real estate finance entities shall comply with such standard contracts unless otherwise provided for.
3. The real estate finance entity shall obtain a no objection letter from SAMA for its real estate finance products before offering such products.

Article 10

Subject to the provisions of the Implementing Regulation of Finance Companies Control Law, a written or electronic contract shall be drafted between the real estate finance entity and the borrower, and shall include, at least, the following:

1. Names of the parties of the real estate finance contract, number of national identity or Iqama (residence permit) of the borrower, their official addresses and contact information including mobile number and electronic mail address, if available;
2. Real estate broker, if any;
3. Term of real estate finance contract;
4. Total amount of real estate finance;
5. Term cost, conditions governing its application, any index or reference rate applicable to the initially agreed upon term cost, as well as duration, conditions and procedures for changing the term cost;
6. Annual percentage rate, calculated in accordance with the provisions of the Implementing Regulation of the Finance Companies Control Law;
7. Total amount payable by the borrower calculated at the time of concluding the real estate finance contract; stating the assumptions used to calculate such amount;
8. Amount of installments payable by the borrower, number and due dates of installments, and manner of distribution of the remaining amount if the term cost is fixed. In case of variable term cost, three examples of installment amount shall be set, taking into account the initial term cost as well as higher and lower term cost;
9. Due dates for payment of fees or amounts other than the finance amount and conditions for such payment;
10. Implications of late payments;
11. Attestation fees, if applicable;
12. Collateral and necessary insurance;

13. Procedures for exercising the right of withdrawal, its conditions and the financial obligations resulting therefrom;
14. Procedures of early repayment, and procedures for compensating the real estate finance entity, if applicable, and manner of determining such compensation;
15. Procedure for exercising the right to terminate the real estate finance contract;
16. Data of the dwelling subject of the real estate finance contract, including the city, district, street, number, type, total land area, constructed area, number of rooms, date of construction and number of title deed;
17. The real estate finance entity's acknowledgement of its verification of the validity of the real estate ownership and the absence of any encumbrances as well as stating its condition;
18. The borrower's acknowledgement of his inspection and acceptance of the real estate, without affecting the responsibility of the real estate finance entity for the verification of the real estate integrity;
19. Bank name and account number for depositing real estate finance installments;
20. Warranty period provided by the real estate developer or contractor of the building and the names of the design consultant and construction consultant as well as their license numbers;
21. Registration number and date of owners association as well as place of registration for a portioned real estate;
22. Time and manner of inspection conducted by the real estate finance entity for the verification of the real estate integrity at least once every three years;
23. The borrower's consent to include the borrower's information in the credit record;
24. In variable term cost real estate finance contracts, a description of the formula that determines the rate shall be included in a way that enables the consumer to understand the term cost and distribution of the cost over the repayment period; and
25. Any other information or data stipulated by SAMA.

Article 11

The real estate finance contract preamble shall include a summary covering the basic information of the finance product and the main provisions of the finance contract in a language clear to the borrower, in accordance with the form stipulated by SAMA. The borrower's receipt of such summary shall be documented in the finance file.

Article 12

The real estate finance entity shall not extend credit on any form of finance exceeding 70 percent of the value of the dwelling subject of the real estate finance contract. SAMA may change such percentage according to prevailing market conditions.

Article 13

The real estate finance entity shall verify the validity of the dwelling title deed subject of the real estate finance contract to ensure the absence of any in rem rights affecting the rights of the real estate finance entity and include an attestation by the competent authority to this effect in the finance file.

Article 14

1. Upon obtaining the consumer's consent, the real estate finance entity shall review the consumer's credit record to verify the consumer's solvency, ability to repay and credit behaviour, and document such verification in the finance file.
2. Upon obtaining borrower's consent, the real estate finance entity shall record the borrower's credit information with one or more companies licensed to collect credit information, pursuant to the provisions of Article 15 of this Regulation and other applicable laws. Such information shall be updated throughout the duration of the relationship with the borrower.
3. The real estate finance entity shall reject the finance application in the absence of the consents specified in paragraphs 1 and 2 of this Article.

Article 15

Without prejudice to applicable laws, the credit record of the borrower shall include his personal information including his name, national identification number, place of residence, occupation, marital status, academic qualifications, monthly income, number of dependents and any other information stipulated by SAMA.

Article 16

The real finance contract shall stipulate the right of the real estate finance entity to transfer its rights to third parties on the secondary market without the consent of the borrower, including the right of mortgage and other guarantees.

Chapter Three

Real Estate Refinance Company

Article 17

1. SAMA shall license one or more companies to engage in real estate refinance activity in accordance with the Law, this Regulation, the Finance Companies Control Law and its Implementing Regulation, provided that:
 - a. The license be restricted to real estate refinance activities.
 - b. The capital of the real estate refinance company be not less than five billion riyals.
2. The real estate refinance company shall be subject to the supervision of SAMA in accordance with the Law, this Regulation, the Finance Companies Control Law and its Implementing Regulation and instructions issued by SAMA.

Article 18

1. PIF or any entity wholly owned by it shall, upon the initial approval of SAMA, incorporate a joint stock company to be named "The Saudi Real Estate Refinance Company" for real estate refinancing.
2. Upon establishment, the Saudi Real Estate Refinance Company may, after obtaining a no objection letter from SAMA, offer its shares to investors.
3. Upon satisfying legal and supervisory requirements and the approval of SAMA, real estate finance entities may acquire shares of the Saudi Real Estate Refinance Company at fair market value provided that their aggregate shareholding does not exceed 30 percent of the total shares of the Saudi Real Estate Refinance Company. Said acquisition shall be on the date SAMA determines the real estate finance market is stable, and upon the passage of at least five years from the incorporation of the Real Estate Refinance Company.
4. Upon satisfying the conditions set out in paragraph 3 of this Article and obtaining a no objection letter from SAMA, the Saudi Real Estate Refinance Company may offer a portion of its shares to the public, in accordance with the provisions of the Capital Market Law and its Regulation.
5. The shares of PIF or the founding entity of the Saudi Real Estate Refinance Company, fully owned by PIF, shall not, at any time, be less than 51 percent.

Article 19

The Real Estate Refinance Company aims to facilitate the trading of real estate finance contracts and the flow of funds thereto in order to:

- a. Provide stability and growth in the secondary market for real estate finance;
- b. Provide liquidity to the secondary market and provide better means to real estate finance entities to finance dwelling ownership for borrowers;
- c. Increase the liquidity of real estate finance investments and ensure proper distribution of investment capital allocated for real estate finance among different regions and categories; and

- d. Become an intermediary between the sector and domestic and foreign finance sources.

Article 20

1. To achieve its objectives, the Real Estate Refinance Company may:
 - a. Acquire, hold and manage any kind of finance obligations or rights related to financed residential real estate;
 - b. Issue securities in accordance with the provisions of the Capital Market Law upon obtaining a no objection letter from SAMA;
 - c. Carry out, upon SAMA's approval, any other transactions that serve, complement or support the transactions mandated by its law.
2. The Real Estate Refinance Company may impose charges for its services to cover its costs and expenses and make fair profits in a way that ensures its financial independence. SAMA shall monitor the pricing of the services offered by the Real Estate Refinance Company and may restrict said pricing.

Article 21

1. The real estate assets and the rights derived therefrom may be assigned to the Real Estate Refinance Company in refinancing transactions without the prior consent of the borrower, debtor or guarantor:
2. If the Real Estate Refinance Company has paid the agreed upon amount in full to a transferring real estate finance entity, such transfer shall not be revoked or otherwise rescinded in the event of the bankruptcy of the transferring real estate finance entity. The transferred rights shall not be deemed part of the transferor's assets.

Article 22

The Real Estate Refinance Company may distribute annual profits pursuant to a decision by its board of directors, upon obtaining a no objection letter from SAMA.

Article 23

1. The Real Estate Refinance Company shall ensure that the volume of its sale and purchase transactions, the prices it pays and its charges do not encourage excessive use of its facilities.
2. The Real Estate Refinance Company shall avert excessive use of its facilities that could adversely affect the prices in the real estate market.

Article 24

The Real Estate Refinance Company shall not:

1. Provide financing to a real estate finance entity using real estate finance contractual rights as collateral before such rights have been transferred to the real estate refinance company as collaterals;
2. Provide real estate finance to borrowers; and

3. Ease real estate finance conditions with the objective of affecting housing prices in a way that is contrary to best practices of credit and risk management.

Article 25

The board of directors of the Real Estate Refinance Company shall determine policies and procedures of the Company concerning real estate refinance transactions. Such policies and procedures shall become effective upon obtaining a no objection letter from SAMA.

Article 26

The Real Estate Refinance Company shall prepare and publish annual and quarterly reports on its financial standing, operations, potential risks and management thereof and provide SAMA with such reports. The reports shall include the financial statements compiled in accordance with international accounting standards.

Article 27

The Real Estate Refinance Company shall establish an electronic infrastructure for exchange of information and data with SAMA and real estate finance entities.

Article 28

No natural or corporate person may use the name "The Saudi Real Estate Refinance Company" or any similar name or reference thereto.

Chapter Four

Real Estate Housing Finance Subsidized Product

Article 29

When subsidizing real estate housing finance product through a real estate finance entity, the subsidy provider shall provide a description for each product to ensure compliance with credit policies, risk management and transaction integrity. Such description shall include the following:

1. Eligibility criteria;
2. Subsidy amount;
3. Means of finance; and
4. Any other information specified by SAMA according to product type.

Article 30

1. The real estate finance entity shall adhere to all credit rules as stipulated by SAMA in dealing with subsidized real estate housing finance products; and
2. The real estate finance entity shall obtain a no objection letter from SAMA prior to providing such product to persons eligible to subsidy, in accordance with the provisions stipulated by SAMA.

Article 31

The real estate finance entity shall not offer real estate housing finance subsidized products except pursuant to a resolution by its board of directors.

Article 32

This Regulation shall enter into force on the date of publication in the Official Gazette.