

The Central Bank of Kuwait

Ministerial Resolution Regarding the Central Bank of Kuwait Supervision over Investment Companies

The Minister of Finance

Having perused the provisions of the Chapter Three of the Law No. 32 of 1968 regarding Currency, the Central Bank of Kuwait and Regulation of Banking, amended by virtue of the Law Decree No. 130 of 1977,

And based on the Resolution of the Board of Directors of the Central Bank of Kuwait,

Resolved:

Article (1)

"Investment Company" means any company whose main objectives are employment and investment of funds for its and third parties' account in the various financial and in-kind investments allowed by the Central Bank of Kuwait.

Article (2)

Financing companies may not carry out any of the banking activities such as accepting cash deposits or saving deposits, opening current accounts, opening letters of credit and the other banking activities.

Exempted from the provisions of the above paragraph the existing investment companies whose objectives include certain banking activities.

Article (3)

Investment companies may not carry out foreign exchange business for third parties. Exempted from the provisions of the above paragraph the existing investment companies whose objectives include foreign exchange business.

Article (4)

Investment companies may not represent foreign banks or foreign banking institutions in the State of Kuwait, or to carry out banking activities inside Kuwait for the account/on behalf of such banks and institutions.

In addition, investment companies may not enter into management contracts with foreign banks or foreign banking institutions.

Article (5)

Upon submitting the application for incorporation of an investment company to the Central Bank, the Central Bank verifies that there is a financial need of incorporation of the company, the company's capital is adequate to realize its objectives, the company's objectives include exercise of investment business, and there is a need for a foreign partner in case of non-Kuwaiti contribution to the company's capital.

Article (6)

A register of investment companies shall be maintained with the Central Bank of Kuwait, where the following information shall be included therein:

1. Registration number and date thereof.
2. Name of the company and its address.
3. The legal form of the company.
4. Date of incorporation.
5. Capital.
6. Reserves.
7. Names of the board members and general manager.
8. Name of the auditor.
9. Name of the foreign partners in case there are non-Kuwaiti partners in the company.
10. Branches.
11. Any other information the Central Bank of Kuwait decides to be included in the register.
12. Any amendments to the aforesaid information.

Article (7)

Registration application should be submitted to the Central Bank of Kuwait on the forms designated by the Central Bank for this purpose accompanied with an official copy of the memorandum and articles of association and all the documents supporting the information contained in the application.

Article (8)

No investment company may carry out any business unless it is registered in the Register of Investment Companies with the Central Bank of Kuwait.

The investment companies operating at the time of issuing this resolution should submit registration applications within the timeframe specified by the Central Bank.

Article (9)

An investment company should notify the Central Bank of Kuwait of any amendment it intends to make in its memorandum or articles of association.

In case the governor of the Central Bank of Kuwait initially approved the requested amendments, the necessary actions should be taken to finalize the same in accordance with the provisions of the Commercial Companies Law. Such amendment shall not be valid and effective unless a notation thereof in the Register of Investment Companies is made.

As for amendments to the other information to be included in the register and do not include any amendment to the memorandum or articles of association, it is sufficient to obtain the Central Bank of Kuwait's governor approval on the requested amendment for notation thereof in the register to be valid and effective.

Article (10)

In accordance with the provisions of Article (63) of the Central Bank of Kuwait's Law, registration entry of any investment company may be eliminated from the Register of Investment Companies in the following cases:

1. At the company's request.
2. If the company did not initiate its business within one year from the date of notifying it of the resolution of its registration.
3. If the company became bankrupt.
4. If the company is merged with another.
5. If the company ceased its activities or its financial positions are exposed to risks.

Article (11)

With observance to the provisions of the Commercial Companies Law, any investment company eliminated from the Register of Investment Companies with the Central Bank of Kuwait shall be liquidated.

Article (12)

The Board of Directors of the Central Bank of Kuwait shall lay down the rules and regulations the investment companies must comply with to ensure their creditworthiness, in particular the needed ratio of a company's own funds to its obligations towards the others.

Article (13)

The Board of Directors of the Central Bank of Kuwait may lay down rules for the bonds issued by the investment companies for its own account including the maximum limit of bonds they may issue and the interest rate on such bonds.

The Board of Directors of the Central Bank of Kuwait may also lay down the rules and regulations that govern issuance of bonds in the domestic market where the investment companies contribute to their issuance in any form for third parties' account.

Article (14)

The Board of Directors of the Central Bank of Kuwait may set for the investment companies the maximum limit of finance to a single customer, natural person or corporate body, relative to the company's own funds, and special conditions for the loans they extend.

The Board of Directors of the Central Bank of Kuwait may also establish "Center of Risk System" for the loans granted by the investment companies to others.

Article (15)

The Board of Directors of the Central Bank of Kuwait shall adopt a system for the provisions the investment companies must make against the nonperforming loans and the potential risks in their investment portfolios.

Article (16)

The Central Bank may provide the investment companies with the instructions it deems appropriate to regulate their businesses and realize the targets of the credit or cash policy adopted by the Central Bank.

Article (17)

The Central Bank shall adopt a system for inspection over the investment companies to ensure the soundness of its activity and financial positions, and correctness of the information and statements sent to the Central Bank as well as the other matters the Central Bank deems necessary to supervise them.

Article (18)

The investment companies should submit to the Central Bank the required information, statements and statistical data.

In addition, the investment companies should provide the Central Bank within three months of the financial yearend the balance sheet and profit & loss account for approval before presenting them to the general assemblies.

Article (19)

The Central Bank may ask the auditors of the investment companies to include in their annual reports the rules and methods they adopted to ensure existence of assets and approaches of valuation thereof as well as the estimation of the company's obligations towards the others.

The auditor, based on the request of the Central Bank, should sign any mathematical statements or information sent by the company he audits its accounts to the Central Bank including a proof of correctness thereof.

The auditor should highlight in his report whether the operations audited by him include any violation of the resolutions or instructions communicated to the company by the Central Bank.

Article (20)

If any investment company encountered severe financial difficulties that jeopardize the soundness of its financial positions, the Board of Directors of the Central Bank may stop the company from carrying out certain operations, or impose restrictions on the business it performs, or appoint a temporary supervisor in the company.

Article (21)

The Central Bank may impose the proper penalties as stipulated under Article (85) of the Law No. 32 of 1968 and its amendments, on any investment company that violates the provisions of its memorandum or articles of association or the instructions/resolutions the Central Bank issued to it, did not submit the required information and statements, or submitted inaccurate statements.

Article (22)

This resolution shall be published in the Official Gazette and shall come into effect from the date of its publication. Any previous resolution that contradicts herewith shall be void.

The Minister of Finance

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