

Law No 35 of 2002
For Combating Money Laundry Processes

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Upon viewing constitution

- And law no. 15/1960 for issuing law of commercial companies and amending laws,
- And penal code issued with law No. 16/1960, and amending laws
- And penal procedures and trials code issued with law no. 17/1960 and amending laws,
- Law No. 32 of 1968 concerning bank notes and Central bank of Kuwait and banking profession and amending laws
- Decree law No. 13/1980 concerning customs
- And decree law No. 23/1990 concerning regulating judiciary process and amending laws,

National assembly agreed on the following law, which we attested and issued:

Chapter 1

Defining and criminalizing Money Laundry processes

Article 1

Money Laundry process is one or group of financial/non-financial transactions meant to hide or camouflage the illegal source of funds and revenues for any crime and showing the same as coming from legal source; this definition includes diversification and money transfer for money and revenues resulting directly or indirectly from a crime or hide or camouflage the source.

Article 2

Money laundry convict is the person who does the following:

1. Money laundry knowing source of money is committing or participating in a crime.
2. Money transfer, possession, owning, usage or receiving knowing its source is committing or participating in a crime.
3. Hiding or camouflaging the truth of money and its source or their place and disposition thereof or transaction or rights

related to it and owning thereof, knowing its source is committing or participating in a crime.

Chapter 2

Commitment from Banking and financial Institutions and Government entities

Article 3

Banks, investment companies, institutions and banking companies, and insurance companies, and other financial corporates and persons defined by resolution from minister of finance, shall abide by the following:

1. Do not keep any unidentified accounts or accounts with fake or code names or open any of these.
2. Verify the ID of their customers upon official documents issued from competent authorities in the state.
3. Maintain all documents and papers related to national and international transactions including copies of the customers' ids for at least 5 years from the date of transaction completion.
4. notifying any suspicious financial transaction
5. Adopt a policy to train officers and personnel to insure they are aware and updated in the field of money laundry.
6. Adopt work procedures and internal audit systems enough to detect any of such processes upon occurrence and prevent using them in passing suspicious transactions.

All these financial institutions and persons shall abide by all ministerial instructions and resolutions issued from government authorities supervising thereof concerning the aforementioned items and so by any other ministerial resolutions and instructions related to combating money laundry processes.

Article 4

Any person upon entering Kuwait shall notify customs authority with his possessions of national or foreign currencies or gold alloys or any other valuable items pursuant to rules and procedures issued by the minister of finance.

Article 5

Public prosecutor shall defined the competent authority with public prosecution to receive reports about money laundry processes set forth in this law.

Chapter 3

Sanctions

Article 6

Without prejudice to more severe sanctions set forth by law, a person who commits any crime set forth in article 2 shall be sentenced to imprisonment for period not more than 7 years and a fine not less than half the value of subject amounts, and not more than the full value of these funds, and to confiscate such funds, possessions, revenues and media used in committing this crime, without prejudice to third parties bona fide rights.

Expiry of penal claim for any reason shall never cease to confiscate funds collected from money laundry and in all cases in which it's decided to confiscate according to provisions of these article, confiscated funds shall be disposed according to rules and procedures issued by a resolution from minister of finance.

Article 7

Imprisonment sanction set forth in article 6 shall be doubled and so the fine to be not less than the value of subject funds and not more than double their value and to confiscate funds and possessions and revenues and media used in committing these crimes without prejudice to third party bona fide rights if this crime is done through an organized group, or if done through using authority or power.

Article 8

Public prosecutor may order to pan the convict from disposing his money in part or in full till the penal procedure is settled. Any person may sue a claim to competent court in the issue of panned disposal after three months from issuing this order. Court shall settle this claim as fast as possible whether through refusal or cancellation or amendment and set required guarantees if reason is provided;

complaint shall not be re-sued after 6 months from the settlement date. Public prosecutor may cease to take this order or amend thereof pursuant to investigation requirements.

Article 9

Penal claim shall not expire for any crimes set forth in article 2 from this law which occur after effective date. Sanction sentenced under this law for crimes set forth in article 2 shall not expire. Articles 81 and 82 from penal code shall not apply for these crimes.

Article 10

Court may discharge from sanctions set forth in articles 6 and 7 if convicts notified competent authorities with this crime and criminals thereof before perpetration.

Article 11

Without prejudice to any more sever sanction set forth in any other law, he shall be sentenced to imprisonment for a period not more than 3 years and a fine not less than 5000 KD and not more than 20000 KD or to both, with job discharge, anyone who thought to report under item 4 from article 3 from this law and didn't report any suspicious transaction he knew about or disclosed any information he knew about a crime stipulated in article 2 hereunder and damaged or hidden documents or instruments related to these crimes. Without prejudice to provisions set forth in the previous section, he shall be punished any one proved to default in any liabilities set forth in article 3 from this law with a fine not more than 1000000 KD.

Article 12

Without prejudice to penal liability for the natural person set forth in this law, partnerships shall be questioned in part for crimes set forth in article 2 hereunder. Company shall be sentenced to a fine that is not more than 1000000 KD if the crime was for its interest or in the name of one of its systems, managers or representative or one personnel therein, and shall be liable to cancellation of business license if it's incorporated for this object. In all cases, a decision is issued to confiscate funds, possessions, revenues and media used in committing these crimes without prejudice to bona fide third parties'

rights, and this shall be published in the official gazette and two daily newspapers. Penal procedure shall be commenced against the company against its legal representative at the time these procedures are taken, and company may be represented by any person authorized with the same under law or the company statute, and this representative shall face no compelling procedure except procedures taken against the witness.

Article 13

He shall be sanctioned from violating article 4 hereunder with imprisonment for a period not more than 1 year and a fine not more than 1000 KD or to both.

Article 14

He shall be discharged from criminal, civil and administrative liability natural persons or corporates who, with bona fide, report information under provisions of this law, even if these transactions are proved valid.

Article 15

Upon resolution from minister of finance, an award shall be defined for any person guides or facilitates detention of any money laundry transactions set forth in article 2 hereunder.

Article 16

Public prosecution shall alone investigate and dispose and prosecution in reports coming related to crimes set forth in this law. Criminal court is the competent authority to consider these crimes.

Chapter 4

International Cooperation

Article 17

Public prosecution if received a request from an competent judiciary authority in another country, may decide to track and confiscate possessions and revenues and media used in crimes set forth in this law if these crime are committed in the other country with violation to laws of that country, given there an attested binary agreement with these countries in this concern, or according to principle of reciprocity.

Article 18

Criminal court may decide to execute any irrevocable an enforceable ruling issued from a competent authority in the another country to confiscate funds, revenues and media related to money laundry crime given a binary agreement attested from that country in this concern, or under the principle of reciprocity, given that these funds confiscated under the foreign ruling may be confiscated according to Kuwaiti law, without prejudice to bona fide third parties' rights, yet if the foreign ruling included items related rights of third parties, it shall be binding to the court if this third party didn't claim his right before foreign courts. Criminal court, if saw necessary, may hear through the judiciary representation if needed, the convict and any person whose rights are related to funds subject to confiscate in the foreign ruling, and those persons may use an attorney before Kuwaiti courts. Before criminal courts considering execution of this foreign ruling rules of procedures law

Article 19

Minister of finance issues a resolution for procedure and rules required for execution of this law.

Article 20

Ministers and prime minister, each in his field shall apply this law.

Prince of Kuwait

Jaber Al-Ahmed Al-Sabah

Issued in Bayan Palace on:

26 Thu Al-Hijja 1422 AH

10 March 2002 AD

Explanatory Memo
For Law draft No, ___ of 2002

For combat of money laundry transactions money laundry transactions became deeply rooted in the international community and escalated to a great extent, and became the concern of executive and legislative entities due to severs damages in terms of economy and ethics and damaging the principle of equal opportunities since it results in huge and speedy fortunes with no legal source to camouflage crimes such as drug traffic and crimes interfering with national and international public security.

This draft is to give maximum protection for Kuwaiti society in terms of complementing this part in Kuwaiti legislations; the draft consists of four chapters: the first for defining and criminalizing money laundry transactions, the second is to define liabilities of banking and financial institutions and government entities, third is for sanctions and fourth is for international cooperation in the field of combating these crimes and executing decision issued in this concern.

Article 1 tackled the draft in general terms as the process aiming at the end to hide or camouflage the illegal source of funds and trying to make them look like funds coming from valid source, which is not true.

Article 2 listed the acts criminalized by law, i.e. committing, and attempting to commit and participate in committing and this participation includes agreement, incitation and helping in committing this act comprising this crime as set forth in article 48 from penal code.

Since money laundry occurs commonly through financial entities such as banks, investment banks and banking and insurance companies, article 3 levied many responsibilities on these entities to help to prevent or limit these crimes, and participate in detecting thereof upon commencement or completion.

Article 4 obligates persons entering the country through customs ports to report their possessions to this authority in terms of national and foreign currencies or gold alloys under rules issued by minister of finance.

Article 5 stated Public prosecutor shall define the competent authority to receive reports for these transactions set forth hereunder. And so to maintain the secrecy of information acquired by public prosecution upon investigating in these crimes and it's data related to bank accounts and receivables for persons and corporates.

Articles 6 and 7 state sanctions for crimes set forth in article 2 from this law; draft is keen for severe punishment for these due to their severity.

Article 8 states that public prosecutor shall pan convict from disposing his money in part or in full till the penal claims is settled and regulates the way of appealing in this concern.

Article 9 states three sanctions for severity of crime of money laundry: Obsolescence of the penal claim for execution term expiry in crimes set forth in article 2, and non-Obsolescence of sanction for term expiry and inapplicability of provisions 81 and 82 from penal code in this concern.

Article 10 included a provision stating that the court may discharge the person who initiates to report to competent authorities with these crimes, and so before doing these crimes, from sanctions set forth in articles 6 and 7 to encourage convicts to cease doing these crimes and to report thereof to competent public authorities, and so as to manage to arrest doers and levy proper sanctions thereon.

Article 11 included two paragraphs, the first one establishes sanction for ceasing to report as set forth in articles 4, from article 3, and for disclosing information and hiding documents; Paragraph 2 defines sanction for violating remaining liabilities set forth in article 3 (except what is set forth in article 4). Which is a financial penal sanction (fine not more than 1 million KD) levied on any person or corporate set forth in article 3.

Article 12 establishes the penal responsibility for corporates upon committing crimes set forth in article 2 hereunder. Corporates hereunder mean all commercial companies except public and closed joint stock companies. Penalty levied in this case is financial that is not more than 1 million KD and decision to revoke the license of

practicing this business if the company was incorporated to commit crimes set forth in article 2 hereunder.

Article 13 talks about the sanction of violating article 4, i.e. not reporting to customs authorities for currencies and gold coins or valuable items upon entering the country.

Article 14 incites persons and corporates to report about suspicious transactions by discharging them from liability (criminal, civil or administrative) if reporting was bona fide even if transactions related proven valid.

Article 15 ascribed to minister of finance the task of determining the award cashed for any person guides or facilitates the detention of crimes set forth in article 2 hereunder.

Under article 16, public prosecution and criminal court jurisdiction is limited to all crimes set forth in this law, with consideration to how important and severe they are.

Article 17 allowed for Kuwaiti public prosecution upon the request of competent judicial authority at other countries related to Kuwait with binary agreements to order to track and confiscate possession and revenues and media related to a crime set forth in this law committed in that country.

Article 18 stipulates how to execute foreign decisions issued from competent courts at other countries for confiscation of crimes set forth if any binary agreements exist and attested with this country or for applying the principle of reciprocity.