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UAE investment funds regulation: The need to safeguard investors' wealth

By Tariq Qaqish, deputy head of asset management, Al Mal Capital

The absence of clear and coherent laws and regulations opens the door wide for companies taking on more risk, breaking the rules and putting clients' wealth at risk. Laws and regulation need to be reformed to reflect best practice while being practical in terms of recent developments.

Not only will regulation bring in discipline, but it will also open a dialogue between investment companies and regulators - an important building block to improve investor confidence. I believe the new regulations in the UAE, which encompass 45 articles, will usher in stricter ruling; however, the latter could hinder industry growth.

The draft regulations aim to govern all matters relating to local investment funds and the promotion of foreign funds within the UAE. However, a few obstacles remain before final regulations will be implemented.

International markets are implementing a method to safeguard clients' deposits from non-related banking activities. In the one of the laws' articles, the suggested 10% seed money in all managed funds is somehow high and would mean higher risk for banks that run asset management activities. The ruling will also appear to favor big institutions over medium-sized asset managers, as big institutions will have access to a large pool of funds. (Article 4, item 3)

I would tend to encourage funds to be considered as separate entities. That said, the detailed memorandum of association of funds mentioned in the draft will create a problem in the future should the fund manager need to make adjustments. "The approval of the General Assembly of the Fund Unit holders shall be obtained prior to making any amendment to the Fund's articles of association". I think the memorandum should tackle the general aspects of the fund structure while keeping the specific issues to the funds' term sheets. (Article 9)

A big challenge to foreign institutions who wish to promote funds in the UAE is to provide insurance against the non-commercial risks, or in other words fraud. (Article 39)

Under the new regulation, the Securities and Commodities Authority (SCA) will be in charge of the funds industry but the UAE Central Bank will have oversight. The key to success is the rapidity with which the new regulation are enforced, while ensuring coordination between the UAE Central Bank and SCA to avoid any confusion and potential red tape.

The new regulations are a positive message to foreign investors and will enhance confidence in local markets. They will also encourage asset managers to launch products out of the UAE once they are happy with the new regulations.

Compliance and adherence by all players in the market will, nevertheless, be the biggest challenge. New regulations must be well coordinated and enforced by regulatory bodies to avoid uncertainty.

We are delighted with the SCA consultation process and will encourage all future legislation to have a similar approach. Most importantly, the new regulations will need to be periodically reviewed to reflect ongoing change in the financial world.

Tariq Qaqish has directed Al Mal Capital's range of equity products to top performer status since 2007, with both the Al Mal MENA Equity Fund and Al Mal UAE Equity Fund ranking as top performers in their respective categories. He previously spent six years with National Bank of Abu Dhabi where he managed two successful funds, the UAE Growth Fund and UAE Distribution Fund.