Companies with limited liability under the new Kuwait Companies law

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Companies with limited liability are perhaps one of the most common in Kuwait. This article briefly discusses some of the noteworthy changes recently made to the Companies Law No. 25 of 2012.

These changes relate to (i) the nationality of partners and capital requirements; and (ii) the ease of procedures to transfer parts (i.e. shares) in a limited liability company.

The Companies Law 2012

On 29 November 2012 the Kuwait Government published the new Companies Law No. 25 of 2012 ('the New Companies Law'). Amendments to the law were presented to the National Assembly and published in the Official Gazette on the 27 of March 2013. The new law superseded the old Commercial Companies Law of 1960 ('the 1960 Law'). The New Companies Law is also dependent on the release by the Ministry of Commerce and Industry of executive regulations to the new law, which are known as 'Executive By-Laws'.

Nationality of partners and capital requirements

Under the 1960 Law a company with limited liability was required to have a Kuwaiti partner holding at least 51% of the parts. The position under the New Companies Law however is unclear in relation to this and the minimum capital requirements, because they are to be determined by the Executive By-Laws, which have yet to be issued. Typically, the minimum capital for a company with limited liability is based on the company objectives.

Ease of Procedures to Transfer Parts in a WLL

Limited liability companies in Kuwait are identified by have the initials 'WLL' after their name ('With Limited Liability). The transfer of parts in a WLL was an arduous process under the 1960 Law and required the following:

- A signed deed of amendment before the Notary Public of the Ministry of Justice.
- The company then filing the signed deed of amendment by all partners at the Ministry of Commerce and Industry in order to amend the memorandum and articles of association.

Article 99 of the New Companies Law however has eased these requirements by only requiring the use of a written instrument in order to allow for the transfer of parts in a WLL. Furthermore, the new law introduces a new procedure to enable investors to more easily transfer their legal ownership interests in a WLL. The procedure is as follows:

- The consent of the existing partners must be obtained in order to sell parts to third parties.
- In the event unanimous consent from the partners is not obtained, the conditions of the transfer offer shall be published in the Official Gazette.
- If the existing partners do not exercise their right of redemption within fifteen days of publication, then the partner is free to transfer any parts.
- The request to transfer parts must be attached with a certified cheque for the full value of the

assigned parts in the assignor’s name.

- When amending the memorandum of association, only the signatures of the transferring partner and the transferee are required, thereby eliminating the need to obtain the signatures of all the partners on the amendment of the memorandum of association (Article 100).

Based on the above overview, it can be seen that the New Companies Law has introduced new provisions and amended previous provisions to generally allow more flexibility in the establishment and operations of limited liability companies, including the transfer of parts by investors. It is hoped that these changes will better support Kuwait’s growing economy.