The Introduction of a New Law Regulating Dealings with Foreign Stock Exchanges

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Introduction

The aftershocks of the global financial crisis of 2007 deeply affected Jordan's stock market exposing a number of sham transactions in relation to, among other things dealings in foreign stock exchanges. Fast-forward ten years in time and the Jordanian government has issued *Law No.1 Regulating Dealings With Foreign Stock Exchanges Law no.1 of 2017* (the "Foreign Exchange Law") to replace *Temporary Law No.50 Regulating Dealings With Foreign Stock Exchanges of the year 2008* with the hopes of providing a more tight knit protection scheme for investors to prevent any fraudulent dealings through limiting the scope of entities capable of dealing in foreign stock exchanges.

By virtue of the new Foreign Exchange Law restrictions have been introduced for the first time limiting the entities who are able to broker or mediate on behalf of third parties in foreign stock exchanges to only banks and financial service companies licensed by the Securities Commission.

The below articles outline the major additions introduced by the Foreign Exchange Law and the possible impact the said legislation may have on the ability of foreign banks to operate under the new legislation.

Unprecedented Limitations

Article 3 of the Foreign Exchange Law explicitly states that the practice of dealing in foreign stock exchanges or mediating on behalf third parties in foreign stock exchange, is solely limited to banks and financial services companies licensed by the Jordan Securities Commission. With the exclusion of the banks and/or the licensed financial service companies Article 3 prohibits any entity from partaking or mediating in foreign stock markets whether it be on behalf of another party or on behalf of itself directly or indirectly.

Furthermore, no person is allowed to promote or advertise by any means any mediation services on behalf of third parties in foreign stock markets or to mediate in foreign stock exchange directly or indirectly. Such limitations have been placed to ensure the protection of investors from false advertisement of foreign stock market dealings that had led to the 2007 financial scam.

It is also worth noting that in contrast to the previous Foreign Stock Exchanges Law of 2008, the newly issued Foreign Exchange Law does not expressly exempt foreign banks from the restrictions set out in Article 3 above. Under the previous regime foreign banks could be exempt from such restrictions by the Securities Commission and if approved by the Council of Ministers.

Penalties

Article 4 outlines more strict penalties for breaching Article 3(B) and 3(C) of the Foreign Exchange Law and imposes a fine of no less than one thousand (1,000) Jordanian Dinars and no more than one hundred thousand (100,000) Jordanian Dinars, along with one year imprisonment. Such firm penalties enforce the ideal the government is trying to portray of having more regulated dealings in the foreign stock exchange market.

Moreover, any contract or agreement entered into by any party that accordingly infringes Article 3 is considered to be in breach and thus, the infringer must return all the money collected from the contracted party and gained as a result of such breach.

If the party in breach is a company, then its chief executive officer, board of directors or its general manager (if applicable) are considered to be responsible and jointly and severally liable with the company. As such they must return all the money gained as a result of the money received from others.

A Clearer Image

Article 5 dictates that whenever appropriate, the Management Board of the Jordanian Central Bank as well as the Board of Commissioners of the Securities Commission must issue further instructions and decisions necessary to implement the provisions of this law.

Additionally, the Council of Ministers are expected to issue the regulations necessary to implement the provisions of this law.

Such articles are likely to provide further clarity as to the interpretation of the restrictions placed under the Foreign Exchange Law with respect to foreign dealings and exemptions for foreign banks from such restrictions.

Conclusion

It is evident that the new Foreign Exchange Law does not take into consideration many factors that should be encompassed in its articles. Such factors consist of for example, foreign banks and the repercussions that might be incurred as a result of restricting such entities.

Furthermore, it does not take into account the fact that, despite having a licensing mechanism for the eligible entities in Jordan, such authorisation is not automatically translated into foreign markets where some banks or companies licenses may not be recognised by other jurisdictions as being sufficient to give them the authorisation to be able to participate in other foreign stock exchanges and thus, they might need the mediation of other foreign banks or qualified intermediaries to be able to deal in foreign stock exchange. With the New Foreign Exchange Law being silent on such a matter it is not clear whether such acts might be in breach of the New Foreign Exchange Law.

What is more, the new Foreign Exchange Law is also silent regarding the ability of any investor to simply use websites or applications to trade online in foreign stock markets without the need to have a qualified mediator or an approval from the government.

Despite the fact that the new Foreign Exchange Law does not yet clearly portray the full image the government is trying to paint with this new legislation, it definitely takes a step into the right direction taking into consideration the previous blunders caused by loose restrictions and lenient penalties. It is evident that with its new more strict approach in regulating the dealings, it would be providing more sufficient protection for simple and small time investors who lack the adequate

experience to detect any fraudulent acts.