

**Instructions No. (2/BS/IBS/507/2023) Concerning Anti-Money Laundering &
Combating the Financing of Terrorism**

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Instructions No. (2/BS/IBS/507/2023) Concerning Anti-Money Laundering & Combating the Financing of Terrorism

In the context of reinforcing Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) efforts, and in order to ensure the required compliance with the application of the international standards issued by the Financial Action Task Force "FATF" in this regard, and in line with the provisions of the Law No. (106) of 2013 Concerning Anti-Money Laundering and Combating the Financing of Terrorism, its Executive Regulations and the relevant promulgated ministerial resolutions, as well as the provisions of Articles No. (14) and (15) of the said Law, which provided that the regulatory authorities shall supervise and monitor compliance with the requirements of anti-money laundering and combating the financing of terrorism, and imposing the appropriate penalties and sanctions on the units subject to their supervision.

And, whereas the banking and financial institutions are the most targeted entities for money launderers and terrorism financiers, through which they endeavor for layering and concealing the illicit sources of their funds. As such, these institutions are always exposed to risks arising from such acts. And, in order to protect the banking and financial institutions from such illegitimate practices and to avoid any adverse impacts they may face due to these risks, it is necessary for all banking and financial institutions to take the measures which ensure that they are not manipulated by such operations, in addition to ensuring compliance with the full implementation of the requirements under the recommendations issued by FATF and the provisions of the said Law, while adopting the Risk-Based Approach in the preparation of such measures; and,

In light of the above, CBK has updated the instructions issued on 23rd July 2013 to all local banks under No. (2/BS/IBS/308/2013) concerning Anti-Money Laundering and Combating the financing of terrorism. This update has been introduced to enhance and clarify some of the requirements based on the CBK's recent monitoring, to achieve the full compliance with these requirements by the CBK-regulated banking and financial institutions.

Accordingly, all banks operating in the State of Kuwait shall abide by the following:

First: Determining the Risks Associated with Money Laundering and Financing of Terrorism:

- 1) The bank should have risk-management systems in place, prepare a written study which shall be updated every two years, and which shall address all the risks associated with money laundering and financing of terrorism which the bank may be exposed to as a result of exercising its licensed business, provided that the study should determine at least the risks associated with the following elements:
 - a) Various types of customers with whom banks deal with, and those with whom banks prohibit dealing, if any.

- b) Countries and geographical regions where any of the requested transactions are processed.
 - c) Products and services, whether the existing products and services or any other innovated service the bank intends to offer to its customers.
 - d) Furthermore, the study should address risk assessment levels to which the bank is exposed as per the said elements, and to divide the same into three levels (Low, Moderate, and High) while making the appropriate and necessary procedures to monitor and manage such risks to mitigate their impacts on the bank's business.
- 2) Within the scope of identification of the risks associated with the elements mentioned in paragraph (1) above, the study of these elements shall address the factors which may increase the risks associated with each element, and set the appropriate remedies for the same, such as the following:
- a) **As for the various types of customers:**
 - 1. The nature of the customer's business.
 - 2. The unusual activities and associated risks.
 - 3. The legal form of the customer, in particular the companies that issue bearer shares.
 - 4. The ownership structure of the customer, clarity of ownership and whether there is any unusual ownership.
 - 5. The existence of an actual activity for the customer, with clear and lawful economic purposes consistent with the business they are authorized to exercise.
 - 6. The customer is resident in the State of Kuwait or a non-resident customer.
 - 7. The customer undertaking management of third-party's assets.
 - 8. The purpose of establishing a relationship between the customer and the bank and the purpose of opening the account.
 - 9. The volume of transactions (credits and debits) required by the customer's activity.
 - 10. Frequency of the transactions carried out for the customer.
 - 11. The period prior to dealings with the customer (relationship with the customer).

12. Risks associated with Politically Exposed Persons (PEPs) and those related with them.
13. Customers who own large assets or those for whom no clear information are available about the source of income or owned assets.
14. The customer's business is mainly dependent on cash or a business which is associated with high risks related to money laundering or terrorism financing.
15. Customers whose transactions are carried out without need of attendance in person to any of them.
16. The customer's business having a business relationship between the customer and persons resident in high-risk countries.

b) As for Countries and Geographical Regions

1. The classification issued by the Financial Action Task Force (FATF) about countries whether in terms of their compliance with AML/CFT's international standards or the adequacy of the combating regulations applied in these countries, as per the findings of the reports of assessments conducted on such countries or the follow-up reports published, which reveals shortcomings in AML/CFT's combating requirements at these countries.
2. The list issued by Kuwait Financial Intelligence Unit (KFIU) for High-Risk countries as well as the amendments made by KFIU to this list as a result of the continued monitoring thereof.
3. The countries subject of resolutions passed by the United Nation's Security Council or countries subject to sanctions, ban of dealings or any other similar measures.
4. Classifications issued by trusted sources concerning corruption, criminal activities and the ranking of such countries in this regard.
5. Classifications issued by trusted sources which define the countries funding or supporting terrorist activities or where there are specific active terrorist organizations.

c) As for Products and Services

1. Requirements, and terms and conditions of providing the product or service.
2. Private banking services.
3. Services rendered through the use of various cards.

4. Services or products whose process does not necessitate the attendance of the customer in person in order to confirm his identity.
 5. Transactions executed for customers through third parties, without the availability of information for the relationship which requires such transactions.
 6. Any new proposed product or service that will be offered by the bank to customers.
- 3) In light of the findings of the assessment and identification of risks to which the bank is exposed as required above, the type of due diligence applied with regard to the execution of transactions, shall be identified, taking into consideration the following measures as a minimum limit:
- a) Documents which will be collected based on the level of risks associated with transactions and customers.
 - b) Information required to be submitted by customers which shall be determined in accordance with the associated risks.
 - c) Due diligence procedures to be applied upon processing local transactions or transactions across any of the other countries, documents and information that shall be collected, and the procedures related to identifying the Beneficial Owner of the transaction, as per the level of risks associated with each of the countries.
 - d) Enhanced due diligence measures intended to be followed in case of high risks exist in transactions for customers, countries, or risks associated with the product or the service itself.
 - e) Follow up an approach to update customers' information and data on periodic basis commensurate with the degree of the associated risks (one year or less for high-risk customers, two years or less for medium-risk customers, and a maximum of three years for low-risk customers).
- 4) The study on risks associated with money-laundering and terrorism financing and its results shall be approved by the board of directors. With regard to branches of foreign banks operating in the State of Kuwait, the study shall be approved by a management level not less than the regional management of the branch. The prepared study as well as any update incorporated therein shall be maintained as per the requirement of documents and records keeping as stipulated under Item Twenty Two.

Second: AML/CFT Policy:

1. Each bank shall have in place a policy including the targets and scope of anti-money laundering and combating of terrorism financing to be followed, provided that this policy shall include at a minimum the following points:

- a. Compliance with the provisions of the law (106) of 2013 regarding Anti-Money Laundering and Combating of Terrorism Financing, its Executive Regulations and all relevant ministerial resolutions as well as the CBK instructions issued in this regard.
- b. Develop a manual for procedures and internal control systems which shall be followed in relation to the implementation of the required combating requirements.
- c. Refer to risks associated with anti-money laundering and combating of financing terrorism and identify them within three levels (low- medium-high) in the implementation of the required combating requirements.
- d. Apply the appropriate due diligence measures in accordance with the degree of associated risks upon the execution of the required transactions.
- e. Follow up defined procedures to apply the principle of Know-Your-Customer ("KYC") and use a form designated for this purpose, which requires the identification of information that shall be obtained and the periods required for updating thereof according to the risks associated with customers.
- f. Comply with the freezing requirements and not to deal with any names included in the lists issued by the Security Council sanctions committees or pursuant to local resolutions issued by a committee of the Ministry of Foreign Affairs to execute the Security Council resolutions in accordance with the Chapter VII of United Nations Charter concerning Terrorism and Terrorism Financing.
- g. Commitment to notify KFIU of any suspicious cases with regard to money laundering and terrorism financing which may be identified by the bank during the period defined for the same.
- h. Procedures that shall be followed upon dealing with high-risk persons, especially Politically Exposed Persons (PEPs).
- i. Adhering to keeping documents, records and information related to customers and executed transactions as per the legally defined periods.
- j. Appointing a compliance officer to be responsible for verifying the bank's compliance with the requirements of provisions of the Law No. 106 of 2013, its Executive Bylaw and the relevant ministerial resolutions.
- k. Preparing periodic reports to be presented to the board of directors or the regional management of foreign banks' branches, including efforts exerted by the compliance officer in respect of compliance with the requirements of anti-money laundering and combating of terrorism.

- l. Mandating all branches of local or foreign banks as well as subsidiaries of banking groups to satisfy the requirements and provisions of the law and the ministerial resolutions and these instructions and the recommendations issued by the Financial Action Task Force (FATF) standards applicable in this regard, as a minimum limit, and to confirm the necessity of cooperation between these branches and subsidiaries in respect of exchange of information and maintaining their confidentiality, along with development of the most appropriate methods to realize this commitment.
 - m. Implementation of integrity standards and the appropriate experience upon the appointment of new staff at the bank.
 - n. There must be an ongoing training programs, to be prepared on periodic basis, so that the staff (new and current ones) will be able to attend training programs on anti-money laundering and combating terrorism financing.
 - o. There must be procedures to monitor the bank staff's accounts by AML/CFT Department, and any other measures the bank deems appropriate for assisting other departments to ensure that:
 - There is no suspicion of money laundering or terrorist financing in transactions of bank employees' accounts..
 - There are no transactions between the accounts of the bank's employees and any of the bank's customers, except for the accounts linked to the employee's account, with which he acknowledges that he has a relationship, whether family, or other permitted and approved by the bank, after verifying and completing the supporting documents..
 - p. Updating the policy on ongoing basis (every two years at most) by reviewing it periodically to keep pace with any developments by the combating efforts exerted in this regard.
2. It must be taken into account that the policy adopted by the Bank is consistent with the size of the activity practiced and the nature and scope of the operations carried out by it, and work to update the policy continuously (and a maximum of once every two years) by reviewing it at periodic intervals to keep pace with any developments in the control efforts exerted in this regard.
 3. The bank shall endorse the policy prepared by the board of directors. For branches of foreign banks operating in the State of Kuwait, such policy shall be approved by a management level not less than the regional management of the branch to which the branch is reporting.
 4. Yet, foreign banks branches operating in the State of Kuwait may follow up the policy certified by the bank's board of directors abroad, which is applicable to its foreign branches, provided that such policy shall comprise all regulatory requirements concerning money laundering and terrorism financing applicable in the State of Kuwait and a copy of such certified policy must be available at

the branch and a copy of the documents indicating such certification from the board of directors.

Third: Applicable Procedures and Internal Control Systems:

- 1) The bank shall develop written procedures including steps to be followed and applied on the execution of transactions as per the bank's activity and its applicable internal controls, which satisfy the bank's compliance with the requirements of anti-money laundering and combating terrorism financing, provided that such steps shall be reviewed on a periodic basis consistent with the periods of reviewing the bank's policies in this regard, and shall include the following, at minimum:
 - a. Steps to be applied with regard to the application of due diligence requirements as per associated risks, whether the ordinary, enhanced or the simplified due diligence.
 - b. Nature and type of documents required to be collected from customers in accordance with the risks relevant to each of them.
 - c. Nature of information to be collected from customers for ordinary due diligence and information required for high-risk customers, especially politically exposed persons for whom strict due diligence requirements shall be applied upon dealing with them.
 - d. Steps to be followed for application of "KYC" principle and using the designated form, taking into consideration the customers' associated risks, information and data to be collected and the appropriate periodicity to update such information based on the associate risks.
 - e. Procedures to be followed to identify the Beneficial Owner (natural persons, legal persons and legal arrangements), and procedures necessary to understand the equity of persons dealt with.
 - f. Procedures necessary to identify whether the customer is the Beneficial Owner of the required transaction or he is acting on behalf of one or more other beneficiaries.
 - g. Steps to be followed and applied concerning the continued monitoring of customers' transactions.
 - h. Steps to be applied regarding presenting services or products to customers as per the risks associated with money laundering and terrorism financing, especially for the following:
 - i. Opening accounts for customers.
 - ii. Foreign remittances whether inward or outward transactions.

- iii. Banking cheques issued to non-bank customers.
 - iv. Transactions required by customers which are processed without the customer's presence.
- i. Steps to be applied with regard to verification of the bank's compliance with freezing balances of accounts of any customers and persons related to it, as well as the adequate procedures to ensure non-dealing with them in future, with regard to names included in the freezing lists issued by the Security Council sanction committees or pursuant to local resolutions issued by a committee of the Ministry of Foreign Affairs to implement the Security Council resolutions.
- j. Procedures to be followed to monitor the bank staff's accounts by AML/CFT Department, and any other measures the bank deems appropriate for assisting other departments based on the responsibilities assigned to each department in this regard.
- k. Applied Programs and techniques to identify suspicious transactions and activities in relation to money laundering and terrorism financing, and the ensuing measures to be taken in case of confirmation of suspicious transactions, to report it to KFIU during the determined period, and determination of the measures to be taken concerning preparing the suspicious reports or not, and determination of the management levels required to obtain their approvals for sending the report to KFIU.
- 2) The written procedures of the bank shall be consistent with the size of the activity, nature and scope of the bank transactions, taking into consideration the provisions stated in the guideline manual prepared at the bank to identify patterns of money laundering & terrorism financing activities, based on the guideline manual issued by KFIU regarding the patterns of money laundering & terrorism financing activities.
- 3) The business procedures of the bank shall be approved by the board of directors and for branches of foreign owned banks operating in the State of Kuwait, they shall be approved at least by the regional management of the branch.

Fourth: Customer Identification Requirements:

Banks shall identify and verify the identities of the customer and the Beneficial Owner upon dealing with them and shall understand the purpose of the dealing and its nature, and, if necessary, obtain supporting information, in the following cases:

- a. Opening an account with the bank or initiating a business relationship.
- b. Upon presenting any service or execution of any transaction exceeding three thousand KD or its equivalent in foreign currency (whether for a single transaction or frequent transactions), for dealers who have no open account or ongoing business relationship with the bank, for example:

- v. Upon processing local or overseas electronic fund transfer.
 - vi. Upon issuing a bank cheque to be paid in cash.
 - vii. Upon issuing prepaid card to non-bank customers, who have open accounts.
- c. Upon suspicion of the validity of the identification data previously received from the customer.
 - d. Upon suspecting a transaction required to be executed – to non-bank customers – that it is related to money laundering and terrorism financing.

Fifth: Due diligence measures towards customers:

1. Due diligence measures towards customers, whether natural persons, legal persons and legal arrangements, based on the risk-based approach are represented in the following:
 - a. Verifying the customer's identity using documents or recognized tools from reliable and independent sources.
 - b. Identifying the Beneficial Owner and taking reasonable measures so that the bank will be fully aware of and knows the actual beneficiary.
 - c. Understand the purpose and nature of the business relationship through obtaining evidence for the bank.
 - d. Exert ongoing due diligence in respect of the business relationships and review the transactions undertaken to ensure that they are commensurate with the information about the customer, activities and associated risks.
2. Banks may not open or keep anonymous accounts or accounts in fictitious names or only numeric names or maintain such accounts with them.
3. Banks should review the legal documents proving the customer's identity and validity of such identity, and obtain a copy thereof. Such copy must be signed and acknowledged by the concerned officer as a true copy of the original, and approved by a higher authority, as follows:
 - a) For natural persons:**
 1. The Civil ID for citizens or non-citizens (residents), whether the actual Civil ID or the second level of Kuwait Mobile ID application.
 2. The passport or travel document by which the customer entered to Kuwait for non-residents in the State of Kuwait.

3. Official identity document issued and certified from the concerned government authority, or the concerned official authority, for customers not classified under the above two items.
4. Official document issued by the customer authorizing the person in dealing with the bank on his/her behalf, certifying the authenticity of the signature appearing on the authorization deed submitted with the customer signature specimen maintained by the Bank, and viewing the identity supporting documents of the person authorized to carry out the transaction and retaining a copy thereof.

b) For Legal Persons or Legal Arrangements:

1. Completing the full name of the legal person or legal arrangement, the date of incorporation, the headquarter business address and the names of the key management personnel and the authorized signatories.
2. Collecting the documentation evidencing incorporation of the legal person or legal arrangement, and ensuring that it is entitled to exercise business according to the documents issued by the concerned authorities, and completion of documents indicating the names of the management's personnel so that the bank can understand the equity and control structure.
3. The existence of official authorization according to legal documents issued for the person acting on behalf of the institution / company in dealing with the bank, provided that the supporting documents for the authorized person must be verified and a copy thereof to be maintained.
4. For companies and institutions that are established outside the State of Kuwait, certificates of incorporation shall be documented by the concerned authorities in Kuwait.

Excluded from the above, the supporting documents that evidence the incorporation of the company or the institution abroad which were presented by the customer to one of the bank branches abroad, which exercise its business in the country where the company or institution has been established, provided that these documents must be certified by the branch officers to the effect that they have previously perused these documents and that they are true copies.

5. For a person's representation of an institution/ company in front of the bank, it is necessary to submit the legal documents and judicial judgments issued in this regard which evidence the same.
6. Names of the major shareholders or those holding 25% or more (individually and in total), for the shareholding companies.

7. Disclosing the accounts opened with other banks for the same customer and naming these banks.

Sixth: Identifying Beneficial Owner:

1. The bank shall take the necessary measures to identify whether the customer (natural person) is the Beneficial Owner or acting on behalf of a Beneficial Owner or more, through obtaining a certificate signed by the customer on opening the account stating that the customer is the Beneficial Owner of the account or through any other means deemed necessary by the bank.
2. If the bank determines that a customer (natural person) is acting on behalf of another beneficiary or beneficiaries, the bank should verify the identity of the beneficiary owner(s), through obtaining the relevant information from a reliable source to ensure the identity(s) of the beneficiary owner(s) and the bank shall apply due diligence measures on beneficiary owner(s) that commensurate with the risks associated with the beneficiary owner(s) in this case.
3. Where the customer is a company listed on Kuwait Stock Exchange, the bank is not required to verify the identity of shareholders or beneficiary owners of such companies, provided that the company must be subject to the appropriate disclosure requirements identifying the actual beneficiary. Banks may only obtain copies of the required documents to verify the company's identity as stated in item "Fifth" above.
4. If the customer is a legal person or legal arrangement, banks must take the appropriate measures to understand the equity and control structure for such customers till the ultimate person in possession or in control of the customer. If there is any doubt whether this natural person controls or is responsible for managing the legal person, the bank should take gradual cascading steps to identify the Beneficial Owner (to be followed according to a cascading approach, so that each following step is taken in case the previous one was insufficient in verifying the actual beneficiary), as follows:
 - a. verify the identities of natural persons who possess controlling interests of over 25% of a legal person or legal arrangement (or both).
 - b. If the natural person, who practices control through the said equity stakes is not identified, any other available means shall be used to identify the natural persons practicing control over the management.
 - c. If the natural person is not identified by following the previous steps (a, b), the bank shall define the necessary procedures to reach the natural person(s), who hold senior management positions through which the management of the legal person or legal arrangement is controlled.

5. For legal arrangements, banks shall verify the identity of the person acting on behalf of the customer, the custodian, the beneficiary or any other person entrusted with these functions.

Seventh: Postponing customer identification:

- 1) Banks may establish business relationships before completing the verification process of the customer's identity referred to in Item "Fourth" of these instructions, in case of satisfaction of the below mentioned conditions:
 - a) Completing the verification process **as soon as practicably possible** following the establishment of the business relationship.
 - b) Such postponement is necessary for non-suspension of the normal business processes; and,
 - c) Effectively controlling the risks of money laundering and terrorism financing.
- 2) When postponing verification process of the customer identity, banks should determine the related risk management measures, by means of laying down a set of minimum procedures in this regard, such as identifying the satisfaction of the measures requirements within 90 days at most, a follow up for these accounts and determination of the number of transactions that the customer can execute, define the type of transactions that can be executed, and defining the maximum limit for the value of transactions.

Eighth: Abstention from accepting new customers:

- 1) Banks shall abstain from opening an account or establishing a business relationship or executing a transaction in case verification of the customer identity or the Beneficial Owner is impossible. In this case, banks should consider the possibility of reporting the case to the KFIU.
- 2) As for transactions to be executed but the bank has suspicion of money laundering or terrorist financing thereon, and believes based on logical reasons that the application of the due diligence process will alert the customer, the bank may not continue in completing the due diligence requirements for the customer while executing the transaction. In such case, the bank shall report the suspicious transaction to the KFIU.

Ninth: Enhanced due diligence measures for high-risk customers and when providing specific services or performing certain operations

- 1) The bank shall take additional measures to apply enhanced due diligence for: customers classified as high risk, customers whose transactions are not performed face-to-face and politically exposed persons who deal with the Bank. This specifically includes increasing the degree and nature of supervision on the

business relationship in order to determine whether the transactions executed or to be executed appear unusual or suspicious.

- 2) In this regard, banks shall examine all complex and unusual large transactions to identify the purposes, and verify all unusual patterns of transactions which have no clear economic or lawful purposes and objectives.
- 3) Enhanced due diligence measures should be applied on the following services and transactions:
 - Cross-border correspondent banking relationships.
 - Money or value transfer.
 - Wire transfer.
 - Services provided via modern technologies (Online Services).
- 4) Enhanced due diligence measures applied on high-risk business relationships include the following:
 - a. Obtaining additional information on the customer (natural person), sources of his funds and wealth.
 - b. Reasoning the rationale behind the transactions executed or expected to be executed.
 - c. Obtaining additional information on the customer (legal person), the nature of the expected business relationship with the customer, the volume of business and obtaining the latest available financial statements.
 - d. Obtaining the senior management approval for establishing or continuing the business relationships.
 - e. Conducting enhanced ongoing monitoring of the customer's transactions through enhancing monitoring measures and their periodicity as well as identifying transactions patterns that require additional examination.
 - f. Taking into consideration that the first amount credited upon opening the customer account should be from a known source and via banking platform.
- 5) Conducting ongoing enhanced due diligence measures for customers stated in paragraph (1) on each stage of the due diligence process.
- 6) For customer identification purposes, enhanced due diligence measures should include the following for business relationships with a customer that does not deal face to face:
 - a. Authenticating the documents as per relevant laws and procedures.

- b. Obtaining customer contact details whether via email or telephone numbers through which communications can be established.

Tenth: Politically Exposed Persons (PEPs):

- 1) Banks shall set appropriate procedures to determine whether the customer or the Beneficial Owner is a Politically Exposed Person (PEP). Such procedures should include, the following, at minimum:
 - a. The information required to be obtained from customers to determine whether he is a political person posing risk or a person assigned or previously assigned with a key position by an international organization.
 - b. Continuous follow-up to update customer information.
 - c. Use of electronic databases provided by specialized companies for PEPs in order to collect information and data.
- 2) In case the bank finds that the customer or the Beneficial Owner is a PEP, the following additional measures shall be applied:
 - a. Obtaining approval from any one of the top management levels as specified under the bank's policy, before establishing a business relationship with that person.
 - b. Having in place the procedures which determine how to deal with the accounts opened to those customers, periodic update of data, and the required follow-up for executed transactions.
 - c. Taking all appropriate measures to determine the source of funds and wealth.
 - d. Application of strict and continuous monitoring of the business relationship.
- 3) The same requirements as in paragraphs (1) and (2) above shall be applicable to family members of PEPs up to second-degree relatives and close partners.

Eleventh: Reduced due diligence procedures for low-risk customers:

- 1) In dealing with the following customer segments, reduced due diligence measures may be applied, in consistence with the results of the risk assessment study, which should be low, provided that the Central Bank of Kuwait's prior approval shall be obtained in this regard:
 - a. Targeted group of individuals and institutions within the financial inclusion scope of application, aimed at promoting the right of every citizen to open a bank account in his/her name, unless a legal, banking or financial impediment exists, because the activities exercise by those persons are mostly

not associated with high risks. Noting that specific controls should be set for transactions made on those accounts, for example: specifying the nature of transactions that can be dealt in, amount of money that can be credited to the account, limits on the number of transactions that can be executed during certain timelines, estimated limits on the volume of balances that can be held in such accounts, means and tools of credit and debit to the account. In addition, such accounts should be monitored on continued basis to identify any irregularities and to verify that they are not used in suspicious transactions, whether for money laundering or terrorist financing.

- b. Other financial institutions subject to AML/CFT requirements, which conform to the FATF recommendations and apply them effectively, and controlled or supervised to ensure effective compliance with those requirements.
 - c. Companies listed on stock exchanges subject to disclosure requirements (under the law, stock exchange regulations or other binding instructions), which define requirements to ensure identification of the actual beneficiary.
 - d. Government entities.
 - e. Private or limited financial products or services offered to a particular segment of customers, offered for the purpose of providing appropriate financial services.
- 2) Reduced due diligence measures should be consistent with risk factors listed in item First (2) above. These measures include, for example not for limitation the following:
- a. The ability to verify the customer identity and the Beneficial Owner after establishment of the business relationship.
 - b. Update the customer data at longer intervals than those specified for the standard usual due diligence measures.
 - c. Following reduced measures for periodic monitoring and verification.
 - d. Non-commitment with collection of detailed information or taking specific actions to understand the purpose and nature of the business relationship, in that it is sufficient to understand the objective and nature of this relationship in light of the type of the transactions or existing business relationships.
- 3) Banks may not apply reduced due diligence measures in case of suspicious money laundering or financing of terrorism transactions, or when the customer's activity is associated with a business relationship in high-risk countries.

Twelfth: Keeping Customer Information (Know Your Customer "KYC")

In opening accounts for customers and in collecting information about the customer and actual (real) beneficiary of the account, **the bank shall use a form designated for the same**, and keep the documents, data and information collected under due diligence measures updated on continued basis and verify their validity by reviewing the records on appropriate periods consistent with the risks associated with the customer and maintain them throughout the dealing period, represented in the following data as minimum:

a. For Natural Persons:

1. Full name, address, Civil ID number and birth date.
2. Purpose of dealing on the account (salary, saving, business transactions, business proceeds, etc.).
3. Number of transactions expected on the account (monthly, annually).
4. Value of transactions expected on the account (monthly, annually).
5. Nature and pattern of transactions expected to be executed on the account (cash deposits, cheques, local/foreign remittances, etc.).
6. Average annual income and its sources.
7. Obtaining information on the customer occupation of political or international public positions at present or in the past, and the essence of this position, if any.
8. Disclosing the accounts opened with other banks for the same customer and naming these banks.

b. For Legal Persons:

In addition to the aforementioned, the following information shall be collected:

1. legal form and date of incorporation.
2. Management right.
3. Nature and type of activity.
4. The registered capital and the working capital.
5. Names of related parties, subsidiaries and affiliates.
6. Names of the major shareholders or those holding 25% or more, for the shareholding companies.

Thirteenth: Continuous monitoring of customer's transactions:

- 1) The Bank shall use automated systems to monitor customer transactions on a continued basis, including a mechanism to verify that the transactions are conducted as per the bank's knowledge of the customer and the pattern of risks relevant to his transactions, and that the transactions are consistent with sources of funds and wealth. Monitoring may include also placing pre-set restrictions to trace the transaction and its value and type.
- 2) In addition, the bank shall pay special and exceptional attention to complex and large transactions or deals and all patterns of unusual transactions that do not have clear economic objectives, or those which are not commensurate with the customer's activity and the amounts of the past debit and credit transactions on his account, and obtain the supporting documents, if available. A written report should be prepared explaining the reasons for the decision on whether to report the case to Kuwait Financial Investigation Unit (KFIU) in case of suspicion or not.

Fourteenth: Terminating the Relationship with the Customer

The bank shall terminate the business relationship with the customer and consider whether the matter requires reporting the matter to the KFIU or not, in the following cases:

- Inability to implement the due diligence measures required for the bank's existing customers.
- The customer failure to provide any clarifications or information required from him regarding any transactions required to be executed which are not commensurate with the volume of previous transactions or information previously obtained about his activity.

Fifteenth: Outsourcing

- 1) Banks may engage other local parties to implement certain due diligence measures, such as identification of customer and the actual (real) beneficiary and understanding the nature of activity. Banks may also engage any external party reporting to the bank (within the financial group), taking into consideration the level of risk in the country it operates therein. In this case, the CBK prior approval shall be obtained, provided that the following conditions shall be satisfied:
 - a) The bank must immediately obtain all information required from the engaged party under due diligence measures.
 - b) Ensuring that the engaged party provides, upon request and without delay, copies of identification documents and other documents associated with the due diligence measures obtained from customers.

- c) Ensuring that the engaged party is regulated, supervised or controlled in order to comply with due diligence and record keeping requirements, and the due diligence measures shall be adopted to comply with these requirements.
 - d) Taking the necessary measures to adequately reduce the high risk of countries where the bank's external party operates through its AML/CFT policy and procedures, which are adopted by the bank and binding for all its subsidiaries.
 - e) Providing adequate guarantees concerning the confidentiality required with regard to exchanged information.
 - f) Signing a contract between the bank and the engaged party (other than the external party reporting to the bank) which includes clear provisions for the responsibilities and functions to be performed by the other party and the types of transactions and services for which it will be required to meet the required due diligence requirements.
- 2) In all cases, the ultimate responsibility for customer identification and verification shall remain with banks.

Sixteenth: Shell banks and foreign banking relations (cross-border) with correspondent banks:

- 1) Banks may not establish or maintain correspondent or business relationships with shell banks. It is also prohibited to do so with any correspondent financial institution in any foreign country allowing the use of its accounts by a shell bank.
- 2) Prior to entering into a banking relationship with correspondent banks abroad or other similar relationships, banks shall take additional measures to usual due diligence measures through the following:
 - a) Collect sufficient information about the respondent bank through the published information.
 - b) Understand the nature of the respondent bank.
 - c) Assessing the reputation of the respondent bank and the level of supervision to which it is subject, and whether it has previously been involved in investigations or supervisory measures in the area of anti-money laundering or combating the financing of terrorism.
 - d) Evaluate the controls applied by the respondent bank in the area of anti-money laundering and combating the financing of terrorism and taking the necessary measures in order to clearly identify the adequacy of the regulations in place with regard to AML/CFT.

- e) Obtain the approval of top management before establishing a banking relationship with correspondent banks abroad or other similar relationships.
- 3) In the event that the bank offers the payment service by correspondence, it shall ensure that the respondent bank applies due diligence measures to its customers who are entitled to use correspondent accounts, and that the respondent bank can provide related due diligence information to the sender bank.
- 4) All requirements mentioned in paragraph (2) above shall be documented and applied to external banking relationships (cross-border) and all similar relationships, be they the new relationships, the relationships due to be established, or the already established ones, before the Law comes into effect and the Executive Regulations and these Instructions are issued.

Seventeenth: Banking transactions related to remittances:

- 1) With regard to the outward external remittances, banks shall have full and accurate information about the transferor, the beneficiary and the related messages, the purpose of the transfer and ensure that such information are attached to the electronic transfer or related messages within the payment chain at all stages. In addition, a unique identification number should be used for each transaction, and the information attached to all electronic transfers shall always include the following:
 - a) Full name of the transferor (as mentioned in the identification evidencing document of the inquired party).
 - b) Account number of the transferor in case the account is used for the transaction.
 - c) The Civil ID number, address of the transferor or birth place and date.
 - d) Name of beneficiary, not less than the first name and family name, and account number, in case the account is used for depositing the transferred funds based on the transaction.
- 2) For inward external remittances, the bank shall verify that all information required in paragraph (1) above are available in the data and information sent in the transfer, and for those who do not include such information, such transfers shall be monitored. In addition, customer identity shall be verified in case the same has not been previously verified, and such information shall be kept in the transaction supporting documents.
- 3) If the bank is unable to comply with these requirements, it shall refrain from executing the electronic remittance.
- 4) The bank shall comply with all freezing requirements and prohibition of dealing with any persons, entities or groups whose names are included in the lists of Sanctions Committees under Security Council Resolutions under Chapter VII of

the United Nations Charter Concerning Terrorism and Terrorist financing within the scope of transactions related to electronic remittances.

- 5) If there is a set of cross-border electronic remittances issued severally by one transferor in a bundled package to be transferred to the beneficiary, the above requirements may not be applied to transferor's information, provided that such remittances shall include the transferor's account number or remittance reference number, which allow the remittance tracking. Noting that the bundled package shall include the required and accurate information about the transferor and full information about beneficiary, so that it can be fully tracked within the country of the beneficiary's residence.
- 6) Banks should ensure that non-routine electronic remittances are not collected in bundled packages in the event of increased risk of money laundering or terrorist financing.
- 7) For cross-border wire transfers, banks processing an intermediary element of payment chains should retain all wire transfer information including the originator and beneficiary information.
- 8) The information relating the electronic transfers should be made available by the ordering banks within three business days of receiving the request either from the beneficiary financial institution, CBK or KFIU.
- 9) For domestic wire transfers, banks shall apply the IBAN requirements stated in the IBAN Manual issued by CBK, in addition to complying with the requirements provided for in paragraph (1), when conducting these transfers.

Moreover, banks shall adhere to paragraph (2) of article "Twenty Three" concerning requirements of combating terrorism in terms of banking transfers via Straight Through Processing (STP).

- 10) Where technical limitations preclude retaining the required originator or beneficiary information accompanying a cross-border wire transfer that should be attached to the related domestic wire transfer data, a record should be kept, for at least five years, by the receiving intermediary bank of all the information received from the ordering bank or another intermediary bank.
- 11) Banks shall set risk-based business procedures for determining the following:
 - a) Cases when to execute, reject, or suspend a wire transfer lacking required information of the originator or beneficiary and consider reporting them to KFIU.
 - b) The appropriate follow-up that may include restricting or terminating the business relationships.

Eighteenth: New Products and Business Practices

Upon offering new products and services, the bank should conduct a written study for each product, whether an existing product being developed or a new practice offered by the bank, including usage of technology in offering previously existing services or new products to assess and identify ML/FT risks that the bank may face, before launching such services or products. The study should include appropriate measures manage any risks, and reduce their impact, and such study shall be maintained and submitted upon request.

Nineteenth: Dealing with Exchange Companies that Provide Value or Money Transfer Services

- 1) Banks shall take measures to ensure that legal persons engaged in this activity are from licensed companies, and are registered with the Central Bank of Kuwait, and are therefore subject to the instructions issued and organized in this regard and their compliance therewith.
- 2) When dealing with exchange companies that provide value or money transfer services, it is necessary to apply the enhanced due diligence measures as they are involved in a high-risk activity. Therefore, additional information deemed necessary by the Bank shall be required, provided that the guiding paper of the FATF on **De-Risking** shall be taken into consideration.

Twentieth: Dealing with associations of public interest and charitable institutions

- 1) When dealing with public benefit associations or charitable institutions subject to the supervision of the Ministry of Social Affairs and Labor in accordance with the provisions of the Law No. 24 of 1962 concerning Clubs and Public Benefit Associations and its amendments, banks shall comply with instructions issued by the Central Bank of Kuwait in this regard. The necessary procedures shall be established to be followed in dealing with these charitable associations and institutions and the enhanced due diligence measures shall be applied as being high-risk customers.
- 2) The required papers and documents shall be completed should any public benefit associations or charitable institutions wish to make money transfers abroad, whether the association or the institution obtained a prior approval from the concerned authorities or obtained special approval for the required transfer, as required according to the compliance with the Council of Ministers Resolution No. (868) of 2001 issued on 14/10/2001.

Twenty First: Commitments to Reporting the Suspicious Transactions:

- 1) The bank shall conduct research, investigation and gather information in the event of suspecting a transaction that may constitute proceeds of crime or may be related to money laundering and financing of terrorism, including all parties related to the transaction, without informing or revealing such procedures to any

of the parties. The results of the research and investigation shall be recorded in writing at the bank with the supporting documents to be submitted upon request.

- 2) Bank shall notify KFIU, within two business days, of any transaction or attempt to conduct a transaction (regardless of its value) if it is suspected to be conducted with money constituting proceeds of crime or funds related to money laundering and financing of terrorism or that it is conducted or required to be conducted in these transactions.
- 3) Within the scope of paragraph (2), the bank shall form a tripartite committee composed of members of the bank's senior management, concerned with taking decisions on reporting KFIU or not of suspicious cases. Committee members should include the AML/CFT Compliance Officer. All discussions regarding each suspected case, opinion of each member, and the final measure taken, shall be recorded, documented and submitted upon request.
- 4) It is prohibited to disclose, by any of the bank staff, managers or any of the acquainted parties, either to the customer or the third party for any notice or any relevant information sent or to be sent to KFIU or the suspicion of money laundering and financing of terrorism is verified in any of the transactions to be conducted or made to customers. This does not preclude disclosure or communication between the bank's managers and employees, lawyers, the competent authorities and the Public Prosecutor's Office with regard to these transactions.

Twenty Second: Record Keeping Requirements:

Banks shall maintain the following documents and records:

- a) All documents obtained through the due diligence process, including copies or records of official identification documents of the customer and the actual beneficiary, accounting files and business correspondence, for at least five years after the termination of business relationship or the date of executing the transaction in favor of a customer that has no business relationship with the bank.
- b) All records of domestic and international transactions already executed or attempted to be executed for a period of at least five years. Such records should be sufficiently in details to enable reproducing the steps of each transaction separately.
- c) Copies of the notices sent as well as related documents for a period of at least five years from the date of submitting the notices to KFIU, so that such documents would allow for the rearrangement of individual operations in such a way as to provide, if necessary, evidence of prosecution against criminal activity.
- d) Risk assessment study and any related information, if so required by CBK, for five years from the date of conducting or updating the assessment.

Twenty Third: Requirements of Combating Terrorism

- 1) Pursuant to the provisions of Article (25) of Law No. (106) of 2013 on Anti-Money Laundering and Financing of Terrorism, all banks shall comply with all provisions of Resolution No. 35 of 2019 issued on 4/8/2019 by the committee formed by the Ministry of Foreign Affairs (the Committee for the Implementation of Security Council Resolutions under Chapter VII of the United Nations Charter on Terrorism and the Financing of Terrorism) regarding the regulations of implementation of Security Council Resolutions under Chapter VII of the United Nations Charter related to terrorism and financing of the proliferation of weapons of mass destruction. Banks shall adhere to implementation of the requirements of this resolution in terms of the following:
 - a. Developing the required automated systems that fully comply with the requirements of the resolutions related to combating the financing of terrorism, with the possibility of considering using the services of companies specialized in this field in relation to the names of current customers and those who have the power to deal with the account by customers as well as the Beneficial Owner of the account or applicants names to deal with the bank through any of the provided services,
 - b. Freezing all funds and assets owned without delay or prior warning for the persons, entities or groups listed by the Security Council Sanctions Committee under the Security Council resolutions Nos. 1267/1999 and 1988/2011, and listed by the resolutions issued by a committee of implementing the Security Council resolutions established by the Ministry of Foreign Affairs, pursuant to the decision No. 1373/2001, whether wholly owned or in conjunction with any person or entity and whether they were in their possession and under their direct or indirect control.
 - c. Not to render any financial service or other related services to any of the persons, entities or groups listed in the above lists, once they are included in those lists.
- 2) For the domestic banking transfers, and in order to process such transactions using “(STP) Straight Through Processing”, it is the responsibility of the issuing bank to verify that the name of the one requesting the transfer is not included in the names listed in the freezing lists and not to deal with him, while it is the responsibility of the receiving bank to verify that the name of the beneficiary is not included the names listed in the freezing lists and not to deal with him.

Twenty Fourth: AML/CFT Compliance officer

- 1) The bank shall establish an independent department and appoint a competent Compliance Controller to verify the bank's compliance with the requirements of the provisions of the Law No. (106) of 2013 concerning combating of money laundering and financing of terrorism, its executive regulations, the relevant ministerial resolutions and instructions issued by the Central Bank of Kuwait in this regard.

- 2) The Compliance Controller and other personnel appointed at the department mentioned as stated in item (1) above, shall have the appropriate qualifications and experience in the field of combating money laundering and the financing of terrorism, in order to be qualified to carry out the tasks assigned to him. The bank shall provide the Central Bank of Kuwait with detailed data of the Compliance Controller and his deputy during holidays, including name, qualification, telephone / mobile number, e-mail address, taking into consideration that the Central Bank of Kuwait must be informed of any change related to these data.
- 3) A job description shall be prepared for each of the compliance controller and the personnel in the competent department. Such job description shall include the assigned tasks including the required reports to be submitted to the senior management periodically concerning the said department activities, provided that the job description related to each employee performing these tasks shall be signed.
- 4) The compliance controller shall have the authority to work independently, provided that the reporting line shall be subject to the bank's CEO (at minimum) and to the regional administration for branches of foreign banks in Kuwait. The controller and other relevant personnel shall have direct access to customer identification data and other information related to due diligence, transaction records and other relevant information.
- 5) The bank shall conduct independent audits and inspections to verify the compliance controller and the relevant department personnel's performance of their tasks in conformity with the bank's policies and controls in combating money laundering and the financing of terrorism, taking into consideration to include this within the internal audit annual plan.
- 6) Banks shall have to ensure that their external branches and their subsidiaries satisfy the requirements of combating money laundering and financing of terrorism, stipulated by the provisions of the law and the ministerial resolutions and these instructions, in case the requirements of combating money laundering and financing of terrorism at the hosting country are less stricter to the extent allowed by the laws and bylaws of the hosting country, provided that additional appropriate risk management measures for combating money laundering and financing of terrorism shall be applied in case the hosting country does not allow implementing the combating requirements applied in the mother country, provided that the Central Bank of Kuwait shall be advised of this case and the measures taken for risk management arising out of this position.
- 7) The board of directors and the regional administration of the foreign bank branches in Kuwait shall ensure that the bank complies with the requirements of the Law No. (106) of 2013 concerning combating money laundering and financing of terrorism through periodic reports (at least quarterly) in this regard. These reports shall include a statement of all suspicious transactions monitored, along with their impacts and the measures taken by the compliance control

officers to enhance the bank's policies, procedures, regulations and controls in the framework of combating money laundering and financing of terrorism.

- 8) The board of directors and the regional administration of the foreign bank branches in Kuwait shall be informed with the findings of any onsite inspection tasks carried out by Central Bank of Kuwait concerning combating money laundering and financing of terrorism, including the corrective measures that should be applied by the bank and the previous procedures taken in this regard.

Twenty Fifth: Other Requirements

- 1) In line with the provisions of Article (13) of Law No. (106) of 2013 issued regarding Anti-Money Laundering and Combating Financing of Terrorism, and with regard to the disclosure of the relevant information in this regard, banks shall provide information and documents required by the concerned authorities (each within its jurisdiction). In this respect, banking information confidentiality stipulated by the law may not be used as an excuse in this case specifically the information required by KFIU and the Committee for the Implementation of Security Council Resolutions under Chapter VII of the United Nations Charter formed at the Ministry of Foreign Affairs.
- 2) External auditor's report on the assessment of internal control systems in the bank shall include the extent of the bank's compliance with applied local laws, ministerial resolutions and the CBK instructions relevant to combating money laundering and the financing of terrorism, in addition to the bank's compliance with its own applied policies, procedures, systems and controls.
- 3) Upon appointing their staff, banks shall identify the integrity, experience and efficiency requirements and set the rules and measures for appropriate selection and qualifications to ensure the following:
 - a. Staff shall have a high efficiency level required for performing their functions.
 - b. Staff shall have the proper integrity to undertake the activities of the bank.
 - c. Potential conflicts of interest must be considered, including the employee's financial history.
 - d. The bank may not appoint persons who have been suspected or convicted in crimes of fraud and dishonesty or other similar crimes.
- 4) The conditions of the preceding paragraph (3) must be taken into consideration when nominating members of the board of directors and appointing members of the executive and supervisory departments and directors.
- 5) The bank shall have ongoing training plan with a program for training new and existing staff in the field of combating money laundering and financing of terrorism periodically, provided that members of the board of directors, members of executive and supervisory department and the directors shall attend

similar programs so that they shall be acquainted with all updates and developments, including information on the prevailing patterns in the field of money laundering and financing of terrorism, in compliance with the obligations imposed on them by the law No. 106 of 2013 on combating money laundering and financing of terrorism and its executive regulations and by all instructions issued by the CBK in this regard.

Twenty Sixth: Penalties and Legal Actions

Penalties stipulated under article (15) of the Law No. (106) of 2013 concerning combating money laundering and financing of terrorism shall be applied to any bank that violates these instructions.