

Explanatory Note on Law No. 9 of 2019 Regulating the Exchange of Credit Information¹

This project aims to enhance and develop the legislative environment for credit transactions in the State of Kuwait. The law aims to lay out a framework for companies conducting credit ratings of natural and legal persons. Classifying these companies is a practical necessity that enables all members of society to receive the required credit based on objective scientific and numerical bases. The project, therefore, included careful phrasing of the definitions included in the law in its Article (1), moving on to scope of implementation in Article (2) so that it covers the companies that would be licensed to provide credit rating services in terms of requirements for their establishment, frameworks for their handling of credit information, and individuals licensed to use the information, all under the umbrella of the Central Bank of Kuwait, which is the competent authority to supervise these companies.

The law then addressed the legal forms of companies that would be licensed to provide services such as reporting credit and credit rating in the third article. The legislator specified that such companies must be shareholding companies, and the law specified that organizing procedures and conditions for licensing and fees shall be determined in the executive bylaws, to ensure the required flexibility when it comes to conditions to license companies.

To protect customer privacy and confidentiality of individuals' information, Article (4) of the law specified the necessity of obtaining customer consent for inquiries into his/her data. The legislator set the rules to obtain such consent in the executive bylaws. To enable the licensed companies to be informed of their credit ratings, the law obligated the data/information providers to provide the licensed companies with such data according to article (5). Along the same lines and to protect individuals' private life and privacy, Article (6) explicitly prohibited gathering of information pertaining to individuals' beliefs and opinions. To prevent abuse of the data, Article (7) explicitly prohibited use of credit data and information or exchange for any purpose not indicated in this law. The same article stressed privacy by stating that credit information is confidential in nature and no one may have access to it without customer consent.

¹ Published in the Official Gazette "Al-Kuwait Al-Youm", Edition No. 1431, 56th Year on Sunday Jumada Al-Akhira 05, 1440 H coinciding with 10/02/2019.

Article (8) addressed the form of the company, indicating that it should be a shareholding company with a capital of a minimum KD 25 million, and that the Central Bank shall issue guidelines to regulate the company's activities.

Article (9) listed the conditions that must be fulfilled by a person in the position of a board member or chief executive officer or his/her deputy/assistant. It pointed out the Central Bank's authority regarding the selection of candidates and the supervision of their performance. The article also authorized the Central Bank to demand exclusion of those who lack or lose eligibility requirements.

Article (10) specified the commitments and functions of credit information companies. The eleventh indicated that such companies are subject to Central Bank supervision and are required to comply with all regulations, guidelines, and instructions the Bank issues and grant it access and allow it to inspect all company business.

In view of the special nature of the companies licensed in line with this law and how their operations are connected to the banking sector, the law made the Central Bank responsible for supervising credit information companies, in line with what is stated in articles 11, 12 and 13. Credit information companies are also required to provide a justified reply in writing to any/all customer complaints within 15 days.

Articles 14, 15, and 16 of the law addressed the violations and penalties imposed on companies licensed by virtue of this law as well as data and information providers. To stress confidentiality of the information these companies would be dealing with, penal measures were stated to be imposed against those who obtain information without the necessary approvals and licenses and those who, in bad faith, alter data and information or violate the controls in article (7).

In conclusion, the general provisions explicitly stated that the Law No. 2 of 2001 Concerning Creation of a System for the Gathering of Information and Data on Consumer Loans and Credit Facilities Connected to Installment-Based Sales, is revoked, and allows the existing credit information companies a time extension to regularize their positions, requiring them to be listed in the register with the Central Bank.

This law comes into effect as of the date of publication of its executive bylaws, which must be issued within six months of its publication.