(Unofficial translation)

Council of Ministers
Law No. 15 of 2017 amending provisions of
Law No. 1 of 2016
on the Promulgation of the Companies Law

- Having reviewed the Constitution;
- and Decree No. (3) of 1955 regarding Kuwaiti Income Tax as amended;
- and Decree No. (5) of 1959 promulgating the Real Estate Registration Law as amended;
- and the Criminal Law promulgated by Law No. (16) of 1960 as amended;
- and the Criminal Procedures and Trials Law promulgated by Law No. (17) of 1960 as amended;
- and Law No. (4) of 1961 promulgating the Authentication Law as amended;
- and the Law on Insurance Companies and Agents promulgated by Law No. (24) of 1961 as amended;
- and Law No. (30) of 1964 on the Establishment of the Audit Bureau as amended;
- and Law No. (49) of 1966 regarding Lending to Kuwait Shareholding Companies;
- and Law No. (32) of 1968 on the Currency, Central Bank of Kuwait and the Regulation of the Banking Profession as amended;
- and Decree Law No. (31) of 1978 regarding the Regulations for Preparing Public Budgets, Monitoring their Execution and Final Accounts as amended;
- and the Civil and Commercial Proceedings Law promulgated by Decree Law No. (38) of 1980 as amended;
- and Decree Law No. (39) of 1980 regarding the Law of Evidence in Civil and Commercial Matters as amended;
- and the Civil Law promulgated by Decree Law No. (67) of 1980 as amended by Law No. (15) of 1996;
- and the Commercial Law promulgated by Decree Law No. (68) of 1980 as amended;
- and Decree Law No. (5) of 1981 regarding the Practicing of the Auditing Profession as amended;
- and Decree Law No. (20) of 1981 regarding the Establishment of a Division in the Court of First Instance for Adjudicating Disputes as amended by Law No. (61) of 1982;
- and Law No. (42) of 1984 regarding the Disposition and Trading of shares in Kuwait Shareholding Companies and Securities;
- and Decree Law No. (33) of 1988 regarding Permission of Gulf Cooperation Council Citizens to hold shares in Kuwait Shareholding Companies;
- and Law No. (19) of 2000 regarding the Support and Encouragement of National Labor to Work in Non-Governmental Entities as amended by Law No. (32) of 2003;
- and Law No. (5) of 2003 on the Approval of the Unified Economic Agreement between the Gulf Cooperation Council Countries;
- and Law No. (46) of 2006 regarding Zakat and the Contribution of Public and Closed Shareholding Companies in the State's Budget;
- and Decree Law No. (2) of 2009 regarding the Enhancement of Financial Stability in the State;
- and Law No. (6) of 2010 regarding Working in the Civil Sector as amended;
- and Law No. (7) of 2010 regarding the Establishment of Capital Market Authority and the Regulation of Securities Activities as amended;
- and Law No. (37) of 2010 regarding the Regulation of Privatization Programs and Operations;
- and Law No. (111) of 2013 regarding the Licensing of Commercial Stores;
- and Law No. (116) of 2013 regarding the Promotion of Direct Investment in the State of Kuwait;
- and Law No. (116) of 2014 regarding Public Private Partnerships;
- and Law No. (1) of 2016 on the promulgation of the Companies Law;

- and Law No. (13) of 2016 regulating commercial agencies;
- and Law No. (22) regarding the amendment of certain regulations of Law No. (7) of 2010 regarding the Establishment of Capital Market Authority and the Regulation of Securities Activities;
- and Law No. (49) of 2016 regarding Public Tenders;
- and Decree No. (1) – Fiscal – of 1959 regarding commercial registry;
- the National Assembly approved the following law, which we have ratified and issued:

Article (1)

Replacing articles (96 item 3, 97, 98, 147) of Law No. (1) of 2016 as referred to in the following scripts:

Article (96 – Item 3):

3 – Main Headquarter of the company or email address or postal box.

Article (97):

The Limited Liability Company shall not be incorporated unless all cash membership interests are distributed among the partners, and any in-kind contributions have been transferred to the company. The Executive Regulation shall specify the timing of depositing the cash membership interests in the local banks.

Article (98):

The capital of a Limited Liability Company shall be divided into membership interests of equal value which shall be determined in the articles of association and that are not divisible.
If there is more than one owner of a membership interest, they shall choose one person to represent them towards the company.

Article (147):

The company's capital must be denominated in Kuwaiti currency. The executive regulation shall specify the minimum capital of the company according to the type of activity and the amount of capital to be paid at incorporation.

Article (2)

The Prime Minister and the ministers – each in the area of concern – shall execute this law.

Emir of Kuwait
Sabah Al Ahmad Al Jaber Al Sabah
Issued on April 23, 2017.
(Published in the Official Gazette on Sunday April 26, 2017, appendix to issue No. 1337 (Vol. 63).

Law No. 1 of 2016
on the Promulgation of the Companies Law

Version dated 1 June 2016

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Headers to articles, which are in italics, and the table of contents do not constitute part of the Companies Law and have been inserted for ease of reference only. Similarly, footnotes do not constitute part of the Companies Law; they reflect interpretive comments in respect of the translation and should not be interpreted as part of the Companies Law or as legal advice.

Table of Contents

Law No. 1 of 2016 on the Promulgation of the Companies Law 14

Article 1 15

Article 2 15

Article 3 15

Article 4 16

Article 5 16

Companies Law 17

Section One General Provisions 17

Definitions 17

Article 1 ***Definitions*** 17

Article 2 ***Scope of General Provisions*** 18

Article 3 ***Definition of the Company*** 18

Article 4 ***Forms of Companies*** 18

Article 5 ***Approval of the Ministry to the Incorporation of a Company and Its Objectives*** 18

Article 6 ***Approval of the Supervisory Authorities*** 19

Article 7 ***Authentication of the Company Contract*** 19

Article 8 ***Liability Due to Invalidity of the Company Contract*** 19

Article 9 ***Proclamation of the Company Contract*** 19

Article 10 ***Memorandum of Incorporation and Articles of Association*** 20

Article 11 ***Valuation of In-kind Contributions*** 20

Article 12 ***Name of the Company*** 20

Article 13 ***Change of the Name of the Company*** 20

Article 14 ***Objectives of the Company*** 21

Article 15 ***Companies that Operate in Accordance with Islamic Shari'a*** 21

Article 16 ***Term of the Company*** 21

Article 17 ***Share in the Company*** 22

Article 18 ***Division of Profit and Loss*** 22

Article 19 ***Contribution in the Form of Labour*** 22

Article 20 ***Distribution of Fictitious Profits*** 23

Article 21 ***Liability of the Company for the Acts of the Managing Director or Board of Directors*** 23

Article 22 ***Information on the Papers Issued by the Company*** 23

Article 23 ***Legal Capacity, Nationality and Domicile*** 23

Article 24 ***Practicing of Activities following Proclamation and Approval*** 24

Article 25 ***Application of Contracts and Acts Performed in the Name of a Company under Incorporation*** 24

Article 26 ***Application of the Acts of the Incorporators*** 24
Article 27 ***Responsibility of the Incorporators for their Actions during Incorporation*** 24
Article 28 ***Statute of Limitation of Creditors' Claims*** 24
Article 29 ***Factual Company*** 25
Article 30 ***Agreement of Incorporators, Shareholders or Partners*** 25
Article 31 ***Retention of the Company Contract*** 25
Article 32 ***Right of Inspection at the Ministry*** 25
Section Two General Partnership Company 25
Chapter One Introductory Provisions 25
Article 33 ***Definition of the General Partnership Company*** 25
Article 34 ***Capacity as Merchant*** 26
Article 35 ***Name of the General Partnership Company*** 26
Article 36 ***Prohibition of Borrowing by Issuing Bonds or Sukuk*** 26
Article 37 ***Capital of the General Partnership Company*** 27
Chapter Two Incorporation Requirements 27
Article 38 ***Company Contract of the General Partnership Company*** 27
Chapter Three Membership Interests of the Partners 27
Article 39 ***Form of Membership Interests in a General Partnership Company*** 27
Article 40 ***Transfer of Membership Interests in a General Partnership Company*** 27
Article 41 ***Transfer of Financial Rights*** 28
Article 42 ***Pledge of Membership Interests in the General Partnership Company*** 28
Article 43 ***Execution against Membership Interests in a General Partnership Company*** 28
Chapter Four Rights and Responsibilities of the Management 29
Article 44 ***Management of the General Partnership Company*** 29
Article 45 ***Lack of Appointment of a Manager of the General Partnership Company*** 29
Article 46 ***Actions that Require Approval by all Partners*** 29
Article 47 ***Prohibition of Interference by a Partner in the Management and the Right of Inspection*** 30
Article 48 ***Prohibition to Contract for own Benefit*** 30
Article 49 ***Liability of the Manager of the General Partnership Company for Damages*** 30
Article 50 ***Dismissal of the Manager of the General Partnership Company*** 30
Article 51 ***Partners' Meeting of the General Partnership Company*** 30
Chapter Five Amendment of the Company Contract, Partners' Liability and Creditors' Rights 31
Article 52 ***Amendment of the Company Contract*** 31
Article 53 ***Rights of Creditors of the General Partnership Company*** 31
Article 54 ***Liability of the Joining or Withdrawing Partner*** 31

Article 55 ***Dismissal of a Partner*** 32
Section Three Limited Partnership Company 32
Article 56 ***Definition of the Limited Partnership Company*** 32
Article 57 ***Incorporation and Company Contract of the Limited Partnership Company*** 32
Article 58 ***Name of the Limited Partnership Company*** 32
Article 59 ***Management of the Limited Partnership Company*** 33
Section Four Partnership Limited by Shares 33
Chapter One Introductory Provisions 33
Article 60 ***Definition of Partnership Limited by Shares and Name*** 33
Article 61 ***Legal Provisions applicable to Partners*** 33
Article 62 ***Capital and Shares in the Partnership Limited by Shares*** 33
Chapter Two Incorporation Requirements 34
Article 63 ***Application of Provisions regarding the Limited Partnership Company*** 34
Article 64 ***Company Contract of the Partnership Limited by Shares*** 34
Article 65 ***Number of Partners*** 35
Article 66 ***Payment of the Capital of the Partnership Limited by Shares*** 35
Chapter Three Rights and Obligations of the Management of the Company 35
Article 67 ***Management of the Partnership Limited by Shares*** 35
Article 68 ***Prohibition of Interference by a Limited Partner in the Management*** 35
Article 69 ***Right of Inspection of the Partners*** 35
Article 70 ***Supervisory Board in the Partnership Limited by Shares*** 35
Article 71 ***Reporting and Liability of the Supervisory Board of the Partnership Limited by Shares*** 36
Article 72 ***Auditor and Formation of Reserves of the Partnership Limited by Shares*** 36
Article 73 ***General Meeting of the Partnership Limited by Shares*** 36
Article 74 ***Amendment of the Company Contract of the Partnership Limited by Shares*** 36
Article 75 ***Temporary Manager in the Partnership Limited by Shares*** 36
Section Five Joint Venture Company 36
Article 76 ***Definition of the Joint Venture Company*** 36
Article 77 ***Company Contract of the Joint Venture Company*** 37
Article 78 ***No Legal Personality of the Joint Venture Company*** 37
Article 79 ***Reliance on the Company Contract*** 37
Section Six Professional Company 37
Article 80 ***Incorporation, Name and Company Form of the Professional Company*** 37
Article 81 ***Licensing and Registration of the Professional Company*** 38
Article 82 ***Company Contract of the Professional Company*** 38

Article 83 ***Disposition by the Partner of his Membership Interests or Shares*** 38
Article 84 ***Enforceability of the Disposition of the Partner*** 38
Section Seven Single Person Company 38
Article 85 ***Definition of Single Person Company*** 38
Article 86 ***Articles of Association of the Single Person Company*** 39
Article 87 ***Capital of the Single Person Company*** 39
Article 88 ***Pledge and Seizure of Membership Interests of the Single Person Company*** 39
Article 89 ***Management of the Single Person Company*** 39
Article 90 ***Liability of the Owner of the Capital of the Single Person Company*** 39
Article 91 ***Application of Provisions Governing the Limited Liability Company*** 40
Section Eight Limited Liability Company 40
Chapter One Introductory Provisions 40
Article 92 ***Definition of the Limited Liability Company*** 40
Article 93 ***Restricted Activities of the Limited Liability Company*** 40
Article 94 ***Prohibition of Public Subscription of Membership Interests*** 40
Article 95 ***Capital of the Limited Liability Company*** 40
Chapter Two Incorporation Requirements 40
Article 96 ***Company Contract of the Limited Liability Company*** 40
Article 97 ***Cash and In-Kind Contributions into the Capital of the Limited Liability*** 41
Chapter Three Legal Framework of Membership Interests 41
Article 98 ***Value of the Membership Interests in the Limited Liability Company*** 41
Article 99 ***Disposition of Membership Interests in the Limited Liability Company*** 41
Article 100 ***Pre-emption Right of Partners in the Limited Liability Company*** 42
Article 101 ***Transfer of the Membership Interests of a Deceased Partner*** 42
Article 102 ***Pledge of Membership Interests in the Limited Liability Company*** 42
Chapter Four Rights and Obligations of the Management 43
Article 103 ***Management of the Limited Liability Company*** 43
Article 104 ***Dismissal of the Manager of the Limited Liability Company*** 43
Article 105 ***Powers and Obligations of the Manager of the Limited Liability Company*** 43
Article 106 ***Limitations of the Manager of the Limited Liability Company*** 43
Article 107 ***Supervisory Board of the Limited Liability Company*** 43
Article 108 ***Liability of the Supervisory Board of the Limited Liability Company*** 44
Article 109 ***Auditor of the Limited Liability Company*** 44
Article 110 ***Right of Inspection of the Partners*** 44
Article 111 ***General Meeting of the Partners*** 44

Article 112 ***Right of Participation in the General Meeting of the Partners*** 44
Article 113 ***Validity of the General Meeting*** 45
Article 114 ***Agenda of the Annual General Meeting*** 45
Article 115 ***Extraordinary General Meeting*** 45
Article 116 ***Quorum of the Extraordinary General Meeting*** 45
Article 117 ***Competency of the Extraordinary General Meeting*** 46
Article 118 ***Reserves of the Limited Liability Company*** 46
Section Nine Public Shareholding Company 46
Chapter One Introductory Provisions 46
Article 119 ***Definition of Public Shareholding Company*** 46
Article 120 ***Name of the Public Shareholding Company*** 46
Chapter Two Incorporation of the Shareholding Company 47
Article 121 ***Company Contract of the Public Shareholding Company*** 47
Article 122 ***Application for Incorporation of the Public Shareholding Company*** 47
Article 123 ***Approval to Incorporation of the Public Shareholding Company*** 48
Article 124 ***Register of Applications for the Incorporation of Public Shareholding Companies*** 48
Article 125 ***Authentication of the Company Contract of the Public Shareholding Company*** 48
Article 126 ***Acquiring of Legal Personality by the Public Shareholding Company*** 48
Article 127 ***Subscription of Incorporators in the Public Shareholding Company*** 49
Article 128 ***Subscription Prospectus and Invitation of the Public to Subscribe in the Shares*** 49
Article 129 ***Method of Subscription in the Public Shareholding Company*** 49
Article 130 ***Prohibition of Fictitious or Anonymous Subscriptions*** 49
Article 131 ***Application and Payment of Subscription*** 49
Article 132 ***Availability of the Company Contract*** 50
Article 133 ***Release of Subscription Amounts*** 50
Article 134 ***Shares not Subscribed For*** 50
Article 135 ***Subscription Underwriter*** 50
Article 136 ***Decrease of the Capital of the Public Shareholding Company*** 51
Article 137 ***Failure of Capital Decrease or Renouncing of the Incorporation*** 51
Article 138 ***Subscription for all Shares*** 51
Article 139 ***Invalidity of the Subscription*** 51
Article 140 ***Submission of Statement of Subscription*** 51
Article 141 ***Calling of the Constituent Meeting of the Public Shareholding Company*** 52
Article 142 ***Methods of Invitation to the Constituent Meeting of the Public Shareholding Company*** 52
Article 143 ***Quorum of the Constituent Meeting*** 52
Article 144 ***Report of the Incorporators*** 52

Article 145 ***Competency of the Constituent Meeting*** 53
Article 146 ***Remediation of Incorporation Procedures*** 53
Chapter Three Capital 54
Article 147 ***Formation of the Capital of the Shareholding Company*** 54
Article 148 ***Issued and Authorised Capital*** 54
Article 149 ***Increase of the Issued Capital*** 54
Article 150 ***Division of the Capital*** 54
Article 151 ***Division of Shares*** 54
Article 152 ***Payment of the Value of Shares*** 54
Article 153 ***Preferred Shares*** 55
Article 154 ***Central Depositary of Securities Issued by Public Shareholding Companies*** 55
Article 155 ***Delay in the Payment of the Due Instalment*** 55
Article 156 ***Shareholders' Register*** 55
Chapter Four Adjustment of the Capital 56
Article 157 ***Increase of the Capital*** 56
Article 158 ***Condition of Payment of the Original Shares in Full*** 56
Article 159 ***Methods of Capital Increase and Payment*** 56
Article 160 ***Pre-emption Right to Subscribe*** 56
Article 161 ***Invitation of the Public to Subscribe*** 57
Article 162 ***Undersubscribed Capital Increase*** 57
Article 163 ***Issuance Premium*** 57
Article 164 ***Assignment of Privileges to New Shares of the Capital Increase*** 57
Article 165 ***Capital Increase Issued against In-Kind Contributions*** 57
Article 166 ***Bonus Shares*** 57
Article 167 ***Conversion of Debt into Shares*** 58
Article 168 ***Decrease of the Capital*** 58
Article 169 ***Capital Decrease if in Excess of the Company's Needs*** 58
Article 170 ***Methods of Capital Decrease*** 58
Chapter Five Disposition and Trading of Shares 58
Article 171 ***Disposition by the Incorporators of their Shares*** 58
Article 172 ***Disposition by the Shareholders of their Shares*** 59
Article 173 ***Trading in Shares to be governed by Law No. (7) of 2010*** 59
Article 174 ***Seizure and Pledge of Shares*** 59
Article 175 ***Dividend Shares*** 59
Article 176 ***Incorporation Shares and Profit Shares*** 60
Chapter Six Shareholders' Rights and Obligations 60

Article 177 ***Members of the Shareholding Company*** 60
Article 178 ***Rights of the Members in the Shareholding Company*** 60
Article 179 ***Obligations of the Members in the Shareholding Company*** 60
Article 180 ***Resolutions Prohibited to be Issued by the General Meeting*** 61
Chapter Seven Management of the Shareholding Company 61
A. The Board of Directors 61
Article 181 ***Formation of the Board of Directors and Term of Membership*** 61
Article 182 ***Election of the Members of the Board of Directors*** 61
Article 183 ***Chairman and Deputy Chairman of the Board of Directors*** 61
Article 184 ***Powers of the Board of Directors*** 62
Article 185 ***Organisation of Tasks of the Board of Directors*** 62
Article 186 ***Corporate Governance Principals*** 62
Article 187 ***Independent Members*** 62
Article 188 ***Appointment of Members of the Board of Directors*** 62
Article 189 ***Amounts Payable to Representatives of the State in the Board of Directors*** 63
Article 190 ***Validity of the Meeting of the Board of Directors*** 63
Article 191 ***Minutes of the Meeting of the Board of Directors*** 63
Article 192 ***Occupying Vacant Positions*** 63
Article 193 ***Requirements for Membership in the Board of Directors*** 63
Article 194 ***Multiple Board Memberships*** 64
Article 195 ***Exploitation of Information*** 64
Article 196 ***Disclosure by Members of the Board of Directors*** 64
Article 197 ***Prohibition of Competition*** 64
Article 198 ***Remuneration of the Members of the Board of Directors*** 65
Article 199 ***Conflicts of Interest*** 65
Article 200 ***Lending to Related Parties*** 65
Article 201 ***Liability of the Members of the Board of Directors*** 65
Article 202 ***Personal and Joint Liability*** 66
Article 203 ***Liability Claim against Members of the Board of Directors*** 66
Article 204 ***Right of Shareholders to File a Liability Lawsuit*** 66
Article 205 ***Statute of Limitation of Claims against Members of the Board of Directors*** 66
Chapter Eight B. The General Meeting 66
Article 206 ***Convening of the Annual General Meeting*** 66
Article 207 ***Convening of the General Meeting by Invitation of the Ministry*** 67
Article 208 ***Right to Attend the General Meeting*** 67
Article 209 ***Cumulative Voting*** 67

Article 210 ***Chairing of the General Meeting*** 67
Article 211 ***Competency of the Ordinary General Meeting*** 68
Article 212 ***Removal of Members and Dissolution of the Board of Directors*** 68
Article 213 ***Agenda of the Ordinary General Meeting*** 68
Article 214 ***Implementation of the Resolutions of the General Meeting*** 69
Article 215 ***Application of the Rules of the Ordinary to the Extraordinary General Meeting*** 69
Article 216 ***Convening of the Extraordinary General Meeting*** 69
Article 217 ***Quorum and Resolutions of the Extraordinary General Meeting*** 69
Article 218 ***Competency of the Extraordinary General Meeting*** 69
Article 219 ***Effectiveness of the Resolutions of the Extraordinary General Meeting*** 69
Article 220 ***Claim of Invalidity and Challenge of Resolutions of the Extraordinary General Meeting*** 70
Chapter Nine Accounts of the Company 70
Article 221 ***Financial Year of the Shareholding Company*** 70
Article 222 ***Statutory Reserves*** 70
Article 223 ***Depreciation*** 71
Article 224 ***Deductions for Obligations under Labour and Social Security Laws*** 71
Article 225 ***Voluntary Reserves*** 71
Article 226 ***Distribution of Profits*** 71
Chapter Ten Auditor 71
Article 227 ***Appointment of the Auditor*** 71
Article 228 ***Independence of the Auditor*** 72
Article 229 ***Right of the Auditor to Inspect*** 72
Article 230 ***Auditor's Report*** 72
Article 231 ***Confidentiality of Data and Information*** 73
Article 232 ***Liability of the Auditor*** 73
Article 233 ***Replacement of the Auditor*** 73
Section Ten Closed Shareholding Company 73
Article 234 ***Definition of the Closed Shareholding Company*** 73
Article 235 ***Incorporation of the Closed Shareholding Company*** 74
Article 236 ***Acquiring of Legal Personality by the Closed Shareholding Company*** 74
Article 237 ***Methods of Inviting the Constituent Assembly of the Closed Shareholding Company*** 74
Article 238 ***Restrictions on the Shareholder to Dispose Over Shares*** 75
Article 239 ***Pre-emption Right of the Shareholder to Acquire*** 75
Article 240 ***Approval of the Board of Directors to the Purchaser of Shares*** 75
Article 241 ***Allotment of New Shares*** 75
Article 242 ***Capital Increase by Way of Public Subscription*** 76

Section Eleven Holding Company....76

Article 243 ***Definition of the Holding Company***....76

Article 244 ***Form of the Holding Company***....76

Article 245 ***Manner of Incorporating the Holding Company***....76

Article 246 ***Activities of the Holding Company***....77

Article 247 ***Balance Sheet of the Holding Company***....77

Article 248 ***Legal Framework of the Holding Company***....77

Article 249 ***Liability of the Holding Company for its Subsidiaries***....78

Section Twelve Transformation, Merger, Division and Termination of Companies....78

Chapter One Transformation of Companies....78

Article 250 ***Requirements and Procedures of Transformation***....78

Article 251 ***Objection of a Partner to the Transformation***....78

Article 252 ***Legal Personality and Liability of the General Partners***....78

Article 253 ***Effect of the Transformation on the Partners***....79

Article 254 ***Approval of the Bondholders' Assembly to the Transformation***....79

Chapter Two Merger of Companies....79

Article 255 ***Methods of Merger***....79

Article 256 ***Merger by Amalgamation***....80

Article 257 ***Merger by Consolidation***....80

Article 258 ***Proclamation and Execution of the Merger***....81

Article 259 ***Approval of the Bondholders' and Sukuk Holders' Assembly to the Merger***....81

Article 260 ***Effect of the Merger on Convertible Bonds and Convertible Sukuk***....81

Article 261 ***Approval of the Partners and Shareholders to the Merger***....81

Article 262 ***Liability of the Absorbing Company and the New Company***....81

Chapter Three Division of Companies....81

Article 263 ***Rules and Procedures of Division***....81

Article 264 ***Effects of the Division***....82

Article 265 ***Trading of Shares in Companies Resulting from a Division***....82

Chapter Four Company Termination and Liquidation....82

A. Company Dissolution....82

Article 266 ***Reasons for Dissolving the Company***....82

Article 267 ***Death of a Partner***....83

Article 268 ***Termination by Seizure of Membership Interests***....83

Article 269 ***Dissolution by Court Ruling***....83

Article 270 ***Death, Legal Incompetence or Bankruptcy of all General Partners***....83

Article 271 ***Loss of Three Quarters of the Capital of a Shareholding Company*** 83
Article 272 ***Death, Legal Incompetence or Bankruptcy of a Partner in a Limited Liability Company*** 84
Article 273 ***Loss of Three Quarters of the Capital of a Limited Liability Company*** 84
Article 274 ***Termination of a Single Person Company*** 84
Article 275 ***Termination of the Professional Company*** 84
Article 276 ***Death, Withdrawal or Loss of License of a Partner in the Professional Company*** 84
Article 277 ***Proclamation of the Termination of the Company*** 85
B. Liquidation 85
Article 278 ***Initiation of Liquidation Proceedings*** 85
Article 279 ***Effect of the Dissolution of a Company on its Debts*** 85
Article 280 ***Effect of Termination of a Company on the Powers of the Management*** 85
Article 281 ***Appointment of the Liquidator*** 85
Article 282 ***Removal of the Liquidator*** 86
Article 283 ***Proclamation of Decision to Appoint the Liquidator*** 86
Article 284 ***Activities of the Liquidator*** 86
Article 285 ***Effect of the Activities of the Liquidator on the Company*** 87
Article 286 ***Liability of the Managers of the Company towards the Liquidator*** 87
Article 287 ***Term of Appointment of the Liquidator*** 87
Article 288 ***Continuation of the Business of the Company*** 87
Article 289 ***Calling of the General Meeting during Liquidation*** 87
Article 290 ***Collection of Claims and Payment of Debts during Liquidation*** 88
Article 291 ***Distribution of the Proceeds of Liquidation*** 88
Article 292 ***Liquidation Accounts*** 88
Article 293 ***Period of Maintenance of Books and Documents Related to the Liquidation*** 89
Article 294 ***Liability of the Liquidator*** 89
Article 295 ***Statute of Limitation of Claims against the Liquidator*** 89
Section Thirteen Supervision, Inspection and Penalties 89
Chapter One Supervision and Inspection 89
Article 296 ***Right of the Ministry to Supervise and Inspect*** 89
Article 297 ***Right of the Ministry to Request the Remedy of a Violation*** 89
Article 298 ***Rights of the Shareholders and Partners to Request an Inspection*** 89
Article 299 ***Publication of the Inspection Report*** 90
Article 300 ***Rejection of the Request of Inspection*** 90
Article 301 ***Confidentiality of the Inspection*** 90
Article 302 ***Obligation to Cooperate with the Inspection*** 90
Chapter Two Penalties 90

Article 303 ***Penalty for the Crimes of Fraud and Deception*** 90
Article 304 ***Penalty for Breach of Management Obligations*** 91
Article 305 ***Fines*** 92
Article 306 ***Jurisdiction of the Public Prosecutor*** 92

Law No. 1 of 2016
on the Promulgation of the Companies Law[1]

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- and Decree No. (5) of 1959 promulgating the Real Estate Registration Law as amended;
- and the Criminal Law promulgated by Law No. (16) of 1960 as amended;
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- and the Law on Insurance Companies and Agents promulgated by Law No. (24) of 1961 as amended;
- and Law No. (30) of 1964 on the Establishment of the Audit Bureau as amended;
- and Law No. (37) of 1964 regarding Public Tenders as amended;
- and Law No. (49) of 1966 regarding Lending to Kuwait Shareholding Companies;
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- and Decree Law No. (20) of 1981 regarding the Establishment of a Division in the Court of First Instance for Adjudicating Disputes as amended by Law No. (61) of 1982;
- and Law No. (42) of 1984 regarding the Disposition and Trading of shares in Kuwait Shareholding Companies and Securities;
- and Decree Law No. (33) of 1988 regarding Permission of Gulf Cooperation Council Citizens to hold Shares in Kuwait Shareholding Companies;
- and Decree Law No. (23) of 1990 regarding the law Regulating the Judiciary as amended;
- and Decree Law No. (31) of 1990 regarding the Regulation of Securities Trading and the Establishment of

[1] Published in the Official Gazette (Annex to Issue No. 1273) on 1 February 2016.

Investment Funds;

- and Law No. (12) of 1998 on Licensing the establishment of Leasing and Investment Companies;
- and Decree Law No. (5) of 1999 regarding Intellectual Property Rights;
- and Law No. (19) of 2000 regarding the Support and Encouragement of National Labour to Work in Non-Governmental Entities;
- and Law No. (5) of 2003 on the Approval of the Unified Economic Agreement between the Gulf Cooperation Council Countries;
- and Law No. (46) of 2006 regarding Zakat and the Contribution of Public and Closed Shareholding Companies in the State's Budget;
- and Decree Law No. (2) of 2009 regarding the Enhancement of Financial Stability in the State;
- and Law No. (6) of 2010 regarding Working in the Civil Sector;
- and Law No. (111) of 2013 regarding the Licensing of Commercial Stores;
- and Law No. (116) of 2013 regarding the Promotion of Direct Investment in the State of Kuwait;
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- and Law No. (7) of 2010 regarding the Establishment of Capital Market Authority and the Regulation of Securities Activities;
- and Law No. (37) of 2010 regarding the Regulation of Privatization Programs and Operations;
- and Decree Law No. (25) of 2012 as amended by Law No. (97) of 2013 on the promulgation of the Companies Law;
- and Law No. (22) regarding the amendment of certain regulations of Law No. (7) of 2010 regarding the Establishment of Capital Market Authority and the Regulation of Securities Activities;
- the National Assembly approved the following law, which we have ratified and issued:

Article 1

The provisions of the attached Companies Law shall come into effect and its provisions shall apply to companies established in the State of Kuwait or on those whose headquarters are located in the State of Kuwait.

The principles of commercial custom shall apply in respect of matters not addressed in the provisions of this law or other commercial laws.

Article 2

The executive regulations shall specify the principles and criteria for adjusting the situation of existing companies in accordance with the provisions of the new law.

Article 3

The Minister of Commerce and Industry shall issue the executive regulations to this law as well as the resolutions necessary to implement the provisions of this law within two months from the date of its publication in the Official Gazette. The other Supervisory Authorities shall issue during the said period all resolutions with which they are

charged according to the provisions of this law. The executive regulations to Decree Law (25) of 2012, as amended, shall continue apply until the executive regulations to this law become effective.

Article 4

The aforementioned Decree Law and any amendments thereto shall be repealed.

Article 5

The ministers, each in their respective capacity, shall implement this law, which shall become effective as of 26 November 2012, with the exception of the regulation of Chapter 2 of Section 13, which shall be come effective as of the date as issuance[2]. It shall be published in the Official Gazette.

Emir of Kuwait
Sabah Al Ahmad Al Jaber
Al Sabah

Issued at Seif Palace on 14 Rabee' Al-Aakhar Al-Muharram 1437 H
Corresponding to 24 January 2012 G

[2] 24 January 2016

Companies Law

Section One
General Provisions

Definitions

Article 1
Definitions

In the application of this law, the following phrases and words shall bear the meanings corresponding to each of them[3]:

Announcement[4]:	The announcement in two daily local newspapers which are published in the Arabic language and on the company's electronic website, if available.
Authority:	Capital Markets Authority.
Company Contract[5]:	The memorandum of incorporation or the memorandum of incorporation and articles of association, if applicable.
Incorporator:	Anyone who takes actual part in the incorporation of the company, executes the contract thereof in person or through a representative and participates in the capital of the company with a cash or in-kind share.
Minister:	The Minister of Commerce and Industry.
Ministry:	The Ministry of Commerce and Industry.
Publication[6]:	The publication in the Official Gazette (Al Kuwait Al Yawm).
Proclamation[7]:	The Registration along with the Publication in the Official Gazette.
Registration[8]:	Registration in the commercial register.
Supervisory Authorities:	The Ministry, the Authority or the Central Bank of Kuwait in respect of companies that are subject to the supervision of any of them, or any other authorities determined by the law.

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3 This translation lists the defined terms in alphabetical order of the Latin alphabet and does not reflect the order in the original Arabic language version of the Companies Law.

4 In this translation the verb of the defined noun is occasionally used. The verb, if used within the context of the defined term, is shown with its first letter in capital.

5 See also Article 10.

6 In this translation the verb of the defined noun is occasionally used. The verb, if used within the context of the defined term, is shown with its first letter in capital.

7 In this translation the verb of the defined noun is occasionally used. The verb, if used within the context of the defined term, is shown with its first letter in capital.

8 In this translation the verb of the defined noun is occasionally used. The verb, if used within the context of the defined term, is shown with its first letter in capital.

Article 2
Scope of General Provisions

The provisions stipulated in this section shall apply to all companies taking into account the special provisions related to each form of company provided for in this law.

Article 3
Definition of the Company

The company is incorporated by virtue of a contract by which two or more persons undertake to participate in a profit-making project with each of them offering a contribution in assets or labour, to divide what is generated from the project in profits and losses.

A company – under the circumstances stipulated in the provisions of this law – may be incorporated according to the unilateral intention of one single person[9].

Companies whose purpose is not the generation of profit may also be incorporated by virtue of a contract or articles setting out the partners' rights and obligations as well as any other terms. The transfer of partners' interests shall be subject to the partners' right to redemption pursuant to the specific terms regulated by the Company Contract in addition to the provisions established in this law. The company shall not issue negotiable bonds or *Sukuk* and shall not receive donations. The company shall have a name of its own relevant to its purpose that may include the name of a partner or more. The executive regulations shall set out the regulations of these companies and the template of their memorandum of incorporation provided that they take one of the forms provided for in Article 4 that suits their nature on condition that they do not take the form of a Public Shareholding Company.

Article 4
Forms of Companies

A company shall take one of the following forms:

1. General Partnership Company.
2. Limited Partnership Company.
3. Partnership Limited by Shares.
4. Joint Venture Company
5. Shareholding Company.
6. Limited Liability Company.
7. Single Person Company.

Parties to an agreement, which does not constitute any one of the forms indicated in the previous paragraph shall be held personally and jointly liable for the obligations arising therefrom.

Article 5
Approval of the Ministry to the Incorporation of a Company and Its Objectives

The Ministry shall notify the Incorporators of the incorporation of the company within three working days as of the date of submission of the documents and completion of the procedures as per the provisions of this law and the executive regulations thereto.

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[9] See regulations regarding the Single Person Company in Articles 85 *et seq*.

The executive regulations shall regulate the procedures of incorporation of a company and the amendment of its Company Contract, as well as the issuance of the licenses required to practice the activities of the company or any other procedures or approvals required by more than one authority in a manner that ensures that all such procedures are completed through a special department at the Ministry that includes representatives of the relevant governmental authorities.

Article 6
Approval of the Supervisory Authorities

The approval of the Central Bank of Kuwait or the Authority, as applicable, is required with regard to the incorporation of companies and to the Company Contract, which are subject to the supervision of either of them.

Article 7
Authentication of the Company Contract

With the exception of the Joint Venture Company, the Company Contract shall be written in an authenticated document[10], or else, it shall be null and void.

The partners[11] may among themselves object to the validity of the Company Contract due to it not being written in the manner stated in the previous paragraph. However, they may not object such validity towards third parties. Third parties have the right to object the validity of the Company Contract towards the partners. If a judgment is rendered invalidating the Company Contract pursuant to the request of a third party, the company shall be deemed null and void[12] towards such third party. However, if a judgment is rendered invalidating the Company Contract pursuant to the request of one of the partners, such invalidation shall only have effect towards such partner as of the date of filing the claim.

Article 8
Liability Due to Invalidity of the Company Contract

The company's Incorporators or partners – as the case may be – shall be held jointly liable towards the company, its partners or third parties for damages incurred due to the invalidity of the Company Contract.

Article 9
Proclamation of the Company Contract

With exception of the Joint Venture Company, the Company Contract and any amendments thereto shall be Proclaimed in accordance with the provisions of this law. If the Company Contract is not Proclaimed in the stated manner, it shall be rendered ineffective towards third parties. If the lack of Proclamation is limited to one or more statements that are to be Proclaimed, only these statements shall be ineffective towards third parties. However, *bona fide* third parties shall be able to assert the existence of the company or any amendments to the Company Contract even if these have not been Proclaimed.

The company's managing directors or board members shall be jointly liable towards the company, its partners or *bona fide* third parties for damages incurred due to the lack of Proclamation.

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[10] See Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965).

[11] The original Arabic language version of the law differentiates between "partner" (شريك) and "shareholder" (مساهم). The term "partner" (شريك) is used for partners in the General Partnership Company, the Limited Partnership Company, the Partnership Limited by Shares and the Limited Liability Company. The term "shareholder" (مساهم) is used only in the case of the Shareholding Company. In Section 1 (General Provisions) and Section 12 (Transformation, Merger, Division, Termination of Companies) the law uses the term "partner" (شريك) to define both partners and shareholders. In Section 1 (General Provisions) a differentiation between partners and shareholders is only made in Articles 16 and 30.

[12] In the Arabic a term is used that clarifies that the company is considered invalidated *ex ante* towards the third party.

Article 10
Memorandum of Incorporation and Articles of Association

The Company Contract of the two forms of Shareholding Companies shall include the memorandum of incorporation and articles of association. Other forms of companies – with the exception of the Joint Venture Company – shall have a memorandum of incorporation and the partners may also establish articles of association. The company's articles of association – if applicable – shall be considered part of the Company Contract.

The executive regulations shall include the template of the memorandum of incorporation and articles of association for the companies stated in this law. Such template shall set out the information and the terms stipulated by the law and the executive regulations. It shall further set out the terms that partners and Incorporators may not agree to in contravention of the law and the executive regulations. The partners shall have the right to add such terms that do not contravene the mandatory provisions of this law and the executive regulations.

Article 11
Valuation of In-kind Contributions

If the capital includes – at the time of incorporation of the company or of a capital increase – in-kind contributions, an auditing firm approved by the Authority shall assess such contributions. The executive regulations shall determine the basis and criteria of the valuation of in-kind contributions. Such valuation shall not be final unless the partners, constituent meeting or the general meeting approves it, as the case may be. The party making the in-kind contribution shall not have the right to vote on the approval of the valuation, even if it holds cash shares or cash membership interests[13].

If the value of the in-kind contribution is ascertained to be less than one-tenth of the value it was contributed for, the company shall reduce its capital by an amount equivalent to such difference. The party making the in-kind contribution may also pay the difference in cash or may refrain from the subscription through the in-kind contribution.

In all cases, in-kind shares may only represent fully paid shares or membership interests.

Article 12
Name of the Company

The company may not bear the name of another company or a similar name if such name belongs to a company that practices the same activity, except if such company is in liquidation and has approved the use of the name.

The company, which claims that another company is using its name or a similar name, shall seek the Ministry to instruct the other company to change such name. The Ministry shall decide on the request within 60 days as of the date of its submission; or else, it shall be deemed rejected.

The executive regulations shall set out the requirements for the request as well as the documents required to be attached thereto.

Article 13
Change of the Name of the Company

The company may change its name as per the procedures required to amend the Company Contract. The new name shall be Proclaimed.

The change of the company name shall not affect the company's rights or obligations or any legal action initiated by

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[13] In the original Arabic language version of the law a differentiation is made between shares (أسهم), which define the shares in Shareholding Companies and those held by partners in Partnerships Limited by Shares and membership interests (حصص), which define the shares held in a General Partnership Company, Limited Partnership Company, Joint Venture Company, Limited Liability Company and Single Person Company.

or against the company.

Article 14
Objectives of the Company

The company shall have one or more specified objectives to which it shall remain restricted to the objectives indicated in the Company Contract. However, the company may perform activities that are similar, complementary, necessary or associated to the stated objectives.

The company may amend its objectives even if this leads to a change in the company's activities, provided that it shall follow the procedures of amending the Company Contract in accordance with the law.

It is permitted to incorporate companies with the specific objective of issuing *Sukuk* or other such securitization activities or any other objective. The executive regulations shall state the criteria and specific regulations in this regard.

Article 15
Companies that Operate in Accordance with Islamic Shari'a

Without prejudice to the provisions of the aforementioned Law No. (7) of 2010 regarding Licensed Persons[14] who operate in compliance with Islamic *Shari'a*, companies whose objectives are set to be in accordance with Islamic *Shari'a* shall perform their activities in compliance with Islamic *Shari'a*. Such companies shall form an independent *Shari'a* supervisory board to supervise the company's operations. The members of this supervisory board shall not be less than three and shall be appointed by the partners' meeting[15]. The Company Contract shall refer to this supervisory board, set out the method of its formation, its competencies and the way it functions. In case any dispute arises between the members of the *Shari'a* supervisory board in respect of any *Shari'a* provision, the company may refer such dispute to the Fatwa and Legislation Department at the Ministry of Awqaf and Islamic Affairs, which shall be considered the final arbiter in the matter.

The *Shari'a* supervisory board shall submit an annual report to the company's general meeting or partners' meeting. Such report shall state the supervisory board's opinion to what extent the business of the company is compliant with Islamic *Shari'a* in addition to any other remarks it may have. This report shall be included in the company's annual report.

In all cases, if the activities of a company are within the objectives of the company and comply with the principles of Islamic *Shari'a* type contracts, the provisions of Articles 508, 992 and 1041 of the Civil Law[16] and Article 237 of the Commercial Law[17] shall not apply.

Article 16
Term of the Company

The company shall be incorporated for the term, which the Incorporators specify in the Company Contract. Such term may be extended prior to its expiry by virtue of a resolution issued by the general meeting of the partners or shareholders holding more than half of the capital.

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[14] Licensed Person (الشخص المرخص له) is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) as a natural person or legal person licensed by the Capital Market Authority to practice securities activities as provided for in Article 1-2 of Book 5 of the Executive Regulations to Law No. (7) of 2010.

[15] Partners' Meeting (اجتماع الشركاء) is defined as the meeting of partners in the General Partnership Company and the Limited Partnership Company. This article should, however, be read to also include the General Meeting (الجمعية العامة), which is defined as the meeting of shareholders/partners in the Shareholding Company, Limited Liability Company and Partnership Limited by Shares.

[16] Civil Law promulgated by Decree Law No. (67) of 1980 as amended

[17] Commercial Law promulgated by Decree Law No. (68) of 1980 as amended

If no resolution of extension is issued and the company continues its activities, the term shall be automatically extended for another period equal to that specified in the Company Contract and in accordance with the same terms. A partner[18], who does not wish to remain in the company following the expiry of its term, may withdraw from the company. In such an event, the rights of such partner shall be assessed in accordance with the provisions of the first paragraph of Article 11 of this law.

Article 17
Share in the Company

The partner's[19] share may be a certain amount of money (cash contribution), an in-kind contribution or labour that may serve the company's objectives. The partner's contribution shall not be in the form of his reputation, influence or financial standing. Furthermore, only cash contributions and in-kind contributions shall constitute the company's capital.

Unless otherwise agreed upon by agreement or custom, the partners' contribution shall be of equal value and shall relate to property ownership and not only the usufruct.

Article 18
Division of Profit and Loss

All partners[20] shall share the profits and losses in proportion to their share in the capital in accordance with the following principles:

1. If the Company Contract does not specify the portion of a partner's participation in the profits and losses, each partner shall participate in the profits and losses in proportions equal to their respective share in the capital.

2. If the Company Contract includes a provision that excludes a partner from sharing in the profits or exempts a partner from sharing in the losses of the company, such provision shall be null and void and the Company Contract shall remain valid.

3. If the Company Contract only specifies a partner's share in the profit, such partner's share in the loss shall be equal to that in the profit. The same shall apply if the Company Contract only specifies the partner's share in the loss.

Any provision granting a partner fixed interest income for his share in the company shall be null and void.

Article 19
Contribution in the Form of Labour

If the partner's[21] contribution is in the form of labour and his participation in the profit and loss is not specified in the Company Contract, such partner shall have the right to request a valuation of his labour. Such valuation shall be the basis on which the partner's share in the profit and loss shall be determined in accordance with the aforementioned principles.

It may be agreed that a partner who provides his participation only in labour shall be relieved from participating in the losses, provided that such partner is not paid for his labour.

If a partner, in addition to his labour, provides a cash or in-kind contribution, he shall be deemed to have a share in the profits and losses for his labour and a separate share for his cash or in-kind contribution.

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[18] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[19] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[20] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[21] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

Article 20
Distribution of Fictitious Profits

Fictitious profits shall not be distributed, or else, the creditors of the company may demand repayment of such profits from the partners[22] and whoever else has benefited from them, even if such benefiting person was *bona fide*. The company's managing director or the board of directors that has recommended the distribution of such fictitious profits shall be held jointly liable for the repayment of such profits.

A partner[23] shall not be obligated to repay real profits received, even if the company incurs losses in the following years.

Article 21
Liability of the Company for the Acts of the Managing Director or Board of Directors

The company shall be liable for acts or the conduct of its managing director or board of directors performed in its name or on its behalf, if such acts or conduct remain within the company's objectives, even if such acts or conduct extend beyond the restricted scope of the managing director or the board of directors' authority determined in the Company Contract and unless the company proves that he who was subjected to such acts or conduct was aware or had the means to become aware of such restrictions at the time of the occurrence of the act or conduct.

The company may not repudiate its responsibility towards a *bona fide* third party for acts or conducts as described in the previous paragraph by claiming that the managing director or the board of directors have been appointed in contravention of the provisions of the law or the Company Contract unless the company proves that he who was subjected to such acts or conduct was aware or was able to be aware of such defect at the time of the occurrence of the act or conduct.

The company's managing director or the board of directors shall apply the care of a prudent person in exercising their powers and competencies.

Article 22
Information on the Papers Issued by the Company

All correspondence, receipts and other documents issued by the company shall bear the company's name, its legal form and its registration number in the commercial register.

With the exception of the General Partnership Company, the Limited Partnership Company, and the Partnership Limited by Shares, the capital of the company and the amount of capital that has been paid up shall additionally be indicated.

If the company is in liquidation, this shall be mentioned in the papers issued by the company.

The company's legal representative who violates the provision of this Article shall be held jointly liable with the company for any damages incurred by a *bona fide* third party as a result of such violation, if it is proven that the company's assets are insufficient to compensate for such damages.

Article 23
Legal Capacity, Nationality and Domicile

Except for a Joint Venture Company, the company shall be vested with legal capacity as of the date of Registration. Every company established in the State of Kuwait shall be of Kuwaiti nationality and shall have its domicile in

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[22] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[23] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

Kuwait, the details of which shall be recorded in the commercial register. Such domicile shall be the valid address in respect of correspondence and legal notices that are addressed to the company. The change of such domicile shall not be deemed valid unless it is Registered in the commercial register.

Article 24
Practicing of Activities following Proclamation and Approval

The company shall not undertake its activities until after Proclamation and after obtaining the required licenses to undertake such activities.

Article 25
Application of Contracts and Acts Performed in the Name of a Company under Incorporation

Following incorporation, the company shall have rights in the contracts entered into and the acts performed by the Incorporators in the name of the company while it was under incorporation, if these were necessary for the incorporation. The company shall bear all the expenses of the Incorporators.

Article 26
Application of the Acts of the Incorporators

Following incorporation, the company shall not have rights in any act performed between the company under incorporation and its Incorporators, unless such acts have been approved by the constituent meeting in which the votes of Incorporators with an interest shall not be considered, unless the act is performed by all partners[24].

In all cases, the Incorporators with an interest shall submit a report containing all relevant accounts and information related to such acts. Such report shall be made available at the company's domicile seven days before the constituent meeting is convened. All shareholders[25] shall have the right to access such report, and it shall be referred to in the invitation to the constituent meeting.

Article 27
Responsibility of the Incorporators for their Actions during Incorporation

Without prejudice to the principles of criminal liability, the Incorporators shall - during the period of incorporation of the company - undertake to apply the care of a prudent person when dealing in the name and on behalf of the company. The Incorporators shall be jointly liable for any obligations or damages that may affect the company or third parties as a result of their actions or violation of these obligations.

If the Incorporator receives any assets or information that relates to the company under incorporation, the Incorporator shall transfer such assets to the company in addition to any profits that he may have earned as a result of using such assets or information. The Incorporators shall be jointly liable for their obligations.

Article 28
Statute of Limitation of Creditors' Claims

With respect to all companies, any claim filed by a company's creditor against its partners[26] shall not be heard if such claim has been refuted and five years have lapsed since the incorporation of the company or since the partner[27] has exited the company and the case filed pertains to such partner[28].

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[24] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[25] In this Article the term "shareholder" includes both the "partner" and the "shareholder". See footnote 12.
[26] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

In the event a debt against the company existed during the partner's[29] participation in the company and such debt falls due after the partner[30] has exited the company, the limitation period shall commence as of the due date of the claim.

In accordance with the provisions in the previous paragraph, the limitation period, following which cases shall not be heard, shall begin on the date of Proclamation in all cases where a Proclamation is required.

Article 29
Factual Company

If a judgment is rendered invalidating the Company Contract, the company shall in this case be deemed a factual company. The terms of the Company Contract shall apply in respect to its liquidation and the settlement of claims between the partners[31]. The invalidity of the Company Contract shall not result in the invalidity of the conducts performed by the Company during the period prior to the date on which the final judgment is rendered in respect of the invalidity, unless such conduct is deemed invalid due to other reasons.

Article 30
Agreement of Incorporators, Shareholders or Partners

The Incorporators, shareholders or partners can - during the period preceding or following the incorporation - conclude an agreement that governs the relationship among them. Such agreement may not include a condition that releases some or all Incorporators from their liability arising in connection with the incorporation of the company. It shall also not include any other terms that bind the company, except if such provisions have been approved by the company's competent authority. Furthermore, the terms of such agreement shall not contravene the mandatory provisions of this law.

Article 31
Retention of the Company Contract

The Company Contract shall be kept at the company's domicile and published on the company's website, if available. Any person may obtain an original copy of the Company Contract in consideration for certain fees to be determined by the company.

Article 32
Right of Inspection at the Ministry

Any party with an interest shall have the right to inspect the Company Contract, minutes of the Company's general meetings and other relevant information and documents relating to the company and held at the Ministry. Such parties may obtain original copies in return for fees to be determined by the Ministry.

Section Two
General Partnership Company

Chapter One
Introductory Provisions

Article 33
Definition of the General Partnership Company

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[27] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[28] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[29] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[30] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[31] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

The General Partnership Company is a company established between two or more persons and that operates under a certain name[32]. The partners of the company are personally and jointly liable with all their assets for all obligations of the company. Any agreement to the contrary is null and void.

Article 34
Capacity as Merchant

Each partner in the General Partnership Company shall have the capacity of a merchant[33]. Each partner shall be deemed carrying out merchant activities[34] under the name[35] of the company. The bankruptcy[36] of the company shall result in the bankruptcy of all its partners. The capacity of the partner as a merchant[37] shall not obligate him to carry out the duties of a merchant, except if such partner carries out other commercial activities that require him to do so.

Article 35
Name of the General Partnership Company

The name[38] of the Company shall be formed of the names of all partners, or one or more of their names with the addition of the phrase ("and Partners" or "and their Partners"). The name[39] of the company shall correspond to its actual form and conform to its actual activities[40]. The name[41] of the company shall be followed by the phrase ("General Partnership Company").

The name[42] of the company shall not include the name of a person who is not a partner therein. If the name[43] includes the name of person who is not a partner and such person is aware of this, he shall be jointly liable with the partners for the obligations of the company towards *bona fide* third parties.

Without prejudice to the provision in the previous paragraph, the company may use in its name[44], the name of a partner who has withdrawn or is deceased, if the partner who has withdrawn or the heirs of the deceased partner agree to such use.

Article 36
Prohibition of Borrowing by Issuing Bonds or Sukuk

The General Partnership Company may not obtain financing by issuing bonds or *Sukuk* through public offerings[45].

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32 In the original Arabic language version of the law a differentiation is made between the company title (عنوان), which is used for the General Partnership Company, the Limited Partnership Company and the Partnership Limited by Shares and the name (اسم), which is used for the Limited Liability Company and Shareholding Company. This translation uses the term "name" for both Arabic terms.

33 As defined in Articles 13 *et seq.* of the Commercial Law (Decree Law No. (68) of 1980).

34 As defined in Articles 3 *et seq.* of the Commercial Law (Decree Law No. (68) of 1980).

35 See footnote 33.

36 Regulated in Articles 555 *et seq*. of the Commercial Law (Decree Law No. (68) of 1980). Similar to the meaning of corporate insolvency as understood in the UK or corporate bankruptcy as understood in the USA.

37 As defined in Articles 13 *et seq.* of the Commercial Law (Decree Law No. (68) of 1980).

38 See footnote 33.

39 See footnote 33.

40 The original Arabic language version of the law uses the phrase "conform to reality" (مطابقا للحقيقة).

41 See footnote 33.

42 See footnote 33.

43 See footnote 33.

44 See footnote 33.

45 Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) for definition of "Public Offering"

Article 37
Capital of the General Partnership Company

The capital of the company shall be sufficient to accomplish its objectives. The executive regulations shall state the minimum capital[46] of the company and it shall be divided into equal membership interests that are not divisible.

Chapter Two
Incorporation Requirements

Article 38
Company Contract of the General Partnership Company

The Company Contract of the General Partnership Company shall include the following particulars:

1. The name of the company and its trade name, if any.
2. The company's headquarters.
3. The objectives of incorporating the company.
4. The term of the company, if any.
5. Name, title and residential address of each of the partners.
6. The manner of management and those responsible of the management as well as their powers.
7. The company's capital, the membership interest of each partner in the capital, a statement of any in-kind contribution, its nature and the assessed value. Kuwaiti partners shall own no less than 51% of the company's capital.
8. Special provisions regarding the distribution of profits and losses between the partners.
9. The financial year of the company.
10. Special provisions regarding the liquidation of the company and the division of its assets[47].

The partners may add additional information.

Chapter Three
Membership Interests of the Partners

Article 39
Form of Membership Interests in a General Partnership Company

The membership interests of partners in the General Partnership Company shall not take the form of negotiable securities.

Article 40

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[46] Pursuant to Ministerial Decision No. 234 of 2015, the minimum capital for General Partnerships, Limited Partnerships, Partnerships Limited by Shares, Single Person Companies, Limited Liability Companies and sole proprietorships is KD 1,000. The minimum capital for a Closed Shareholding Company is KD 10,000 and for a Public Shareholding Company KD 25,000.

[47] The Arabic language version uses the phrase "the provisions subject to" (الأحكام الخاضعة) instead of the phrase "special provisions" (الأحكام الخاصة).

Transfer of Membership Interests in a General Partnership Company

A partner may transfer[48] his membership interests in the company to the other partners. He may not transfer his membership interests to anyone who is not a partner in the company unless the Company Contract stipulates otherwise. Such transfer shall not be effective towards third parties unless the Registration procedures have been fulfilled.

Article 41
Transfer of Financial Rights

A partner may transfer the financial rights attached to his membership interests in the company. The provisions regarding the assignment of rights[49] shall apply to such transfer.

Article 42
Pledge of Membership Interests in the General Partnership Company

A partner may pledge his membership interests in the company. The pledge shall be made in writing. The pledge shall only be valid towards the company and third parties as of the date of Registration of the pledge in the commercial register.

Article 43
Execution against Membership Interests in a General Partnership Company

The creditors of a personal debt of any of the partners shall not have the right to seize any assets of the company, but shall have the right to seize the membership interest of their debtor.

If the creditor of a partner initiates execution procedures[50] over a membership interest, such creditor may agree with the debtor and the company on the means of sale and the conditions thereof. In such case, the membership interests shall be transferred[51] in accordance with the provisions set out in Article 40 of this law.

If no agreement is reached on the means of sale within fifteen days as of the date of seizure[52], the membership interest shall be offered for sale by way of public auction in accordance with the procedures determined in the Civil and Commercial Procedures Law[53]. The base price shall be determined after the valuation of the membership interest as set out in the first paragraph of Article 11 of this law. To the exclusion of the partner whose membership interests have been seized, the judge overseeing the sale[54] shall grant the remaining partners three days to raise any objections against the bidder with the best offer to participate in the company. If none of the partners objects during the specified period, a judgment shall be issued awarding the auction. The Company Contract shall be amended on the basis of such judgment. Such amendment shall not be valid towards third parties unless the Registration procedures are fulfilled. The company or any of the partners may – until a judgment is rendered in respect of the auction award – fulfil the indebtedness of the partner whose membership interests have been seized. Within the aforementioned period, the company may also redeem part of the seized membership interests in favour of all or

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48 In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the transfer of shares.

49 See Articles 364 *et seq.* Civil Law (Decree Law (67) of 1980).

50 See Articles 206 *et seq.* Civil and Commercial Procedures Law (Decree Law (38) of 1980) in regard to execution procedures.

51 In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the transfer of shares.

52 See Articles 216 *et seq.* Civil and Commercial Procedures Law (Decree Law (38) of 1980) in regard to seizure of assets and specifically Articles 261 *et seq.* Civil and Commercial Procedures Law (Decree Law (38) of 1980) in respect of seizure of shares and membership interests.

53 See Articles 253 *et seq.* Civil and Commercial Procedures Law (Decree Law (38) of 1980) in regard to public auction proceedings.

54 See Article 266 *et seq.* Civil and Commercial Procedures Law (Decree Law (38) of 1980) in regard to the judge overseeing the sale (قاضي البيوع).

some of the partners up to the amount required to fulfil the creditor's debt.

If any of the partners objects to the bidder, who has been awarded the auction, joining the company, and neither the company nor the partners fulfil the creditor's debt or redeem the membership interests in accordance with the provisions of the previous paragraph, the judge overseeing the sale[55] shall render a judgment dissolving and liquidating the company and appointing a liquidator. Such judgment can be appealed in accordance with the provisions of the law.

Chapter Four
Rights and Responsibilities of the Management

Article 44
Management of the General Partnership Company

The company shall be managed by one partner or more. The Company Contract shall determine the manner of the manager's appointment, dismissal and the limits of his management authority.

If the company has more than one manager and the Company Contract does not contain any specific provisions, decisions of the management shall be passed by a majority of the managers. In the case of a tie vote, the managers shall refer the matter to the partners for decision. Any approval shall be passed by decision of the majority of the partners.

Article 45
Lack of Appointment of a Manager of the General Partnership Company

If no manager is appointed and the Company Contract does not stipulate that the company shall be managed jointly by the partners, each partner shall have the power of management. Any partner shall have the right to object to any undertaking by another partner prior to its execution. In this case, the matter shall be referred to the partners for decision. Any approval shall be passed by decision of the majority of the partners.

Article 46
Actions that Require Approval by all Partners

The manager shall not transgress the limits of ordinary management without the approval of all the partners or by explicit reference in the Company Contract. Such prohibition shall specifically apply to the following actions:

1. Donations.

2. Selling real estate of the company, unless such action is deemed part of the company's objectives.

3. Pledging the company's assets.

4. Selling or pledging the company's trading business[56].

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[55] See Article 266 *et seq.* Civil and Commercial Procedures Law (Decree Law (38) of 1980) in regard to the judge overseeing the sale (قاضي البيوع).

[56] The Arabic term of "trading business" (المتجر) is defined in Article 34 of the Commercial Law (Decree Law (68) of 1980).

5. Borrowing.

6. Guaranteeing third party debts.

7. *Non ex lege* arbitration[57].

8. Settlement and discharge of obligations.

Article 47
Prohibition of Interference by a Partner in the Management and the Right of Inspection

Partners who are not managers shall not interfere in management issues. However, they have the right to inspect at the company's headquarters, either by themselves or through a representative, the company's books and documents, to obtain photocopies of the same and receive a brief statement on the company's financial position. Any agreement to the contrary shall be null and void.

Each partner shall have the right to request from the company's manager any information relating to the company's operations, its contracts and transactions as well as its financial position. The manager shall respond to such request within a maximum period of fifteen days as of the date on which the company has received such request.

Article 48
Prohibition to Contract for own Benefit

Neither the manager nor any of the company's partners may contract with the company for his own benefit or the benefit of a third party or practice an activity similar to that of the company except with the prior permission of all the partners. Such permission shall be granted by the partners for each case separately.

Article 49
Liability of the Manager of the General Partnership Company for Damages

The manager shall be held responsible for any damages incurred by the Company, its partners or third parties stemming from errors in management or undertaking acts that violate the provisions of the law or the Company Contract. Any provision that states otherwise shall be null and void.

Article 50
Dismissal of the Manager of the General Partnership Company

The company's manager can only be dismissed by the majority required to amend the Company Contract. However, the company's manager can be dismissed by virtue of a court judgment requested by one of the partners, if reasons exist to justify such dismissal. The dismissal of the manager and the appointment of a new one shall be Proclaimed. The dismissal of the managing partner shall not result in the dissolution of the Company unless the Company Contract states otherwise.

In all cases, the membership interests of the manager to be dismissed shall not be included in the calculation of the quorum required for adopting the resolution on dismissal[58]. If the manager's membership interests represent half or more of the company's capital, such manager shall only be dismissed by virtue of a court judgment.

Article 51

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[57] Also referred to as "amicable arbitration", where the concept of fairness is considered above the written law.

[58] No specific quorum requirements are set out in the law. Such may be agreed in the Company Contract. If no quorum requirements are agreed in the Company Contract, a quorum shall be given, if partners who hold more than the half of the capital are in attendance. This results from the requirement in Article 51 paragraph 2, which requires that the adoption of a resolution requires the majority of the partners who hold more than the half of the capital. See also Article 44 paragraph 2, last sentence.

Partners' Meeting of the General Partnership Company

The partners' meeting shall be convened on the basis of an invitation of the company's manager or as per the request of the number of partners who satisfy the quorum requirements to adopt the resolution required to be included in the agenda. The invitation shall be sent at least fifteen days prior to the date specified for convening the meeting by virtue of a registered letter accompanied by an acknowledgment of receipt. A copy of the invitation shall also be sent to the partner via email or fax as per the information available to the company. The invitation may be delivered by hand two business days prior to the date specified for the meeting, provided that a copy of the invitation shall be signed against receipt. The Ministry shall call for a convening of the meeting if the company's manager refrains from doing so.

The meeting shall be valid if attended by the partners who satisfy the quorum[59] required for the adoption of a resolution. Resolutions shall be adopted by the majority of the partners who hold more than the half of the capital.

Chapter Five
Amendment of the Company Contract, Partners' Liability and Creditors' Rights

Article 52
Amendment of the Company Contract

The Company Contract may not be amended except with a resolution to be issued in the partners' meeting with a numerical majority of the partners who own three-quarters of the capital. The amendment shall be effective upon Registration.

A partner who has not agreed to an amendment the Company Contract shall have the right to withdraw from the company. In such an event, the rights of such partner shall be assessed by the company on the basis of an agreement of the majority of the remaining partners. If such valuation is not accepted, the rights shall be assessed in accordance with the provisions of the first paragraph of Article 11 of this law.

Article 53
Rights of Creditors of the General Partnership Company

The creditors of the company have a right to restitution against the company's assets, and shall also have the right to restitution against the private assets of any partner of the company who is a partner at the time of contracting. All partners shall be jointly liable towards the creditors of the company. It is prohibited to execute a claim against the private assets of a partner prior to a warning to the company to pay the debt and the lapse of fifteen days without settlement of the claim.

If a partner settles a debt owed by the company, he may have recourse in the amount paid, against the company or against the other partners, each in the amount of their membership interest in the debt.

If a partner has personal creditors, the creditors of the company shall have recourse together with the personal creditors against the private assets of the partner.

Article 54
Liability of the Joining or Withdrawing Partner

If a new partner joins the company, he shall be personally and jointly liable with the other partners, for the obligations of the company arising subsequent to his joining. If a partner withdraws from the company, transfers his membership interest in the company, or has his membership interest redeemed or forcibly sold, he shall be liable for the obligations of the company arising prior to the date of the Registration of his withdrawal or transfer or the redemption or sale of his membership interests and shall not be liable for the company's obligations subsequent to such date.

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[59] See footnote 58.

Article 55
Dismissal of a Partner

Without prejudice to the rights of the creditors of the company, a partner may be dismissed from a General Partnership Company by a court ruling at the request of one or more of the other partners who own at least twenty-five per cent of the membership interests in the capital, on the basis of reasons that justify a dismissal. In such an event, the company shall continue to exist among the remaining partners.

Among the reason that justify a dismissal shall be actions of a partner that provide reason for the dissolution of the company or the disposition of all or some of his assets with intent to harm the other partners.

The membership interest of the partner who has been dismissed shall be assessed in accordance with the provisions set out in the first paragraph of Article 11 of this law.

Section Three
Limited Partnership Company

Article 56
Definition of the Limited Partnership Company

The Limited Partnership Company comprises two categories of partners namely:

1. General partners, who shall be jointly liable with all their personal assets for all obligations of the company. They alone shall undertake the management of the company. All general partners shall be of Kuwaiti nationality.

2. Limited partners, who shall participate in the capital of the company with cash contributions and who shall only be liable for the obligations of the company up to the amount of their contribution in the capital.

Article 57
Incorporation and Company Contract of the Limited Partnership Company

Subject to the provisions contained in this section, the provisions applicable to the General Partnership Company[60] shall apply to the Limited Partnership Company with respect to its incorporation, registration in the commercial register, the minimum capital, transfer[61] of membership interests, the seizure and pledge of the partners' membership interests, the dismissal of partners, amendment of the Company Contract and management.

The Company Contract of the Limited Partnership Company shall include the names of the general and limited partners, their nationalities, their domiciles and the share of each of them in the capital. Kuwaiti partners must own not less than fifty-one per cent of the company's capital.

Article 58
Name of the Limited Partnership Company

The name[62] of the Limited Partnership Company shall be formed of the names of all general partners, or one or more of their names with the addition of the phrase ("and Partners" or "and their Partners").

The name of the company shall not include the name of a limited partner. If the name includes the name of a limited

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[60] See Articles 33 *et seq*. regarding the General Partnership Company.

[61] In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the transfer of shares.

[62] In the original Arabic language version of the law a differentiation is made between the company title (عنوان), which is used for the General Partnership Company, the Limited Partnership Company and the Partnership Limited by Shares and the name (اسم), which is used for the Limited Liability Company and Shareholding Company. This translation uses the term "name" for both Arabic terms.

partner without his objection, he shall be liable like a general partner towards *bona fide* third parties. In all cases, the name of the partnership must be followed by the phrase ("Limited Partnership Company").

Article 59
Management of the Limited Partnership Company

The company shall be managed by one or more managers to be elected by all partners from amongst the general partners or third parties. Limited partners shall not interfere in the management, even by delegation or power of attorney[63]; otherwise they shall be liable with all their private assets, for all obligations arising from the actual acts they have undertaken for the account of the company.

Monitoring the actions of the company's managers, reviewing the company's books, expressing opinions to the managers, and authorizing actions beyond the scope of their powers shall not be deemed interference in the management of the company.

Section Four
Partnership Limited by Shares

Chapter One
Introductory Provisions

Article 60
Definition of Partnership Limited by Shares and Name

A Partnership Limited by Shares is a company made up of general partners, who shall be liable with all their personal assets for all the obligations of the company, and limited partners[64], who shall only be liable for the obligations of the company up to the amount of the shares they hold in the capital. The company shall have a name[65] consisting of the names of one or more general partners, a creative name, or a name derived from the objectives of the company.

The name of the company shall not include the name of a limited partner. If the name includes the name of a limited partner with his knowledge, he shall be liable like a general partner towards *bona fide* third parties.

In all cases, the name of the partnership must be followed by the phrase ("Partnership Limited by Shares").

Article 61
Legal Provisions applicable to Partners

To the extent it does not contradict the provisions of this section, the general partner in this company shall be subject to the legal provisions, which govern a partner in a General Partnership Company[66], while the limited partner shall be subject to the legal provisions, which govern a shareholder in a Shareholding Company[67].

Article 62

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63 Contrary to delegation (تفويض), the power of attorney (توكيل) is an authorisation that has been authenticated pursuant to Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965).

64 In the original Arabic language version of the law, the limited partners of a Partnership Limited by Shares are called Shareholding Partners (شركاء مساهمين). This translation remains consistent in the usage of the term "limited partner".

65 In the original Arabic language version of the law a differentiation is made between the company title (عنوان), which is used for the General Partnership Company, the Limited Partnership Company and the Partnership Limited by Shares and the name (اسم), which is used for the Limited Liability Company and Shareholding Company. This translation uses the term "name" for both Arabic terms.

66 See Articles 33 *et seq*. regarding the General Partnership Company.

67 See Articles 119 *et seq*. regarding the Shareholding Company.

Capital and Shares in the Partnership Limited by Shares

The capital of the company shall be sufficient to accomplish its objectives. The executive regulations shall state the minimum capital of the company[68] and it shall be divided into shares of equal value that are not divisible.

The shares of general partners shall not be negotiable; however, they may be assigned, seized or pledged pursuant to the relevant provisions regarding the partners' membership interest in a General Partnership Company[69]. The shares of the limited partners in a Partnership Limited by Shares shall be traded, seized and pledged pursuant to the relevant provisions applicable to the Closed Shareholding Company[70].

Chapter Two
Incorporation Requirements

Article 63
Application of Provisions regarding the Limited Partnership Company

The provisions applicable to a Limited Partnership Company[71] shall apply to a Partnership Limited by Shares, taking into account the provisions set forth in the following articles.

Article 64
Company Contract of the Partnership Limited by Shares

The Company Contract shall include the following particulars:

1. The name[72] of the company.
2. Its headquarters.
3. The term of the company, if any.
4. The objectives of the company.
5. The name of the partners, their capacity in the company, their nationalities, domiciles and the number of shares owned by each of them.
6. The company's capital and the number of shares into which it is divided and the nominal value per share.
7. The name of the general partner entrusted with the management of the company.
8. A statement of any non-cash contribution including the name of the contributor, the special regulations governing the contribution, and any pledge or preferential rights stemming therefrom, if any.
9. An approximate estimate of the incorporation expenses and costs payable by the company[73].

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68 Pursuant to Ministerial Decision No. 234 of 2015, the minimum capital for General Partnerships, Limited Partnerships, Partnerships Limited by Shares, Single Person Companies, Limited Liability Companies and sole proprietorships is KD 1,000. The minimum capital for a Closed Shareholding Company is KD 10,000 and for a Public Shareholding Company KD 25,000.

69 See Articles 33 *et seq*. regarding the General Partnership Company.

70 See Articles 234 *et seq*. regarding the Closed Shareholding Company.

71 See Articles 56 *et seq*. regarding the Limited Liability Partnership.

72 In the original Arabic language version of the law a differentiation is made between the company title (عنوان), which is used for the General Partnership Company, the Limited Partnership Company and the Partnership Limited by Shares and the name (اسم), which is used for the Limited Liability Company and Shareholding Company. This translation uses the term "name" for both Arabic terms.

The Company Contract may not include any conditions that would exempt the general partners from any liability arising from the invalidity of incorporation.

Article 65
Number of Partners

The number of partners in the company shall be at least five partners including at least three limited partners. All partners must sign the Company Contract, and the general partners shall carry out the incorporation procedures and shall be liable for damages that result from any error in such procedures.

Article 66
Payment of the Capital of the Partnership Limited by Shares

Partners shall pay at least half of the capital at incorporation. Such amount shall be deposited in a local bank in an account to be opened in the name of the company, and shall not be delivered to the manager of the company, until a certificate proving the company's Registration in the commercial register has been provided. The remaining amount of the capital must be paid within a maximum period of three years from the date of Registration.

Chapter Three
Rights and Obligations of the Management of the Company

Article 67
Management of the Partnership Limited by Shares

The company shall be managed by one or more managers from amongst the general partners, whose powers and competencies shall be determined in the Company Contract.

Subject to the provisions set forth in the following articles, the provisions and rules prescribed for a manager in a General Partnership Company shall apply to a manager in a Partnership Limited by Shares with respect to his duties and responsibilities, his dismissal and the company's liability for his acts[74].

Article 68
Prohibition of Interference by a Limited Partner in the Management

The limited partners shall not interfere in the company’s management, even by an authorization from the general partners; otherwise they shall be jointly liable with the general partners for the obligations arising from the management actions undertaken.

Article 69
Right of Inspection of the Partners

Partners who are not managers shall have the right to review, either themselves or through a representative, the company’s books and documents, to obtain any necessary particulars and to request any information. Any agreement or decision to the contrary shall be null and void.

Article 70
Supervisory Board in the Partnership Limited by Shares

The company shall have a supervisory board if the number of limited partners is more than seven, and shall consist of at least three members to be elected by the general meeting of the company from among the limited partners. The supervisory board shall be elected at the latest within thirty days of the company's Registration in the commercial register. The votes of the general partners shall not be counted in the election of the members of the supervisory board. The term of membership in the supervisory board shall be three years, subject to renewal. The members of

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[73] See also Article 25 in respect of the incorporations costs to be carried by the company.
[74] See Articles 44 *et seq.* regarding rights and responsibilities of the management.

the supervisory board shall perform their duties without consideration unless the Company Contract stipulates otherwise.

Article 71
Reporting and Liability of the Supervisory Board of the Partnership Limited by Shares

The supervisory board shall submit a report on the outcome of its tasks to the general meeting of the partners. The members of the supervisory board shall be liable for the errors of managers, and their consequences, if they become aware thereof and neglect to mention them in their report.

Article 72
Auditor and Formation of Reserves of the Partnership Limited by Shares

The provisions, which are applicable to a Closed Shareholding Company[75], regarding the appointment of the auditor and the establishment of the company's reserves and the company's supervision and liquidation shall apply to the Partnership Limited by Shares.

Article 73
General Meeting of the Partnership Limited by Shares

A Partnership Limited by Shares shall convene general meetings, which shall including all general and limited partners and which shall be governed by the provisions governing the general meeting in the Closed Shareholding Company[76] shall apply accordingly.

The managers of the company shall have the powers of the board of directors in a Closed Shareholding Company[77] with respect to the invitation of the general meeting.

Article 74
Amendment of the Company Contract of the Partnership Limited by Shares

The general meeting may not amend the Company Contract except with the consent of all the general partners in addition to a number of limited partners representing more than half of the shares of the limited partners in the capital, and this amendment shall be effective from the date of Registration in the commercial register.

Article 75
Temporary Manager in the Partnership Limited by Shares

In case the position of the manager of the company is vacant, the supervisory board shall appoint a temporary manager to assume urgent matters, and shall invite the general meeting to meet within fifteen days from the date of his appointment to pass a resolution on the appointment of a manager of the company in accordance with the majority required to amend the Company Contract, unless the Company Contract provides otherwise.

Section Five
Joint Venture Company

Article 76
Definition of the Joint Venture Company

The Joint Venture Company[78] is a company agreed between two or more partners. The company shall be restricted

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[75] See Articles 234 *et seq*. regarding the Closed Shareholding Company.
[76] See Articles 234 *et seq*. regarding the Closed Shareholding Company.
[77] See Articles 234 *et seq*. regarding the Closed Shareholding Company.

to the relationship between the partners and shall not operate in respect of third parties.

Article 77
Company Contract of the Joint Venture Company

The Company Contract of the Joint Venture Company shall not be subject to Registration in the commercial register or to Announcement. The Company Contract shall be concluded to specify the partners' rights and obligations and the manner in which the profits and losses are distributed among them as well as any other terms and conditions.

The company shall be governed by the principles set out in the Company Contract. The existence of the Company Contract shall be proven by all manner of proof, including evidence and presumption[79].

Article 78
No Legal Personality of the Joint Venture Company

The Joint Venture Company shall have no legal personality. A legal relationship shall be established between a third party and the partner or partners with whom such third party has contracted and not with the company.

The partners shall have recourse against each other in connection with the company's activities, their association with it and the participation of each partner in the profits and losses, as agreed upon.

Article 79
Reliance on the Company Contract

Notwithstanding the provisions of the foregoing article, third parties may rely on the Company Contract if the company has engaged with them in such capacity.

Section Six
Professional Company

Article 80
Incorporation, Name and Company Form of the Professional Company

Two or more persons, of one of the free professions[80], may establish a professional company. Such persons shall be governed by the conditions and rules of the practice of such free profession. The objective of the company is to practice the free profession through collective cooperation. The company shall operate under a name[81] to be derived from its objectives and the name of the partners or the name of one of them with the addition of the phrase ("and Partners" or "and their Partners"), as may be applicable.

The company shall be established in the form of a Closed Shareholding Company, Limited Liability Company, General Partnership Company or Limited Partnership Company, without any of the partners gaining the capacity of

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78 The Arabic term for Joint Venture Company is (شركة المحاصة), which means an association with a set objective in which two or more persons participate.

79 See Article 52 of the Law of Evidence in Civil and Commercial Matters (Decree Law No. (39) of 1980) regarding presumptions (القرائن).

80 The free professions are independent scientific, artistic, literary, teaching or educational activities. Examples: engineers, doctors, lawyers and other professionals. The free professions are generally performed personally, in own responsibility and professionally independent and on the basis of professional qualifications or creative talent. Free professionals are not considered merchants within the meaning of Article 13 *et seq.* Commercial Law (Decree Law (68) of 1980) and are not considered to be performing a merchant activity trading within the meaning of Article 1 *et seq.* Commercial Law (Decree Law (68) of 1980).

81 In the original Arabic language version of the law a differentiation is made between the company title (عنوان), which is used for the General Partnership Company, the Limited Partnership Company and the Partnership Limited by Shares and the name (اسم), which is used for the Limited Liability Company and Shareholding Company. This translation uses the term "name" for both Arabic terms.

a merchant[82]. To the extent they do not contradict the provisions of this section, the company shall be subject to the rules prescribed for the form of company adopted, the criteria for protecting those who deal with it and the provisions relevant to the insurance against the risks of practicing such professions.

The executive regulations shall set out the free professions, which may incorporate such forms of companies, the criteria for protecting those who deal with it and the provisions relevant to the insurance against the risks of practicing such professions.

Article 81
Licensing and Registration of the Professional Company

The license to establish a professional company shall be issued by the Ministry in coordination with relevant bodies that are legally authorised to regulate the affairs of the free profession practiced by the company in accordance with the conditions and rules established by the Ministry in this regard.

The Company Contract shall be Proclaimed by registration in a special register to be prepared for this purpose by the competent body, which has consented to the Ministry to issue the license. The company shall not gain legal personality and may not carry out any business until it is registered in this register.

Article 82
Company Contract of the Professional Company

The Ministry, in coordination with the body legally authorised to regulate the affairs of the free profession practiced by the company, shall specify the particulars that the Company Contract must include.

Article 83
Disposition by the Partner of his Membership Interests or Shares

A partner may transfer[83], sell or pledge his membership interests or shares, provided that they shall in all cases be transferred to persons of the same free profession, even if they are sold by way of compulsory sale.

Article 84
Enforceability of the Disposition of the Partner

The withdrawal from the company, the transfer[84], the sale and the pledge shall only be enforceable towards third parties after being recorded in the register prepared for this purpose.

Section Seven
Single Person Company

Article 85
Definition of Single Person Company

A Single Person Company means, for the purposes of applying the provisions of this law, every activity where the capital is fully owned by one natural or legal person. The owner of the company shall not be liable for the company's

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[82] See Article 34 in regard the General Partnership Company. Merchant is defined in Article 13 *et seq*. Commercial Law (Decree Law (68) of 1980).

[83] In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the transfer of shares.

[84] In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the transfer of shares.

obligation except to the extent of the company's capital.

If there is more than one holder of membership interests in the capital of the company for any reason whatsoever, the company shall by force of law transform into a Limited Liability Company.

Article 86
Articles of Association of the Single Person Company

A Single Person Company shall have articles of association specifying its name, objectives, term, owner's particulars and manner of its management and liquidation as well as other provisions to be specified by the executive regulations.

Article 87
Capital of the Single Person Company

The company's capital shall be sufficient to achieve its objectives, and shall be paid in full. The executive regulations shall provide for the minimum capital of the company[85], which shall be divided into membership interests of equal value that are not divisible. The capital may be comprised of in-kind contributions, which shall be assessed in accordance with the provisions set forth in Article 11 this law.

Article 88
Pledge and Seizure of Membership Interests of the Single Person Company

The membership interests in the capital of the company may be pledged, seized and sold in accordance with the provisions of the Civil and Commercial Procedures Law. If a part of the membership interests are sold, the company shall be transformed by virtue of law to a Limited Liability Company as of the date of notification of the decision awarding the auction[86]. In all cases, the decision awarding the auction[87] must be Published and Announced.

Article 89
Management of the Single Person Company

The owner of the capital shall manage the company. He may appoint one or more managers to represent the company before the courts and third parties, and who shall be responsible for the management of the company towards the owner. Any decision regarding the appointment of a manager shall not be effective until Registration in the commercial register.

Article 90
Liability of the Owner of the Capital of the Single Person Company

If the owner of the capital liquidates the company or suspends its activities, in a *mala fide* manner, before the expiry of its term or before the realization of its objectives; he shall be liable for its obligations with his personal assets.

He shall also be liable with his personal assets, if he does not separate his financial rights and obligations from the financial rights and obligations of the company in a manner prejudicing *bona fide* third parties.

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[85] Pursuant to Ministerial Decision No. 234 of 2015, the minimum capital for General Partnerships, Limited Partnerships, Partnerships Limited by Shares, Single Person Companies, Limited Liability Companies and sole proprietorships is KD 1,000. The minimum capital for a Closed Shareholding Company is KD 10,000 and for a Public Shareholding Company KD 25,000.

[86] See Article 261 in connection with Articles 252 *et seq.* of the Civil and Commercial Procedures Law (Decree Law (38) of 1980).

[87] See Article 261 in connection with Articles 252 *et seq.* of the Civil and Commercial Procedures Law (Decree Law (38) of 1980).

Article 91
Application of Provisions Governing the Limited Liability Company

Subject to the provisions of this section, the provisions governing the Limited Liability Company shall apply to the Single Person Company to the extent they do not conflict with its nature.

Section Eight
Limited Liability Company

Chapter One
Introductory Provisions

Article 92
Definition of the Limited Liability Company

A limited liability company is an association of a maximum number of fifty partners. Each of them shall be liable only to the extent of his membership interest in the capital. The company shall have a name derived from its objectives or from the name of one or more of its partners.

The term "with limited liability" or "W.L.L." shall follow the company's name.

Article 93
Restricted Activities of the Limited Liability Company

Without prejudice to the provisions of other laws, a Limited Liability Company shall not undertake insurance or banking activities or the investment of funds for the account of third parties.

Article 94
Prohibition of Public Subscription of Membership Interests

A Limited Liability Company shall not be incorporated nor its capital be increased through public subscription. Inviting the public directly or indirectly to contribute to the capital of the company shall be deemed an invitation for public subscription.

The company's membership interests shall not be negotiable and the company shall not borrow through the issuing of any negotiable securities[88].

Article 95
Capital of the Limited Liability Company

The company's capital shall be sufficient to achieve its objectives, and shall be denominated in Kuwaiti currency. The executive regulations shall specify the minimum capital of the company[89] and the percentage of the participation of Kuwaiti nationals in the capital of the company.

Chapter Two
Incorporation Requirements

Article 96

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[88] Securities (ورقة مالية) is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

[89] Pursuant to Ministerial Decision No. 234 of 2015, the minimum capital for General Partnerships, Limited Partnerships, Partnerships Limited by Shares, Single Person Companies, Limited Liability Companies and sole proprietorships is KD 1,000. The minimum capital for a Closed Shareholding Company is KD 10,000 and for a Public Shareholding Company KD 25,000.

Company Contract of the Limited Liability Company

The company Contract of the Limited Liability Company shall include the following particulars:

1. The company's name and company title[90].
2. Names and titles of the partners and their nationalities.
3. The company's headquarters.
4. The term of the company, if any.
5. The objectives for which the company is established.
6. The company's capital and the cash and in-kind contributions of partners.
7. The names of those appointed to manage the company, be it from the partners or third parties, or the method of appointment of the management and the names of the members of the supervisory board in cases where the law requires the establishment of such a board.
8. The distribution of the profits and losses.
9. Any other particulars required by the executive regulations.

Article 97
Cash and In-Kind Contributions into the Capital of the Limited Liability

The Limited Liability Company shall not be incorporated unless all cash membership interests are distributed among the partners and are paid in full, and any in-kind contributions have been transferred to the company.

The cash contributions must be deposited in a local bank and shall only be released to the company's appointed managers upon the submission of a certificate proving the Registration of the company in the commercial register.

Chapter Three
Legal Framework of Membership Interests

Article 98
Value of the Membership Interests in the Limited Liability Company

The capital of a Limited Liability Company shall be divided into membership interests of equal value that are not divisible and which shall have a minimum value of one hundred Kuwaiti Dinars each.

If there is more than one owner of a membership interest, they shall choose one person to represent them towards the company.

Article 99
Disposition of Membership Interests in the Limited Liability Company

The membership interests in the capital of a Limited Liability Company shall not be tradable except as per the provisions of this law. Membership interests shall be transferred by a written document. The remaining partners

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[90] The Arabic term used for company title is (عنوان). The company title is the name of one or more of the partners followed by the phrase "and Partners" or "and their Partners".

shall be entitled to acquire[91] such membership interests under the same terms as if the transfer has been made to a third party.

Article 100
Pre-emption Right of Partners in the Limited Liability Company

In the event of a transfer[92] of membership interests to a person who is not a partner, the approval of the remaining partners shall be obtained. If such approval is not received, the terms of the transfer shall be published in the Official Gazette. If, following fifteen days of Publication, no partner has expressed his intent to use his right of pre-emption[93] to the Ministry, the transferring partner shall be entitled to dispose of his membership interests. If more than one partner exercises their pre-emption right, the membership interest to be sold shall be divided among them in proportion to their respective membership interests in the company's capital.

The pre-emption right shall not be considered if a certified cheque in the name of the transferor in the full amount of the value of the membership interest to be transferred does not accompany it. The cheque shall be delivered to the transferor following completion of the transfer procedures. Should the transferor refuse to complete the transfer procedures, the partner exercising the pre-emption right may choose to either refrain from exercising his pre-emption right or compel the transferor to do so by court ruling. The Company Contract shall be amended to reflect the transfer by an official document[94], to be signed by the transferor and the transferee without the need for the remaining partners to sign thereon, or by a court ruling on the validity and enforceability of the pre-emption right.

The transfer shall have no effect towards the partners or third parties until its Registration in the commercial register.

Article 101
Transfer of the Membership Interests of a Deceased Partner

The membership interests of a deceased partner shall devolve to his heirs, and the Company Contract may provide that the remaining partners shall have the right to purchase these membership interests. If the transfer of membership interests to the heirs increases the number of partners above the prescribed maximum number[95], the membership interests of the heirs shall be considered one membership interest in the company unless the heirs agree to transfer the membership interests to a number of them not exceeding the allowable maximum number of partners.

Legatees shall be deemed heirs for the purpose of the application of the provisions of the preceding paragraph.

Article 102
Pledge of Membership Interests in the Limited Liability Company

A partner may pledge his membership interest by way of an official notarized document[96]. Such pledge shall not be effective towards partners or third parties until it is Registered in the commercial register and is notified to the company. If the creditor of a partner institutes execution proceedings against the membership interest of his debtor, the membership interest shall be offered for sale in a public auction pursuant to the provisions of the Civil and Commercial Procedure Law, unless the creditor agrees with the debtor and the company on the manner and terms of the sale. The partners in the company may bid in such an auction or may acquire the membership interest at the same terms of the auction award, provided that the full price shall be deposited at the treasury of the court within seven days of the date of the award. These provisions shall also apply in the case of a partner's bankruptcy.

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91 The original Arabic language version of the law uses the term recover (استرداد).

92 In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the transfer of shares.

93 The original Arabic language version of the law uses the term right of recovery (حق الاسترداد).

94 Within the meaning of Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965) an "authenticated document" is one authenticated as required by law by a notary public.

95 50 partners are the maximum allowed pursuant to Article 92.

96 See Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965).

Chapter Four
Rights and Obligations of the Management

Article 103
Management of the Limited Liability Company

The company shall be managed by one or more managers, to be appointed in the Company Contract from among the partners or third parties. In the event of the Company Contract does not appoint the managers, the general meeting of the partners shall appoint them.

Article 104
Dismissal of the Manager of the Limited Liability Company

A manager of the company may be dismissed by court ruling at the request of one or more partners who own at least one-quarter of the membership interests in the capital, for the following reasons:

1. If he commits an act of fraud.

2. If he commits an error causing serious damage to the company.

3. If he violates the provisions of Article 106 of this law.

Article 105
Powers and Obligations of the Manager of the Limited Liability Company

If the powers of the company's manager are not specified in the Company Contract or in the resolution of the general meeting of the partners appointing the manager, the manager shall have full authority to carry out all the tasks and actions necessary to achieve the objectives of the company.

The managers shall be jointly liable towards the company, the partners and third parties for a breach of the provisions of the law or of the Company Contract and for any mismanagement as set out in the section of this law regulating the Shareholding Company[97].

Article 106
Limitations of the Manager of the Limited Liability Company

If the Company Contract does not set out the authorities of the manager of the company and the scope of the performance of his tasks, the manager shall not, without the consent of the ordinary general meeting of the partners, assume the management of a company competing with or having similar objectives to those of the company, or enter into a contract with the company on his or a third party's behalf, or carry out any activity on behalf of a third party that is similar to the activities of the company.

Article 107
Supervisory Board of the Limited Liability Company

If the number of partners is more than seven, the Company Contract shall provide for the appointment of a supervisory board consisting of at least three partners. The term of membership in the supervisory board shall not exceed three years and is renewable. The supervisory board shall have the right to inspect the company’s records and documents, to perform an inventory of the cash, the stock, securities and documents establishing the company’s rights and to request the managers at any time to submit reports on their management. The board shall also oversee the financial accounts, the distribution of profits and the annual report, and shall submit its report in this regard to

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[97] See Article 181 *et seq*. regarding the management of the Shareholding Company.

the general meeting of the partners.

The members of the supervisory board shall perform their duties without consideration unless the Company Contract stipulates otherwise or the general meeting issues a resolution to the contrary. The general meeting may dismiss them at any time.

If the number of partners does not exceed seven and the Company Contract does not provide for the establishment of a supervisory board, the partners who are not managers shall have the right to supervise the acts of the managers as would be the case of the general partners in General Partnership Company[98]. They may also inspect the company's books and documents.

Article 108
Liability of the Supervisory Board of the Limited Liability Company

The members of the supervisory board shall not be liable for the errors of managers and their consequences, except if they are aware of them and failed to mention them in their report to the general meeting of the partners.

Article 109
Auditor of the Limited Liability Company

The Company Contract of the Limited Liability Company must provide for the appointment of one or more auditors to audit the accounts of the company. In respect of their appointment, powers, responsibilities, remuneration, dismissal and resignation the auditors shall be subject to the rules and provisions applicable to auditors in a Shareholding Company[99].

Article 110
Right of Inspection of the Partners

The executive regulations shall provide for the records and books that shall be prepared at the company's main office as well as the information to be contained therein.

Each partner shall have the right to inspect the accounts of the company and all its documents, records and books at the company's main office. Every condition or resolution to the contrary shall be null and void.

Article 111
General Meeting of the Partners

A Limited Liability Company shall have a general meeting of all partners to be called by the manager of the company.

The manager of the company may call the general meeting at any time and must call the general meeting upon a request of the supervisory board, the auditor, or a number of partners holding no less than one-quarter of the membership interest in the capital of the company. The Ministry may also call and attend the general meeting at any time in the event the manager is obliged to call the general meeting, but fails to do so.

The provisions applicable to the procedures for calling the general meeting of a Closed Shareholding Company[100] shall apply to the procedures for calling the general meeting of the partners of the Limited Liability Company.

Article 112
Right of Participation in the General Meeting of the Partners

Each partner shall have the right to participate in the general meeting personally, or through a representative, who

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98 See Article 47 on the supervision of the management by partners in a General Partnership Company.
99 See Articles 221 *et seq*. regarding the rules and provisions applicable to auditors in a Shareholding Company
100 See Article 237 regarding the procedures for calling of the general meeting of a Closed Shareholding Company.

shall not be a member of the supervisory board or a manager of the company, under a power of attorney[101] or authorization issued by the partner. Each partner shall have a number of votes equal to the number of membership interests held in the company.

Article 113
Validity of the General Meeting

The general meeting shall not be valid unless attended by a number of partners who own more than half of the capital. Resolutions shall not be valid except if passed by the majority of membership interests represented at the meeting, unless the Company Contract provides for a larger majority. If such quorum is not established at the first meeting, the general meeting shall be called for a second meeting to be held within ten days following the date of the first meeting to address the same agenda. The second meeting shall be valid regardless of the number of membership interests represented therein, and in this case, resolutions shall be issued by a majority of the membership interests represented at the meeting, unless the Company Contract provides otherwise.

The manager of the company and the members of the supervisory board shall not have the right to vote on resolutions passed regarding the discharge of any of them from liability.

Article 114
Agenda of the Annual General Meeting

The manager of the company must invite the ordinary annual general meeting within three months of the end of the financial year. The agenda of the annual general meeting shall discuss and resolve the following matters:

1. The report of the manager on the company's activities and the financial position for the last financial year and the report of the supervisory board, if available.

2. The auditor's report on the financial statements of the company.

3. The company's financial statements.

4. The proposals of the manager on the distribution of profits.

5. The appointment, dismissal or restriction of the authority of the company manager if he is not appointed in the Company Contract.

6. The appointment and removal of the supervisory board, if any.

7. The appointment of the auditor for the following financial year and the determination of his remuneration.

8. Any other issues deemed appropriate to be listed in the agenda by any party entitled to request the convening of the general meeting.

Article 115
Extraordinary General Meeting

The provisions applicable to the general meeting shall apply to the extraordinary general meeting, taking into account the provisions set forth in the following article.

Article 116
Quorum of the Extraordinary General Meeting

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[101] The power of attorney (توكيل) is an authorisation that has been authenticated pursuant to Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965).

The extraordinary general meeting shall not be valid unless attended by a number of partners owning three-quarters of the capital. Resolutions in an extraordinary general meeting shall not be passed except by the approval of partners who own three-quarters of the capital.

Article 117
Competency of the Extraordinary General Meeting

The extraordinary general meeting shall be competent to resolve the following matters:

1. Amendment of the Company Contract.

2. Dissolution and liquidation of the company.

3. Merger, transformation or division of the company.

4. Increase or decrease of the capital of the company.

5. Dismissal of the manager of the company or restricting his authorities, if he was appointed in the Company Contract.

Without prejudice to the provisions of merger, transformation and division of the company, the resolutions of the extraordinary general meeting shall become effective with Registration in the commercial register and do not need to be set out in an official document[102].

Article 118
Reserves of the Limited Liability Company

A certain percentage of the net profits of the company shall be annually deducted for the formation of reserves in accordance with the provisions set forth in this regard for Shareholding Companies[103].

Section Nine
Public Shareholding Company

Chapter One
Introductory Provisions

Article 119
Definition of Public Shareholding Company

A Public Shareholding Company is a company whose capital is divided into tradable shares of equal value in the manner prescribed in this law. The responsibility of the shareholder shall be limited to the contribution of the value of the shares subscribed for by him and he shall not be liable for the company's obligations, except to the extent of the nominal value of the shares in which he has subscribed.

Article 120
Name of the Public Shareholding Company

Every Public Shareholding Company shall have a name designating its objectives. Such name shall not be derived from the name of a natural person except in the following cases:

1. If the objective of the company is to invest in a trademark or any intellectual property right registered in the

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[102] It is not clear if an "authenticated document" within the meaning of Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965) is meant here. This has to be assumed.

[103] See Articles 222 *et seq*. on the deductions for the creation of reserves.

name of that person.

2. The company acquires a commercial establishment bearing the name of a natural person.

3. If it is transformed into a Public Shareholding Company from a company whose name includes the name of a natural person.

In all cases, the name of the company shall be followed by the phrase (Kuwaiti Shareholding Company Public or K.S.C.P.).

Chapter Two
Incorporation of the Shareholding Company

Article 121
Company Contract of the Public Shareholding Company

The Company Contract of the Public Shareholding Company must include the following particulars:

1. The name of the company.

2. Its headquarters.

3. The term of the company, if any.

4. The objectives that the company has been incorporated for.

5. The name of the Incorporators, who shall not be less than five shareholders, with the exception of companies established by the State, public authorities and public institutions, which may be the sole Incorporator, or where it may involve a fewer number of shareholders.

6. The company's capital and number of shares into which the capital is divided.

7. A statement of each non-cash contribution, including the name of the contributor, the special regulations governing the contribution and any pledge or preferential rights stemming therefrom.

8. The privileges granted to the Incorporators and the reasons for such privileges.

9. A statement approximating the expenses, wages and costs, resulting from the incorporation[104], which the company has borne or which it is obligated to bear.

Article 122
Application for Incorporation of the Public Shareholding Company

The Incorporators shall submit an application for the company's incorporation to the Ministry. The application shall indicate the name and profession of the representative delegated by the Incorporators to undertake the incorporation procedures as well as his address to which the correspondence regarding the incorporation shall be sent. The following documents shall be attached to the application:

1. A copy of the draft Company Contract, signed by the Incorporators.

2. If the company's activities require the issuing of a law or an approval by any of the Supervisory Authorities, such requirement shall be fulfilled prior to submitting the application.

3. If there are in-kind contributions, an assessment of such contributions pursuant to the provisions of Article

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[104] See Article 25 in respect of the incorporations costs to be carried by the company.

11 of this law shall be attached to the application.

4. If the company's name is derived from the name of a natural person, proof that the intellectual property rights or trademarks in which the company will invest, are registered in the name of such person, or evidence that it is acquiring a commercial establishment and will take on its name, shall be attached to the application[105].

5. If the company bears the name of another company, proof that the other company is being liquidated and has approved the use of the name, shall be attached to the application[106].

6. If there is a legal person among the Incorporators, the application shall be submitted with a certified copy of the incorporation certificate and proof that the relevant body of the company has approved the participation in the incorporation.

7. A feasibility study of the company's project.

8. Any other documents required by the executive regulations.

Article 123
Approval to Incorporation of the Public Shareholding Company

The Minister shall issue a resolution approving the incorporation of the company within thirty days from the date of application and the submission of the information and documents described in the preceding article. In the event the application is rejected, such rejection must be reasoned.

If the application is rejected, the Incorporators may challenge such rejection before the competent court within sixty days of the date they are notified of the rejection.

The Incorporators are not entitled to apply again for the incorporation of the same company, until the reason for the rejection has ceased to exist.

Article 124
Register of Applications for the Incorporation of Public Shareholding Companies

An electronic register shall be prepared at the Ministry to register the applications for incorporation of Public Shareholding Companies, which shall be recorded using consecutive numbers.

Article 125
Authentication of the Company Contract of the Public Shareholding Company

The Ministry shall within a maximum period of one week as of the date of issuance of the decision regarding incorporation notify the Incorporators of the decision and within this period extend the invitation to the Incorporators to sign the authenticated Company Contract at the relevant department at the Ministry. A certified true copy of the Company Contract shall be deposited following authentication in the company's file at the Ministry.

Article 126
Acquiring of Legal Personality by the Public Shareholding Company

The company shall acquire legal personality as of the date of issuing the decision regarding its incorporation. All procedures regarding the Publication and Announcement of the incorporating resolution and the Company Contract shall be undertaken. The subscription prospectus must be submitted in the manner set forth in Law No. (7) of

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[105] See Article 120 regarding the rules on the name of a Public Shareholding Company.
[106] See Article 12 regarding the use of the name of another company in liquidation.

2010[107], within thirty days from the date of Publication of the decision regarding the company's incorporation. The subscription process must be initiated within thirty days from the earlier of, the date on which the Authority approves the subscription prospectus, or the date on which the prospectus is deemed in force.

Article 127
Subscription of Incorporators in the Public Shareholding Company

Incorporators shall subscribe to no less than ten per cent of the issued capital of the company and shall, before inviting the public to the subscription, deposit the value of the percentage required to be paid up for such shares[108] at one of the local banks to the account of the company under incorporation and shall provide a certificate of the deposit to the Ministry.

The executive regulations can provide for specific procedures regarding the opening of the account of the company under incorporation, the manner of depositing and retaining of monies and verification of the balances deposited, which may render the certificate to which the preceding paragraph refers to unnecessary.

Article 128
Subscription Prospectus and Invitation of the Public to Subscribe in the Shares

The invitation of the public to subscribe in the company's shares shall be made according to a subscription prospectus that includes the particulars and procedures stipulated in Law No. (7) of 2010 and its executive regulations[109].

The Incorporators shall be jointly liable for the validity of the particulars contained in the prospectus.

Article 129
Method of Subscription in the Public Shareholding Company

The subscription shall be carried out with one or more local banks[110] in Kuwait or the branch of a Kuwaiti bank abroad.

The instalments due upon subscription shall be paid to the bank and the bank shall record such payments in a special account to be opened in the name of the company. The subscription shall remain open for a period of no less than twenty-one days and not exceeding three months.

Article 130
Prohibition of Fictitious or Anonymous Subscriptions

No person shall subscribe more than once, and the subscription must be unconditionally performed and earnest. Fictitious subscriptions, anonymous subscriptions or misrepresentation of facts in any manner whatsoever in the subscription are prohibited.

Without prejudice to the provisions of Article 134 of this law, the Incorporators shall not subscribe in a number of shares exceeding the number of shares stipulated in the Company Contract, either directly or indirectly. The Incorporators shall, prior to the allocation of shares, vet the subscription applications carefully to verify that no violations have occurred and they shall exclude any subscriptions that violate the law

Article 131

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[107] See Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).
[108] Pursuant to Article 152, 25% of the shares need to be paid up.
[109] See Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).
[110] "Local banks" (بنوك محلية) is defined in as Kuwaiti banks and branches of foreign banks registered with the Central Bank of Kuwait in Article 1 (2) of the Law Regarding the Support of Financial Stability in the State (Law No. 2 of 2009).

Application and Payment of Subscription

A shareholder's subscription shall be made in an application signed by the subscriber or his representative. The applications must provide for the name of the company, its objectives and capital, the name of the subscriber and his domicile in Kuwait, the number of subscribed shares, the instalments paid and the acceptance of the provisions of the Company Contract as well as any other particulars to be specified by the Authority[111]. Subscription may be made via electronic means provided by banks to their clients who hold bank accounts, or provided by clearing agents to their clients who hold trading accounts. The subscriber's use of the username and password delivered to it by the bank or the clearing agent when submitting the subscription application electronically shall be deemed a signed subscription application by the subscriber.

The subscriber must pay the instalments due in cash and in Kuwaiti Dinars against a receipt to be signed by the bank showing the name of the subscriber, the domicile of the subscriber, the date of subscription, the number of subscribed shares and the number of paid instalments. The Subscriber may pay the instalments due by cheque or bank transfer. The amount paid shall be credited to his account. The subscription shall be deemed final upon the subscriber's collection of the aforementioned receipt, or upon debiting the amount from the subscriber's account into the account of the company under incorporation.

Article 132
Availability of the Company Contract

A copy of the Company Contract shall be made available on the website of the company under incorporation, so that each subscriber can obtain a copy.

Article 133
Release of Subscription Amounts

The bank shall keep all funds received from subscribers for the account of the company under incorporation and shall only release the funds to the first board of directors after the amount exceeding the number of offered shares has been refunded pursuant to the provisions of Article 138 of this law.

Article 134
Shares not Subscribed For

In all cases in which the shares offered have not been fully subscribed for during the original subscription period, the Incorporators may re-open the subscription for another period not to exceed three months and the Incorporators may, as an exception to the second paragraph of Article 130, subscribe for the remaining shares. If all shares are not subscribed for following the end of the additional subscription period, the Incorporators shall either repeal the incorporation of the company or decrease the capital.

Article 135
Subscription Underwriter

The Public Shareholding Company may have at incorporation or upon an increase of its capital one or more underwriters to subscribe for the shares that remain unsubscribed for.

If the offered shares have not been fully subscribed for during the subscription period, the underwriters shall purchase the unsubscribed shares and may re-offer these shares to the public without having to comply with the procedures and restrictions of dealing in shares provided for in this law.

The executive regulations shall specify the procedures, conditions and requirements for the application of the

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[111] See Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

provisions of this article.

Article 136
Decrease of the Capital of the Public Shareholding Company

If the Incorporators elect to decrease the company's capital, they must apply to the Ministry and make an Announcement to this effect to the subscribers. Each subscriber shall be entitled to renounce his subscription within a period not to exceed fifteen days from the date of the Announcement. The Ministry may not decide on the application to decrease the company's capital until after the end of this period. Should the percentage of the shares whose subscription has been repealed not exceed ten per cent of the total shares offered for subscription, the subscription shall be deemed final, provided that the company capital following the capital decrease shall not be less than the minimum capital prescribed for the company[112].

Article 137
Failure of Capital Decrease or Renouncing of the Incorporation

Should the capital decrease fail or should the Incorporators elect to renounce the incorporation of the company, the Incorporators must make an Announcement to this effect and must immediately refund in full the amounts paid by the subscribers in addition to any income generated therefrom.

In this case the Incorporators shall [bear][113] all expenses of the incorporation and shall be jointly liable towards third parties for their acts and conduct during the period of incorporation.

Article 138
Subscription for all Shares

Should the subscription exceed the number of offered shares after closure of the subscription, the shares shall be allotted among the subscribers pro rata according to their subscription. The allotment shall be made to the nearest whole number, and the board of directors shall dispose of the fractional shares to the company's account.

Article 139
Invalidity of the Subscription

Any subscription undertaken in contravention to the above provisions shall be invalid and each party with an interest may rely on such invalidity.

A claim of invalidity shall be time-barred six months from the date of the end of the subscription period. If the invalidity is the result of an act subject to criminal liability, then the invalidity claim shall be time-barred if the criminal claim is time-barred. A ruling on the invalidity may be also rendered if the company is in liquidation.

Article 140
Submission of Statement of Subscription

The Incorporators within three months from the closing of the subscription shall submit to the Ministry a statement of the number of shares subscribed for, the subscribers' payment of the instalments due, the names of subscribers and their addresses, the number of shares subscribed for by each one of them, the value per share and the amount paid of such value as well as the names of subscribers whose subscriptions have been invalidated as result of vetting[114] the subscription applications.

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[112] See Article 147 regarding capital requirements of a Public Shareholding Company.
[113] In the Arabic original a verb is missing in this sentence. We have assumed that the term “to bear” is missing.
[114] See Article 130 on the obligation to vet the subscription applications.

The Ministry, if it becomes aware that certain provisions of this law have not been complied with in regard to the subscription or allotment of shares, shall submit a report to the constituent meeting and further inform the competent authorities of the violation.

Article 141
Calling of the Constituent Meeting of the Public Shareholding Company

The Incorporators shall invite the subscribers to the constituent meeting to be held within three months from the date of the closing of the subscription. If an invitation is not extended within this period, the Ministry shall invite the subscribers to the constituent meeting within fifteen days from the date after which this period has lapsed.

Article 142
Methods of Invitation to the Constituent Meeting of the Public Shareholding Company

The invitation to attend the constituent meeting shall include the agenda, time and venue of the meeting and shall be extended twice through Announcement or by any methods of modern announcement to be prescribed by the executive regulations. The second Announcement shall be made after a period of not less than seven days from the date of publication of the first Announcement and at least seven days before the meeting.

The Ministry must be notified in writing of the agenda, time and venue of the meeting at least seven days before the meeting in order for its representative to attend. Following notification of the Ministry, the meeting shall not be deemed invalid if such representative does not attend.

A person to be elected by the meeting for such purpose shall chair the constituent meeting.

Article 143
Quorum of the Constituent Meeting

The constituent meeting shall only be valid if attended by shareholders entitled to vote and representing more than half of the subscribed shares.

If such quorum is not met, the constituent meeting shall be invited to a second meeting with the same agenda to be held within a period of not less than seven days and not exceeding thirty days from the date of the first meeting. The second meeting shall be valid regardless of the number of attendees.

The constituent meeting shall not extend a new invitation for the second meeting if the date of the second meeting is provided for in the invitation to the first meeting.

Resolution shall be passed by majority of the shares present at the meeting.

Article 144
Report of the Incorporators

The Incorporators shall submit to the constituent meeting a report containing adequate information regarding all the procedures of incorporation and the expended amounts accompanied with supporting documents. Such report shall be placed at a location to be determined by the Incorporators in order to be accessed by subscribers at least seven days prior to the constituent meeting. This shall be noted in the invitation extended to subscribers to attend the meeting.

Article 145
Competency of the Constituent Meeting

The constituent meeting shall be concerned with the following matters:

1. Approving the company's incorporation procedures after verifying their validity and compliance with the provisions of the law and the Company Contract.

2. Approving the assessment of the in-kind shares, if any, as provided for in Article 11 of this law.

3. Electing the members of the first board of directors.

4. Electing the auditor and determining his remuneration.

5. Appointing members of the *Shari'a* supervisory board for companies, which operate in accordance with the provisions of Islamic *Shari'a*[115].

6. Declaring the completion of the incorporation of the company.

A copy of the minutes of the constituent meeting, including the resolutions passed, shall be sent to the Ministry. The Ministry may object to any resolution if it is inconsistent with the provisions of the law or the Company Contract. The objection must be justified, and the company shall be notified within five working days from the date of notifying the Ministry of the minutes of the meeting. In this case the resolution shall not be deemed enforceable and the Ministry shall request that the matter be presented to the constituent meeting to remedy the violation.

The first board of directors shall undertake the necessary procedures to register the company in the commercial register within thirty days from the date of declaration of the final incorporation of the company[116].

Article 146
Remediation of Incorporation Procedures

If the company was incorporated in violation of the provisions of this law, any party with an interest shall, within ninety days from the date of Proclamation, warn the company to remedy the violation. Should the company fail to undertake the remediation within thirty days from the date of warning, such party with an interest can petition the court, within a period of thirty days following the end of the aforementioned period, to order the company to undertake such rectification or rule the company invalid. The court may order the company to undertake the rectification or, if it is ascertained that the contravening procedure cannot be remedied, shall deem the company invalid.

Shareholders shall not rely on the invalidity of the company in rendering objections against third parties. In the event that the company is ruled to be invalid, the company shall be liquidated as a factual company[117]. The right to file a claim of invalidity shall be time-barred if the aforementioned time periods have not been observed.

The provisions of the two preceding paragraphs shall not be prejudicial to the right of the concerned parties to institute legal proceedings for joint liability against the Incorporators, the members of the first board of directors and the first auditors. This claim shall be time-barred on the later date of three years from either the Proclamation of the company in the commercial register or the date of the final judgment on invalidity of the company. If the violation constitutes an act subject to criminal liability, the liability lawsuit shall not be time-barred unless the criminal case is time-barred.

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[115] See Article 15 regarding the appointment of a *Shari'a* supervisory board.
[116] See also Article 145 No. 6 regarding the declaration of final incorporation of the company by the constituent meeting.
[117] See Article 29 regarding the factual company.

Chapter Three
Capital

Article 147
Formation of the Capital of the Shareholding Company

The company's capital must be sufficient enough to achieve its objectives, and shall be denominated in Kuwaiti currency. The executive regulation shall specify the minimum capital of the company according to the type of activity and the amount of capital to be paid at incorporation[118].

Article 148
Issued and Authorised Capital

The company shall have an issued capital representing the subscribed shares. The Company Contract may specify an authorized capital, which shall not exceed ten times the issued capital.

Article 149
Increase of the Issued Capital

The board of directors of the company may issue a resolution to increase the issued capital within the limits of the authorized capital, provided that the issued capital has been fully paid.

Article 150
Division of the Capital

The company's capital shall be divided into equal shares provided that the nominal value per share shall not be less than one hundred fils. The shares shall be indivisible. However, two or more persons may jointly own one share provided that one person shall represent them before the company. The partners in one share shall be jointly liable for the obligations resulting from such ownership.

The shares shall be issued at their nominal value and shall not be issued at a lower value unless the Supervisory Authorities grants their approval pursuant to the terms and criteria set out in the executive regulations.

Article 151
Division of Shares

Taking into account the minimum nominal value provided for in the previous article, the company, which has distributed profits for two consecutive financial years and after obtaining the approval of the Authority, may issue a resolution in an extraordinary general meeting to divide any of its shares into several shares, all in accordance with the rules and regulations prescribed by the executive regulations.

Article 152
Payment of the Value of Shares

The value of the share shall be paid in full or in instalments. The instalment payable at subscription may not be less than twenty-five per cent of the nominal value of the share.

The remaining amount of the value of the share shall be paid within a maximum period of five years from the date

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[118] Pursuant to Ministerial Decision No. 234 of 2015, the minimum capital for General Partnerships, Limited Partnerships, Partnerships Limited by Shares, Single Person Companies, Limited Liability Companies and sole proprietorships is KD 1,000. The minimum capital for a Closed Shareholding Company is KD 10,000 and for a Public Shareholding Company KD 25,000.

of Registration of the company in the commercial register, and at the dates set by the board of directors.

Article 153
Preferred Shares

The Company Contract may provide for the granting of certain privileges to certain types of shares with respect to voting, profits, liquidation proceeds or any other rights, provided that the shares of the same type shall be equal in respect of the rights, privileges and restrictions.

The privileges, rights or restrictions pertaining to a specific type of shares can only be amended by resolution of the extraordinary general meeting with the approval of two-thirds of the holders of the type of shares that are subject of the amendment.

The Authority shall issue the rules and regulations for issuing preferred shares and converting them into ordinary shares as well as the rules and procedures for their redemption by the company. The Authority shall also issue the rules and regulations on the trading of preferred shares[119].

Article 154
Central Depositary of Securities Issued by Public Shareholding Companies

Securities[120] issued by a Public Shareholding Company shall be subject to a central depository system for securities at a clearing agent. The depository receipt of the securities held at such clearing agent shall serve as title deed of the securities, and each owner shall be handed a receipt enumerating the securities he owns.

Article 155
Delay in the Payment of the Due Instalment

If a shareholder fails to pay the instalments owed for the shares when due, the Company shall, fifteen days following a notice to the shareholder, offer the shares for sale on the stock exchange[121].

The company shall have a first priority right to the proceeds of the sale in an amount equal to the value of unpaid instalments as well as the interest[122] and any expenses incurred by the company and shall then refund any excess amount to the shareholder. If the proceeds fall short of the company's entitlements, the company shall claim the difference from the shareholder.

Article 156
Shareholders' Register

The company shall have a special register to be held with a clearing agent, in which the names of the shareholders, their nationalities, their domicile and the number and type of shares owned by each one of them as well as the value paid for each share shall be recorded.

Any changes to the particulars recorded in the register shall be amended in the shareholders register in accordance with the particulars received by the company or the clearing agent.

Each party with an interest may request the company or clearing agent to provide it with details from the register.

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[119] See Chapter 13 of Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

[120] Securities (ورقة مالية) is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

[121] Stock Exchange is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

[122] See Article 102 Commercial Law (Decree Law No. (68) of 1980), which stipulates a legal interest rate of 7%.

Chapter Four
Adjustment of the Capital

Article 157
Increase of the Capital

The extraordinary general meeting may increase the authorized capital based on a reasoned proposal of the board of directors and a report of the auditor in this regard. The resolution of the capital increase shall provide for the amount and manner of the capital increase.

Article 158
Condition of Payment of the Original Shares in Full

The authorized capital may not be increased unless the value of the original shares has been paid in full. The extraordinary general meeting may authorize the board of directors to determine the date of its implementation[123].

Article 159
Methods of Capital Increase and Payment

The capital shall be increased by the issuing of shares which shall be subscribed for in one or more of the following ways:

1. Offering of the shares of the capital increase for public subscription.
2. Conversion of voluntary reserves[124], retained profits or amounts above the minimum statutory reserves[125] into shares.
3. Conversion of the company's debts, bonds or *Sukuk* into shares.
4. Offering of in-kind contributions.
5. Issuing new shares in favour of new shareholders to be presented by the board of directors and approved by the extraordinary general meeting.
6. Any other methods provided for in the executive regulations.

In all cases the nominal value of shares of the capital increase shall be equal to the nominal value of the original shares.

Article 160
Pre-emption Right to Subscribe

In the case of a capital increase by offering of shares for public subscription[126], the shareholders shall have a pre-emption right to subscribe for the new shares pro rata to their shareholding, to be exercised within fifteen days from the date of their notification, unless the Company Contract stipulates that the shareholders' pre-emption right to subscribe is waived.

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123 See Article 152 regarding the payment of the full value of the shares.
124 See Article 225 regarding voluntary reserves.
125 See Article 222 regarding statutory reserves.
126 See Article 159 No. 1 regarding the capital increase by offering of shares for public subscription.

A shareholder may assign[127] his pre-emption right to subscribe to another shareholder or a third party with or without consideration, subject to an agreement between the shareholder and the assignee.

The executive regulations shall set out the details and regulations for notification and assignment.

Article 161
Invitation of the Public to Subscribe

In the event of a capital increase by offering shares for public subscription, the public shall be invited to subscribe for the company's shares based on a subscription prospectus that contains the details and satisfies the requirements stipulated in Law No. (7) of 2010 and its executive regulations[128].

Article 162
Undersubscribed Capital Increase

If the capital increase has not been fully subscribed for, the body that resolved on the increase may decide to either retract the capital increase or limit the capital increase to the amount actually subscribed for.

The executive regulations shall provide for the procedures to be taken in this regard.

Article 163
Issuance Premium

The extraordinary general meeting may decide to issue the new shares with an issuance premium to the nominal value of such shares. The amount of the issuance premium shall be used to cover the expenses of issuance and the remainder shall be added to the reserves of the company[129].

The executive regulations shall set out the rules and criteria for determining the amount of the issuance premium.

Article 164
Assignment of Privileges to New Shares of the Capital Increase

If the Company Contract so permits, the extraordinary general meeting may decide to assign privileges to the new shares of the capital increase. The resolution must provide for the type of privileges granted to the shares[130].

Article 165
Capital Increase Issued against In-Kind Contributions

If the shares of the capital increase are issued against in-kind contributions, such shares shall be assessed in accordance with the provisions of Article 11 of this law, and the ordinary general meeting shall serve as the constituent meeting in this regard[131].

Article 166
Bonus Shares

If the capital is increased through the conversion of the voluntary reserves[132], retained profits or amounts above the minimum statutory reserves[133] into shares, the company can issue bonus shares at par without a premium and shall allot such shares to shareholders in proportion to their participation in the capital.

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[127] In the original Arabic language version of the law the broader term surrender (تنازل) is used, which in its legal usage also includes the assignment of rights.
[128] See Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).
[129] See Articles 222 *et seq*. on the creation of reserves.
[130] See Article 153 regarding preferred shares.
[131] See Article 11 paragraph 1.

Article 167
Conversion of Debt into Shares

If the capital is increased through the conversion of debt of the company, bonds or *Sukuk* into shares, the provisions stipulated in this law and its executive regulations shall be applied.

Article 168
Decrease of the Capital

The extraordinary general meeting may resolve, based on a reasoned proposal of the board of directors and following approval of the Authority, to decrease the company's capital in any of the following cases:

1. If the company's capital is higher than the its requirements.
2. If the company suffered losses that cannot be covered by the company's profits.
3. Any other cases specified by the executive regulations.

Article 169
Capital Decrease if in Excess of the Company's Needs

If the resolution to decrease the company's capital is because the capital exceeds the company's needs, the company shall pay all due debts and provide sufficient securities for debts that are not due, prior to the execution of the resolution on the capital decrease. In the event the due debts are not paid or the securities are insufficient to secure the debts that are not due, the creditors of the company may object to the resolution on the capital decrease before the competent court as determined by the executive regulations in this regard.

Article 170
Methods of Capital Decrease

The capital shall be decreased by one of the following means:

1. Decreasing the nominal value of the shares, but no less than the minimum nominal value required[134].
2. Cancelling a number of shares equal to the amount of capital to be decreased.
3. Purchasing by the company of a number of shares equal to the amount of capital to be reduced[135].

The executive regulations shall provide for the procedures on reducing the capital in each case.

Chapter Five
Disposition and Trading of Shares

Article 171
Disposition by the Incorporators of their Shares

The Incorporators may not dispose of their shares prior to the lapse of two financial years from the date of the company's Registration in the commercial register, with the exception of the disposal made by a Incorporator or his heirs to relatives of the second degree[136] or to another Incorporator, or the disposal by the bankruptcy

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[132] See Article 225 regarding voluntary reserves.
[133] See Article 222 regarding statutory reserves.
[134] Pursuant to Article 150 the minimum nominal value of a share in a Shareholding Company is one hundred fils.
[135] See Chapter 14 of Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) regarding treasury shares.
[136] See Articles 15 to 17 of the Civil Code (Law No. 67 of 1980) in respect of familial relations.

administrator[137], the State, public authorities or public institutions to third parties. Any disposal to the contrary shall be invalid. Each party with an interest may claim such invalidity before the court, which shall make such determination *motu proprio*.

Article 172
Disposition by the Shareholders of their Shares

The shareholders shall not dispose of their shares until after the publication of the company's first balance sheet for a period of at least twelve months, with the exception of the disposition made by a shareholder or his heirs to their relatives of the second degree[138] or to another shareholder, or the disposal by the bankruptcy administrator[139], the State, public authorities or public institutions to third parties.

Any disposal to the contrary shall be invalid. Each party with an interest may claim such invalidity before the court, which shall make such determination *motu proprio*.

Article 173
Trading in Shares to be governed by Law No. (7) of 2010

The trading in shares shall be governed by the provisions of Law No. (7) of 2010 and the rules issued by the Authority in this regard[140].

Article 174
Seizure and Pledge of Shares

The assets of the company shall not be used to settle debts owed by one of the shareholders. However, the shares held by a debtor and the dividends thereon may be seized, and such seizure shall be recorded with respect to such shares in the shareholders' register[141]. Such shares shall be sold even if the creditor who seized the share does not submit the original of the relevant depository receipt[142]. The clearing agent shall carry out the necessary amendments to the shareholders' register according to the outcome of the sale procedures.

Shares may be pledged even if their value has not been paid in full. The pledge shall be registered in the shareholders' register in the presence of the pledgor and the pledgee or their representatives.

The debtor[143] may assign his right to attend and vote in the general meetings of the company to the creditor[144].

All resolutions taken by the general meeting shall apply to the creditor who seized the shares and to the pledgee in the same manner as these would apply to the shareholder whose shares have been seized or pledged.

Article 175

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137 According to Article 566 of the Commercial Law (Decree Law No. (68) of 1980), a bankruptcy administrator is appointed by the Court of First Instance which reviews bankruptcy claims, and according to Article 627, this appointment is subject to the regime governing the profession of bankruptcy administrators.

138 See Articles 15 to 17 of the Civil Code (Law No. 67 of 1980) in respect of familial relations.

139 According to Article 566 of the Commercial Law (Decree Law No. (68) of 1980), a bankruptcy administrator is appointed by the Court of First Instance which reviews bankruptcy claims, and according to Article 627, this appointment is subject to the regime governing the profession of bankruptcy administrators.

140 See Book 10 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

141 See Article 156 regarding the shareholders' register.

142 See Article 154 regarding depository receipts.

143 The "debtor" in this case is the pledgor.

144 The "creditor" in this case is the pledgee.

Dividend Shares

Following approval of the extraordinary general meeting, the company may repay the nominal value of some of its shares to its shareholders and such value shall be paid from the undistributed profits and voluntary reserves[145] of the company.

The holders of such repaid shares shall be granted dividend shares, which shall have the same rights as ordinary shares, except the recovery of the nominal value in the event of liquidation of the company.

Article 176
Incorporation Shares and Profit Shares

Incorporation shares[146] may not be issued. However, profit shares may be issued by resolution of the extraordinary general meeting against payment of non-interest bearing amount to the company following its incorporation. The owner of a profit share shall not be a shareholder in the company. He shall not be entitled to any of the shareholder rights throughout the existence of the company or its liquidation, except for the profit share allotted to him and shall be subject to the resolutions of the ordinary general meeting of the company in respect of the annual accounts of profits and losses. The executive regulations shall set out the manner of trading in, and cancelling of such shares.

Chapter Six
Shareholders' Rights and Obligations

Article 177
Members of the Shareholding Company

The Incorporators and shareholders shall be considered members in the company and all enjoy equal rights and are subject to the same obligations, subject to the provisions of law.

Article 178
Rights of the Members in the Shareholding Company

A member in the company shall particularly enjoy the following rights:

1. Receiving profits and bonus shares[147] that are resolved to be distributed.

2. Participating in the management of the company through membership in the board of directors and attending the general meetings and taking part in its discussions, in accordance with the provisions of the law and the Company Contract. Any provision in the Company Contract to the contrary shall be null and void.

3. Receiving, at least seven days prior to the ordinary shareholders' meeting, the company's financial statements of the last accounting period as well as the board of directors report and the auditor’s report.

4. Disposing of the shares owned by him and the pre-emption right to subscribe for new shares and bonds or *Sukuk* in accordance with the provisions of this law and the Company Contract.

5. Receiving a share of the company's assets on liquidation following repayment of its debts.

Article 179
Obligations of the Members in the Shareholding Company

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[145] See Article 225 regarding voluntary reserves.

[146] An Incorporation Share is any instrument that gives the Incorporator a right to dividends in the company without participation in the equity and is granted as consideration for services rendered at the time of incorporation.

[147] See Article 166 regarding bonus shares.

A member in the company shall be subject to the following obligations:

1. Payment of the instalments on the shares he holds on the due date and payment of any delay penalties.

2. Payment of the expenses incurred by the company in order to collect any instalments remaining unpaid on the value of the shares. The company may satisfy its claim out of the shares.

3. Enforcing the resolutions made by the general meeting of the company.

4. Refrain from committing any acts that are detrimental to the company's financial or moral interests and compensating any damages resulting from such acts.

5. Following the rules and procedures established in respect of the trading in shares[148].

Article 180
Resolutions Prohibited to be Issued by the General Meeting

The general meeting of the shareholders may not:

1. Increase the financial burdens of shareholders or increase the nominal value of the shares.

2. Reduce the percentage of net profits to be distributed to shareholders as specified in the Company Contract.

3. Imposing new conditions other than those stated in the Company Contract relating to a shareholder's entitlement to attend and vote in the general meeting.

Resolutions to the contrary may be passed if accepted by all shareholders in writing or by a unanimous vote in which all shareholders take part and following approval of the Authority and satisfaction of the measures required for amendment of the Company Contract.

Chapter Seven
Management of the Shareholding Company

A. The Board of Directors

Article 181
Formation of the Board of Directors and Term of Membership

A board of directors shall manage the company, the formation of which and the number of its members shall be set out in the Company Contract. The members of the board of directors may not be less than five. A term of board membership shall be three years, subject to renewal.

If a new board of directors is not elected at the specified time, the existing board of directors shall continue to manage the operations of the company until the grounds therefore are eliminated and a new board of directors is elected.

Article 182
Election of the Members of the Board of Directors

The shareholders shall elect the members of the board of directors by secret ballot. The Company Contract may stipulate that no more than half of the members of the first board of directors shall be elected from among the Incorporators.

Article 183

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[148] See Book 10 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

Chairman and Deputy Chairman of the Board of Directors

The board of directors shall elect by secret ballot a chairman of the board of directors and a deputy chairman. The chairman shall represent the company in its relations with any third parties and before the judiciary in addition to assuming other functions set out in the Company Contract. The chairman's signature shall be deemed the signature of the board of directors in regard to the dealings of the company towards any third party. The chairman shall execute the resolutions of the board of directors and shall be bound by its recommendations. The deputy chairman shall take the place of the chairman in the absence of the chairman or if the chairman is hindered to exercise his powers and functions.

The company shall have one chief executive officer or more to be appointed by the board of directors from amongst or outside its members. The chief executive officer shall be assigned the task of managing the company. The board of directors shall determine his remuneration and his powers to sign on behalf of the company. The positions of chairman of the board of directors and chief executive officer shall not be combined.

Article 184
Powers of the Board of Directors

The board of directors can exercise all acts required for running the company in accordance with the objectives of the company. Its authority may only be restricted by the provisions of law or the Company Contract or resolution so of the general meeting.

The Company Contract shall state the extent to which the board of directors may borrow monies and mortgage the company's real properties and conclude guarantee agreements, arbitration, settlement and donations.

Article 185
Organisation of Tasks of the Board of Directors

The board of directors may distribute tasks among its members in accordance with the nature of the company's operations. The board of directors may delegate to one of its members or to committees formed from among its members or third parties one or more functions or the responsibility to oversee a certain aspect of the company's activities or the task to exercise some of the powers or authorities vested in the board of directors.

Article 186
Corporate Governance Principals

The concerned Supervisory Authorities shall set the principles of corporate governance of the companies that are subject to their respective supervision, in a manner that ensures the best protection and balance between the interests of the management of the company and its shareholders, as well as, other interested parties in relation to it. In addition, the principles shall set out the requirements to be satisfied by the independent members of the board of directors[149].

Article 187
Independent Members

The Supervisory Authorities may require that companies subject to their supervision shall include in the boards of directors one or more qualified and experienced independent members, to be elected by the ordinary general meeting. Their remuneration shall be determined on the basis of the principals of corporate governance. The number of independent members shall not exceed half the number of members of the board of directors. Independent members of the board of directors are not required to be shareholders in the company[150].

Article 188

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[149] See Article 187 regarding independent members of the board of directors.

[150] See Article 193 No. 3, which requires that each member of the board of directors hold a number of shares in the company.

Appointment of Members of the Board of Directors

A shareholder, be it a natural or legal person, may appoint its representatives to the board of directors of the company in equal proportion to its shareholding. The number of appointed members of the board of directors shall be deducted from the aggregate number of members of the board of directors to be elected. Shareholders having appointed representatives to the board of directors may not take part with other shareholders in electing the remaining members of the board of directors, except with the shares not used in appointing the representative to the board of directors. A number of shareholders may form an alliance to jointly appoint one or more of their representatives in the board of directors in proportion to their joint shareholding.

The appointed members of the board of directors shall have the same rights and duties as the elected members.

A shareholder shall be responsible for the acts of his appointed representative towards the company, its debtors and shareholders.

Article 189
Amounts Payable to Representatives of the State in the Board of Directors

All monetary amounts payable in respect of appointed representatives of public institutions, public authorities and fully state owned companies in the board of directors of companies they are shareholders in, shall be paid directly to such public institutions, pubic authorities and state owned companies. The chairman of the board of directors shall pay such amounts directly to aforementioned entities within one week of the date such amounts become due. The aforementioned entities shall determine the remunerations and salaries to be paid to their appointed representatives to the board of directors.

Article 190
Validity of the Meeting of the Board of Directors

Subject to the Company Contract stipulating a higher quorum or number of members, the meeting of the board of directors shall only be valid if attended by half of the members, provided that the number of those present shall not be less than three members. Participation via modern communication methods shall be permissible. Resolutions may be passed by way of circulation, subject to the approval of all members of the board of directors.

The board of directors shall meet at least six times a year, unless the Company Contract stipulates a greater number of meetings.

Article 191
Minutes of the Meeting of the Board of Directors

The minutes of the meetings of the board of directors shall be recorded and signed by the attending members and the secretary of the board. A member who does not agree to a decision made by the board of directors can record his objection in the minutes of the meeting.

Article 192
Occupying Vacant Positions

If a membership position in the board of directors becomes vacant, it shall be occupied by the person who obtained most of the votes of those who failed to win the vote for membership in the board of directors. If for any reason this is not possible, it shall be occupied by the next such person. The new member of the board of directors shall only complete the term of his predecessor.

However, if one quarter of the initial positions become vacant, the board of directors shall invite the ordinary general meeting to convene within two months as of the date the last such position becomes vacant and shall elect new members to occupy the vacant positions.

Article 193

Requirements for Membership in the Board of Directors

Any person nominated for membership in the board of directors shall meet the following requirements:

1. He shall have the legal capacity to act.

2. He shall not be convicted of a criminal offence with the punishment of incarceration, the crime of negligent bankruptcy[151] or fraud[152], crime against honour or honesty[153] or any crime in violation of the provisions of this law, unless he has been rehabilitated.

3. With the exception of independent members[154], he shall personally hold or be the representative of someone who holds a number of shares in the company.

If a member of the board of directors fails to satisfy any of the above requirements or any other requirements as may be stipulated in this law or any other laws, he shall lose the capacity to be a member as of the date such requirement falls away.

Article 194
Multiple Board Memberships

A person, even if in the capacity of a representative of a natural or legal person, may not be a member of the board of directors of more than five Public Shareholding Companies headquartered in Kuwait and shall not be chairman of the board of directors of more than one Shareholding Company headquartered in Kuwait. Failing to comply with this clause shall invalidate his membership in the companies last joined as a board member and which exceed the stipulated number, together with any consequences thereof; without prejudice to any right of any *bona fide* third parties. Any person who violates such requirements shall pay back to the company, where his membership has been invalidated, any remunerations or benefits he may have received.

Article 195
Exploitation of Information

The chairman or a member of the board of directors, even if he is representing a natural or legal person, may not exploit any information received by him in his position to gain any benefit for himself or for any third party. Furthermore, he may not dispose[155], in any way whatsoever, over any shares of the company in which he is a member of the board of directors during his tenure unless he receives the approval of the Authority. The Authority shall issue the rules regulating the trading of shares in the company and manner of disclosure[156].

Article 196
Disclosure by Members of the Board of Directors

The members of the board of directors may not disclose to shareholders, other than through the general meeting, or to any third parties any secrets of the company they may come to know of during the course of their directorship, otherwise they shall be removed and be liable for any damages resulting from such violation.

Article 197
Prohibition of Competition

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151 See Article 790 of the Commercial Law (Law No. 68 of 1980).
152 See Articles 151 to 155 of the Civil Code (Law No. 67 of 1980).
153 This is a broad category without a comprehensive legal definition which includes, among other crimes, stipulated in the Penal Code (Law No. 16 of 1960) the crimes of perjury (Articles 136 to 139), slander and cursing (Articles 209 to 216), and theft, deceit, and betrayal of trust (Articles 217 to 242).
154 See Article 187 regarding independent members of the board of directors.
155 The disposition of shares includes pledging and lending, among others, in addition to selling such shares.
156 See Book 10 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

The chairman and the members of the board of directors may not participate in the board of directors of two competiting companies, may not participate in any activity that would compete with the company, or trade for their own account or the account of third parties in a field that is traded in by the company. In the event of violation of these rules and if not approved by the ordinary general meeting, the company shall be entitled to claim compensation or to consider the activities exercised by the member for his own account to have been exercised to the account of the company.

Article 198
Remuneration of the Members of the Board of Directors

The Company Contract shall set out the manner of determining the remunerations of the chairman and the members of the board of directors. The aggregate of such remunerations may not exceed ten per cent of the net profits after deducting any depreciation[157] and reserves[158] and distributing profit dividends of at least five per cent[159] of the company's capital to shareholders or any greater percentage, as may be stipulated by the Company Contract.

However, an annual remuneration of Six Thousand Kuwaiti Dinars may be distributed to the chairman and each member of the board of directors as of the date of incorporation of the company until it realizes sufficient profits that allow the company to pay the remunerations in accordance with the aforementioned paragraph. Subject to a resolution of the ordinary general meeting, the independent members of the board of directors may be exempt from the limits set for the remunerations.

The board of directors shall prepare an annual report to be submitted to the ordinary general meeting for approval setting out in detail the amounts, benefits and advantages received by members of the board of directors, whatever their nature or designation.

Article 199
Conflicts of Interest

No person who has appointed a representative to the board of directors, the chairman or any member of the board of directors, any member of the executive management nor their respective spouses or relatives of the second degree[160], may have any direct or indirect interest in the contracts and acts concluded with the company or to the account of the company, except with prior authorization of the ordinary general meeting.

Article 200
Lending to Related Parties

With the exception of banks and companies that may extend loans[161], the company may not grant a loan to any member of the board of directors or the chief executive officer or their respective spouses or relatives of the second degree[162] or their subsidiary company[163], unless there is a special authorization by the company's ordinary general meeting. Any loan granted to the contrary shall not be enforceable against the company, without prejudice to the rights of *bona fide* parties.

Article 201

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157 See Article 223 regarding deductions for depreciation.
158 See Articles 222 *et seq*. on the creation of reserves.
159 See Article 226 regarding distribution of profit dividends. Also see Article 222 on the use of statutory reserves to distribute profit dividends of up to 5 per cent of the paid up capital.
160 See Articles 15 to 17 of the Civil Code (Law No. 67 of 1980) in respect of familial relations.
161 See Central Bank of Kuwait rules and regulations for banks' extension of consumer loans and other installment loans and rules and regulations concerning investment companies granting of consumer loans and other installment loans.
162 See Articles 15 to 17 of the Civil Code (Law No. 67 of 1980) in respect of familial relations.
163 Subsidiary company is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) as a company in which a person holds more than 50% of the company's capital.

Liability of the Members of the Board of Directors

The chairman and the members of the board of directors are responsible towards the company, its shareholders and any third party for any acts of fraud or misuse of power, for any violations of the law and the Company Contract and any management errors.

A lawsuit for liability may not be precluded by a resolution of discharge of the members of the board of directors[164] by the general meeting. The members of the board of directors may not participate in the vote of the general meeting regarding the discharge of their responsibility for their management or in decisions that pertain to a special benefit for them or their spouses or relatives of the first degree[165] or relating to any dispute between them and the company.

Article 202
Personal and Joint Liability

The liability stipulated in the previous article shall either be personal, pertaining to an individual member, or joint among all members of the board of directors. In the latter case, the members shall be jointly liable for compensation, unless a certain group of them has raised an objection against the resolution that has led to such liability and such objection was recorded in the minutes of the meeting.

Article 203
Liability Claim against Members of the Board of Directors

The company shall be entitled to file a liability lawsuit against members of the board of directors, because of any errors resulting in any damages to the company. If the company is in the process of liquidation, the liquidator shall be responsible to file the lawsuit.

Article 204
Right of Shareholders to File a Liability Lawsuit

Any shareholder shall be entitled to personally file a liability claim on behalf of the company, in case the company fails to file such a claim. In this case, the company shall be made party to the claim in order to obtain a judgment of compensation in its favour.

Furthermore, a shareholder may file his personal claim of compensation, if the error has caused him damages. Any stipulation in the Company Contract to the contrary shall be null and void.

Article 205
Statute of Limitation of Claims against Members of the Board of Directors

The liability claim shall lapse five years as of the date of the general meeting passing the resolution of discharging the board of directors of its responsibility or establishing an error. However, if the act attributed to the members of the board of directors constitutes a criminal offence, the lawsuit shall not lapse unless the criminal lawsuit lapses.

Chapter Eight
B. The General Meeting

Article 206
Convening of the Annual General Meeting

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[164] See Article 211 No. 6.
[165] See Articles 15 to 17 of the Civil Code (Law No. 67 of 1980) in respect of familial relations.

The annual ordinary general meeting shall be convened at the invitation of the board of directors within three months following the end of the financial year, at the place and time to be specified in the Company Contract. The board of directors can invite the general meeting whenever necessary. It shall invite the general meeting at the reasoned request of shareholders holding at least ten per cent of the capital in the company or upon the request of the auditor, within fifteen days as of the date of such request. The body requesting the meeting shall prepare the agenda of the meeting.

The invitation procedures of the general meeting, quorum and voting shall be subject to the provisions stipulated for the meeting of the constituent meeting[166].

Article 207
Convening of the General Meeting by Invitation of the Ministry

The Ministry shall invite the general meeting to convene within fifteen days, if the general meeting has not been invited by the board of directors for any reason, in cases where the board of directors is obliged to call the general meeting.

The Ministry shall assume the role of the board of directors in taking the necessary measures to convene the meeting and may preside over the meeting, unless the general meeting elects a shareholder for this purpose.

Article 208
Right to Attend the General Meeting

Each shareholder, regardless of the number of the shares he owns, shall have the right to attend the general meeting, and shall have a number of votes equal to the number of the votes established for that class of shares held in the company. A shareholder shall not vote for himself or for whomever he represents in matters in which he has a personal interest or on a dispute between him and the company. Any provision or resolution to the contrary shall be null and void. Any shareholder may appoint another person to attend the general meeting on his behalf under a specific power of attorney or delegation[167] to be prepared by the company for this purpose.

Any person who claims a right to shares that is in contradiction to what is set out in the company's shareholders register[168] may apply to the Judge of Urgent Matters[169] to issue an order to deny the disputed shares from voting for a period to be specified by the judge or pending the resolution on the dispute by the competent court in accordance with the procedures prescribed in the Civil and Commercial Procedure Law.

Article 209
Cumulative Voting

The Company Contract may stipulate cumulative voting as the mechanism for electing the members of the board of directors, which entitles each shareholder to a number of votes equal to the number of shares owned by him. He is entitled to use his votes to vote for one candidate or to distribute such votes among a number of candidates, without any of such votes being able to be used more than once.

Article 210
Chairing of the General Meeting

The general meeting shall be chaired by the chairman of the board of directors, the deputy chairman or a person delegated by the board of directors for this purpose or a person elected by the general meeting from among the

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166 See Articles 141 *et seq.* regarding the relevant provisions of the constituent meeting

167 Contrary to delegation (تفويض), the power of attorney (توكيل) is an authorisation that has been authenticated pursuant to Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965).

168 See Article 156 regarding the shareholders' register.

169 See Article 31 of the Law of Civil and Commercial Procedures (Law No. 38 of 1980).

shareholders or third parties.

Article 211
Competency of the Ordinary General Meeting

Subject to the provisions of the law and the Company Contract, the ordinary general meeting at its annual meeting shall be able to resolve on any matters falling under its competencies and in particular the following:

1. The board of directors' report on the company's activities and its financial position for the last financial year.

2. The auditor's report regarding the financial statements of the company.

3. Report on any violations noted by Supervisory Authorities and in respect of which the company has been penalized.

4. The financial statements of the company.

5. Proposal of the board of directors on the distribution of profits.

6. Discharge of the members of the board of directors.

7. Election and removal of members of the board of directors and determination of their remunerations.

8. Appointment of the company's auditor and determination of his remuneration or authorization of the board of directors to determine the remuneration.

9. Appointment of the *Shari'a* supervisory board for companies that operate in accordance with the provisions of Islamic *Shari'a* and hearing the report of such board[170].

10. Report on the transactions that have been or will be carried out with related parties[171] and identification of the relevant parties in accordance with international accounting principles[172].

Article 212
Removal of Members and Dissolution of the Board of Directors

The ordinary general meeting of the company may by resolution remove the chairman or any one or more members of the board of directors or dissolve of the board of directors and elect a new board of directors on the basis of a proposal made by shareholders owning at least one quarter of the company's issued share capital.

If a resolution is issued to dissolve the board of directors, and the election of a new board of director fails at the same meeting, the general meeting may choose to either order the current board of directors to continue to manage the company's affairs until the election of the new board or appoint a temporary administrative committee, whose main objective is to invite the general meeting to elect the new board, within one month of its appointment.

Article 213
Agenda of the Ordinary General Meeting

The ordinary general meeting may not discuss matters not included in the agenda, unless they are urgent matters that have been raised after setting the agenda or arise during the meeting, or if so requested by a Supervisory Authority,

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[170] See Article 15 regarding the appointment of a *Shari'a* supervisory board.
[171] See Article 199 on conflict of interest and Article 200 on lending to related parties.
[172] As per the Ministerial Resolution Regarding Obligating Companies and Institutions to Comply with International Accounting Standards in Preparing Their Financial Data (Ministerial Resolution of the Ministry of Commerce and Industry No. 18 of 1990), the International Financial Reporting Standards apply in Kuwait.

the auditor or shareholders holding five per cent of the company's capital. If during the discussions it is established that the information related to matters presented is insufficient, the meeting shall be postponed by no more than ten working days if so is requested by shareholders representing a quarter of the issued capital. The postponed meeting shall take place without the need for a new invitation.

Article 214
Implementation of the Resolutions of the General Meeting

The board of directors shall implement the resolutions of the general meeting, unless such resolutions are in violation of the law or the Company Contract. The board of directors shall present the resolutions it considers in violation of the law or the Company Contract again to the general meeting in a meeting called for to discuss the aspects of the violation.

Article 215
Application of the Rules of the Ordinary to the Extraordinary General Meeting

The provisions applicable to the ordinary general meeting shall apply to the extraordinary general meeting, subject to the provisions set forth in the following articles.

Article 216
Convening of the Extraordinary General Meeting

The extraordinary general meeting shall meet at the invitation of the board of directors, or upon a reasoned request of shareholders representing fifteen per cent of the company's issued capital or a request of the Ministry. The board of directors must call for the extraordinary general meeting to meet within thirty days from the date of submission of the request.

If the board of directors does not call the extraordinary general meeting during the period specified in the preceding paragraph, the Ministry shall call the meeting within a period of fifteen days from the expiration of the date of the period referred to in the preceding paragraph.

Article 217
Quorum and Resolutions of the Extraordinary General Meeting

The extraordinary general meeting shall not be valid unless attended by shareholders representing three-quarters of the company's issued capital. If this quorum is not ascertained; an invitation to a second meeting shall be extended and the second meeting shall be valid if attended by shareholders representing more than half of the issued capital.

Resolutions shall be passed by a majority of more than half of the total shares of the company's issued capital.

Article 218
Competency of the Extraordinary General Meeting

Taking into account the other competencies prescribed by the law, the extraordinary general meeting shall be competent to discuss the following matters:

1. Amendment of the Company Contract.

2. Sale of the whole project for which the company has been established or a disposition in any other way.

3. The company's dissolution, merger, transformation or division.

4. Increase or decrease of the company's capital.

Article 219

Effectiveness of the Resolutions of the Extraordinary General Meeting

Any resolution issued by the extraordinary general meeting shall not be effective until its Proclamation.

The approval of the Ministry shall be obtained if the resolution is related to the company's name, objectives or capital, except for a capital increase through the issuance of shares against profits generated by the company or against reserves that are permitted to be used for such purpose[173].

Article 220
Claim of Invalidity and Challenge of Resolutions of the Extraordinary General Meeting

Each shareholder may file a claim on the invalidity of any resolution of the board of directors, ordinary general meeting or extraordinary general meeting that is in violation of the law or the Company Contract or if its aimed at harming the interests of the company. In addition, compensation can be requested when filing such claim. The invalidity claim shall be time-barred two months from the date of the resolution of the general meeting or the date on which the shareholder gained knowledge of the resolution of the board of directors.

Resolutions of the ordinary general meeting and extraordinary general meeting that prejudice the rights of minority shareholders, may be challenged before the court. The challenge can be made by shareholders holding at least fifteen per cent of the issued capital of the company and who have not agreed to such resolution. The lawsuit challenging such resolutions shall be time-barred two months from the date of the resolution of the general assembly. The court may uphold, modify or repeal the resolution or postpone the execution of the resolution until an appropriate settlement for the purchase of the shares of the dissenting parties is reached, provided that such shares shall not be purchased from the company's capital.

Chapter Nine
Accounts of the Company

Article 221
Financial Year of the Shareholding Company

The company shall have a financial year of not less than twelve months. The Company Contract shall provide for the commencement date and the expiration date of the financial year, with the exception of the first financial year, which shall commence on the date of Registration of the company in the commercial register and shall end on the date fixed for the end of the next financial year.

The board of directors shall prepare an annual report for the financial year that has ended and the executive regulations shall provide for further details in this regard.

Article 222
Statutory Reserves

A percentage of not less than ten per cent of the net profits of the company shall be deducted annually by resolution of the ordinary general meeting upon proposal of the board of directors to form the statutory reserve of the company.

The ordinary general meeting may cease such deductions, if the statutory reserves are higher than half of the company's issued capital.

Statutory reserve may be used only to cover the company's losses or to ensure the distribution of dividends to shareholders of up to five per cent of the paid-up capital, in the financial years in which the company's profits do not

[173] See Article 159 No. 2 regarding the conversion into shares of retained profits, voluntary reserves or amounts above the minimum legal reserves.

allow the distribution of such a percentage and the lack of a voluntary reserves[174] that allow the distribution of such percentage of the profits.

Any amounts deducted from the statutory reserve shall be refunded if the profits of the following years so permit, unless the amounts in the statutory reserve are more than half the amount of the issued capital.

Article 223
Depreciation

A certain percentage to be specified in the Company Contract or by the board of directors after consulting the auditor shall be deducted annually from the gross profits for the depreciation of the assets of the company. Such percentage shall be used to purchase or repair materials, machinery, equipment and facilities and shall not to be distributed to shareholders.

Article 224
Deductions for Obligations under Labour and Social Security Laws

The ordinary general meeting shall resolve to deduct a percentage of the profits to meet the company's obligations under the labour[175] and social security laws[176].

The Company Contract may provide for the establishment of a special fund to subsidise the company's workers and employees.

Article 225
Voluntary Reserves

A percentage of not less than ten per cent of the net profits of the company shall be deducted annually by a resolution of the ordinary general meeting upon the proposal of the board of directors to form a voluntary reserve of the company for the purposes identified by the ordinary general meeting.

Article 226
Distribution of Profits

Subject to the provisions contained in the Company Contract, the ordinary general meeting, upon the proposal of the board of directors, may distribute profits at the end of the financial year to shareholders. Such distribution shall be valid if the profits are real[177], if these are made in accordance with the generally accepted accounting principles[178], and do not affect the paid-up capital of the company.

Chapter Ten
Auditor

Article 227

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174 See Article 225 regarding voluntary reserves.

175 These obligations are set out in the provisions of the Labour Law (Law No. 6 of 2010) and include salary pay, holiday entitlements, and end of service indemnities.

176 These obligations are set out in the provisions of a number of laws including Law No. 3 of 1960 and the Social Security Law No. 61 of 1976 and include security coverage of retirement salaries, old age, illness, and death.

177 This is to be read as meaning not fictitious.

178 As per the Ministerial Resolution Regarding Obligating Companies and Institutions to Comply with International Accounting Standards in Preparing Their Financial Data (Ministerial Resolution of the Ministry of Commerce and Industry No. 18 of 1990), the International Financial Reporting Standards apply in Kuwait.

Appointment of the Auditor

Subject to the provisions of law No. (7) of 2010 referred to above, the Public Shareholding Company shall have one or more auditors to be appointed by the ordinary general meeting following approval of Central Bank of Kuwait with regard to companies subject to its supervision. The company's Incorporators may appoint one or more auditors until the constituent meeting is convened[179].

In exceptional and urgent cases, in which the auditor appointed by the general meeting cannot carry out his duties for any reason, the board of directors may appoint a replacement, provided that the matter shall be discussed in the first convening of the general meeting in order to be resolved.

Article 228
Independence of the Auditor

The auditor shall not be the chairman or a member of the board of directors of the company the accounts of which he is auditing, nor a person assuming any administrative tasks or supervising its accounts, nor a relative of the second degree[180] of a person overseeing the company's management or accounts. During his term the auditor shall not purchase or sell shares in or assume any consultation services for the company the accounts of which he is auditing.

Article 229
Right of the Auditor to Inspect

The auditor shall at any time have the right of access to the company's books, registers and documents and may request any details he deems necessary. He shall also have the right to verify the company's assets and liabilities.

If the auditor is unable to exercise such rights, he shall report this in writing to the board of directors, which shall submit this to the ordinary general meeting and shall serve the Ministry and the Authority with a copy thereof.

Article 230
Auditor's Report

The Auditor or his authorized accountants who participated with him in the audit shall attend the ordinary general meeting and shall submit a report on the company's financial statements and whether such statements reflect the company's balance sheet at the end of the financial year and the results of the company for such year and whether the data contained in the board of directors' report are consistent with the facts established in the company's books and documents in accordance with the generally accepted auditing principles[181] and the provisions of this law.

If the company has one or more auditors, they shall prepare a joint report. Should there be disagreement between the auditors regarding certain issues, such disagreement shall be recorded in the report and the point of view of each of them shall also be provided.

The report shall in particular include the following details:

1. Whether the auditor obtained the information he deemed necessary for doing his work satisfactorily.

2. Whether the balance sheet and the profit and loss account conform to the facts, and include all what is provided for in the law and in the Company Contract and honestly and clearly reflect the actual financial position of the company.

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179 See Articles 141 to 145 on the convening and competencies of the constituent meeting.
180 See Articles 15 to 17 of the Civil Code (Law No. 67 of 1980) in respect of familial relations.
181 As per the Ministerial Resolution Regarding Obligating Companies and Institutions to Comply with International Accounting Standards in Preparing Their Financial Data (Ministerial Resolution of the Ministry of Commerce and Industry No. 18 of 1990), the International Financial Reporting Standards apply in Kuwait.

3. Whether the company maintains proper accounts.

4. Whether the inventory undertaken by the company has been carried out in accordance with the accepted practices.

5. Whether the data included in the report of the board of directors is in conformity with what is stated in the company's books.

6. Whether there have been violations of the provisions of the law or the Company Contract during the financial year and whether these violations still exist, to the extent such information is made available to the auditor.

7. Any other data prescribed by the executive regulations.

Article 231
Confidentiality of Data and Information

The auditor shall during and after the completion of his work in the company maintain the confidentiality of data and information that he has accessed by virtue of his work, shall not use such data and information to gain a benefit for himself or for a third party and shall not disclose any secrets concerning the company.

Should the auditor violate the duties referred to in the preceding paragraph, he may be dismissed and claims may be made against him for compensation, if applicable.

Article 232
Liability of the Auditor

The auditor shall be liable for the financial statements contained in his report and for any damage sustained by the company, the shareholders or others due to a fault committed in the course and by reason of his work. If the company has more than one auditor, they shall be jointly liable unless one of them proves that he was not involved in such fault that caused the liability.

The auditor shall be liable for damages sustained by the company as a result of his resignation at an inappropriate time.

Each shareholder shall have the right to discuss, at the ordinary general meeting, the report of the auditor and seek clarifications on its contents.

Article 233
Replacement of the Auditor

The board of directors or a number of shareholders holding at least twenty-five per cent of the issued capital may request the replacement of the auditor during the financial year.

Any resolution taken regarding the replacement without following the procedures prescribed by the executive regulations shall be null and void.

Section Ten
Closed Shareholding Company

Article 234
Definition of the Closed Shareholding Company

The shares in the capital of the Closed Shareholding Company shall only be subscribed for upon incorporation by

the Incorporators.

Members of the board of directors shall not be less than three and the membership in the company's board of directors shall not be counted towards the allowable maximum number of memberships[182]. A person shall have the right to be the chairman of the board of directors of more than one Closed Shareholding Company[183]. The company shall also have the right to have a chief executive officer from among the members of the board of directors or from outside. A member of the board of directors may dispose of his shares in the company during his membership in the board, without prejudice to the restrictions relevant to disposal of shares set out in this law or in the Company Contract[184].

With the exception of the provisions contained in this section, the provisions contained in this law in respect of the Public Shareholding Company shall apply to the Closed Shareholding Company.

Article 235
Incorporation of the Closed Shareholding Company

Other than companies holding concessions or monopolies, Closed Shareholding Companies may be established without a decision of the Minister by a written authenticated document[185] to be issued by all the Incorporators, who shall not be less than five. This document shall include the Company Contract and the following representations:

1. The Incorporators have subscribed for all shares and deposited the amount of the value of the shares as prescribed by law in one of the local banks at the disposal of the company.

2. In-kind contributions have been assessed in accordance with the provisions of the law and have been fully made.

3. The Incorporators have appointed the necessary administrative bodies of the company.

4. The official document[186] shall be maintained together with a copy of the papers and documents supporting the foregoing representations.

In all cases, the name of the company shall be followed by the phrase (Kuwaiti Shareholding Company Closed or K.S.C.C.).

Article 236
Acquiring of Legal Personality by the Closed Shareholding Company

A Closed Shareholding Company shall not acquire legal personality and shall not commence its operations prior to its Proclamation.

Article 237
Methods of Inviting the Constituent Assembly of the Closed Shareholding Company

The invitation to attend the constituent meeting shall include the agenda, time and venue of the meeting and shall be extended by one of the following methods:

1. Registered letters to be sent to all subscribers at least two weeks before the meeting.

2. Announcement, which shall be made twice, provided that the second Announcement shall be made after a

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[182] See Article 194 regarding restrictions on the number of board memberships in Public Shareholding Companies.
[183] See Article 194 regarding restrictions on the number of chairmanships in Public Shareholding Companies.
[184] See also Article 195 regarding restrictions on disposal of shares in a Public Shareholding Company.
[185] See Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965).
[186] Within the meaning of Article 2 of the Authentication Law (Law No. (4) of 1961 as amended by Law No. (1) of 1965) an "authenticated document" is one authenticated as required by law by a notary public.

period of not less than seven days from the date of publication of the first Announcement and at least seven days before the meeting.

3. Delivery by hand to the shareholders or their legal representatives at least one day before the date of the meeting. The recipient shall sign on the copy of the invitation to prove receipt;

The executive regulations may provide for other ways to call for the meeting via modern methods of communication.

Article 238
Restrictions on the Shareholder to Dispose Over Shares

Except for the companies listed on the stock exchange[187], the Company Contract of the Closed Shareholding Company may restrict the shareholders' rights to dispose of their shares by stipulating one or both of the following restrictions:

1. The stipulation that the company's shareholders have a pre-emption right to purchase the shares its owner wishes to sell.

2. The stipulation that the board of directors shall approve the purchaser of the shares.

Excluded from these two restrictions shall be the disposals provided for in Article 172 of this law.

If the Company Contract includes any of such two restrictions, the company shall not be listed on the stock exchange[188].

Article 239
Pre-emption Right of the Shareholder to Acquire

If the Company Contract of a Closed Shareholding Company provides for a pre-emption right of shareholders to purchase shares, shareholder shall prior to disposing of their shares notify the company of the terms of the sale. The disposal of the shares shall not become effective prior to the lapse of ten days from the date of notification without any shareholder requesting to purchase the shares. If any shareholder requests the shares, such purchase shall be concluded at the declared price and terms of sale.

Article 240
Approval of the Board of Directors to the Purchaser of Shares

Without prejudice to the provisions regulating the purchase of a company of its own shares[189] and if the Company Contract of a Closed Shareholding Company provides that the board of directors shall approve the purchaser of the shares, the board of directors shall, if it rejects the purchaser, purchase the shares for the company's account within ten days from the date of notification of the board of directors requesting the approval. In this case, the purchase shall be concluded at the declared price.

Article 241
Allotment of New Shares

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[187] Stock Exchange is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

[188] Stock Exchange is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

[189] See Chapter Book 11 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) regarding treasury shares.

If a capital increase has been resolved and a number of shareholders do not exercise their pre-emption right to subscribe in the shares of the capital increase[190], the unsubscribed shares shall be allotted to those shareholders of the company that wish to subscribe for them. If there are more subscription applications than shares offered for subscription, such shares shall be allotted to the subscribers in proportion to their shareholding in the company.

In all cases in which all new shares have not been fully subscribed for, the board of directors may allot the unsubscribed shares to new shareholders. Any shares that remain unsubscribed for shall be nullified by force of law.

Article 242
Capital Increase by Way of Public Subscription

A Closed Shareholding Company, with respect to which the period of prohibition of disposal of its shares has lapsed[191], may increase its capital by way of public subscription by decision of the Ministry based on an approval of the Authority. The approval of the Central Bank of Kuwait shall be obtained if the company is subject to its supervision.

The company shall be deemed transformed into a Public Shareholding Company as of the date of issuance of the Minister's decision licensing the capital increase by way public subscription.

In all cases, every Closed Shareholding Company, which lists its shares for trading on the stock exchange[192], shall be deemed a Public Shareholding Company as of the date of listing. This provision shall apply to Closed Shareholding Companies listed on the stock exchange as of the effective date of this law.

Section Eleven
Holding Company

Article 243
Definition of the Holding Company

The Holding Company is a company whose objective is to invest in shares, membership interests, or investment units in Kuwaiti or foreign companies or funds, or to participate in establishing and lending to such companies and guaranteeing their obligations towards third parties.

Article 244
Form of the Holding Company

The Holding Company shall take one of the following forms:

1. Shareholding Company.
2. Limited Liability Company.
3. Single Person Company.

The phrase ("Holding Company") shall be indicated on all papers, publications, correspondence and all other such documents issued by the company next to its trade name[193].

Article 245

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[190] See Article 160 regarding the pre-emption right in the event of a capital increase.
[191] See Article 172 regarding the lock up period of shares in a Shareholding Company.
[192] Stock Exchange is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).
[193] See Articles 12 and 13 regarding the company's name.

Manner of Incorporating the Holding Company

The Holding Company shall be established by any one of the following ways:

1. Establishing a company whose objectives are circumscribed by any one of the activities set forth in Article 243.

2. Establishing subsidiary companies[194] or owning shares or membership interests in companies in order to carry out such objectives.

3. Amending the objectives of an existing company into those of a Holding Company in accordance with the provisions of this law.

Article 246
Activities of the Holding Company

Subject to the provisions of the preceding article, the Holding Company may carry out all or some of the following activities:

1. Management of its subsidiary companies[195] or participation in the management of other companies in which the Holding Company is a stakeholder and providing the necessary support to these companies.

2. Investing its assets in the trading of shares, bonds and other securities[196].

3. Owning real estate and movable property necessary to carry out its operations within the limits permitted under the law.

4. Financing or lending to companies in which the Holding Company holds shares or membership interests and guaranteeing their obligations towards third parties. In such case, the share of the Holding Company in the capital of the borrowing company shall be no less than twenty per cent[197].

5. Owning intellectual property rights, including patents, trademarks, industrial designs, concession rights and other such intangible rights and exploiting them and licensing[198] them to its subsidiaries or third parties, whether inside or outside Kuwait.

Article 247
Balance Sheet of the Holding Company

The Holding Company shall, at the end of each financial year, prepare, for itself and all its subsidiaries, a consolidated balance sheet and statement of profits and losses supplemented by explanatory notes and established data according to the requirements of international accounting standards[199].

Article 248

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194 Subsidiary company is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) as a company in which a person holds more than 50% of the company's capital.

195 Subsidiary company is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015) as a company in which a person holds more than 50% of the company's capital.

196 Securities (ورقة مالية) is defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

197 This conforms to the definition of "Affiliated Company" (الشركة الزميلة) as defined in Book 1 of the Executive Regulations to Law No. (7) of 2010 (CMA Decision 72 of 2015).

198 The original Arabic language version of the law uses the term "leasing" (تأجير).

199 As per the Ministerial Resolution Regarding Obligating Companies and Institutions to Comply with International Accounting Standards in Preparing Their Financial Data (Ministerial Resolution of the Ministry of Commerce and Industry No. 18 of 1990), the International Financial Reporting Standards apply in Kuwait.

Legal Framework of the Holding Company

The Holding Company shall be subject to the provisions regulating the form of company it has taken to the extent they do not conflict with the provisions of this section.

Article 249
Liability of the Holding Company for its Subsidiaries

The company shall be jointly liable for fulfilling the obligations of its subsidiary companies in the following cases:

1. If the subsidiary company has insufficient funds to fulfil its obligations.

2. If the company holds in the subsidiary company a percentage of its capital enabling it to appoint most of the members of the board of directors or managers or to control decisions issued by the management.

3. If the subsidiary company takes decisions or performs acts aimed at the interest of the parent and controlling company, which negatively affecting the interest of the subsidiary company or its creditors, and which constitute the main reason for the subsidiary company's inability to fulfil its obligations.

This is unless the Holding Company is liable for the subsidiary company's obligations for other reasons.

Section Twelve
Transformation, Merger, Division and Termination of Companies

Chapter One
Transformation of Companies

Article 250
Requirements and Procedures of Transformation

In accordance with the provisions of this law, any company may be transformed from one legal form to another and the transformation shall be pursuant to a resolution issued in accordance with the provisions and procedures established for amending the Company Contract, provided that at least two financial years have passed since the company's Registration in the commercial register.

The company shall not be transformed until the required procedures for this purpose have been fulfilled and the procedures for Publications and Announcements have been followed, and a report appraising the company’s assets and liabilities has been prepared as per the provisions regarding the valuation of in-kind contributions included in the first paragraph of Article 11 of this law.

The executive regulations shall specify the terms and procedures of the transformation.

Article 251
Objection of a Partner to the Transformation

A partner[200] who objects to the resolution regarding the transformation of the company may withdraw from the company and redeem the value of his membership interests or shares upon a request submitted to the company within sixty days of the date of Registration. Payment of the value of the membership interests or shares shall be according to its actual value as indicated in the valuation report, which is prescribed in the previous article.

Article 252

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[200] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

Legal Personality and Liability of the General Partners

The transformation of a company shall not entail the acquiring of a new legal personality and the company shall retain the same rights and obligations that existed prior to the transformation. With regard to the unlimited and personal obligations[201] of the general partners[202] prior to the transformation, the creditor's right to this guarantee shall lapse if the creditor does not object to the transformation resolution within thirty days as of the date of Publication of the resolution in the Official Gazette. An objection shall be submitted in accordance with the ordinary procedures for filing a claim, which shall be considered by the Court of First Instance. Submitting an objection shall result in the continuation of the general partner's obligations towards such creditor until a final ruling is issued in respect of the objection.

Article 253
Effect of the Transformation on the Partners

In the event of transformation, each partner[203] shall be entitled to a number of membership interests or shares in the new company equivalent to the value of the membership interests or shares owned in the company prior to the transformation. In the event of a transformation into a Limited Liability Company and should the value of the membership interests or shares owned by the partner in the company prior to transformation have a lower value than the minimum nominal value set for the membership interests in the Limited Liability Company, such partner shall pay the difference in cash.

Article 254
Approval of the Bondholders' Assembly to the Transformation

The transformation of a Shareholding Company that has borrowed by issuing bonds or *Sukuk* requires the approval of the bondholders or *Sukuk* holders' assembly to the transformation resolution. Such approval requires at least a two-third majority of the represented bonds. If the transformation or the settlement by such majority which is offered by the company to the bondholders' assembly is not approved, or such assembly could not be held, the representative of the bondholders or *Sukuk* holders' assembly shall refer the matter to the Court of First Instance within thirty days of Publication of the transformation resolution. Filing the claim shall not result in suspending the transformation procedures.

The court may rule to reject the objection or to oblige the transformed company to pay the value of the bonds or *Sukuk* pursuant to the terms of the issuance or oblige the transformed company to provide adequate security to fulfil its obligations.

Chapter Two
Merger[204] of Companies

Article 255
Methods of Merger

A company, also if it is in liquidation, may merge with another company of the same legal form or another legal form. The merger shall be carried out through any of the following methods:

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201 The original Arabic language version only refers to the term "obligations" (التزامات) of the general partner. The only obligations that differentiate the general partners from the limited partners are the personal and unlimited liability of the general partners.

202 This includes the partners in a General Partnership Company and the general partners in the Limited Partnership Company and the Partnership Limited by Shares.

203 In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

204 In this translation the term "Merger" has been used to define the process of the combination of two or more entities with either one entity surviving ("Amalgamation") or the combined entities forming a new entity ("Consolidation"). The more popular term "Merger" is used here to refer to what is defined in this translation as "Amalgamation"

1. Merger by amalgamation through the dissolution of one or more companies and the transfer of their rights and obligations to an existing company;

2. Merger by consolidation through the dissolution of two or more companies and the establishment of a new company to which the financial rights and obligations of the merged companies[205] are transferred;

3. Merger by division and absorption through the division of the rights and obligations of a company into two or more parts and the merger of each part into an existing company.

The executive regulations shall regulate the procedures, conditions and prerequisites of a merger with regard to the provisions of the following articles.

Article 256
Merger by Amalgamation

The merger by amalgamation shall be carried out as per the following procedures:

1. A resolution regarding dissolution shall be issued by each of the merged companies.

2. The net assets of the merged company shall be assessed in accordance with the provisions provided for in the Article 11 of this law regarding the valuation of in-kind contributions.

3. The absorbing company shall issue a resolution on the increase of its capital in the amount of the valuation of the merged company.

4. The increase in capital shall be proportionally distributed among the partners of the merged company relative to their respective interest in the capital of the merged company.

5. In the event the new participation in the absorbing company is represented in shares and the legal time limit provided for in this law regarding the trading of shares has lapsed since the date of incorporation of the absorbing company, such shares can be traded immediately as of their issuance in accordance with the provisions of this law regarding the trading of shares.

Article 257
Merger by Consolidation

The merger by consolidation shall be carried out as per the following procedures:

1. A resolution regarding dissolution shall be issued by each of the merged companies.

2. The new company shall be incorporated in accordance with the provisions of this law. If the new company is a Shareholding Company, the report on the assessment of the in-kind contribution prepared in accordance with the provisions of Article 11 of this law shall be adopted without the need to refer the matter to the constituent meeting[206].

3. Each merged company shall be allotted membership interests or shares equal to its interest in the capital of the new company, and these membership interests or shares shall be proportionally distributed among the partners[207] of the merged company relative to their respective interest in the merged company.

In the event the participation in the new company is represented in shares and the legal time limit provided for in this law regarding the trading of shares has lapsed since the date of incorporation of each of the merged companies,

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[205] In this translation the companies being dissolved in a merger are referred to as the "merged companies".
[206] See Article 145 regarding the competency of the constituent meeting.
[207] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

such shares can be traded immediately as of their issuance.

Article 258
Proclamation and Execution of the Merger

The merger shall be Proclaimed. The merger resolution shall not be implemented until after the lapse of thirty days from the date of Publication in the Official Gazette. The creditors of the merged company can object to the merger during this period by way of official notice, and the merger shall be suspended unless the creditors waive their objection or it is rejected by way of a final ruling, or the company repays the debt if the debt is due, or provides sufficient security for its payment if the debt is not due. In case no objection is filed within the aforementioned time period, the merger shall be deemed final.

Article 259
Approval of the Bondholders' and Sukuk Holders' Assembly to the Merger

A resolution to merge a Shareholding Company that has issued bonds or *Sukuk* requires the approval of the bondholders' or *Sukuk* holders' assembly. Such approval requires a two-third majority of the bonds or *Sukuk* represented. The company shall otherwise conclude a debt settlement that shall be approved by the bondholders' or *Sukuk* holders' assembly with the aforementioned majority.

The representative of the bondholders' or *Sukuk* holders' assembly shall be entitled to object to the merger resolution in accordance with the provisions of the previous article.

Article 260
Effect of the Merger on Convertible Bonds and Convertible Sukuk

In accordance with the provisions of the previous article, in the event a Shareholding Company has issued bonds or *Sukuk* that are convertible into shares, the holders of such bonds or *Sukuk* shall be entitled to request the conversion of these bonds or *Sukuk* into shares in the absorbing company or new company, as the case may be, within the time limit defined for the issuance of bonds or *Sukuk*. The conversion shall be based on the determination of the conversion ratio as set out in the issuance taking into account the ratio set forth in the merger agreement on the conversion of shares in the company that has issued the bonds or *Sukuk* into shares in the absorbing company or new company.

Article 261
Approval of the Partners and Shareholders to the Merger

In case the merger will cause an increase of the financial burdens of partners or shareholders, or prejudice their rights in any of the companies participating in the merger, all partners or shareholders of the company shall approve the merger.

In case a partner or shareholder objects to the merger, the provisions of Article 251 of this law shall apply.

Article 262
Liability of the Absorbing Company and the New Company

In case of merger by amalgamation or consolidation, the absorbing company or the new company shall replace the merged company in all its rights and liabilities. Further, in case of transformation by division and absorption, the absorbing companies shall jointly incur the liabilities of the divided companies.

Chapter Three
Division of Companies

Article 263

Rules and Procedures of Division

A company, even if it is in liquidation, may be divided into two or more companies. Following its division, the company may continue to exist or be dissolved. The companies resulting from the division may take any one of the legal forms of companies.

The resolution regarding the division shall be passed by the extraordinary general meeting, which shall include the number of shareholders or partners, the names and their participation in the companies resulting from the division, the rights and liabilities of such companies and the method of the distribution of assets and liabilities among the companies.

The executive regulations shall clarify the procedures, conditions and prerequisites of the division.

Article 264
Effects of the Division

Companies resulting from the division shall legally replace the divided company within the limits of the participation transferred to them from the divided company in accordance with the resolution on division. The company creditors and its shareholders[208] are entitled to object to the resolution on division. In such an event the provisions set forth in the Article 258 of this law shall apply.

Article 265
Trading of Shares in Companies Resulting from a Division

Shares of companies resulting from a division may be traded immediately after they are issued, in the event that the shares of the company that was divided were tradable at the time of the issuing of the resolution on division, and the company resulting from the division meets the requirements for trading in its shares.

Chapter Four
Company Termination and Liquidation

A. Company Dissolution

Article 266
Reasons for Dissolving the Company

With consideration of the specific reasons for terminating each form of company, a company shall be dissolved for any of the following reasons:

1. Expiry of the term of the company as set out in the Company Contract, unless otherwise extended in accordance with the provisions provided for in the Company Contract or this law.

2. Fulfilment of the objective for which the company was established or when such objective has become impossible to fulfil.

3. Depreciation of all or most of the company's assets to the extent that the investment of the remaining assets is deemed unfeasible.

4. Unanimous approval by the partners to dissolve the company before the expiry of its term, unless the Company Contract provides for a specific majority.

5. Merger of the company into another company.

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[208] In this Article the term "shareholder" includes both the "shareholder" and the "partner". See also footnote 12.

6. Declaration of the company's bankruptcy[209].

7. Issuing of a decision terminating the company's license for not undertaking its activities or failing to issue financial statements of the company for a period of three consecutive years.

8. Issuance of a judgment on the dissolution of the company.

Article 267
Death of a Partner

In case of death of a partner in the General Partnership Company or the Joint Venture Company or of a general partner in the Limited Partnership Company or the Partnership Limited by Shares, or the issuance of a judgment declaring the partner legally incompetent[210] or bankrupt[211], the company shall be terminated, unless the Company Contract provides for the survival of the company among the remaining partners.

In all instances when the company survives among the remaining partners, the value of the departing partner's interest shall be assessed on the day in which the reason for the partner's departure has actualized, and in accordance with the provisions regarding the valuation of in-kind contributions set out in the first paragraph of Article 11 of this law.

Excluded from the provisions of the previous paragraph are the heirs of the deceased partner, in companies other than the Joint Venture Company, who may continue in the company as limited partners. In such an event, the General Partnership Company shall be transformed to a Limited Partnership Company by the force of law.

Article 268
Termination by Seizure of Membership Interests

The General Partnership Company and the Limited Partnership Company shall terminate if the membership interests of any of the partners is seized and the remaining partners did not approve that the bidder with the best offer participates in the company as a partner and neither the company nor the partners have redeemed the membership interests or fulfilled the creditor's debt[212].

The same provision shall apply to the Partnerships Limited by Shares if the shares of the general partner are seized.

Article 269
Dissolution by Court Ruling

With the exception of the Shareholding Company, a company may be dissolved by a court ruling if so requested by one of the partners for failure of another partner to fulfil his obligations or for any other reason deemed serious by the court to justify the dissolution. Any other agreement to the contrary shall be null and void.

Article 270
Death, Legal Incompetence or Bankruptcy of all General Partners

If all general partners in the Limited Partnership Company or Partnership Limited by Shares are deceased, declared legally incompetent[213] or bankrupt[214], the company shall be dissolved unless the partners or shareholders proceed – within six months – to transform the company to another form.

Article 271

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209 See Article 555 *et seq.* of the Commercial Law (Law No. 68 of 1980) regarding declaration of bankruptcy.
210 See Article 84 *et seq.* of the Civil code (Law No. 67 of 1980) regarding legal capacity.
211 See Article 555 *et seq.* of the Commercial Law (Law No. 68 of 1980) regarding declaration of bankruptcy.
212 See Article 43 paragraph 4 regarding seizure of membership interest in a General Partnership Company.
213 See Article 84 *et seq.* of the Civil code (Law No. 67 of 1980) regarding legal capacity.
214 See Article 555 *et seq.* of the Commercial Law (Law No. 68 of 1980) regarding the declaration of bankruptcy.

Loss of Three Quarters of the Capital of a Shareholding Company

If the losses of the Shareholding Company amount to three quarters of the paid-up capital, the members of board of directors shall call an extraordinary general meeting to resolve whether the company shall continue or be dissolved before the term specified in the Company Contract or to take other appropriate measures.

If the board of directors does not call the extraordinary general meeting or a resolution could not be passed in this regard, the Ministry or any interested person may request the competent court to dissolve the company.

Article 272
Death, Legal Incompetence or Bankruptcy of a Partner in a Limited Liability Company

The Limited Liability Company shall not terminate by the death of any partner or by a court ruling that declares a partner legally incompetent[215] or bankrupt[216], unless otherwise stated in the Company Contract.

Article 273
Loss of Three Quarters of the Capital of a Limited Liability Company

If the losses of the Limited Liability Company amount to three-quarters of the capital, the directors shall present to the extraordinary general meeting of partners the remedy of the undercapitalisation, the dissolution of the company or other appropriate measures for decision.

If the directors fail to invite the partners or the partners fail to reach a resolution on the issue, the directors or the partners, as the case may be, shall be jointly liable for the company's obligations resulting from their negligence.

Article 274
Termination of a Single Person Company

The Single Person Company shall terminate by the death of the owner of the capital unless the capital accumulates in one person or the heirs agree that, within six months of the date of death, the company shall continue in another legal form[217]. Moreover, the company shall terminate upon the termination of the legal person owning the company's capital.

Article 275
Termination of the Professional Company

Subject to the provisions of Article 266, the Professional Company shall terminate if the company has, for whatsoever reason, only one partner, unless such partner initiates, within six months, the entry of one or more further partners.

Article 276
Death, Withdrawal or Loss of License of a Partner in the Professional Company

To the extent the minimum number of partners required in a Professional Company are given, the Professional Company shall not terminate by the death or withdrawal of a partner[218] or if a partner loses the eligibility to practice the free profession[219].

In case of death, the interest in the Professional Company shall not transfer to the heirs. The heirs shall be entitled to

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[215] See Article 84 *et seq.* of the Civil code (Law No. 67 of 1980) regarding legal capacity.
[216] See Article 555 *et seq.* of the Commercial Law (Law No. 68 of 1980) regarding the declaration of bankruptcy.
[217] See also Article 88 regarding the transformation by force of law into a Limited Liability Company in the case that only part of the membership interests in the Single Person Company are sold.
[218] In this Article the term "partner" includes both the "partner" and the "shareholder", as a Professional Company can also be incorporated as a Closed Shareholding Company. See also footnote 12.
[219] See footnote 54 regarding the "free professions".

redeem the value of such participation in accordance with the provisions of the first paragraph of Article 11 of this law. The partners may agree that an heir who meets the partnership requirements can replace the legator's position if such heir is willing to join the company, without infringing upon the rights of the remaining heirs vis-à-vis such heir. The same provision shall apply to the redemption of an interest in case a partner loses the eligibility to practice the free profession[220].

Article 277
Proclamation of the Termination of the Company

With the exception of a Joint Venture Company, the termination of the company shall be Proclaimed and the termination shall not be effective towards a third party except as of the date of Proclamation. The managers of the company or the chairman of the board of directors, subject to the circumstances, shall carry out the procedures of this provision.

B. Liquidation

Article 278
Initiation of Liquidation Proceedings

The company, once dissolved, shall be liquidated and shall, during the liquidation period, maintain the legal personality to the extent necessary to complete the liquidation. The word "under liquidation" shall be added in a clear manner to the company's name in all correspondence issued by the company.

The provisions of the following articles shall apply to the liquidation, unless otherwise provided for in the Company Contract.

Article 279
Effect of the Dissolution of a Company on its Debts

The due date for all debts shall be waived from the date of Proclaiming the company's dissolution and notification of the commencement of liquidation. The liquidator shall officially notify all creditors of the commencement of the liquidation and invite them to file their claims. Creditors may be notified through an Announcement, and in all cases the notification or the Announcement shall grant the creditors a grace period of no less than thirty days in which to file their claims.

Article 280
Effect of Termination of a Company on the Powers of the Management

The authority of the managers[221] of the company shall terminate with the termination of the company. However, they shall preside over the management of the company until a liquidator is appointed and has begun exercising his authorities. Until the liquidator is appointed, the managers[222] shall be deemed liquidators towards third parties.

The bodies of the company[223] shall remain in existence during the liquidation period and their authorities shall be restricted to the tasks of liquidation that do not fall within the liquidator's functions.

Article 281
Appointment of the Liquidator

One or more liquidator shall be appointed from among the partners[224] or a third party as per the rules and regulations stipulated in the Company Contract. If the Company Contract does not include any provisions in this regard, the

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220 See footnote 54 regarding the "free professions".
221 This should be read to also include the board of directors and its members.
222 This should be read to also include the board of directors and its members.
223 This includes the management, the board of directors, the general meetings, partners' meetings and the different types of supervisory boards.

liquidator shall be appointed, his remuneration set and the period of liquidation determined by the majority required to amend the Company Contract.

If a resolution to appoint a liquidator is not issued, the liquidator shall be appointed by the court at the request of any of the partners or any of the creditors. The court ruling shall determine the liquidator's remuneration and the period of liquidation.

Article 282
Removal of the Liquidator

The liquidator shall only be removed by the authority concerned with appointing him, and in any event, the court may, upon the request of any of the partners or any of the creditors, and for satisfactory reasons, rule on the dismissal of the liquidator.

Any resolution or ruling removing the liquidator shall include the appointment of a replacement. Prior to the commencement of his duties, the new liquidator shall Proclaim the resolution or ruling appointing him and removing the old liquidator.

Article 283
Proclamation of Decision to Appoint the Liquidator

The liquidator shall Proclaim the resolution of his appointment, the restrictions on his powers, and the partners' agreement or the general meeting resolution on the method of liquidation or the court ruling issued in this regard.

The appointment of the liquidator or the methods of liquidation are not effective towards a third party until the date of Proclamation.

Article 284
Activities of the Liquidator

The liquidator shall undertake all activities necessary for the liquidation of the company and shall particularly undertake the following:

1. Representing the company before the courts and third parties.

2. Perform whatever functions are necessary to preserve the company's assets and rights.

3. Repay the company's debts.

4. Sell the company's assets, whether real estate or movable property, by way of auction, sale by negotiation or any other method that ensures the highest price. This shall not apply if a specific method of sale is stipulated in the resolution of his appointment. The liquidator shall not sell any of the company's assets unless this is necessary for the liquidation.

5. Divide the net assets among the partners[225].

The liquidator may not undertake new activities unless they are required to complete previous ones. Furthermore, the liquidator may not, unless otherwise permitted by the court, sell the company's assets or its trading business[226] in its totality or seek settlement over any of the company's rights or accept arbitration in disputes to which the company is a party.

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[224] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[225] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[226] The Arabic term of "trading business" (المتجر) is defined in Article 34 of the Commercial Law (Decree Law (68) of 1980).

Article 285
Effect of the Activities of the Liquidator on the Company

The company shall be bound by all activities carried out by the liquidator in its name or for its benefit as long as such activities are required for the purposes of liquidation and are within the liquidator's authority.

If there is more than one liquidator their activities shall not bind the company, except if the majority of the liquidators has taken the decision, unless the resolution of their appointment stipulates something different.

Article 286
Liability of the Managers of the Company towards the Liquidator

The managers and board of directors of the company shall provide the liquidator with their accounts, records, documents, and the assets of the company. Should any of them refrain from so doing, the liquidator shall be entitled to request an order forcing the company and members of its board of directors to do so based on a petition in accordance with the provisions of the Civil and Commercial Procedures Law. The liquidator shall within three months from commencing his duties perform an inventory of the company's assets and ascertain its financial position, including the company's rights and liabilities. In doing so, the liquidator may seek the assistance of the company's managers, board of directors, and auditor, if one is appointed. The liquidator shall keep the books required to record the liquidation in accordance with the provisions related to the keeping of commercial books[227].

Article 287
Term of Appointment of the Liquidator

The liquidator shall complete the liquidation within the period specified in the resolution on his appointment. If such period is not specified, the court shall specify the period based upon a request from an interested party.

The period specified for liquidation may be extended subject to the approval of the majority of partners required to amend the Company Contract[228] or by an order of the court after reviewing the liquidator's report indicating the reasons barring the completion of the liquidation within the specified period. Each interested party may apply to the court to shorten the liquidation period.

Article 288
Continuation of the Business of the Company

If the liquidator considers that the company's interest requires a continuation of its businesses for a certain period of time, he shall call the general meeting or the partners to meet to decide on the matter, unless the liquidation of the company was based on a court ruling.

Article 289
Calling of the General Meeting during Liquidation

The liquidator appointed to liquidate the Shareholding Company shall call the ordinary general meeting to meet within three months of the end of the financial year in order to discuss and approve the balance sheet of the last financial year; the auditor's report and the annual report on the liquidation proceedings, as well as the appointment of a new auditor for the new financial year. The liquidator may invite the general meeting to meet at any time if so is required by the liquidation proceedings.

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[227] There is no definition for commercial books, however, Article 26 of the Commercial Law (Law No. 68 of 1980) makes reference to them as dependent on the needs of the business and their importance is based on the nature of such business.

[228] See Article 52 regarding the General Partnership Company, Article 57 regarding the Partnership Limited by Shares, Article 74 regarding the Limited Partnership Company, and Article 117 regarding the Limited Liability Company, and Article 218 regarding the Shareholding Company.

Article 290
Collection of Claims and Payment of Debts during Liquidation

The liquidator shall collect the company's claims towards third parties or partners[229] and shall deposit the amounts collected at a bank to the account of the company under liquidation.

The liquidator shall pay the company's debts and shall retain the necessary amounts to pay the disputed debts. The liquidator shall pay the company's debts in accordance with the following priorities:

1. Financial obligations resulting from the liquidation activities.

2. All amounts due to employees of the company.

3. Preferential debts according to the order of their priority[230].

4. Debts secured by *ad rem* securities within the limit of the value of such *ad rem* securities.

The remaining amounts following payment of the aforementioned debts shall be used to repay ordinary creditors. If the remaining amounts of the liquidation are not sufficient to pay all such debts, they shall be divided equally among them.

Article 291
Distribution of the Proceeds of Liquidation

In keeping with the rights prescribed for the holders of preferred shares[231], the liquidator shall divide the remainder of the company's assets among the partners[232] after repayment of its debts, and each partner shall have a share in proportion to the value of his interest in the capital.

If the partner's contribution[233] is only in the form of the right to utilise an asset, he shall recover such asset, unless such asset has perished during its use, in which case the value of such asset at the time of perishing shall be recovered.

Any assets remaining thereafter shall be distributed among the partners in proportion to their share in the profits.

If the net assets of the company are insufficient to pay the partners' shares in full, the loss shall be distributed among them in the same percentages as agreed for the distribution of losses.

In all cases where the company's funds are not sufficient to repay its debt, the liquidator may adopt the necessary measures prescribed by law to declare the bankruptcy[234] of the company.

Article 292
Liquidation Accounts

The liquidator shall submit to the general meeting or to the partners who have the right to amend the Company Contract the final liquidation accounts and the distribution of its assets. The liquidation tasks shall be completed with the approval of the final account by this meeting.

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[229] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[230] The priority of preferential debts is set out in Articles 61 to 608 of the Commercial Law (Law No. 68 of 1980).
[231] See Article 153 regarding preferred shares.
[232] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.
[233] Within the meaning of "contribution" to the capital of the company.
[234] See Article 555 *et seq.* of the Commercial Law (Law No. 68 of 1980) regarding the declaration of bankruptcy.

The liquidator shall Proclaim the completion of the liquidation. Completion of liquidation shall not be effective towards third parties prior to the date of Proclamation.

The liquidator, on the completion of the liquidation, shall apply to delete the company registration from the commercial register.

Article 293
Period of Maintenance of Books and Documents Related to the Liquidation

The company's books and documents related to the liquidation shall be maintained for ten years from the date of deleting the company registration from the commercial register at the place specified by the authority that appointed the liquidator.

Article 294
Liability of the Liquidator

The liquidator shall be liable for compensating any damages sustained by the company, the partners[235] or third parties for transgressing the bounds of his authority or as a result of errors committed in the performance of his duties. In case of the appointment of multiple liquidators, they shall be jointly liable for the foregoing.

Article 295
Statute of Limitation of Claims against the Liquidator

A claim against a liquidator regarding the liquidation activities shall not be heard if three years have lapsed since Proclaiming the completion of the liquidation. Furthermore, a claim shall not be heard after the lapse of the same period in respect of the company's activities or against its managers, members of the board of directors or auditors in respect of the performance of their duties.

Section Thirteen
Supervision, Inspection and Penalties

Chapter One
Supervision and Inspection

Article 296
Right of the Ministry to Supervise and Inspect

The Ministry shall investigate any complaint made by any party with an interest regarding the implementation of the provisions of this law according to the following article.

Article 297
Right of the Ministry to Request the Remedy of a Violation

If the Ministry becomes aware of violations of the provisions of this law or the Company Contract or that the managers or the Incorporators of the company have acted in a manner detrimental to the interests of the company, the partners or shareholders or that affects the national economy, it must call an ordinary general meeting or a partners' meeting to remedy such violations within fifteen days from the date of the meeting. It shall further notify the competent investigative authorities.

The executive regulations shall set out the procedures for bringing forth complaints by concerned parties and the manner of their investigation by the Ministry.

Article 298

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[235] In this Article the term "partner" includes both the "partner" and the "shareholder". See footnote 12.

Rights of the Shareholders and Partners to Request an Inspection

Shareholders or partners who hold at least five per cent of the capital of a company can request the Ministry to appoint an auditor to conduct an inspection of the company in respect of violations they attribute to the manager, members of the board of directors, the auditor or the chief executive officer of the company in the performance of their duties, if grounds exist to justify such a request and after paying the fee prescribed by the executive regulations. The applicant shall pay the costs of the auditor.

In the event the company fails to provide the auditor appointed by the Ministry with the required data, the persons mentioned in the previous paragraph shall have the right to resort to the courts to oblige the company to provide the auditor with the required documents according to the rules provided in the law of evidence[236] obliging an adverse party to deliver a document in its possession.

Article 299
Publication of the Inspection Report

If the Ministry or any of the Supervisory Authorities become aware through the inspection that the violations attributed to the members of the board of directors, the auditor, the manager or the chief executive officer are incorrect, it shall, based upon the request of the concerned party and at the expense of the person requesting the inspection publish the conclusions of the inspection report in two daily newspapers and the website of the company, without prejudice to their liability for compensation where applicable.

Article 300
Rejection of the Request of Inspection

If the Ministry rejects the request of the shareholders or partners to carry out the inspection of the company referred to in Article 298 of this law, those whose request has been rejected may petition the President of the Court of First Instance to order that the inspection is undertaken and to delegate an expert to carry out this task and determine his fees. Those who request the inspection or are proven to be liable for the violations indicated in the request shall bear responsibility for these fees.

Article 301
Confidentiality of the Inspection

Whoever carries out the inspection shall, during the course of his work and thereafter, maintain the confidentiality of the accounts, records and all the documents and information reviewed by virtue of his assignment. He shall not disclose any secrets regarding the company, which he inspected, except under the circumstances permitted by law. He shall be liable if he neglects to truly disclose facts or incorrectly establishes facts that could affect the outcome of the inspection.

Article 302
Obligation to Cooperate with the Inspection

The chairman, members of the board of directors, employees, auditors and managers shall make available to whoever undertakes the inspection all books, records, exhibits and all the documents and information requested for the purposes of the inspection.

Chapter Two
Penalties

Article 303
Penalty for the Crimes of Fraud and Deception

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[236] See Articles 22 to 25 Decree Law No. (39) of 1980 regarding the Law of Evidence in Civil and Commercial Matters.

Without prejudice to a more severe penalty provided for in any other law, any of the following shall be punished with imprisonment for a term not exceeding three years and a fine of not less than ten thousand Dinars and not exceeding one hundred thousand Dinars or either of these two penalties:

1. Anyone who has stated with *mala fide* intent false data or data in violation of the provisions of this law in the company's memorandum of incorporation or articles of association or in the public subscription prospectus or in any other publications or documents of the company directed to the public, and any person who has signed these documents, promoted or distributed them with the knowledge that they are incorrect.

2. Anyone who has invited the public to subscribe for shares or bonds issued by a company that is not a Shareholding Company.

3. Anyone who has fraudulently assessed in-kind contributions at a higher value than their actual value.

4. Any member of the board of directors, manager, auditor or liquidator who has participated in preparing a balance sheet, financial position or data issued by the company, which is inconsistent with the facts, with a view to conceal the fact of the financial situation of the company, or has intentionally neglected substantial facts in order to conceal the true financial situation of the company.

5. Any member of the board of directors, manager, auditor or liquidator who has distributed or approved the distribution of any amounts as profits, knowing that the company's financial position does not permit such a distribution or does so in contravention of the provisions of this law or the Company Contract.

6. Any member of the board of directors, manager, member of the supervisory board, auditor, employee or any person entrusted with the task of inspecting the company who has disclosed, except in cases permitted by law, what he has known of the company's secrets by virtue of his position or has exploited these secrets to serve his own or someone else's interest or to cause damage.

7. Any person entrusted to inspect the company who has wilfully made false factual statements of the results of the inspection in his reports or has wilfully excluded essential information, which could affect the results of the inspection.

8. Anyone who intentionally states or withholds, contrary to the facts, data or information related to the terms of nomination for membership of the board of directors in a Shareholding Company.

Article 304
Penalty for Breach of Management Obligations

Without prejudice to a more severe penalty provided for in any other law, any of the following shall be punished with imprisonment for a term not exceeding one year and a fine of not less than five thousand Dinars and not exceeding ten thousand Dinars or either of these two penalties:

1. Any member of the board of directors or manager who deliberately or fraudulently commits acts that would prevent one of the partners or shareholders from participation in the general meeting or the partners' meeting.

2. Any member of the board of directors or manager who deliberately and without reasonable excuse, after one month from being officially warned, refrains from holding a general meeting or partners' meeting that is required by law.

3. Anyone who prevents the auditor, a member of the supervisory board, judicial receiver, liquidator or any person entrusted with the task of inspecting the company, from accessing the company's books and documents, and anyone who refrains from providing information, documents and clarifications requested by them.

4. Any member of the board of directors, manager or liquidator who in such capacity exploited with *mala fide* intent the company's assets or shares to gain directly or indirectly a personal benefit for himself or for a

third party.

The court in the crimes stipulated in this Article and the preceding article may dismiss the board member or the manager of the company.

Article 305
Fines

Without prejudice to a more severe penalty provided for in any other law, any company that refrains from remedying violations contained in the report of the Ministry, which is presented to its general meeting within the period specified by the Ministry, shall be punished with a fine of not less than five thousand dinars and not exceeding fifty thousand dinars.

Article 306
Jurisdiction of the Public Prosecutor

The public prosecution shall be exclusively concerned with investigating, dealing with, and prosecuting the crimes stipulated in this law.

The Minister shall issue a resolution seconding a sufficient number of employees of the Ministry to monitor the implementation of the provisions of this law and to track the crimes committed in violation of its provisions and to establish the records to prove such crimes.