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**STATE OF KUWAIT**

**COUNCIL OF MINISTERS**

**GENERAL SECRETARIAT – COMMITTEES SECRETARIAT**

**DRAFT**

**CABINET RESOLUTION NO. ( ) OF 2009  
ISSUING THE EXECUTIVE PROCEDURES**

**OF THE LAW DECREE NO. (2) OF 2009  
FOR ENHANCING THE STATE FINANCIAL STABILITY**





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**DRAFT CABINET RESOLUTION NO. ( ) OF 2009  
ISSUING THE EXECUTIVE PROCEDURES  
OF THE LAW DECREE NO. (2) OF 2009  
ON ENHANCING THE STATE FINANCIAL STABILITY**

The Council of Ministers,

- Having reviewed the Law Decree No. 2 of 2009, on Enhancing the State Financial Stability, and
- Upon the presentation by the Minister of Finance..

**Hereby Decided,**

**Article 1**

The provisions of the executive procedures of the aforementioned Law Decree No. 2 of 2009, the texts of which are attached to this Resolution, shall be applicable.

**Article 2**

The Ministers, each in the area of their jurisdiction, shall execute this resolution, which shall come into force from the date of its issuance, and shall be published in the Official Gazette.





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**Nasser Mohammad Al-Ahmad**

**Prime Minister**

Issued on:

Corresponding to:

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

**Preamble Part**

**Definitions**

**Article 1**

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

1. **Banks:** The Kuwaiti banks registered with the Central Bank of Kuwait.
2. **Local Banks:** The Kuwaiti banks and branches of foreign banks registered with the Central Bank of Kuwait.
3. **Companies:** Investment Companies registered with the Central Bank of Kuwait.





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4. **Deficit in Specific Provisions:** The amount of difference between the amounts charged to the business results of any bank to meet the risk of non-collection of debts, as specific provisions made for this purpose, and the provisions required in accordance with the instructions issued by the Central Bank of Kuwait.
5. **Classification Categories of the Financial Investments Portfolio:** In accordance with International Accounting Standards, the financial investments portfolio shall be classified into categories, each having an accounting policy that should be followed.
6. **Productive Local Business Sectors:** The productive local private sector business activities, representing: oil and gas, agriculture and fisheries, industrial, construction (construction and contracting), commercial and trading, services (including telecommunications, transportation, crafts, etc.), as classified under CBK's instructions regarding definition of economic sectors.
7. **The Manager Bank:** The Kuwaiti bank with the largest portion of the company's debt to banks, or any other bank to be specified by CBK.
8. **Beneficiaries:** The Kuwaiti banks to whom the guarantee document is issued in accordance with the provisions of Part I of the Law Decree, and the



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investment companies that enjoy net worth, and to whom the provisions of Chapter 1 of Part I of the Law Decree apply.



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**Part 1**

**Banks**

**Chapter 1**

**Guaranteeing the Deficit in the Provisions for Credit Facilities and Finance**

**And Guarantee of Impairment of Financial and Real Estate**

**Investment Portfolios**

**Article 2**

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

- A. Deficit in specific provisions shall be computed as relevant to the balances of the credit facilities and finance outstanding with the bank's records as at 31/12/2008. Specific provisions required in accordance with CBK's instructions concerning the rules and regulations for classification of the credit facilities and financing transactions, and the calculation of the provisions thereof.
- B. An independent accounting record shall be prepared, including the balances of the credit facilities and finance outstanding in the bank's records as at



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31/12/2008, specifying the relevant collaterals submitted by customers, provisions made by the bank, returns retained in suspense accounts, as well as the deferred income from the financing transactions provided by Islamic banks.

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

- C. An assessment should be made for the collaterals submitted against the classified debt. In this context, assessment of the real estate collaterals should be made at least on an annual basis, during the last quarter of the financial year. Assessment should be made by two neutral parties specialized in this field, one of them should be Kuwait Finance House or Kuwait International Bank for local real estate properties, and the lower valuation shall be considered. Financial investments should be assessed on a quarterly basis, at the end of: March, June, September, and December, in accordance with the prescribed principles under the International Accounting Standards, and the recognized banking practices.
- D. Amount of state guarantee shall be specified on a quarterly basis, at the end of: March, June, September, and December, for the amount of deficit not





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covered by the bank, after the use of profit, and any item of shareholders' equity, as decided by CBK. The guarantee shall be issued with documents under Forms 1, 2, and 3 attached to these executive procedures.

E. Each bank shall make the necessary provisions to reduce the size of deficit.

### Article 3

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

### Article 4

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



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

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

### Article 5

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



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





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**Article 6**

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

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





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**Chapter 2**

**Issuance and Terms of Guarantee**

**Article 7**

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

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



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**Article 8**

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

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

**Article 9**

CBK shall establish a system for monitoring the guarantee issued for each bank. Banks should submit the statements required by CBK in this respect.

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



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**Chapter 3**

**Requirements of Rectification of Banks' Situations**

**Article 10**

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

**Article 11**

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

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



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**Article 12**

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

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

CBK may license to any bank to issue bonds bound to convert into shares, or convertible bonds, for a value exceeding its capital.

**Article 13**

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

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

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

### **Article 14**

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

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

By resolution from the extraordinary general assembly, the rights issue shares may be offered, in whole or in part, for public subscription, directly with enforcing the priority rights of old shareholders, if prescribed under the bank's article of association.

### **Article 15**

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



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

**Article 16**

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

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





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**Part 2**

**Productive Local Business Sectors**

**Chapter 1**

**Controls for Granting New Finance**

**Article 17**

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

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

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





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

CBK shall set out the rules and procedures, and shall specify the data relevant to the application of this system, covering a form for each new finance to be granted, including all data relating to such finance, the results of the credit study, the decision of the credit authority regarding the size of granted finance, the collaterals, as well as the opinion of the Risk Management Department. The form shall include a declaration by the bank to comply with the terms prescribed under Article 18 of these Executive procedures. This form shall be approved by all those in charge of granting the credit, the Risk Management Department, and the bank's Chief Executive Officer (CEO).

### **Article 18**

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

1. CBK's instructions concerning rationalization and organization of the credit and finance policy with banks, as well as recognizing the credit worthiness of the borrower customer.



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2. Obtaining sufficient and appropriate collaterals, to be specified in light of the status of each customer.

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

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

3. New finance should not be used for the purpose of speculation or trading in real estate or securities, or for repayment of customer's debt outstanding at the time of promulgation of the Law Decree. All actions should be taken to monitor the customer's utilization of this finance for the purpose for which it is granted in accordance with the agreement made with the customer, and consideration of the sound banking practices in this respect.

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4. The finance maturity shall be specified according to the customer's requirements, for a maximum of five years.
5. Repayment of the principal balance of finance, and the return, together, shall be made with installments throughout the finance maturity.
6. The new finance portfolio should be diversified into the local productive business sectors in light of the applications for finance, and their feasibility.

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

### **Article 19**

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

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



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**Chapter 2**

**Terms of Guarantee**

**Article 20**

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

**Article 21**

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

- A. In the event that any balances of such new finance are irregular, the bank providing the finance shall make provisions by 50% of the required provisions, in accordance with the above-mentioned instructions, for the existing balance of such finance, less the value of collaterals provided by the customer.



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- B. All necessary actions should be taken to monitor the irregular customers, so as to collect the debts due from them according to the applicable procedures.
- C. If it is not possible to collect the irregular debt, after using all efforts towards collection, including the legal actions, the bank shall notify CBK of the actions taken in this respect to obtain CBK's prior consent to write off the debt.
- D. If CBK approves writing off the debt, the state guarantee by 50% of the outstanding balance shall be specified in the bank's records, less the value of collaterals provided by the customer, interest, and retained returns, in a suspense account, as well as the deferred income as for the finance transactions provided by Islamic banks, considering the provisions of Article 22 of these Executive Procedures.
- E. Banks should continue to collect the debts written off in accordance with the applicable procedures, and should provide CBK with a periodic report in this regard.

**Article 22**

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

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

On such bonds and sukuk a return to be specified by CBK may be paid.



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**Part 3**

**Investment Companies**

**Chapter 1**

**Classification and Study of the Situations of Companies**

**Article 23**

CBK shall specify the parties specialized in studying and evaluating the situations of investment companies, in accordance with reference controls and principles to be specified by CBK.

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

**Article 24**

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

1. The company's financial status.
2. A detailed statement of the liabilities outstanding from company to local and foreign parties.
3. The problems and difficulties facing the company in fulfilling its obligations

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and the actions taken by the company in this regard.

4. Specifying whether the company requests the appointment of a specialized consulting firm, or to assign the party to be specified by CBK to do so.

### **Article 25**

CBK shall assign the specialized party to be specified in accordance with Article 23 to study and assess the situation of the investment company facing financial problem, and needs treatment of its situation, so as to specify how far it enjoys net worth and to assess its ability to continue activity.

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

### **Article 26**

The study to be conducted by the specialized party, as for the company enjoying net worth and able to continue, shall include proposing the necessary treatment approaches, through an appropriate plan and timeframe to restructure the balance sheet and treat the company's financial situation, enabling it to fulfill its obligations and overcome its financial problems. The following should be considered:

- A. Studying the company's financial situation on the basis of updated



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assessment that truly reflects the value of the company's assets and obligations, so as to specify how far it enjoys net worth, and a detailed report should be provided, giving the principles followed with regard to this assessment.

- B. Specifying the nature and reasons for the financial problems facing the company and approaches of the treatment thereof.
- C. Projecting the amounts required for the treatment of the company's situation, whether through finance by banks or by obtaining the support from shareholders via capita increase, or obtaining a subordinated finance from the shareholder or third parties.
- D. Specifying the assets that the company may submit as collaterals for the existing and new finance.

**Article 27**

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





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**Chapter 2**

**Treatment Approaches and Controls**

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

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

**Article 29**

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





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**Article 30**

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

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

**Article 31**

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





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

**Article 32**

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

**Article 33**

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





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**Article 34**

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

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

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





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**Article 35**

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

**Article 36**

The investment company, of which the situation is decided for treatment, shall present the terms and procedures stated in the Law Decree and these Executive Procedures to the general assembly for prior approval to execute the terms and procedures prescribed by CBK in this regard, as well as reducing the administrative and general expenses, and the financial allocations for the top management, and the executive management, including the remuneration, bonuses, etc., as prescribed by CBK, and shall make the changes in their technical and administrative structures as required by the procedures for treating their situations, as approved by CBK. Companies shall also comply with the provisions of Law No. 19 of 2000 supporting and encouraging the national manpower to work at the non-government entities, and the resolutions issued in execution thereof, provided that the national manpower shall not be less than 50% of their total manpower.

The company shall also obtain prior approval – in principle – from the extraordinary general assembly to enter into a merger, if the company's situation so requires. Terms and all information regarding the merger should be presented to the



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extraordinary general assembly for final approval in accordance with the provisions  
of the Commercial Companies Law.





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**Chapter 3**  
**Legal Actions**  
**For Restructuring Investment Companies**

**Article 37**

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

**Article 38**

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

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

The Writers Department shall enter the application, upon signature by the Chief



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Judge of the competent circuit, shall fulfill all prescribed procedures, and shall provide CBK and all the company's creditors, with copy of the application, duly signed by the Chief Judge, registration number, and the effects arising thereon, with an acknowledged receipt registered letter.

### **Article 39**

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

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

The Writers Department shall enter the application, duly signed by the Chief Judge, and shall fulfill the prescribed procedures, providing CBK and all its creditors with copy of the application, registration number, and the effects arising thereon, with an acknowledged receipt registered letter.

### **Article 40**

Following the signature by the Chief Judge of the competent circuit, accepting the application for restructuring, as well as the relevant documents, the company shall

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notify CBK, all its creditors, of the effects of stay of actions, with an acknowledged receipt registered letter, keeping the documents evidencing that the company has done so.

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

**Article 41**

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

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

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**Article 42**

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

Writers Department of the Court of Appeal shall notify the company, and CBK, of the judgment rendered regarding the grievance. In the event of adjudication staying the actions, all creditors, the judicial parties of competent jurisdiction, and the Execution Department, shall be notified accordingly.

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

**Article 43**

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

The specialist firm shall review and assess the general framework of the restructuring plan submitted by the company to the court, and all documents

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attached thereto, for opinion on the need for protection against creditors, so as to restructure the company. Its report shall be submitted on the dates to be specified by CBK.

#### **Article 44**

If it is noticed that the company's restructuring is feasible, the consulting firm, in coordination with the investment company, shall study and assess the company's financial situation, the degree of its net worth, and shall specify the nature of the problems facing it, as well as proposing the proper treatment approaches, setting out the detailed restructuring plan, as regards to the size of necessary funds, sources, and requirements for reforming the technical and administrative position of the company, the timeframe required for executing the treatment plan, and the mechanism for monitoring the company's compliance with executing the prescribed procedures for the restructuring plan.

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

#### **Article 45**

In light of the report by the specialist consulting firm, covering the finding of the assessment of the real financial status of the company, and the recommendations drawn for restructuring, and the relevant timeframe, CBK shall submit its report covering the company's restructuring plan, to the Chief Judge of the competent

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circuit, no later than four months from the date of signature by the Chief Judge of the circuit, accepting the application.

**Article 46**

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

**Article 47**

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

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

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



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**Article 48**

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

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

**Article 49**

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

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





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**Article 50**

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

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

**Article 51**

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

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

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



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



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**Part 4**

**Special Purpose Company**

**Article 52**

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

**Article 53**

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

**Article 54**

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



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

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

### **Article 55**

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

### **Article 56**

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





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**Article 57**

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

**Part 5**

**General Provisions**

**Article 58**

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

**Article 59**

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





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

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

Date: 1 April 2009

**Form 1**

**Guarantee Document**

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

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

CBK shall guarantee, on behalf of the state, the amount of deficit in the specific provisions required to be made against the credit facilities/financing transactions





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existing with ----- Bank, as at --/--/---, for a total value of KD -----.

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

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

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

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

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

**For/ CBK**



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Form 2

Guarantee Document

For Impairment of Financial Investments Portfolio

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

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

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

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





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

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

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

**For/ CBK**





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**Form 3**  
**Guarantee Document**  
**For Impairment of Real Estate Investment Portfolio**

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

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

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

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

In order for this guarantee to be valid, ----- Bank shall take all actions and





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terms provided for in Part 1 of the Law Decree No. 2 of 2009 on enhancing the state financial stability, and its executive procedures.

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

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

**For/ CBK**

