

SAOC - Corporate governance

Legal and practical insights and what companies should be doing now



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Introduction

We frequently act as legal advisers and company / board secretary for SAOCs and SAOGs.

With the end of the 2026 Annual General Meeting season and in the context of the expiry of the grace period for the mandatory Corporate Governance "Guidelines" for SAOCs (as per Ministerial Decision 5/2025) (**Governance Regulations**), we explore some of the key themes when it comes to governance for SAOCs (both on a practical and legal level) and what SAOCs may still need to consider in 2026.

Governance regulations

As a brief reminder, the Governance Regulations were issued on 5 January 2025, published in Official Gazette 1579 (issued on 13 January 2025), came into force on 14 January 2025 and provided a grace period which ended on 14 January 2026 for SAOCs to comply with the Governance Regulations.

The Governance Regulations signalled a shift of corporate governance and moving it closer to governance practices which prior to the passing of the Governance Regulations were more associated with SAOGs rather than SAOCs.

The Governance Regulations cover a broad range of topics such as:

- (a) composition of the Board;
- (b) mandatory minimum number of independent directors;
- (c) creation of Audit Committee and its membership;
- (d) expectation of forming a Nomination & Remuneration Committee;
- (e) rules around appointment of non-Executive Directors;
- (f) enhanced reporting obligations;
- (g) enhanced governance around related party transactions;
- (h) establishment of internal control systems and risk management framework.

It is beyond the scope of this article to address all of the above points, and in case you have any queries please contact us!

Implementation challenges

The primary challenges faced by SAOCs under the Governance Regulations include:

1. Board Composition and Independence Requirements

- **Finding Independent Directors:** Finding individuals who meet the strict independence criteria—such as not having a first-degree relationship with senior management or owning more than 10% of shares—can be difficult for family-owned SAOCs where the talent pool is often closely linked to the founders.
- **Mandatory Expertise:** SAOCs may struggle to find candidates who possess this specific blend of skills including expertise in corporate finance, strategic vision, and international market experience, while also being willing to take on the legal liabilities associated with board membership.
- **Separation of Roles:** The prohibition against the Chairman or Deputy Chairman also serving as the CEO may require significant restructuring in SAOCs where a founder or majority shareholder currently holds both roles.

2. Financial and Administrative Burden

For many SAOCs, the cost of compliance will be a significant factor:

- **Specialized Appointments:** SAOCs are now required to appoint a qualified Board Secretary with at least three years of experience in law, accounting, or auditing, a Legal Advisor, and a Head of Internal Audit or Compliance Officer.
- **Committee Infrastructure:** The mandate to form an Audit and Risk Management Committee and potentially a Nomination and Remuneration Committee adds layers of administrative complexity and requires additional compensation for committee members.
- **Audit Costs:** The requirement for audited semi-annual financial statements and a comprehensive annual report increases the frequency and depth of engagement with external auditors.

3. Disclosure and Transparency Sensitivities

SAOCs, which are often private or family-run, may face cultural and strategic challenges regarding the new disclosure mandates:

- **Remuneration Disclosure:** Requirement for the annual report to disclose the total fees and remuneration of board members and senior management. This level of transparency regarding executive pay is often a sensitive issue in closed companies.
- **Related Party Transactions:** Requirement for strict review and disclosure of transactions with related parties. In many SAOCs, shareholders or board members may also be suppliers or customers; managing these relationships under the new "arm's length" and disclosure requirements will require rigorous internal controls.

4. Operational Rigidity

The formalization of corporate governance may slow down decision-making processes that were previously agile:

- **Meeting Frequency:** The board must meet at least four times a year, with no more than 120 days between meetings.
- **Formal Documentation:** Every decision must be documented through formal minutes, and resolutions by circulation are subject to strict controls. This shift from informal "handshake" management to a documented governance trail requires a change in corporate culture.

5. Social Responsibility Mandates

The Governance Regulations introduce a formal requirement for Corporate Social Responsibility (**CSR**). Companies must now:

- Adopt a formal CSR policy and annual strategy.
- Allocate a specific budget for CSR.
- Report on the impact and sustainability of their CSR activities in the annual report. For smaller SAOCs, establishing a meaningful CSR program that meets these regulatory standards while remaining commercially viable may be challenging.



Observations from AGM Season – Independent Directors

Importance of Independent Directors

We have noted several instances during the recently completed AGM season which also pertain to the Governance Regulations. This has been particularly the case for the appointment of **independent directors** and clearly defining the process for such appointment and what SOACs need to do should a director cease to satisfy the independence requirements.

As per the Governance Regulations, the Board of the SAOC must comprised as follows:

Number of Directors	3	5	7	9	11
Minimum Number of Independent Directors	1*	1*	1*	2	2
Minimum Number of Non-Executive Directors	1	2	3	3	4

*Whereby, the number of independent members of the board of directors must be at least two members if the number of members exceeds seven members, and it must be at least one member, if the total assets of a company exceed five million Omani Rials according to the audited financial statements, or if the number of shareholders exceeds fifty shareholders in a company.

Definition of Independence

The definition as to what constitutes an Independent Director is key, and the Governance Regulations provide as follows:

Independence means:

- Independence of opinion in a manner that enables the director to make decisions that serve the purposes of the company.
- Objectively considering the interests of the company and preserving the interests of minority shareholders.
- Known for integrity and rectitude.
- Not having an interest or a material, economic, or financial relationship with the company or any of the establishments affiliated with it or owned by it (as set out in the criteria table below).
- Not having membership or is not employed in a company operating in any similar and competitive activity, unless his/her appointment is approved by the ordinary general meeting.

Do any of the following criteria apply causing a director to lose his/her independent status?

- A. Holds a government position or is an elected or appointed member of an elected or appointed council, or if he is employed in any of the companies in which the government owns shares?
- B. A period of less than 12 months has passed since leaving service in any of the entities referred to in A?
- C. Owns 10% or more of the company shares or its subsidiary?
- D. Acted as senior executive or employee of the company or parent company, subsidiary, or affiliate company, during the two years preceding the candidacy?
- E. An employee, during the two years preceding the candidacy, of any of the subsidiaries of the company?
- F. Represents a legal person who owns 10% or more of the shares of the company or its subsidiaries?
- G. A member of the board of directors of any of the subsidiaries?
- H. A first degree relative of any of the company's senior management employees or any of its subsidiaries?
- I. Owns 10% (ten percent) of the shares of any of the parties referred to above during the two years preceding the candidacy?

Accordingly, there are two limbs to the 'independence test'; the first limb is pecuniary or financial independence (i.e. not having an interest or a material, economic, or financial relationship with the company or any of the establishments affiliated with it or owned by it) and the second limb is independence of opinion/thought, in a manner that enables the director to make objective decisions that serve the purposes of the company and preserve the interests of minority shareholders.

Practical Consideration – Nomination Form

Previously, the only reference to a definition for 'independent director' could be found within the director nomination form for closed joint stock companies issued by the Ministry of Commerce, Industry and Investment Promotion, whereby the independent director was defined as:

"Independent director: directors or any of their first degree relatives should not have occupied any senior post (such as the Chief Executive Officer, the General Manager or similar posts in accordance with the organisational structure) in the company for the last two years. Also they should not have had any relationships with the company, its parent company or its affiliated or sister companies which could result in financial transactions."

The above definition of independent director only addresses the first limb of the director independence test as outlined in the Governance Regulations and does not address the second limb: independence of thought/opinion. The Governance Regulations provide that in order for a director to be independent he/she must be independent in opinion in a manner that enables him to make decisions that serve the purposes of the company, objectively consider the interests of the company and preserve the interests of minority shareholders, and he/she must be known for his/her integrity and rectitude.

Accordingly, a director who was recorded as independent prior to the issuance of the Governance Regulations, may not be deemed as independent following enforcement of the Governance Regulations.



It is the responsibility of each director to consider Articles 13 and 17 of the Governance Regulations, as summarised above, and make a self-assessment of his/her independence status. Each director should consider his/her independence status on an annual basis and immediately disclose any change in status to the Board of Directors.

What an SAOC should do if a Director is no longer "Independent" during his / her tenure?

Pursuant to Article 188 of the Commercial Companies Law (RD 18/2019), if a member of the board of directors loses any of the conditions required for membership (such as loss of his/her "Independent" status), then the membership shall cease to be valid by virtue of law.

A Director should promptly inform the board of the loss of his/her "Independent" status and the Board of Directors will need to consider: (a) whether such Director participated in voting on any Board resolutions since the change to his/her independence status; and if such director did participate in voting, (b) whether quorum would have been achieved without the presence of such director, and (c) whether such resolutions were passed by a percentage of the votes required for their validity without counting the vote of such Director.

Concluding remarks

The Governance Regulations have shifted the regulatory landscape for SAOCs. All SAOCs should have updated their constitutional documents and internal documents to fully embed the Governance Regulations. For those SAOCs that have not done so yet, it is paramount to comply with the requirement to implement the Governance Regulations as soon as possible.

The Governance Regulations are not free from challenges when it comes to implementation. Implementation of the Governance Regulations introduces a rigorous regulatory framework for SAOCs in Oman. While these principles aim to enhance transparency and institutional discipline, they present several operational, financial, and structural challenges for companies transitioning from more informal management styles. We have highlighted above the key difficulties in navigating the implementation of the Governance Regulations and embedding such framework in corporate culture in SAOCs.

To navigate these rigorous requirements successfully, SAOCs must view rectification period, not merely as a deadline for compliance, but as an opportunity to professionalize their internal operations. Ultimately, while the transition may require significant administrative and structural adjustments, the adoption of these principles is a strategic investment. By aligning with international standards for transparency and

accountability, SAOCs will not only mitigate legal risks, but also enhance their attractiveness to investors and ensure long-term sustainability in an increasingly competitive global market. As the Ministry of Commerce, Industry and Investment Promotion begins its monitoring phase, the companies that thrive will be those that embrace governance as a core pillar of their corporate identity.

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Meet the team

Our team of experienced corporate lawyers are here to assist companies in navigating the legal / regulatory landscape of Oman, including, of course, in respect of the Governance Regulations. Feel free to contact us in case of queries.



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