

Central Bank of Kuwait

**Controls for executing Law No. 2 of 2021 regarding rescue of small and medium enterprises affected by the repercussions of the Coronavirus crisis**

**Firstly**

**Definitions**

Article (1)

In order to execute the provisions of these regulations, the following words, phrases and terms shall have the meanings indicated next to each of them:

Central Bank: The Central Bank of Kuwait.

Bank(s): the local bank / banks.

Affected Clients: Small and medium clients, including the owners of emerging projects who were operating with operational efficiency, and whose activities were partially or totally damaged by the Coronavirus crisis, which resulted in their inability to cover the required basic periodic contractual expenses.

Emerging Enterprises: Small and medium enterprises that are newly established and have not completed their first fiscal year until the date of execution of Law No. 2 of 2021 referred to, in accordance with the provisions of Law No. 1 of 2016 issuing the Companies Law.

Financing: Loans and financing operations provided by local banks to affected clients in accordance with the referred Law No. 2 of 2021.

**Secondly**

**Funding mechanism and conditions**

**Article (2)**

The aggrieved client submits a financing request to a bank, through an electronic portal designated by the bank for this purpose, with the following requirements being fulfilled:

- An official funding request signed by the Authorized Signatory.
- The financial statements of small and medium enterprises reflect the operational results during the pre-3/12/2020 period.
- The financial position of the emerging projects, if no financial data are issued, reflects the operational results during the pre-3/12/2020 period, including documents and contracts confirming the financial position data.
- The financial position of legal entities that are not required to issue financial statements in accordance with the laws and regulations governing them (such as professionals), which reflects operational results during the pre-3/12/2020 period.
- A statement of expected future monthly cash flows.
- A statement of the required contractual operating expenses such as salaries, rents, and any due payments for any obligations.
- An authorization from the client to the bank to inquire from the credit information network company (Ci-Net).
- A list of national workers at the establishment, issued by the Public Authority for Manpower, specifying the percentage of national workers at the end of 2019, and the percentage required at the end of 2021.
- Any other data requested by the bank for the purpose of carrying out the credit study.

The bank must notify the client within five working days of receiving the financing request, either that the application is complete or not, and in this last case, the bank must specify the documents and other data to be presented.

Article (3)

The bank prepares the necessary credit study in an integrated and fast manner, and includes at least: verifying that the client fulfills the conditions for granting financing, reviewing his previous cash flows to verify them, and inquiring about him through the credit information network company (Ci-Net).

Due diligence is made to verify the financial position data of emerging projects and entities not required to issue financial statements in accordance with the laws and regulations governing them.

Article (4)

The bank notifies the client of the final decision resulting from the credit study of the financing request submitted by him within a maximum period of 15 working days from the date of completing all the documents, provided that this notification includes the reasons for rejection in the event of rejection of the application, and the client whose applications have been rejected may submit a new application to another bank.

Article (5)

The bank determines the size of the necessary financing according to the financial deficit in the cash flows of the affected client, and the bank determines the period of repayment according to the expected cash flows of the client.

Article (6)

The bank provides financing in installments coinciding with the periodic needs required to fill the deficit in the actual cash flows achieved, and depositing them directly in the accounts of the beneficiaries in the banks. The bank must ensure the maturity of these payments, and the financing does not disburse cash to the client.

Article (7)

The bank provides the client with a clear and simplified statistical table showing the value and number of installments, the components of each installment, including the principal of the financing and the interest, the returns that the client will pay, the part that the state treasury will bear from those interests / returns, and the total amounts that the client will pay until the end of the financing period.

Article (8)

The client does not benefit from the irregular financing in the payment as on 31/12/2019 and the irregularity is determined according to the instructions of the Central Bank issued regarding the rules and principles for classifying credit facilities, financing operations, calculating their allocations, and how to deal with the resulting revenues, with the exception of the affected clients, the owners of emerging projects.

Article (9)

The client is required to use the financing capabilities to finance working capital to cover the deficit in required contractual operating expenses (such as salaries, rents, maintenance, and any payments due for any liabilities arising).

In all cases, the client is prohibited from using the financing for speculative purposes or trading in real estate and securities or in the payment of installments or burdens of credit facilities based on the client provided by banks or any other donor, or in any other uses other than what is stipulated in the referred Law. No. 2 of 2021.

Article (10)

The bank is responsible for managing indebtedness and does not charge any commissions or other fees other than the interest / returns stipulated in Article (7) of the referred Law No. 2 of 2021.

**Thirdly**

**Financing Costs**

Article (11)

A fixed rate of interest / returns will be applied to the financing throughout the financing period, with a maximum of 1% above the discount rate announced by the Central Bank at the time of grant. The following table shows the method of bearing the interests / returns resulting from the diminishing balance of the financing, and the cost of the financing is distributed during the repayment period as follows:

Period	Interests / returns for financing affected clients
First Year (Grace Period)	Fully shouldered by the state treasury
Second Year (Grace Period)	Fully shouldered by the state treasury
Third Year	State treasury bears (90%) and the client (10%)
Fourth Year	State treasury bears (80%) and the client (20%)
Fifth to Tenth Year	Fully shouldered by the client

The clients bear all the interest and returns that the state treasury has not shouldered in all the years of payment.

#### Article (12)

Banks are required to provide the Central Bank, on a quarterly basis, with the state treasury's share of the cost of financing (interest, returns) in accordance with the provisions of Article (7) of the referred Law No. 2 of 2021, within ten working days from the end of each quarterly period, audited. By auditors of donor banks, to be submitted by the Central Bank to the Ministry of Finance.

#### **Fourthly**

#### **Security**

#### Article (13)

The state guarantees 80% of the principal financing provided to affected clients under these controls without interest, returns within the period specified in Article (6) of Law No. 2 of 2021, with a maximum of five hundred million Kuwaiti dinars for the total new financing provided by all banks, within six months of the date this law was published in the official gazette and it came into effect.

Article (14)

The banks shall submit to the Central Bank - after the passage of six months from the entry into force of the referred Law No. 2 of 2021 - a detailed schedule of the new funds disbursed to clients in accordance with this law and the controls and instructions issued by the Central Bank, and the amounts guaranteed by the state, provided that they are audited by external account auditors, and provided that the report includes the auditors' verification that the bank has complied with the terms and conditions stipulated in this law as well as what is stated in the provisions of these controls.

Article (15)

Banks must pay commission for issuing the guarantee to the Central Bank within three working days from the end of each quarter in accordance with the provisions of Article (10) of the referred Law No. 2 of 202, accompanied by an audited certificate by the auditors indicating the correct calculation of the commission.

**Fifthly**

**Defaulting and Activating the Guarantee**

Article (16)

Banks are obligated to make all efforts in order to collect the payments due from clients who have been financed, and in the event of default, the following recovery process will be followed:

- The bank submits a request to activate the guarantee to the Central Bank on behalf of the state with attaching copies of the procedures it has taken to collect its dues from the party that obtained the financing, including warning messages sent to the party that is defaulting on payment.
- The bank files a lawsuit in the competent court against clients who have defaulted on payment.
- The bank provides proof of the legal measures taken against the defaulting client.

Article (17)

The bank shall follow up on the collection from clients who are defaulting in paying the financing, take the necessary legal and judicial measures in this regard, and carry out any other work stipulated in the referred Law No. 2 of 2021, and the decisions issued for its execution.

Article (18)

In the event that any amount of the defaulted financing is recovered, the state gets its share of the recovered amount in line with the guarantee coverage percentage, as the recovered amount is transferred to the account of the Ministry of Finance with the Central Bank within a maximum period of three working days from the date of collecting the amount.

**Sixthly**

**General Rules**

Article (19)

Banks establish electronic portals to receive funding requests, and are committed to publishing these controls, and a list of documents required to study the requests of affected clients on their electronic platforms.

Article (20)

The bank should develop procedures for granting financing to suit the specific nature of the affected clients, taking into account the speed of decision-making, with no negligence in assessing risks. It is necessary to take into account the provisions of the instructions for the rationalization and regulation of credit policy at banks, which cover the various foundations and controls related to the process of granting credit, in particular in terms of the necessity of conducting credit studies of the financial situation of clients and determining the cash flows and sources of payment. In general, the credit study and the final decision to grant financing or not is the responsibility of the bank alone.

Article (21)

Banks are obligated to register the requests submitted by clients and according to the priority of their receipt, provided that those requests are decided upon in accordance with these controls.

Article (22)

The banks coordinate with the Credit Information Network Company (Ci-Net) to create the necessary databases for these clients according to a special system that serves the nature of this financing, taking into account the proof of the date of the client's application for financing, and the party to which it is submitted.

Article (23)

The bank shall stop the disbursement of unused amounts from the financing in the event that the documents submitted by the clients are found to be incorrect and take the necessary legal measures to recover the amounts that were disbursed unlawfully, including the burdens shouldered by the public treasury as a result of the acts in violation of referred Law No. 2 of 2021 as well as the controls issued by the Central Bank, and the state treasury stops bearing any part of the cost of financing.

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