



SECURED TRANSACTIONS ORDER, 2016

(S 10/2016)

SECURED TRANSACTIONS REGULATIONS, 2016

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SECURED TRANSACTIONS ORDER, 2016
(S 10/2016)

SECURED TRANSACTIONS REGULATIONS, 2016

In exercise of the power conferred by section 92 of the Secured Transactions Order, 2016, the Minister of Finance may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

PART 1
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Secured Transactions Regulations, 2016 and shall commence on the same date as the Secured Transactions Order, 2016 (S10/2016).

Interpretation

2. In these Regulations, unless the context otherwise requires —

“access information” means information assigned for the purpose of maintaining the integrity of the register;

“authorised user” means a person who has log-on access to the register;

“change demand” means a financing change statement that is entered in the register under section 57(2) pursuant to a demand by a debtor under section 57(1);

"financing statement registration number" means the unique identifier assigned to the financing statement on its registration;

"registering party" means an authorised user who submits a financing statement or financing change statement for registration.

PART 2

REGISTRATION OF FINANCING STATEMENTS

Registering party to ensure data entered in correct fields

3. A registering party shall ensure that all data required or authorised by the Order or under regulation 6 to be contained in a financing statement is entered in the correct fields.

Secured party to ensure data in financing statement kept up to date

4. A secured party shall ensure that all data required or authorised by the Order or under regulation 6 to be contained in a financing statement, and of which the secured party has knowledge, is kept up to date.

Registrar not required to verify entitlement to access information or to register

5. The Registrar is not required to verify that —
- (a) an authorised user is entitled to use the access information entered by the authorised user; or
 - (b) a registering party is entitled to register a financing statement or financing change statement, as the case may be.

Data requirements

6. (1) In addition to any data required under the Order —
- (a) every financing statement shall contain all the data specified in Part I of Schedule 1;
 - (b) every financing change statement that is not a change demand shall contain all the data specified in Parts I and II of Schedule 1;

(c) every change demand shall contain all the data specified in Part III of Schedule 1.

(2) In addition to the data referred to in sub-regulation (1), a financing statement or a financing change statement, or a change demand may contain any further details that the register allows.

Debtors to be notified of change demand

7. A person who is not the sole debtor and who enters a change demand in the register shall, as soon as practicable, give notice in writing to each debtor to whom the financing statement relates of the following matters -

- (a) the nature of the amendment sought;
- (b) the ground for the change demand;
- (c) the date on which notice of change demand was entered in the register;
- (d) the collateral to which the change demand relates.
- (e) the financing statement registration number of the financing statement;
- (f) details of Registrar's notification of the outcome of the change demand procedure.

Certification of registered financing statement

8. The Registrar may certify a copy of a registered financing statement as a true copy on payment of the fee specified in Schedule 2.

Contents of verification statement

9. A verification statement made under section 48 relating to the registration of a financing statement may contain the financing statement registration number.

Fee for registration

10. Every application for registration under the Order shall be accompanied by the fee specified in Schedule 2.

PART 3

SEARCH OF REGISTER

Search requirements

11. An authorised user may search the register only if the authorised user has —
- (a) entered into an arrangement with the Registrar, under regulation 19(1), for the payment of the fee specified in Schedule 2; or
 - (b) paid the fee specified in Schedule 2 in accordance with regulation 19(2).

General search

12. An authorised user who makes a search of the register shall, according to the type of search being carried out, enter the relevant information in the appropriate fields.

Search result

13. A search result shall consist of all data that —
- (a) is contained in a current registration; and
 - (b) matches the search criteria provided by an authorised user.

PART 4

GENERAL

Access to register

14. Without limiting section 9, access to all or any part of the register may be limited or refused if -
- (a) there is a fault affecting the register;
 - (b) in the opinion of the Registrar, the integrity of the register is, has been or may be compromised.

Authorised user to provide access information

15. An authorised user shall enter the relevant access information to have access to the register.

Disclosure of access information

16. The Registrar may disclose access information only if -

- (a) he is reasonably satisfied that the person to whom the access information disclosed to is entitled to the information; and
- (b) the disclosure of the access information is necessary to facilitate the operation of the register.

Arrangement for payment of fee

17. The Registrar and an authorised user may enter into an arrangement for the payment of the fee specified in Schedule 2.

SCHEDULE 1
(regulation 6)

DATA REQUIRED IN FINANCING STATEMENTS,
AND FINANCING CHANGE STATEMENTS

PART I

FINANCING STATEMENTS (INCLUDING FINANCING CHANGE STATEMENTS)

Data entry for debtor

Identification of each debtor

1. If a financing statement relates to more than one debtor, each debtor shall be identified as a separate debtor.

Name of debtor: individual

2. If the debtor is an individual, the debtor's name shall be the same as the debtor's name that appears on an official document such as an identification card, passport, uniform service number or other similar official document evidencing the name currently used by the debtor.

Name of debtor: individual carrying on business

3. If the debtor is an individual who carries on business as a sole trader under a name or style other than the debtor's own name and registered under the Business Names Act (Chapter 92), the debtor's own name and the unique number assigned to it on its registration.

Name of debtor: registered or unregistered company

4. Where the debtor is an registered or unregistered company, the following data —
 - (a) if the debtor is registered under Companies Act (Chapter 39), the registered name of the company and the unique number assigned to it on its incorporation;
 - (b) if sub-paragraph (a) is not applicable, the name of the unregistered company as set out in its constitution or other document defining its constitution;

- (C) if sub-paragraphs (a) and (b) are not applicable, the trading name.

Data entry for description of collateral

Description of collateral: general requirements

5. (1) All collateral shall be assigned to one or more of the following collateral types -

- a) goods: motor vehicles;
- b) goods: aircraft;
- c) goods: livestock;
- d) goods: crops;
- e) goods: other;
- f) documents of title;
- g) chattel paper;
- h) investment securities;
- i) negotiable instruments;
- j) money;
- k) intangibles;
- l) all present and after-acquired property;
- m) all present and after-acquired property, except.

(2) A further description shall be provided for all collateral that has not been assigned to the collateral type described in sub-paragraph (1).

Description of serial numbered goods

6. (1) If a financing statement relates to the registration of a security interest in serial numbered goods that are consumer goods or equipment, a description of serial numbered goods shall contain the following data —

- (a) the year of manufacture of the goods;
- (b) the make or name of the manufacturer of the goods;
- (c) in the case of a motor vehicle, the chassis number;

(d) in the case of an aircraft or ship, the serial number provided by the manufacturer of the aircraft or ship.

(2) For the avoidance of doubt, sub-paragraph (1) applies to serial numbered goods that are consumer goods or equipment and that are included in the collateral types described in paragraph 6(1)(l) and (m), but does not apply to serial numbered goods that are inventory.

(3) The marks and numbers referred to in sub-paragraph (1)(d) shall be given as they appear in the certificate of registration issued under Civil Aviation Order, 2006 (S 63/2006) for the aircraft and Merchant Shipping Order, 2002 (S 27/2002) for the ship.

Use of identification numbers for description of other goods

7. (1) A description of goods that are not serial numbered goods shall, if the description contains an identification number, contain additional data to adequately describe those goods.

(2) For the purposes of sub-paragraph (1), an identification number —

(a) is a number that is permanently marked on, or attached to, the collateral by the manufacturer; and

(b) includes only alphanumeric characters,

but does not include —

(i) any of the kinds of numbers or marks to which paragraph 7 applies; or

(ii) punctuation (for example, a hyphen) or other markings.

Description of proceeds

8. If collateral is proceeds to which section 16 or 17 applies, and —

(a) if the proceeds are inventory or collateral, other than serial numbered goods, the collateral shall be described in accordance with paragraph 6, as long as the word "proceeds" appears as part of the description; or

(b) if the proceeds are serial numbered goods that are consumer goods of equipment, the goods shall be described in accordance with paragraph 7.

Other data entry

Term of registration

9. The term of registration if it is less than 10 years.

Data for registering prior security interest

10. For the registration of a prior security interest that is deemed to be perfected by registration under the Order, the following data –

(a) if section 96 applies –

- i. the date of registration of the prior security interest; and
- ii. the relevant prior repealed written law;

(b) if section 97 applies —

- i. the date of creation of the prior security interest;
- ii. a statement that section 97 applies.

Electronic mail address and fax number

11. The electronic mail address and the fax number of the secured party and registering party (if different).

PART 11

FINANCING CHANGE STATEMENT: ADDITIONAL PROVISIONS

Financing statement registration number

1. The financing statement registration number for the financing statement to which the financing change statement relates.

Type and description of change

2. (1) The type of change that is to be made to the financing.

(2) A description of the changes to be made to the financing statement.

Renewal of financing statement

3. If a financing statement is being renewed, the term of registration if it is less than 10 years.

Subordinations

4. If a security interest is subordinated, the date that the effect of the subordination will cease if that date is before the expiry of the registration of either —

(a) the financing statement relating to the security interest that is subordinated; or

(b) the financing statement relating to the security interest to which the security interest referred to in sub-paragraph (a) is subordinated,

PART III

CHANGE DEMAND: SPECIAL PROVISIONS

Financing statement registration number

1. The financing statement registration number for the financing statement to which the change demand relates.

Ground for demanding registration of change demand

2. A statement of the grounds set out in section 57(1) on which the debtor is relying.

Description of matter demanded

3. A description of the matter demanded under section 57(2).

Name of person entering change demand

4. The name of the person entering the change demand.

Details of demand under section 57(1)

5. The following details relating to the details of the demand under section 57(1) —

- (a) the date that the demand was given;
- (b) the name of the person to whom the demand was given;
- (c) the method of giving the demand.

SCHEDULE 2

(regulations 8, 10, 11 and 17)

FEES

Certified copy of registered financing statement	\$5
Registration of financing statement	\$10
Renewal for registration of financing statement	\$10
Search of register	\$3
Verification statement by post	\$5
Registration of financing change statement	\$10

Made this
to the

day of
day of

1438 Hijriah corresponding
2016.

Minister of Finance.