

The Council of Ministers

Council of Ministers Resolution Number 285 of the Year 2009 Promulgating the Executive Bylaws of the Law Decree Number (2) of the Year 2009 with Regard to Reinforcing the State Financial Stability

The Council of Ministers:

- Following the perusal of the Law Decree Number (2) of the year 2009 with regard to enhancing the financial stability in the State
- and based on the proposal of the Minister of Finance,

It has been resolved

Article One

The provisions of the executive by-laws of the aforementioned Law Decree Number (2) of the year 2009, whose texts are enclosed with this resolution, shall apply.

Article Two

The Ministers – each in his competence – shall execute this resolution which shall come into force from the date of its promulgation and it shall be published in the Official Gazette.

Acting Prime Minister

Jaber Mubarak Al-Hamad Al-Sabah

Issued on: 7 Rabie Al-Akhar 1430 H
Corresponding to: 2 April 2009 A.D.

**The Executive By-laws of the Law Decree Number (2) of the
Year 2009 with Regard to Reinforcing the State Financial Stability**

Preamble Section

Definitions

Article (1)

In implementing the provisions of these by-laws of the decree by law with regard to enhancing the financial stability in the State, the following words and phrases shall have the meaning indicated opposite each of them:-

- 1) **Banks:** The Kuwaiti banks registered with the Central Bank of Kuwait.
- 2) **Local Banks:** The Kuwaiti banks and branches of foreign banks registered with the Central Bank of Kuwait.
- 3) **Companies:** The investment companies registered with the Central Bank of Kuwait.
- 4) **Deficit in Specific Allowances:** The amount of difference between the sums charged to the business results of any bank to meet the risk of not collecting the debts, as specific allowances made for this purpose, and the allowances required in accordance with the instructions of the Central Bank of Kuwait.
- 5) **Classification Categories for the Financial Investment Portfolio:** According to international accounting standards, the financial investment portfolios are classified into categories with each of them having an accounting policy that must be followed.
- 6) **Productive Local Economic Activity Sectors:** They are the productive economic activity sectors of clients in the private local sector manifested in each of the oil and gas sector, the agriculture and fisheries sector, the industrial sector, the construction (building and contracting) sector, the commercial and trading sector, the services sector inclusive of

telecommunications, transportation, crafts and other services, this according to the instructions issued by the Central Bank with regard to the definitions of the economic sectors.

- 7) **Managing Bank:** The Kuwaiti bank owning the largest portion of the company's indebtedness to banks or any other bank determined by the Central Bank of Kuwait.
- 8) **Beneficiary Authorities:** The Kuwaiti banks to which a guarantee document is issued in accordance with the provisions of the First Section of the decree by law and the solvent investment companies to which the provisions of the First Chapter of the Third Section of the decree apply.

First Section Banks

First Chapter

Guaranteeing the Deficit in Credit Facilities and Funding Financial Provisions/Reserves and Guaranteeing the Descending in the Financial and Real Estate Investments Portfolios

Article (2)

Upon determining the State guarantee of the deficit in the specified financial provisions and reserves that must be set up against the credit facilities and funding portfolio existent with banks, the following shall be observed:-

- a- To calculate the deficit in the allowances specified with regard to the balances of the credit facilities and funding existent in

bank records as on 31/12/2008. The required specified financial provisions and reserves shall be calculated in adherence by the instructions issued by the Central Bank of Kuwait with regard to the rules and basis for classifying the

credit facilities and funding operations and calculating their financial provisions and reserves.

- b- An independent statistical record shall be prepared comprising the balances of the credit facilities and funding existent in bank records on 31/12/2008 while determining the guarantees pertinent to these balances submitted by the clients and the financial provisions and reserves set up with the knowledge of the bank, also the returns withheld in suspended accounts and the deferred revenues of the financing operations offered by Islamic banks.

The banks shall commit to submit classification data of these balances according the instructions of Central Bank of Kuwait with regard to the rules and bases for classifying the credit facilities and funding operations and calculating their financial provisions and reserves provided that this data is audited and enclosed with a certificate from auditors.

- c- An assessment of the guarantees submitted against the debt that was classified shall be conducted while observing in this regard that the assessment of the real estate guarantees is conducted at least annually during the last quarter of the fiscal year and that the assessment is carried out by two parties among the neutral authorities that are specialized in this domain with one of them being Kuwait Finance House or Kuwait International Bank with respect to local real estate with the lesser assessment prevailing. The assessment of the financial investments shall be made on a quarterly basis at the end of each of the following months: March, June, September and December in accordance with the standards prescribed by international accounting and banking practices.
- d- The State guarantee volume shall be determined on a quarterly basis at the end of the months: March, June, September and

December for the deficit amount that is not covered on the part of the bank after using the profits and any elements of the shareholders' rights as prescribed by the Central Bank of Kuwait. The guarantee shall be issued in documents according to the forms (1, 2 and 3) enclosed with this executive bylaw.

- e- Every bank shall establish the financial provision and reserves required for reducing the size of the deficit.

Article (3)

The banks shall use a unified system for following up the credit facilities and funding existent in bank records on 31/12/2008 in which the State guarantees the deficit amount in the financial provision and reserves and they shall take all the required actions to collect the debt.

Article (4)

The State guarantee shall be to the extent of decline that may occur in the balances of the financial investments portfolio and the balances of the real estate investments portfolio existent in bank records on 31/12/2008. The decline in the financial investments portfolio shall be calculated with respect to each of its classification categories and the descending in the real estate investments portfolio shall be calculated according to the international accounting standards provided that the financial provision and reserves set up against those investments to that date are discarded and also the assessment reserves (positive) listed within the shareholders' rights and pertinent to them are used.

The balances of the financial investments and the real estate investments existent as on 31/12/2008 shall be recorded separately in

independent statistical records. The Central Bank of Kuwait shall determine the method of following up the developments in both portfolios and the data which the banks shall submit to it in this regard provided that all the data submitted from banks are audited and enclosed with a certificate from the auditors. Upon determining the State guarantee for this descending, the following shall also be observed:

- a- The assessment of both portfolios shall be conducted in accordance with international standards and the instructions issued by the Central Bank of Kuwait while observing the stipulation of Article (2 / c) of these by-laws.
- b- The State guarantee shall be determined on a quarterly basis (at the end of each month: March, June, September and December) to the extent of the descending in the value of each of the financial investments portfolio and the real estate investments portfolio that is not covered on the part of the bank after using the profits and any of the elements of the shareholders' rights as determined by the Central Bank of Kuwait.

Article (5)

The Central Bank of Kuwait shall set in place the controls and conditions that must be observed when any of the banks disposes of the components of both financial and real estate investments portfolios covered by the State guarantee. However, the following shall be observed in this regard:

- a- To reduce the value of the State guarantee by the value of the profits realized as a result of the sale of any of the components of the two portfolios.

- b- The bank shall bear the losses entailed by the sale of any of the components of the two portfolios.

Article (6)

The deficit or reduction, that may arise and is guaranteed by the State, shall be adjusted periodically at the end of each of the four quarterly periods during the years 2009, 2010 and 2011 based on the changes that occur in the deficit in the financial provision and reserves specified for the credit facilities and funding and the decline in the value of the financial and real estate investments portfolios, also according to what is prescribed by the Central Bank of Kuwait.

The State guarantee period of the deficit in the specified financial provision and reserves and the lowering in the value of the financial investments and the real estate portfolio shall not exceed fifteen years from the issuance date of the guarantee. The guarantee value shall not be increased more than the deficit and decline value at the end of 31/12/2011. The guarantee value shall be decreased by the extent of the improvement occurring in the deficit or the reduction during the remaining guarantee period while observing the provisions of Article (7) of the Second Chapter.

Second Chapter

Guarantee Issuance and Conditions

Article (7)

The Central Bank of Kuwait shall issue the guarantee document for every bank and it shall set up the mechanism for following up the changes that occur in the value of the guarantee. The following shall be observed in this regard:

- a- To adjust the value of the guarantee periodically every quarter by the changes that occur in the deficit of the allowances specified for the credit facilities and funding portfolio and the decline in the value of both financial and real estate investments portfolios. The guarantee value shall not be increased more than the value of that deficit and decline existent with banks on 31/12/2011 up to the end of the guarantee period.
- b- The guarantee value shall be decreased annually by the rate determined by the Central Bank of Kuwait so as not to be less than 8% annually of the total guarantee value existent on 31/12/2011 provided that the annual decrease starts effective from this date and within the frame of the Central Bank of Kuwait endorsement of the bank's closing statements.

Article (8)

The guarantee issuance commission against administrative costs shall be calculated on the balance of the existent guarantee at the end of every year, this at a rate determined by the Central Bank of Kuwait so as not to exceed 1% annually.

The commission shall be deposited in an account opened at the Central Bank of Kuwait in the name of Kuwait Investment Authority no later than three work days following the approval by the Central Bank of Kuwait of the closing financial statements of each bank.

Article (9)

The Central Bank of Kuwait shall handle the establishment of a system for monitoring the guarantee issued for every bank and the banks shall submit the data requested by the Central Bank of Kuwait in this regard.

The Central Bank of Kuwait may cancel the guarantee issued for any bank during its validity period if it is made clear thereto that it is no longer required in light of their follow-up of the changes occurring in the deficit of the financial provision and reserves against the credit facilities and funding and the reduction in the value of both financial and real estate investments portfolios according to the financial statement of every bank.

Third Chapter

The Requirements for Remediating Bank Situations

Article (10)

If the Central Bank of Kuwait or any of the banks perceives the need to increase its capital in order to meet the requirements of its financial situation, it shall take the actions for increasing its capital during the period specified by the Central Bank of Kuwait in accordance with the provisions mentioned in the Commercial Companies Law.

Article (11)

In the event the bank is unable to carry out the required increase in the capital in the manner indicated in the preceding article, the bank may issue bonds bound for conversion into shares, bonds bound for converting into shares or preferred shares, bonds convertible into shares to which the priority to subscribe shall be confined to the bank's shareholders. Kuwait Investment Authority may subscribe in bonds and shares in which the right of priority is not used.

Islamic banks may also, in the event they are unable to complete the required increase in the capital, issue other financial sukuk approved by the Central Bank of Kuwait and compliant with the ordinances of Islamic Sharia in order to strengthen the rights of their shareholders and to which the priority to subscribe shall be to the bank's shareholders. Kuwait Investment Authority may subscribe in the part where the priority right is not used.

Article (12)

In order to issue bonds bound for conversion to shares or convertible bonds to shares, the articles of association need to be amended so as to allow the same to the bank. A decision with regard to the issuance of these bonds shall be made by the competent general assembly and it shall include the conditions for the issuance of these bonds.

The conditions of the issuance of these bonds shall comprise the period determined by the bank for their conversion to shares and the conversion price following the approval of Kuwait Investment Authority prior to presenting them to the competent general assembly. The conversion to shares may entail the decision to grant it certain privileges.

Further, the Central Bank may grant license to any bank to issue obligation convertible bonds to shares or bonds transferable to shares at value exceeding its capital.

Article (13)

The general extraordinary assembly of the bank may determine some privileges for the preferred shares issued by the bank, this in voting, profits or liquidation outcome.

The conditions for the issuance of preferred shares must provide for the possibility of amending the rights, privileges or restrictions pertaining thereto in accordance with the provisions of Article (15) of this bylaw.

The banks shall amend their articles of association by including the conditions and rules of preferred shares, the kind of prescribed privilege thereto as well as limits of the same.

Article (14)

A bank's articles of association may comprise the extent of the priority rights of the current shareholders in the subscription to the shares increasing the capital for which some privileges are decided provided that this right is not restricted to some shareholders over others.

During the period of subscription to the increase, the priority right in subscription may be traded in either separately or dependently with the original shares.

Moreover, through a decision of the general extraordinary assembly, all or some of the increase shares may be floated for general subscription directly without applying the priority rights of the senior shareholders if prescribed in the bank's articles of association.

Article (15)

No rights, privileges or restrictions relating to the preferred shares shall be amended unless this was in compliance with a decision from the general extraordinary assembly following the approval of a special assembly consisting of the shareholders to whom this amendment pertains, this by majority of the votes owning the capital comprising these shares.

Invitations to this special assembly shall be in accordance with the provisions pertaining to convening the general extraordinary assembly and its competencies as stated in the Commercial Companies Law.

Article (16)

The bank wishing to benefit from the provisions of this section shall present the conditions and procedures stipulated with regard to guaranteeing the deficit in the allowances and the decline in the value of the financial investment portfolio and the real estate investments portfolio to the general ordinary assembly in order to obtain its prior approval of the execution of the procedures and the conditions prescribed by the Central Bank of Kuwait in this regard, also to reduce the administrative and general expenses and the financial allowances for top management and the executive body, including the bonuses, grants and the like according to what is prescribed by the Central Bank of Kuwait.

Moreover, the bank shall obtain the initial prior approval by the general extraordinary assembly of entering into a merger operation if the bank situation requires so provided that the conditions and all the information pertinent to the merger operation are presented to the general assembly convening in an extraordinary capacity in order to obtain its final approval in accordance with the provisions of the Commercial Companies Law.

Second Section
Productive Local Economic Activity Sectors

First Chapter
Controls for Granting New Funding

Article (17)

The Central Bank of Kuwait shall establish a system for recording the data relating to the new funding that is used locally and is offered by local banks – during the years 2009 and 2010 – to clients of the private sector from all the productive local economic activity sectors.

The Central Bank of Kuwait may determine the share of every bank from the maximum limit of the funding total amounting to Kuwaiti Dinar Four Thousand Million during the said two years provided that the share of every bank is used on segments linked to specific periods. Upon determining the indicated shares and segments, the following shall be used as a guide:

- The market share of the bank represents the proportion of the total bank assets to the total assets in the local banking sector.
- The average growth rate in the credit facilities and funding portfolio at the bank during the last five years.
- Bank estimates of the expected growth volume in its credit facilities and funding portfolio during the years 2009 and 2010.

In the event none of the banks use their prescribed segments during the determined period, the Central Bank of Kuwait may distribute the unused segments to other banks in light of their usage rate of their prescribed segments.

The Central Bank of Kuwait shall set up the rules and procedures and determine the data pertinent to the implementation of this system provided that this comprises a form for every new funding that is granted whereby it clarifies all the data related to this funding inclusive of the outcome of the credit study and the decision of the competent credit authority with regard to the size of the extended funding and the guarantees, also the opinion of the Risk Department provided that it includes an acknowledgment from the bank to the effect of its observance of the conditions stipulated in Article (18) of these by-laws. This form shall be endorsed by each of the officials responsible for extending the credit, the Risk Department and the Chairman of the Executive Body at the bank.

Article (18)

The responsibility of extending the new funding/finance shall fall upon the granting authority that shall observe the sound banking norms and practices and the rules and bases prescribed in this regard, also to commit in particular to the following:

- 1) The instructions issued by the Central Bank of Kuwait with regard to the rationalization and regulation of the credit and funding policy at banks, also to find out about the credit worthiness of the borrowing client.
- 2) To obtain sufficient and appropriate guarantees that are determined in light of the situation of every client.

Every bank shall commit to keep a record of the guarantees submitted by clients against the new funding extended to them, to verify these guarantees, the title and their value upon granting the funding, to periodically review the assessment of these guarantees according to the requirements of Article (2 /

c) of this bylaw and to determine the actions to be taken in order to face any decline in their value.

The banks shall submit a quarterly report audited by the auditors of the Central Bank of Kuwait on the developments in the guarantees clarifying the changes in the value of the existent guarantees and the additional submitted guarantees. The bank shall commit to keep all the guarantees submitted by the client. Any of these guarantees may be partially released in case of decline in the balance of the funding extended to the client to less than the value of the guarantees, this by the decline rate in the funding balance.

- 3) The new funding shall not be used for the purposes of speculation or trading of real estate and financial securities or for the settlement of outstanding debts of the client at the time of the issuance of the decree by law. All actions shall be taken to ensure the continuing use by the client of this funding for the purposes for which it was granted in accordance with the contract concluded with him and while observing the sound banking practices in this regard.
- 4) To determine the funding period according to client needs and for a period of five years maximum.
- 5) To pay the original funding balance and the proceedings together in installments during the funding period.
- 6) To diversify the new funding portfolio in the productive local economic activity sectors in light of the funding applications and their feasibility.

The new funding shall not be subject to the State guarantee in the event of violation of any of the preceding obligations and conditions.

Article (19)

Every bank shall establish an appropriate system for internal audit so as to warrant the compliance with the conditions and rules referred to in the preceding article provided that the evaluation of this system is carried out by the auditors and a report thereon is submitted in this regard to the Central Bank of Kuwait by the end of every fiscal year throughout the guarantee period.

Moreover, every bank shall submit a quarterly report on the new funding, referred to in this section, audited by the auditors in accordance with what is prescribed by the Central Bank of Kuwait.

Second Chapter Guarantee Conditions

Article (20)

The State guarantee shall be at the rate of 50% of the new funding referred to in Article Number (17) and at a maximum of Kuwaiti Dinar Four Thousand Million for the total new funding extended by all local banks during the years 2009 and 2010. The guarantee shall be valid for the period determined for every funding and at a maximum of five years.

Article (21)

The rules and bases for credit facilities classification, the calculation of their allowances and how to handle the revenues resulting from them in accordance with the instructions issued by the Central Bank of Kuwait shall apply to the new funding granted by banks to the productive local economic activity sectors and guaranteed by the State at the rate of 50%. The following shall be observed in this regard:

- a- In case of irregularity in any balance of this new funding, the bank extending the funding shall commit to set up allowances at the rate of 50% of the value of the requested financial provision and reserves according to the indicated instructions

for the outstanding balance of this funding less the value of the guarantees submitted by the client.

- b- To take all the necessary actions for monitoring inconsistent clients in order to collect the debts due by them according to the applicable procedures.
- c- In the event of inability to collect an inconsistent debt after exhausting all the required collection methods, inclusive of legal actions, the bank shall notify the Central Bank of Kuwait of the actions taken in this regard in order to obtain its prior approval of writing off this debt.
- d- In the event the Central Bank of Kuwait approves writing off the debt, the State guarantee shall be determined at the rate of 50% of the outstanding balance of the funding in bank records less the value of the guarantees submitted by the client and the interest or return withheld in a suspended account, also the deferred revenues with respect to the funding operations granted by Islamic banks, while observing the provision of Article (22) of this bylaw.
- e- The banks shall persevere in the collection of the debts that have been written off according to the applicable procedures and they shall submit a periodic report to the Central Bank of Kuwait in this respect.

Article (22)

The Ministry of Finance shall – on behalf of the State – issue bonds or sukuk for the value of the guarantee specified in clause (d) of the preceding article. The Central Bank of Kuwait shall monitor the balances of the bonds or the sukuk issued for every bank and the changes occurring therein.

The maturity period of those bonds or sukuk shall not exceed five years from the date of their issuance. These bonds or sukuk shall be depreciated by the share of the State in any sums collected from the written off debts.

A return on the bonds or the sukuk, determined by the Central Bank of Kuwait, may be paid.

Third Section Investment Companies

First Chapter Classification of Companies and Studying their Situations

Article (23)

The Central Bank of Kuwait shall determine the authorities specialized in examining and assessing the situations of investment companies according to the referral bases and controls prescribed by the Central Bank of Kuwait.

The assessment study of the situations of investment companies, that submit an application in this regard to the Central Bank of Kuwait, shall be assigned to one of these authorities or to the authority specified by the company and approved by the Central Bank of Kuwait.

Article (24)

The company wishing to benefit from the provisions of this chapter shall submit an application to the Central Bank of Kuwait comprising the following:

- 1- The financial situation of the company.
- 2- A detailed statement of the outstanding obligations of the company to local and foreign authorities.
- 3- The problems and difficulties facing the company in fulfilling its obligations and the actions taken by the company in this regard.
- 4- To specify if the company is requesting the appointment of a consulting specialized authority or is entrusting the same to the authority determined by the Central Bank of Kuwait.

Article (25)

The Central Bank of Kuwait shall assign the specialized authority that is determined according to Article (23) study and assess the situation of the investment company that is facing financial problems and requires the remedial of its situation with the aim of determining its solvency and its capability to continue its activity.

Upon determining the solvency of the company, the extent to which its assets suffice to fulfill its short term obligations shall be observed while taking into consideration the determination of the quality of the assets through a recent assessment and the future cash flows of the company.

Article (26)

The examination conducted by the specialized authority with respect to the company that is solvent and has the ability to persevere shall comprise a suggestion as to the required remedial methods through an appropriate plan and time schedule for restructuring the balance sheet and remedying the financial situation of the company so as to enable it to fulfill its obligations and overcome its financial problems provided that the following is observed:

- a) To study the financial situation of the company based on a recent assessment that reflects the value of the assets and the obligations of the company in a true manner in order to determine its solvency and to submit a detailed report clarifying the bases followed with regard to this assessment.
- b) To determine the nature and causes of the financial problems the company is facing and their remedial methods.
- c) To estimate the required sums for remedying the situation of the company, whether through funding from banks or by obtaining the support of the shareholders by increasing the capital or obtaining additional funding from the shareholders or from other authorities.
- d) To determine the assets which the company can submit as guarantees for the current and the new funding.

Article (27)

In light of the results of the report of the specialized authority entailed by the examination and assessment of the true financial situation of the company and which comprises the suggested recommendations for remedying the financial problems it is facing, the Central Bank of Kuwait shall decide the appropriate actions to be taken with regard to remedying the situation of the solvent company, this according to the provisions of the Second Chapter of this section.

Second Chapter Remedial Methods and Controls

Article (28)

The managing bank handling the management of the company's debts, in coordination with the creditor banks, shall determine the size of the requested funding for the company from local banks and the guarantees which the company shall submit.

The managing bank shall participate in the negotiations conducted by the company with the foreign creditor banks and financial institutions and the other creditors in order to schedule the company's debts.

Article (29)

According to the results of the agreement with regard to scheduling the company's debts in the manner clarified in the preceding article, the company shall submit a request to the Central Bank of Kuwait to obtain its prior approval of the suggested scheduling provided that the request is enclosed with the opinion of the managing bank and clarifies therein the value of the new funding which the local banks have agreed to extend to the company and the guarantees submitted by the company.

Article (30)

In the event of approval by the Central Bank of Kuwait of the suggested scheduling, the State guarantee shall be at the rate of 50% of the new funding which the company obtains from local banks, this during the years 2009 and 2010, and which shall be used for the following purposes:

- a- To settle the company's outstanding obligations as of 31/12/2008 to all the local authorities other than the local banks.
- b- To pay in cash at a rate not exceeding 25% of the company's debts to foreign banks and financial institutions, this within the frame of scheduling those debts for an appropriate period.

Article (31)

The company shall commit to managing the portfolio of the assets submitted by it as collateral for all the outstanding debts to local and foreign banks prior to the issuance of the decree by law, also the new funding that is extended according to the provisions of the preceding article and provided that those assets cover all the indicated debts. The company shall be forbidden from disposal by selling any of the components of that portfolio except following the approval of the managing bank.

The company shall, with the managing bank, take all the required legal actions in this regard. The managing banker shall follow up the company's management of that portfolio and the company shall provide the managing bank with all the data and information pertinent to the portfolio. The managing bank may, if it transpires to it that the company is not managing the portfolio in the requested manner, assign its management to any other authority it deems fit.

Article (32)

The local banks shall commit to implement the classification rules and bases of credit facilities and funding operations and the calculation of their financial provision and reserves with respect to the new funding extended by banks to the investment company in accordance with the provisions of Article (21) of these by-laws. The bonds and sukuk shall also be issued for the value of the guarantee in the event the Central Bank of Kuwait approves writing off any of these debts in accordance with the stipulations of the provisions of Article (22) of this bylaw.

Article (33)

The State shall guarantee the deficit in the allowances to be set up in Kuwaiti banks in the event the investment companies, that are subject to the provisions of this chapter, default on paying the new or outstanding funding at the time of the issuance of the decree by law, this during the validity period of the guarantee. The provisions of the First Section of this bylaw shall apply with regard to this guarantee.

Article (34)

If the Central Bank of Kuwait or any of the investment companies perceives that it needs the financial support of the shareholders in order to meet the requirements of their financial situations, the company shall proceed with the procedures to increase the capital during the period determined by the Central Bank of Kuwait in accordance with the provisions of the Commercial Companies Law or to obtain loans or a subordinated funding from the shareholders or Kuwait Investment Authority, the governmental authorities and the

public authorities and institutions whose incorporation laws permit the same.

In the event the investment company does not obtain the requested funding from the shareholders or the indicated authorities, it may issue bonds bound for conversion to shares, convertible bonds to shares or preferred shares to which the priority of subscription shall be confined to the shareholders of the company. Kuwait Investment Authority, the governmental authorities and the public authorities and institutions, whose incorporation laws permit so, shall subscribe to shares and bonds where the priority right is not used.

The investment company, that operates according to the ordinances of Islamic Sharia and in the event it does not obtain the requested funding from its shareholders or the indicated authorities, may also issue other financial sukuk approved by the Central Bank of Kuwait and which are compliant with the ordinances of Islamic Sharia in order to support the rights of the shareholders with the priority of subscribing thereto being to the shareholders of the company. The Authority and the indicated authorities may subscribe thereto for the company's shareholders. The Authority and the indicated authorities may subscribe to the part where the priority right is not used.

Article (35)

The provisions mentioned in the Third Chapter of the First Section of this bylaw shall apply upon the issuance of bonds bound for conversion to shares, convertible bonds to shares or otherwise issuance of preferred shares.

Article (36)

The investment company, whose situation it is decided to remedy, shall present the conditions and actions stipulated in the decree by law and these by-laws to the general ordinary assembly in order to obtain its prior approval of executing the actions and conditions prescribed by the Central Bank of Kuwait in this regard, also of reducing the administrative and general expenses and the financial allocations for top management and the executive body, including bonuses, rewards and the like as determined by the Central Bank of Kuwait, creating the changes in their technical and administrative bodies, in order to meet the requirements for the remedial of its situation as endorsed by the Central Bank of Kuwait, and observing the provisions of Law Number 19 of year 2000 with regard to supporting the national manpower and encouraging them to work in non-governmental projects and the resolutions issued for its execution provided that the percentage of national manpower shall not be less than 50% of the total manpower thereat.

The company shall also obtain the initial prior approval by the general extraordinary assembly of entering into a merger operation if the situation of the company so requires provided that the conditions and all the information pertinent to the merger operation are made readily accessible to the general extraordinary assembly in order to obtain its final approval pursuant to the provisions of the Commercial Companies Law.

Third Chapter

Judicial Actions for Investment Companies Restructuring

Article (37)

The general assembly for the Court of Appeal shall arrange for a special department to look into the requests of restructuring the investment companies provided that they rush while doing so.

Article (38)

The investment companies, that face difficulties preventing them from fulfilling their obligations or persisting in their activities, may submit a direct request to the Chief Judge of the competent department at the Court of Appeal for rescheduling enabling such companies to remedy their situations so as to fulfill their obligations and persist in their activities.

The company shall commit to enclose all the supporting documents with the request comprising its financial statement, the list of its debts due dates thereof, an outline of the restructuring plan as well as the needed requirements for the plan and the certified auditor's report thereon.

The Clerks Department shall register the request following its signature by the Chief Judge of the competent department, the completion of the stipulated procedures and the notification of the Central Bank of Kuwait and all the company creditors through a copy of the request signed by the Chief Judge of the department, its recording serial number and the entailed effects by registered letter with an acknowledgment of receipt.

Article (39)

The Central Bank of Kuwait is entitled to, if transpires thereto that the restructuring of one of the investment companies may lead to

remedying its situation so as to enable such companies to fulfill their obligations and continue its activity, submit a request to the Chief Judge of the competent department at the Court of Appeal for restructuring the company while notifying the company about such a request.

The company shall, in this case, submit all the documents referred to in the preceding article to the competent court and shall provide the Central Bank of Kuwait with a copy thereof, as well.

The Clerks Department shall register the request following signing same by the Chief Judge, complete the stipulated procedures and provide all its creditors with a copy of the request, its recording serial number and the entailed effects by means of a registered letter with an acknowledgment of receipt.

Article (40)

The company shall commit, following the signature of the competent department accepting the restructuring request with the enclosed documents, to notify the Central Bank of Kuwait and all of their creditors about the entailed cessation of actions by means of a registered letter with an acknowledgment of receipt while observing to keep in hand the documents substantiating that it did so.

The Clerks Department of the Court of Appeal shall circulate, to all the competent judicial authorities, about the stay of the litigation and execution civil and commercial actions pertinent to the obligations of the company and shall publish about such a stay in the Official Gazette. The aforementioned stay of litigation actions shall also be published on the electronic website of the Ministry of Justice.

Article (41)

The grievances from the stay of litigation and execution civil and commercial actions shall be submitted by whoever is interested in a report to the Clerks Department at the Court of Appeal no later than fifteen days from date of receiving the notice accepting the stay of actions. A grievance shall be causative and a copy thereof shall be deposited at the Execution Department.

The Clerks Department at the Court of Appeal shall determine a session to look into the grievance before the competent department and shall notify the Central Bank of Kuwait and the remaining litigants of the content of the grievance and the date of the session determined for looking into same, this by means of a registered letter with an acknowledgment of receipt.

Article (42)

The stay of the aforementioned judicial and executive actions shall be cancelled or continued based on the judgment of the competent department at the Court of Appeal in the submitted grievance and the judgment rendered thereupon shall be uncontestable.

The Clerks Department at the Court of Appeal shall notify the company and the Central Bank of Kuwait of the judgment rendered upon the grievance. In the event a judgment is rendered cancelling the stay of actions, all the creditors, the competent judicial authorities and the Execution Department shall be notified of the same.

In all cases, the judgment rendered upon the grievance shall be announced on the electronic website pertaining to the Ministry of Justice.

Article (43)

Upon notification of the Central Bank of Kuwait of the signature of the Chief Judge of the competent department accepting the request, the Central Bank of Kuwait shall assign one or more specialized consulting authority, as stipulated in Article (23) of this bylaw, to study the financial situation of the company and to determine the extent of its need for restructuring.

The specialized authority shall review and assess the general outline of the restructuring plan submitted by the company to the court and all the enclosed documents therewith in order to express its opinion with regard to the extent of the need for taking protective actions from the creditors for restructuring the company and it shall submit its report on the deadline determined to same by the Central Bank of Kuwait.

Article (44)

If the restructuring of the company transpires to be useful, the consulting authority shall, in coordination with the investment company, study and assess the financial situation of the company and the degree of its solvency, determine the nature of the problems it is facing, suggest the appropriate remedial methods and set up a detailed plan for the restructuring, this with respect to the volume of the required funds, their sources, the requirements for remedying the technical and administrative situation of the company, and the time schedule required for the execution of the remedial plan, and shall also determine the mechanism for monitoring the compliance of the company with the execution of the actions prescribed for the restructuring plan.

The consulting authority shall observe, in this regard, the provision of Article (26) of this bylaw and the determined deadline in the preceding article.

Article (45)

In light of the report of the specialized consulting authority comprising the results of the assessment of the true financial situation of the company, the suggested restructuring recommendations and the time schedule for the same, the Central Bank of Kuwait shall submit its report on the company restructuring plan to the Chief Judge of the competent department, this no later than four months from the signature date of the department Chief Judge to the effect of accepting the request.

Article (46)

The Central Bank of Kuwait may request from the Chief Judge of the competent department to extend the deadline for the report submission – referred to in Article (45) for a period not exceeding another four months if he deems such an extra period is necessary.

Article (47)

The Chief Judge of the competent department shall, immediately upon receipt the report of the Central Bank of Kuwait with respect to the company's restructuring plan, specify a session to look into the matter.

The Clerks Department of the Court of Appeal shall notify the concerned company, all its creditors and the Central Bank of Kuwait of the date of the specified session in a registered letter with an acknowledgment of receipt.

The session date shall be announced on the electronic website pertaining to the Ministry of Justice.

Article (48)

In the event a judgment is rendered in the merits of the request endorsing the restructuring plan, the stay of all judicial and executive actions shall continue until the completion of the execution of the restructuring plan according to its time schedule.

However, in the event the stay of these actions is cancelled based on a judgment issued with regard to a grievance against their stay in accordance with Article (41) of these by-laws, all the judicial and executive actions shall stay based on the judgment rendered endorsing the plan.

Article (49)

In the event a judgment is rendered rejecting the restructuring, the stay of the judicial and executive actions shall be deemed as expired and the actions shall resume their natural course. In all cases, the company shall notify all its creditors about the judgment rendered in the request. Moreover, an announcement shall be made on the electronic website of the Ministry of Justice and the judgment shall be published in the Official gazette.

Article (50)

The Central Bank of Kuwait shall monitor the company's execution of the restructuring plan and the extent of its compliance with the time schedule specified for this plan.

The company shall commit to submit the data and the information requested by the Central Bank within the frame of the follow-up of the plan execution provided that all the submitted data in this regard is audited by the certified auditors.

Article (51)

In the event the company does not comply with the execution of the elements of the restructuring plan or with the specified time

schedule, the Central Bank of Kuwait shall present the situation to the competent department in order to look into rendering a judgment to the effect of the plan being null and void while notifying the company of the same.

The Chief Judge of the competent department shall specify a session for looking into the matter. The Clerks Department at the Court of Appeal shall notify the concerned company and the Central Bank of Kuwait of the specified date of the session by means of a registered letter with an acknowledgment of receipt. In the event a judgment is rendered deeming the plan null and void, the stay of all judicial and executive actions shall be cancelled and every interested party shall take the actions accordingly.

The Clerks Department at the Court of Appeal shall notify all the creditors and circulate to all the competent judicial authorities. It shall also publish it in the Official Gazette and announce it on the electronic website of the Ministry of Justice.

Fourth Section

Specific Purpose Company

Article (52)

The authorities and institutions, that are subject to the supervision of specialized ministers and whose incorporation laws permit so, may establish one or more specific purpose companies with their objectives being restricted to owning governmental assets or operational rights to the governmental assets owned by the aforementioned authorities or institutions which may be disposed of according to the prevalent laws and securitized by issuing sukuk according to the applicable versions of contracts and in accordance with the ordinances of Islamic Sharia.

Article (53)

At the Ministry of Commerce and Industry, a special register shall be set up in which the specific purpose companies shall be recorded. The Ministry shall specify the data to be contained in this register and the recording system therein.

Article (54)

The specific purpose company shall be established upon a resolution promulgated by the Minister of Commerce and Industry based on a request by the authority or the institution establishing the company provided that it comprises the following:

- 1- The company's name.
- 2- The company's articles of association inclusive of the objective for which the company is established.
- 3- The capital amount alongwith an acknowledgment indicating that it is paid in full.
- 4- The term of the company.
- 5- An acknowledgment that the administrative and accounting systems required for carrying out the activity have been made readily accessible. This kind of company shall be subject to the provisions of the Commercial Companies Law in whatever is not provided for in the decree by law or in this bylaw.

Article (55)

The specific purpose company shall acquire a corporate personality from the issuance date of the resolution of the Minister of Commerce and Industry establishing and registering it in the commercial register and publishing the indicated resolution in the Official Gazette.

Article (56)

The management of the specific purpose company and that of the governmental assets referred to in Article (52) may be assigned to a specialized professional entity.

Article (57)

The specific purpose company shall, in the domain of protecting the operations of sukuk issuance, observe the relevant provisions in the executive by-laws of the decree by Law Number 31 of year 1990 with regard to regulating the trading of financial securities and the establishment of investment funds and its amendments.

Fifth Section General Provisions

Article (58)

The State general reserve shall make available the financial credits required for the purposes of implementing the provisions of the decree by law. This includes the expenses of studies and consulting services that are required by the implementation of the provisions of the decree by law.

An account shall be opened for this purpose at the Central Bank of Kuwait where the sums required to cover the actual expenses shall be deposited, this based on a notification by the Central Bank of Kuwait to the Ministry of Finance.

Article (59)

The Ministry of Commerce and Industry shall prepare a form for the acknowledgment of financial actions, transactions and the likes that have been carried out between the beneficiary authorities and the

members of the boards of directors, the major shareholders therein, all the members of the main executive body, their spouses and their first kin relatives and which have been concluded since 1/1/2008 and are provided for in Article Number (30) of the decree by law.

The beneficiary authorities shall obtain the acknowledgment form from the Ministry of Commerce and Industry, submit it to the Ministry following its completion within three months from the date of requesting to benefit from the decree by law and follow up the filing of this acknowledgment every six months according to Article Number (30) of the decree by law. The Ministry of Commerce and Industry shall notify the Central Bank of Kuwait immediately upon its receiving these acknowledgments.

The Ministry of Commerce and Industry shall set down the mechanism whereby the contents of this acknowledgment could be verified.

Form Number (1)
Guarantee Document for the Deficit in specific Reserves
Required to Be Set up against the Credit Facilities /
Funding Operations Portfolio

Based on the provisions of the First Section of the decree by Law Number (2) of the year 2009 with regard to reinforcing the financial stability in the State and in light of the financial data for the period ending on -/-/-- audited by the certified auditors and submitted to the Central Bank of Kuwait on -/-/-- and the letter from --- bank dated -/-/-- in this regard, the Central Bank of Kuwait shall – on behalf of the

State – guarantee the amount of the deficit in the specific reserves required to be set up against the credit facilities / funding operations portfolio existent at --- bank as of -/-/-- with a total value amounting to (K.D. --).

This guarantee shall be for a period not exceeding fifteen years from the date thereof and its value shall be adjusted on a quarterly basis in harmony with the changes that occur in the deficit in the requested reserves with regard to the credit facilities / funding operations portfolio up to 31/12/2011.

The guarantee value shall be reduced annually by a rate of no less than 8% from the total outstanding deficit value as of 31/12/2011 provided that the annual reduction begins to be effective from that date and within the frame of the endorsement by the Central Bank of Kuwait of the bank's closing financial data.

As a precondition for the validity of this guarantee, the --- bank shall commit to undertake all the actions and conditions stipulated in the provisions of the First Section of the decree by Law Number (2) of the year 2009 with regard to reinforcing the financial stability in the State and its executive by-laws.

The guarantee issuance commission shall be calculated on the outstanding guarantee balance as of the end of every year at a rate determined by the Central Bank of Kuwait so as not to exceed 1% per annum annually provided that the commission value is placed for the account of Kuwait Investment Authority at the Central Bank of Kuwait no later than three work days following the endorsement by the Central Bank of Kuwait upon the bank's closing data.

Drawn on: -/-/--

For the Central Bank of Kuwait

Form Number 2

Guarantee Document for the Depreciation in the Value of the Financial Investments Portfolio

Based on the provisions of the First Section of the decree by Law Number (2) of year 2009 with regard to reinforcing the financial stability in the State and in light of the financial data for the period ending on -/-/-- audited by the certified auditors and submitted to the Central Bank of Kuwait on -/-/-- and the letter from --- bank dated -/-/-- in this regard, the Central Bank of Kuwait shall – on behalf of the State – guarantee the depreciation in the value of the financial investments portfolio existent at --- bank as of -/-/-- at a total value amounting to (K.D. --).

This guarantee shall be for a period not exceeding fifteen years from the date thereof and its value shall be adjusted on a quarterly basis in harmony with the changes that occur in the declined in the value of the financial investments up to 31/12/2011.

The guarantee value shall be reduced annually by a rate of no less than 8% of the total outstanding deficit value as of 31/12/2011 provided that the annual reduction begins to be effective from that date and within the frame of the endorsement by the Central Bank upon Kuwait of the bank's closing financial data.

As a precondition for the validity of this guarantee, the --- bank shall commit to undertake all the actions and conditions stipulated in the provisions of the First Section of the decree by Law Number (2) of the year 2009 with regard to reinforcing the financial stability in the State and its executive by-laws.

The guarantee issuance commission shall be calculated on the outstanding guarantee balance as of the end of every year at a rate determined by the Central Bank of Kuwait so as not to exceed 1% per annum provided that the commission value is deposited for the account of Kuwait Investment Authority at the Central Bank of Kuwait no later than three work days following the endorsement by the Central Bank of Kuwait upon the bank's closing data.

Drawn on: -/-/--

For the Central Bank of Kuwait

Form Number (3)
Guarantee Document for the Depreciation in the Value of
the Real Estate Investments Portfolio

Based on the provisions of the First Section of the decree by Law Number (3) of the year 2009 with regard to reinforcing the financial stability in the State and in light of the financial data for the period ending on -/-/-- audited by the certified auditors and submitted to the Central Bank of Kuwait on -/-/-- and the letter from --- bank dated -/-/-- in this regard, the Central Bank of Kuwait shall – on behalf of the State – guarantee the depreciation in the value of the financial investments portfolio existent at --- bank as of -/-/-- at a total value amounting to (K.D. --).

This guarantee shall be for a period not exceeding fifteen years from the date thereof and its value shall be adjusted quarterly according to the changes that occur in the declined in the value of the financial investments up to 31/12/2011.

The guarantee value shall be reduced annually by a rate of no less than 8% from the total outstanding decline value as of 31/12/2011 provided that the annual reduction begins to be effective from that date and within the frame of the endorsement by the Central Bank of Kuwait of the bank's closing financial data. As a precondition for the validity of this guarantee, the --- bank shall commit to undertake all the actions and conditions stipulated in the provisions of the First Section of the decree by Law Number (2) of the year 2009 with regard to reinforcing the financial stability in the State and its executive bylaws.

The guarantee issuance commission shall be calculated on the outstanding guarantee balance as of the end of every year at a rate determined by the Central Bank of Kuwait so as not to exceed 1% annually provided that the commission value is placed for the account of Kuwait Investment Authority at the Central Bank of Kuwait no later than three work days following the acknowledgment by the Central Bank of Kuwait upon the bank's closing data.

Drawn on: -/-/--

For the Central Bank of Kuwait