

Law (35) for the year 2002
Regarding Combating Money Laundering Operations

- Having regard to the constitution,
- Law no. 15 for the year 1960 establishing the commercial companies law as amended.
- The criminal law in Law no. 16 for the year 1960 as amended.
- The criminal trials and procedures Law in law no. 17 for the year 1960 as amended.
- Law no. 32 for the year 1968 regarding cash, the Central Bank of Kuwait and the banking profession as amended.
- Decree law no. 13 for the year 1983 in respect to the customs.
- Decree Law no. 23 for the year 1990 in respect to the organization of courts as amended .

The national assembly has passed the following law and we ratified and issued it:

Section One
Definition and Incriminalization of Money Laundering Operations
Article (1)

Money laundering is a financial or a non-financial operation or group of operations aiming to conceal or disguise the illicit origin of money or proceeds from any crime making them appear as money or proceeds derived from a lawful origin also, any act contributing to the process of employment or transfer of money or proceeds originating directly or indirectly from a crime or to the concealment or disguise of their origin is considered as such.

Article (2)

A person is incriminated for money laundering if he/she commits or proceeds to commit any of the following acts:

- 1- Committing money laundering, knowing that these money are derived from an act/acts of participation in the same.
- 2- The conversion, transfer, possession, acquiring, using ,keeping or receiving money, knowing that they are derived from a crime or one of the acts of participation therein.

- 3- The concealment or disguise of the true nature of the money, its origin, place, manner of disposition, movement or rights related to it or its possession, knowing that it is derived from a crime or any act of participation in the same.

Section Two
Banking, Financial and Government Institutions' Commitments
(Article 3)

Banks, investment companies, money exchange agencies and corporations, insurance companies and other financial institutions and individuals determined by a resolution issued by the Minister of Finance have to abide by the following:

- 1- Not to keep any unidentified accounts or accounts in false or symbolic names or to open such accounts.
- 2- The proper identification of their clients according to official documents issued by the competent State authorities.
- 3- Keeping all documents relevant to transactions executed whether locally or internationally including photocopies of their clients' ID cards for at least a period of five years from the date of the transaction.
- 4- Reporting any suspicious financial transaction that may come to their knowledge.
- 5- Adopting a training programme for their executives and employees to ensure their continuous recognition of the new developments in the field of combating money laundering operations.
- 6- Adopting appropriate internal supervisory procedures and regulations that enable them of the immediate detection of such operations and prevents them from being used to execute such suspicious operations.

Those financial institutions and individuals shall strictly abide by the Ministerial instructions and resolutions issued to them by supervisory government authorities regarding the aforementioned articles and also any other Ministerial instructions and resolutions related to money laundering operations.

Article (4)

On entering the country, every person shall inform the custom authorities of any national or foreign currency, golden bars or any other precious materials in his/her possession according to the rules and procedures to be set forth in resolution by the Minister of Finance.

Article (5)

The Public Prosecutor shall determine the competent authority to receive reports on money laundering operations stated in the law.

Section Three
Penalties
Article (6)

Without prejudice to any more serious punishment stipulated by any other law, every person who commits one of the crimes stated in article (2) therein shall be punished by imprisonment of not more than seven years, a fine ranging between half and all the money involved in the crime and the confiscation of money, possession, proceeds and instrumentalities used in committing the crime, without prejudice to well-intentioned third parties' rights.

The termination of the criminal action for any reason does not prevent passing a judgment to confiscate the property derived from money laundering operations. In all cases where a judgment of confiscation is issued according to the provisions of this article, confiscated property shall be dealt with according to rules and regulation set forth in a resolution to be issued by the Minister of Finance.

Article (7)

In case the crime is committed by an organized group or in case the offender uses his power, position or influence, the imprisonment penalty stated in article (6) therein is doubled and the fine is also doubled to range between the value of the property involved in the crime and double this value with the confiscation of property, possessions, proceeds and instrumentalities used in committing the crime, this being without prejudice to well-intentioned third parties' rights.

Article (8)

The public prosecutor may order the defendant not to dispose of or otherwise deal with his money or part of it until the criminal action is settled.

All those who have interest may complain to the competent court regarding the restraining order after three months from its issuance date.

The court shall settle this complaint expeditiously either by rejecting it, canceling the order or amending it; and it shall determine the required guarantees if necessary. The complaint may not be re-submitted except after 6 months from the date of its settlement.

The public prosecutor may revert from the order or amend it according to the requirements of the investigation.

Article (9)

A criminal action regarding any of the crimes stated in article (2) of this law occurring after applying this law may not be quashed due to lapse of time.

Also, a conviction in respect of the crimes stated in article (2) therein passed after applying this law may not be quashed due to lapse of time.

The provisions of articles 81 and 82 of the criminal law may not be applied in these crimes.

Article (10)

The court may relieve from the penalty stipulated in article 6 and 7 every person who, on his own initiative, informs the authorities of the crime and those committing it before the authorities come to know about it.

Article (11)

Without prejudice to any stricter penalty stipulated by another law, any person who, according to the provisions of paragraph 4 of article 3 therein, have to report a suspicious financial transaction that comes to his/her knowledge and fails to do so; discloses information regarding one of the crimes stated in article (2) therein, that came to his knowledge through his position; or damages or conceals documents or instruments relevant to such crimes, shall be punished by imprisonment of not more than three years and a fine of five thousand dinars at minimum and twenty thousand dinars at maximum or one of these two penalties in addition to dismissal from his job.

Without prejudice to the provisions stated in the aforementioned paragraph any person who is proved to be negligent in carrying out the obligations stipulated in article (2) therein shall be punished by a fine not exceeding one million dinars.

Article (12)

Without prejudice to the criminal liability of a natural person stated therein, the companies of those persons are criminally questionable for the crimes stated in article (2) therein.

Companies shall be punished with a fine not exceeding one million dinars if the crime is committed in its interest or in its name by one of its bodies, directors, representatives or personnel. The court may cancel the companies licence to practice if the company was incorporated for the purpose of committing one of the crimes stated in article (2) therein.

In all cases, the money, property, proceeds and instrumentalities used in committing the crime shall be confiscated, without prejudice to well-intentioned third parties. The verdict shall be published in the official gazette and in two daily newspapers.

The criminal action against the company is to be initiated with the presence of its legal representative at the time of carrying out the procedures. The company may be represented by any person who is duly authorized to do so according to the law or the company's articles of association. This representative shall not be exposed to any action of constraint other than those that may be taken against a witness.

Article (13)

Breach to the provisions of article (4) therein is punishable by imprisonment for not more than one year and a fine not exceeding one thousand dinars or one of these penalties.

Article (14)

Natural persons or body corporate who, with good faith, report information according to the provisions of this law, will be protected from any criminal, civil or administrative liability even if the reported operations were not convicted and found to be lawful .

Article (15)

The financial reward to be given to a person who led, contributed, facilitated or participated in the detection of one of the money laundering crimes stated in article (2) therein will be determined by a resolution from the Minister of Finance.

Article (16)

The Public Prosecution Department is the sole body to investigate, take actions and prosecute reports received in respect to the crimes stated in this law. The criminal court in the court of first instance is the competent court to look into these crimes.

Section Three

International Cooperation

Article (17)

The Public Prosecution Department may, on request from competent judicial authorities in other countries, follow or seize property, proceeds or instrumentalities connected with the crimes stated in this law, in case these crimes are committed in the other states in violation to their laws and if there is a mutual agreement in this regard with that country or according to the principle of reciprocity.

Article (18)

The criminal court may order the execution of any final verdict passed by a competent court in another country requiring the confiscation of property, proceeds or instrumentalites connected with a money laundering crime, if there is a mutual signed agreement in this respect with that country or according to the principles of reciprocity and provided that the property confiscated by virtue of the foreign verdict is that which can be confiscated under the Kuwaiti Law, with the preservation of well-intentioned third parties' interests. Nevertheless, if the foreign verdict contained articles related to third parties' rights, then these shall be binding to the court if the third parties did not claim their rights before the foreign judicial authorities.

The criminal court may, as it deems necessary, hear the convicted person or those who have interests in the property confiscated by virtue of the foreign verdict through judicial representation and those may seek the assistance of an attorney before the Kuwaiti courts.

The criminal court that looks into the execution order of a foreign verdict shall follow the criminal procedure code of Kuwait.

Article (19)

The Minister of Finance will issue a resolution regarding the implementation procedures and regulation of this law.

Article (20)

The Prime Minister and Ministers, each in his capacity, shall enforce this law.

**The Amir of Kuwait
Jaber Al-Ahmad Al-Sabah**