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SAMA Updates Payment Services Provider Licensing Regime in KSA

The updates are part of SAMA's efforts to promote an innovation-based financial technology ecosystem in the KSA.

Key Points:

- Resubmission of a refused PSPR license application will only be accepted nine months after SAMA's refusal of the original submission.
- PSPs must now respond to customer complaints with a decision within five business days. PSPs are now responsible for outsourced third parties' delay or failure of fair implementation of the payment transaction, exposing PSPs to additional liabilities.
- PSPs are now obligated to (i) submit quarterly financial reports within a month after each quarter, and (ii) submit audited financials annually within two months after each fiscal year.

Last month, the Saudi Arabian Monetary Authority (SAMA) issued an update to the recently implemented Payment Services Provider Regulations (PSPR), which was introduced in January 2020 to regulate Payment Services Providers (PSPs) operating in the Kingdom of Saudi Arabia (KSA). The PSPR provides a clear path for PSPs to obtain SAMA-issued licenses to provide payment services in the KSA.

The PSPR update comes on the heels of SAMA's newly issued additional licensing guidelines for digital-only banks in Saudi Arabia, further showcasing SAMA's efforts to build out a regulatory framework for and promote the growth of an innovation-based financial technology ecosystem.

Prior to implementing the PSPR, SAMA provided preliminary "sandbox" licenses to test new digital solutions in a live environment prior to issuing full licenses. Sandbox licenses are typically limited and are subject to certain conditions per SAMA's discretion. While the sandbox path is still available, the PSPR includes four additional types of licenses: Micro PI, Major PI, Micro EMI, and Major EMI. Both Saudi-owned and foreign-owned PSPs are eligible to apply for such licenses.

Notably, the PSPR applies concepts implemented by the European Union's Payment Services Directive (PSD2). This allows international PSPs to easily launch operations in the KSA by applying the same business models and operating processes already applied in the jurisdictions in which they operate.

The PSPR application process requires applicants to provide detailed information about the local entity's shareholders, management, business plan, data protection policies, and anti-money laundering mechanisms, among other disclosures and requirements.

The Update

The PSPR update includes the following material amendments:

- Resubmission of a refused PSPR license application will only be accepted nine months after SAMA's refusal of the original submission. The previous version of the PSPR did not include such a limitation. This change will prevent applicants from resubmitting prematurely, giving them enough time to prepare and update the application to comply with the PSPR submission requirements.[1]

- PSPs must now respond to customer complaints with a decision within five business days. The previous version of the PSPR allowed PSPs to respond within 14 days.[2]

- PSPs are now responsible for outsourced third parties' delay or failure of fair implementation of the payment transaction, opening up additional liabilities.[3]

- PSPs are now obligated to (i) submit quarterly financial reports within a month after each quarter (reflecting SAMA requests), and (ii) submit audited financials annually within two months after each fiscal year.[4]

Regulated Activities[5]

The PSPR provides a list of regulated "in-scope" services, including the execution of Payment Transactions, Credit Transfers, Direct Debits, issuing Payment Instruments, issuing Electronic Money, Acquiring Payment Transactions, Money Remittance, cash placement/withdrawals relating to Payment Accounts and the operation of such accounts, Payment Initiation Services, Account Information Services, and any other activity designated as a Payment Service by SAMA.[6]

PSPR Licenses

Pursuant to the PSPR, PSPs may apply for four types of licenses: Micro PI, Major PI, Micro EMI, and Major EMI.

1. Micro PI License[7]

The Micro PI license is available to entities that meet the minimum eligibility criteria for a SAMA regulated PSP. This license requires forming a limited liability company (LLC) in the KSA and a minimum paid-up share capital of SAR 1 million. The entity must also maintain the minimum paid-up share capital amount as working capital on an ongoing basis. The Micro PI license has operational restrictions, as follows:

- Excludes the issuance of Electronic Money

- Excludes the provision of payment services cross-border outside of the KSA (from the local entity)

- Limits the Average Monthly Payment Transaction Value to SAR 10 million for its first 12 month period of operations (i.e., of providing payment services)

- Excludes any other excepted payment services or activities as determined by SAMA

For all other types of PSPR license, forming a joint stock company (JSC) in the KSA is required.

2. Major PI License[8]

The Major PI license requires a minimum paid-up share capital of SAR 3 million. The entity must also maintain the higher of one of the following as working capital on an ongoing basis:

- The minimum paid-up share capital amount
- An amount equal to 1% of the Average Monthly Payment Transaction Value

The Major PI license restricts the issuing of Electronic Money. Unlike the Micro PI license, the Major PI license does not limit the entity's Average Monthly Payment Transaction Value, nor does it prevent providing payment services cross-border.

3. Micro EMI License[9]

The Micro EMI license requires a minimum paid-up share capital of SAR 2 million. The entity must also maintain the minimum paid-up share capital amount as working capital on an ongoing basis. The Micro EMI license has operational restrictions, as follows:

- Requires the issuance of Electronic Money
- Limits the Total Average Outstanding Electronic Money to SAR 10 million for its first 12-month period of issuing Electronic Money, unless otherwise approved by SAMA
- Limits the Average Monthly Payment Transaction Value to SAR 10 million for its first 12-month period of operations (i.e., of providing payment services), unless otherwise approved by SAMA
- Limits customer balances to SAR 20,000 of Electronic Money in aggregate for each customer, unless otherwise approved by SAMA
- Limits any Payment Transactions to SAR 20,000 per calendar month in aggregate for each customer, unless (i) in relation to the closure of an Electronic Money account, or (ii) as otherwise approved by SAMA

4. Major EMI License[10]

The Major EMI license requires a minimum paid-up share capital of SAR 10 million. The entity must also maintain the higher of one of the following as working capital on an ongoing basis:

- The minimum paid-up share capital amount
- An amount equal to 2% of the Total Average Outstanding Electronic Money

The Major EMI license has operational restrictions, as follows:

- Requires the issuance of Electronic Money
- Limits customer balances to SAR 100,000 of Electronic Money in aggregate for each customer

- Limits customer transactions to SAR 100,000 per calendar month in aggregate for each customer

PSPR Application Requirements

The PSPR application process requires regular communication with SAMA, which aims to provide a decision within 90 calendar days of the submission of a complete application.[11]

Whether forming the requisite LLC or JSC, an entity's beneficial owners, governing body, and senior management must be "fit and proper" to carry on the relevant payment services, at SAMA's discretion.[12] In addition, SAMA requires the disclosure of the entity's shareholder structure, including the names and ownership percentages (capital and voting rights) of each beneficial owner and direct shareholder of the entity.[13]

In terms of the operational team, SAMA requires the applicant to submit a detailed organizational structure chart showing each division or department. Although there is no minimum requirement as to the number of employees, directors, etc., there is a requirement to provide details for personnel performing key control functions, including compliance, risk management, and internal audit functions.[14]

Compliance requirements include implementing risk management policies, procedures, systems, and controls relating to operational risk, fraud risk, money laundering, terrorism financing and financial crime risk, cyber security risk, reputational and legal risks, liquidity risk, credit risk, counterparty risk, market risk, foreign exchange risk, business continuity risk, data protection and privacy risk, and any other commercial, financial, or business risk relevant to the activities of the PSP. In addition, SAMA requires the licensed entity to follow its corporate governance requirements, as amended.[15]

Conclusion

Both Saudi and international PSPs continue to show significant interest in launching and expanding their payment services offerings in the KSA PSP ecosystem. Meanwhile, SAMA has been actively issuing PSPR licenses and engaging with applicants on an ongoing basis. Given SAMA's interest in this area, the authority is likely to issue further updates and guidance to continue to oversee and attract PSPs in the KSA.

If you have questions about this *Client Alert*, please contact one of the authors listed below or the Latham lawyer with whom you normally consult:

Salman Al-Sudairi
salman.al-sudairi@lw.com
+966.11.207.2500
Riyadh

Brian Meenagh
brian.meenagh@lw.com
+971.4.704.6344
Dubai

Homam Khoshaim
homam.khoshaim@lw.com
+966.11.207.251
Riyadh

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[Saudi Arabian Monetary Authority Publishes Draft Payment Services Regulation]

[SAMA Issues Additional Licensing Guidelines for Digital Only Banks in Saudi Arabia]

Endnotes

[1] See Article 6.11(c) of the PSPR.

[2] See Article 11.7 of the PSPR.

[3] See Article 13.1(d) of the PSPR.

[4] See Article 18.3 of the PSPR.

[5] Unless otherwise defined in this *Client Alert*, defined terms shall have the meaning given to them in the PSPR.

[6] See Article 5.2 of the PSPR.

[7] See Article 6.2 of the PSPR.

[8] See Article 6.3 of the PSPR.

[9] See Article 6.4 of the PSPR.

[10] See Article 6.5 of the PSPR.

[11] See Article 6.9 of the PSPR.

[12] See para. (c) of Article 6.6 of the PSPR.

[13] See para. (i) of Article 6.6 of the PSPR.

[14] See Article 6.6 of the PSPR for all applicant requirements.

[15] See Articles 8 and 9 of the PSPR.