

Council of Ministers

Resolution Number 631 of the Year 1994 Issuing the Sixth Chapter of the Executive Bylaws for Law Number (41) of Year 1993 with regard to the state purchase of some debts and collection procedures.

The Council of Ministers

- Following perusal of Law Number (41) of the year 1993 with regard to the State purchase some debts and collection procedures
- and based on the presentation of the Prime Minister's Second Deputy, the Minister of Finance and the Minister of Justice and Administrative Affairs

It has been resolved

Article One

The provisions of the Sixth Chapter of the executive by-laws of Law Number (41) of year 1993 with regard to the State purchase some debts and collection procedures, whose text is enclosed with this resolution, shall apply.

Article Two

The Ministers – each in his competence – shall enforce this resolution and apply it effective from the date of its publication in the official gazette.

**Acting Prime Minister
Sabah Al-Ahmad Al-Jaber**

**Issued on: 22 Rabie El-Awal 1415 H
Corresponding to: 29 August 1994 A.D.**

Sixth Chapter
Rules and Procedures of Pledged Asset Management in
Accordance with the Provisions of Law Number 41 of the year
1993

First Definitions

In enforcing the provisions of these by-laws, the following is meant:

1- Assets:

The pledged assets of the client that are pledged and that shall be pledged in accordance with the provisions of Law Number 41 of year 1993 and the executive by-laws against the purchased debts that are paid according to the payment methods stipulated in Article (5) of this law.

2- Manager:

The entity to which is entrusted the management of the assets, whether it is the client or any other authority.

3. Asset Management:

The work performed on the client assets for the purpose of optimizing their value, increasing the revenues entailed from them or maintaining them. The management comprises the sale operations of the assets and the use of the proceeds of the sale in purchasing new assets, also the substitution operations.

Second

The management rules and procedures apply to the assets that are in the form of cash deposits, financial securities, shares in non-shareholding companies, vacant lands, built real estate, residential apartments, equitable ownerships or any other assets, whether local

or foreign, that are pledged in accordance with the provisions of Law Number 41 of year 1993 and the executive by-laws.

Third

Asset management – according to origin – falls upon the client and it is conducted in all cases under his responsibility. The management shall apply to all the assets or part thereof. The client shall notify the bank in writing of his wish in this regard whereby he specifies the assets he wishes to manage. The managing bank may, in safeguarding the rights of the State, refuse the client's undertaking of the management provided that it notifies him of the same in writing within thirty days from the date it is notified of the client's wish.

Fourth

In the event the client wishes to have his assets managed by other parties, he shall, following the approval of the managing bank, make a power of attorney to those parties whereby he authorizes to undertake all the legal proceedings required for management operations inclusive of sale, purchase and ownership transfer procedures.

In the event the managing bank does not approve the management by the client or whoever he selects, the client shall choose another authority for the management work, this following the approval of the managing bank.

Fifth

The management may be carried out jointly by more than one party, whether the managing bank, the client or any other authority. It shall be the managing bank's responsibility to verify the manager's observance of the provisions mentioned in the asset management contract.

Sixth

In the event the asset management is entrusted to a local authority other than the managing bank and the client, its articles of association shall allow the management of the assets of others. If the managing authority is foreign, this authority authorization to manage the portfolios of others must be verified in accordance with the laws of the countries where it is present.

Seventh

The managing bank shall take the necessary precautions to preserve the rights of the State upon the client's disposal of some assets, also prior to redeeming the pledge of the assets that are managed and establishing the unified version of the management contract referred to in Clause Fifteen, the procedures and arrangements that realize this purpose.

Eighth

The manager shall safeguard the managed assets from destruction, loss, theft and other risks while undertaking the appropriate insurance thereon.

Ninth

The manager may not, without the approval of the managing bank, pledge the assets he is managing in the interest of others or entail

any rights thereupon. In all cases, all that is necessary shall be undertaken in order to preserve the rights of the State and the client.

Tenth

The manager may substitute foreign assets with local assets, but he may not replace local assets with foreign assets.

Eleventh

The manager shall, to the extent it is possible, achieve a balance between increasing the revenue generated by the assets and the risks associated thereto and it shall also improve the quality of the assets and observe the extent of ease in the disposal thereof.

Twelfth

The managing bank shall keep the documents and registers pertaining to asset management and which reflect the outcome of the management so as to learn the status of the managed assets and it shall provide the data requested by the Central Bank.

Thirteenth

The managing bank shall on an annual basis and in line with the due dates of the annual installments of the scheduling, evaluate the managed assets regardless of who the manager is provided that the applicable practices are observed in the valuation, namely:

- a. With regard to built real estate, vacant lands, commercial shops, shares in local real estate funds, residential apartments and equitable ownerships, the valuation shall be undertaken by one of the competent authorities specified by the managing bank.

- b. The value of the shares, bonds, parts or units in investment funds listed in the stock exchange shall be determined according to their announced prices on the date the valuation is conducted.
- c. The value of the unlisted shares and bonds and the parts in the non-shareholding companies shall be determined according to recent financial data. In the event it is difficult to obtain this data, the determination of the value shall be entrusted to any of the competent authorities or offices.
- d. With regard to other assets of a special nature such as factories, ships, equitable or franchise ownerships, they shall be transferred to competent authorities with experience in the valuation of these assets.

Fourteenth

The client shall bear the expenses and charges entailed upon the management. The flow generated by the assets shall inure to the client unless the client is required to arrange for guarantees or to compensate the shortage therein in accordance with the provisions of Clause (4) of Article (8) of Law Number 41 of the year 1993.

Fifteenth

The managing banks shall establish among them a uniform version of the asset management contract provided that the managing bank is a party in this contract regardless of the managing authority and that this contract comprises a determination of the assets being managed, the liabilities and authorities of the manager and the management fees.

The managing banks shall also coordinate among them the formulation of a uniform version of the acknowledgments required from the client and the manager, also the unification of the records and reports that are prepared in accordance with the provisions of this chapter of the by-laws.

Sixteenth

The manager shall submit a report every six months to the managing bank and the client on the results of the asset management. In the event it is evident to the managing bank that the asset management is not realizing the targets intended for it or that the prices of any of the assets under his management is headed toward a decline by a rate attaining 10% annually from the last valuation conducted on the managed assets, the managing bank shall undertake the appropriate action in this regard while observing to compensate for the shortage in the value of the guarantees in accordance with the provisions of Clause (4) of Article (8) of Law Number 41 of year 1993.