

Decision No (37) of 2013
On Executive Regulation for the Anti-Money Laundering and Combating
Terrorism Financing Law (106) of 2013 and its amendments

The Minister of Finance:

Upon reviewing Law No. (106) of 2013 on Anti-Money Laundering and Terrorism Financing,

Upon reviewing international convention on anti-money laundering and terrorism financing,

Upon submission of the Secretary of the Ministry of Finance

Has resolved the following:

Article 1

The definitions set out in Article 1 of the Anti-Money Laundering and Combating Terrorism Financing Law shall apply to this Executive Regulation. The following words and expressions shall have the following meaning:

1. **The Law:** the Anti-Money Laundering and Combating Terrorism Financing Law (106) of 2013.
2. **Correspondent banking:** means the provision of banking services by the “correspondent bank”) to the “respondent bank” (the last bank to execute the transaction).
3. **Enhanced due diligence measures:** shall include taking additional Customer Due Diligence measures when money laundering and terrorism financing risks are high, such as increasing the degree and nature of monitoring of the business relationship in order to determine whether transactions or activities appear unusual or suspicious; obtaining additional information on the customer; obtaining additional information on the intended nature of the business relationship; obtaining further information on the source of funds or the source of wealth of the customer; or any other measures specified by the supervisory authorities.
4. **Politically Exposed Person:** i) any natural person, whether as customer or beneficial owner, who is or was entrusted with a prominent public function in the State of Kuwait or in a foreign country, such as Head of States or of governments, senior politicians, senior government , judicial or military officials, senior executives of state owned corporations, and important political party officials; (ii) any person who is or has been entrusted with a prominent function in an international organization, such as directors, deputy directors and members of the board. This term also includes up to second degree family members and close associates.
5. **Supervisory Authorities:** means the following authorities in Kuwait.

Central Bank of Kuwait	For: Banks, Exchange Companies and Finance Companies.
Ministry of Commerce and Industry	For: Insurance Companies, Agents and Brokers, Exchange Organizations, Real

	Estate Agents, Dealers in Precious Metals and Stones, and Accountants.
Capital Markets Authority	For: Investment Companies, Securities Brokerage Companies, Financial Brokerage Companies, Underwriters, Asset Managers, Mutual Funds, Custodian Companies.
Self-Regulatory Bodies: Kuwait Association of Lawyers	For: Lawyers.

6. **National Committee:** the committee established pursuant to the provisions of this Regulation to establish and develop national strategies and ensure the existence of effective AML/CFT coordination mechanisms at the local and international level.

Section I – Preventive Measures

Chapter 1 – Risk Identification and Assessment

Article 2

Financial institutions and designated non-financial businesses and professions shall have in place policies and procedures to ensure that they comply with the provisions of the Law, this Executive Regulation and relevant Ministerial Decisions and Instructions issued by supervisory authorities, including appropriate customer acceptance and risk management policies. These policies and procedures should be reviewed and endorsed periodically.

Article 3

Financial institutions and designated non-financial businesses and professions shall have in place risk assessment processes to identify, assess, monitor, manage and mitigate money laundering and terrorism financing risks which may arise in the course of their business activities and are mainly related to the following:

- a) Customers;
- b) Countries or geographic areas in which they operate or the place of origination or destination of transactions;
- c) The nature of products and services offered; and
- d) The delivery channels for products and services.

Article 4

The risk assessments undertaken by financial institutions and designated non-financial businesses and professions should be documented, kept up to date and be reviewed by financial institutions and designated non-financial businesses and professions periodically. The results of the assessment should be made available to the supervisory authority upon request.

Supervisory authorities may determine that documented risk assessments are not required to be completed by all financial institutions or designated non-financial businesses and professions, if

the money laundering and terrorist financing risks inherent to a certain activity are clearly identified, understood and managed.

Chapter 2 – Customer Identification Requirements

Article 5

Financial institutions and designated non-financial businesses and professions shall identify and verify the identity of the customer and beneficial owner through the following documents:

- a) Civil card for citizens and residents;
- b) Passport or travel document for persons not residing in the state of Kuwait;
- c) Commercial license issued by the Ministry of Commerce and Industry for resident companies and establishments and, in the case of non-resident companies and establishments documents issued by competent authorities in the state in which they were incorporated or established;
- d) Documents, papers, instruments, and court orders proving that a person has been appointed to represent the concerned person.

The supervisory authority may prescribe additional identification and verification requirements for customers to be applied by financial institutions and designated non-financial businesses and professions.

Article 6

For the purposes of Article 5 of the Law, the applicable threshold is KD 3,000 or its equivalent in foreign currency.

Chapter 3 – Enhanced Customer Due Diligence Requirements for Certain Customers

Article 7

Financial institutions and designated non-financial businesses and professions shall establish appropriate risk-management systems to determine whether a customer or beneficial owner is a politically exposed person, and if so, apply additional Customer Due Diligence measures to those under Article 5 of the Law pursuant to the following:

- a) For foreign politically exposed persons:
 - (i) obtain approval from senior management before establishing or continuing a business relationship with such a person;
 - (ii) take all reasonable measures to identify the source of wealth and funds; and
 - (iii) apply enhanced ongoing monitoring of the business relationship.
- b) For domestic Politically Exposed Person or a person who is or has been entrusted with a prominent function by an international organization:

the measures referred to under (a) above shall be applied wherever the financial institutions or designated non-financial businesses or professions determine the risk of money laundering or terrorism financing in relation to this person to be high.

Article 8

Supervisory authorities shall ensure that financial institutions and designated non-financial businesses and professions implement measures imposed by the Unit for high-risk countries . Such measures may include, but are not limited to the following:

- a) applying specific elements of enhanced due diligence such as obtaining additional information on the customer, purpose of transactions, nature of the business relationship and the source of funds or wealth of the customer;
- b) obtaining senior management approval to continue the relationship;
- c) increased monitoring of transactions;
- d) reviewing, amending or, if necessary, terminating correspondent banking relationships.

The Unit may also require supervisory authorities to take necessary actions including, but not limited to the following:

- a) Imposing additional reports on financial institutions and designated non-financial businesses and professions;
- b) Refusing the establishment of subsidiaries, branches or representative offices of financial institutions from the country identified by the Unit;
- c) Prohibiting financial institutions and designated non-financial businesses and professions from establishing branches, representative offices or subsidiaries in the country identified by the Unit;
- d) Requiring financial institutions and designated non-financial businesses and professions to limit business relationships or financial transactions with the country identified by the Unit or persons in that country;
- e) Increasing supervisory examinations and external audit requirements for branches and subsidiaries of financial institutions and designated non-financial businesses and professions from the country identified by the Unit and operating in the state of Kuwait;
- f) Requiring increased external audit requirements by financial institutions and designated non-financial businesses and professions of their branches and subsidiaries located in the country identified by the Unit.

Chapter 4 – Cross border correspondent banking or similar relationships

Article 9

Before entering into a cross-border correspondent banking relationship or other similar relationship, in addition to performing normal customer due diligence measures, financial institutions shall:

- a. Gather sufficient information about the respondent institution
- b. Understand the nature of the respondent's business.
- c. Evaluate the reputation of the respondent institution and the quality of supervision to which it is subject, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action.
- d. Evaluate the anti-money laundering and combating the financing of terrorism controls implemented by the respondent institution.
- e. Obtain approval from senior management before establishing new correspondent relationships.
- f. Clearly understand and document the respective anti-money laundering and combating the financing of terrorism responsibilities of each institution.

These requirements should also be applied to cross border correspondent banking and similar relationships established prior to the enactment of the Law and issuance of this Executive Regulation.

Chapter 5 – Requirements for Wire Transfers

Article 10

Financial institutions that engage in cross border wire transfers shall include accurate originator and beneficiary information on wire transfers and related messages and ensure that the information remains with the wire transfer or related messages throughout the payment chain. Information accompanying all wire transfers should always contain:

- a) The full name of the originator;
- b) The originator account number where such an account is used to process the transaction;
- c) The originator's address and the customer's identification card number or their date and place of birth;
- d) The name of the beneficiary and the beneficiary account number where such an account is used to process the transaction.

Financial institutions that engage in domestic wire transfers shall include originator information as required in items (a) to (c) above in the message related to the payment chain.

Financial institutions should monitor wire transfers for the purpose of detecting those which lack required originator and/or beneficiary information and take appropriate measures in that regard.

Chapter 6 – New Products and Business Practices

Article 11

Financial institutions and designated non-financial businesses and professions should identify, assess and, take appropriate measures regarding money laundering or terrorism financing risks that may arise from the following processes:

- a) the development of new products and business practices including mechanical means to provide new products and services; and
- b) the use of new or advanced technologies for the provision of both new and existing products.

Chapter 7 – Internal Policies, Procedures, Systems and Controls

Article 12

Financial institutions and designated non-financial businesses and professions should implement internal policies, procedures, systems and controls to combat money laundering and terrorism financing which should be applicable to all domestic and foreign branches and subsidiaries of the group.

Financial institutions and designated non-financial businesses and professions should ensure that their foreign branches and subsidiaries apply requirements consistent with Article 10 of the Law to the extent that host country laws permit. If the host country Laws do not permit the full implementation of the requirements above, financial institutions and designated non-financial businesses and professions should implement appropriate additional measures to manage the money laundering and terrorism financing risks, and inform the supervisory authority. If the additional measures are not sufficient, supervisory authorities should consider taking additional supervisory actions including additional controls on financial institutions or designated non-financial businesses and professions or requiring them to cease operations in the host country, when appropriate.

Article 13

Financial institutions and designated non-financial businesses and professions should certify and keep record of all customer transactions in official records following a regular accounting system. All records and documents related to the transaction shall be kept and made available to the supervisory authorities, each within their own purview.

Article 14

Financial institutions and designated non-financial businesses and professions shall implement an ongoing employee training program to ensure they are kept informed of money laundering and terrorism financing requirements and of the latest developments and typologies in money laundering and terrorism financing.

Chapter 8 – Reliance on Third Parties

Article 15

Financial institutions and designated non-financial businesses and professions may rely on third parties to perform some elements of customer due diligence if the arrangement is approved by the supervisory authority and the following conditions are met:

- a) They can immediately obtain all information as required under Article 5(2) of the Law;
- b) They are satisfied that copies of identification data and other documents relating to customer due diligence measures will be made available from the third party upon request and without delay; and
- c) They are satisfied that the third party is regulated, supervised or monitored for and has measures in place for compliance with the requirements set out in Articles 5 and 11 of the Law.

The ultimate responsibility for customer identification and verification shall remain with the financial institutions or designated non-financial businesses and professions that have obtained the approval of the supervisory authority to rely on the third party.

Chapter 9- Reporting Obligations and Provision of Information

Article 16

After forming a suspicion or having reasonable grounds to suspect that any transaction or attempted transaction, regardless of its value, involves proceeds of crime or funds related or linked to or to be used for money laundering or terrorism financing, financial institutions and designated non-financial businesses and professions must, within no later than 2 working days, report it to the Kuwait Financial Intelligence Unit following the methods and forms set by the Unit.

Financial institutions and designated non-financial businesses and professions must also provide any relevant information or copies of documents or files, however stored, regarding any requests received from the Unit and within the timeframe prescribed by the Unit.

Chapter 10 – Rules and Procedures of Supervisory Authorities

Article 17

Supervisory authorities shall issue instructions and decisions related to requirements and controls to be observed in combating money laundering and terrorism financing for financial institutions and designated non-financial businesses and professions to implement them.

Article 18

Supervisory authorities shall conduct field checks to ensure compliance of financial institutions and designated non-financial businesses and professions with the implementation of the Anti-Money Laundering and Combating Terrorism Financing Law, its Executive Regulation and all decisions and instructions issued by relevant supervisory authorities in that purview.

Supervisory authorities may also rely on third parties in that regard, and request these financial institutions and designated non-financial businesses and professions to commission an auditor to present a report on compliance with these requirements.

Section II – National Cooperation

Article 19¹

In line with national cooperation and coordination requirements concerning the development and implementation of policies and activities to combat money laundering, terrorism financing and the financing of proliferation of weapons of mass destruction, the National Committee on Anti Money Laundering and Combating the Financing of Terrorism shall be established, and shall comprise the following members:

1. The Kuwaiti Financial Intelligence Unit
2. The Central Bank of Kuwait
3. The Ministry of Commerce and Industry
4. The Capital Market Authority
5. The Public Prosecution Office
6. The Ministry of Justice
7. The Ministry of Finance
8. The Ministry of Interior
9. The Ministry of Foreign Affairs
10. The Ministry of Social Affairs and Labor
11. The Kuwait General Administration of Customs
12. The Kuwait Anti-Corruption Authority

For the purpose of carrying out its functions, the Committee may appoint new members from any of the Kuwaiti public entities entrusted with combating money laundering, and the financing of terrorism and proliferation of weapons of mass destruction. The Committee may also seek the opinion of a knowledgeable or experienced party.

Article 20

The Committee shall have the following competences:

1. Establishing, developing and following-up on the implementation of a national strategy to combat the offences of money laundering, financing terrorism and proliferation of weapons of mass destruction.
2. Assessing the risks of money laundering and the financing of terrorism and proliferation of weapons of mass destruction at the national level.
3. Ensuring the presence of efficient mechanisms for local cooperation and coordination among competent authorities on the establishment, development and implementation of policies and activities for combating money laundering and the financing of terrorism and proliferation of weapons of mass destruction.

¹ Amended by Ministerial decision N. 51 for 2016.

4. Following-up on international and regional developments including FATF standards and relevant international conventions and treaties in the field of money laundering and the financing of terrorism and proliferation of weapons of mass destruction. The Committee also drafts recommendations on developing general policies and best practices, and suggests appropriate amendments to applicable legislations.
5. Contributing with competent authorities in the development of a qualification and training program for personnel working in the field of combating the offences of money laundering, and the financing of terrorism and proliferation of weapons of mass destruction.
6. Coordinating with relevant competent committees to develop general policies and compile statistics in the field of combating money laundering, predicate offenses, and the financing of terrorism and proliferation of weapons of mass destruction.

Article 21

The National Committee on Anti Money Laundering and Combating the Financing of Terrorism shall be chaired by the head of the Kuwaiti Financial Intelligence Unit who shall appoint a Vice-Chairman from members representing one of the parties included in the Committee to serve as chairman in his absence. Committee meetings are considered valid only if no less than 7 of the Committee members are in attendance, in addition to the presence of the Chairman or Vice-Chairman. Recommendations are adopted upon the votes of the majority of present members, and in case of a tie, the Chairman's vote shall prevail. The Committee may require the services of experts and technical professionals and invite those it sees competent in a given field to attend its meetings for consultation purposes without granting them the right to vote.

Article 22

The Chairman shall convene a Committee meeting, and the Committee shall meet at least twice a year. It shall present its decisions to the Minister of Finance for him to take the measures he sees fit, including referral to the Cabinet.

Article 23

The National Committee shall form a Technical Team from its members with the task of carrying out necessary technical studies or any other tasks entrusted thereto by the National Committee for the purpose of fulfilling its functions.

Official delegations representing the State of Kuwait in regional and international forums in that field shall be composed of members of the Technical Team.

Article 24

The Minister of Finance shall adopt the methods of procedure and financial regulation of Committee based on the recommendation of the Chairman of the National Committee in that regard.

Article 25

The Kuwaiti Financial Intelligence Unit shall undertake the tasks of the Secretariat of both the National Committee and Technical Team.

Article 26

This decision shall be published in the Official Gazette and enters into force upon publication.

Mustafa Jassem Al-Shamali

Deputy Prime Minister and Minister of Finance

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