Oman's real estate investment fund regulations should provide a much-needed boost to the economy

Despite the current upward trajectory in global oil prices, governments in the GCC understand the need for diversification of the economy away from excessive reliance on hydrocarbon reserves. The government of the Sultanate of Oman is no different in this respect and has been actively pursuing the diversification of its economy in various sectors, including tourism and real estate. It is in this background that one of the most anticipated regulations – the Real Estate Investment Fund (REIF) Regulations – were issued by the Omani Capital Market Authority (CMA) on the 7th January 2018 in the form of CMA Decision Number 2/2018 (the REIF Regulations). The REIF Regulations, in addition to providing a framework within which conventional REIFs may be registered and operated, specifically permit registration of Shariah compliant REIFs and specify the manner in which such REIFs are managed and regulated. ASAD QAYYUM explores.

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As a general rule, non-Omanis are not permitted to own Omani real estate other than in areas which have been specifically designated as integrated tourism complexes by a royal decree. The REIF Regulations should, however, relax these foreign ownership restrictions in the real estate sector since pursuant to the REIF Regulations, non-Omanis will, subject to certain restrictions, now be permitted to own interests in REIFs which would, in turn, be permitted to own real estate in Oman.

The introduction of REIFs in Oman should therefore go a long way in spurring the growth of the real estate and tourism sectors in Oman by facilitating and encouraging foreign investors to enter these sectors, particularly investors who are interested in Shariah compliant real estate investment vehicles.

What is a REIF?

REIFs have been hugely popular in the GCC region given that the regulations of these countries have historically contained restrictions on foreign ownership of real estate. Not dissimilar to the understanding of REIFs, or a REIT as it is sometime called, in other jurisdictions, the REIF Regulations provide for registration of REIFs in the form of a corporate entity that is permitted to own or fund income-generating real estate assets; the REIF, therefore, acts as a vehicle through which investors may diversify and achieve long-term capital appreciation on their investments. REIFs can be conventional or Shariah compliant in nature, with the latter requiring that all income generated from the real estate assets is Halal.

Specifically, a Shariah compliant REIT requires that the utilization of the real estate, including any sub-interest granted in it, financing of the acquisition of the real estate and its development and management be undertaken in compliance with the principles of Shariah.

REIFs in Oman

Even before the issuance of the REIF Regulations, REIFs have been registered with and approved by the CMA pursuant to the Capital Market Law (Royal Decree 80/1989) and its Executive Regulations (Decision Number 1/2009).

However, with the promulgation of the REIF Regulations, there now exists a comprehensive framework specific to the establishment and regulation of REIFs in Oman which, among various other benefits, contains provisions relating to the professional management of REIFs by persons vetted and licensed in this regard by

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Regulations and Islamic REIFs

As mentioned previously, the REIF Regulations provide a comprehensive framework for the setting-up, management and operation of REIFs (including Shariah compliant REIFs) in Oman and to enhance the provisions relevant to the establishment of REIFs as set out in the Executive Regulations.

The REIF Regulations also specifically recognize the establishment of multiple forms of REIFs, including closed REIFs, public REIFs, special REIFs and Shariah compliant REIFs.

REIFs will now be recognized by Omani law as having a corporate existence separate from its unitholders. The REIF Regulations also set out strict monetary requirements for setting up, operating and managing REIFs in Oman.

In this respect, Article 22 of the REIF Regulations requires that the minimum paid-up capital of a REIF should be no less than OMR10 million (US$25.93 million).

In addition, the REIF Regulations:

- permit the registration of public REIFs for offering of units to the public. Any public REIF is, however, required to distribute at least 90% of its net annual profits to its unitholders
- contain a number of restrictions on the investment activities that may be undertaken by a REIF and restrict a REIF's ability to acquire certain real estates (including agricultural land) as set out in the Ministry of Housing's Decision Number 95/2017, and
- provide that a REIF may only invest in real estate properties, SPVs, assets (whether or not they relate to real estate), monetary amounts, deposits and financial instruments provided that, at all times, a percentage equal to at least 50% of the total value of the REIF's assets remains invested in income-generating real estate and/or SPVs.

The REIF Regulations are unique from most similar regulations across the globe in that they specifically provide for establishment of Islamic REITs which, as an overarching principle, are required to ensure that their management and the income-generated by the REIF are compliant with the principles of Shariah.

The REIF Regulations specifically require that the REIF manager ensure that its compliance officer has the requisite knowledge of Shariah principles and that a Shariah committee be established within the REIF to supervise and control activities of the REIF.

The initiative taken by the government with the promulgation of the REIF Regulations is very positive; it, however, remains to be seen as to whether it will have the desired effect on the real estate and tourism sectors.