

Law no. 7 of 2010

On the Establishment of the Capital Markets Authority and the Regulation of the Activity of Securities

Pursuant to the perusal of the Constitutions; and

Law no. 15 of 1960 on the issuance of the Commercial Companies Law, and the amending laws thereof; and

Law no. 16 of 1960 on the issuance of the penal law, and the amending laws thereof; and

Law no. 17 of 1960 on the issuance of the criminal procedures and transactions law, and the amending laws thereof; and

Law no. 30 of 1964 on the establishment of the State Audit Bureau, and the amending laws thereof; and

Law no. 37 of 1964 on public tenders, and the amending laws thereof; and

Law no. 32 of 1968 on currency, the Central Bank of Kuwait and the organization of banking business, and the amending laws thereof; and

Decree-Law no. 31 of 1978 on the regulations for the preparation of the state budgets and the control of the implementation thereof, and the balance sheet, and the amending laws thereof; and

Decree-Law no. 15 of 1979 on civil service, and the amending laws thereof; and

Decree issued on 4/4/1979 on the civil service regulation, and the amendments thereof; and

Decree-Law no. 38 of 1980 on the issuance of civil and commercial procedures law; and

Decree-Law no. 67 of 1980 on the issuance of the civil law, and the amendments thereof;

Decree-Law no. 68 of 1980 on the issuance of the commercial law, and the amending laws thereof; and

Decree-Law no. 5 of 1981 on the practice of the auditing profession, and the amending laws thereof; and

Law no. 42 of 1984 on the disposal of joint-stock companies shares and securities and the circulation thereof; and

Official Gazette, issue no. 964 – 56th year

Decree-Law no. 23 of 1990 on the regulation of the judiciary, and the amending laws thereof; and

Decree-Law no. 31 of 1990 on the regulation of the circulation of securities and the establishment of investment funds; and

Decree-Law no. 116 of 1992 on the administrative regulation, determination of competences and delegation thereof, and the amending laws thereof; and

Law no. 1 of 1993 on the protection of public funds, and the amending laws thereof; and

Law no. 11 of 1998 on the licensing of the establishment of leasing and investment companies, and the amending laws thereof; and

Law no. 2 of 1999 on the disclosure of interests in shares of joint-stock companies; and

Decree issued on 14/8/1983 on the regulation of Kuwait stock exchange, and the amending decrees thereof; and

Decree related to the Ministry of Commerce and Industry, issued on 12/8/1986; and

Decree issued on 27/12/1986 regulating the settlement of the circulation of securities and the clearing house in the Kuwait Stock Exchange; and

Upon the approval of the National Assembly,

We have ratified and issued the following Law:

Chapter One

Definitions

Article 1

Wherever mentioned in the present Law, the following terms and phrases shall have the meanings assigned hereunder:

- Pertinent Minister: Minister of Commerce and Industry.
- Authority: Capital Markets Authority.

- Board: Authority board of commissioners.
- Exchange: Securities exchange or securities markets.
- Members of the exchange: companies and funds listed in the exchange, and brokers.
- Clearing agency: clearing party settling the circulation of securities and the central deposit of securities.
- Person: natural or juridical person.
- Issuer: juridical person entitled to issue securities.
- Listed company: joint-stock company listed in the exchange.
- Security: any deed, of whatever legal form, proving the share in a financing operation, negotiable by virtue of a permit from the Authority, such as:
 - a- Shares issued or suggested to be issued from the capital of the company.
 - b- Any deed establishing or acknowledging the indebtedness, issued or to be issued by the company.
 - c- Loans, bonds and other deeds transferrable to shares in the capital of the company.
 - d- All negotiable deeds of public debt issued by different governmental authorities or public entities and institutions.
 - e- Any right, option or derivatives related to any securities.
 - f- Units in a common investment system.
 - g- Commercial deeds such as checks, bills of exchanges and promissory notes, as well as letters of credit, money orders and deeds strictly circulated among banks, in addition to insurance policies and rights in retirement funds for beneficiaries shall not be deemed securities.
- Broker: person practicing the sale and purchase of securities on behalf of a third party in counterpart of a commission.
- Trader: person practicing the sale and purchase of securities on his own behalf.
- Investment Portfolio Manager: person entrusted with the management of investment portfolios on behalf of customers or the company for which he works.
- Investment advisor: a juridical person providing investment advices related to securities in counterpart of a commission.
- Custodian: a juridical person licensed by the Authority to practice the preservation of assets constituting common investment systems as per the provisions of the present Law and the implementing regulation thereof.

- Subscription agent: a person offering or selling securities in favor of its source or an ally thereof, or acquires such securities from the source or an ally thereof for re-marketing.
- Informed person: any person who, due to his position, is informed of fundamental information or data regarding a listed company, which were not available to the public.
- Public Offering: Invitation addressed to the public to subscribe to securities through various means of publication.
- Private placement: invitation addressed to a certain category of people to subscribe in the shares of a closed joint-stock company, or upon the increase of an existent company's capital as per the conditions and requirements determined by the Authority.
- Ally: person following other person(s) or report thereto.
- Pertinent court: the court set forth herein.
- Actual control: every situation, agreement or ownership of shares, regardless of the value thereof, leading to the control in the appointment of the majority of the members of the Board of Directors in the decisions issued thereby, or general assemblies of a certain company.
- Market maker: the person that guarantees the provision of the offer and acceptance powers vis-à-vis one or more securities as per the restrictions set forth by the Authority.
- Option contracts: a contract or agreement that grants a person the right, and not the obligation, to purchase or sell one or more securities, or index-based securities to another person. However, such right does not give the right to own securities.
- Offer for sale: the desire to assign the ownership of a security listed in and through the market, in counterpart of a monetary return.
- Pertinent person: an individual occupying the position of a member in the board of directors, or executive or supervisory management of a broker or investment advisor, or works as a manager, or occupies a supervisory position before entities set forth hereinabove, or works as an employee or representative of any of said entities dealing with the public or have the freedom to dispose of securities or funds as a part of his work before the pertinent authority to work in the field of securities.
- Secondary market: the market where the purchase and sale of securities, and transfer of ownership thereof, occurs by virtue of regulations and laws governing such operations.
- Primary market: part of the secondary market where companies fulfilling lower standards set by the market are listed.

Chapter Two

Capital Market Authority

Article 2

A public independent authority, enjoying a juridical personality and supervised by the Minister of Commerce and Industry shall be established under the name “Capital Market Authority”.

Article 3

The Authority shall aim at:

- 1- Organizing the activities of securities in a fair, competitive and transparent manner.
- 2- Educating the public regarding the activities of securities, the benefits, risks and undertakings related to the investment in securities, and encouraging the development thereof.
- 3- Providing protection to the dealers in securities.
- 4- Diminishing pattern risks foreseen in securities.
- 5- Applying the policy of total disclosure, thus achieving justice and transparency, and preventing conflicts of interests and use of inside information.
- 6- Endeavoring to guarantee the abidance by laws and regulations related to securities.

Article 4

The Authority Board of Commissioners shall have the following jurisdictions:

- 1- Issue regulations and instructions necessary for the implementation of the Law, and endeavor to issue recommendations and studies necessary for the development of laws that assist the Board in achieving its objectives.
- 2- Subject to the provisions of Article 33 hereof, the Board shall issue licenses for securities exchange and relevant activities, and control the activities thereof.
- 3- Issue licenses for membership in securities exchange, and licenses for persons operating therein, and for whoever works in the management of securities, including asset management

companies, investment funds, financial brokerage companies, securities portfolios companies, investment secretariat and consultative services institutions, etc.

- 4- Organize the promotion of investment funds and other common investment systems.
- 5- Organize the public subscription and private placement of Kuwaiti and non-Kuwaiti securities, supervise and oversee same.
- 6- Organize acquisitions and mergers, supervise and oversee same.
- 7- Set rules of self-control and –supervision over securities field.
- 8- Consent to all rules and restrictions set b y the exchange management for the practice of its works and the approval thereof.
- 9- Set rules of abidance by the ethics of the professions, proficiency and integrity by licensed persons and the approval thereof.
- 10- Provide necessary rules for the protection of dealers and work on preventing inadequate, illegal and unfair practices in the securities field.
- 11- Cooperate with control authorities and similar foreign institutions regarding the organization, coordination and participation in joint activities.
- 12- Carry out all tasks and jurisdictions entrusted thereto by virtue of the present Law or any other Law in order to prevent the disturbance of the market.
- 13- Issue all decisions related to the jurisdictions of the authority, and necessary for the implementation of the provisions of the present law and the implementing regulation hereof. It may delegate some of said jurisdictions.
- 14- Set private rules, regulations and procedures required by the activity of each person operating by virtue of the provisions of the Islamic Shariaa.

Article 5

The Authority shall carry out the following:

- 1- File civil and commercial lawsuits related to the violation of the provisions of the present law and the implementing regulations thereof, or lawsuits in which the authority has interest.
- 2- Receive complaints filed regarding infringements and crimes set forth in the present Law, the administrative investigation thereof and the referral thereof to the disciplinary board, should it deem so necessary.

- 3- Carry out all procedures that may lead to reveal crimes set forth herein, and refer criminal complaints to the public prosecution in every incident suspected to be a crime, whether it occurred against the Authority or the dealers in the securities field.
- 4- Carry out inspections and control of the activities of licensed persons by virtue hereof.
- 5- Purchase, acquire and dispose of properties of any type, and carry out all types of legal activities.
- 6- Print and publish materials related to the securities field.
- 7- The Authority shall be entitled to impose fees and collect fines within the scope of implementation of the present Law. It may also carry out all necessary acts that entitles it to perform its tasks and achieve its goals set forth herein.

Article 6

The Authority shall be managed by a Board called the Authority Board of Commissioners, comprising five full-time commissioners appointed by a Decree upon the nomination of the pertinent Minister.

The Decree shall appoint the chairman and vice-chairman of the Board from among the members.

Article 7

The commissioner must be a Kuwaiti natural person, known for his integrity, expertise or specialization in fields related to the work of the Authority. He must not be convicted for a final crime of bankruptcy or for a freedom-binding sentence in a felony or crime of breach of honor or trust.

Article 8

The chairman shall represent the authority before third parties and before the courts. He shall carry out the work of the CEO and execute the decisions of the Authority. He shall also supervise all technical and administrative entities related thereto. He shall exercise his jurisdictions in accordance with the laws, regulations and decisions approved by the Authority Board of Commissioners. He shall be liable with the remaining commissioners for the management of the Authority, and may delegate some of his administrative jurisdictions to one of the commissioners or to an administrative unit in the Authority.

Article 9

Should the chairman be absent or the position thereof becomes vacant, and should the vice-chairman not be able to perform his duties for any reason whatsoever, the board shall convene within two weeks and commission a member to carry out the tasks of the chairman of the board by proxy.

Article 10

The term of membership of the commissioner is five years, renewable for one term, except for the members of the first board, where the term of three thereof only may be renewed for a third term. The seat of the commissioner shall become vacant by death, incapacity or resignation. Furthermore, the commissioner shall lose his capacity and the seat thereof become vacant in the following cases:

- a- Should a final verdict of bankruptcy be issued against him.
- b- Should he be convicted with a final verdict of a crime of breach of honor or trust.
- c- Should he be absent for three consecutive meetings or six non-consecutive meetings without a reason accepted by the Board of Commissioners.
- d- Should he breach the provisions of Articles 27 or 30 hereof.
- e- Should he intentionally breach the code of conduct set by the Board of Commissioners in its first meeting, where it determines the rules of conduct and the ethics to be followed by the commissioners, members of the Authority.