

THE GOVERNOR

Safar 16, 1425 H
April 6, 2004

The Chairman,

**Circular No. (2/BS/154/2004) To all local banks
regarding the executive measures of the provisions of
amended item (2) of article (57) of the law No. (32) of year 1968¹**

We inform you that according to the provisions of Item (2) of Article (57) of the Law No. (32) of Year 1968, concerning Currency, the Central Bank of Kuwait and the Organization of Banking Business, by virtue of the Law No. (28) of Year 2004, the Board of Directors of the Central Bank of Kuwait issued a decision on 4/4/2004, regarding the executive measures regulating the fulfillment of that Article's provisions. Copy of that decision is attached thereto.

With regard to the mechanism for following up the abidance by the provisions of the mentioned Article, the Board of Directors of the Central Bank of Kuwait has endorsed the following regulations:

- 1) Local banks shall present data on their shareholders (natural or legal persons) whose acquisition – whether direct or indirect – exceeds 5% of the bank's capital, according to the attached form, on a quarterly basis (March, June, September and December). Statement of cases existing before the application of the Law No. (28) of Year 2004 (issued on 15/3/2004) shall be presented within a week of this date.

The following shall be observed in this regard:

- A. Statements shall be prepared according to the records on bank's shareholders and the clearing company's data, and include all information on investors in portfolios managed by third parties owning shares in the bank. The statement shall also be prepared according to the bases and rules issued by the Central Bank of Kuwait with regard to the definition of the concept of indirect acquisition. The bank shall also ascertain cases of indirect acquisition through all means available in this regard, including obtaining declarations from shareholders with over 1% acquisition, to the effect of disclosing all connected parties (according to the above mentioned bases and rules). Banks shall be responsible for verifying all data and information disclosed by shareholders in this regard.

¹ Circular to all local banks, dated 14/12/2004, concerning the mechanism approved by the Central Bank's Board of Directors for implementing the rules of item (2) of article (57) of law No. (32) of 1968 in connection with all the parties concerned with the provisions.

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK'S CAPITAL.

A) Circular No. (2/BS/154/2004) Regarding the Executive Procedures of the Provisions of amended Item (2) of Article (57) of the Law No. (32) of Year 1968.

- B. The Central Bank of Kuwait shall be informed of cases of acquisition by governmental bodies, and bodies with attached and independent budgets, exceeding 5% of the bank's capital, and which necessitate prior approval of the Central Bank of Kuwait, on completion of the acquisition transfer procedure.
- 2) In cases where individual acquisition exceeds 5%, for any reason (debt recovery, inheritance), the concerned bank and individual shall present all relevant data and information on completion of the acquisition transfer procedures, according to the above mentioned form. Excess acquisition above the set limit shall be disposed of during the period defined by the attached decision of the Board of Directors of the Central Bank of Kuwait.
- 3) Banks shall abide by the provisions of Item (2) of the amended Article (57) of the Law No. (32) of Year 1968, according to which a shareholder shall not avail of the excess equity for which no approval was issued by the Central Bank of Kuwait, in regard to voting rights in the bank's General Assembly and directing the bank.
- 4) Banks shall ensure that the Central Bank of Kuwait's approval of acquisition exceeding 5% by those nominated to membership of the Board has been obtained, when presenting the application for approval of these nominees, according to the provisions of Article (68) of the Law No. (32) of year 1968, and the decision of the Board of Directors of the Central Bank of Kuwait in this regard. An item shall be included in the application form for nomination to the Board's membership at the bank's, wherein the nominee shall state his percentage of the bank's acquisition (direct or indirect).

Your bank shall, therefore, abide by the decision of the Board of Directors of the Central Bank of Kuwait, and the regulations concerning the mechanism of following up the abidance by the provision of Item (2) of the above mentioned amended Article (57) of the Law No. (32) of Year 1968.

Best Regards,

The Governor
Salem Abdul-Aziz Al-Sabah

**Decision of the Board of Directors of the Central Bank of Kuwait
on the executive procedures applicable to the Provisions of Item (2)
under Article (57) of law No. (32) of year 1968, amended
by law No. (28) of year 2004**

Item (2) under article (57) of law No. (32) of year 1968, concerning Currency, the Central Bank of Kuwait and the Organization of Banking Business, amended by law No. (28) of year 2004, stipulates the following:

“Unless by prior authorization of the Central Bank, the direct or indirect acquisition by any single natural person or legal entity in a Kuwaiti bank shall not exceed five percent of the bank’s capital. Governmental bodies and bodies with independent or attached budgets are exempted from these provisions. Where single acquisition exceeds the above percentage for any reason whatsoever, the concerned natural person or legal entity shall dispose of the excess within the period defined by the Central Bank. Violation of this provision results in the shareholder not availing of the excess equity in regard to voting rights in the bank’s General Assembly and directing the bank. The Board of Directors of the Central Bank shall lay down the bases and rules defining the concept of indirect acquisition. The provisions of this Article do not apply to cases existing before the application of this Law ”.

Accordingly, the Board of Directors of the Central Bank of Kuwait (CBK), in its meeting on 4/4/2004, decided the following:

First: Principles and rules defining the concept of indirect acquisition, according to the provisions of item (2) under Article (57) of Law No. (32) of Year 1968, and amendments thereof:

Within the application of the provisions of Article (57) of Law No. (32) of Year 1968, and amendments thereof, the concept of indirect acquisition is defined as “ownership by parties economically or legally connected to the investor, be the latter a natural or legal person, and whether such connection derives from joint ownership, joint management or related interests”.

Joint ownership and joint management signify any economic or legal connection through joint ownership and joint management. The following are considered cases of joint ownership and joint management:

- 1) Shares held by the investor in one bank, in his personal capacity or in the capacity of natural guardian of his underage children.
- 2) Shares held by individual proprietorships which are owned by the investor, or shares held by companies in which the investor is a joint partner.

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK’S CAPITAL.

- A) Circular No. (2/BS/154/2004) Regarding the Executive Procedures of the Provisions of amended Item (2) of Article (57) of the Law No. (32) of Year 1968.

- 3) Financial companies in which the investor holds more than 50% of the capital and over which it has control, according to International Accountancy Standards.
- 4) Any party with economic or legal connections to the investor that allow the latter the exercise of control, according to International Accountancy Standards.

Related interests signifies interests that allow one party to exercise control or significant influence over another in making financial or operating decisions, or an alliance of a group of parties. The following are considered related interests:

- 1) Relationship between board members of the company seeking equity acquisition in the bank, and the company's principal owners and shareholders (that is, those holding over 5% of the investing company's capital).
- 2) Holders of managerial positions in the company seeking equity acquisition in the bank (that is, the company's chief executive officer and deputies and assistants thereof, the company's executive directors and those in equivalent positions).
- 3) Subsidiary companies: companies in which the company seeking equity acquisition in the bank holds over 50% of the capital, or over which it has control.
- 4) Sister companies: companies in which the company seeking equity acquisition in the bank holds 20% of the capital, or over which it exercises significant influence.
- 5) Existence of a declared or undeclared alliance between two parties or a group of parties.

Second: Requirements to be met by the applicant, for obtaining Central Bank of Kuwait's authorization to acquire over 5% of a Kuwaiti bank's capital, according to the amended text of Article (57) of law No. (32) of Year 1968:

Any single person, natural or legal, Kuwaiti or non-Kuwaiti (other than government bodies and bodies with independent or attached budgets) seeking to hold an equity share of over 5% in any Kuwaiti bank, shall submit to Central Bank of Kuwait, 60 days ahead of the date of the share acquisition process (calculated from the date of fulfilling all required data and information), **an application presenting all data of relevance to the equity acquisition process, and the equity share sought to be held in the bank, along with the following attachments:**

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK'S CAPITAL.

- A) Circular No. (2/BS/154/2004) Regarding the Executive Procedures of the Provisions of amended Item (2) of Article (57) of the Law No. (32) of Year 1968.

- 1) Statement of personal history and data concerning the applicant (name, address, nationality, activity, legal form, educational qualifications and practical experience of the natural person, ...etc.) and information on other personal aspects, according to a form established for that purpose.
- 2) Statement of names of all other parties that are shareholders of the bank in which equity acquisition is sought, and that are connected to the applicant, whether such connection is through acquisition, joint management or related interests (according to the principles and rules approved by the Central Bank of Kuwait's Board of Directors regarding the definition of the acquisition concept). The statement shall also highlight all details concerning the equity held by the above mentioned parties in the bank, such as the number of shares, the ratio of their value to the bank's capital, and dates and means of their acquisition (establishment stage, public subscription, purchase from secondary market, debt recovery, inheritance, will, etc.), along with full details on connected parties (name, address, nationality, activity, etc.).

The statement shall also disclose all alliances between the applicant and any other party, be that alliance declared or undeclared. Where such alliance does not exist, the applicant shall submit a statement to that effect, including a commitment to inform Central Bank of Kuwait of any alliances it may form with any other party in the future.

- 3) Judicial persons shall submit audited financial statements regarding their financial position, based on the last three years financial statements endorsed by the regulatory authority (if available).
- 4) Detailed study clarifying the purpose of equity acquisition, and providing information on planned structural changes (financial and administrative) in the bank where equity acquisition is sought, and the justifications for such changes.
- 5) Any other information requested by Central Bank of Kuwait upon reviewing each case individually.

Third: Period during which the excess single acquisition of a Kuwaiti bank's capital above the defined maximum limit (5%) shall be disposed of:

- 1) In cases where exceeding the single acquisition limit was unintentional, due to unobtainable Central Bank of Kuwait's prior permission, such as in cases where such excess acquisition resulted from debt recovery, or was through a will or by inheritance, any excess single acquisition (whether direct or indirect)

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK'S CAPITAL.

A) Circular No. (2/BS/154/2004) Regarding the Executive Procedures of the Provisions of amended Item (2) of Article (57) of the Law No. (32) of Year 1968.

of a Kuwaiti bank's capital in breach of item (2) under Article (57) of Law No. (32) of year 1968 and amendments thereof, shall be disposed of **within two years as of the date of acquisition**. The owner may, during that period, apply for Central Bank of Kuwait's permission –according to the established rules- to exceed the 5% acquisition limit of the bank capital. It is noted that disposal of excess acquisition during the set time limit shall be abided by, in case Central Bank of Kuwait's permission is not granted.

- 2) For other cases of excess single acquisition, such as those resulting from purchase or merger operations, etc, the excess single acquisition (whether direct or indirect) of a Kuwaiti bank's capital must be disposed of **within a year of the date of acquisition**.

In all cases of excess acquisition (intentional or unintentional), the concerned shareholder shall not avail of the excess equity in regard to voting rights in the bank's General Assembly and directing the bank, during the allowed time limit for disposal of excess acquisition.

04/04/2004

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK'S CAPITAL.

- A) Circular No. (2/BS/154/2004) Regarding the Executive Procedures of the Provisions of amended Item (2) of Article (57) of the Law No. (32) of Year 1968.

Statement of Shareholders with more than 5% Participation In the Bank's Capital

Bank:

Investor Name:

Number of issued shares:

| Investors and Connected Parties ¹ | Legal form | Date of Acquisition ² | Method of Acquisition ³ | Number of Acquired Shares | Percentage of Acquisition | Date of CBK's approval ⁴ | Remarks ⁵ |
|--|------------|----------------------------------|------------------------------------|---------------------------|---------------------------|-------------------------------------|----------------------|
| First: Direct Acquisition Data: | | | | | | | |
| Second: Indirect Acquisition Data: ⁶ A-Names of parties connected through joint ownership and management: 1- 2- 3- | | | | | | | |
| Total (A) | | | | | | | |
| B- Names of parties with interconnected interests: 1- 2- 3- | | | | | | | |
| Total (B) | | | | | | | |
| Total (A+B) | | | | | | | |
| Total direct and Indirect Acquisition (First + Second) | | | | | | | |

¹ Statements shall be prepared according to the records on bank's shareholders and the clearing company's data, and include all information on investors in portfolios managed by third parties owning shares in the bank.

² Date of acquisition exceeding 5% of the bank's issued capital

³ Method of acquisition (establishment period, public subscription, purchase from secondary market, debt recovery, inheritance, will, others).

⁴ Date of approval of acquisition exceeding 5% of the bank's issued capital.

⁵ Clarification is required under the 'Remarks' column for the following cases:

- Cases of acquisition existing before application of the amendment to the Law (15/3/2004), and cases of acquisition exempted from the Central Bank of Kuwait's prior approval (governmental bodies, and bodies with attached and independent budgets), along with providing the date of informing the Central Bank of Kuwait of data and information concerning these cases.
- Cases where individual direct or indirect acquisition exceeds 5%, where excess acquisition be disposed of during the period defined by the Central Bank of Kuwait, along with defining the portion remaining of that period.

⁶ According to the bases and rules issued by the Central Bank of Kuwait with regard to the definition of the concept of indirect acquisition. The bank shall also ascertain cases of indirect acquisition through all means available in this regard, including obtaining declarations from shareholders with more than 1% acquisition, to the effect of disclosing all connected parties (according to the above mentioned bases and rules). Banks shall be responsible for verifying all data and information disclosed by shareholders in this regard.

**Central Bank of Kuwait
Supervision Sector**

**Form
Application for acquiring more than 5% of the Bank's Share Capital***

| | |
|----------------|---|
| First: | <u>Personal information of the applicant:</u> 1. Name: 2. Date of Birth: 3. Nationality: 4. Legal Form: 5. Civil ID No/ Commercial Registration No.: 6. Address: Phone No.: Fax No.: |
| Second: | <u>Educational qualifications of the applicant (natural person):</u> |
| Third: | <u>Practical experience of the applicant (natural person):</u> |
| Fourth: | <u>Current activity of the applicant:</u> 1. Type of activity: 2. Name of the institution through which activity is practiced: 3. Period of practicing the activity: |

* All required data and information in this application must be fulfilled and submitted 60 days ahead of the date of the share acquisition process.

**Central Bank of Kuwait
Supervision Sector**

| | |
|---------------|---|
| Fifth: | <p><u>Financial information* and reputation of the applicant:</u></p> <p>1. Has any institution that you managed or held a senior position therein, been previously liquidated or declared bankrupt? (If the answer is “yes”, please attach/give details).</p> |
| | <p>2. Have you ever abstained from paying any outstanding debt to any local or foreign banks, investment companies or any other bodies? (If the answer is “yes”, please attach/give details).</p> |
| | <p>3. Have you ever entered into an amicable settlement with your creditors in Kuwait or abroad? (If the answer is “yes”, please attach/give details).</p> |
| | <p>4. Have you ever been adjudicated bankrupt, whether in Kuwait or abroad? (If the answer is “yes”, please attach/give details).</p> |
| | <p>5. Have you ever been convicted for a crime of immorality or dishonesty, whether in Kuwait or abroad? (If the answer is “yes”, please attach/give details, and the date of issuing the court ruling).</p> |
| | <p>6. Have you ever been punished by a disciplinary action by any of the former employment bodies, including service termination or removal from office, whether in Kuwait or abroad? (If the answer is “yes”, please attach/give details, and the date of issuing the court ruling).</p> |
| | <p>7. Have you ever been sanctioned by supervisory authorities? (If the answer is “yes”, please attach/give details).</p> |

* Legal persons shall submit statements of their financial position approved by the auditors, based on the financial statements of the three years having been endorsed by the regulatory authority, if any.

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK’S CAPITAL.

B) Form of Application for Acquiring more than 5% of the Bank’s Share Capital.

**Central Bank of Kuwait
Supervision Sector**

| | |
|-----------------|---|
| | <p>8. Do you own shares in banks or other companies with ratio over 1% of their capitals, whether in Kuwait or abroad?</p> <p>(If the answer is “yes”, please mention the names and locations of these banks and companies in addition to your percentage of share).</p> <p>.....</p> <p>.....</p> |
| | <p>9. Other information you would like to add.</p> <p>.....</p> <p>.....</p> <p>.....</p> |
| Sixth: | <p><u>Information about the required acquisition*:</u></p> <p>1. Name of the bank:</p> <p>2. Issued capital:</p> <p>3. Means of acquisition (establishment stage, public subscription, purchase from secondary market, debt recovery, inheritance, will, etc.):</p> <p>.....</p> <p>4. Number of shares to be acquired:</p> <p>5. Ratio of shares’ value to the bank’s capital:</p> <p>6. Purpose of equity acquisition:</p> |
| Seventh: | <p>Are there any alliances between you and any other party? be that alliance declared or undeclared.</p> <p>(If the answer is “yes”, please attach/give details).</p> <p>.....</p> <p>.....</p> |

* Detailed study must be attached including information on the planned structural changes (financial and administrative) in the bank whose shares are intended to be acquired, and the justifications for such changes.

17- EXECUTIVE PROCEDURES OF THE PROVISIONS OF ITEM (2) OF ARTICLE (57) CONCERNING THE EXCESS OF ACQUISITION PER A SINGLE PERSON OVER 5% OF THE BANK’S CAPITAL.

B) Form of Application for Acquiring more than 5% of the Bank’s Share Capital.

**Central Bank of Kuwait
Supervision Sector**

| | |
|----------------|--|
| Eighth: | <p>Information about the direct and indirect acquisition in the target bank</p> <p>(The attached statement must be completed)</p> <p style="text-align: center;"><u>Declaration & Undertaking</u></p> <p>I,, the applicant for acquisition in Bank, hereby declare that all the data included herein are true and correct, and acknowledge my full responsibility therefore. In case such data are found to be incorrect and invalid, the Central Bank of Kuwait's approval of this application shall be null and void. I undertake to immediately notify of any change to the previous data, as at the date of submitting the form. I also declare that I have read the first paragraph of Article (259) of the Penal Code which reads: <i>"If the forgery is committed in an official editor or in a bank note, the penalty shall be imprisonment for a period not exceeding seven years, and may be added to a fine not exceeding seven thousand Rupees"</i>, and I am well aware that submission of incorrect or misleading information to any authority concerned with processing this form shall constitute an act of forgery in bank notes as referred to in the above mentioned article. I also declare that in case of any alliance in the future between me and any other party, I will inform the Central Bank of Kuwait thereof.</p> <p>Name of Applicant :</p> <p>Signature :</p> <p>Date :</p> |
|----------------|--|

Statement of the Direct and Indirect Acquisition in the Target Bank

Bank:

Investor Name:

Number of issued shares

| Investors And Connected Parties | Legal Form | Date of Acquisition | Method of Acquisition ¹ | Number of owned Shares | % of Acquisition | Date of CBK's approval ² | Remarks ³ |
|---|------------|---------------------|------------------------------------|------------------------|------------------|-------------------------------------|----------------------|
| First: Direct Acquisition Data: | | | | | | | |
| Second: Indirect Acquisition Data⁴. A-Names of parties connected through joint acquisition and management ⁵ : 1- 2- 3- | | | | | | | |
| Total (A) | | | | | | | |
| B- Names of parties with interconnected interests ⁵ : 1- 2- 3- | | | | | | | |
| Total (B) | | | | | | | |
| Total (A+B) | | | | | | | |
| Total direct and Indirect Acquisition (First + Second) | | | | | | | |

¹ Method of acquisition (establishment period, public subscription, purchase from secondary market, debt recovery, inheritance, will, others).

² Date of approval of acquisition exceeding 5% of the bank's issued capital.

³ Clarification is required under the 'Remarks' column for the cases of acquisition exceeding 5% and existing before applying the law No. (28) for 2004 (15/3/2004).

⁴ According to the bases and rules issued with regard to the definition of the concept of indirect acquisition in accordance with the decision of the Central Bank of Kuwait's Board of Directors issued on 4/4/2004.

⁵ Detailed statement must be attached providing information on those parties (Name- nationality- legal form- Civil ID No./ Commercial Registration No. –type of activity- etc.)