

Oman

Chamber of commerce:

Oman Chamber of Commerce and Industry
 PO Box 1400
 112 Muscat RUW1
 Oman
Tel: +968 707 674
Fax: +968 707 497
Email: info@omanchamber.com
Web: www.chamberoman.com

Corporate finance legislation in Oman

Imtiaz Shah
Denton Wilde Sapte
Muscat

The main laws on which the Omani corporate finance legal regime are based are the Law of Commercial Companies, promulgated by Sultani Decree 4/74 (the CCL) and the Capital Market Law, promulgated by Sultani Decree 80/98 (the CML). In addition to these laws, the Law of Commerce, promulgated by Sultani Decree 55/90 contains provisions dealing with aspects of corporate finance transactions. More detail is added through a plethora of secondary legislation, in the form of Ministerial Decisions (such as the Capital Market Executive Regulations) and a considerable number of circulars, regulations and codes issued by the Capital Market Authority (the CMA).

Types of corporate entity

In common with other Gulf jurisdictions, Omani corporate law follows the civil law Franco/Egyptian model, and provides for pseudo-partnership limited liability companies, partnerships and joint-stock companies, which are divided into those that offer shares for public subscription (open) or those that are closely held (closed). Each form of company has its own capital, shareholding and governance requirements.

Supervisory bodies

The CML created a supervisory body – the CMA – to regulate joint-stock companies, and also created the Muscat Depository and Securities Registration Company SAOC (the MDSRC) to register share transfers and to maintain share registers for listed companies, in addition to the Muscat Securities Market (the MSM) on which shares are listed. The Ministry of Commerce and Industry (the MOCI) maintains the commercial register in which all companies are listed on incorporation, and maintains corporate records of companies. The Minister of Commerce and Industry also serves as the president of the CMA.

Mergers and acquisitions

M&A activity is conducted pursuant to the CCL. Mergers are governed by Article 13 of the CCL, which provides for two types of merger: by absorption, where one of the merging entities acquires the assets and liabilities of the other and issues shares in consideration; and a merger by incorporation, where a new, third company is created into which the assets and liabilities of the merging companies are transferred in exchange for shares in the new company. In summary, a merger is effected by extraordinary resolutions of the merging companies, and

includes statutory wait periods during which creditors may object to the transaction. All mergers also need MOCI approval and, if listed companies are involved, that of the CMA. Further regulatory approval might be required, for example from the Central Bank of Oman if the merger involves banks or financial institutions. Rules exist for the valuation of the assets and liabilities on a merger.

Sales and acquisitions of businesses or shares might need extraordinary general meeting approval (if comprising a substantial part of the assets of the seller), and sales of businesses must be registered at the MOCI. If the transaction involves a listed company, an announcement might need to be made through the CMA.

Issue and listing of securities

This is governed both by the CML and the CCL. In general terms, extraordinary general meeting and CMA approval is required and a prospectus, approved by the CMA, must be issued to potential investors. The CML and the relevant secondary legislation contains details of the information to be contained in the prospectus, and the rules for the issue and listing of securities.

Both debt and equity instruments can be issued and listed on the MSM, and are registered with the MDSRC. It is possible to issue securities both by a public offer or by way of a private placement.

Corporate governance

The CMA has issued a series of circulars and regulations dealing with corporate governance, which arguably comprise the most comprehensive corporate governance regime in the Gulf. The primary regulation is the CMA's Code of Corporate Governance, adherence to which must be reported at annual general meetings and which is audited by the CMA.

In addition, rules exist in relation to prior shareholder authorization of related-party transactions, company announcements, eligibility for directorships, the composition of board committees and the adoption of detailed internal regulations delineating the role of directors and management in the company. From time to time, additions and supplements are issued by the CMA. The CMA has also issued model forms of articles of association for listed companies, and it is compulsory for CMA representatives to attend the annual and each extraordinary general meeting of listed companies.

Initial public offerings

Only open joint-stock companies can be listed on the main market of the MSM. The requirements for setting up this type of company are contained in the CCL, and the CML adds provisions in relation to the listing of shares. Broadly, the founders must issue a CMA-approved prospectus, and must obtain MOCI approval for the creation of the

company, in addition to other regulatory approval depending on the nature of the business of the new company. At least 40% of the shares must be offered for public subscription through nominated banks, following certain notice periods and advertising requirements.

It is possible for non-Omani companies to obtain a listing on the MSM, if the requirements in the regulations are met, in particular that the company concerned has a listing on a recognized exchange. Moves are under way for mutual recognition/listing between the MSM and certain other Gulf exchanges.

Corporate and commercial

Recommended firms

Tier 1

Al Alawi Mansoor Jamal & Co
Trowers & Hamlins

Tier 2

Denton Wilde Sapte
SASLO

Al Alawi Mansoor Jamal & Co

Al Alawi Mansoor Jamal & Co's 32 lawyers and support staff make it Oman's largest firm. According to their peers, the firm is headed by "a gentleman and a scholar" in Mansoor Jamal Malik, and as a result the firm is well respected. Mansoor attracts a huge amount of praise from the market, one client saying that "he is an excellent lawyer and a pleasure to work with ... clients specifically ask for him for this very reason".

However, the firm is by no means a one-man band, and the market perceives his support team as a talented one. Among the team, Ardeshir Patel was once again highlighted as an up-and-coming lawyer, and Faiz Khan was recognised by peers as being a "hard-working, quality lawyer".

Evidence of the firm's strength in depth is no more evident than in the projects department, where the firm has shown its desire to better itself by recruiting heavily in recent times. This was most clearly seen in the department's advice to the lenders to the Oman Aromatics project in a financing valued at \$1.1245 billion in July 2006. At the time of writing the firm was also advising Chemlink Capital in its establishment of project-specific companies in the Salalah Free Zone for the production of a world-class polymer petrochemical and film manufacturing plant.

In a crossover with the capital markets team, the project finance department has been representing Bear Stearns International (as joint-lead arrangers with Standard Chartered Bank) on the proposed issue of bonds and raising of finance for phase I of the Blue City project. It is expected that the project will cost \$15.5 billion over the next 15 years.

In further capital markets work, Al Alawi counselled Bank of New York as co-lead manager to Bank Muscat regarding its \$163 million global depositary receipt issue listed on the London Stock Exchange. Other highlights have seen the firm advise the National Bank of Oman on the private placement of 35% of the bank's issued share capital, and represent Taageer Finance in relation to its IPO of 3 million shares. Most recently, January 2006 saw Al Alawi hired by Al Khaleej Polypropylene Products to advise on the sale of 51% of the issued share capital of the company.

The firm's banking department has also expanded, with Marcus Perry drafted in to bolster the firm's capacity in this area. This is a move that seems to be paying off already – commentators are already highlighting him as "one for the future". Indeed, one client noted that Al Alawi Mansoor Jamal & Co has already "come on leaps and bounds over the last four to five years" since the firm's inauguration. In bank lending work, Al Alawi was extremely busy in the second half of 2005. In August, it advised the National Bank of Abu Dhabi with regard to a revolving credit facility for funding automobile leasing operations, and acted for the same client, along with Bank Dhofar, in a \$25 million multi-currency syndicated facility. Other notable deals saw Al Alawi selected by Bank Muscat as lenders in a OR20 million refinancing of a major five-star hotel in Muscat, and by the National Bank of Abu Dhabi once again in the \$45 million refinancing of a shopping mall office complex.

Lastly, Al Alawi's impressive M&A capabilities have been proven again this year. At the end 2005 and start of 2006 the firm advised Muna Noor in connection with an OR4 million bid for a shareholding in the company. Just after this, the firm represented the Oman Investment Corporation regarding the acquisition of a controlling interest in Integrated Petroleum Services. Most recently, in August 2006 Al Alawi acted for the same client on the acquisition of V2 Trenching. The firm also played a part in the OR14 million merger of Topaz Energy and Marine into Renaissance Services.

Leading lawyer

Mansoor Jamal Malik

Key contact partners

John Alasdair Jeffrey
Mansoor Jamal Malik

Trowers & Hamlins

Having been in Oman for over a quarter of a century, Trowers & Hamlins is the longest established international law office in the Sultanate. It is also the largest. It is for these reasons that the firm remains an excellent choice for clients from across the globe. This has led commentators into saying that "Trowers & Hamlins is very well established in Oman with very well established clients ... they are deserving of their tier one placing". This is why it is not surprising that peers admit that, "Trowers & Hamlins is always seen in the larger transactions".

Andrew Rae – described by one client as "a very sensible finance lawyer" – led many of Trowers' major deals over the past 12 months. However, Rae has since left the Omani office to head up the firm's Abu Dhabi office, and in April 2005, the well respected Adrian Jones made the same move. This leaves Trowers with three partners and 14 associates in the Sultanate. Potential concern at this development is quelled by peer opinion that work at the firm should not be impacted too much. Chiefly, this is because "effective lawyer" Sean Angle remains in a senior position alongside Majid Al Toky, as does James Harbridge, who has now settled well into the firm since his arrival in April 2005. Also, the Oman team works closely with the firm's offices in Abu Dhabi, Bahrain, Dubai, Egypt and London. Such well-forged links provide extra scope and capacity for handling cross-border work.

A particular highlight on the deal front for the firm has been the advice given to the Omani Qatari Telecommunications Company with regard to negotiating, incorporating and registering a GSM Operator's Licence. Other deals involved acting for the International Finance Corporation in a range of transactions, including a loan to Maxoon Petrogas for \$40 million, a \$10 million loan to Taageer Finance Company and the facilitation of a \$45 million loan to Alliance Housing Bank.

On the corporate side, Trowers advised Renaissance Services in relation to the acquisition of Topaz Energy & Marine, a deal notable because of the way in which the separation of assets will be maintained. The related acquisition of BUE Marine will result in a large public company worth \$250 million, and could prove to be an important step in testing acceptable post-merger structures in the Middle East.

Trowers & Hamblins has enjoyed another strong and successful year in project finance. The firm acted for the Bank of Tokyo Mitsubishi on the \$2 billion refinancing of the existing facilities of Oman Liquefied Natural Gas (LNG), and advised Qalhat LNG regarding its \$700 million financing for a third production train and the associated infrastructure. The firm is also acting for the sponsors in financing the \$15.5 billion Blue City project at Al Sawadi. This tourism development and property project will be the largest ever project in the Sultanate, and will help develop Omani freehold ownership systems. Among the year's other projects highlights, the firm represented the Japan Bank for International Cooperation in relation to the financing of a \$450 million fertilizer plant in Sohar.

Leading lawyers

Sean Angle
Majid Al Toky
James Harbridge

Key contact partners

Sean Angle
Majid Al Toky
James Harbridge

Denton Wilde Sapté

2006 is an important year for Denton Wilde Sapté in Oman, as it marks the firm's 25th anniversary in the Sultanate. The office houses ten Omani-, UK- and US-qualified lawyers, whose length of service in the country result in a full range of excellent international and domestic services that attracts an impressive list of clients.

Denton Wilde Sapté's Oman office has lost some important lawyers over the past 12 months, most notably Imtiaz Shah, who relocated to the Dubai office. Shah was hugely respected in the market, and was described by one client as "an excellent, hardworking lawyer" whose exit was "a real shame". However, the "impressive" Sarah Wright has been drafted as a replacement from the London office, and both the firm and the market are confident that she will succeed in her new role. Another positive comes in the form of the promotion of the long-serving Abdelrahman Mohamed Elnafie and Nouraddin Alkheir Ahmed to partner.

More importantly, in April 2006 Paul Sheridan was brought in to lead the office. Paul has worked in the Sultanate before (as a Fox & Gibbons lawyer) and commentators emphasise that he is "a very experienced Oman old hand who will drive things forward". With support from project partner Mary Allan, it is widely believed that Paul will improve on the already high standards set during Denton Wilde Sapté's outstanding past in Oman.

Denton Wilde Sapté is particularly proud of the work it has done in advising the Omani government with regard to the creation of an IT network with telecommunication company Omantel. This deal is an integral part of the government's Digital Oman strategy initiative. On the projects front, the firm has been appointed advisor to the purchasers on the Wave project – a luxury seafront development in the greater Muscat region. The firm has also handled a large amount of in-depth advisory work for a client in relation to the 35km² Blue City development.

One of the largest deals in the firm's portfolio this year was the Omantel initial public offering (IPO) in July 2005, which was oversubscribed by 200% and ended up being worth \$737 million.

Denton Wilde Sapté advised the Omani Ministry of Finance throughout the process, and in fact drafted the legislation that made the IPO possible in the first place.

Leading lawyers

Mary Allan
Paul Sheridan

Key contact partners

Mary Allan
Paul Sheridan

SASLO

Over the past year Said Al-Shahry underwent a rebranding process, and now goes by the name SASLO. The firm still has strong associated links with Richards Butler and has increased in size to ten partners and nine associates. In March 2006 SASLO lost a promising associate in Akram El Huda, who left to become vice president of property firm Majid Al Futtaim in March, but David Ball has been brought in from New York to be a new partner at the firm. Market consensus is that Alistair Neale and Fayyaz Mahmood remain the firm's leading lawyers.

SASLO's impressive regulatory credentials led to it winning mandates to work with the Sohar Refinery Company when it sought to amend its security documentation, and help to establish the State Bank of India's Muscat branch and to prepare its standard banking documentation.

In the bank lending arena, SASLO advised DBS Bank Singapore on a \$140 million short-term loan agreement. It also represented HSBC on a \$26 million supplemented loan agreement to Barr Al Jissah Resort Company, and represented ICICI Bank in a \$8.5 million commercial mortgage. Other financial advice includes representing Standard Chartered Bank in a \$900 million Blue City bond issue and some ongoing advisory work for the Bank of New York. Other major banking clients include Deutsche Bank, Addax Investment Bank, JBIC and the Development Bank of Singapore.

The firm also recently represented the Al Seer Group in the 100% acquisition of Al Fair, advised Smith International in the sale of Cameron Services and acted for Qualhat LNG with regard to potential incoming investment. In project finance, meanwhile, the firm worked with ORC on a \$140 million bridge loan from Gulf International Bank, and represented Oman Aviation Services in its aircraft refinancing negotiations with the Export-Import Bank of the United States.

Leading lawyers

Fayyaz Mahmood
Alistair Neale

Key contact partners

Said Al-Shahry
Fayyaz Mahmood
Alistair Neale

Other notable firms

With regard to firms with strong international connections, the market is of the opinion that the four firms mentioned above are the main players. However, it has been noted that the Omani market is developing quickly and that increased competition is inevitable in the next two to three years. Indeed, commentators have noticed that "there are many smart Omani lawyers coming through". It is widely believed that there will be an increase in the demand for legal services and as smaller firms gain experience, bigger companies will feel safe entrusting work with them.

At the moment, the market cannot pinpoint the specific firms that will benefit, but there is agreement that more domestic firms will be included in the *IFLR1000* rankings in the years to come.