National Insurance Protection Extension System for Kuwaitis Working in one of the Gulf Cooperation States

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The pension insurance provides certain benefits in relation to specific events in an employee's life such as retirement, disability, sickness or death. Given that the GCC member states recognise the mobility of their citizens, Law 44 of 2007 Concerning the Extension of Security Protection to the Citizens of the States of Gulf Cooperative Council for Arab Countries Who are Working Outside Their Own Countries In Any Member State of the Council ("Extension of Security Protection for GCC") codified a unified system to allow the GCC national to contribute to his or her own country's pension insurance while working outside in any member GCC country. As such, foreign companies who employ a number of GCC nationals throughout the GCC should understand that in order to ensure compliance with local laws, a foreign company doing business in one of these states has certain statutory obligations with respect to their contributions towards the pension insurance.

Under Kuwait law, Article 2 of Law 61 For the Year 1976 Regarding the Issuance of the Social Insurance Law (the "SI Law") stipulates that employees (and members of Parliament) are eligible to receive the pension benefits. Employees and members of Parliament are required to fund the national pension but employers and the State Public Treasury also make contributions. Recently, Law 110 of 2014 increased the percentages by 2.5% effective on 1 January 2015. As such, the current percentage of contributions made into the pension insurance is as follows: the employee contributes 9.5%; the employer 13.5%; and the State Public Treasury contributes 10%. Therefore pursuant to the Extension of Security Protection for GCC, a Kuwaiti employee who works abroad shall compulsorily contribute to the social security.

The provisions of the SI Law and the Extension of Security Protection for GCC apply obligatorily to a Kuwaiti employee working in a GCC country with an employer who is subject to the civil retirement or social security system of the country where the Kuwaiti employee works and affords the Kuwaiti employee reciprocal treatment of contributing into the Kuwait national pension. The provision of reciprocal treatment requires fulfilment of the following criteria: (i) that the insured person is a Kuwaiti national; (ii) the employer should be subject to the civil retirement system or social security system in the country where the work takes place; (iii) the work should be with one of the units of the administrative bodies in the country where the work is performed or the public authorities and departments therein who are subject to the civil service laws or systems or be subject to the labour laws or systems in those countries; and (iv) the age of the insured shall not be less than 18 years or more than 65 years.

Once these conditions are met, the Kuwaiti employee who works abroad in one of the GCC countries shall be obligated to contribute to the Kuwait national pension insurance and the employer shall take the initiative to register the Kuwaiti employee according to the applicable rules and procedures in the GCC country where he works. The employer has the duty to present a notification to the relevant pension department stating the date of hire of the Kuwaiti employee and providing the following documents: (i) copies of nationality certificate, birth or age assessment certificate and civil ID card; (ii) copy of the appointment decision or employment contract; and (iii) detailed statement of the Kuwaiti employee's salary, if the salary elements are detailed. Once the Kuwaiti employee is registered in the GCC country, each party is required to contribute their percentage into the Kuwait national pension insurance. It should be noted, however, if the contribution of the GCC country where the Kuwaiti employee works is less than the Kuwaiti percentage, the Kuwaiti employee is required to pay the difference on top of his share in contributions.

Under the SI Law, the applicable rules and procedures for registering a Kuwaiti national stipulates that the employer has ten (10) days to register the employee with Kuwait's national pension institute known as the Public Institute of Social Security ("PIFSS") and begin payment of the due contributions. If the employer fails to register the Kuwaiti employee or pay the due contributions, or does not inform the relevant civil retirement system or national pension institute of termination of services, or pays the contributions on the basis of incorrect salaries, then the employer shall be subject to penalties and fines from the country where the Kuwaiti employee performs the work and the fines will be paid by the employer into the bank account of PIFSS.

Finally, the compulsory contributions will cease if: the insured person no longer works for the employer in the GCC country for whatever reason (i.e., resignation, dismissal, or death) and notice is provided to the relevant civil retirement/social security authorities in the country where the work is performed; the Kuwaiti employee is granted leave without pay for whatever period and the employer shall immediately report the status before the civil retirement/social security authorities in the country where the work is performed so that the PIFFS will in turn be provided with notice; if the Kuwaiti employee loses his Kuwaiti nationality.

Given that a Kuwaiti national may be working abroad, the Extension Security Protection for GCC ensures a seamless unified system that provides the assurance that upon a major event in the Kuwaiti employee's life, such as retirement, disability, sickness or death, he will receive the benefits accordingly.