

Implementing Regulation of the Finance Lease Law



PART ONE

DEFINITIONS AND GENERAL PROVISIONS

Article One:

Pursuant to Article (One) of the Law, the following words and phrases wherever they appear in this Regulation shall have the corresponding meanings, unless the context otherwise indicates:

Law: the Finance Lease Law.

Regulation: the Implementing Regulation of the Finance Lease Law.

SAMA: the Saudi Arabian Monetary Agency.

Contract: the finance lease contract.

Lessor: a joint stock company licensed to carry out finance lease including commercial banks.

Lessee: a person who owns the benefit of the Leased Asset under the Contract.

Leased Asset: any leasable property, moveable, benefits, services and intangible rights such as intellectual property rights.

Contracts Register: a register for recording finance lease contracts concluded or implemented in the Kingdom of Saudi Arabia, sales contracts ensuing from finance lease, and any amendments thereto in accordance with the provisions of the Law.

Contracts Registration Company: the joint stock company in charge of the registration of the finance lease contracts.

Securitization: Issuance of securities against Lessor's rights.

Article Two:

In compliance with Article (Two) of the Law, the Law on Supervision of Finance Companies, and other applicable laws, the finance lease activity shall be a professional activity upon fulfilment of the following:

1. Acquiring of Leased Asset by the Lessor shall be for the purpose of leasing to others for finance lease.
2. The aggregate amount of credit granted annually exceeds the amount determined by SAMA.

PART TWO

THE CONTRACT

Article Three:

The Lessee, upon a written consent of the Lessor, may assign the Contract to another Lessee. The Lessor, within not more than ten (10) business days of the assignment date, shall attest his consent at the Contract Register. Refusal to give consent by Lessor shall be reasoned.

Article Four:

The Lessor may assign his rights under the Contract without the consent of the Lessee, unless the Contract stipulates otherwise. Under all circumstances, the following shall be fulfilled in the event of assignment:

1. The assignment shall not cause detriment to the Lessee.
2. The assignment becomes effective on the date of its registration in the Contracts Register.
3. The assignment does not relieve the Lessor from its obligations under the Contract.
4. If the assignment results in change in the recipient of the lease payments, it shall be enforceable towards the Lessee only from the date of notifying the Lessee of the change.

Article Five:

If the Leased Asset needs to be examined by the Lessor, the examination method, time and the examination date shall be set out in the Contract or in one of the schedules thereto, provided that this

will not cause any detriment to the Lessee or fetter the quiet enjoyment of the Leased Asset.

Article Six:

1. The Lessee shall forthwith notify the Lessor in writing or by an electronic message, of any events in respect of the Leased Asset that entirely or partially fetter quiet enjoyment thereof, using the contact details set out in the Contract and in accordance with applicable notification rules.
2. In the event the Lessor has not removed what totally or partially prevents benefiting of the Leased Asset within the period prescribed in the Contract, the Lessee may take the appropriate measures for the protection of the Leased Asset and the full quiet enjoyment thereof at the Lessor's expense and deduct the costs of such measures from subsequent lease payments.

Article Seven:

1. In case of issuance of securities, against the Lessor's rights, in accordance with regulations and rules issued by the Capital Market Authority, the Lessor remains obliged to forthwith disclose to SAMA any technical, commercial, legal, or other risks in relation to the Contract, the underlying leased asset, or the Securitization against the Lessor's rights as a whole.
2. The Lessor remains obliged to ensure compliance with all related supervisory requirements.

Article Eight:

In circumstances where the licence should be obtained prior to

concluding the Contract, the Lessor or its representative, shall obtain the license referred to in Article 13 of the Law. In such case, the licence shall include the name of the Lessee holding the Leased Asset.

Article Nine:

1. In case the Lessee has the right of ownership or the promise of it, the Contract shall include a payment schedule determining the principal lease value of the asset and the value of the right of ownership separately. The instalment for any period of the Contract Term shall not be less than the lease value of the asset for such period.
2. Without prejudice to the provision of clause 1 of Article Nine, in case of termination or expiry of the Contract during the lease term upon mutual consent of the parties or by pursuant to the provisions of the Contract or Law, the Lessee may recover the right of ownership value for the period paid.
3. Lessor may have the insurance indemnity, if any.

Article Ten:

1. SAMA may establish standards for finance lease contracts that ensure the integrity of the finance system, fairness of transactions, and achieve the objectives of the Law and its Regulations.
2. SAMA may adopt standard finance lease contracts that take into account the rights of the related parties.
3. To ensure fairness of the conditions of the Finance Lease products, the Lessor, prior to launching these products shall

obtain a non objection letter from SAMA.

Article Eleven:

If a Lessee selects to own the Leased Asset under the Contract, at any time, he may practice the right of early ownership of the Leased Asset by concluding a separate annex to the Contract upon payment of the remaining installments, , and without incurring the term cost for the remaining period of the Contract. The Lessor shall be entitled to compensation for the following:

1. Cost associated with reinvestment not exceeding the term cost for the three months following the early ownership.
2. Any cost required to be paid under Contract to a third party by the Lessor if such cost cannot be recovered; and that shall be for the remaining period of the Contract.

With exception to the aforementioned, a period for prohibition of transfer of ownership may be provided for in the Contract, if the subject of Contract is real estate and such condition results in deduction in term cost. Prohibition period shall not exceed two years from the date of Contract.

PART THREE

CONTRACTS REGISTER

Article Twelve:

1. After obtaining the consent of SAMA, Lessors shall establish a joint stock company, or more, for the purpose of registering finance lease contracts in accordance with the most advanced

means and the best practices, enabling secure access to the data in the Contracts Register according to the provisions of the Law and this Regulation.

2. Subject to the requirements under the Companies Law, the capital of the Contracts Registration Company shall be determined by SAMA. SAMA may require the founders to provide a study setting out the capital requirements of the company.
3. Subject to the Companies Law and the Capital Market Law and their regulations, the ownership of the shares of the Contracts Registration Company shall be divided between the Lessors as determined by SAMA. Shares of Lessors who lose their licences shall be divided between existing Lessors based on the fair share value of shares at the time of every adjustment. The capital of the Contract Registration Company may be increased or decreased, upon a written approval of SAMA.
4. Entry and withdrawal of partners shall be only with a non objection letter from SAMA.
5. Appointment of the Chairman and members of the Board of Directors, senior executives, the head of the Contracts Register, and registrars shall be upon a prior non objection later from SAMA, and they may be released from their posts in case of substantial breach of their legal or professional duties by a justified decision by SAMA.

Article Thirteen:

The Contracts Registration Company shall distribute its dividends in accordance with the Companies Law after obtaining prior written non-objection letter of SAMA.

Article Fourteen:

The fees for the services of the Contracts Registration Company shall be determined by a resolution issued by SAMA based on a proposal by the Company based on a detailed technical study showing the economic and commercial bases for determining such fees.

Article Fifteen:

1. The Contracts Registration Company shall prepare a Contracts Register in accordance with the Law and this Regulation.
2. The Lessor shall register the Contract and any amendments thereto at the Contracts Register within (10) business days from the date of concluding the contract or the amendment thereof. All transactions affecting the contractual rights of the Lessor and the Lessee shall also be registered.
3. The Contracts Registration Company serves to:
 - (a) Register contracts and amendments thereto.
 - (b) Register the transfer of the rights of finance lease contracts through securitization transactions.
 - (c) Disclose Contracts Register data to licensed finance bodies, with a written consent of the Lessor.
 - (d) Register ownership contracts resulting from the finance lease contracts upon certification of ownership transfer – if the least asset is a real estate – at the bodies entrusted with real estate registration (courts and notary public).
4. SAMA shall issue a resolution determining the powers of the head of the Contracts Register and the registrars.

Article Sixteen:

The head and a registrar of the Contracts Register shall satisfy the following requirements:

1. Be a Saudi national.
2. Have not been convicted of a crime that breaches trust.
3. Have not been terminated from any prior service by a court ruling or a final disciplinary decision, unless being rehabilitated in accordance to the applicable laws.

Article Seventeen:

The contracts registrar shall carry out the following duties:

1. Performing the assigned duties at the location of work except in cases where the head of the Contracts Register permits the contracts registrar to perform his duties at the Lessor's location and at the Lessor's expense.
2. Verifying the identity of the parties or their attorneys-in-fact by examining their national identity cards or residence permits.
3. Verifying the legal competence and capacity of the parties or their attorneys-in-fact to enter into a contract.

Contract registrar shall have an official seal for stamping executed transactions.

Article Eighteen:

All documents and representations issued by a contracts registrar shall

be in Arabic language. A document written in a language other than Arabic may be attested, after being translated by an accredited translator; the original document and the translation, in such case, shall be attested together.

Article Nineteen:

The Contracts Registration Company shall keep all Contract Registers necessary for record of transactions and classify as determined by SAMA.

Article Twenty:

Electronic means may be utilized and relied upon in registering Contracts. SAMA may determine any other procedures or means for Contracts registration.

Article Twenty One:

The head of the Contracts Register shall be in charge of the registration works on the Register. Application for registration and any amendment thereto shall be submitted to the head of the Contracts Register, who shall refer such to one of the registrars for processing. Registration shall be processed in accordance with the Law and this Regulation. If a registrar refuses to execute, document, or to certify a document, the concerned parties may file a complaint to the Contracts Registration Company, and then to SAMA. In case of refusal they may revert to a competent court.

Article Twenty Two:

1. For the purposes of this Regulation, the following documents shall be deemed proof of ownership of the Leased Asset:

- (a) Real estate title deed.
 - (b) Asset ownership document.
 - (c) Customs card.
 - (d) Intellectual property registration certificate.
 - (e) Purchase invoice.
2. Further documents may be approved as proof of ownership and other requirements may be imposed by SAMA.

Article Twenty Three:

To evidence registration of the ownership document, the contracts registrar shall record the registration number and affix the stamp on the original ownership document and the Contract. In case of the documents that cannot be stamped, such as real estate title deeds, the registrar shall take the appropriate procedures.

Article Twenty Four:

The following information shall be included in the Contracts Register:

- 1. Details of all Contracting parties and their attorneys-in-fact, and their official addresses, including the full name of the Lessee, personal data, name of the Lessor, contact and license details;
- 2. Detailed description of the Leased Asset, including its name, serial number, production date and country of origin, as applicable and details of asset title deed;
- 3. Information about the insurance coverage of the Leased Asset, if any;
- 4. Contract term;

5. Lease payment, its method of calculation, and the method of repayment;
6. Written consent of the parties for disclosure of Contracts Register information;
7. Ownership and possession of the Leased Asset provisions.

Article Twenty Five:

1. The head of Contracts Register shall issue an official certificate evidencing the contents of the Contracts Register known as the Registered Finance Lease Contract.
2. A registered Finance Lease Contract may serve as a writ of enforcement pursuant to clause 5 of article 9 of the Enforcement Law.

Article Twenty Six:

Upon securitization of the rights arising out of the Contract, the Lessor shall record the number of the approval of the Capital Market Authority on the securitization transaction at the Contracts Register. A copy of the approval shall be kept as a reference for the notary public remarks.

Article Twenty Seven:

The Contracts Register, including all information therein, is the property of SAMA.

Article Twenty Eight:

If SAMA licenses more than one company to register contracts, such

companies shall take the necessary measures, under the supervision of SAMA, to ensure unity of information, exchange of information, protection and maintenance of the Contracts Register information.

Article Twenty Nine:

Records shall be kept in the Contracts Register for a period of no less than ten years after the date of expiration of all obligations under the Contract.

Article Thirty:

Subject to the Law and this Regulation , the Minister of Justice and the Governor shall issue a resolution stipulating procedures for registration in the register, details required for registration, and provisions and procedures for access to the Contracts Register by third parties.

Article Thirty One:

The Finance Lease Contract, in the event of extending credit for owning residence by a natural person, shall be governed by the provisions of the Law and the Real Estate Finance Law and their Regulations.

Article Thirty Two:

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