

Anti-Money Laundering and Combating The Financing of Terrorism Law No. (106) of 2013

After reviewing the Constitution,

- Law No. 16 of 1960 Promulgating the Penal Code and laws amending it;
- Law No. 17 of 1960 Promulgating the Criminal Procedures Code and laws amending it;
- Law No. 24 of 1961 on Insurance Companies and Agents and laws amending it;
- Law No. 24 of 1962 on Public Benefit Clubs and Associations and laws amending it;
- Law No. 42 of 1964 on the Regulation of the Practice of Law before the Courts and laws amending it;
- Law No. 32 of 1968 on Money, the Central Bank of Kuwait, and Regulation of the Banking Profession and laws amending it;
- Law No. 20 of 1976 on Fraud in Commercial Transactions and laws amending it;
- Law No. 32 of 1980 on Protection of the Environment;
- The Civil Law issued by Decree Law No. 67 of 1980 and laws amending it ;
- Decree Law No. 68 of 1980 Promulgating the Commercial Code and laws amending it;
- Decree Law No. 5 of 1981 on the Practice of the Profession of Auditing;
- Law No. 74 of 1983 on the Combating of Narcotics and the Regulation of their Use and Trafficking and laws amending it;
- Law No. 35 of 1985 on Explosives;
- Decree Law No. 48 of 1987 on Combating Psychotropic Substances and the Regulation of their Use and Trafficking ;
- Decree Law No. 23 of 1990 on the Law on the Regulation of the Judiciary and laws amending it;
- Decree Law No. 31 of 1990 on the Regulation of Securities Trading and the Establishment of Investment Funds;
- Decree Law No. 13 of 1991 on Weapons and Ammunition;
- Law No. 1 of 1993 on the Protection of Public Funds and laws amending it;
- Law No. 64 of 1999 on the Protection of Intellectual Property Rights;
- Law No. 25 of 2000 adopting the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
- Law No. 35 of 2002 on Combating Money-Laundering Operations;
- Law No. 10 of 2003 Promulgating the Unified Customs Law for the Cooperation Council for the States of the Arab Gulf;
- Law No. 5 of 2006 adopting the United Nations Convention against Transnational Organized Crime and the two Protocols Thereto;
- Law No. 47 of 2006 approving the United Nations Convention against Corruption;
- Law No. 7 of 2010 on the Establishment of the Securities Commission and the Regulation of Securities Activity;

- Decree Law No. 24 of 2012 setting up the Public Authority to Combat Corruption and the pertinent provisions for financial disclosure; and
- Decree Law No. 25 of 2012 on Commercial Companies,

The National Assembly has approved, ratified and passed the following Law:

Definitions

Article 1

The following words and expressions shall have the following meaning in implementing the provisions of this Law:

Funds: any kind of assets or property, whether money, financial or commercial papers, whether immovable or movable properties, corporeal or incorporeal, or related rights thereto however acquired, and documents, legal instrument in any form, including electronic or digital form, or banking credit facilities, checks, payment orders, stocks, bonds, promissory notes, and letters of credit, whether inside or outside the State of Kuwait.

Person: natural or legal person.

Transaction: any purchase, sale, loan, mortgage, gift, financing, transfer, delivery, deposit, withdrawal, transfer through remittance, or any other disposition of funds in any currency, whether in cash or checks, payment orders, stocks, bonds or any other financial instruments, or the use of safe deposit boxes or other forms of safe deposit; or any other disposition of funds as specified in the Executive Regulation.

Financial institution: any person who conducts as a business one or more of the following activities or operations for or on behalf of a customer in the following manner:

- a. Acceptance of deposits and other repayable funds from the public, including private banking;
- b. Lending;
- c. Financial leasing;
- d. Money or value transfer services;
- e. Issuance and managing means of payment (e.g. credit and debit cards, traveler's checks, financial leasing, payment orders and bankers' drafts, electronic money);
- f. Financial guarantees and commitments;
- g. Trading in:
 - i. money market instruments including checks, bills, and certificates of deposit;
 - ii. foreign exchange;
 - iii. exchange, interest rate and financial index instruments;
 - iv. negotiable securities and financial derivatives;
 - v. commodity futures trading;
- h. Foreign exchange transactions;

- i. Participation in securities issuing, and provision of financial services related to such issuing;
- j. Individual and collective portfolio management;
- k. Safekeeping and administration of cash or liquid securities on behalf of other persons;
- l. Concluding life insurance contracts and other types of investment related insurance as a provider or a broker of the insurance contract;
- m. Investing, administering or managing funds on behalf of other persons;
- n. Any other activity or transaction specified by the Executive Regulation of this Law.

Designated non-financial businesses and professions:

- a. Real estate agents;
- b. Sole-proprietors and commercial companies dealing in gold, precious stones, and precious metals when engaging in any cash transaction as determined by the Executive Regulation of this Law;
- c. Lawyers, independent legal professionals and accountants, when they prepare, execute, or conduct transactions for customers in relation to any of the following activities:
 - i. Purchase or sale of real estate.
 - ii. Management of a customer's funds, including securities, bank accounts, and other assets.
 - iii. Establishment, operation, or management of legal persons or legal arrangements and the organization of related subscriptions.
 - iv. Buying and selling of legal persons.
- d. Company and Trust Service Providers when they prepare for or carry out transactions for a customer concerning any of the following activities:
 - i. Acting as a formation agent of legal persons.
 - ii. Acting as or arranging for another person to act as a director, secretary of a company, or partner in a partnership or in a similar position with respect to other legal persons.
 - iii. Providing a registered office, business address, or accommodation, correspondence or administrative address for a legal person or legal arrangement.
 - iv. Acting as or arranging for another person to act as trustee or an equivalent function for a trust fund or any other legal arrangement.
 - v. Acting as, or arranging for another person to act as a nominee shareholder; or
- e. Any other activity or profession stipulated by the Executive Regulation of this Law.

Business relationship: any business, professional or commercial relationship connected with the professional activities of a financial institution or designated non-financial business and profession, and which is expected to have an element of duration.

Account: any facility or arrangement by which a financial institution accepts deposits of funds or monetary or negotiable instruments or permits withdrawals or transfers; pays the value of checks or payment orders drawn on a financial institution or another person; or

collects checks and payment orders, bankers drafts, travelers checks, or electronic money on behalf of a person; or provides facilities or arrangements for the lease of safe deposit boxes or any other form of safe deposit.

Customer: any person that undertakes any of the following with a financial institution or a designated non-financial business and profession:

- a. Any person for whom a transaction, business relationship or account is arranged, opened or undertaken.
- b. Any signatory to a transaction, business relationship or account.
- c. Any person to whom an account, rights or obligations under a transaction have been assigned or transferred.
- d. Any person who is authorized to conduct a transaction, or to control a business relationship or an account.
- e. Any person who initiates any of the actions referred to above.

Beneficial owner: any natural person who ultimately owns or exercises direct or indirect control over a customer or the person on whose behalf a transaction is being conducted. It also includes those persons who ultimately exercise ultimate control over a legal person or legal arrangement.

The Unit: the Kuwait Financial Intelligence Unit.

Supervisory authority: The authority with responsibility to ensure compliance by a financial institution or designated non-financial business and profession with the requirements under this Law, including the Central Bank of Kuwait, the Capital Market Authority, the Ministry of Commerce and Industry, and any other person designated by the Executive Regulation of this Law.

Competent authority: All public authorities in Kuwait with designated responsibilities for combating money laundering or terrorism financing, including the Unit, supervisory authorities, the General Administration of Customs, and the Ministry of Interior.

Freezing: Temporary restraint of funds under the management of their holder and the prohibition of their transfer, conversion, disposition, movement or transportation based on a decision by the prosecutor's office or any of his attorney generals.

Seizing: detention and temporary restraint of funds by the prosecutor's office or any other legal person based on a decision by the prosecutor's office or any of his attorney generals.

Legal arrangements: express trusts or other similar arrangements.

Politically exposed person (PEP): any natural person who is or has been entrusted with a prominent public function in the State of Kuwait or a foreign country; or with a high-level management position in an international organization, including family members. The

Executive Regulation shall define the persons covered by this definition without conflicting with this Law.

Money laundering: any of the acts described under article 2 of this Law.

Terrorism Financing: any of the acts described under article 3 of this Law.

Predicate offense: any act constituting a crime under the laws of the State of Kuwait, and any act committed outside the State of Kuwait if it constitutes a crime according to the laws of the country where it occurred and that would have constituted a crime in the State of Kuwait.

Proceeds of crime: funds derived or obtained directly or indirectly through the commission of a predicate offense, including other yields, interest, gains or profit from such funds whether it remained as is or it was converted wholly or partially into other funds.

Instrumentalities: all means of whatever kind that were used or that were intended to be used in any form, wholly or partially, to commit a money laundering, terrorism financing or predicate offense.

Terrorist act: Any act or initiation of an act, whether in the State of Kuwait or in any other place, as follows:

- a. An act intended to cause death or serious bodily injury to a civilian, or to any other person not taking part in the hostilities in a situation of armed conflict, when the purpose of such act, in its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act; or
- b. An act which constitutes an offense within the scope of the definitions set forth in any of the following international conventions or protocols:
 - i. Convention for the Suppression of Unlawful Seizure of Aircraft, 1970 as implemented by Law No. 19 of 1979;
 - ii. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1975 as implemented by Law No. 62 of 1979;
 - iii. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973 as implemented by Law No. 72 of 1988;
 - iv. International Convention against the Taking of Hostages, 1971 as implemented by Law No. 73 of 1988;
 - v. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1988 as implemented by Law No. 71 of 1988 and Law No. 6 of 1994;

- vi. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 as implemented by Law No. 15 of 2003;
- vii. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988 as implemented by Law No. 16 of 2003;
- viii. Convention on the Physical Protection of Nuclear Material, 1980 as implemented by Law No. 12 of 2004;
- ix. International Convention for the Suppression of Terrorist Bombings, 1997 as implemented by Law No. 27 of 2004; or
- x. Any other international convention or protocol concerning terrorism or terrorism financing that the State of Kuwait ratified and published as law in the Official Gazette.

Terrorist: any natural person, whether located inside or outside Kuwait, who:

- a. Commits a terrorist act, directly or indirectly, as per the provisions of this Law;
- b. Acts as an accomplice in a terrorist act;
- c. Organizes or directs others to commit a terrorist act;
- d. Contributes intentionally to the commission of a terrorist act by a person or a group of persons acting with a common purpose, with the aim of furthering the terrorist act or with the knowledge of the intent of the person or group of persons to commit the terrorist act.

Terrorist organization: any group of terrorists, whether located inside Kuwait or outside who commits any of the acts mentioned in the previous definition.

Bearer Negotiable instrument (BNI): monetary instruments in bearer form such as: travelers checks; negotiable instruments including checks, promissory notes and money orders that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; and incomplete instruments signed but with the payee's name omitted.

Wire transfer: A financial transaction carried out on behalf of an originator through a financial institution by electronic means with the view to making an amount of funds available to a beneficiary at another financial institution, irrespective of whether the originator and the beneficiary are the same person.

Shell Bank: a bank that is incorporated or licensed in a country or jurisdiction in which it has no physical presence and that is not affiliated with a regulated financial group subject to effective consolidated supervision.

CHAPTER 1 – OFFENSES AND PREVENTIVE MEASURES
Section 1 – Money Laundering and Terrorism Financing Offenses

Article 2

Any person who knows that funds are the proceeds of crime and who has done the following voluntarily shall be considered to have committed a money laundering offense:

- a. converts or transfers or substitutes such funds with the purpose of disguising or concealing the illicit origin thereof, or helping a person involved in the commission of the predicate offense evade the legal consequences for his/her acts; or
- b. disguises or conceals the true nature, source, location, disposition, movement or ownership of such funds, or rights pertaining thereto.
- c. Acquires, possesses or uses such funds.

A legal person shall be held liable for a money laundering offense if it were committed in its name or to its credit.

Punishment of the person for a predicate offense shall not preclude conviction of that same person for a money laundering offense.

When establishing that funds are proceeds of crime, a conviction for the commission of a predicate offense shall not be required.

Article 3

Any person who by any means, directly or indirectly, unlawfully and willfully, collects or provides funds, with the knowledge that they will be used or with the intent that they should be used, in full or in part, in order to carry out a terrorist act or for the benefit of a terrorist organization or of a terrorist shall be considered to have committed a terrorism financing offense.

Any of the acts mentioned in paragraph (1) shall be considered a terrorism financing offense even if the terrorist act does not occur, or if the funds are not actually used to commit or attempt to commit the act or if the funds are not linked to a specific terrorist act.

Section 2 – PREVENTIVE MEASURES

Article 4

Financial institutions and designated non-financial businesses and professions shall assess their money laundering and terrorism financing risks, including of new products or technologies. The risk assessment and any underlying information shall be documented in writing, be kept up-to-date and readily available for the supervisory authority to review at their request.

Financial institutions and designated non-financial businesses and professions shall conduct enhanced due diligence measures where the risk of money laundering or terrorism financing is identified as being higher. Financial institutions and designated non-financial businesses and professions may conduct simplified due diligence measures where the risk of money laundering or terrorism financing is identified as being lower.

Simplified due diligence measures may not be applied where there is a suspicion of money laundering or terrorism financing.

Article 5

Financial institutions shall not maintain or open an account of unknown identity or in fictitious names.

Financial institutions and designated non-financial business and professions shall carry out the following due diligence measures, taking into account the outcome of the risk assessment required to be carried out under Article 4:

- a. Identify and verify the identity of the customer and beneficial owner using reliable, independent source documents, data or information.
- b. Understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship.
- c. Monitor the business relationship on an ongoing basis and examine any transactions carried out to ensure they are consistent with their knowledge of the customer, commercial activities and risk profile, and where required, the source of funds.
- d. Understanding the ownership and control structure of the customer.

Due diligence measures under paragraph (2) of this Article shall be carried out:

- a. Before or during the course of opening an account or establishing a business relationship with a customer;

- b. Before carrying out a transaction above the threshold set by the Executive Regulation of this Law for a customer with whom it is not in an established business relationship, whether conducted as a single transaction or several transactions that appear to be linked;
- c. Before carrying out a domestic or international wire transfer for a customer;
- d. Whenever there is a suspicion of money laundering or terrorism financing;
- e. Whenever doubts exist about the veracity or adequacy of previously obtained customer identification data.

The supervisory authority may prescribe the circumstances in which a financial institution or designated non-financial business and profession can delay the verification of the customer or beneficial owner identity until after the establishment of the business relationship or the carrying out of the transaction.

Where a financial institution or designated non-financial business and profession is unable to comply with obligations under paragraph (2) of this Article, it shall refrain from opening the account or commencing the business relationship or carrying out the transaction; or it shall terminate the business relationship. The financial institution or designated non-financial business and profession shall also consider filing a report to the Unit under the provisions of Article 12 of this Law.

Financial institutions and designated non-financial businesses and professions shall implement specific and adequate measures to address the risks of money laundering and terrorism financing in the event that they open an account or establish a business relationship or execute a transaction with a customer that is not physically present for the purpose of identification.

Financial institutions and designated non-financial businesses and professions shall establish appropriate risk-management systems to determine whether a customer or beneficial owner is a politically exposed person and if so, apply additional measures to those under paragraph (2) of this Article . The Executive Regulation will prescribe these measures.

Financial institutions and designated non-financial businesses and professions shall exercise enhanced due diligence for all complex, unusual large transactions and all unusual patterns of transactions for which there are no clear economic or visible lawful purposes or objectives, examine as far as reasonably possible the background and purpose of such transactions, document all information concerning the transactions and the identity of all parties participating in such transactions, and retain such records in accordance with Article 11 of this Law. The records shall be made available upon request by a competent authority or the Public Prosecutor's Office.

Financial institutions and designated non-financial businesses and professions shall apply enhanced due diligence measures to business relationships and transactions with persons or financial institutions from or in countries that were identified as high risk under Article 4.

Accounts and customers existing prior to the implementation of this Law shall be subject to due diligence measures under this Article at appropriate times and based on materiality and risk, or as prescribed by supervisory authorities.

Financial institutions and designated non-financial businesses and professions shall review existing records and documents on an ongoing basis to ensure that any information collected is kept up-to-date and relevant.

Financial institutions and designated non-financial businesses and profession may rely on third parties to perform some elements of the due diligence process as prescribed by Executive Regulation.

Article 6

Provisions of Articles 4, 5 and 11 of this Law apply to real estate agents and brokers when they are involved in transactions concerning the buying or selling of real estate.

Article 7

The Executive Regulation will prescribe the measures to be taken by financial institutions before entering into a cross-border correspondent banking or other similar relationship, in addition to applying ordinary due diligence measures as prescribed under Article 5.

Article 8

No shell bank may be licensed or operate in the State of Kuwait.
Financial institutions shall not enter into or continue a correspondent or business relationship with a shell bank or a correspondent financial institution in a foreign country that allows its accounts to be used by a shell bank.

Article 9

Financial institutions that engage in wire transfers shall obtain information on the originator and recipient when carrying out such transactions and ensure that such information remains with the wire transfer or related message throughout the payment chain. A financial institution seeking to order a wire transfer that is unable to obtain such information shall not execute the transfer.

Article 10

Financial institutions and designated non-financial businesses and professions shall:

- a. Establish internal policies, procedures, systems, and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees;

- b. Implement an ongoing training program to ensure that employees are kept informed of all the aspects of the anti-money laundering and combating terrorism financing requirements, new developments, money laundering and terrorism financing techniques, methods and trends, and concerning due diligence measures and suspicious transaction reporting;
- c. Establish an independent audit function to verify compliance with the internal policies, procedures, systems and controls and to ensure that such measures are effective and consistent with the provisions of this Law;
- d. Put in place mechanisms for the sharing with other members of the financial group of information obtained under Articles 4 and 5, and to protect the confidentiality and use of exchanged information; and
- e. Designate a compliance officer at the senior management level to be responsible for the implementation of the requirements of this Law.

As appropriate, the measures under this Article shall apply to all domestic and foreign branches and their subsidiaries.

Article 11

Financial institutions and designated non-financial businesses and professions shall maintain records of the following information and ensure that such records and underlying information are available to competent authorities:

- a. copies of all records obtained through the due diligence process under Article 5, including documents evidencing the identities of customers and beneficial owners, account files and business correspondence, for at least five years after the business relationship has ended or a transaction under Article 5 (3)(b) has been carried out;;
- b. all records of transactions, both domestic and international, attempted or executed for at least five years following the attempt or execution of the transaction. Such records must be sufficiently detailed to permit the reconstruction of each individual transaction;
- c. Copies of transaction reports sent under Article 12 and related documents for at least five years after the date the report was made to the Unit; and
- d. The risk assessment under Article 4 and any underlying information for a period of five years from the date it was carried out or updated.

A competent authority may require in specific cases that records be maintained for longer than the periods prescribed under this Article.

Section 3 – REPORTING OBLIGATIONS

Article 12

Financial institutions and designated non-financial businesses and professions shall report to the Unit without delay any transaction or attempted transaction, regardless of the value thereof, if they suspect or have reasonable grounds to suspect that such transaction involves proceeds of crime or funds related or linked to or to be used for money laundering or terrorism financing.

Attorneys and other independent legal professionals and accountants are not required to report a transaction under the previous Article if the relevant information was obtained in circumstances where they are subject to professional secrecy.

Article 13

Financial institutions and designated non-financial businesses and professions, their directors and employees are prohibited from disclosing to a customer or any other person the fact that a report under the previous Article or any information related to the unit or to any money laundering or terrorism financing investigation. This shall not preclude disclosures or communications between and among directors and employees of the financial institution or designated non-financial business and profession, in addition to lawyers, competent authorities, and the public prosecution.

There shall be no penal, civil, disciplinary or administrative liability for a financial institution or a designated non-financial business and profession or its directors or employees for breach of any restriction on disclosure of information imposed by contract or law if it is established that a report under Article 12 or any other information was provided to the Unit in good faith.

Financial institutions and designated non-financial businesses and professions are bound to provide information and documents to the relevant competent authorities upon request.

Professional secrecy or privilege shall not constitute a ground not to comply with the obligations under this Law except in the case of lawyers, independent legal professionals and accountants according to the provisions of Article 12 (2).

CHAPTER 2 – COMPETENT AUTHORITIES
Section 1 – Competence of Supervisory Authorities

Article 14

Supervisory authorities shall regulate, supervise and monitor compliance by financial institutions and designated non-financial businesses and professions with the requirements set forth in this Law, its Executive Regulation or any relevant Ministerial decisions or instructions and shall have the following powers and duties:

- (1) to collect information and other data from financial institutions and designated non-financial businesses and professions and to conduct on-site examinations. Supervisory authorities may delegate the powers under this paragraph to third parties;
- (2) to compel financial institutions or designated non-financial businesses and professions to provide any information and copies of documents and files however and wherever stored, including documents held outside their buildings.
- (3) to apply measures and impose sanctions against financial institutions and designated non-financial businesses and professions for non-compliance to the provisions of this Law and to report them to the Unit.
- (4) to issue ministerial decisions and instructions to assist financial institutions and designated non-financial businesses and professions in complying with their obligations;
- (5) to cooperate and share information with other competent authorities or any foreign authority concerned with combating money laundering or terrorism financing;
- (6) to verify that foreign branches and majority owned subsidiaries of financial institutions and designated non-financial businesses and professions adopt and enforce measures consistent with this Law to the extent permitted by the laws of the host country;
- (7) to promptly notify the Unit of transactions or facts that could be related to money laundering, terrorism financing or predicate offenses;
- (8) to establish and apply efficiency and adequacy processes, including standards relating to the experience and integrity of board members, executive or supervisory management members or directors of financial institutions;
- (9) to establish and apply standards for owning or controlling significant shares of financial institutions and designated non-financial businesses and professions, including the beneficial ownership or the direct or indirect participation in the management, administration or operation thereof;
- (10) to maintain statistics concerning measures adopted and sanctions imposed as prescribed by supervisory authorities; and
- (11) to determine the type and extent of measures to be taken by financial institutions and designated non-financial businesses and professions under Article 10, according to the risk of money laundering and terrorism financing and the size of the business.

Article 15

If a financial institution or designated non-financial business and profession or any of its directors, board members, executive or supervisory management members is found to have

failed to comply with the provisions of this law, its Executive Regulation or any Ministerial decisions or instructions , the supervisory authority may impose one or more of the following measures or sanctions:

- (1) Issue written warnings;
- (2) Issue an order to comply with specific instructions;
- (3) Issue an order to provide regular reports on the measures taken to address the identified violation;
- (4) Impose a fine on the violating financial institution not to exceed Dinars 500,000 per violation;
- (5) Ban individuals from employment within the relevant sectors for a period to be determined by the supervisory authority;
- (6) Restrict the powers of directors, board members, executive or supervisory management members, and controlling owners, including appointing a temporary controller;
- (7) Dismiss or replace the directors, members of the Board of Directors or of executive or supervisory management;
- (8) Suspend, restrict or prohibit the continuation of the activity, business or profession;
- (9) Revoke the license;
- (10) Withdraw the license;

The Executive Regulation may provide for other measures.

Section 2 – KUWAIT FINANCIAL INTELLIGENCE UNIT

Article 16

A Unit called the "Kuwait Financial Intelligence Unit" shall be established. It shall be an independent legal person and serve as the agency responsible for receiving, requesting, analyzing, and disseminating information concerning suspected proceeds of crime or funds related, linked to or to be used for money laundering or terrorism financing according to the provisions of this Law.

The Council of Ministers, based on the recommendation of the Minister of Finance, shall issue a Resolution forming the Unit and determining its affiliation, organization, and resources.

The staff of the unit shall keep confidential any information obtained within the scope of their duties, even after cessation of those duties within the FIU. Such information may only be used for the purposes provided for under this Law.

Article 17

The Unit shall identify high-risk countries and prescribe the measures to be applied in relation to such countries. Supervisory authorities shall ensure compliance by financial

institutions or designated non-financial businesses and professions with the prescribed measures.

Article 18

In relation to any information it has received in accordance with its functions, the unit is authorized to obtain from any person subject to the reporting obligation set forth under Article 12 any additional information it deems necessary to carry out its functions. The information requested shall be provided within the time limits specified by the unit and in the form prescribed in the Executive Regulation of this Law.

The unit may, in relation to any report or information it has received, obtain from competent authorities or other public bodies any information it deems necessary to carry out its functions.

Article 19

Whenever the unit has reasonable grounds to suspect that funds are proceeds of crime or are related, linked to or to be used for money laundering or terrorism financing, it shall notify the public prosecutor's office and forward the relevant information to competent authorities.

The Unit shall notify the relevant supervisory authority if a financial institution or designated non-financial business and profession, or an employee thereof fails to comply with the requirements contained in this Law.

The unit may, spontaneously or upon request, make its information available to any foreign authority upon reciprocity or mutual agreement on the basis of cooperation arrangements entered into between the unit and such foreign authority.

Section 3 – CROSS BORDER TRANSPORTATION OF CASH AND BEARER NEGOTIABLE INSTRUMENTS

Article 20

Any person who enters or leaves the State of Kuwait in possession of currency or bearer negotiable instruments or arranges for the transportation of such items into or out of the State of Kuwait through a person, cargo, postal service or through any other means shall disclose the value of such currency or bearer negotiable instruments upon request to the General Administration of Customs. The Unit shall have access to such information upon request.

The General Administration of Customs may request information from couriers about the origin of such currency or bearer negotiable instruments and the intended use thereof. The General Administration of Customs may also seize or restrain some or all of the amount of currency or bearer negotiable instruments in the following two cases:

- a. If there are sufficient indications for a suspicion that such currency or bearer negotiable instruments are proceeds of crime or funds or instrumentalities related, linked to or to be used for money laundering or terrorism financing .
- b. If there has been a lack of disclosure, or provision of information when requested, or false disclosure or information.

The Minister of Finance shall issue an Executive Regulation on the rules and procedures related to the implementation of this Article.

CHAPTER 3 – MISCELLANEOUS

Article 21

The Public Prosecutor's Office shall have exclusive authority to investigate, act upon and prosecute the offenses mentioned in this Law. The criminal court shall have jurisdiction to examine such offenses.

Article 22

Without prejudice to the rights of third persons in good faith, the public prosecutor, or any public attorney whom he authorizes, may order the freezing or seizure of funds or instrumentalities mentioned in Paragraph 1 of Article 40 if there are reasonable grounds to believe they are related to a money laundering, terrorism financing or a predicate offense.

The Public Prosecutor's Office shall be responsible for the management and administration of such funds as it sees fit.

Any concerned party may file an appeal to the competent court within one month from the date on which the order was issued. The court must decide on the appeal promptly, either by rejecting it or by canceling or amending the order and establishing the necessary guarantees if necessary. An appeal may not be made again until three months from the date of the decision on the first complaint.

The public prosecutor, or any public attorney whom he authorizes, shall have the discretion to rescind or amend an order.

Article 23

The Public Prosecution Office shall exchange international cooperation requests with competent foreign authorities in criminal matters related to money laundering , predicate, or terrorism financing offenses with respect to assistance, letters rogatory, extradition of suspects and convicted persons, and requests to identify, trace, freeze seize or confiscate funds, all in accordance with the rules established under bilateral or multilateral agreements ratified by the State of Kuwait or in accordance with the principle of reciprocity.

Article 24

The Executive Regulation shall set the mechanisms for competent authorities to cooperate and coordinate at the national level concerning the development and implementation of policies and activities to combat money laundering, terrorism financing and the financing of proliferation of weapons of mass destruction.

Article 25

The Council of Ministers, based on a recommendation by the Minister of Foreign Affairs, shall issue the necessary decisions to implement United Nations Security Council Resolutions issued under Chapter VII of the United Nations Charter and related to terrorism, terrorism financing or proliferation of weapons of mass destruction.

Article 26

Any contract or act shall be null if all or any party thereto had knowledge or reason to believe that the objective of the contract or agreement was to prevent confiscation measures set forth in Article 40 of this Law, without prejudice to the rights of third persons in good faith.

CHAPTER 4 – SANCTIONS

Article 27

Without prejudice to any more severe sanctions stipulated in the penal code or any other law, the offenses mentioned in the articles of this Law shall have respective sanctions.

Article 28

Any person who commits a money laundering offense under Article 2 of this Law shall be punished by imprisonment for up to ten years and a fine of no less than half and up to the full value of the funds that were the objects of the offense if the offender knew that these funds and instrumentalities were the proceeds of crime.

In all cases, the funds and instrumentalities detained shall be confiscated.

Article 29

Any person who commits a terrorism financing offense under Article 3 of this Law shall be punished by imprisonment for up to fifteen years and a fine of no less than and up to twice the value of the funds that were the objects of the offense and by confiscation of seized funds and instrumentalities.

Article 30

The penalties stipulated in Articles 28 and 29 of this Law may be increased to imprisonment for up to twenty years and a fine of up to twice the amounts, if the following conditions are met:

- a. The offense was committed by an organized criminal or terrorist organization.
- b. The perpetrator of the offense exploited the authority or influence of his position.
- c. The offense was committed through public benefit clubs and associations and charitable organizations.
- d. The perpetrator repeated the commission of the offense.

Article 31

The Court can exempt the perpetrator of the offense of the penalties stipulated in Articles 28 and 29 if he/she provides the Police, Public Prosecution or competent court with information they would not have otherwise obtained so as to assist them in:

- a. preventing the commission of money laundering or terrorism financing offenses;
- b. Helping authorities to arrest and prosecute other perpetrators of the offense;
- c. obtaining evidence;
- d. preventing or limiting the effects of the offense;
- e. depriving organized criminal or terrorist organizations of funds over which the defendant has no right or control.

Article 32

Without prejudice to the penal liability of a natural person, any legal person that commits a money laundering or terrorism financing offense shall be punished by a fine of no less than 50,000 Dinars and no more than 1 million Dinars, or the equivalent of the full value of the funds that were the objects of the offense, whichever is greater.

A legal person may also be punished by permanently or temporarily, for no less than five years, prohibiting it from continuing to engage in certain commercial activities directly or indirectly, or by permanently or temporarily closing its offices that were used to commit the offense, or by liquidating its business, or by assigning a receiver to manage its funds. The final Court verdict shall be published in the official gazette.

Article 33

A financial institution or designated non-financial business and profession or any of its board members or executive or supervisory management members that deliberately or through gross negligence violates or fails to comply with the provisions of Articles 5, 9, 10, or 11 of

this Law, shall be punished by a fine of no less than 5,000 Dinars and up to 500,000 Dinars per violation.

Article 34

Whoever deliberately or by gross negligence establishes or attempts to establish a shell bank in the State of Kuwait in violation of Article 8 (1) or enters into a business relation with such bank in violation of Article 8 (2) shall be punished by imprisonment for up to three years and a fine of no less than 5,000 Dinars and up to 500.000 Dinars, or by one of these two sanctions. In the case where the offender is a legal person, a fine of no less than 5,000 Dinars and up to 1 million Dinars shall be imposed.

Article 35

Whoever deliberately or by gross negligence:

- (1) fails to make a report under Article 12 or presents false statements of facts or conceals facts which should be disclosed; or
- (2) discloses information to a third party in violation of Article 13 (1);

shall be punished by imprisonment for up to three years and a fine of no less than 5,000 Dinars and up to 500.000 Dinars, or by one of these two penalties. In the case where a legal person commits any of the offenses stated in (1) and (2), a fine of no less than 5,000 Dinars and up to 1 million Dinars shall be imposed.

Article 36

Whoever violates Article 16 (3) shall be punished with imprisonment for up to three years and a fine of no less than 1,000 Dinars and up to Dinars 10,000, or with one of these two sanctions and shall in all cases be dismissed.

Article 37

Whoever violates or fails to comply with Article 20, or makes a false disclosure of currency or bearer negotiable instruments, or conceals deliberately or by gross negligence facts which should be disclosed shall be punished with imprisonment for up to one year and a fine of no less than half and no more than the full value of the funds that were the objects of the offense, or by one of these penalties. In the cases where the offender is a legal person, a fine of no less than the full value of the funds that were the objects of the offense is imposed and no more than twice that value.

Article 38

Without prejudice to the penalties stipulated in this Chapter, the Court may prohibit the perpetrator of any offense permanently or temporarily from engaging in or continuing to carry out any business or profession that provides an opportunity to commit such an offense.

Article 39

The imposition of any sanction under this Section shall not preclude the imposition on financial institutions or designated businesses and professions of supervisory penalties or measures under Article 15.

Article 40

Without prejudice to the provisions of Articles (28) and (29) and to the rights of third persons in good faith, the Court shall, in the event of a conviction for any of the other offenses mentioned in this Law, order the confiscation of the following funds and instrumentalities:

- a. proceeds of crime, including funds intermingled with, derived from or exchanged for such proceeds;
- b. income and other benefits obtained from proceeds of crime;
- c. funds objects of the offense; or

The Court shall rule on the equivalent in value to funds and instrumentalities mentioned in subparagraphs (a), (b) and (c) that cannot be located or are no longer available for the purpose of confiscation.

Funds referred to in paragraph (1) may not be confiscated if their owner can establish good faith showing that funds were acquired by paying a fair price or in return for the provision of services corresponding to the value of such funds, or based on other legitimate grounds, and that he/she was unaware of their illicit origin.

Death of the perpetrator shall not impede confiscation of the funds and instrumentalities under the provision mentioned in paragraph (1) of this Article.

Article 41

Unless the law stipulates otherwise, funds that are confiscated shall accrue to the Public Treasury. These funds remain bearing any rights lawfully adjudicated in favor of third parties acting in good faith.

CHAPTER 5 – FINAL PROVISIONS

Article 42

Lapse of time shall not cause the dismissal of the criminal case or the penalty related to crimes mentioned in this Law.

The provisions of articles 81 or 82 of the Penal Code may not be applied to such offenses.

Article 43

The Minister of Finance shall issue the Executive Regulation within six months following the publication of this Law.

Article 44

The abovementioned Law No. 35 of 2002 shall be repealed and decisions currently in effect that do not conflict with the provisions of this Law shall remain in effect until the issuance of the Executive Regulation.

Article 45

The Prime Minister and Ministers shall, each within their purview, implement this Law, which shall enter into force upon its publication in the Official Gazette.

Emir of Kuwait

Subah Al Ahmad Al Subah

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