

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

- A) [Circular To All Local Banks concerning Executive Procedures For Law Decree No. \(2\) of the year 2009 On Enhancing the State's Financial Stability.](#)
- B) [Circular No. \(2/BS/IBS/241/2009\) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. \(2\) of the year 2009.](#)
- C) [Circular to all Local Banks Regarding the Application of the Provisions of the Law Decree No. \(2\) of the year 2009 on enhancement of state financial stability, and its executive procedures.](#)

THE GOVERNOR

*Rabi Al-Akhir 14, 1430 H
April 9, 2009*

THE CHAIRMAN,

Circular to All Local Banks

On the occasion of issuing Law Decree No. 2 of the year 2009 regarding the Enhancement of the State's Financial Stability, which was published in the Official Gazette (Kuwait Alyoum) in the supplement to Issue No. 916 dated 1/4/2009.

Attached is the executive procedures document for the mentioned Law decree, which was ratified by the Cabinet on 2/4/2009, and which will be in effect from the date of its issuance.

With my best wishes,

SALEM ABDUL AZIZ AL-SABAH

**Executive Procedures
For Law Decree No. 2 of the year 2009
On Enhancing the State's Financial Stability**

Introductory Part

Definitions

Article 1

In applying the provisions of this Law Decree, the following words and phrases shall have the meanings provided against each:

1. **Banks:** The Kuwaiti banks registered with the Central Bank of Kuwait.
2. **Local Banks:** The Kuwaiti banks and branches of foreign banks registered with the Central Bank of Kuwait.
3. **Companies:** Investment Companies registered with the Central Bank of Kuwait.
4. **Deficit in Specific Provisions:** The amount of difference between the amounts charged to the business results of any bank to meet the risk of non-collection of debts, as specific provisions made for this purpose, and the provisions required in accordance with the instructions issued by the Central Bank of Kuwait.
5. **Classification Categories of the Financial Investments Portfolio:** In accordance with International Accounting Standards, the financial investments portfolio shall be classified into categories, each having an accounting policy that should be followed.
6. **Productive Local Business Economic Sectors:** The productive local private sector business activities, representing: oil and gas, agriculture and fisheries, industrial, construction (construction and contracting), commercial and trading, services (including telecommunications, transportation, crafts, etc.), as classified under the Central Bank of Kuwait's instructions regarding definition of economic sectors.

7. **The Manager Bank:** The Kuwaiti bank with the largest portion of the company's debt to banks, or any other bank to be specified by the Central Bank of Kuwait.
8. **Beneficiaries:** The Kuwaiti banks to whom the guarantee document is issued in accordance with the provisions of Part I of the Law Decree, and the investment companies that enjoy net worth, and to whom the provisions of Chapter 1 of Part 3 of the Law Decree apply.

**Part 1
Banks**

Chapter 1

**Guaranteeing the Deficit in the Provisions for Credit Facilities and Finance
And Guarantee of Impairment of Financial and Real Estate
Investment Portfolios**

Article 2

Upon specifying the state guarantee of the deficit in the specific provisions, which must be made against the credit facilities and finance portfolio outstanding with banks, the following should be considered:

- A. Deficit in specific provisions shall be computed as relevant to the balances of the credit facilities and finance outstanding with the bank's records as at 31/12/2008. Specific provisions required shall be computed in accordance with the Central Bank of Kuwait's instructions concerning the rules and regulations for classification of the credit facilities and financing transactions, and the calculation of the provisions thereof.
- B. An independent accounting record shall be prepared, including the balances of the credit facilities and finance outstanding in the bank's records as at 31/12/2008, specifying the relevant collaterals submitted by customers, provisions made by the bank, returns retained in suspense accounts, as well as the deferred income from the financing transactions provided by Islamic banks.

Banks shall provide statements of classification of these balances in accordance with the Central Bank of Kuwait's instructions concerning the rules and regulations for classifying the credit facilities and financing transactions, and calculation of the provisions thereof, provided that such statements shall be audited, and accompanied with a certificate from the auditors.

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- C. An assessment should be made for the collaterals submitted against the classified debt. In this context, assessment of the real estate collaterals should be made at least on an annual basis, during the last quarter of the financial year. Assessment should be made by two neutral parties specialized in this field, one of them should be Kuwait Finance House or Kuwait International Bank for local real estate properties, and the lower valuation shall be considered. Financial investments should be assessed on a quarterly basis, at the end of: March, June, September, and December, in accordance with the prescribed principles under the International Accounting Standards, and the recognized banking practices.
- D. Amount of state guarantee shall be specified on a quarterly basis, at the end of: March, June, September, and December, for the amount of deficit not covered by the bank, after the use of profit, and any item of shareholders' equity, as decided by the Central Bank of Kuwait. The guarantee shall be issued in documents under Forms 1, 2, and 3 attached to these executive procedures.
- E. Each bank shall make the necessary provisions to reduce the size of deficit.

Article 3

Banks should use a unified system to monitor the credit facilities and finance, outstanding in the bank's records as at 31/12/2008, as the state guarantees the amount of deficit in their provisions, and should take all measures necessary to collect the debt.

Article 4

State guarantee shall be given to the extent of decline that may take place in the balances of the financial investments portfolio and the balances of the real estate investment portfolio, outstanding in the banks' records as at 31/12/2008. Decline in the financial investments portfolio shall be computed for each category of their classification. Decline in the real estate investment portfolio shall be computed in accordance with International Accounting Standards. The provisions made against those investments up to that date shall be excluded, and the relevant reserves taken for evaluation as "positive", as taken under the shareholders' equity, shall be used.

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Balances of financial investment and real estate investments, outstanding as at 31/12/2008, shall be segregated in independent accounting statistical records. The Central Bank of Kuwait shall specify the proper approach for monitoring the developments in both portfolios, and the statements to be submitted by banks to the Central Bank of Kuwait in this respect. All statements submitted by banks should be audited and accompanied with a certificate from the auditors. Upon specifying the state guarantee of such decline, the following should be considered:

- A. Both portfolios should be assessed in accordance with international standards and instructions issued by the Central Bank of Kuwait, subject to the provisions of Article (2.C) of these executive procedures.
- B. State guarantee shall be specified on a quarterly basis (at the end of: March, June, September, and December), to the extent of impairment of the financial investments and real estate investment portfolios, which is not covered by the bank after the use of profit or any item of shareholders' equity, as decided by the Central Bank of Kuwait.

Article 5

the Central Bank of Kuwait shall set up the controls and terms to be complied with when any bank disposes of the components of the financial investments and real estate investment portfolios, included in the state guarantee. In this respect, the following should be adhered to:

- A. Reducing the value of state guarantee to the extent of profit realized as a result of selling any components of both portfolios.
- B. The bank shall bear the losses arising from the sale of any components of either portfolio.

Article 6

The amount of deficit or decline guaranteed by the state shall be amended periodically, at the end of quarters of 2009, 1010, and 2011, according to the changes in the amount of deficit in the specific provisions for the credit facilities and finance, and the amount of impairment in the financial and real estate investments, as decided by the Central Bank of Kuwait.

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The period of state guarantee of the deficit in the specified provisions and the impairment of the financial investments and real estate portfolios shall not exceed fifteen years from the date of issuance of the guarantee. The amount of guarantee shall not exceed the amount of deficit or decline as at the end of 31/12/2008. Guarantee shall be reduced to the extent of improvement in the deficit or decline during the remaining period of guarantee, subject to the provisions of Article 7, Chapter 2.

Chapter 2 Issuance and Terms of Guarantee

Article 7

the Central Bank of Kuwait shall issue the guarantee document of each bank, and shall set up the mechanism by which the changes to the value of guarantee shall take place. In this context, the following should be considered:

- A. Periodical amendment of the value of guarantee, on a quarterly basis, to the extent of changes to the amount of deficit in the specific provisions of the credit facilities and finance portfolio, and the mount of decline in the value of financial and real estate investment portfolios. The amount of guarantee shall not exceed the amount of such deficit and decline, existing with the bank as at 31/12/2008, and up to the end of the guarantee period.
- B. The amount of guarantee shall be reduced annually at the rate to be specified by the Central Bank of Kuwait, but no less than 8% per annum of the total value of the guarantee existing as at 31/12/2008. Annual reduction shall commence with effect from this date, and within the framework of the Central Bank of Kuwait's approval of the bank's financial statements.

Article 8

Commission on the issuance of the guarantee shall be computed against the administrative costs on the outstanding balance of guarantee as at the end of each year, at a rate to be specified by the Central Bank of Kuwait, but not exceeding 1% per annum.

The amount of commission shall be paid to an account to be opened with the Central Bank of Kuwait in the name of Kuwait Investment Authority (KIA), no later than three working days after the Central Bank of Kuwait's approval of the financial statements of each bank.

Article 9

The Central Bank of Kuwait shall establish a system for monitoring the guarantee issued for each bank. Banks should submit the statements required by the Central Bank of Kuwait in this respect.

The Central Bank of Kuwait may cancel the guarantee issued to any bank during its validity, if, it notices that such guarantee is no longer required, in light of the changes that take place in the provisions against the credit facilities and finance, and the impairment of the financial and real estate investment portfolios, according to the financial status of each bank.

Chapter 3

Requirements of Rectification of Banks' Conditions

Article 10

If the Central Bank of Kuwait, or any bank, deems that there is a need for capital increase to meet the requirements of its financial condition, the bank should take actions towards capital increase within the timeframe to be specified by the Central Bank of Kuwait, in accordance with the provisions of the Commercial Companies Law.

Article 11

In the event that the bank is unable to accomplish the required capital increase, as stated in the preceding article, the bank may issue bonds bound to be converted into shares, or convertible bonds, or issue preferred shares, wherein the priority of subscription shall be given to the bank's shareholders. KIA may subscribe to bonds and shares, wherein the right of priority is not used.

In the event that they are unable to accomplish the required capital increase, Islamic banks may issue other Islamic Shari'a-compliant financial instruments, to be approved by the Central Bank of Kuwait, to support their shareholders' equity. Priority of subscription to such instruments shall be given to the bank's shareholders. KIA may subscribe to the portion wherein the right of priority is not used.

Article 12

For the issuance of bonds bound to be converted into shares, or convertible bonds, the Articles of Association must be amended to allow the bank to do so. A decision regarding the issuance of such bonds shall be issued by the competent general assembly, covering the terms of issuance for such bonds.

Terms of issuance of such bonds shall include the period to be specified by the bank for conversion into shares, and the conversion rate, upon the approval of KIA prior to presentation to the competent general assembly. Conversion into shares may have specific prescribed privileges.

the Central Bank of Kuwait may license any bank to issue bonds bound to be converted into shares, or convertible bonds, for a value exceeding its capital.

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Article 13

The bank's extraordinary general assembly may decide certain privileges for the preferred shares issued by the bank, during the voting, in the profit, or the result of liquidation.

Terms of issuance of the preferred shares should stipulate that the rights, benefits, or restrictions relating thereto, may be amended in accordance with the provisions of Article 15 of these executive procedures.

Banks should amend their articles of association by including the terms and rules of preferred shares, type and limits of preference prescribed for them.

Article 14

The bank's articles of association may stipulate the extent of priority rights of old shareholders to subscribe to the rights issue, for which certain privileges are prescribed. Such right shall be exclusively limited to certain shareholders.

During the period of subscription to the increase, the right of priority to subscribe may be negotiated, whether separately or along with original underlying shares.

By resolution from the extraordinary general assembly, the rights issue shares may be offered, in whole or in part, for public subscription, directly without enforcing the priority rights of old shareholders, if prescribed under the bank's articles of association.

Article 15

Rights, privileges, or restrictions relating to the preferred shares may be amended only under resolution by the extraordinary general assembly, and upon the approval of a special assembly, comprising holders of shares to which such amendment is related, with the majority of votes that own the capital covered by those shares.

Invitation shall be made for such special assembly in accordance with the provisions relating to the invitation of the extraordinary general assembly, stated in the Commercial Companies Law.

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Article 16

The bank who wishes to benefit from the provisions of this Part should present the terms and procedures, stated with regard to guaranteeing the deficit in the provisions and the impairment of the financial and real estate investment portfolios, to the ordinary general assembly, to obtain its prior approval to execute the procedures and terms prescribed by the Central Bank of Kuwait in this respect, as well as to reduce administrative and general expenses, and the financial allocations for the top management, and the executive management, including remuneration, bonuses, etc., as decided by the Central Bank of Kuwait.

The bank should also obtain prior approval – in principle – from the extraordinary general assembly, to enter into a merger, if the bank's situation so requires. Terms and all information regarding the merger should be presented to the extraordinary general assembly to obtain its final approval in accordance with the provisions of the Commercial Companies Law.

Part 2
Productive Local Business Sectors

Chapter 1
Controls for Granting New Finance

Article 17

A system shall be initiated at the Central Bank of Kuwait for registration of the data relating to the new finance, which is locally used, and provided by local banks, during the years 2009 and 2010, to the private sector customers of all local productive business sectors.

the Central Bank of Kuwait may specify the share of each bank of the maximum finance, of KD 4 billion, during the above two years. The share of each bank shall be used in tiers associated with specific periods of time. When specifying the shares and tiers, as mentioned above, the following shall be used as guidance:

- The bank's market share, representing the ratio of the bank's total assets to total assets of the local banking sector.
- Average growth rate in the credit facilities and finance portfolio of the bank over the past five years.
- The bank's projections of the expected size of growth in the credit facilities and finance portfolio with it for 2009 and 2010.

In the event of failure by any bank to use the tiers prescribed for it over the specific period of time, the Central Bank of Kuwait may distribute the unutilized tiers to other banks in light of the utilization rates of the prescribed tiers.

the Central Bank of Kuwait shall set up the rules and procedures, and shall specify the data relevant to the application of this system, covering a form for each new finance to be granted, including all data relating to such finance, the results of the credit study, the decision of the credit authority regarding the size of granted finance, the collaterals, as well as the opinion of the Risk Management Department. The form shall include a declaration by the bank to comply with the terms prescribed under Article 18 of these Executive procedures.

This form shall be approved by all those in charge of granting the credit, the Risk Management Department, and the bank's Chief Executive Officer (CEO).

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Article 18

The responsibility for granting the new finance rests on the granting party, which shall consider the sound banking principles and norms, and the rules and regulations prescribed in this regard, and shall, particularly, comply with the following:

1. the Central Bank of Kuwait's instructions concerning rationalization and organization of the credit and finance policy with banks, as well as identifying the credit worthiness of the borrower customer.
2. Obtaining sufficient and appropriate collaterals, to be specified in light of the status of each customer.

Each bank shall maintain a record for the collaterals submitted by customers against the new finance granted to them. The bank should verify such collaterals, the title deed, and their value, upon granting the finance, and shall re-assess such collaterals periodically, in accordance with Article 2.C of these Executive Procedures, and shall specify the actions to be taken to meet any impairment of such collaterals.

Banks shall provide the Central Bank of Kuwait with a quarterly audited report about the developments of the collaterals, showing the changes in the value of the existing, as well as the additional collaterals. The bank shall maintain the full collaterals provided by the customer. Partial release of any of such collaterals may take place in the event of decline of the balance of finance granted to the customer to below the value of collaterals, in proportion to the extent of decline in the finance balance.

3. New finance should not be used for the purpose of speculation or trading in real estate or securities, or for repayment of customer's debt outstanding at the time of promulgation of the Law Decree. All actions should be taken to monitor the customer's utilization of this finance for the purpose for which it is granted in accordance with the agreement made with the customer, and while observing the sound banking practices in this respect.
4. The finance maturity shall be specified according to the customer's requirements, for a maximum of five years.

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5. Repayment of the principal balance of finance, and the return, together, shall be made in installments throughout the finance maturity.
6. The new finance portfolio should be diversified into the local productive business sectors in light of the applications for finance, and their feasibility.

New finance shall not be subject to the state guarantee in the event of breaching any of the above terms and obligations.

Article 19

Each bank shall set up a proper system for internal control to comply with the terms and rules referred to in the preceding article. Such system shall be assessed by the auditors and a report to this effect shall be sent to the Central Bank of Kuwait at the end of each financial year, throughout the guarantee period.

Each bank shall provide an audited quarterly report about the new finance referred to in this Part, as specified by the Central Bank of Kuwait.

Chapter 2 Terms of Guarantee

Article 20

State guarantee shall be for 50% of the new finance, referred to in the preceding article, for a maximum of KD 4 billion for the total new finance provided by all local banks during 2009 and 2010. The guarantee shall be valid throughout the maturity specified for each finance for a maximum of five years.

Article 21

Rules and regulations for classifying the credit facilities shall be applied, and their provisions and how to process the income arising thereon shall be applied in accordance with the Central Bank of Kuwait's instructions on the new finance granted by banks to the local productive business sectors, guaranteed by the state by 50%. In this respect, the following should be considered:

- A. In the event that any balances of such new finance are irregular, the bank providing the finance shall make provisions by 50% of the required provisions, in accordance with the above-mentioned instructions, for the existing balance of such finance, less the value of collaterals provided by the customer.
- B. All necessary actions should be taken to monitor the irregular customers, so as to collect the debts due from them according to the applicable procedures.
- C. If it is not possible to collect the irregular debt, after exerting all efforts towards collection, including the legal actions, the bank shall notify the Central Bank of Kuwait of the actions taken in this respect to obtain the Central Bank of Kuwait's prior consent to write off the debt.
- D. If the Central Bank of Kuwait approves writing off the debt, the state guarantee by 50% of the outstanding balance shall be specified in the bank's records, less the value of collaterals provided by the customer, interest, and returns retained in a suspense account, as well as the deferred income as for the finance transactions provided by Islamic banks, considering the provisions of Article 22 of these Executive Procedures.

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- E. Banks should continue to collect the debts written off in accordance with the applicable procedures, and should provide the Central Bank of Kuwait with a periodic report in this regard.

Article 22

The Ministry of Finance, on behalf of the State, shall issue bonds or sukuk for the value of guarantee specified under Clause 4 of the preceding article. the Central Bank of Kuwait shall monitor the balances of bonds or sukuk issued for each bank, and any developments thereon.

Maturity of such bonds and sukuk shall not exceed five years from the date of their issuance. Such bonds and sukuk shall be depreciated by the state share in any amounts to be collected from the written off debts.

On such bonds and sukuk, a return to be specified by the Central Bank of Kuwait may be paid.

Part 3
Investment Companies

Chapter 1
Classification and Study of the Conditions of Companies

Article 23

The Central Bank of Kuwait shall specify the parties specialized in studying and evaluating the conditions of investment companies, in accordance with reference controls and principles to be specified by the Central Bank of Kuwait.

Study and assessment of the conditions of the investment companies that apply to the Central Bank of Kuwait in this respect shall be entrusted to one of these parties, or the party to be specified by the company, and approved by the Central Bank of Kuwait.

Article 24

The company wishing to benefit from the provisions of this chapter shall submit an application to the Central Bank of Kuwait, including:

1. The company's financial status.
2. A detailed statement of the liabilities on the part of company to local and foreign parties.
3. The problems and difficulties facing the company in fulfilling its obligations and the actions taken by the company in this regard.
4. Specifying whether the company requests the appointment of a specialized consulting firm, or to assign the party to be specified by the Central Bank of Kuwait to do so.

Article 25

The Central Bank of Kuwait shall assign the specialized party to be specified in accordance with Article 23 to study and assess the conditions of the investment company facing financial problem, and needs treatment of its situation, so as to identify the extent of its creditworthiness and to assess its viability.

Upon identifying the company's creditworthiness, consideration should be given to the extent of sufficiency of its assets to meet repayment of its short and long-term obligations, while identifying the quality of the assets, and the company's future cash flow, through an updated assessment.

Article 26

The study to be conducted by the specialized party in relation to creditworthy viable company, shall include proposing the necessary treatment approaches, through an appropriate plan and timeframe to restructure the balance sheet and treat the company's financial condition, enabling it to fulfill its obligations and overcome its financial problems. The following should be considered:

- A. Studying the company's financial condition on the basis of updated assessment that truly reflects the value of the company's assets and obligations, so as to identify its creditworthiness, and a detailed report should be provided, giving the principles followed with regard to this assessment.
- B. Specifying the nature and reasons for the financial problems facing the company and approaches of the treating the same.
- C. Estimating the amounts required for the treatment of the company's condition, whether through finance by banks or by obtaining the support from shareholders via capital increase, or obtaining a subordinated finance from the shareholders or third parties.
- D. Identifying the assets that the company may submit as collaterals for the existing and new finance.

Article 27

In light of the findings of the report by the specialized party, resulting from the study and assessment of the real financial situation of the company, covering the proposed recommendations to treat the financial problems facing it, the Central Bank of Kuwait shall decide the appropriate actions to be taken with regard to treating the situation of the creditworthy company, in accordance with the provisions of Chapter 2 of this Part.

Chapter 2 Treatment Approaches and Controls

Article 28

The Manager Bank, which manages the company's debts in coordination with the creditor banks, shall specify the size of finance required for the company from local banks, as well as the collaterals provided by the company.

The Manager Bank shall take part in the negotiations made by the company with the creditor foreign banks and financial institutions, and other creditors, to reschedule the company's debts.

Article 29

According to the results of the agreement regarding the company's debt rescheduling, as clarified in the preceding article, the company shall submit an application to the Central Bank of Kuwait for approval of the proposed rescheduling. The application should be accompanied by the opinion of the Manager Bank, stating the amount of new finance, which the local banks agreed to provide to the company, as well as the collaterals provided by the company.

Article 30

In the event of approval by the Central Bank of Kuwait of the proposed rescheduling, the state guarantee shall be by 50% of the new finance to be obtained by the company from local banks, during 2009 and 2010, to be used for the following purposes:

- A. Settlement of the company's obligations outstanding as at 31/12/2008 to all local parties, other than local banks.
- B. Cash payment of no more than 25% of the company's debt to foreign banks and financial institutions, within the framework of rescheduling such debts for the appropriate timeframe.

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Article 31

The company shall manage the asset portfolio provided by it as collaterals for all debts outstanding to local and foreign banks prior to the promulgation of the Law Decree, as well as the new finance, granted in accordance with the provisions of the preceding article. Such assets should cover all debts referred to above. The company is banned from disposing of, or selling any of the components of such portfolio without the approval of the Manager Bank.

The company, together with the Manager Bank, shall take all necessary legal actions in this regard. The Manager Bank shall monitor the company's management of this portfolio. The company shall provide the Manager Bank with all data and information relating to the portfolio. If it notices that the company does not manage the portfolio in the required manner, the Manager Bank may entrust any other party, to be selected thereby, to manage it.

Article 32

Local banks shall apply the rules and regulations for the classification of the credit facilities and financing transactions, and shall compute their provisions with regard to the new finance granted by banks to the investment companies, in accordance with the provisions of Article 21 of these Executive Procedures. Bonds and sukuk shall be issued for the value of guarantee in case of the Central Bank of Kuwait's approval to write off any of such debts, in accordance with the provisions of Article 22 of these Executive Procedures.

Article 33

The state shall guarantee the deficit in the provisions to be made by Kuwaiti banks in the event of default by the investment companies subject to the provisions of this chapter in repaying the new finance or the finance outstanding at the time of promulgation of the Law Decree, throughout the validity of the guarantee. The rules of Part 1 of these Executive Procedures shall apply with regard to this guarantee.

Article 34

If the Central Bank of Kuwait, or any of the investment companies, sees the need for financial support by the shareholders to meet the requirements of their financial condition, the company shall proceed with the procedures for capital increase during the period of time to be specified by the Central Bank of Kuwait in accordance with the provisions of the Commercial Companies Law, or to obtain loans or subordinated finance from the shareholders, KIA, government and public institutions, which legislations so allow.

If the investment company fails to obtain the required finance form the shareholders or the aforementioned parties, it may issue bonds bound to be converted into shares, or convertible bonds, or preferred shares with priority of subscription thereto given to the company's shareholders. KIA and government and public institutions, which the legislations so allow, may subscribe to the shares and bonds for which the right of priority is not exercised.

Islamic Shari'a-compliant investment company may, in the event of failure to obtain the required finance from its shareholders or the aforementioned entities, issue other Islamic Shari'a-compliant financial instruments, to be approved by the Central Bank of Kuwait, to support the shareholders' equity. Priority of subscription thereto shall be given to the company's shareholders. KIA and the aforementioned entities may subscribe to the portion where the right of priority is not exercised.

Article 35

Provisions stated in Chapter 3 of Part 1 of these Executive Procedures shall be followed when issuing the bonds bound to be converted into shares or convertible bonds, or upon the issuance of preferred shares.

Article 36

The investment company, which condition is decided for treatment, shall present the terms and procedures stated in the Law Decree and these Executive Procedures to the general assembly for prior approval to execute the terms and procedures prescribed by the Central Bank of Kuwait in this regard, as well as reduce the administrative and general expenses, and the financial allocations for the top

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management, and the executive management, including the remunerations, bonuses, etc., as prescribed by the Central Bank of Kuwait, and shall make the changes in their technical and administrative structures as required by the procedures for treating their conditions, as approved by the Central Bank of Kuwait. Companies shall also comply with the provisions of Law No. 19 of 2000 supporting and encouraging the national manpower to work at non-government entities, and the resolutions issued in execution thereof, provided that the national manpower shall not be less than 50% of their total manpower.

The company shall also obtain prior approval – in principle – from the extraordinary general assembly to enter into a merger, if the company's condition so requires. Terms and all information regarding the merger should be presented to the extraordinary general assembly for final approval in accordance with the provisions of the Commercial Companies Law.

Chapter 3
Legal Actions
For Restructuring Investment Companies

Article 37

The general assembly of the Court of Appeal shall arrange a special circuit to hear the applications for rescheduling the investment companies. Such applications shall be heard on a summary basis.

Article 38

Investment companies facing difficulties preventing them from fulfilling their obligations or continuing their activity, may directly submit an application to the Chief Judge of the competent circuit of the Court of Appeal, for restructuring for the purpose of treating their conditions, enabling them to fulfill their obligations and continue business activity.

The company shall attach all documents supporting the application, including its financial position, list of debts, maturity dates, and a general framework for its restructuring, as well as the requirements of the plan, and the auditor's report thereon.

The Writers Department shall enter the application, upon signature by the Chief Judge of the competent circuit, and shall fulfill all prescribed procedures, as well as provide the Central Bank of Kuwait and all the company's creditors, with copy of the application, duly signed by the Chief Judge, registration number, and the effects arising there-from, by an acknowledged receipt registered letter.

Article 39

If it notices that the restructuring of an investment company may lead to treating its condition, enabling it to fulfill its obligations and continue business activity, the Central Bank of Kuwait may apply to the Chief Judge of the competent circuit of the Court of Appeal to restructure the company, notifying the company accordingly.

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In such case, the company shall submit all documents, referred to in the preceding article, to the court of competent jurisdiction, and provide the Central Bank of Kuwait with copy thereof.

The Writers Department shall enter the application, duly signed by the Chief Judge, and shall fulfill the prescribed procedures, providing the Central Bank of Kuwait and all of the company's creditors with copy of the application, registration number, and the effects arising there-from, by an acknowledged receipt registered letter.

Article 40

Following the signature by the Chief Judge of the competent circuit, accepting the application for restructuring, as well as the relevant documents, the company shall notify the Central Bank of Kuwait, and all its creditors, of the effects of stay of actions, by an acknowledged receipt registered letter, keeping the documents evidencing that the company has done so.

The Writers Department of the Court of Appeal shall circulate to all judicial parties of competent jurisdiction to stay the litigation and civil and commercial execution procedures relating to the company obligations, as well as publishing such stay in the Official Gazette. Stay of aforementioned litigation actions shall also be announced on the website of the Ministry of Justice.

Article 41

Grievances against the stay of litigation actions and civil and commercial execution procedures shall be submitted by any party of interest, with a report, to the Writers Department of the Court of Appeal, no later than fifteen days from the date of receipt of notification accepting the application for stay of actions. Grievance shall be causative. Copy of the grievance shall be deposited with the Execution Department.

Writers Department of the Court of Appeal shall schedule a session to hear the grievance before the competent circuit, and notify the Central Bank of Kuwait and other litigant parties of the contents of the grievance, and the date of session scheduled to hear it, by an acknowledged receipt registered letter.

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- A) Circular To All Local Banks concerning Executive Procedures For Law Decree No. (2) of the year 2009 On Enhancing the State's Financial Stability.

Article 42

Stay or continuance of the aforementioned legal and execution actions shall be made in accordance with a judgment rendered by the competent circuit of the Court of Appeal with regard to the submitted grievance. Its judgment shall not be subject to objection.

Writers Department of the Court of Appeal shall notify the company, and the Central Bank of Kuwait, of the judgment rendered regarding the grievance. In the event of ruling for cancelling the staying of the actions, all creditors, the judicial parties of competent jurisdiction, and the Execution Department, shall be notified accordingly.

In all cases, the judgment rendered regarding the grievance shall be announced on the web page of the Ministry of Justice.

Article 43

In notifying the Central Bank of Kuwait of the signature of the Chief Judge of the competent circuit, accepting the application, the Central Bank of Kuwait shall entrust one or more specialist consulting firms, as stated under Article 23 of these Executive Procedures, to study the financial status of the company, and identify how far it needs restructuring.

The specialist firm shall review and assess the general framework of the restructuring plan submitted by the company to the court, and all documents attached thereto, for opinion on the need for protection against creditors, so as to restructure the company. Its report shall be submitted on the dates to be specified by the Central Bank of Kuwait.

Article 44

If it is noticed that the company's restructuring is feasible, the consulting firm, in coordination with the investment company, shall study and assess the company's financial condition, and the degree of its creditworthiness, and shall specify the nature of the problems facing it, as well as propose the proper treatment

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approaches, setting up the detailed restructuring plan, as regards the size of necessary funds, sources, and requirements for reforming the technical and administrative position of the company, the timeframe required for executing the treatment plan, and the mechanism for monitoring the company's compliance with executing the prescribed procedures for the restructuring plan.

In this respect, the consulting firm shall consider the provision of Article 26 of these Executive Procedures, and the date prescribed in the preceding article.

Article 45

In light of the report by the specialist consulting firm, covering the findings of the assessment of the real financial status of the company, and the recommendations on restructuring, and the relevant timeframe, the Central Bank of Kuwait shall submit its report covering the company's restructuring plan, to the Chief Judge of the competent circuit, no later than four months from the date of signature by the Chief Judge of the circuit, accepting the application.

Article 46

the Central Bank of Kuwait may request the Chief Judge of the competent circuit to extend the deadline for submission of the report, referred to in Article 45, for a period not exceeding another four months, if it deems necessary.

Article 47

The Chief Judge of the competent circuit, upon receiving the the Central Bank of Kuwait report regarding the company's restructuring plan, shall specify a session for hearing the merits thereof.

Writers Department of the Court of Appeal shall notify the concerned company, all its creditors, and the Central Bank of Kuwait, of the date of the scheduled session, by an acknowledged receipt registered letter.

The date of the session shall be announced on the Website of the Ministry of Justice.

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- A) Circular To All Local Banks concerning Executive Procedures For Law Decree No. (2) of the year 2009 On Enhancing the State's Financial Stability.

Article 48

In the event of judgment on the merits of the application for ratification of the restructuring plan, the stay of all legal and execution actions shall continue until the execution of the restructuring plan is completed according to its timeframe.

In the event that the staying of such actions had been cancelled according to a judgment rendered regarding the grievance against the stay thereof, in accordance with Article 41 of these Executive Procedures, all legal and execution actions shall be stayed in accordance with the judgment rendered on ratifying the plan.

Article 49

In the event of judgment dismissing the application for restructuring, the stay of legal and execution actions shall be null and void, and the procedures shall be brought back to normal course.

In all cases, the company shall notify all its creditors of the judgment rendered on the application. The judgment shall be announced on the Website of the Ministry of Justice and in the Official Gazette.

Article 50

The Central Bank of Kuwait shall monitor the company's execution of the restructuring plan, and its compliance with the timeframe scheduled for this plan.

The company shall submit the data and information required by the Central Bank of Kuwait within the framework of monitoring the execution of the plan. All data submitted in this respect shall be audited.

Article 51

In the event that the company fails to comply with execution of the elements of the restructuring plan, or fails to comply with the specified timeframe, the Central Bank of Kuwait shall refer the matter to the competent circuit to consider rendering a judgment, considering the plan as null and void, notifying the company accordingly.

The Chief Judge of the competent circuit shall specify a session to hear the merits. Writers Department of the Court of Appeal shall notify the concerned company, and the Central Bank of Kuwait, of the date of the specified session, by an acknowledged receipt registered letter.

In the event of rendering a judgment considering the plan as null and void, the stay of all legal and execution actions shall be canceled, and each party of interest may adopt the necessary actions.

Writers Department of the Court of Appeal shall notify all creditors of the same, and shall circulate the same to all competent judiciary parties, as well as publish the same in the Official Gazette. Announcement shall also be made on the Website of the Ministry of Justice.

Part 4
Special Purpose Company

Article 52

Authorities and institutions subject to the supervision of the competent ministers, which incorporation legislations so allow, may establish one or more companies of special purpose, which objects are limited to owning government assets, or operating rights of the government assets, owned by the above-mentioned authorities and institutions, which, according to the laws in force, may be disposed of, or securitized, by issuing sukuk in accordance with the applicable Islamic Shari'a-compliant contract formats.

Article 53

A special register shall be initiated in the Ministry of Commerce and Industry, wherein the special purpose companies are registered. The Ministry shall specify the data contained in this register, and the system of entry therein.

Article 54

The special purpose company shall be established by a resolution of the Minister of Commerce and Industry upon the request of the authority or institution establishing the company, including:

1. Name of the company.
2. The company's articles of association, including the object of the company.
3. Amount of capital, with a declaration that the capital is fully paid-up.
4. Company duration.
5. A declaration that the administrative and accounting systems necessary for practicing the activity were prepared.

For all matters not having a special provision in the Law Decree or these Executive Procedures, this type of companies shall be subject to the provisions of the Commercial Companies Law.

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- A) Circular To All Local Banks concerning Executive Procedures For Law Decree No. (2) of the year 2009 On Enhancing the State's Financial Stability.

Article 55

The special purpose company shall acquire legal personality from the date of the issuance of the Minister of Commerce and Industry's resolution establishing and registering it in the Commercial Register, and publication of the above-mentioned resolution in the Official Gazette.

Article 56

The special purpose company, as well as the management of the government assets, referred to in Article 52, may be assigned to a specialist professional entity.

Article 57

The special purpose company, in the area of issuing sukuk, shall comply with the relevant provisions in the Executive Procedures of the Law Decree No. 31 of 1990 organizing the trading of securities and establishment the investment funds, and the amendments thereto.

Part 5
General Rules

Article 58

The financial resources necessary for the purposes of applying the rules of the Law Decree shall be provided from the state general reserve. This includes the expenses of studies and consulting services required for the application of the provisions of the Law Decree.

And the account is opened for this purpose with the Central Bank of Kuwait, it should deposit the necessary funds to meet the actual expenses, based on notification by the Central Bank of Kuwait to the Ministry of Finance.

Article 59

The Ministry of Commerce and Industry shall prepare a special declaration form regarding the financial disposals and transactions and other actions made since 1/1/2008 between the beneficiaries and the members of the board of directors and major shareholders thereof, as well as all members of the executive management, their spouses, and first-kin relatives, as stipulated under Article 30 of the Law decree.

Beneficiaries shall obtain the declaration form from the Ministry of Commerce and Industry, and shall submit it to the Ministry after completion, within three months from the date of applying as beneficiary from the Law Decree, and shall submit the declaration every six months, in accordance with Article 30 of the Law Decree. The Ministry of Commerce and Industry shall notify the Central Bank of Kuwait once it receives such declarations.

The Ministry of Commerce and Industry shall set up the mechanism for verification of the data contained in this declaration.

Form 1

Guarantee Document For Deficit in the Specific Provisions Required Against the Credit Facilities/Finance Transactions Portfolio

Pursuant to the provisions of Part 1 of Law Decree No. 2 of the year 2009, on Enhancing the State's Financial Stability, and in light of the audited financial statements for the period ended --/--/----, submitted to the Central Bank of Kuwait on --/--/----, and the letter of ----- Bank, dated --/--/--- in this respect, the Central Bank of Kuwait shall guarantee, on behalf of the state, the amount of deficit in the specific provisions required to be made against the credit facilities/financing transactions existing with ----- Bank, as at --/--/---, for a total value of KD -----.

This guarantee shall be for a period not exceeding fifteen years from its date. The amount of this guarantee shall be amended on a quarterly basis according to the changes in the amount of deficit in the required provisions for the credit facilities/financing transactions portfolio, up to 31/12/2011.

The amount of guarantee shall be reduced on an annual basis by at least 8% of the total amount of deficit existing as at 31/12/2011. Such annual reduction shall commence with effect from the said date, and within the framework of the Central Bank of Kuwait's approval of the bank's financial statements.

In order for this guarantee to be valid, ----- Bank shall take all actions and shall satisfy all terms provided for in Part 1 of the Law Decree No. 2 of the year 2009 on enhancing the state's financial stability, and its executive procedures.

Guarantee issuance commission shall be computed on the guarantee balance existing as at the end of each year, by 1% per annum. The amount of commission shall be deposited into the account of KIA with the Central Bank of Kuwait, no later than three working days from the Central Bank of Kuwait's approval of the bank's financial statements.

Date: --/--/----

For/ the Central Bank of Kuwait

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A) Circular To All Local Banks concerning Executive Procedures For Law Decree No. (2) of the year 2009 On Enhancing the State's Financial Stability.

Form 2

Guarantee Document For Impairment of Financial Investments Portfolio

Pursuant to the provisions of Part 1 of Law Decree No. 2 of the year 2009, on Enhancing the State's Financial Stability, and in light of the audited financial statements for the period ended --/--/----, submitted to the Central Bank of Kuwait on --/--/----, and the letter of ----- Bank, dated --/--/--- in this respect,

the Central Bank of Kuwait shall guarantee, on behalf of the state, the amount of impairment in the financial investments portfolio existing with ----- Bank, as at --/--/---, for a total value of KD -----.

This guarantee shall be for a period not exceeding fifteen years from its date. The amount of this guarantee shall be amended on a quarterly basis according to the changes in the amount of impairment in the value of the financial investments portfolio, up to 31/12/2011.

The amount of guarantee shall be reduced on an annual basis by at least 8% of the total amount of impairment existing as at 31/12/2011. Such annual reduction shall commence with effect from the said date, and within the framework of the Central Bank of Kuwait's approval of the bank's financial statements.

In order for this guarantee to be valid, ----- Bank shall take all actions and shall satisfy all terms provided for in Part 1 of the Law Decree No. 2 of the year 2009 on enhancing the state's financial stability, and its executive procedures.

Guarantee issuance commission shall be computed on the guarantee balance existing as at the end of each year, by 1% per annum. The amount of commission shall be deposited into the account of KIA with the Central Bank of Kuwait, no later than three working days from the Central Bank of Kuwait's approval of the bank's financial statements.

Date: --/--/----

For/ the Central Bank of Kuwait

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A) Circular To All Local Banks concerning Executive Procedures For Law Decree No. (2) of the year 2009 On Enhancing the State's Financial Stability.

Form 3
Guarantee Document
For Impairment of Real Estate Investment Portfolio

Pursuant to the provisions of Part 1 of Law Decree No. 2 of the year 2009, on Enhancing the State's Financial Stability, and in light of the audited financial statements for the period ended --/--/----, submitted to the Central Bank of Kuwait on --/--/----, and the letter of ----- Bank, dated --/--/--- in this respect,

the Central Bank of Kuwait shall guarantee, on behalf of the state, the amount of impairment in the real estate investments portfolio existing with ----- Bank, as at --/--/---, for a total value of KD -----.

This guarantee shall be for a period not exceeding fifteen years from its date. The amount of this guarantee shall be amended on a quarterly basis according to the changes in the amount of deficit in the value of the real estate investment portfolio up to 31/12/2011.

The amount of guarantee shall be reduced on an annual basis by at least 8% of the total amount of impairment existing as at 31/12/2011. Such annual reduction shall commence with effect from the said date, and within the framework of the Central Bank of Kuwait's approval of the bank's financial statements.

In order for this guarantee to be valid, ----- Bank shall take all actions and shall satisfy all terms provided for in Part 1 of the Law Decree No. 2 of the year 2009 on enhancing the state's financial stability, and its executive procedures.

Guarantee issuance commission shall be computed on the guarantee balance existing as at the end of each year, by 1% per annum. The amount of commission shall be deposited into the account of KIA with the Central Bank of Kuwait, no later than three working days from the Central Bank of Kuwait's approval of the bank's financial statements.

Date: --/--/----

For/ the Central Bank of Kuwait

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

A) Circular To All Local Banks concerning Executive Procedures For Law Decree No. (2) of the year 2009 On Enhancing the State's Financial Stability.

THE GOVERNOR

*Rabi Al-Akhir 14, 1430 H
April 9, 2009*

THE CHAIRMAN,

**Circular No. (2/BS/IBS/241/2009) to all local banks
Regarding Credit Facilities/Finance granted to local productive business
sectors In accordance with Part 2 of Law Decree No. 2 of the year 2009**

This is made in reference to the Law Decree No. 2 of the year 2009 on Enhancing the State Financial Stability, and its Executive Procedures, and taking into consideration the banks' suggestions regarding the follow up forms of finance granted to the local productive business sectors in accordance with Part 2 of the aforementioned law decree, which we received as attachment to KBA's letter dated 2/4/2009.

We would like to advise you that the attached forms have been prepared, accompanied with the relevant instructions, which local banks should comply with, as follows:

1. Form for each new finance to the customers of local productive business sectors, in accordance with the aforementioned law decree (Form A).
2. Form for each new finance to the customers of the above sectors, including the increase in the finance granted to the customer in accordance with the law decree (Form B).

You should provide us with the forms of new finance granted on a weekly basis, no later than the first working day of the following week.

3. Detailed statement form of credit facilities/finance granted by local banks to the local productive business sectors in accordance with the law decree, by customer and by business activity.

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- B)** Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

4. Form of statement of credit facilities/finance granted by local banks to the above sectors, for all business activities, without customer details.

These two statements should be provided by mail on a CD format, on a quarterly basis.

the Central Bank of Kuwait hopes to see interaction by local banks with the efforts exerted to confront the adverse implications of the global financial crisis, covering the promulgation of the aforementioned Law Decree No. 2 of the year 2009 and its executive procedures, thus positively reflecting on the country's economic activity cycle. Meanwhile, the Central Bank of Kuwait would stress that banks should comply with all terms prescribed under the law decree and its executive procedures regarding granting finance to the customers of the local productive business activities, so as to ensure to banks the enforcement of the state guarantee of the finance granted by them.

With my best wishes,

SALEM ABDUL AZIZ AL-SABAH

**Central Bank of Kuwait
Supervision Sector**

(1/3)

**New Finance Form (A)*
To the customers of local productive business sectors
In accordance with Part 2 of Law Decree No. 2 of the year 2009
On Enhancement of the State Financial Stability**

Date::

Name of Bank::

Customer Secret No.:

Business Sector:

I: Credit Facilities/finance outstanding prior to the promulgation of the law decree:

Description	Credit Facilities/Finance		Existing Collaterals				
	Granted Limit	Used	Cash	Shares	Real Estate	Other	Total
Cash Facilities							
Non-Cash Facilities							
Currency Buying & Selling							

II: New finance granted in accordance with the law decree:

A. Results of credit study:

B. Decision of the concerned credit authority, and date (authority to be mentioned):

* This form is to be used in cases of new finance granted to customer for the first time.

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

**Central Bank of Kuwait
Supervision Sector**

(2/3)

C. New Finance Data:

Description	Granted Limit	Collaterals Required for the New Finance					Assignment of Rights
		Cash	Real Estate	Shares	Other	Total	
Cash Facilities							
Non-Cash Facilities							
Currency Buying & Selling							

Purpose of Finance:

Sources and Method of Repayment:

Repayment Period :

Terms of Finance:

III: Opinion of Risk Management Department:

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

**Central Bank of Kuwait
Supervision Sector**

(3/3)

Declaration

The ----- Bank hereby declares that all the data stated in this form are correct and consistent with the Bank's documents and records. The Bank hereby assumes responsibility for all their contents, and declares that this finance is made in compliance with the terms prescribed under Article 8 of the Law Decree No. 2 of the year 2009 on Enhancement of the State Financial Stability.

The Bank further complies with the terms prescribed under Article 18 of the Executive Procedures of the aforementioned law. The Bank hereby confirms that they are aware that default of any of these terms will remove this finance out of the scope of state guarantee, as prescribed under the aforementioned law decree.

The officials, signed hereunder, also declare that they have read the articles of Part 4 (Penalties) of the aforementioned law decree, and that they are aware of all its provisions.

Credit Officer

Risk Management Officer

CEO

Name:

Name:

Name:

Signature:

Signature:

Signature:

Bank's Stamp

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

**Central Bank of Kuwait
Supervision Sector**

(1/3)

**New Finance Form (B)*
To the customers of local productive business sectors
In accordance with Part 2 of Law Decree No. 2 of the year 2009
On Enhancement of the State Financial Stability**

Date:

Name of Bank:

Customer Secret No.:

Business Sector:

I: Outstanding Credit Facilities/finance granted in accordance with the law decree ** :

Description	Credit Facilities/Finance		Existing Collaterals				
	Granted Limit	Used	Cash	Shares	Real Estate	Other	Total
Cash Facilities							
Non-Cash Facilities							
Currency Buying & Selling							

II: Increase in finance granted in accordance with the law decree:

A.Results of credit study:

B.Decision of the concerned credit authority, and date (authority to be mentioned):

* This form is to be used in cases of increasing the limit of finance granted to customer in accordance with the law decree.

** A copy of Form (A) previously submitted to the Central Bank of Kuwait on these credit facilities / finance transactions, must be attached

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B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

**Central Bank of Kuwait
Supervision Sector**

(2/3)

C. Data of Increase in New Finance:

(KD 000's)

Description	Granted Limit	Additional Collaterals Required for Finance Increase					Assignment of Rights
		Cash	Real Estate	Shares	Other	Total	
Cash Facilities							
Non-Cash Facilities							
Currency Buying & Selling							

Purpose of Finance:

Sources and Method of Repayment:

Repayment Period :

Terms of Finance:

III: Opinion of Risk Management Department:

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

IV: Total New Finance Granted to Customer (After Increase):

(KD 000's)

Description	Credit Facilities/Finance		Existing and Required Collaterals				
	Granted Limit	Used	Cash	Shares	Real Estate	Other	Total
Cash Facilities							
Non-Cash Facilities							
Currency Buying & Selling							

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

- B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

**Central Bank of Kuwait
Supervision Sector**

(3/3)

Declaration

The ----- Bank hereby declares that all the data stated in this form are correct and consistent with the Bank's documents and records. The Bank hereby assumes responsibility for all their contents, and declares that this finance is made in compliance with the terms prescribed under Article 8 of the Law Decree No. 2 of the year 2009 on Enhancement of the State Financial Stability.

The Bank further complies with the terms prescribed under Article 18 of the Executive Procedures of the aforementioned law. The Bank hereby confirms that they are aware that default of any of these terms will remove this finance out of the scope of state guarantee, as prescribed under the aforementioned law decree.

The officials, signed hereunder, also declare that they have read the articles of Part 4 (Penalties) of the aforementioned law decree, and that they are aware of all its provisions.

Credit Officer

Risk Management Officer

CEO

Name:

Name:

Name:

Signature:

Signature:

Signature:

Bank's Stamp

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

B) Circular No. (2/BS/IBS/241/2009) regarding Credit Facilities/Finance granted to local productive business sectors in accordance with part 2 of Law Decree No. (2) of the year 2009.

Instructions for New Finance Forms (A, B)

1. The form applies to all banks (conventional and Islamic).
2. A form shall be prepared for each customer upon granting him with new finance in accordance with the aforementioned law decree. Form (A) shall be used in the event of first new finance to be granted to the customer in accordance with the law decree. Form (B) shall be used in the event of increasing the limit of finance granted to the customer in accordance with the law decree, subject to attaching copy of Form (A) of the customer, previously provided to the Central Bank of Kuwait.
3. Forms of customers who are granted finance in accordance with the law decree shall be submitted to the Central Bank of Kuwait on a weekly basis, no later than the first working day on the following week. A folder containing the statements of the submitted forms shall be attached.
4. The table listed under Clause “IV” on Form (B) shall cover the total finance granted to customer in accordance with the law decree, inclusive of the increase prescribed and stated under Clause “II.C” of the Form.

**Central Bank of Kuwait
Supervision Sector**

**Detailed Statement Form of Credit Facilities/Finance Granted in
Accordance with Part 2 Of the Law Decree No. 2 of the year 2009
on Enhancement of the State Financial Stability
(By Customer and by Business Activity)**

As at / / *

Business Activity Sector:

(KD 000's)

S.	Customer's Secret Number	Credit Facilities / Finance				Total Credit Facilities/Finance		Deferred Income**	Collaterals				
		Cash		Non-Cash		Granted Limit	Used		Type	Value at Granting Time	Additional Collaterals	Excluded Collaterals	Value at Statement Date
		Granted Limit	Used	Granted Limit	Used								
1												
												
												
												
2													

* Quarterly Statement.

** Deferred income added under the used finance, for Islamic banks.

**Central Bank of Kuwait
Supervision Sector**

**Statement Form of Credit Facilities/Finance Granted in Accordance with Part 2
Of the Law Decree No. 2 of the year 2009 on Enhancement of the State Financial Stability
(Total Business Sectors)
As at / / ***

Business Activity Sector: All business activities

(KD 000's)

S.	Business Activity	Credit Facilities / Finance				Total Credit Facilities/Finance		Deferred Income**	Collaterals			
		Cash		Non-Cash		Granted Limit	Used		Value at Granting Date	Additional Collaterals	Excluded Collaterals	Value at Statement Date
		Granted Limit	Used	Granted Limit	Used							
1.	Oil and Gas											
2.	Agriculture & Fisheries											
3.	Industrial											
4.	Construction											
5.	Trading											
6.	Public Services											
7.	Other services											
	TOTAL											

* Quarterly Statement.

** Deferred income added under the used finance, for Islamic banks.

**Instructions for the Statement of Credit Facilities/Finance
Granted in Accordance with Part 2 of Law Decree No. 2 of the year 2009
On Enhancement of the State Financial Stability**

1. The statement shall be submitted on a quarterly basis, and must be submitted to the Central Bank of Kuwait, within five working days from the date of preparation, by mail, in a CD format.
2. A statement shall be prepared for each local productive business sector, as specified under the aforementioned law decree (in the Preamble Part), covering the customers who obtained finance up to the statement date, with an overall statement covering those sectors, without customer details, as per both attached forms.
3. This statement should be approved by the CEO, and audited by the bank's auditors.

THE GOVERNOR

*Jumada Al-Aula 29, 1430 H
May 24, 2009*

THE CHAIRMAN,

**Circular to all local banks
regarding application of the provisions of the Law Decree
No. 2 of the year 2009 on enhancement of state financial stability
and its executive procedures**

the Central Bank of Kuwait received inquiries from certain banks, and KBA, about the application of the provisions of the Law Decree No. 2 of the year 2009 regarding enhancement of the state financial stability, and its executive procedures.

Commenting on these inquiries, and to clarify the connotations and principles that the local banks should comply with in this respect, we would like to advise you as follows:

I: Connotations and principles to be complied with regarding the new 50% state-guaranteed finance:

1. the Central Bank of Kuwait's receipt of the new finance forms, as per Article 17 of the Executive Procedures, does not entail review by the Central Bank of Kuwait of the new finance from the credit perspective. The responsibility for granting this new finance rests on the granting party. Furthermore, banks should provide the new finance forms only in the event of satisfying all terms stipulated in the above-mentioned law decree.

It is expected that the weekly forms presented by local banks to the Central Bank of Kuwait regarding the new finance granted to the productive local business sectors will be limited to the state guarantee cases to which all terms stipulated in the law decree apply, in accordance with the connotations and principles to be mentioned below.

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

- C) Circular to all Local Banks Regarding the Application of the Provisions of the Law Decree No. (2) of the year 2009 on enhancement of state financial stability, and its executive procedures.

2. the Central Bank of Kuwait's receipt of the new finance forms does not require issuance letters to the concerned banks, giving opinion regarding each case, unless the Central Bank of Kuwait has a reservation regarding failure of the new finance to fulfill the conditions prescribed for state guarantee. In general, failure to respond to the bank in this case, within ten working days from the receipt of the finance form, means that the Central Bank of Kuwait has not comments regarding fulfillment by the new finance of the conditions prescribed for the state guarantee, reserving the Central Bank of Kuwait's right to exclude such finance from the guarantee, if, in the future, it is noted that any of such conditions is not satisfied.
3. The validity of the state guarantee on the new finance depends on the satisfaction of all terms and conditions stipulated in the law decree and its executive procedures, as stated above. Furthermore, the state guarantee shall not be valid in the event of reservation or objection by any area in charge in the Bank to granting such finance, of which the signature on the form prepared for this purpose is required (Credit Department, Finance, Credit/Finance Authority, Risk Management).

In this context, it should be noted that banks should take all measures to achieve full independence of risk management, while providing it with the efficient resources necessary for the perfect performance, on purely professional basis, subject to the Central Bank of Kuwait instructions, as well as the bank's prescribed policies in this regard.

4. As stated above, it is understood that the responsibility for granting the new finance rests on the finance granting bank, who should conduct the necessary studies and observe the sound banking principles and norms, rules and practices, prescribed in this respect, as well as observing the bank's credit policy.

Accordingly, the satisfaction of the term of obtaining sufficient and proper collaterals when granting the new 50% state-guaranteed finance must take place in light of the findings of the credit study conducted by the bank, and verification of the credit net worth. Adequacy and sustainability of customer's expected cash flow to serve the fully repay the debt should be taken into consideration, as representing one of the major sources of repayment. The bank should take actions to obtain customer cash flow, or assignment of right, on the basis of which such new finance was granted.

37- THE LAW ON FINANCIAL STABILITY AND ENHANCEMENT OF BANKS CONDITIONS

- C) Circular to all Local Banks Regarding the Application of the Provisions of the Law Decree No. (2) of the year 2009 on enhancement of state financial stability, and its executive procedures.

5. State obligation arises under the guarantee stipulated in the law decree upon granting the new finance that satisfies the terms stated in the above-mentioned law decree and its executive procedures. In case the new finance enters into the irregularity stage, the bank granting the finance, in accordance with the provisions of Article 21 of the Executive Procedures, shall make a provision of 50% of the value of the provisions required in accordance with the credit facilities classification policy issued by the Central Bank of Kuwait. In the event of the Central Bank of Kuwait's approval of writing off this debt, the amount of state guarantee shall be specified in accordance with the provisions of Article 21.D of the Executive Procedures, hence, there will be no sovereign obligation from the state, except in the event that the debt is written off.

II: Responses to inquiries of certain banks in this respect:

1. Article 2.C of the Executive Procedures of the aforementioned law decree states that the valuation of the real estate collaterals should take place at least annually, in the last quarter of the financial year. This requires banks to match when evaluating such collaterals with the requirements of the executive procedures. This should take place within three months from the end of the financial year.
2. The bank may not use the amounts paid by customer, or the finance amounts, which requires no state guarantee, in granting finance to other customers, which is listed under the state-guaranteed finance. This may cause the increase of the total new state-guaranteed finance by 50% over the maximum prescribed for total new finance granted by local banks in 2009 and 2010 to customers of productive local business sectors, of KD 4 billion, pursuant to the provisions of Article 8 of the aforementioned law decree.
3. The requirement of repayment of the principal finance, and the return with installment within the finance maturity does not mean that the form of new finance should be limited to installment loans, which are repaid with equal installments, and on specific dates. Yet, this includes all forms of other facilities, provided that repayment is made from the customer cash flows within the finance maturity. It should not be limited to directing the amounts collected from the customer for payment of interest and returns, without repaying the principal debt.

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Furthermore, there is nothing to prevent utilization of the state-guaranteed finance for the operating purposes of the customers of productive local business sectors, if the prescribed terms are satisfied, specifically Clause 3 of Article 8 of the aforementioned law decree, which stipulates: “New finance should no be used for the purposes of speculation or trading in real estate and securities, or for settlement of the customer’s debts outstanding at the time of promulgation of this law decree. All actions should be taken to monitor customer’s use of this finance for the purpose for which it is granted, in accordance with the agreement made with him.”

4. Article 8 of the aforementioned law states “The state shall guarantee 50% of the new finance granted by local banks to their customers”

According to the definition in Article 1 of the law decree, local banks are the Kuwaiti banks and branches of foreign banks registered with the Central Bank of Kuwait.

It should be noted that the branches of foreign banks were notified of the their quotas of the new state-guaranteed finance. Hence, there is no ambiguity in the provisions of the law decree and its executive procedures with regard to the application of the state guarantee to the finance granted by branches of foreign banks in line with the terms and shares prescribed for each.

5. Pursuant to the provisions of Article 8 of the aforementioned law decree, the state guarantee shall be in force throughout the finance maturity, which must be five years as a maximum. In the event of irregularity, which the procedures were specified under Article 21 of the executive procedures, the validity of the state guarantee has not been specified. State guarantee shall remain valid throughout the period necessary for taking all actions towards collection, including legal actions. In the event that all methods of collection are used, the debt shall be written off upon the Central Bank of Kuwait’s approval. In such case, the amount of state guarantee of the outstanding balance of finance, for which bonds or sukuk will be issued, shall be specified.
6. Establishment of special purpose companies shall be limited to authorities and institutions subject to the supervision of the concerned ministers. This shall not apply to public shareholding companies or closed companies.

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III: How far the new 50% state guaranteed finance is subject to certain prescribed regulatory ratios:

Pursuant to the Central Bank of Kuwait instructions, the 50% state-guaranteed portion of the new finance granted by local banks to the productive local business sectors and local investment companies, according to the provisions of Part 2 and Part 3 of the aforementioned Law Decree No. 2 of the year 2009, is considered as exempted from the prescribed regulatory ratios, regarding the maximum credit concentration, general provision, and capital adequacy ratio.

As for the prescribed maximum ratio of loans to deposits (85%), local banks should compute the ratio in line with the currently applicable method. This new state guaranteed finance should not be excluded from the numerator.

As the forms presented by certain banks for the new finance granted by them fail to satisfy the aforementioned terms and connotations, the matter requires re-providing us with new forms only for the cases of finance that satisfy the terms, and excluding those cases that do not satisfy the terms, considering the previously submitted forms as null and void.

Your bank should observe the above with regard to applying the provisions of the Law Decree No. 2 of the year 2009 on Enhancement of the State Financial Stability, and its Executive Procedures.

With my best wishes,

SALEM ABDUL AZIZ AL-SABAH