

**8 - INSTRUCTIONS REGARDING BANKS' PURCHASE  
OF THEIR OWN SHARES**

- A) [Instructions No. \(2/BS/IBS/FS/IFS/ES/340/2014\) to all CBK-regulated Shareholding Companies Listed on Stock Exchange concerning their Purchase, Sale and Disposal of their Treasury/Own Shares.](#)

**THE GOVERNOR**

*Thul Qeda 27, 1435 H  
October 21, 2014*

**THE CHAIRMAN,**

**Circular No. (2/BS/IBS/FS/IFS/ES/340/2014)  
to all Companies Listed on the Stock Exchange and Subject to the Central  
Bank of Kuwait's Supervision, Regulating the Purchase, Sale and Dispose  
of their Treasury/Own Shares**

We would like to advise you that the Board of Directors of the Central Bank of Kuwait "CNK" has resolved in its meeting held on 21/10/2014 promulgation of instructions to all CBK-regulated shareholding companies listed on the Kuwait Exchange including banks, financing companies and exchange companies. The purpose of these instructions is to regulate the purchase, sale or disposal by these companies and banks of their own shares. We attach to you herewith a copy of these instructions, which should be adhered to effective from the date of their issuance, and these instructions shall supersede the foregoing instructions issued in this regard.

Yet, you are required to provide your external auditors with a copy of these instructions and coordinate with them for their implementation.

With My Best Wishes,

**The Governor  
Dr. Mohammad Y. Al-Hashel**

**Instructions No. (2/BS/IBS/FS/IFS/ES/340/2014)**  
**to all Companies Listed on the Stock Exchange and Subject**  
**to the Central Bank of Kuwait's Supervision Concerning**  
**Purchase, Sale and Disposal of their Treasury/Own Shares**

**Introduction:**

In accordance with the law No. (32) of 1986 concerning Currency, the Central Bank of Kuwait & Regulations of Banking Business and amendments thereto, the law decree No. (25) of 2012 promulgating the Companies Law and amendments thereto, and Capital Markets Authority's (CMA) instructions dated 30/12/2013 regulating purchase by the shareholding companies of their own shares (Treasury Shares) and ways of utilization and disposal thereof, excluding the CBK-regulated shareholding companies listed on Kuwait Stock Exchange from the scope of the said instructions, the following regulations shall be observed by CBK-regulated entities (regulated entities) whenever they desire to deal on their own or treasury shares.

**I. Definitions**

For implementing these Instructions, the following words and phrases shall have the meanings corresponding thereto:

<b>Treasury/own Shares</b>	: Shares of regulated entities which trade thereon by purchase, sale or disposal thereof on the KSE as per the controls set forth in these Instructions.
<b>Reserves</b>	: Optional and statutory reserves taken.
<b>Treasury Shares Reserve</b>	: Profit/loss on dealing in treasury shares.
<b>Central Bank</b>	: The Central Bank of Kuwait "CB".
<b>CMA or the Authority</b>	: Capital Markets Authority "CMA".
<b>Stock Exchange</b>	: Kuwait Stock Exchange "KSE".
<b>Regulated Entities</b>	: Shareholding companies listed on the KSE and subject to the Central Bank of Kuwait supervision, i.e. banks, financing companies and exchange companies.
<b>Quarterly Financial Periods</b>	: Each three Gregorian months ending on 31/3, 30/6 , 30/9 and 31/12 of each year

**II. Scope of Application**

These Instructions shall apply to all shareholding companies listed on the KSE and subject to the supervision of the Central Bank of Kuwait.

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**8- INSTRUCTIONS ISSUED IN CONNECTION WITH PURCHASE BY BANKS OF THEIR OWN SHARES.**

A) Instructions No. (2/BS/IBS/FS/IFS/ES/340/2014) to all Companies Listed on the Stock Exchange and Subject to the Supervision of the Central Bank of Kuwait concerning Purchase, Sale and Disposal of their Treasury/Own Shares.

### **III. Procedures and Controls for Obtaining the Central Bank's Prior Approval On Dealings by the Companies Subject to Supervision on their Own/ Treasury Shares;**

1. The purchase by the Company, sale or disposal of its own/ treasury shares must be permitted under its articles or memorandum of association. A resolution from the shareholders' general assembly must be issued authorizing the board of directors to purchase or sell treasury shares not exceeding 10% of the issued and paid up capital, provided that the validity of such authorization shall not exceed eighteen months.
2. Regulated entities which desire to purchase, sell or dispose of their shares in the framework of these instructions shall submit an application to the Central Bank including the following details:
  - Number of shares intended to be purchased, sold or disposed of;
  - Identification of the funding sources that shall be used in the purchase, as per the latest approved financial statements of that entity, provided the period lapsed since the issuance of such financial statements shall not exceed six calendar months;
  - Justifications and purposes of exercising the right of purchasing the shares and the impact of such purchase on the financial position;
  - The resultant impact on the capital adequacy and liquidity ratios for banks as per applicable instructions;
  - A statement, to be provided at the date of submittal of the application showing the number of shares purchased, sold or disposed of (on consolidation level) during the validity of the previous approval of the Central Bank, if any.
  - The period expected for sale of purchased shares within the Central Bank's approval.

### **IV. Follow-Up of the Approvals and Use thereof Regulated Entities shall have to Comply with the Following:**

1. The Central Bank approval issued for any regulated entity in this regard shall be valid for a maximum period of six months from the date of notifying the regulated entity of such approval.

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2. Present a quarterly statement showing the number and value of shares purchased, sold or disposed of as per the attached form (on consolidation level), within a maximum period of 10 business days from the end of the underlying financial period for which the statement is prepared.
3. The regulated entity may not trade on the shares subject of these controls in case of expiry of the Central Bank's approval.
4. Regulated entities are not allowed to trade on their shares subject of these instructions before 10 days as of the end of the quarterly periods and until approval by the Central Bank on the financial statements is obtained and disclosed at the Kuwait Stock Exchange (KSE).
5. Following the obtaining of the Central Bank approval, the regulated entity shall carry out the procedures for disclosure at the KSE and shall comply with any other controls and instructions binding on the regulated entity.
6. Regulated entity shall observe avoidance of conflict of interests and abuse of internal information upon trading on their shares.

## **V. Utilization of Treasury Shares**

### **Treasury shares governed by the said controls and conditions shall be utilized for the following purposes:**

1. Maintain the stability of the share price of the regulated entity.
2. Reduce the paid-up capital of the regulated entity.
3. Collection of debt outstanding on third parties by the regulated entity against these shares without prejudice to the provisions of article 66/C of the Law No. 32/1968 as amended.
4. Repayment of outstanding debt on the regulated entity in favor of third parties.
5. Distribution of shares to shareholders, provided that the outcome of the use of these shares shall not result in capital increase or increase in the volume of issued shares, following a resolution of the shareholders general assembly meeting approving the same in accordance with the regulating rules as approved by the general assembly.
6. Swap transactions in cases of acquisition or complete merger of the company after obtaining the Central Bank's prior approval.

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7. The regulated entity may sell or grant all or part of its own shares to its employees under the Staff Stock Option Plan subject to approval of the general assembly and in accordance with the rules regulating the same as approved by the general assembly and according to the rules of transfer of title applicable at KSE.
8. Any other cases as stipulated by the relevant laws, ministerial resolutions or defined by the Central Bank in future.

**VI. Conditions to be Satisfied by the Regulated Entity during the Period in which it Owns a Part of its Treasury Shares:**

1. The regulated entity (on the level of the parent company and subsidiaries) may purchase or sell not more than 10% of its paid-up and issued capital shares, provided that the total amounts utilized in financing the same shall not exceed the total reserves (optional and statutory), profits carried forward and share premium, following obtaining a prior written approval from the Central Bank.
2. Capital of the regulated entity shall not be used as a source for financing the transaction to purchase its shares.
3. Treasury shares shall not be included in the shares of the regulated entity for the purpose of all matters pertaining to calculating the quorum necessary for voting on resolutions in the general assembly as well as the treasury shares owned by subsidiaries of the parent company.
4. In case of increasing the capital of the regulated entity through the issue of bonus shares, the regulated entity shall have the same rights on these shares pertaining to other shareholders.
5. In event of increasing the capital of the regulated entity through issuing new shares for subscription, the regulated entity shall not exercise the priority right for subscription resulting from its ownership of the shares. As an exception from this limitation, the general assembly of the regulated entity may approve the sale or waiver of its priority right for subscription through the Kuwait Stock Exchange.
6. Treasury shares may never be mortgaged.
7. Treasury shares may not be traded over-the-counter except for the Staff Stock Purchase Option Plan; provided that the applicable rules for the transfer of title would be observed.
8. Treasury shares may not be traded through investment portfolios managed in favor of the regulated entity.

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9. Bonds/sukuk convertible into shares issued by the regulated entity and listed in the records of subsidiaries must be disclosed in the quarterly statement that shows the number and value of the treasury shares to be purchased or disposed of (on consolidation level). In case bonds/sukuk are converted into shares, these bonds/sukuk and treasury shares should not exceed 10% of the issued and paid-up capital of the regulated entity, (parent company).

## **VII. Disclosures in the Financial Statements and the Accounting Treatment:**

### **1. Accounting Treatment:**

- Comply with the requirements of the International Accounting Standards (IAS), the International Financial Reporting Standards (IFRS) in connections with accounting for all treasury shares transactions and the method of presentation and disclosure thereof in the financial statements.
- An amount of the optional and statutory reserves, profits carried forward and share premium, equal to the cost of treasury shares shall be retained and deemed as non-distributable throughout the period of acquisition of the treasury shares. This retained amount shall be used (as per the foregoing order) to meet any losses that may result from selling these shares without detriment to the capital or the business results.
- An account named “Treasury Shares Reserve” shall be created under the item of shareholders’ equities. Treasury shares reserve shall be non-distributable. This account shall be credited and debited with profits and losses resulting from the sale of treasury shares in proportion with its credit balance.
- Any losses (resulting from the sale of treasury shares) exceeding the balance of treasury shares reserve shall be charged to the profits carried forward account, then the reserves, then the share premium, respectively. In event any profits realized afterwards, a part thereof equal to the losses charged to the said accounts shall be deducted and re-credited to these accounts in the following order (share premium, reserves, then profits carried forward) and the remaining profits shall be credited to the treasury shares reserve account.

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- The regulated entity may transfer the credit balance in the treasury shares reserve account to the reserves account (the optional or the statutory reserve) in case of liquidation of treasury shares balance and profits are realized, subject to obtaining a prior written approval from the Central Bank in this regard.
- No cash dividends shall be paid on treasury shares recorded in the books.
- The value of bonus shares shall not be added to the cost of purchase of the treasury shares listed in books at the time of approving the dividends. The number of treasury shares shall be adjusted with the number of bonus shares that have been obtained, thereby resulting in the reduction of the average purchase cost of such shares.

## **2. Minimum Requirements to be Disclosed in the Notes to the financial Statements:**

- The number of purchased treasury shares, cost of purchase and the market value as at the date of preparing the financial statements.
- The balance of the treasury shares reserve included under shareholders' equities;
- Ratio of treasury shares to total shares issued.
- Weighted average of the market value of shares during the latest fiscal period.
- The retained/blocked portion of optional and statutory reserves taken, profits carried forward and share premium equal, to the cost of treasury shares purchased, along with confirmation that such retained/blocked portion is non-distributable.
- The rules approved by the general assembly that regulate the Staff Stock Purchase Option Plan, if any.
- In case of using the treasury shares for decreasing share capital, the regulated entity shall obtain the Central Bank's prior approval after presenting a standalone study for that purpose. The share capital shall be decreased by the nominal value of shares utilized for reduction.

## **VIII. These Instructions shall be put into force from the date of their issuance and shall supersede all previous instructions in this regard.**

21/10/2014

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**Statement of Sales and Purchases of Treasury Shares of the Shareholding Companies Listed  
On Stock Exchange and Subject to the Supervision  
of the Central Bank of Kuwait) During the Period from / / to / /**

Bank/Company:

No. of Shares of the Bank's/Company's Issued Capital:

No. of Shares accounting for 10% of the issued capital:

Ratio of purchased shares to gross issued shares:

Date of approval of purchasing or selling treasury shares:

Date of approval expiry:

Value in KD 000's

Funding sources available as at / /		Purchase Transactions		Issue of Bonus shares (2)	Sale Transactions			Balance of shares purchased			Increase/decrease in treasury shares other than sales and purchases
		Date of Purchasing	(1) Shares purchased		Date of sale	Shares sold (3)		Profit (loss)	Count of Shares (1a+2-3a)	Market value of shares purchased	
Item	Value		Count (a)	Value (b)		Count (a)	Value (b)				
Share premium		Opening Balance									
Voluntary reserve											
Statutory reserve											
Retained earnings											
<b>Total</b>		Closing Balance									

\* The statement should be accompanied by justifications of the purchase or sale in case approval or extension of time is sought.

\* The statement should be accompanied by a copy of the minutes of shareholders' General Assembly Meeting including the authorization accorded to the Board of Directors for purchasing or selling treasury shares in case approval or extension of time is sought.