

Explanatory Note to the law No. (3) of 2014 amending certain provisions of the Law No. (32) of 1968 regarding Currency, Central Bank of Kuwait and Regulation of Banking Business

A legislative amendment was made by virtue of the Law No. (28) of 2004 to the provisions of Article (56) of the Law No. (32) of 1968 under Section (1) of Chapter (3) with respect to Regulation of the Banking Business.

The aforesaid law permitted the foreign banks to open branches in the State of Kuwait in response to the demand for liberation of financial services called for by the new global economic system under the new agreement of World Trade Organisation. Such permission is limited to one branch of each foreign bank in the State of Kuwait pursuant to the rules and regulations laid down by the Board of Directors of the Central Bank of Kuwait in this respect.

Thereupon, several foreign banks have been licensed to open branches in the State of Kuwait since 2004 until this date.

Upon monitoring the positive effects of the foreign bank branches in the State of Kuwait on the banking activity therein, it was revealed that such positive effects could be maximised if more than a branch for each foreign bank are permitted to open in the State of Kuwait, as such practice exists all over the world. Rationale behind the above practice is that the increasing competition between the national banks and foreign banks' branches will encourage all such banks to provide diversified and distinctive banking services at reasonable charges proportionate with those of banking services rendered by the international financial centers and raise the banking

efficiency to provide new and creative products and services. If this will be achieved in the near future, the first beneficiary will be the Kuwaiti business sector that contributes to development of the national economy and increase of its economic and social returns.

In addition, some foreign banks are willing to open representative offices for them in the State of Kuwait to study the markets and advertise the services rendered by the foreign bank but without carrying out any banking activity in Kuwait. To this end, the legislative amendment includes an additional provisions, i.e. Article (56 bis), to permit the foreign banks open representative offices and the Central Bank of Kuwait shall have the absolute discretion to approve / disapprove such applications as per the regulations set by the Board of Directors of the Central Bank of Kuwait in this respect.

Moreover, increasing presence of the foreign banks in the State of Kuwait by opening branches or permitting inauguration of representative offices thereof in the State of Kuwait in accordance with the bases and regulations laid down by the Board of Directors of the Central Bank of Kuwait will provide new opportunities for the national labor in this major business sector, i.e. banking activity. Opening representative offices for the foreign banks carrying out investment and financial activities will add to the number of the national and foreign banking units operating in Kuwait, diversify the structures of those units and form a favorable step to pave the way to establish a regional financial hub in the State of Kuwait, since the higher number and diversity of financial institutions operating in the country and the abundance of products and services they provide are among the fundamentals of the regional and international hubs. It's worth mentioning

that development of the supporting sectors and the supplementary services for establishing the financial hub and ensuring the continued development thereof shall favorably affect the various economic sectors in the country including real estate, trading and service sectors.

Based on the above, it is useful to amend, and add to, the provisions of the aforesaid Article (56/2) to permit licensing the foreign bank to open more than a branch in the state of Kuwait pursuant to the rules and regulations laid down by the Board of Directors of the Central Bank of Kuwait.

The mentioned amendment stipulates that the Central Bank of Kuwait may give exemption to the foreign bank branches or make the appropriate amendment with respect to application of certain regulatory ratios to concurrently sustain competition in the banking market between the national banks and foreign bank branches and realize the objectives of opening foreign bank branches. Exemption from application of certain regulatory ratios may be given in the light of the legal situation of the branch operating in Kuwait in terms of its obligations, which form part its head office obligations and, hence, some financial indicators of the branch are based on the financial indicators of the parent company.