

STATE OF KUWAIT



CENTRAL BANK OF KUWAIT



LAW NO. 32 OF THE YEAR 1968
CONCERNING CURRENCY,
THE CENTRAL BANK OF KUWAIT
AND THE ORGANISATION OF
BANKING BUSINESS

***N.B.: This English Translation has been prepared by the Central Bank of Kuwait.
It is intended for information only ; the only legal version is the Arabic Text.***

LAW NO. 32 OF THE YEAR 1968⁽¹⁾
CONCERNING CURRENCY,
THE CENTRAL BANK OF KUWAIT
AND THE ORGANIZATION OF
BANKING BUSINESS

We, Sabah Al- Salim Al- Sabah, Amir of the State of Kuwait,

Having regard to the Constitution, particularly Articles 20,23,65,77,148 and 154 thereof, AND

The Kuwait Currency Law issued under Amiri Decree No. (41) of 1960, AND

Law No. (23) of 1962 concerning the accession of the State of Kuwait to the Agreements of the International Monetary Fund and the International Bank for Reconstruction and Development, AND

Amiri Decree issued on 12 November 1964 concerning Exchange Control, AND

The approval by the National Assembly of the following Law,

Have sanctioned and do hereby promulgate it:

(1) Some provisions of the Law have been amended under Decree Law No. (130) of the year 1977, issued on 25 October 1977 and published in the Official Gazette "Al-Kuwait Al-Yawm", No. 1164, dated 30 October 1977.

CHAPTER I
CURRENCY

SECTION 1

Unit of Currency and Par Value

Article 1

The unit of currency shall be the Kuwaiti Dinar and shall be divided into one thousand Fils.

Article 2 ⁽¹⁾

The basis for fixing the exchange rate for the Kuwaiti Dinar shall be specified by a decree after seeking the opinion of the Governor of the Central Bank.

Article 3 ⁽²⁾

- 1- Every transaction or agreement relating to money or involving the payment of money shall, in the absence of express agreement to the contrary, be deemed to have been made and agreed to be executed on the basis of the Kuwaiti Dinar.
- 2- The Central Bank shall, whenever necessary and for all legal purposes it defines including the collection of duties, declare the exchange rates for the most important foreign currencies, either on the basis of the par value declared by the IMF or on any other basis which the Bank may decide.

(1) Text of Article (2) as amended under Decree Law No. (130) of the year 1977.

(2) Text of paragraph (2) of Article (3) as amended under Decree Law No. (130) of the year 1977.

SECTION II

Issue of Currency Notes and Coins

Article 4

- 1- The issue of currency shall be the exclusive privilege of the State. This privilege shall be exercised solely and exclusively by the Central Bank.
- 2- No party other than the Central Bank may issue or circulate any notes, coins or any instruments or document payable to bearer on demand and which could be circulated as legal tender, for use as means of payment in place of the currency issued in accordance with the provisions of this Law.
- 3- Any person who violates the provisions of this Article shall be subject to the penalties laid down in the Penal Code for forgery of currency notes or coins.

Article 5 ⁽¹⁾

- 1- The Central Bank may issue currency notes in the following denominations: One Dinar, Five Dinars and Ten Dinars, or in such higher denominations as may be specified by a decree issued upon a recommendation of the Minister or Finance and a proposal by the Board of Directors of the Central Bank.
- 2- The above notes shall bear the signatures of the Minister of Finance and the Governor of the Central Bank.
- 3- The currency notes referred to in this Article shall be legal tender in the State of Kuwait for payment of any amount.

(1) Paragraph (1) of Article (5) as amended under Decree Law No. (130) of the year 1977.

Article 6

- 1- The Central Bank may issue currency notes of a value less than the currency unit, in Half Dinar and Quarter Dinar denominations.
- 2- The above currency notes shall bear the signatures of the Minister of Finance and Governor of the Central Bank.
- 3- The currency notes referred to in this Article shall be legal tender in the State of Kuwait for payment of amounts up to the following limits:
 - (a) twenty Kuwaiti Dinars for half-Dinar notes.
 - (b) ten Kuwaiti Dinars for quarter-Dinar notes.
- 4- The Central Bank and cash-offices of the State and banks operating in the State of Kuwait shall accept currency notes of small denominations without any quantitative limitations .

Article 7 ⁽¹⁾

- 1- The Central Bank may issue coins.
- 2- Non-gold coins shall be legal tender in the State of Kuwait for the payment of any amount up to two Dinars, but the Central Bank shall accept them without any quantitative limitation.
- 3- The Central Bank may specify the conditions for selling and buying gold coins by its cash-offices.
- 4- The Central Bank may issue gold and non - gold commemorative coins, and the Bank shall determine the terms and conditions for the sale and purchase of such coins.

(1) Paragraphs (4) and (5) of Article (7) have been added under Decree Law No. (130) of the year 1977.

5- Any person who refuses to accept the Kuwaiti currency provided for in this Article and in the preceding two Articles, as per their traded value and within their relative legal tender, shall be liable to payment of a fine not exceeding one hundred Dinars.

Article 8

The Council of Ministers shall decide the following on the recommendation of the Central Bank:

- 1- The wording to be borne by currency notes to indicate their value, as well as the form, design and other characteristics of the notes.
- 2- The denominations of coins to be issued by the Central Bank, their designs, forms, standard weights and permitted variations in weight, composition, and other specifications.

SECTION III

Circulation and Withdrawal of Notes and Coins

First : Currency Notes

Article 9 ⁽¹⁾

Various denominations of new currency notes shall be put into circulation by a decision of the Board of Directors of the Central Bank, setting out their descriptions and denominations. Such decision shall be published in the Official Gazette and announced to the public by various suitable means of publicity.

(1) Text of Article (9) as amended under Decree Law No. (130) of the year 1977.

Article 10 ⁽¹⁾

- 1- The Board of Directors of the Central Bank may, upon approval of the Minister of Finance, decide to withdraw any denomination of currency notes from circulation against payment of their face value.

Such decision shall be published in the Official Gazette and announced to the public by various suitable means of publicity.

The decision to withdraw shall fix the period for the exchange of withdrawn currency notes, provided that the period shall not be less than 90 days in normal circumstances and 15 days in cases of emergency.

Upon the end of the exchange period specified in the decision of withdrawal, the withdrawn currency notes shall cease to be legal tender, but the bearer shall have the right to exchange them in the cash-offices of the Central Bank within ten years from the date of enforcement of the decision to withdraw. Currency notes which are not exchanged during this period shall be deducted from the currency in circulation, and their value shall be added to the account provided for in Article (48) of this Law.

- 2- The Central Bank shall be under no obligation to refund the value of any lost or stolen currency notes, or to accept or pay for forged notes.
- 3- The Central Bank shall pay the value of mutilated or imperfect currency notes in accordance with the instructions issued by the Bank. Currency notes which do not meet the requirements set out in the instructions shall be withdrawn from circulation without refund.

(1) Pursuant to Decree Law No. (5) of the year 1991, the next paragraph has been added to item (1) of Article (10) as follows:

“As an exception to the periods mentioned above in the previous item, the day of 30.9.1991 shall be fixed as the final and closing date for the obligations of the Central Bank of Kuwait to exchange the Currency Notes for which a decision is issued that they be withdrawn from circulation within a month from date of enforcement of this Law”.

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- 4- The Central Bank shall destroy the currency notes withdrawn from circulation in accordance with the instructions issued by the Bank in this connection.

Second : Non-Coins

Article 11 ⁽¹⁾

- 1- Various denominations of non-gold coins shall be put into circulation by a decision of the Board of Directors of the Central Bank setting out the descriptions of such coins. Such decision shall be published in the Official Gazette and announced to the public by various suitable means of publicity.
- 2- Coins of any denomination may be withdrawn against payment of their face value. The decision to withdraw shall be taken by the Board of Directors of the Central Bank, published in the Official Gazette and announced to the public by various suitable means of publicity.
- 3- The decision to withdraw shall specify the period for exchange which shall not be less than six months.
- 4- Coins not presented for exchange within the above - mentioned period shall cease to be legal tender and their value shall be deducted from currency in circulation and added to the Special Account provided for in Article (48) of this Law.
- 5- Coins which have been impaired, diminished, lightened or defaced by any cause other than fair wear and tear shall be withdrawn from circulation without refund.

(1) Paragraph (1) of Article (11) as amended under Decree Law No. (130) of the year 1977.

SECTION IV

Currency Cover

Article 12 ⁽¹⁾

Currency in circulation and demand deposits held with the Central Bank shall have a cover consisting, at all times, of the following:

- (a) Gold coins or bullion;
- (b) Demand or time deposits in freely convertible currencies, placed with local banks or placed abroad with central banks, state treasuries, the Bank for International Settlements, the International Monetary Fund or with commercial banks;
- (c) Foreign securities, instruments, bills or certificates issued or guaranteed by foreign governments or by international financial or monetary institutions, provided that they are expressed in freely convertible currencies and easily negotiable in financial markets;
- (d) Foreign securities or bills other than those issued or guaranteed by foreign governments or by international financial or monetary institutions, provided that they are expressed in freely convertible currencies and easily negotiable in financial markets;
- (e) Commercial papers expressed in freely convertible foreign currencies and acceptable to foreign commercial banks;
- (f) Treasury bills and bonds issued or guaranteed by the Government of Kuwait, and advances granted by the Central Bank to the Treasury of the Government of Kuwait;

(1) Text of Article (12) as amended under Decree Law No. (130) of the year 1977.

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- (g) Domestic commercial papers discounted in the Central Bank and loans and advances granted to local banks against adequate guarantees.

CHAPTER II

CENTRAL BANK OF KUWAIT

SECTION I

Establishment of the Central Bank

Article 13

There shall be established a public institution, having an independent juristic personality, to be called "Central Bank of Kuwait". It shall be referred to in this Law as the "Central Bank".

The City of Kuwait shall be the seat of the Bank, and the Bank may open branches in the State of Kuwait and appoint agents and correspondents abroad.

Article 14

The Central Bank shall have a special budget which shall be prepared in a commercial pattern.

The Bank shall be considered as a merchant in its relations with other parties, and its operations and accounts shall be conducted and organized in accordance with commercial and banking rules.

Apart from Constitutional provisions in force with regard to the operations, budget and closing account of the Bank, the Board of Directors shall, with the approval of the Minister of Finance, lay down all rules and regulations

concerning the administrative and financial affairs of the Bank, including staff and accounting matters, without being limited in all this by the provisions of the Public Tenders and Civil Service Laws.

The provisions concerning advance control in Law No. (30) of 1964 establishing the Audit Bureau shall not apply to the operations of the Central Bank. The functions of the Audit Bureau shall be limited to auditing the accounts and assets of the Bank, and the Bureau shall not, in any manner, interfere in the operations of the Bank or question its policy. The technical officer of the Audit Bureau, assigned to audit the operations of the Bank, shall have adequate technical qualifications and special experience in banking business.

SECTION II

Objectives of the Central Bank

Article 15

The objectives of the Central Bank shall be :

- 1- to exercise the privilege of the issue of currency on behalf of the State;
- 2- to endeavor to secure the stability of the Kuwaiti currency and its free convertibility into foreign currencies;
- 3- to endeavor to direct credit policy in such a manner as to assist the social and economic progress and the growth of national income;
- 4- to control the banking system in the State of Kuwait;
- 5- to serve as Banker to the Government;
- 6- to render financial advice to the Government.

SECTION III

Capital and Reserves of the Central Bank

Article 16 ⁽¹⁾

The Capital of the Central Bank shall be five million Kuwaiti Dinars and shall be fully paid by the Government. The Capital of the Bank may be increased by decree, and such increase shall be taken from the General Reserve of the Bank.

Article 17 ⁽²⁾

- 1- The Central Bank shall establish a General Reserve Fund.
- 2- At the end of each financial year, net profit shall be the profits realized by the Bank, after deducting the expenses of operations and making the provisions necessary to meet bad or doubtful debts, depreciation in assets, contributions to the Pension Fund and such other contingent expenses usually provided for by banks.
- 3-The net profit of the Bank shall be dealt with as follows:
 - (a) The net profit of the Bank shall be paid into the General Reserve Fund until the balance of the Fund amounts to twenty five million Kuwaiti Dinars. The General Reserve Fund may be increased by a decision of the Board of Directors of the Bank with the approval of the Minister of Finance.

(1) Text of Article (16) as amended under Decree Law No. (130) of the year 1977.

(2) Paragraph (3) of Article (17) as amended under Decree Law No. (130) of the year 1977.

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- (b) When the balance of the General Reserve Fund reaches the specified maximum limit, the net profit shall be fully paid to the Government.
- (c) If the General Reserve Fund, in any year, is insufficient to meet the losses of the Bank, or if it cannot be used to meet the losses, the Government shall cover the deficit.

SECTION IV

Management

Article 18 ⁽¹⁾

The management of the Central Bank shall be carried out by a Board of Directors composed of :

- (a) the Governor, who shall be the Chairman of the Board;
- (b) the Deputy Governor;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Ministry of Commerce and Industry;
- (e) four other members;
provided that all members of the Board are Kuwaitis.

Article 19 ⁽²⁾

The Governor and the Deputy Governor shall be appointed by decree for a renewable period of five years on the recommendation of the Minister of Finance, provided that they have experience in banking business.

(1) Last paragraph of Article (18) as amended under Decree Law No. (130) of the year 1977.

(2) Text of Article (19) as amended under Decree Law No. (130) of the year 1977.

The salaries, allowances and emoluments of the Governor and the Deputy Governor shall be fixed by a decision of the Council of Ministers on the recommendation of the Minister of Finance.

Article 20⁽¹⁾

- 1- The Council of Ministers shall, on the recommendation of the Ministers concerned, appoint the representatives of the Ministry of Finance and the Ministry of Commerce and Industry and fix their remuneration, and shall name the alternates to take their place in their absence.
- 2- The other members shall be appointed by decree on the recommendation of the Minister of Finance for a renewable period of three years, provided that they have experience in economic, financial or banking affairs. Their remuneration shall be fixed by a decision of the Council of Ministers, on the recommendation of the Minister of Finance.
- 3- The members referred to in the preceding two paragraphs may not be directors, managers or officials of any bank operating in the State of Kuwait.

Article 21

- 1- The Governor shall have the full powers necessary to manage the operations of the Central Bank and to issue the regulations and instructions relevant thereto. He shall be responsible for the implementation of this Law and the regulations of the Bank as well as for the execution of the resolutions of the Board of Directors. He shall be the legal representative of the Bank and shall have the power to sign on its behalf. The Governor may, upon approval of the Board of Directors, delegate some of his powers to the Deputy Governor or to any other official of the Bank.

(1) Paragraph (2) of Article (20) as amended under Decree Law No. (130) of the year 1977.

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- 2- The Deputy Governor shall temporarily replace the Governor in his absence or if his office becomes vacant.
 - 3- The Governor and the Deputy Governor shall devote the whole of their professional time to their work in the Bank and, while holding office, neither of them may occupy any other office, or work for any party other than the Bank, whether with or without remuneration, or have an interest in obligations entered into by the Government or public establishments or combine his office with membership in the board of directors of any company.

Exceptions to this shall be the activities related to committees, establishments or organizations formed by the Government or by public institutions and organizations, and the activities related to international conferences.

Article 22

- 1- No person shall be appointed member of the Board of Directors of the Central Bank who:
 - (a) has been convicted of an offense involving dishonesty or misconduct;
 - (b) has been declared bankrupt, or has abstained from payment.
- 2- Apart from the cases provided for in the preceding paragraph, the services of any member of the Board of Directors may be terminated by decree or by a decision of the Council of Ministers, whichever is the relevant means of appointment, in the following two cases :
 - (a) if he gravely violates his duties or commits serious mistakes in the administration of the Bank;
 - (b) if he is absent from all meetings of the Board of Directors during three consecutive months without the approval of the Board, unless

such absence is due to his being on official assignment, annual leave or sick leave.

Article 23

The Board of Directors shall convene at the request of the Governor, and the Governor shall summon the Board to convene if the meeting is requested by the Minister of Finance or by three members at least. The meetings of the Board may not be less than eight times a year.

Article 24

At meetings of the Board, the quorum shall consist of five members at least, including the Governor or his Deputy and the representative of the Ministry of Finance or his alternate.

Resolutions shall be adopted by a majority of the votes of the members present, and in case of an equality of votes, the Chairman's side shall prevail.

Article 25

The Board of Directors may seek the assistance of experts, and may invite to its meetings any persons whose advice on any particular subject it wishes to listen to.

Article 26

Within the provisions of this Law, the Board of Directors shall exercise the full powers necessary to perform its duties, and shall do the following in particular :

- (a) draw up the monetary and credit policy of the Bank;
- (b) decide on matters relating to the issuance, circulation and withdrawal of currency;

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- (c) determine the system of discounting and rediscounting commercial papers and of granting loans and advances, and specify the collateral required;
 - (d) fix the rates of discount, rediscount, interest and commission to be charged by the Bank on loans, advances and discount of commercial papers;
 - (e) decide on matters relating to the organization and control of the banking business;
 - (f) consider applications received from the Government for advances;
 - (g) fix the maximum limit for advances and loans which may be given to banks operating in Kuwait;
 - (h) fix the amounts allocated for the purchase and discount of public securities or Government treasury bills;
 - (I) establish clearing centers;
 - (j) establish Staff and Employees Pension Fund and decide on contributions by the Bank to the said Fund;
 - (k) approve the estimates of the annual revenues and expenditures;
 - (l) review periodically the position of the Bank and the progress of its operations;
 - (m) approve the annual balance sheet, the profit and loss account and the closing account of the Bank. The Board's approval of the estimates of revenues and expenditures, the balance sheet, the profit and loss account and the closing account shall be sanctioned by the Minister of Finance;

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- (n) approve the Bank's annual report to be submitted by the Governor to the Minister of Finance in accordance with the provisions of Article (50) of this Law;
 - (o) issue the internal regulations relating to the financial and administrative affairs, as well as any other regulations it deems necessary for the proper management of the Bank;
 - (p) deal with all matters which under this Law, or any other law, are within the competence of the Board of Directors.

Article 27

The representative of the Ministry of Finance on the Board of Directors may request the suspension of any resolution issued by the Board relating to monetary and credit policy for referral to the Minister of Finance. If the Minister of Finance does not give a decision on the issue within seven days from the date of suspension, such resolution shall become effective.

Article 28

Unless otherwise permitted by law, no member of the Board of Directors, manager, official or employee of the Central Bank shall disclose any information which relates to the affairs of the Bank or its customers or the affairs of other banks subject to the control of the Central Bank and to which he has access by reason of the duties of his office.

Information which shall not be disclosed will be determined by a decision of the Minister of Finance after having obtained the opinion of the Board of Directors of the Central Bank.

Without prejudice to the application of any severer penalty under any other law, any one who violates the prohibition provided for in the preceding two paragraphs shall be liable to imprisonment for a term not exceeding three months and to the payment of a fine not exceeding two hundred and twenty

-five Dinars, or to either one of the said penalties plus dismissal from service in all cases.

Article 29

No salary, wages, fees, allowance, remuneration or bonus may be paid by the Central Bank to or for the benefit of those working for it on the basis of the profits realized by the Bank.

SECTION V

Operations of the Central Bank

First : Relations with the Government

Article 30

The Central Bank will offer advice to the Government in order to facilitate the realization of its objectives and functions, and the Government will consult the Bank in matters relating to monetary and credit policy.

Article 31 ⁽¹⁾

The Central Bank shall act as banker and fiscal agent for the Government. On this basis:

- (a) Government funds in Kuwaiti Dinars on current accounts shall be held solely with the Bank. No interest shall be paid by the Bank on such deposits.

(1) Text of Article (31) as amended under Decree Law No. (130) of the year 1977; i.e. by addition of paragraphs (c) and (e).

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- (b) The Bank shall in general carry out, free of charge, banking transactions and services relating to the Government inside and outside the country.
 - (c) The Government may place funds in Kuwaiti Dinars with local banks, after seeking the opinion of the Central Bank and in a manner not conflicting with the monetary policy in force.
 - (d) The Minister of Finance may entrust the Central Bank with the administration of any other Government funds in accordance with the conditions agreed upon at the time.
 - (e) The Ministry of Finance shall transfer to the Central Bank such amounts as may be necessary for the implementation of any particular monetary policy, after the Minister of Finance has approved such policy.

Article 32

- 1- The provisions of paragraphs (a) and (b) of the preceding Article may be applied to municipalities and public establishments by a decision of the Council of Ministers.
- 2- As an exception, interest may be paid to these bodies on their deposits, but in this case they shall not be exempt from charges on banking transactions and services.

Article 33

The Central Bank shall enforce the laws and regulations pertaining to currency exchange control.

Article 34 ⁽¹⁾

The Central Bank shall, either directly or through banks and other financial institutions, undertake the operations relating to the sale and management of securities issued or guaranteed by the Government.

The Bank may also undertake operations relating to the sale and management of securities issued in Kuwaiti Dinars by any public organization or institution in Kuwait.

Article 35

In accordance with the provisions of Article 26 (h) of this Law, the Central Bank may:

- (a) purchase, sell, discount or rediscount Government treasury bills;
- (b) purchase and sell public debt securities issued and offered for sale by the Government.

Article 36

The Central Bank may not give any loans to the Government, municipalities or public establishments or bodies except in the following case :

The Bank may give temporary advances to the Government to cover deficit in Budget revenues. Such interest, as may be determined by the Board of Directors of the Bank in agreement with the Minister of Finance, shall be paid by the Government on these advances.

The total of such advances may not, at any time, exceed 10% of public revenue of the State Budget for the proceeding fiscal year.

(1) Text of Article (34) as amended under Decree Law No. (130) of the year 1977.

Such advances shall be repaid as soon as possible. If they are not repaid by the end of the fiscal year following the one during which they were given, the Bank shall not grant any new advances until those outstanding have been repaid.

Article 37 ⁽¹⁾

For the purpose of financing development projects or strengthening the financial market, the Central Bank may upon approval of the Minister of Finance:

- 1- own or sell shares or bonds of any Kuwaiti shareholding company, concessionary company in Kuwait or Kuwaiti public establishment.
- 2- extend loans to banks, public financial or credit establishments, against the collateral of their holdings of such shares or bonds; provided that the total amounts allocated for the acquisition of the aforementioned shares or bonds, or for lending against the collateral of their holdings, does not exceed the value of the reserves of the Bank;
- 3- issue negotiable bills.

Article 38

- 1- The Governor shall keep the Minister of Finance continuously informed of the monetary and credit policy pursued or intended to be pursued by the Bank.
- 2- If the Minister of Finance has a different view, he may issue general directives to be followed by the Bank, and such directives shall become binding on the Bank.

(1) Paragraph (3) has been added to Article (37) under Decree Law No. (130) of the year 1977.

3- If the Board of Directors has any objections to these directives, it may submit such objections, together with the reasons for them, in writing to the Minister. The Minister shall then submit the directives, together with the objections, to the Council of Ministers to decide on the matter. The decision of the Council of Ministers on the matter shall be final.

Article 39

Government departments, public institutions and organizations, and companies operating in the State of Kuwait shall submit to the Governor of the Central Bank all information and statistics which the Bank may require for its studies.

Second : Relations with Local Banks

Article 40 ⁽¹⁾

The Central Bank may:

- (a) open deposit accounts for banks and financial institutions operating in the State of Kuwait, and for public credit institutions.
- (b) open deposit accounts for other institutions, upon approval of the Minister of Finance.

No interest shall be paid on the accounts referred to in the preceding two paragraphs except in such special cases as may be decided by the Board of Directors of the Central Bank and approved by the Minister of Finance.

- (c) open accounts in Kuwaiti Dinars with banks.
- (d) participate with banks in any scheme relating to the insurance of deposits.

(1) Text of Article (40) as amended under Decree Law No. (130) of the year 1977.

Article 41 ⁽¹⁾

The Central Bank may carry out the following operations with banks only, and not otherwise :

- (a) sell, purchase, discount or rediscount commercial papers, provided that these shall mature within one year from the date of acquisition, discount or rediscount by the Bank.
- (b) give loans or advances, in emergency cases, through current account for a period not exceeding six months against such collateral as the Bank may consider adequate.

Article 42 ⁽²⁾

The Central Bank must not :

- (a) extend the term of loans given under paragraph (b) of the preceding Article for more than six months.
- (b) accept, for discount or as mortgage, commercial papers signed by any member of the Board of Directors or by anyone of the Bank's officials or employees.

Third : Gold and Foreign Exchange Operations Inside and Outside the Country

Article 43 ⁽³⁾

The Central Bank may:

- (a) purchase, sell, import and export gold and silver coins and bullion;

(1) Text of Article (41) as amended under Decree Law No. (130) of the year 1977.

(2) Paragraph (a) of Article (42) as amended under Decree Law No. (130) of the year 1977.

(3) Paragraphs (f), (g) and (h) of Article (43) as amended under Decree Law No. (130) of the year 1977.

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- (b) carry out foreign exchange operations and transfers of all kinds;
 - (c) open accounts with foreign central banks or other banks and with international financial or monetary institutions;
 - (d) open accounts for central banks, or other foreign banks and for international financial or monetary institutions, and act as correspondent for such banks and institutions;
 - (e) grant advances or credits to central banks, other foreign banks or international financial or monetary institutions, and obtain credits, advances or loans from them, provided that such operations are within the scope of its functions as central bank;
 - (f) purchase, sell, discount or rediscount bills or securities or certificates issued or guaranteed by foreign governments or international financial or monetary institutions, provided that they are expressed in freely convertible currencies and are easily negotiable in financial markets;
 - (g) purchase and sell foreign bonds or bills other than those issued or guaranteed by foreign governments or international financial or monetary institutions, provided that they are expressed in convertible foreign currencies and are easily negotiable in financial markets;
 - (h) purchase and sell commercial papers acceptable to foreign banks.

Article 44

The Central Bank may :

- 1- invest the Pension Fund set up for the benefit of the officials and employees of the Bank, and grant loans to such officials and employees in accordance with the regulations decided by the Board of Directors;
- 2- own only such immovable property as assigned for running the business of the Bank;

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- 3- in general, carry out all operations customarily carried out by central banks and not inconsistent with the exercise of its powers or the discharge of its duties under this Law, and undertake such duties as may be assigned to it under any other law.

Fourth : Prohibited Operations

Article 45

The Central Bank must not :

- 1- engage in trade operations outside the scope of its functions specified in this Law, or have a direct interest in any commercial, agricultural or industrial or any other undertaking except as provided in Article (37).
- 2- buy or sell immovable property except as provided in paragraph 2 of Article (44). However, the Bank may purchase or acquire, by accord or by forced-sale, movable or immovable property in the way of collecting any of its claims, provided that the Bank shall resell such property within the shortest possible time unless it is used for running its business.
- 3- purchase shares or stocks of companies or public establishments, except as provided in Article (37).

SECTION VI

Accounts and Statements

Article 46

The fiscal year of the Central Bank shall be the same as the fiscal year of the State.

Article 47 ⁽¹⁾

The bases for evaluation of the assets of the Central Bank shall be specified by decree.

Article 48 ⁽²⁾

The Central Bank shall enter in a Special Account the profits realized and the losses incurred as a result of altering the exchange rate of the Kuwaiti currency or any foreign currency, or altering the value of gold in terms of the Kuwaiti currency, as well as the profits resulting from the withdrawal of currency notes and coins under the provisions of Articles (10) and (11) of this Law.

Credit balances on this account shall not be entered in the Profit and Loss Account of the Bank. Debit balances shall be met by the Government unless the Board of Directors decides otherwise.

Article 49

The accounts of the Central Bank shall be audited by one auditor or more. The Council of Ministers shall, on the proposal of the Minister of Finance, select the auditor or auditors and fix their fees.

Article 50 ⁽³⁾

The Governor of the Central Bank shall submit to the Minister of Finance:

- (a) A monthly statement showing the assets and liabilities of the Bank. Such statement shall be published in the Official Gazette.

(1) Text of Article (47) as amended under Decree Law No. (130) of the year 1977.

(2) Text of Article (48) as amended under Decree Law No. (130) of the year 1977.

(3) Text of Article (50) as amended under Decree Law No. (130) of the year 1977.

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- (b) An annual report on the Bank's operations, including the Balance Sheet and the Profit and Loss Account for the ending financial year, and a general review of the monetary, banking, financial and economic affairs. This report shall be submitted not later than four months after the end of the financial year.
- (c) A report on the events affecting the monetary or financial position, including the causes and outcome of such events and recommendations for handling them.

General Provisions

Article 51

The Central Bank shall be exempt from all taxes, duties and financial dues whatsoever, whether they be for the treasury, municipalities or any other public institution or body.

The Bank shall also be exempt from the advance payment of judicial fees, deposits and guarantees, and settlement thereof shall be deferred until the case under litigation has been decided.

Article 52

Debts due to the Central Bank shall be treated in the same way as debts due to the Government, and shall take priority over debts due to other creditors. Such debts shall be collected by the same procedures provided for the collection of debts due to the State.

Article 53

The Central Bank may only be liquidated by a law specifying the liquidation procedures and their dates.

CHAPTER III ⁽¹⁾
ORGANISATION OF BANKING BUSINESS
SECTION I ⁽²⁾

Establishment of Banks

Article 54 ⁽³⁾

Banks are those institutions whose basic and usual functions involve the receipt of deposits for use in banking operations, such as: the discount, purchase and sale of commercial papers, granting of loans and advances, issuing and collecting cheques, placing of public and private loans, dealing in foreign exchange and precious metals, and any other credit operations or operations considered by the Law of Commerce or by custom as banking operations. For the purposes of implementation of the provisions of this Law, and unless otherwise provided, the branches of any bank operating in the State of Kuwait shall be considered as one bank.

Article 55 ⁽⁴⁾

The provisions of this Chapter shall not apply to :

- (a) Public credit institutions set up by law.
- (b) Financial and investment institutions and companies even if they are permitted by their articles of association to receive deposits and execute investment operations and some banking operations.

(1) Chapter III has been rearranged following various amendments to its provisions under Decree Law No. (130) of the year 1977.

(2) According to the new amendments, this Section now includes the provisions of Section I (Scope of Application) and Section II (Capital of Banks) of Chapter III before amendment.

(3) Text of Article (54) as amended under Decree Law No. (130) of the year 1977.

(4) Text of Article (55) as amended under Decree Law No. (130) of the year 1977. As may be noticed, the last paragraph is an addition to the text.

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- (c) Real estate companies which undertake the partition of land or the construction of buildings and the sale thereof on credit.

The Board of Directors of the Central Bank may - upon approval of the Minister of Finance - subject all or some of the institutions and companies referred to in this Article to all or some of the provisions of this Chapter, or to any rules which the Board of Directors may draw up for purposes of supervision and which are in harmony with the nature of the activities of such institutions and companies.

The opinion of the Central Bank shall be sought in respect of the Articles of Association and Memorandums of Agreement relating to financial and investment companies, or amendments thereto, in order to ascertain the economic viability of such companies.

Article 56 ⁽¹⁾

- 1- Without prejudice to the provisions of the Law of Commerce, wherever they are not in conflict with the provisions of this Law, banking business may only be practiced by institutions set up in the form of joint-stock companies, the shares of which are placed for public subscription.
- 2- Banks founded or co - founded by the Government, and branches of foreign banks licensed to operate in the State of Kuwait, may be exempted from the provisions of the preceding Paragraph by a decision of the Council of Ministers.

Funds allocated for opening a foreign bank's branch in the State of Kuwait, shall not be less than fifteen million Dinars. This amount may be increased by decision of the Board of Directors of the Central Bank

(1) Text of Article (56) as amended under Decree Law No. (130) of the year 1977. As may be noticed, paragraph (3) has been added to the original text. Text of this Article was further amended by virtue of Law No. (28) of year 2004.

The Board of Directors of the Central Bank lays down the bases, rules and regulations to be complied with in regard to the operation of branches of foreign banks in the State of Kuwait. A foreign bank's branch shall be deemed as one bank in the application of the provisions of this Law.

- 3- Before the formalities of incorporation are processed, the applications to establish banks should be presented to the Board of Directors of the Central Bank to issue the necessary recommendations.

Article 57 ⁽¹⁾

- 1- The paid-up capital of any bank shall not be less than seventy - five million Dinars.
- 2- Unless by prior authorization of the Central Bank, the direct or indirect ownership by any single natural person or legal entity in a Kuwaiti bank shall not exceed five percent of the bank's capital. Governmental bodies and bodies with independent or attached budgets are exempted from these provisions. Where single ownership exceeds the above percentage for any reason whatsoever, the concerned natural person or legal entity shall dispose of the excess within the period defined by the Central Bank.

Violation of this provision results in the shareholder not availing of the excess equity in regard to voting rights in the bank's General Assembly and directing the bank.

The Board of Directors of the Central Bank shall lay down the bases and rules defining the concept of indirect ownership. The provision of this Article do not apply to cases existing before the application of this Law.

(1) Text of Article (57) as amended under Decree Law No. (130) of the year 1977. Text of this Article was further amended by virtue of Law No. (28) of year 2004.

Article 58

If the capital of a bank falls below the minimum limit referred to in the preceding Article, the bank shall cover the deficit within such period as may be fixed by the Central Bank, provided that the period shall not exceed one year from the date the bank concerned is notified.

The Central Bank shall have the sole right to assess the amount of the deficit in the capital.

SECTION II

Registration of Banks

Article 59 ⁽¹⁾

Without prejudice to the provisions of the Law of Commerce and the Law of Commercial Companies, wherever they are not in conflict with the provisions of this Law, no banking institution is allowed to start operation until it has been registered in the Register of Banks at the Central Bank.

No institutions other than those registered in the Register of Banks are allowed to practice banking business or use in their business addresses, publications or advertisements the terms: "bank, banker, bank owner" or any other wording the usage of which may mislead the public as to the nature of the institution.

No institutions other than those registered in the Central Bank Register of Banks or Register of Investment Companies are allowed to receive money for investment from third parties.

The Central Bank may - where necessary - ascertain by any means it deems fit that no particular company or individual firm violates the provisions of the preceding two paragraphs.

(1) Text of Article (59) as amended under Decree Law No. (130) of the year 1977. Text of this Article was further amended by virtue of Law No. (28) of year 2004.

Without prejudice to any severer penalty under any other law, anyone who violates the provisions of the first, second and third paragraphs of this Article shall be liable to imprisonment for a term not exceeding two years and the payment of a fine not exceeding a hundred thousand Dinars, or to either one of these two penalties.

The licensing body shall, at the Central Bank request, revoke the operating license of the business which exercised the contravening activity, and undertake all necessary arrangements to prevent its repeated exercise of such activity.

Article 60

Registration or refusal of registration of banks shall be effected by a decision of the Minister of Finance on the recommendation of the Board of Directors of the Central Bank.

The Minister of Finance shall, on the recommendation of the Board of Directors of the Central Bank, issue regulations for the registration of banks, including the rules, procedures and dates for registration, amendments and publication of registration.

Article 61 ⁽¹⁾

- 1- Registered banks shall notify the Central Bank of any amendments they intend to make to their Memorandums of Agreement or Articles of Association. If such amendments are approved in principle by the Central Bank, the formalities necessary for processing them may then be accomplished in accordance with the provisions of the Law of Commercial Companies. Such amendments shall not be effective until they have been entered in the Register of Banks.
- 2- Amendment of entries related to other data which are subject to registration in the Register but not involving amendment of the Articles

(1) Text of Article (61) as amended under Decree Law No. (130) of the year 1977.

of Association or Memorandums of Agreement may be effected upon approval thereof by the Governor of the Central Bank.

SECTION III

Deletion from Register and Liquidation of Banks⁽¹⁾

Article 62⁽²⁾

Without prejudice to the provisions of the Law of Commercial Companies, no bank may cease operation or merge with any other bank unless it is given advance permission by the Minister of Finance on the recommendation of the Board of Directors of the Central Bank.

The Board of Directors of the Central Bank shall, in such a case, ascertain that the bank has discharged all its obligations towards its customers and creditors in accordance with the general provisions laid down in this respect.

Article 63

1- A bank may be deleted from the Register of Banks :

- (a) at its own request;
- (b) if it does not start business within one year from the date it is notified of the decision regarding its registration in the Register of Banks;
- (c) if it is declared bankrupt;
- (d) if it merges with another bank;

(1) Title of Section III as amended under Decree Law No. (130) of the year 1977. Title thereof before amendment was "Deletion of Banks".

(2) Text of Article (62) as amended under Decree Law No. (130) of the year 1977.

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- (e) if it ceases its operations or if its liquidity or solvency are endangered;
- (f) if it commits any act in violation of the provisions of this Law.
- 2- The deletion of any bank under (e) and (f) above shall not be proposed until the bank concerned has been notified of the proposal and given an opportunity to express its views.
- 3- The Minister of Finance shall, on the proposal of the Board of Directors of the Central Bank, issue a decision regarding the deletion. The decision shall be effective from the date of its publication in the Official Gazette.

Article 64 ⁽¹⁾

Before proposing the deletion from the register of any bank the liquidity or solvency of which is endangered, the Board of Directors of the Central Bank may take any or all of the following measures:

- (a) Forbid the bank from undertaking certain operations, or set limits on the business of the bank;
- (b) Appoint a temporary controller to supervise the progress of the bank's business;
- (c) Assign the Central Bank to manage the bank for a certain period of time, and thereafter decide whether the bank can carry on by itself or should be deleted from the Register and liquidated. Expenses incurred for management purposes shall be borne by the bank involved.

In all cases, the Central Bank may -if it deems it in the interest of depositors - ask the appropriate court to issue a decision prohibiting measures against the bank involved and staying all lawsuits filed against it. Such a decision shall be valid for one year.

(1) Text of this Article has been introduced under Decree Law No. (130) of the year 1977.

Article 65 ⁽¹⁾

Every bank against which a decision for deletion from the Register of Banks is issued, shall be liquidated. The Board of Directors of the Central Bank shall lay down the rules and procedures for liquidating the transactions outstanding at the time the decision is issued.

SECTION IV

Prohibitions on Banks

Article 66

Banks are prohibited from :

- (a) engaging in trade or industry, or owning any goods unless such goods have been acquired in settlement of debts due to them. Such goods shall be sold by the bank within one year from the date of acquisition;
- (b) purchasing any real estate other than required for conducting their business or accommodating their staff, unless such property has been acquired in settlement of debts. In the latter case, the bank shall sell the real estate within a period not exceeding three years. The said period, however, may be extended by a decision of the Board of Directors of the Central Bank;
- (c) owning or dealing in their own shares unless acquired in settlement of debts due to them, and provided that such shares are sold within two years from the date of acquisition.

(1) Text of Article (65) as amended under Decree Law No. (130) of the year 1977.

Article 67

Banks may :

- (a) purchase, for their own account, shares of other commercial companies within a limit of 50% of the bank's own funds. This limit may not be exceeded without prior approval by the Central Bank.
- (b) own shares or other assets held with them in settlement of debts due to them. In such cases, the bank shall dispose of these assets within two years from the date of acquisition.

Article 68 ⁽¹⁾

To be a member of a Bank's Board of Directors, or in charge of the Executive Staff of a bank, or Deputy or Assistant thereof, or to continue occupying any of these posts, requires the fulfillment of the following conditions:

- 1- not to have been adjudged guilty in an offense involving dishonesty, or breach of trust;
- 2- not to have been declared bankrupt;
- 3- not to have abstained from payment, even once;
- 4- to be of good reputation;
- 5- to have adequate experience in banking, financial or economic affairs in compliance with the Rules and Regulations laid down under a resolution of the Board of Directors of the Central Bank of Kuwait;

(1) Text of Article (68) as amended under Decree Law No. (36) of the year 1992. Text of this Article was further amended by virtue of Law No. (28) of year 2004.

6- not to be a member of a Board of Directors or staff in any of the other banks operating in the State of Kuwait.

Chairmen of banks' Boards of Directors shall notify the Central Bank of Kuwait of nominees to the membership of that Board, thirty days prior to the date fixed for the meeting of the General Assembly expected to be held to elect the members of the Board of Directors. Moreover, the Central Bank of Kuwait shall be notified of the names of the candidates standing for holding the positions referred to in the preceding paragraph.

The Board of Directors of the Central Bank of Kuwait shall have the right within twenty-one days from the date of its notification to object to the appointment of any such nominees under a resolution showing the relevant reason, for failure to fulfill the required conditions.

Such objection shall result in the exclusion of the nominee in question from candidacy for the Board of Directors or from occupying any such positions, as the case may be. Nominees not notified to the Central Bank or candidates objected to by the Central Bank of Kuwait according to the provisions of this Article shall not be brought before the General Assembly of the concerned bank.

The Board of Directors of the Central Bank may request from the Board of Directors of the concerned bank the removal of any of those mentioned in the first paragraph, if those occupying these posts lose - during the time of their service - any of the conditions mentioned in this article, or if the Board of Directors of the Central Bank sees in that measure the safeguard of the depositors' funds or shareholders interests or the bank's general interest. If the removal does not take place, the Board of Directors of the Central Bank shall have the right to issue a resolution showing the relevant reason for the removal of any of the above mentioned from their posts, and make a relevant entry in the Register of Banks.

Article 69 ⁽¹⁾

Banks must not, in any form, extend loans or overdrafts through current account, or issue guarantees, in favor of members of their Boards of Directors without prior permission from the General Assembly.

Such loans, advances and guarantees shall be subject to the conditions and rules applied by the bank to other customers.

This prohibition shall not include the opening of documentary credits.

Article 70

No bank may issue "Travelers' Cheques" without prior permission from the Central Bank.

SECTION V

Provisions Relating to Supervision

Article 71 ⁽²⁾

The Central Bank may issue to the banks such instructions as it deems necessary to realize its credit or monetary policy or to ensure the sound progress of banking business.

Article (71 bis) ⁽³⁾

The ratio of the national labour force in a bank to the bank's total labour force shall not be lower than fifty percent, or than the ratio defined by the Council of Ministers in pursuance of Article (9) of the mentioned Law No.

(1) Text of Article (69) as amended under Decree Law No. (130) of the year 1977.

(2) Text of Article (71) as amended under Decree Law No. (130) of the year 1977.

(3) Text of this Article has been introduced under Law No. (28) of the year 2004.

19 for year 2000, whichever is higher. This provision applies to units subject to the supervision of the Central Bank of Kuwait.

Branches of foreign banks are bound to comply with that ratio within three years from the date of their licensing to operate in the State of Kuwait.

The Kuwaiti banks, branches of foreign banks, and units mentioned in the first paragraph, operating at the time of application of this law shall carry out the necessary adjustments in compliance with the provisions of this Article within three years from the date of its application.

Article 72

The Board of Directors of the Central Bank may - whenever necessary - draw up rules and regulations to which all banks shall adhere in order to ensure their liquidity and solvency, particularly with regard to the ratios which must be maintained between the following items:

- (a) the bank's own funds on the one hand and the amount of its liabilities on the other;
- (b) the bank's liquid funds on the one hand and the aggregate of its on - call and term liabilities on the other;
- (c) the bank's own funds on the one hand and its liabilities in the form of acceptances and guarantees on the other.

In the instructions issued and notified by the Central Bank to the banks, the Central Bank shall define the meaning of the terms: "bank's own funds", "liquid funds", "liabilities" and other such items.

Article 73

The Board of Directors of the Central Bank may, upon approval of the Minister of Finance:

1- Fix for banks the maximum amount of discount operations, or loans or other banking operations, which they may carry out with effect from a certain date.

2- Fix for banks:

- (a) the minimum amount which customers must pay in cash to cover the opening of documentary credits;
- (b) the maximum amount which may be lent to any single person - whether natural or juristic - in proportion to the bank's own funds;
- (c) the proportion of the bank's funds which must be deposited in cash with the Central Bank;
- (d) the proportion of the bank's funds which must be invested in the local market;
- (e) the rate of interest which banks shall pay on deposits, and the maximum rates of interest and commission which they may charge their customers.

Article 74

Decisions issued by the Central Bank in application of the provisions of the preceding two Articles shall have no retroactive effect and shall not hinder the execution of agreements concluded between banks and their customers prior to the issue of such decisions.

Article 75 ⁽¹⁾

In the event exceptional circumstances arise and threaten the regularity of banking business, the Governor of the Central Bank may- upon approval of

(1) The provisions of this Article have been introduced under Decree Law No. (130) of the year 1977.

the Minister of Finance - order the banks to close temporarily and to stop all their operations. The banks shall, then, resume their operations by a decision to be issued by the Governor of the Central Bank and approved by the Minister of Finance.

SECTION VI

Specialized Banks ⁽¹⁾

Article 76

Specialized banks refer to banks whose main function is to finance certain economic sectors, such as the real estate, industrial or agricultural sectors, and which do not accept demand deposits as part of their basic activity.

Article 77

Specialized banks shall be subject to the provisions concerning the organization of banking business, wherever such provisions are not in conflict with the nature of the activities of these banks.

The Board of Directors of the Central Bank may lay down special rules for the supervision of each type of the specialized banks. Such rules shall, in particular, cover the following:

- (a) Conditions for accepting deposits.
- (b) The maximum limit for the value of bonds specialized banks may issue, as well as the conditions for such issue.
- (c) The conditions relating to loans and other credit facilities extended by specialized banks.

(1) The provisions of this Section have been introduced under Decree Law No. (130) of the year 1977.

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- (d) The rules relating to participation in establishing other companies, or the purchase of their shares.

SECTION VII

Inspection of Banks and Institutions **Subject to Supervision by the Central Bank** ⁽¹⁾

Article 78 ⁽²⁾

- (a) The Central Bank may, at any time, inspect banks and financial companies and institutions subject to the Central Bank supervision under the provisions of this Law, in addition to branches, companies and banks that operate abroad and are subsidiaries of Kuwaiti banks. Co-ordination shall be carried out in this regard with the central banks or banking supervision authorities in the concerned countries.

The banking supervision authorities in the other countries shall carry out the inspection of branches of their banks operating in the State of Kuwait. In this regard, co-ordination with the Central Bank of Kuwait shall precede inspection.

- (b) Central Bank staff authorized to conduct inspection shall have the right to see the accounts, books, records, instruments and all documents they deem necessary for inspection. They may ask any member of the board of directors, or any official of the bank or institution to submit and present such data and information they deem necessary for the purposes of inspection. Review of books, records and instruments shall be carried out within the premises of the bank or institution inspected.

(1) The provisions of this Section have been introduced under Decree Law No. (130) of the year 1977.

(2) Text of this Article was further amended by virtue of Law No. (28) of year 2004.

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- (c) The Central Bank shall make a comprehensive report on the findings of inspection made in any bank or institution. The report shall incorporate recommendations on the measures the Central Bank deems useful for rectifying any unsound position discovered through inspection. The Governor of the Central Bank shall send a copy of the report to the Chairman of the Board of Directors or to the Manager of the bank or institution inspected. The Governor of the Central Bank may fix a period of grace for the bank or institution to eliminate violations or correct unsound positions discovered through inspection. Periodic dates and rules relating to inspection shall be set by the Board of Directors of the Central Bank.

Article 79

Without prejudice to any severer penalty under any other law, every member of the board of directors, manager, or official of the bank or institution inspected who refuses to submit information and data or to present books, records, and instruments required by the inspector for inspection purposes, or who gives information or data while knowing that it is untrue, shall be liable to imprisonment for a term not exceeding three months and to the payment of a fine not less than one hundred but not exceeding two hundred twenty-five Dinars, or to either of these two penalties.

Article 80

Central Bank officials authorized to conduct inspection shall - during the term of their service and after quitting their jobs - maintain the secrecy of accounts, books and instruments they review by virtue of their duty. They shall not disclose any information relating to the affairs of banks or institutions inspected, or to the affairs of their customers, except in such cases where it is permissible to do so by law.

Without prejudice to any severer penalty under any other law, every person who violates the prohibition provided for in the preceding paragraph shall be liable to imprisonment for a period not exceeding three months and to the

payment of a fine not exceeding two hundred twenty - five Dinars, or to either of these two penalties, plus discharge from service.

SECTION VII

Accounts and Statements

Article 81 ⁽¹⁾

Banks shall observe the following:

- (a) End their financial year on the thirty - first of December every year;
- (b) Submit to the Central Bank, within three months from the end of their financial year, their Balance Sheet and Profit and loss Account.

Foreign bank branches permitted to be opened under the provisions of Article (56) of this Law shall maintain independent accounts for all their operations in Kuwait, including balance-sheets and profit and loss accounts.

Article 82 ⁽²⁾

- 1- The Central Bank may ask the banks to submit such statements, information and statistical data as the Bank considers necessary to carry out its functions. The Central Bank may also establish a system for the collection of statistics on banking credit on periodical basis.

(1) Text of Article (81) as amended under Decree Law No. (130) of the year 1977.

(2) Text of this Article was amended by virtue of Law No. (28) of year 2004.

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- 2- The nature of such statements, information and statistical data, as well as their forms and the periods during which they should be submitted, shall be specified by the Board of Directors of the Central Bank.
 - 3- Banks must submit to the Central Bank all data, information and statistics it requests, in accordance with the system the Central Bank lays down for this purpose. All these information shall remain confidential, except statistical data in an aggregate form, data and information exchanged between the Central Bank of Kuwait and other central banks and banking supervision authorities, in fulfillment of the objectives of consolidated supervision of banks, branches and companies that are subsidiaries of these banks. Exchange of these data and information shall be in accordance with the arrangements agreed on between the Central Bank of Kuwait and the concerned central banks or banking supervision authorities.

Article 83 ⁽¹⁾

The Central Bank may establish a Centralized Risks System for the purpose of assisting banks to evaluate the financial positions of persons applying to them for credit, and to enable the Central Bank to be constantly aware of the trends of banking credit and to assist in the application of the system of discount and rediscount at the Central Bank.

The Board of Directors of the Central Bank shall lay down the rules and procedures for the System, and specify the data concerning its application.

Data and information acquired through the Centralized Risks System shall only be disclosed to persons who should be advised thereof under the rules laid down for the implementation of the System.

(1) Text of this Article has been introduced under Decree Law No. (130) of the Year 1977.

Without prejudice to any severer penalty under any other law, anyone who violates this prohibition shall be liable to imprisonment for a term not exceeding three months and to the payment of a fine not exceeding two hundred twenty-five Dinars, or to either one of these two penalties, plus discharge from service in all cases.

Article 84 ⁽¹⁾

- (a) The auditor shall indicate in his annual report the rules and means relied upon in verifying the existence of assets, the methods applied in their evaluation thereof, and the process of assessing outstanding liabilities.

The auditor's annual report shall include the auditor's opinion on the adequacy of internal control systems applied in the bank, and the sufficiency of provisions against any decline in assets value and against the bank liabilities, along with determining the shortage in these provisions if applicable

- (b) The auditor shall clarify in his report whether the operations audited were contrary to any rules or provisions of the Law concerning the Central Bank and the Organization of Banking Business, or to the regulations and decisions issued in pursuance of the said Law. A copy of the report shall be forwarded to the Governor of the Central Bank.
- (c) The auditor shall - on the Central Bank request - check and audit any transactions carried out by the bank whose accounts are audited by him and present a report accordingly to the Central Bank. Furthermore, the auditor shall sign any statements or accounting data forwarded by the bank to the Central Bank. Such signature shall testify to the correctness of these statements and data.

(1) Text of this Article has been introduced under Decree Law No. (130) of the year, and was further amended by virtue of Law No. (28) of year 2004.

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- (d) The auditor may not receive any loans - whether with or without collateral - or guarantees from the bank the accounts of which he audits.

SECTION VIII

Penalties

Article 85 ⁽¹⁾

1- If a bank violates the provisions of this Law or the decisions and instructions issued in pursuance thereof, or the provisions of its Articles of Association, or fails to submit the documents, statements or information which it is required to submit to the Central Bank, or submits statements discrepant with facts, the following penalties may be imposed :

- (a) Warning.
- (b) Imposing financial penalties that are commensurate with the graveness of the violation, and do not exceed fifty thousand Dinars.
- (c) Temporarily suspending some or all operations usually carried out by the Central Bank with banks.
- (d) Prohibiting the bank from carrying out certain operations, or imposing any other limitations on its business.
- (e) Requesting the removal or replacement of the employee responsible for the violation, if that employee is among those in charge of the main sectors of the bank's activity.
- (f) Considering the member of the bank's Board of Directors, which is responsible for the violation, unfit for the Board membership.

(1) Text of this Article was further amended by virtue of Law No. (28) of year 2004.

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- (g) Appointing a temporary controller to supervise the progress of work at the bank. The powers and competences of that controller shall be determined by the Board of Directors of the Central Bank.
- (h) Dissolving the bank's Board of Directors and appoint a commissioner to manage the bank until the election of a new Board.
- (i) Deleting from the Register of Banks.
- 2- The penalties provided for in paragraphs (a) and (c) shall be imposed by a decision of the Governor. The penalties provided for in paragraphs (b), (d), (e), (f), (g) and (h) shall be imposed by a decision of the Board of Directors of the Central Bank. The penalty provided for in paragraph (i) shall be imposed by a decision of the Minister of Finance, after the approval of the Board of Directors of the Central Bank, and after perusal of the concerned bank's explanation in this regard.

Unless involving a third party's rights, any money achieved by the violating bank as a result of the committed violations, shall become the property of the Public Treasury. Furthermore, all financial gains achieved by a member of the bank's Board of Directors, or the bank's employee, as a result of committed violations shall become the property of the Public Treasury. The Board of Directors of the Central Bank of Kuwait lays down the rules and principles to be applied in determining the amounts that shall become the property of Public Treasury.

- 3- Members of Board of Directors, the officer in charge of the Executive Staff, General Managers, Deputies or Assistants thereof, Sector Managers, and Branch Managers of the violating bank shall - all within their respective competences- be responsible for deliberately committing any act that resulted in the bank's violation of this Law and the decisions and instructions issued in pursuance thereof or the provisions of the bank's Articles of Association, or for failing to submit the documents, statements or information which it is required to submit to the Central Bank, or for submitting statements discrepant with facts.

The person responsible for the violation shall bear all ensuing damages to the bank, its shareholders or third parties, as a result of the violation.

Article (85 bis) ⁽¹⁾

Except for cases allowed by the law, any member of the bank's Board of Directors, or bank manager or employee or worker, shall not disclose any information - during the period of his employment or after leaving work at the bank- regarding the affairs of the bank or its customers, or other banks' affairs, which he may have become aware of due to the activities inherent in his position.

Without prejudice to any severer penalty under any other law, anyone who violates the prohibition mentioned in the previous paragraph shall be liable to imprisonment for a term not exceeding three months and the payment of a fine not exceeding two hundred and twenty five Dinars, or to either one of these penalties, plus dismissal from the service.

SECTION X

Islamic Banks ⁽²⁾

Article 86

Islamic Banks exercise the activities pertaining to banking business, and any activities considered by the Law of Commerce or by customary practice as banking activities, in compliance with the Islamic Shari'ah principles. Islamic banks ordinarily accept all types of deposits, in the form of current, savings, or investment accounts, whether for fixed terms and purposes or otherwise. These banks carry out financing operations for all terms, using Shari'ah Contracts, such as: Murabaha, Musharakah and Mudarabah. Furthermore, these banks provide various types of banking and financial

(1) Text of this Article has been introduced under Law No. (28) of the year 2004.

(2) Text of this Section has been introduced under Law No. (30) of the year 2003.

services to their customers and to the public. They conduct financial and direct investment operations whether on their own account or on the account of other parties or in partnership with others, including establishment of companies or holding equity participations in existing companies or companies under establishment, which undertake various economic activities, in accordance with both Islamic Shari'ah principles and controls laid down by the Board of Directors of the Central Bank, and all that in compliance with the provisions of this Law.

The Central Bank shall lay down the rules and controls that regulate the activities of branches of foreign Islamic banks authorized to operate in the State of Kuwait. Insofar as the provisions of this Law are concerned, the branches of any foreign Islamic bank operating in the State of Kuwait shall be considered as one bank.

Article 87

As an exception to the provisions of the Commercial Companies Law concerning the establishment of companies, and of the provisions of this Law (on Islamic banks) concerning the capital and share percentages of founders' subscription, Kuwaiti banks - with the approval of the Central Bank - may establish subsidiary companies to conduct activities of Islamic banks in accordance with Shari'ah principles and the provisions of this Law. Each Kuwaiti bank may not establish more than one company with only one premises, and the capital of the company shall not be less than fifteen million Kuwaiti Dinars. The founder bank shall subscribe for a share of not less than 51% in the capital of the company, and shall maintain that percentage at all times after the establishment. The remaining shares shall be placed for public subscription. If placement is not entirely covered by public subscription, the remaining shares shall be covered by the founder bank itself.

Apart from the exception stipulated in the preceding paragraph, the subsidiary company mentioned in that paragraph, which conducts its activity

in accordance with the Shari'ah principles, shall be considered an independent Islamic bank in the application of the provisions of this Law.

The bank shall not sell or transfer the property of its subsidiary company or any part thereof to any other party.

Article 88

Before starting the formalities of incorporation, applications for establishing Islamic banks shall be presented to the Central Bank, together with the following documents:

- 1- a statement citing the founders' names, nationalities, addresses, and shares in the bank's capital;
- 2- a draft of the Memorandum of Agreement and Articles of Association;
- 3- the feasibility study for establishing the bank; and
- 4- any other documents that the Central Bank may require.

Application forms for establishing branches of foreign Islamic banks shall be presented to the Central Bank, together with the following documents:

- 1- a copy of the Memorandum of Agreement and Articles of Association of the applicant bank;
- 2- the feasibility study for establishing the branch;
- 3- evidence that the headquarters of the foreign Islamic bank is subject to the parent country's supervisory authority, together with the relevant approval thereof to establish the branch applied for, and
- 4- any other documents that the Central Bank may require.

Applications to establish Islamic banks or a branch of foreign Islamic bank shall be submitted to the Board of Directors of the Central Bank for its approval in principle or refusal thereof.

The license given to establish a branch of a foreign Islamic bank shall not be transferable to any other party.

Article 89

Islamic banks shall be registered in a special register for Islamic Banks at the Central Bank, pursuant to applications presented to the Central Bank on relevant forms. Registration therein shall be effected by a decision of the Minister of Finance on recommendation of the Board of Directors of the Central Bank. Islamic Banks shall not start operation until they have been registered in that Register.

Islamic banks shall not establish branches inside or outside Kuwait without prior permission from the Central Bank, and before having these branches registered in the Islamic Bank Register.

The Minister of Finance shall, on the recommendation of the Board of Directors of the Central Bank, issue an Islamic Bank Register Bylaw that shall include rules, procedures and timings of effecting, amending and declaring Register entries.

Article 90

In keeping with the provisions of the Law of Commercial Companies, and without prejudice to the provisions of this Law, registration of Islamic banks in the Register shall require the following:

- 1- The bank takes the form of a joint-stock company that places its shares for public subscription. Branches of foreign Islamic banks, once permitted in the State of Kuwait, may be excluded from this provision by a decision of the Council of Ministers, upon the proposal of the Board of Directors of the Central Bank and the approval of the Minister of Finance.

2- The Central Bank approves the bank's Memorandum of Agreement and Articles of Association.

Article 91

Registration of branches of foreign Islamic banks in the Register, shall require provision of the following documents to the Central Bank :

- (a) an affidavit by the headquarters of the foreign bank declaring its commitment to any rights of depositors and creditors as well as all liabilities that may accrue on the branch;
- (b) evidence of the transfer of the minimum amount of funds allocated for the branch operations in the State of Kuwait, as stipulated in this Law; and
- (c) any other commitment, document or instrument that the Central Bank may require.

Article 92

Without prejudice to the provisions of Article 87 and the provisions of enforced laws, the paid-up capital of any Islamic bank shall not be less than seventy-five million Kuwaiti Dinars. The founders' share in the bank capital shall not recede below 10% nor exceed 20% .

With regard to the branches of foreign Islamic banks the amount of funds allocated for a branch in the State of Kuwait shall not be less than fifteen million Kuwaiti Dinars. The founders'-share in the amount of funds allocated for a branch in Kuwait may be amended and so the amount of funds allocated for the branch increased by a decision of the Board of Directors of the Central Bank, when necessary.

If the capital of a bank or the amount of funds allocated for a branch of foreign Islamic bank fall below the required minimum limit as a result of

operational losses or other reasons, the bank shall cover the difference within such a period as may be specified by the Central Bank.

Article 93

Each Islamic bank shall have an independent Shari'ah Supervisory Board, comprised of not less than three members appointed by the bank's General Assembly. The Memorandum of Agreement and Articles of Association of the bank shall specify the establishment of the Board as well as its formulation, powers, and workings.

In case of a conflict of opinions among members of the Shari'ah Supervisory Board concerning a Shari'ah rule, the board of directors of the designated bank may transfer the matter to the Fatwa Board in the Ministry of Awqaf and Islamic Affairs, that shall be the final authority on the matter.

The Shari'ah Supervisory Board shall annually submit to the bank's General Assembly a report comprising its opinion on the bank's operations in terms of their compliance with the Islamic Shari'ah principles and any comments it may have in this respect. This report shall be included in the bank's Annual Report.

Article 94

The Central Bank may:

- 1- open accounts denominated in Kuwaiti Dinar or foreign currencies with Islamic banks;
- 2- open accounts denominated in Kuwaiti Dinar or foreign currency for Islamic banks;
- 3- authorize Islamic banks to participate in the Clearing Chamber.

Such actions shall be performed in accordance with the terms and conditions that are not in contradiction with the Islamic Shari'ah principles and are as decided by the Central Bank.

Article 95

The Central Bank may carry out the following operations:

1- provide emergency finance to Islamic banks for a period not exceeding six months using instruments and methods that conform with the Islamic Shari'ah principles, and in accordance with the terms and conditions set by the Board of Directors of the Central Bank.

The term of such finance may be extended for a period not exceeding further six months.

2- sell to and purchase from Islamic banks securities and other instruments that comply with the Islamic Shari'ah principles.

3- issue instruments that comply with the Islamic Shari'ah principles, in accordance with the limits and conditions set by the Board of Directors of the Central Bank.

Dealing in these instruments, by sale and purchase, may be carried out with both Islamic banks and other institutions subject to the supervision of the Central Bank.

Article 96

Islamic banks shall be under the obligation to fully repay sight deposits to their depositors upon request, while such deposits shall not incur any losses.

Owners of investment deposits shall participate in the profits and losses from the bank's business in proportion to the amounts of their participation in the investment, pursuant to the contracts concluded with them in this regard, and in accordance with the provisions of this Law.

Article 97

The Board of Directors of the Central Bank shall set the rules and regulations for the supervision of Islamic banks with respect to liquidity, solvency, and business organization, including in particular:

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- (a) a system for liquidity and elements thereof;
 - (b) capital adequacy standards through specifying the ratio of capital to asset elements;
 - (c) rules for calculation of the required provisions for asset risks.

Article 98

The Board of Directors of the Central Bank may specify for Islamic Banks all or some of the following:

- 1- the maximum value of operations pertaining to a specific activity;
- 2- the maximum limit of a bank's equity holdings in companies that it incorporates, participates in establishment, or owns shares therein; and the rules and regulations thereof, in addition to the maximum limit of a bank's participation in any single project;
- 3- the maximum limit of a single customer's liability to the bank while granting a relative advantage to subsidiaries of the bank according to the conditions laid down by the Central Bank;
- 4- the amount of funds that must be invested in the local market;
- 5- the portion of deposits with the bank that must be deposited in cash with the Central Bank;
- 6- the rules and regulations that must be observed in a bank's relationship with its customers, and between its customers and shareholders.

Article 99

Without prejudice to the provisions of Articles 97 & 98 of this Law, Islamic banks shall not own or deal in private residential buildings and plots in the State of Kuwait with the exception of those:

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- 1- acquired or dealt in for the purposes of executing finance operations that have been agreed to or are being concluded with customers in accordance with the methods and forms of funding that are in compliance with the Islamic Shari'ah principles;
 - 2- required for the conduct of their business or for the accommodation or recreation of their staff;
 - 3- acquired by reversion of title in settlement of others' unfulfilled obligations towards them, provided that these are sold off within a period not exceeding three years from the date of reversion. The said period, however, may be extended by a decision of the Board of Directors of the Central Bank, when necessary.

Article 100

Unless otherwise stipulated in this section, Islamic banks shall be subject to the provisions of this Law (No. 32 of 1968) without prejudice to the Islamic Shari'ah principles.

CHAPTER IV

GENERAL AND TRANSITIONAL PROVISIONS

Article 101

- (a) With effect from the date of coming into operation of the provisions of Chapters I and II of this Law, currency notes and coins issued by the Kuwait Currency Board shall be deemed to be the liabilities of the Central Bank, and such notes and coins shall, for all purposes, be regarded as notes and coins issued by the Central Bank.

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- (b) The Central Bank shall take over from the Kuwait Currency Board all stocks of un-issued currency notes and coins.
 - (c) The Central Bank may put the notes and coins of the Kuwait Currency Board into circulation as notes and coins of the Bank.

Article 102

- (a) With effect from the date of coming into operation of Chapters I and II of this Law, the Kuwait Currency Board shall transfer to the Central Bank gold and foreign exchange assets equal in value to the currency liabilities taken over by the Bank. Should the assets of the Kuwait Currency Board be insufficient for this purpose, the deficiency shall be made good by the Government.
- (b) Any surplus held by the Kuwait Currency Board, after setting all outstanding commitments, shall be transferred to the General Reserve Fund provided for in Article (17) of this Law.
- (c) Gold and foreign exchange assets transferred under the terms of this Article shall be valued in the manner laid down in Article (47) of this Law.

Article 103

As an exception to the provisions of Article (46) of this Law, the first financial year of the Central Bank shall begin as from the date of coming into operation of the provisions of Chapters I and II of this Law, and shall end when the financial year ends. If this period is less than six months, the annual reports which the Governor is required to submit under the provisions of Article (50) shall be submitted at the end of the following financial year.

Article 104

Amiri Decree No. (41) of the year 1960 concerning the Kuwait Currency Law and the Decrees amending it shall be replaced as from the date coming

into operation of Chapters I and II of this Law, and the Kuwait Currency Board shall be liquidated after it has submitted its Statement of Accounts and Report for the last accounting period, and after it has settled all its previous commitments.

Article 105

The Minister of Finance shall issue the decisions required for the implementation of this Law.

Article 106

The Ministers - each insofar as he is concerned - shall put this Law into force, and it shall be published in the Official Gazette. An Amiri Decree shall be issued fixing the date of enforcement of this Law in whole or in part.

Amir of the State of Kuwait

SABAH AL-SALIM AL-SABAH

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