

Kuwait Direct Investment Promotion Authority Law

Law No. 116 of 2013

Law No. 116 of 2013

Regarding the Promotion of Direct Investment in the State of Kuwait

- Having reviewed the Constitution;
- and Decree No. (3) of 1955 regarding Kuwaiti Income Tax 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 1962 regarding Patents, Industrial Diagrams and Designs as amended by Law No. (4) of 2001;
 - and Law No. (30) of 1964 on the Establishment of the Audit Bureau as amended;
 - and Law No. (33) of 1964 regarding Expropriation and Temporary Possession in the Public Interest as amended;
 - and Law No. (36) of 1964 regarding the Regulation of Commercial Agencies;
 - and Law No. (37) of 1964 regarding Public Tenders as amended;
 - and Law No. (32) of 1968 concerning Currency, the Central Bank of Kuwait and the Organization of Banking Business as amended;

- and Law No. (32) of 1969 regarding the Licensing of Commercial Stores as amended;
- and Decree Law No. (31) of 1978 regarding the Rules for Preparing Public Budgets, Monitoring their Execution and Final Accounts as amended;
- and Decree Law No. (15) of 1979 regarding the Civil Service as amended and the Decree regarding the Civil Service System issued on 4 April 1979 as amended;
- and the Commercial Law promulgated by Decree Law No. (68) of 1980 as amended;
- and Decree Law No. (105) of 1980 regarding the Properties of the State as amended;
- and Decree Law No. (5) of 1981 regarding the Practicing in the Auditing Profession as amended;
- and Decree Law No. (20) of 1981 on the Establishment of a Division in the Court of First Instance for Adjudicating Administrative Disputes as amended by Law No. (61) of 1982;
- and Law No. (26) of 1995 regarding Free Trade Zones;
- and Law No. (81) of 1995 on Approving the Agreement Establishing the World Trade Organization;
- and Law No. (56) of 1996 regarding the promulgation of the Industrial Law;

- and Law No. (19) of 2000 regarding the Support and Promotion of National Labour to Work in the Non-Governmental Entities as amended;
- and Law No. (8) of 2001 regarding the Regulation of Direct Investment of Foreign Capital in the State of Kuwait;
- and Law No. (5) of 2003 on the Approval of the Unified Economic Agreement between Gulf Cooperation Council Countries;
- and Law No. (10) of 2003 on the promulgation of the Unified Customs Code for the Arab 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 Law No. (10) of 2007 regarding the Protection of Competition as amended by Law No. (2) of 2012 ;
- and Law No. (7) of 2008 on the Regulation of the Operations of Build, Operate and Transfer and Similar Systems and the Amendment of some Provisions of Decree Law No. (105) of 1980 regarding the Properties of the State;
- and Law No. (9) of 2010 on the Issuance of the State Developmental Plan for the Years 2011-2012/2013-2014;
- and Law No. (37) of 2010 regarding the Regulation of Privatization Programs and Operations;
- and Decree Law No. (25) of 2012 regarding the Companies Law as amended by Law No. (97) of 2013;

- and Law No. (98) of 2013 regarding the National Fund for the Enhancement and Development of Small and Medium Enterprises;
- The National Assembly has approved the following law which we have ratified and issued :

Article 1

Definitions

The following terms and phrases shall bear the meanings corresponding to each of them:

Relevant Minister: Minister of Commerce and Industry.

Authority:

Authority: Direct Investment Promotion Authority.

Board: Board of directors of the Authority.

Chairman of the Board: Relevant Minister.

Director General:

Director General: Director General of the Authority.

Regulations:

Regulations: Executive Regulations to this Law.

Investor: Natural or legal person of any nationality.

License: Investment license issued in accordance with this Law.

Investment Entity: Is an economic enterprise or activity that is licensed in accordance with this Law by virtue of an investment

license which grants such enterprise or activity legal existence in the State of Kuwait.

Capital:

What is employed or used directly for purposes of Direct Investment through an Investment Entity that is subject to this law, including:

1. Funds, financial and commercial securities, be they local or foreign
2. Machinery, tools, equipment, transportation means and other technological devices.
3. Raw materials and intermediate goods required for the commencement of actual production or operations by the Investment Entity.
4. Intangible rights such as patents, trademarks, licenses, registered trade names and industrial and technological designs.
5. Profits and proceeds of the invested capital if used for the increase of the capital or if it is employed or used for the purposes of Direct Investment through an Investment Entity licensed in accordance with this Law.

Direct

Investment:

An investment where the Investor, individually or with the participation of another investor, employs his capital

directly through an Investment Entity in the State of Kuwait licensed in accordance with this Law.

Application: The application submitted by the Investor to obtain, as applicable, the License or incentives or to merge Investment Entities, in accordance with principles and rules relevant to each case.

Article 2

Establishment of the Authority

A public authority with legal personality shall be established under the name "Direct Investment Promotion Authority" to be attached to the Relevant Minister.

The headquarters of the Authority shall be in the State of Kuwait, and it shall have the right to establish offices within the country and abroad.

Article 3

Aims of the Authority

The Authority aims to attract and promote and encourage both foreign and local Direct Investment in the country, which shall include the following:

1. Developing and improving the investment environment, the facilitating of procedures and the removal of hurdles encountered by investors as well as the provision of various means of assistance and support to encourage Direct Investment in the country.
2. Raising awareness regarding the importance of Direct Investment, especially foreign investment, and the promotion of the Kuwaiti

investment environment and the available Direct Investment opportunities by all means of marketing, orientation and promotion.

3. Encouraging investors to transfer, settle and use modern and sophisticated technologies, means of production and operations, management methods, and technical and marketing expertise and to encourage partnerships between Kuwaiti and foreign investors that foster the objectives of development.

The Authority shall perform its activities in light of the public policy of the state, the approved economic development plans, the development of production sectors, the diversification of national revenue sources in the State of Kuwait, the creation of employment opportunities for the national workforce, and increasing its productivity and professional skills by implementing the latest technology in accordance with the best international standards adopted in this regard.

Article 4

Tasks of the Authority

The Authority shall perform all tasks necessary to achieve its objectives, and the following in particular:

1. To screen possible Direct Investment opportunities in the country, promote such opportunities and present the incentives, exemptions and guarantees granted to investors, in addition to preparing any necessary studies, research and statistics and providing available information, clarifications and statistics to investors.

2. To receive and assess investors' applications and to take the necessary actions regarding them in accordance with this law and its Executive Regulations.
3. To establish economic zones and suggest their locations within the general structural plan in coordination with the concerned authorities.
4. To establish or contribute to the capital of companies specialized in the establishment or management of business incubators for projects that meet the objectives of the Authority, following the approval of the Council of Ministers, and in accordance with the principles and rules established by the Board in this regard.
5. To coordinate with all relevant and competent authorities to simplify and facilitate the procedures and services required to improve and streamline the investment environment in the State of Kuwait and enhance its competitive advantage and monitor the competitive position and performance indicators in the investment field on the basis of international standards and reports, so as to ensure the encouragement of Direct Investments in the State of Kuwait.
6. To organize conferences, seminars, exhibitions, and workshops as well as provide services and training programs in line with its objectives, and to participate in internal and external events, and prepare, print and publish on all topics relevant to its work and activities.
7. To secure potential financing and credit facilities, in coordination with concerned parties, in order to encourage investments needed by the country.

8. To oversee and monitor the performance of Direct Investments in the country and identify any hurdles they may encounter and attempt to overcome such hurdles in coordination with the competent authorities.
9. To implement the tasks and mandates assigned by the Council of Ministers or the Relevant Minister that relate to its objectives or that would encourage Direct Investment in the country.

Article 5

Board of Directors of the Authority

The Authority shall have a board of directors chaired by the Relevant Minister and a membership of:

1. Three experienced members specializing in the matters assigned to the Authority who shall be appointed by a resolution of the Council of Ministers, upon the proposal of the Relevant Minister. The resolution shall designate a vice-chairman from amongst them who shall be granted the powers of the Chairman of the Board in his absence.
2. Three members representing the ministries and the government agencies related to the activities of the Authority who shall be nominated by a resolution of the Council of Ministers, upon the proposal of the Relevant Minister provided that their seniority is at least that of an assistant undersecretary or equivalent.
3. The Director General who shall attend the meetings of the Board with no right to vote.

The term of the Board shall be four years, subject to renewal. The Board members' remuneration shall be determined by a resolution of the Council of Ministers.

The Chairman of the Board or his authorized signatory shall sign on behalf of the Authority and shall represent the Authority in its relations to third parties and before the courts.

Article 6

Meetings of the Board

The Board shall convene at the invitation of the Chairman of the Board or vice-chairman and such meeting shall be valid if attended by the majority of its members including the Chairman of the Board or the vice-chairman.

The Board shall have a secretary appointed by the Chairman of the Board and selected from the Authority's staff. The secretary shall undertake the preparation of the meetings of the Board and record its minutes and follow up on the issued resolutions. The Board may invite to its meeting any individual to participate in the discussion of any particular matter without having the right to vote.

The resolutions of the Board shall be passed by the majority of the votes of its members. Where the votes are equal, the side favored by the Chairman shall prevail.

The Board shall issue the necessary resolutions regulating its affairs, defining the rules, procedures, and the scheduling of its meetings, the terms of implementation of its resolutions and the organization of the work of its sub-committees.

Article 7

Conflict of Interest

Members of the Board, employees of the Authority including their respective spouses or relatives of the first degree are prohibited from having any direct or indirect interest in any project or services provided by the Authority and shall be bound to disclose their interests and abstain from participating in discussions about, or the decision making regarding any project. In the event of a violation of this provision, the relevant resolution shall be void including all its effects and shall be considered nonexistent.

Article 8

Powers of the Board

The Board shall have all the powers necessary to achieve the objectives of the Authority and shall formulate its general policy and supervise the implementation of the same, including the following in particular:

1. To define the principles, rules and standards upon which basis various investors' applications are assessed in accordance with this Law and its Executive Regulations.
2. To define the principles and rules for the use of land, real estate and plots allocated to the Authority or those which are subject to its supervision or management.
3. To set the bylaws and organizational structure of the Authority and to issue the administrative, financial and technical regulations that are required in conducting its business.

4. To approve the proposed annual budget of the Authority and its final account prior to referring them to the relevant authorities.
5. To resolve upon merger applications as set forth in this Law.
6. To impose the administrative and disciplinary penalties as set forth in this Law.
7. To approve the opening of offices of the Authority within the country and abroad.
8. To set the criteria for benefitting from tax incentives and exemptions in accordance with this law.
9. To issue the resolution regarding the recommendations submitted by the competent committees in respect of the implementation of the provisions of this Law.
10. To issue resolutions necessary for the fulfillment of the objectives of this Law in accordance with its provisions and its Executive Regulations.

The Board may delegate some of its powers to the Chairman of the Board or to the vice- chairman.

Article 9

Director General

The Authority shall have a Director General who shall hold at least the position of undersecretary, appointed, pursuant to a decree upon the proposal of the Relevant Minister for four years and subject to renewal.

The Director General shall implement the resolutions of the Board and shall supervise the technical, administrative and financial functions of the Authority. The Director General shall further prepare an annual statistical report, which is submitted to the Council of Ministers, regarding the activity of the Authority including the number of projects submitted, the projects approved and the projects rejected with the reasons for such rejection.

The Director General shall be assisted by one or more assistants holding at least the position of assistant undersecretary appointed by decree upon the proposal of the Relevant Minister for four years and is subject to renewal. The Director General may delegate some of his powers to any of his assistants.

Article 10

Financials of the Authority

The Authority shall have an annexed budget. The financial year commences and ends with the financial year of the state. The first financial year shall commence on the date this law comes into force and shall end at the closing of the following financial year.

The Authority's resources shall consist of the following:

1. Financial funds allocated to it in the annual state budget.
2. Returns, revenues or allowances resulting from the Authority's activities, services, organized events, workshops or training programs for those involved in the affairs of Direct Investment, as resolved by the Board in this regard.

3. Returns or revenues resulting from the investment of the funds allocated to the Authority or that are subject to its supervision or management.

Article 11

Negative List

Within the limits of Articles 152 and 153 of the Constitution, the Council of Ministers shall prepare a list of Direct Investments that will be excluded from the scope of this Law and which shall be updated in light of the general policy of the state and its plans and the proposals of the Board in this regard.

The Council of Ministers shall set the principles and rules regarding the investments of foreign corporate entities in the State of Kuwait.

Article 12

Type of Investment Entity

The Application for the License shall be submitted in accordance with the provisions of this Law by an Investment Entity specified according to the following cases:

1. A Kuwaiti company having one of the legal entity forms of companies set forth in the Companies Law promulgated by the aforementioned Decree Law No. (25) of 2012, which will be incorporated for the purpose of Direct Investment. Foreign participation in such company may amount to 100% of the capital of the company in accordance with the principles and rules set forth under the Companies Law.
2. A branch of a foreign company licensed to operate within the State of Kuwait for the purpose of Direct Investment. The Relevant Minister shall issue, upon the proposal of the Board, a resolution clarifying the

principles and rules regulating the relationship between the branch of the foreign company and the official authorities with respect to the necessary procedures for the commencement of the operation.

3. Representative offices having the sole purpose of preparing market studies and production possibilities, without engaging in a commercial activity or activity of commercial agents. The Board shall set the principles and rules in this regard.

Article 13

Rules of Application

The Executive Regulations shall establish the principles, rules and procedures for the submission and registration of Applications to obtain the appropriate License in the cases set forth in this Law. They shall further set out the information and statements that must be contained in, or attached to the Application and the conditions to be met by the applicant, the appropriate methods of notice and notification and the fees for the issuance of Licenses.

Article 14

Issuance of Licenses

The License shall be issued pursuant to a decision of the Director General, if the Application fulfills the criteria, principles and assessment rules established by the Board regarding each of the cases set forth in this Law, and the Investor shall be notified of such requirements prior to the submission of the Application to the Authority.

This License shall not be subject, with regards to foreigners, to the provisions of paragraph 1 of Article 23 and the provisions of Article 24 of the aforementioned Commercial Code.

The License for the incorporation of foreign banks and their branches shall be subject to the provisions of this Law, without prejudice to the provisions of Law No. (32) of 1968, and to the decisions and instructions issued in implementation of its provisions.

In all events, the Authority shall coordinate with the Ministry of Commerce and Industry on the incorporation and issuance of Licenses and supervision of companies, branches and representative offices, which are subject to the provisions of this Law.

Article 15

Term for Decision on Application

A decision on the merits of the Application shall be rendered within thirty days from the date of submission of a complete Application with the data, documents and conditions set by the Authority.

Article 16

Rejection of Application

In the event the Application is rejected, the rejection shall be reasoned and in writing. The applicant may appeal the rejection. In the event there is no response to the appeal thirty days following the date of receipt of the appeal, such lack of response shall be deemed a rejection of the appeal.

Article 17

One-Stop Shop

An administrative unit shall be established within the Authority called the "One-Stop Shop" which shall include employees designated by the relevant government authorities to proceed with resolving upon the licensing procedures and the establishment of the Investment Entity in order to ensure the completion of the procedures within the period set out in this Law.

The Board shall establish the principles and rules necessary to identify the mentioned government authorities and the method to be adopted for calling upon their employees and coordinating between them and the Authority.

The applicant may appoint specialized companies or qualified consulting firms that are approved by the Authority in accordance with the principles and rules set by the Authority.

Article 18

Accounts of the Investment Entity

Each Investment Entity, licensed in accordance with the provisions of this Law, shall maintain regular accounts supervised by an auditor or more among the legal auditors. Where the Investor is granted licenses for more than one Investment Entity, each Investment Entity shall be dealt with separately.

Article 19

Compensation for Expropriation

No Investment Entity, licensed in accordance with the provisions of this Law, shall be confiscated pursuant to this Law nor be deprived of its property except in the public interest and only in accordance with the applicable laws

and against compensation equivalent to the true economic value of the expropriated project at the time of expropriation, estimated in accordance with the economic situation prior to any threat of expropriation. The due compensation is to be paid as soon as the said decision is taken.

Article 20

Disposal of the Investment Entity

The Investor has the right to transfer or relinquish the ownership of the licensed Investment Entity, or dispose over it in whole or in part, for the benefit of a foreign or a Kuwaiti investor. The Board shall establish the principles and regulations in this regard.

In the event of transfer or relinquishment of ownership of the Investment Entity, in whole or in part, the new owner or assignee shall replace the original owner in rights and obligations.

Article 21

Merger of Investment Entities

The merger of two or more Investment Entities can be carried out with the consent of the Board, following a joint request submitted to the Authority in this regard, and the new entity resulting from the merger shall be a legal successor to the merged entities and shall replace such entities in their rights and obligations.

The new entity shall automatically enjoy the shortest periods remaining for exemptions and incentives granted to any of the merged Investment Entities.

Article 22

Transfer of Monies Abroad

The Investor shall have the right to transfer abroad his profits, capital or proceeds resulting from the disposal over his shares or participation in the Investment Entity or the compensation set forth in this Law. Moreover, employees in the Investment Entity shall have the right to transfer their savings and entitlements abroad.

Article 23

Confidentiality of Information

By virtue of this law, the Investor shall be entitled to the basic principles of confidentiality in respect of the technical, economic and financial information relevant to his investment and to safeguard initiatives in accordance with the provisions of the laws and regulations in force in the country.

Without prejudice to a more severe penalty provided for in any other law, a person shall be punished with imprisonment for a term not exceeding one year and a fine not less than one thousand dinars and not exceeding ten thousand dinars or either one of these two penalties, who divulges or benefits from any information that he might have gained knowledge of as a result of his employment or due to his participation in an activity initiated by the Authority or any of its divisions, relating to investment initiatives or the technical, economic or financial aspects of an investment that is subject to the provisions of this Law, except where permitted by law or pursuant to a judgment or an order issued by a judicial authority.

Article 24

Legislative Framework of Direct Investments

Unless there is a special provision in this Law, the laws and regulations applicable in the country shall govern Direct Investments falling within the purview of this Law, and all international conventions in force in the country related to investments and the avoidance of double taxation shall be observed.

Article 25

Scope of the Law's Application

The provisions of this Law shall apply to existing Direct Investments and those investments that were licensed prior to this Law coming into force, without subjecting such Direct Investments to any damage, provided that the incentives, exemptions and guarantees granted under this Law shall be no less than what was granted before its implementation. Investors may apply for privileges provided for in this Law for the Authority's consideration.

The provisions of this Law shall apply to any expansion or modification of an existing Investment Entity if the expansion or modification occurs following the date on which this Law comes into force. The Board shall establish the regulations in relation to expansions and modifications and how to license the same.

Article 26

Competent Courts

The Kuwaiti courts are the ones solely competent to consider any disputes arising between investment projects and third parties, whoever they may be. The parties may also agree to refer such disputes to arbitration.

Article 27

Incentives and Exemptions

The Investor shall be entitled to some or all of the following incentives:

1. Exemption from income tax or any other taxes for a period not exceeding ten years from the date of the actual commencement of operations of the licensed investment entity.
2. Exemption of any expansion of an Investment Entity, licensed in accordance with the provisions of this Law, from the taxes set forth in the preceding paragraph, for a period of no less than the duration of the exemption granted to the original Investment Entity as of the date of commencement of production or actual operation of the expansion.
3. Without prejudice to the provisions of Law No. (10) of 2003 promulgating the Unified Customs Code for the Gulf Cooperation Council Countries, the following shall be wholly or partially exempted from taxes, customs duties or any other fees that may be payable on imports required for the purposes of Direct Investment:
 - a. Machinery, tools and equipment and means of transport and other technological devices.
 - b. Spare parts and necessary maintenance supplies for what has been described in the previous subsection.
 - c. Merchandise, raw materials, partially manufactured goods, wrapping materials and packaging.

The Investor is prohibited, for a period of five years as of the date notifying him of exemptions from the duties described in this article, from disposing in any manner over the goods described in this clause, including by way of sale, swap or assignment. During the same period, the Investor may not utilize the goods in any other manner than for the purpose for which they were imported, except in accordance with the principles and rules decided by the Board in this regard, and shall pay the taxes and fees that would have been due for the importation at the time of disposal.

4. The use of land and real estate allocated to the Authority or that is subject to its supervision or management, in accordance with the principles and rules established by the Board in this regard.
5. The employment of foreign labor required for the investment, in accordance with the principles and restrictions established by decision of the Council of Ministers in respect of the minimum proportion of national employment that must be provided.
6. The Council of Ministers may decide to grant some cases and groups certain advantages and exemptions, which are not mentioned in this article.

Article 28

Applicability of Incentives and Exemptions to Partnerships of the Public and Private Sectors

The provisions of the previous article shall apply to all types of partnerships between the public and private sectors established for the purpose of Direct Investment, including companies and projects stipulated in Law No. (7) of

2008 and Law No. (37) of 2010 provided that the Board establishes the relevant rules and principles.

Article 29

Application and Criteria for Granting of Incentives

The Investor shall apply to the Authority for all or part of the incentives provided for in this Law, simultaneously or following the application for the License, for consideration by the Authority with the goal of ensuring that it satisfies the principles, rules and procedures established by the Board in this regard in line with the approved general policy of the state and economic development plans.

The value, type and duration of incentives and exemptions granted for investments, each according to its type and nature, shall be connected to all or some of the following criteria:

1. The transfer and settlement of technology and modern management methods as well as practical, advanced technical and marketing experience into the State of Kuwait.
2. The amount and quality of the products and services offered.
3. The need of the local and Gulf market for Direct Investment and its contribution to economic diversification.
4. Increase in national exports.
5. Creation of job opportunities for, and training of the national workforce.

6. Contribution to the development of areas that lack similar projects or activities.
7. Favorable environmental impact.
8. The extent to which the project offers services to the community that are outside the framework of the specific project or economic activity that is being practiced.
9. Use of national products.
10. Use of national technical, professional and consulting services.

The Board may amend or add other criteria to the aforementioned criteria, in accordance with the public policy of the State and the approved economic development plans.

Article 30

Investment Register

A special register called the "Investment Register" shall be prepared in which all Investment Entities licensed in accordance with the provisions of this Law are recorded, as well as all Applications, Licenses, incentives, exemptions and penalties connected thereto, and all documents and related data shall be attached to the register.

The Director General shall issue any decisions required for specifying the method of setting up the register and its content as well as the mechanism for registration and the required documentation and data.

Article 31

Annual Report

The Relevant Minister shall submit to the National Assembly a copy of the annual report issued by the Authority and a copy of the statistics relevant to its activities and the projects, within 30 days from the date of submission to the Council of Ministers.

Article 32

Sanctions in Case of Violation of the Law or the License

In case of a violation by the Investor of the provisions of this Law or the requirements of the License, the Board may impose one of the following sanctions:

1. Written warning and a more severe sanction can be decided in the event three warnings have been addressed to the same Investor or the same Investment Entity within one year of the first warning.
2. Partial or total withdrawal of incentives and exemptions granted. The decision of withdrawal may be reconsidered if the violation has been addressed.
3. Temporary administrative detention.

The License shall be considered null and void by force of law in the event the Investment Entity ceases its activities and business for more than a year without acceptable justification, or in the case of a delay of more than one year from the date set for actual operations to begin according to the timetable provided by the Investor to the Authority at the time of the request of the License Application, without acceptable justification. The Executive

Regulations shall set out the principles and rules necessary in this regard. In other cases, the License may not be revoked or the Investment terminated except according to an order issued by the President of the Court of First Instance based on a petition submitted by the Authority providing justification for the request.

The Investor may appeal against the sanctions set forth in subsections 2 and 3 of this article within thirty days from the date of notification of the sanction decision. The appeal shall be decided within thirty days and in case of refusal of the appeal, the decision shall be written and justified.

Sanctions imposed in accordance with this article and the date of notification to the Investor shall be recorded in the Investment Register stipulated in this Law in the section relevant to the Investment Entity associated therewith. The imposition of such sanctions does not prejudice any civil or criminal liability.

Article 33

Appointment and Powers of Judicial Officers

Specialist employees, who are designated by the Minister by virtue of a decision issued by him, shall be granted the capacity of judicial officers in order to monitor the implementation of this Law and its implementing regulations and decisions. The said employees shall perform their work with honesty, integrity and impartiality and shall have the obligation not to disclose the confidential information of Investment Entities received by them in the course of the performance of their duties. They shall also take the following oath before the Minister:

"I swear by Almighty God that I will perform my work with honesty, impartiality, integrity and truthfulness, and I will safeguard the confidentiality

of the information made available to me in the course of my duties even after the end of my service."

The relevant employees of the Authority shall submit a detailed report on the results of their work immediately following its completion to the Director General, who shall refer it to the Board with his opinion in order to take a decision in this regard.

Article 34

Obligations of the Investor

The Investor, who has been granted a License or whose investment was granted incentives or exemptions pursuant to the provisions of this Law, shall undertake the following:

1. Notify the Authority in writing of the date of the beginning of the measures and operational steps necessary to start the work of the licensed Investment Entity and the date of completion thereof, within a period not exceeding thirty days from the date of each of them.
2. Notify the Authority in writing of the date of the start actual operation of the licensed Investment Entity, within a period not exceeding thirty days from the said date.
3. Comply with the rules and financial and tax regulations issued by the Ministry of Finance, especially those related to the submission of tax returns and issuing of the tax card.

4. Provide any information, data, statistics or documents requested and deemed necessary by the Authority in order to implement the provisions of this Law.
5. Allow any of the Authority's employees authorized by the Director General, to enter all buildings, sites and facilities associated with the licensed Investment Entity, for the purpose of monitoring and following up in accordance with the provisions of this Law as well as verifying the content of the data, information, statistics and documents submitted by the Investor against actual practices. The Authority's employees shall submit a detailed report on the results of their work immediately following its completion to the Director General, who shall decide what he deems appropriate in this regard.
6. In all cases, the Investor is obliged during the performance of his work not to violate the laws and regulations applicable in the country, especially the duty to protect the environment and the regulations relating to security, public health, public order and not to expose others to risk.

Article 35

Funds, Assets and Employees of the Authority

All funds, assets, obligations, rights and anything relevant to the Foreign Investment Bureau established pursuant to Law No. (8) of 2001 shall be transferred to the Authority.

Without prejudice to the provisions of Decree Law No. (15) of 1979 and the decree concerning the civil service system issued on 4 April 1979, the Authority shall have staff appointed according to the regulations set by the Board of Directors, which shall include the rules of appointment and the

remuneration granted in kind and in cash to employees. The Relevant Minister shall issue, within six months from the date this Law comes into force, the decisions necessary for the transfer of the employees he deems appropriate from the aforementioned bureau to the Authority.

Article 36

Executive Regulations

The Relevant Minister shall issue the Executive Regulations to this Law and take the decisions necessary for the implementation of its provisions within six months from the date of its publication in the Official Gazette.

Article 37

Repeal of Law No. (8) of 2001

Law No. (8) of 2001 and any other article which is in breach of this Law is repealed.

Article 38

Implementation of the Law

The Prime Minister and the Ministers, each in their respective capacity, shall implement this Law which shall come into force six months following the date of its publication in the Official Gazette.

Amir of Kuwait

Sabah Al-Ahmed Al-Jaber Al-Sabah

**Executive Regulations Implementing
Law No. 116 of 2013
Regarding the Promotion of Direct
Investment in the State of Kuwait**

Chapter I: Definitions

Article (1)

The following terms and phrases shall bear the meanings corresponding to each of them:

Relevant Minister:	Minister of Commerce and Industry.
Authority:	Kuwait Direct Investment Promotion Authority (KDIPA).
Board:	Board of Directors of KDIPA.
Chairman of the Board:	Relevant Minister.
Director General:	Director General of KDIPA.
Law:	Law No. (116) of 2013 referred to above.
Investor:	Natural or legal person of any nationality.
License:	Investment license issued in accordance with the Law and these Regulations.
Investment Entity:	Any economic Activity that is licensed in accordance with this Law by virtue of an investment license which grants the legal existence in the State of Kuwait.
Capital:	What is employed or used directly for purposes of Direct Investment through an Investment Entity that is subject to this law, including:

1. Funds, financial and commercial securities, be they local or foreign
2. Machinery, tools, equipment, means of transportation and other technological devices.
3. Raw materials and intermediate goods required for the commencement of actual production or operations by the Investment Entity.
4. Intangible rights such as patents, trademarks, licenses, registered trade names and industrial and technological designs.
5. Profits and proceeds of the invested capital if used for the increase of the capital or if it is employed or used for the purposes of Direct Investment through an Investment Entity licensed in accordance with this Law and these Regulations.

Direct Investment: An investment where the Investor, individually or with the participation of another investor, employs his capital directly through an Investment Entity in the State of Kuwait licensed in accordance with the Law.

Application: The application submitted by the Investor to obtain, as applicable, the License or incentives or to merge Investment Entities, in accordance with principles and rules relevant to each case.

Activity: Every Activity with economic impact through which Direct Investment is made, with the exception of the activities set forth in the list of investments whose activities are excluded from the scope of the Law, and that shall be determined by a resolution of the Council of Ministers.

Investment Register: The register in which all data relating to Investment Entities and changes made thereto are recorded, including building permits and other licenses, approvals, authorizations and permissions required for

the commencement of operations, which are issued by the competent authorities.

Commencement of Execution : The commencement of preliminary procedures and activities that precede the commencement of operations by the Investment Entity.

Chapter II **Kuwait Direct Investment Promotion Authority**

Article (2)

The Authority shall carry out the business achieving its objectives and competencies stipulated in the Law, and shall undertake the execution of any other tasks that are relevant to its objectives assigned thereto by the Council of Ministers or the Relevant Minister, or that would encourage Direct Investment in the country, develop and streamline the investment environment, facilitate procedures and eliminate obstacles facing the investors.

Article (3)

Each of the Chairman and the members of the Board, and the Director General shall commit to disclose their interests and the interests of their spouses and of their first degree relatives in any project or service to be presented to the Board. They shall in all cases shall refrain from participating in the discussion or the passing of any resolution related to such project or service; failing to do so; such resolution shall be null and void as well as all consequences arising therefrom. Such disclosure shall be presented in writing to the secretariat of the Board, which shall in turn refer it to the Board when discussing the project or service. The said disclosure shall advise on the interest referred to.

The Authority's employees shall also commit to disclose, and shall submit it to the Director General stating the interest and its relevance to the tasks and competencies assigned to them.

Chapter III **One-Stop Shop**

Article (4)

The Authority shall have an administrative unit called the "One-Stop Shop". Such unit shall be staffed with a sufficient number of government authorities' employees to be specified by the Board.

The One-Stop Shop shall be responsible for completing the transactions relating to the Investor's establishment of the Investment Entity and any expansions and any changes thereto, and shall issue and renew approvals, permits and licenses relevant thereto. The One-Stop Shop shall also undertake any further tasks assigned by the Director General.

The One-Stop Shop shall be responsible for preparing introductory guides, to be approved by the Director General, setting out the requirements for completion of transactions. The One-Stop Shop shall also be responsible for responding to any queries raised in respect of such guides.

Article (5)

The Authority shall prepare a list of specialized companies, firms and offices that are prequalified and approved to submit and follow-up on Applications in the name and on behalf of Investor; if the Investor wish to take up such representation.

Article (6)

The Authority and the government authorities represented in the One-Stop Shop shall coordinate in respect of the administrative supervision of the employees who are representing them in the One-Stop Shop.

Such employees shall be designated by the authorities they represent to perform the duties necessary for the completion of transactions without having to refer back to a higher authority in order to take the appropriate decision or action; and shall be provided with all data, information, forms and all else necessary to complete the tasks that fall within their competencies, including the following:

1. Receiving and delivering all the papers, Applications, documents, contracts, permits, licenses, approvals, receipts and fees; taking all actions, issuing all necessary approvals and decisions relevant thereto, and follow it up with their original authorities, if rendered necessary.
2. Providing the services that fall within the jurisdiction of their original authorities, at the premises of the One-Stop Shop and following up with their original authorities, if rendered necessary.

Article (7)

The Director General shall oversee the work system within the One-Stop Shop, and shall set the rules, mechanisms, procedures and indicators that ensure the speed and accuracy of the completion of the transactions that fall within its jurisdictions; shall formulate and oversee a follow-up system that shall include receiving complaints and proposals submitted by stakeholders regarding the progress of their transactions, and shall take all actions, measures and decisions necessary in this regard.

Chapter IV

Investment Entity and Applications to be submitted to the Authority

Article (8)

Without prejudice to the provisions of Articles (11) and (12) of the Law, the activities of Direct Investment shall be licensed in accordance with the provisions of the Law and these Regulations, through a specified Investment Entity, pursuant to any of the following forms:

- 1) A Kuwaiti company, incorporated for the purpose of Direct Investment pursuant to the provisions of the Companies Law referred to. The foreign investor might obtain a 100% share of the capital of a shareholding company, or a limited liability company, or a single-person company.
- 2) A branch of a foreign company licensed to operate in the State of Kuwait for the purposes of Direct Investment.
- 3) A representative office having the sole purpose of preparing market studies and production possibilities, without engaging in a commercial Activity or Activity of commercial agents.

Article (9)

Subject to the provisions of Article (12) of the Law, the Board shall set the specific principles and rules for the licensing of each type of Investment Entity referred to in the Law.

The Authority shall prepare the application forms for the various types of transactions that fall within its jurisdiction and in particular the following:

1. Licensing of an Investment Entity.
2. Granting of incentives and exemptions.
3. Amendments to the name, address, purpose, capital or domicile of an Investment Entity.
4. Amendments to the percentage of shareholders' equity in an Investment Entity.

The Relevant Minister shall determine the fees for the services rendered by the Authority.

Article (10)

The Authority shall receive the Applications, papers and documents submitted by the Investor or his representative. Submission may occur through any other means specified by the Authority, including registered mail or e-mail.

The Authority shall hand over to the applicant a receipt proving the acceptance of his Application for the purposes of review, after ensuring the fulfilment of all required conditions, information and documents.

Article (11)

The Authority shall set-up a register to record all Applications, according to their type and precedence. The register shall in particular record the following information:

1. The type of Application and its number.
2. The date on which the Investor received the receipt described in the preceding article.

3. The Investor's name, address and necessary identification particulars.
4. Type of Activity and the form of the Investment Entity.
5. The appropriate means of notification, which shall be specified by the Authority.

Article (12)

Deciding on the merits of Applications submitted shall be made in accordance with the provisions of the Law and these Regulations. Decisions and any necessary correspondence in this respect shall be issued with the signature of the Director General. The Investor shall be notified of the approval or rejection of the Application. In the event of a rejection, the decision for rejection needs to be reasoned and in writing.

Chapter V **Rules of License Applications**

Article (13)

Without prejudice to the provisions of the Law and these Regulations, the License Application must include the information, data and documents required by the competent authorities, all of which shall be valid. The Investor shall reveal the time table of both the Commencement of Execution and commencement of operations.

Article (14)

In order to accept receiving the License Application for the establishment of a Kuwaiti company, it shall be accompanied by an initial study, which shall specifically include the following:

- 1) The type of proposed Activity or project.
- 2) The legal form of the company required to be licensed.
- 3) The size of the investment.
- 4) Financing structure and sources.
- 5) The economic and environmental impact.

- 6) The experience and capabilities of the investor.
- 7) The needs of the Investment Entity for national and foreign labor, area of land required, raw materials, intermediate goods and their supply sources.
- 8) The estimated annual quantity of water and energy required.
- 9) Any further data or clarifications requested by the Authority before or after the submission of the Application.

Article (15)

The Application for the licensing of a branch of a foreign company shall be accompanied by an initial study of the particulars set forth in the preceding article, in addition to a certified copy of the company's memorandum and articles of association, the latest audited balance sheet and a certificate evidencing its existence and performing its operations.

Article (16)

The Application for the licensing of a representative office shall include in particular the following:

- 1) The purpose of the establishment of the office.
- 2) A certified copy of the memorandum and articles of association of the foreign company, its latest audited balance sheet and a certificate evidencing its existence and performing its operations.
- 3) Any further data or clarifications requested by the Authority before or after the submission of the Application.

Article (17)

The Authority shall decide on the merits of the License Application within thirty days as of the fulfilment of all conditions, data, papers and documents required by the Authority and the competent authorities.

In case the Authority approves the License Application, the incorporation of the Investment Entity and issuance of the commercial license shall proceed.

The License shall be issued by a decision of the Director General.

Article (18)

The Investment Entity must obtain the necessary approvals for the Commencement of Execution within one year from the date of issuance of the License, unless the time table submitted to the Authority specifies a longer period.

The Director General may grant additional time to the Investor if he submits acceptable reasons, provided that this period shall not exceed one additional year.

The Board may grant another time limit exceeding the time limit set forth in the preceding paragraph.

The Investor shall notify the Authority of the actual date of the commencement of operations within thirty days from such date.

Chapter VI Incentives and Exemptions

First The Procedures for Obtaining Incentives and Exemptions

Article (19)

The Investor shall submit to the Authority an Application to receive the incentives and exemptions provided for in Article (27) of the Law on the forms prepared for this purpose. This can accompany the License Application or can be done after the submission thereof, upon the fulfilment of all conditions and rules established by the Board in this regard.

Article (20)

The incentives and exemptions, including tax exemptions, granted to an Investment Entity with multiple activities shall be limited to the Activity approved by the Authority in this respect.

Second Tax Exemption

Article (21)

Each Investment Entity licensed in accordance with the provisions of the Law shall maintain regular accounts under the supervision of one or more certified auditors.

If an Investment Entity practices more than one Activity governed by the provisions of the Law and these Regulations, then the tax exemption period shall be calculated for each Activity separately as of the date of the commencement of actual operations. Regular and separate accounts shall be maintained for each Activity.

Article (22)

The Investor may benefit from income tax or any other tax exemptions for a period not exceeding ten years beginning from the date of commencement of operations of the Investment Entity; provided that the Investor shall provide a tax return on the exempted Investment Entity in accordance with the dates to be specified by the Ministry of Finance.

Article (23)

The tax exemption Application shall be submitted to the Authority on the forms prepared for this purpose. The Application shall be submitted and the exemption period and value shall be determined by the Authority, in coordination with the competent authorities, in accordance with the provisions of Article (29) of the Law. The Board shall develop principles, rules and standards it deems appropriate in this regard.

The Investor shall comply with the financial and tax instructions issued by the Ministry of Finance, especially with regard to the submission of tax returns and any documents, data or clarifications requested for the sake of the implementing the exemption.

Article (24)

The Director General shall within fifteen days from the date of receipt of notification, following verification of the validity of the particulars of the

notification provided for in Article (13) of these Regulations and of the commencement of operations, deliver to the interested party a certificate of tax exemption. Such certificate shall determine the scope of the Activity and the date of commencement of actual operations. The Ministry of Finance shall be served with a copy of such certificate, which shall be conclusive evidence towards all relevant parties.

The foregoing provisions shall apply to the expansion of the existing Investment Entity. The tax exemption in this case shall enter into force as of the commencement date of production or actual operations of the expansion.

Third Customs Exemption

Article (25)

The Application for the exemption from custom taxes and duties shall be submitted to the Authority in accordance with the forms prepared for this purpose. The Application shall be accompanied by a list of the materials, which are subject of the Application.

The Application for customs exemption shall be assessed in accordance with the principles, rules and standards to be established by the Board.

The customs exemption certificate shall be issued by the Director General and shall be conclusive evidence towards all relevant parties.

Article (26)

The Authority, in coordination with the General Administration of Customs and other concerned authorities, shall determine the cooperation mechanisms for handling the technical and procedural aspects of the Applications for customs exemption, in terms of the adoption of the lists of imports of Investment Entities, which are the subject of the Application.

Article (27)

The Investment Entity shall be fully or partially exempted from customs duties and taxes in accordance with the provisions of the Law and these Regulations, subject to the following:

- 1) The importation shall be made in the name of the Investment Entity or for its account.
- 2) The imported materials, in terms of quantity and quality are consistent with the nature and needs of the Activity of the Investment Entity.

Article (28)

Without prejudice to the provisions of Law No. (10) of 2003 on the promulgation of the Unified Customs Code for the Arab Gulf Cooperation States, the Investment Entity shall be fully or partially exempted from taxes and customs duties or any other fees that may be due on imports necessary for the purposes of the Investment Entity, including:

- 1) Machinery, tools, equipment, means of transport, and other technological devices.
- 2) Spare parts and necessary maintenance supplies for what has been described in the previous subsection.
- 3) Intermediate goods, raw materials, partially manufactured goods, wrapping and packaging materials and supplies.

Article (29)

The Investment Entity enjoying customs exemptions shall commit to maintain a register to record all machinery, equipment, devices, means of transport, spare parts, supplies, materials and goods subject to the said exemption.

Fourth Allotment of Land and Real Estate

Article (30)

The Board shall set out the principles, rules and standards on the basis of which the Application for the usage of land and real estate allocated to, supervised and administrated by the Authority, shall be assessed, as well as the determination of the areas that can be allotted to an applicant, and the manner of allotment.

Fifth

Conversion of the Investment Entity

Article (31)

After obtaining the approval of the competent authorities, two or more Investment Entities may be merged. The new merged entity shall be the legal successor of the merged entities and shall subrogate them in their rights and obligations.

Article (32)

The new entity shall automatically be entitled to the shortest remaining duration of any exemption and privileges granted to any of the merged Investment Entities.

The new entity may submit to the Authority an Application for the receipt of other exemptions and incentives to complete the ten-year period provided for in Article (27) of the Law.

Article (33)

In case of an Investment Entity's division into two or more Investment Entities, the entities arising from such division shall be the successors of the divided entity and shall subrogate it in its rights and obligations, within the limits of the rights and obligations devolved thereto from the divided entity in accordance with the provisions of the division resolution.

Article (34)

In case the Investment Entity converts from one form to another, or if the licensed company converts from a legal form to another form; the conversion decision shall not affect the rights and obligations of the Investment Entity, or the Investor, or bona fide third parties.

Chapter VII

Grievances

Article (35)

The Board shall form a committee to receive grievances, consisting of at least three members, from whom one shall be designated as the head of the said

committee, which shall be competent to receive grievances from stakeholders regarding decisions issued by the Authority.

The grievance shall be submitted to the committee within thirty days from the date of notification or knowledge of the decision by the concerned person.

Article (36)

The grievance shall be accompanied by supporting documents, in particular, the following:

- 1) The name, designation, address and contact details of the person submitting the grievance.
- 2) The date of issuance of the decision that is subject of the grievance and the date of the notification or knowledge of such decision by the person submitting the grievance..
- 3) The subject of the grievance and the reasons upon which it has been based.

Article (37)

Grievances shall be submitted to the secretariat of the Board, who shall notify the Director General therewith upon the receipt thereof. Grievances shall be recorded in the register prepared for such purpose, and the person submitting the grievance shall receive a receipt indicating the registration number and date of the grievance.

Article (38)

The grievance shall be referred to the head of the committee, who shall determine the date of the hearing of the matter and shall notify the person submitting the grievance therewith, to attend before the committee in person, or by an agent or through a representative. The committee may ask relevant stakeholders to submit the clarifications and documents it requires

Article (39)

The committee shall decide on the grievance on the basis of a reasoned decision within thirty days from the date of its registration. The committee's

deliberations shall be confidential and its decisions shall be passed by majority, and shall be final.

Chapter VIII Judicial Officers

Article (40)

All Investment Entities shall be subject to the rules, regulations and supervisory instructions prescribed by the Authority; provided that the Authority shall coordinate with the Ministry of Commerce and Industry and other competent authorities in this regard.

Article (41)

The Relevant Minister shall issue a decision determining the employees who shall have the capacity of judicial officers to monitor the implementation of the provisions of the Law, the Regulations and implementing decisions

The persons who have the capacity of a judicial officer, in order to perform their duties of supervision and follow-up, shall have the right to take the following actions:

- 1) Access all premises of Investment Entities.
- 2) Access to all requested documents and data, and in particular, records, books, exhibits, documents, tapes and computer systems and any other means of data storage or processing.
- 3) Preparing written minutes documenting violations and referring the same to the competent authorities at the Authority.

The Investment Entity shall facilitate the tasks of the judicial officers and provide them with the foregoing as required.

Article (42)

The employees of the Authority who have the capacity of judicial officers shall comply with the following when performing their duties:

- 1) The duties of the judicial officer shall be performed during the official working hours, and at the premises of an Investment Entity.

- 2) The supervision and follow-up shall be done in respect of the activities licensed by the Authority. The goal of such activities shall be to verify the proper application of the provisions of the Law, its Regulations and implementing decisions.

Article (43)

The employees of the Authority who have the capacity of judicial officers shall submit a detailed report on the results of their work immediately after the completion thereof to the Director General, who shall transmit it to the Board with his opinion on taking the necessary decisions or actions in this regard.

Chapter IX Investment Register

Article (44)

A special register called "Investment Register" shall be maintained by the Authority, in which all Investment Entities licensed in accordance with the provisions of the Law, and all Applications, Licenses, incentives, exemptions, sanctions and their associated data shall be recorded. All relevant documents and data shall be attached to such register.

The Director General shall issue the decisions for the setting up of the register, the content thereof, the mechanism of the registration therein as well as the documents and data required therefor.

Article (45)

The Investment Entity licensed by the Authority or granted incentives or exemptions in accordance with the provisions of the Law and these Regulations, shall notify the Authority in writing of any judgments, decisions or proceedings that would affect the Investment Entity's Activity or its continuation.

Any stakeholder shall notify the Authority of any judgments, decisions or proceedings referred to in the preceding clause, which shall be recorded in the Investment Register.