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1. Regulatory framework

1.1 What is the applicable legislation and who enforces it?

The Competition and Anti-Monopoly Law (Royal Decree 67/2014) (Competition Law) deals with merger control. The Public Authority for Consumer Protection (Authority) is the competition regulator.

The Capital Market Law (Royal Decree 80/98) deals with merger control in relation to public joint stock companies (listed companies). The Capital Market Authority (the CMA) is the capital market regulator.

1.2 What types of mergers and joint ventures (JVs) are caught?



Notifiable mergers include: (a) share acquisitions; (b) asset sale and purchase transactions; (c) joint ventures; and, (d) contractual arrangements that have the effect of establishing market dominance in the hands of an entity or entities acting in concert. Minority share acquisitions are not caught and have decisive influence and only full function JVs are caught.

2. Filing

2.1 What are the thresholds for notification, how clear are they, and are there circumstances in which the authorities may investigate a merger falling outside such thresholds?



Mergers and joint ventures resulting in market dominance are notifiable. Market dominance occurs if the entity or entities acting in concert acquire a market share equivalent to 35% or more of a relevant market. A merger approval may be investigated by the Authority if it discovers that an application included misleading, fraudulent or untrue information.

An acquisition of shares in a listed company is notifiable to the CMA in the event that it:

- results in an acquirer, acquiring a stake equivalent to, or exceeding 10%;
- results in an acquirer that already holds 10% or more of the share capital of a listed company, increasing its stake in the concerned company.

An acquisition of shares in a listed company equivalent to, or exceeding a 25% stake needs the advance approval of the CMA.

2.2 Are there circumstances in which a foreign-to-foreign merger may require notification, and is a local effect required to give the authority jurisdiction?



A foreign-to-foreign merger would require notification if it resulted in an entity acquiring market dominance in a relevant market in Oman.



A foreign-to-foreign merger would not require notification to the CMA.

2.3 Is filing mandatory or voluntary and must closing be suspended pending clearance? Are there any sanctions for non-compliance, and are these applied in practice?



Filing is mandatory if relevant thresholds are met. Closing must be suspended pending the earlier of: clearance; or the elapse of 90 days from merger application filing. Failure to notify is punishable by imprisonment (between one month and three years) and/or a fine of between RO 10,000 (\$26,000) and RO 100,000.

2.4 Who is responsible for filing and what, if any filing fee applies? What are the filing requirements and how onerous are these?



The competition law does not specify which party is responsible for making a filing. However, the presumption is that it is the acquirer. No specific filing requirements (except that a written application is required) or filing fees are prescribed.

The acquirer would be responsible for making a filing to the CMA in the case of a merger/acquisition that needed to be notified to the CMA, or required its advance approval. There is no filing fee.

3. Clearance

3.1 What is the standard timetable for clearance and is there a fast-track process? Can the authority extend or delay this process?



The Authority has a maximum period of 90 days to review and issue a decision in relation to a merger application. If the Authority does not issue a decision within 90 days, the merger application is deemed to have been approved.



The CMA is obliged to respond to an application seeking its approval for acquisition of a stake exceeding 25% in a listed company within two weeks. Although a two-week period is prescribed for a response, the CMA can extend or delay this process.

3.2 What is the substantive test for clearance, and to what extent does the authority consider efficiencies arguments or non-competition factors such as industrial policy or the public interest in reaching its decisions?



No specific assessment criteria are prescribed for the Authority to consider while evaluating merger clearance. Consequently, they are unclear and still evolving. The competition law does provide that merger clearance cannot be granted if the merger results in an entity or entities acting in concert acquiring a market share equivalent to 50% or more of a relevant market.

There are no existing specific criteria prescribed for the CMA to consider while evaluating an application for acquisition of shares in a listed company equivalent to, or exceeding a 25% stake. However, it is anticipated that regulations governing material acquisitions of shares and takeovers (a takeover code) will be issued in the near future, which will include assessment criteria.



The CMA's decision whether or not to allow an acquisition of shares in a listed company equivalent to, or exceeding a 25% stake cannot be appealed.

3.3 Are remedies available to alleviate competition concerns? Please comment on the authority's approach to acceptance and implementation of remedies.



The competition law does not contemplate remedies to alleviate competition concerns.

4. Rights of appeal

4.1 Please describe the parties' ability to appeal merger control decisions – how successful have such challenges been?



The Authority's decision can be appealed to the chairman of the Authority's board. The chairman is allowed a maximum period of 30 days to review and issue a decision in relation to the appeal. In the event that the chairman does not issue a decision within the prescribed period, the appeal is deemed to have been allowed and the merger may proceed.

5. Your jurisdiction

5.1 In no more than 200 words outline any merger control regulatory trends in your jurisdiction.

The competition law was only recently issued and the Authority has not yet established a track record with regard to dealing with merger applications. The competition law also foreshadows the issuance of regulations, which may provide colour around some of the provisions of the competition law, which are, at this point of time somewhat stark. Enquiries with the Authority have indicated that the Authority is still coming to grips with its role as competition regulator. However, given the important level of power bestowed on the Authority with respect to merger control, it is essential to consult with the Authority in relation to any prospective notifiable merger.

The CMA is on the verge of issuing a takeover code, which is likely to trigger a paradigm shift in relation to public M&A transactions in Oman.



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About the author

Ardeshir Patel is a UK-qualified solicitor and partner at AMJ, where he heads the firm's corporate and capital markets team. Patel specialises in corporate finance, advising project companies, global investment banks, financial advisers, issuers and shareholders on capital markets transactions in Oman, including many high-profile IPOs, privatisations, follow-on offerings and rights offerings. He has considerable experience in the following sectors: banking and finance, power and water, infrastructure, oil and gas, petrochemicals, and manufacturing.

Patel has played a major role in many of Oman's innovative and challenging transactions over the past nine years. He is recognised for his in-depth knowledge of Oman's commercial, legislative and regulatory frameworks, attention to detail and highly-developed work ethic. He entered the global legal rankings in 2011 as a leading associate and 'one to watch' for his corporate finance work. Patel is also a solicitor of the High Court of Mumbai, where he practiced as a partner at Maneksha & Sethna before joining AMJ in 2004.

