Kuwait

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary - Kuwait	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions
Medium Risk Areas:	US Dept of State Money Laundering assessment Corruption Index (Transparency International & W.G.I.)) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

fish

Industries:

petroleum, petrochemicals, cement, shipbuilding and repair, water desalination, food processing, construction materials

Exports - commodities:

oil and refined products, fertilizers

Exports - partners:

South Korea 16.1%, India 15.7%, Japan 13.4%, US 11.7%, China 9.2%, Singapore 4.2% (2012)

Imports - commodities:

food, construction materials, vehicles and parts, clothing

Imports - partners:

US 11.8%, China 9.2%, Saudi Arabia 8.6%, Japan 8.2%, South Korea 6.9%, Germany 5.1%, Italy 4.7%, India 4.6%, UAE 4.4% (2012)

Investment Restrictions:

Major barriers to foreign investment remain, including regulations barring direct involvement of foreign entities from the petroleum and real estate sectors, long bureaucratic delays in starting new enterprises, agency and sponsorship requirements, and a local business culture heavily based on clan and family relationships that often preclude foreign participation. On November 26, the Amir enacted a new Commercial Companies Law by emergency decree in order to ease the process of doing business in Kuwait. The decree is currently pending parliamentary approval. The new law replaces the Commercial Companies Law of 1960 and comes after 23 years of discussion and debate. The law includes the following key changes:

- Setting up a "one-stop-shop" for incorporation and licensing, thereby reducing wait-times associated with opening new businesses in Kuwait;
- Shareholders can now agree to share profits and losses in a ratio other than their percentage shareholding in the company;
- The 51% requirement of Kuwaiti shareholding in the capital of Kuwaiti companies may be relaxed for certain types of companies or specific sectors. (This will be clarified through pending executive bylaws); and
- Encouraging the growth of the Islamic finance market by allowing incorporation of special purpose companies such as those relating to sukuks, bonds and convertible bonds.

Under Kuwait's Direct Foreign Capital Investment Law of 2001, foreign firms are permitted 100 percent foreign ownership in certain industries including: infrastructure (water, power, waste water treatment, and communications); insurance; information technology and software development; hospitals and pharmaceuticals; air, land and sea freight; tourism, hotels, and entertainment; housing projects and urban development; and investment.

Projects involving oil and gas exploration and production are not authorized for foreign investment within Kuwait due to the prevailing interpretation of the Kuwaiti Constitution that limits such activities.

Non-GCC citizens may not own land in Kuwait

Contents

Section 1 - Background

Britain oversaw foreign relations and defense for the ruling Kuwaiti AL-SABAH dynasty from 1899 until independence in 1961. Kuwait was attacked and overrun by Iraq on 2 August 1990. Following several weeks of aerial bombardment, a US-led, UN coalition began a ground assault on 23 February 1991 that liberated Kuwait in four days. Kuwait spent more than $5 billion to repair oil infrastructure damaged during 1990-91. The AL-SABAH family has ruled since returning to power in 1991 and reestablished an elected legislature that in recent years has become increasingly assertive. The country witnessed the historic election in May 2009 of four women to its National Assembly. Amid the 2010-11 uprisings and protests across the Arab world, stateless Arabs, known as bidun, staged small protests in February and March 2011 demanding citizenship, jobs, and other benefits available to Kuwaiti nationals. Youth activist groups - supported by opposition legislators and the prime minister's rivals within the ruling family - rallied repeatedly in 2011 for an end to corruption and the ouster of the prime minister and his cabinet. Opposition legislators forced the prime minister to resign in late 2011. In October-December 2012, Kuwait witnessed unprecedented protests in response to the Amir's changes to the electoral law by decree reducing the number of votes per person from four to one. The opposition, led by a coalition of Sunni Islamists, tribalists, some liberals, and myriad youth groups, boycotted the December 2012 legislative election, resulting in a historic number of Shia candidates winning seats. Since 2006, the Amir has dissolved the National Assembly on five occasions (the Constitutional Court annulled the Assembly once in June 2012) and reshuffled the cabinet 12 times, usually citing political stagnation and gridlock between the legislature and the government.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Kuwait is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies.

FATF Statement re AML Strategic Deficiencies - 25 February 2015

The FATF welcomes Kuwait's significant progress in improving its AML/CFT regime and notes that Kuwait has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in June 2012. Kuwait is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Kuwait will work with MENAFATF as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report, in particular, fully implementing UNSC Resolution 1373.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Kuwait was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Kuwait was deemed Compliant for 1and Largely Compliant for 10 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 4 of the6 Core Recommendations.

Executive Summary extracted from IMF Report - Kuwait: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism (September 2011)

1. The anti-money laundering law (the AML Law), containing the core elements of the AML regime, was introduced in 2002. It imposes customer due diligence (CDD) obligations on a range of financial institutions (FIs), and requires these FIs to submit suspicious transaction reports (STRs) to the Public Prosecutor's Office (PPO). However, the AML Law did not criminalize the financing of terrorism (FT) and did not put in place a mechanism to implement the United Nations Security Council Resolutions (UNSCRs). Kuwait has initiated a relatively small number of prosecutions for money laundering (ML) and of orders to confiscate assets. The AML Law was never amended; however, a new draft law was sent before the National Assembly in 2007.

2. Several indicators suggest that ML and FT operations do not pose a serious threat to the Kuwaiti economy. Although there is currently no evidence of significant ML in the country, Kuwait's financial sector is growing rapidly in terms of banking sector assets. This development has the potential of creating a suitable environment for money launderers and

terrorist financers to exploit. No major terrorist activity has been recorded in the country. Less serious terrorist activity has been noted.

3. The AML/CFT framework has many shortcomings. The main deficiencies of the regime are:

The ML criminalization does not cover all serious predicate offenses, and TF is not criminalized; The preventive measures for FIs and designated non-financial businesses and professions (DNFBPs) are not comprehensive; The Kuwait financial intelligence unit (KFIU) is not established as an independent national centre responsible for the receipt, analysis, and dissemination of STRs and other information regarding potential ML or FT. Some supervisors are not provided with adequate powers to monitor and ensure AML/CFT compliance by FIs and DNFBPs, and do not have sufficient sanctioning powers; The licensing requirements for FIs are not comprehensive. In addition, there are no laws or regulations that impose controls on the ownership structure of FIs. Supervisors only apply fit and proper requirements on directors and senior management of banks; there are no such requirements on other FIs; and Statistics are not collected and guidance and feedback are not adequately provided to FIs and DNFBPs.

Legal Systems and Related Institutional Measures

4. ML is criminalized under the AML Law. This law was complemented by Resolution 9 of 2005 which contains detailed regulations relating to its implementation. The ML offense is in line with the material elements of the Vienna and Palermo Conventions.

5. The offense of ML extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime. Kuwaiti criminal legislation does not require that a person be convicted of a predicate offense to establish the illicit origin of proceeds. However, the authorities acknowledged that, in practice, a prior conviction for the predicate crime is used as a basis for bringing charges for ML. In the absence of a conviction for the predicate offense, prosecutors would sometimes be hesitant to bring charges for a stand-alone ML offense.

6. The list of predicate offenses for ML covers most of the designated categories of offenses listed in the FATF Glossary to the 40 Recommendations. However, the smuggling of migrants and terrorism financing are not covered.

7. Self-laundering is criminalized in Kuwait. Article 2 of the AML Law is indeed broad enough to allow for the prosecution of both the predicate offense and the subsequent laundering of the proceeds of the predicate offense.

8. The AML Law explicitly provides for the possibility of both personal and corporate ML liability. However, the notion of “company” contained in Article 12 of the AML Law does not include, for instance, public stockholding companies or non-profit organizations (NPOs) as required by the FATF standard, but only companies licensed by the Ministry of Commerce and Industry (MOCI). As a result, the PPO could not, for instance, charge an NPO for ML, but only the individual persons acting as managers or administrators of that NPO. This limits the scope of application of this provision.

9. TF is not criminalized in Kuwait. Kuwait is, however, a party to all the conventions listed in the Annex to the International Convention for the Suppression of the Financing of Terrorism (TF Convention). All the offenses contained in the Annex to this convention are, therefore, criminalized under Kuwaiti criminal law.

10. Kuwait has a comprehensive confiscation, freezing and seizing framework. It applies to all offenses under Kuwaiti criminal legislation, including felonies and misdemeanours, and covers all predicate offenses for ML, as well as the ML offenses (as defined in the AML Law). However, there is no provision in Kuwaiti law allowing for the confiscation of property of corresponding value.

11. There is no law in Kuwait that provides for the freezing of terrorist assets in the context of UNSCRs 1267 and 1373, and their respective successor Resolutions. There is a process in place, which is not formally articulated in any legal text, to communicate freezing orders under UNSCRs 1267 and 1373. The Ministry of Foreign Affairs (MFA) is entrusted with the task of receiving notifications under UNSCRs 1267 and 1373, and of transmitting those to the relevant agencies within Kuwait. There is no legal provision, however, specifically entrusting the MFA with this role.

12. The KFIU does not have the legal and operational independence to carry out its functions effectively. According to the AML Law, the PPO is the sole body authorized to receive STRs. In 2003, a Ministerial Decree gave the Governor of the Central Bank of Kuwait (CBK) the authority to establish the KFIU in the CBK. The powers of the KFIU to collect information and analyze STRs are derived solely from the powers extended to it from the PPO via "report- by-report" memoranda. The on-site supervision department of the CBK has assumed the duties of the KFIU Secretariat and, thus, provides day-to-day support for the KFIU. The KFIU is not efficient in its operation due to the central role of the PPO in receiving the STRs directly from the FIs and in granting the KFIU specific powers to review each STR.

13. Criminal financial investigations are directed and authorized by the PPO and are carried out by a specialized division at the Ministry of Interior (MOI), the general Directorate for Criminal Investigations (CID) for ML cases and the State Security Bureau (SSB) for TF cases. It appears that the CID concentrates its investigations solely on the predicate crime and does not follow the proceeds and examine potential ML activity. Furthermore, all the AML investigations conducted by the CID were initiated based upon the request of the PPO upon receiving STRs from the KFIU. Even though the SSB is investigating TF cases as crimes against the State, in the absence of an autonomous TF offense, there have been no convictions. Finally, law enforcement and prosecution personnel would benefit from more frequent and in-depth training.

14. Kuwait introduced a cross-border cash control regime in Article 4 of the AML Law that requires travellers coming into Kuwait, through any port of entry, to report all currency and precious materials above the value of KD 3,000 (around US$10,900). Implementation of the reporting requirement began in February 2007. However, the AML Law covers only inbound movements of currency and monetary instruments, severely limiting the usefulness of this provision.

US Department of State Money Laundering assessment (INCSR)

Kuwait was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Kuwait is not a regional financial center. As of March 31, 2015, the Central Bank of Kuwait reported total banking sector assets of $188 billion. Currently, 23 banks operate in Kuwait. Financial crimes, including money laundering, remain concerns. Illicit proceeds are primarily related to cases of fraud, smuggling (especially to/from Iraq), and corruption. Other proceeds- generating crimes are credit card fraud, piracy of goods, insider trading, and market manipulation. The authorities are unaware of the presence of serious organized or transnational crime.

Private financial support to terrorist groups, particularly by individuals who operate outside of government-approved charitable-giving mechanisms, also continues to be a concern. In 2015, the Government of Kuwait took several measures to improve the oversight and regulation of charities operating in the country, including monitoring transfers to international beneficiaries. The Ministry of Social Affairs and Labor has also taken steps to monitor social media and regulate online donations.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
“All serious crimes” approach or “list” approach to predicate crimes: All serious crimes
Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES KYC covered entities: Commercial and Islamic banks; insurance agents, brokers, and companies; investment companies; money and foreign exchange bureaus; jewelry establishments, including gold, metal, and precious commodity traders; real estate agents/establishments; legal and auditing firms

REPORTING REQUIREMENTS:
Number of STRs received and time frame: Not available
Number of CTRs received and time frame: Not available
STR covered entities: Commercial and Islamic banks; insurance agents, brokers, and companies; investment companies; money and foreign exchange bureaus; jewelry establishments, including gold, metal, and precious commodity traders; real estate agents/establishments; legal and auditing firms

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: Not available
Convictions: Not available

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: NO
With other governments/jurisdictions: YES

Kuwait is a member of the Middle East and North Africa Financial Action Task Force (MENAFATF), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

In June 2015, the National Assembly passed a cybercrime prevention law that addresses identity theft and credit card fraud.

Throughout 2015, Kuwait continued to implement Law 106 of 2013, which addresses AML/CFT. Law 106 creates the legal basis to freeze terrorist assets without delay. The Ministry of Foreign Affairs chairs a ministerial-level counterterrorism committee (CTC) that consists of 11 governmental bodies and has met regularly in an effort to execute Kuwait's AML/CFT obligations under UNSCRs and domestic regulations.

Kuwait continued to develop the operational capabilities of the Kuwait Financial Intelligence Unit (KwFIU). The Ministry of Finance hosted the KwFIU until July 2015 when KwFIU moved to its own permanent premises, which are equipped with modern IT systems to ensure the security and confidentiality of information. KwFIU is incorporating transaction-screening and analytical software, an online reporting system, a secure database, and other IT solutions to fully integrate and automate its processes. KwFIU is finalizing the signing of memorandums of understanding with its international counterpart FIUs. The KwFIU has received and processed suspicious transaction reports (STRs) from reporting entities and disseminated a number of them to the Public Prosecution Office (PPO) and other authorities for action.

In October 2015 Kuwait issued Ministerial Resolution #55, which elaborates on the powers and responsibilities of the National Committee for Anti-Money Laundering and Combating the Financing of Terrorism. Chaired by the president of the KwFIU, the committee consists of 11 governmental agencies. The National Committee is obliged to meet at least semi-annually, supported by more frequent meetings at the working group level. The National Committee adopted its action plan for 2016-2019; the plan was coordinated with stakeholders and prescribes the actions to be taken by the relevant competent authorities.

In September 2015, Kuwait froze the assets of two residents accused of terrorism financing in accordance with UNSCR 1373. In November, 2015, local media announced the conviction of five residents of Kuwait on terrorism finance charges. Later that month, an additional six individuals were arrested on charges of providing financial and material support to ISIL operations. Details of these cases are under court seal.

In order to help measure the effectiveness of its AML/CFT regime, the Government of Kuwait should compile and release the number of financial intelligence reports filed by mandated reporting entities as well as the numbers of money laundering prosecutions and convictions.

Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):

According to the US State Department, Kuwait does not conform with regard to the following government legislation: -

Ability to freeze assets without delay - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

Criminalised Financing of Terrorism - The jurisdiction has criminalized the provision of material support to terrorists and/or terrorist organizations.

International Terrorism Financing Convention - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

Reports Suspected Terrorist Financing - By law or regulation, banks and/or other covered entities are required to record and report transactions suspected to relate to the financing of terrorists, terrorist groups or terrorist activities to designated authorities.

EU White list of Equivalent Jurisdictions

Kuwait is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Kuwait is not considered to be an Offshore Financial Centre

US State Dept Trafficking in Persons Report 2016 (introduction):

Kuwait is classified a Tier 2 (Watch List) country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Kuwait is a destination country for men and women subjected to forced labor and, to a lesser degree, forced prostitution. Men and women migrate from South and Southeast Asia, Egypt, the Middle East, and increasingly throughout Africa to work in Kuwait, mainly in the domestic service, construction, hospitality, and sanitation sectors. Reports indicate the Democratic People's Republic of Korea (DPRK) has sent over 4,000 North Korean laborers to Kuwait for forced labor on construction projects through a North Korean company operated by the Workers' Party of Korea and the North Korean military. According to these reports, employees work 14 to 16 hours a day while the company retains 80 to 90 percent of the workers' wages, and monitors and confines the workers, who are in very poor health due to lack of adequate nutrition and health care. While Filipino, Indian, and Sri Lankan women continue to represent a significant percentage of Kuwait's domestic worker population, in the last few years there has been a continued increase in migrants from Ethiopia, Uganda, Kenya, Sierra Leone, Nigeria, Tanzania, The Gambia, Liberia, and Madagascar. Limitations imposed by Asian source-country governments on the recruitment of domestic workers led Kuwaiti labor agencies to recruit more migrant workers from Africa. Though most migrants enter Kuwait voluntarily, upon arrival some sponsors subject migrants to forced labor, including through non-payment of wages, long working hours without rest, deprivation of food, threats, physical or sexual abuse, and restrictions on movement, such as confinement to the workplace and the withholding of passports. Many of the migrant workers arriving in Kuwait have paid exorbitant fees to labor recruiters in their home countries or are coerced into paying labor broker fees in Kuwait which, according to Kuwaiti law, should be paid by the employer—a practice making workers highly vulnerable to forced labor, including debt bondage. Some labor recruiting companies have been complicit in trafficking with their use of deceptive recruiting techniques to bring in migrant workers on the basis of unenforceable contracts and nonexistent positions, while promising employers workers who are well-trained but turn out to be unskilled.

Kuwait's sponsorship law—which ties a migrant worker's legal residence and valid immigration status to an employer—restricts workers' movements and penalizes them for leaving abusive workplaces; as a result, domestic workers are particularly vulnerable to forced labor inside private homes. Many workers report experiencing work conditions substantially different from those described in the contract; some workers never see the contract at all and others receive Arabic or English-language contracts they are unable to read. In addition, sources report runaway domestic workers are sometimes exploited in forced prostitution by agents or criminals, who manipulate their illegal status.
The Government of Kuwait does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government investigated six cases and prosecuted 20 traffickers during the reporting period in comparison to none the previous year. For the first time, it convicted eight traffickers under the 2013 anti-trafficking law. In 2015, the government established the anti-human trafficking department under the Ministry

of the Interior (MOI) as the national coordinating body on human trafficking issues. The anti-human trafficking department functions as a law enforcement agency and conducted several raids per week during the reporting period. Additionally, it maintained a hotline for trafficking-related concerns in Arabic and English during the reporting period. In June 2015, the National Assembly passed law no.69, which improved protections for domestic workers. The government also created a centralized, government-sponsored domestic labor recruiting company to act as a single center for recruiting and managing the domestic labor force, as well as overseeing the implementation of the new domestic labor law and all recruiting companies that hire domestic workers. Nonetheless, it was not implemented, as the by-laws were not approved and the law had not been published in the official gazette by the end of the reporting period. The government continued its efforts to prevent trafficking during the reporting period by conducting investigations into illegal recruitment agencies, including those allegedly involving government officials, leading to the arrest and referral of 336 violators for prosecution out of 1,386 investigations. Nonetheless, it remained unclear how many of these cases were investigated under the 2013 anti-trafficking legislation. Existing laws do not provide adequate prosecutorial power or punishments for those operating labor recruiting firms. The government implemented formal procedures to identify or refer trafficking victims; however, it did not apply them in many cases and victims of trafficking continued to be arrested, detained, and deported. Emerging efforts to issue exit and travel documents to abused workers whose passports had been confiscated continued, but were not accompanied by any enforcement activities against the employers from whom the workers had fled.

US State Dept Terrorism Report 2016

Overview: The Kuwaiti government disrupted several terrorist plots in 2016 and expanded its efforts to counter violent extremism. It also expanded its capacity to counter the financing of terrorism, imposing additional scrutiny on charitable organizations' financial transactions. ISIS accounted for the primary threat, inspiring two lone-offender attacks, one against Kuwaiti police officers and another against U.S. military service members. In both cases, the attackers used a moving vehicle as a weapon, without employing other weapons or explosives. Al-Qa'ida in the Arabian Peninsula (AQAP) posed a secondary threat. A member of the Small Group of the Global Coalition to Defeat ISIS, Kuwait continued to support Coalition forces deployed in support of Operation Inherent Resolve, and was also a leader in the Defeat-ISIS Coalition's humanitarian assistance line of effort. Kuwait co-leads the Coalition's Foreign Terrorist Fighter working group. On October 21, Kuwait co-chaired the first bilateral Strategic Dialogue with the United States, in which both sides pledged to bolster their security partnership by countering terrorism and terrorist financing, particularly through enhanced information sharing.

Legislation, Law Enforcement, and Border Security: While Kuwait did not have a comprehensive counterterrorism legal framework, it continued to prosecute crimes involving terrorism under its general criminal law (law #31 of 1970), and also prosecuted crimes involving both terrorism and the use of explosives under law #35 of 1985. Although law #106 of 2013 was introduced as anti-money laundering/countering the financing of terrorism (AML/CFT) legislation, Kuwaiti officials observed that it contained articles that could be – and subsequently were – used by courts to prosecute terrorist attacks without a terrorist-financing component.

In March, Kuwait – along with other members of the Gulf Cooperation Council (GCC) – designated Hizballah as a terrorist organization.

In July, a member of the National Assembly (the parliament) presented a bill to criminalize "any acts of support or affiliation with terrorist organizations," with an emphasis on ISIS. The draft calls for prison terms ranging from 10 to 20 years for convicted defendants. Other members of Parliament suggested adding Hizballah and the Iraqi Dawa Party to the list of terrorist organizations included in the draft legislation. The National Assembly did not pass the bill.

The Ministry of Interior (MOI) held primary responsibility for terrorist incident reporting and response. MOI elements responsible for criminal investigations, national security, border security, and electronic security demonstrated the capacity to detect, deter, and respond to terrorist incidents. The MOI's semi-autonomous arm, Kuwait State Security, handled some aspects of terrorism-related investigations. In general, law enforcement units investigated citizen complaints regarding human rights violations and took disciplinary action against personnel involved. There were some allegations that investigations were insufficient in some cases involving torture accusations. Terrorist incidents with a military dimension or those taking place in Kuwaiti waters, fell under the purview of the Ministry of Defense. Kuwaiti officials confirmed the existence of specific plans to prevent and respond to terrorist attacks against soft targets, such as major hotels, stadiums, tourist resorts, and cultural sites. Most of those locations already maintained a visible police presence in the form of stationary security points and patrols.

In 2016, the government stopped several attempts by foreign nationals to enter illegally. In August, for example, the authorities intercepted and arrested 10 Iranian nationals attempting to enter Kuwaiti waters illegally aboard a ship. Kuwait employed biometric systems at all ports of entry, checking the identity of travelers against its own terrorist-screening database. The government launched a major effort aimed at bringing the security of Kuwait International Airport up to internationally-recognized standards.

In January, a criminal court sentenced to death two of the 26 suspects accused of amassing, on behalf of Iran and Hizballah, a large cache of ammunition, weapons, and explosives at a farm near the Iraqi border, which the authorities raided in August 2015. It also handed down prison sentences ranging up to 20 years to 12 defendants and acquitted 12 others.

In March, following the collective GCC designation of Hizballah as a terrorist organization, the authorities terminated the residencies of an unspecified number of Iraqi, Lebanese, and Syrian expatriates (reported in the media to number around 1,100) for suspected affiliation with Hizballah. Enforcement measures included immediate deportation, orders to depart Kuwait within a grace period, denial of visa-renewal requests, and denial of admission at the port of entry.

In May, the Supreme Court upheld a lower-court death sentence against the primary defendant in the June 2015 bombing of the Imam Sadeq mosque. In July, the Appeals Court upheld three of the jail verdicts against other defendants in the same case, commuting 11 additional verdicts to shorter jail sentences or fines and acquitting the remaining 12 defendants.

In July, the authorities announced the disruption of three ISIS cells planning to attack a Shia mosque and several police stations. One of the cases reportedly involved two Kuwaiti-national foreign terrorist fighters, a mother and a son, who were lured back to Kuwait from Syria by the authorities.

In August, a judge who had issued death sentences to defendants in the 2015 Imam Sadeq mosque bombing case received anonymous death threats, and the Supreme Court building, likewise, received anonymous bomb threats. In response, the authorities made several arrests, increased security protection for the judge, and heightened security precautions around the building.

Also in August, security forces arrested a Philippines national for pledging allegiance to ISIS, after she confessed to entering Kuwait under the pretense of working as a domestic employee to attack targets of opportunity. In late August, the Public Prosecutor detained a Kuwaiti computer hacker for recruiting youths to join ISIS. Charges against him included traveling abroad to fight a foreign government.

In October, Kuwaiti security forces detained an Egyptian national who rammed a truck carrying explosives and ISIS-related paraphernalia into a car carrying five U.S. military personnel. At year's end, the subject remained in custody on terrorism charges and faces up to life in prison.

In November, the Appeals Court sentenced a Kuwaiti to seven years in jail for "embracing the ideas and methodology of ISIS and encouraging others to join the group." This was the first time a Kuwaiti court specifically penalized ideological affiliation with a terrorist organization – uncoupled from an act of terrorism – and specifically flagged recruitment as a criminal offense.

In December, the Criminal Court sentenced a Kuwaiti foreign terrorist fighter to five years in jail for joining ISIS in Syria. The subject confessed to having assisted ISIS by using his engineering expertise to market oil extracted from wells under its control.

Kuwaiti officials stressed that the absence of a systematic mechanism for terrorist watchlisting and information sharing with other GCC members hampered efforts to detect and arrest foreign terrorist fighters before they arrived in the country.

Countering the Financing of Terrorism: Kuwait is a member of the Middle East and North Africa Financial Action Task Force, a Financial Action Task Force-style regional body, and the Coalition's Counter-ISIS Finance Group. The Government of Kuwait took important steps to build its countering the financing of terrorism (CFT) capacity and oversaw CFT through a cabinet-level committee chaired by the Minister of Foreign Affairs (MFA) representing 11 ministries and agencies. The Kuwaiti government empowered the Public Prosecution Office to handle CFT cases; developed its financial intelligence unit, the Kuwait Financial Investigations Unit (KwFIU); and intensified charity supervision through the Ministry of Social Affairs and Labor (MOSAL) and the MFA. Although the Government of Kuwait has recently taken these steps and other important capacity-building efforts to address terrorist financing deficiencies, a number of UN-designated terrorist financiers continued to operate in Kuwait. The KwFIU continued its progress towards joining the Egmont Group of Financial Intelligence Units; its on-site inspection for Egmont Group membership took place in December 2016, following up on a 2014 application for membership.

In 2016, the Appeals Court upheld sentences against an Australian national, four non-Kuwaiti Arabs, and three Kuwaitis for illegally raising funds and recruiting enlistees on behalf of a terrorist organization. The verdicts included prison sentences for the defendants, asset freezes for a Kuwait-based export-import company – which was allegedly used as a front for the defendants' illicit financial dealings – and confiscation of the defendants' personal assets. MOSAL took steps to regulate and monitor charitable fund-raising, including closing two domestic charities for non-compliance and illegal fundraising on behalf of foreign beneficiaries. In addition, all fundraising campaigns intended for foreign beneficiaries require pre-approval from the MFA. The MOI is responsible for responding to violations.

During Ramadan, MOSAL only allowed charitable donations to be collected via debit card or electronic funds transfer transactions, as opposed to cash donations, to enable financial authorities to monitor fund transfers and prevent money laundering and terrorist financing. Simultaneously, the Central Bank of Kuwait publicly announced those licensed charities permitted to accept donations via bank transfers and MOSAL closed eight unlicensed organizations during Ramadan for collecting donations without prior authorization.

International Sanctions

Arab League

The Arab League (comprising 22 Arab member states), of which this country is a member, has approved imposing sanctions on Syria. These include: -

* Cutting off transactions with the Syrian central bank

* Halting funding by Arab governments for projects in Syria

* A ban on senior Syrian officials travelling to other Arab countries

* A freeze on assets related to President Bashar al-Assad's government

The declaration also calls on Arab central banks to monitor transfers to Syria, with the exception of remittances from Syrians abroad.

The Arab League has boycotted Israel in a systematic effort to isolate Israel economically in support of the Palestinians, however, the implementation of the boycott has varied over time among member states.

There are three tiers to the boycott. The primary boycott prohibits the importation of Israeli-origin goods and services into boycotting countries. The secondary boycott prohibits individuals, as well as private and public sector firms and organizations, in member countries from engaging in business with any entity that does business in Israel. The Arab League maintains a blacklist of such firms. The tertiary boycott prohibits any entity in a member country from doing business with a company or individual that has business dealings with U.S. or other firms on the Arab League blacklist.

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	39
World Governance Indicator – Control of Corruption	50

Corruption is a hurdle for businesses investing in Kuwait. The ruling family and the Kuwaiti elite control key economic activities and sectors. Informal monopolies and oligopolies exist, and connections between the administration and private companies have resulted in uneven market competition. Kuwaiti law criminalises abuse of office, extortion, money laundering and active and passive bribery, among other corruption offences, but not the bribery of foreign officials. Bribery, facilitation payments and giving and receiving gifts are widespread in Kuwait despite being illegal. The government does not implement anti-corruption laws effectively, and public officials reportedly engage in corrupt activities with impunity. **Information provided by GAN Integrity.**

US State Department

The often lengthy procurement process in Kuwait occasionally results in accusations of attempted bribery or the offering of other inducements by bidders. This is a crime in Kuwait, and there are currently several investigations and trials underway involving current or former government officials accused of malfeasance. In 1996, the government passed Law No. 25, which requires all companies securing contracts with the government valued at KD 100,000 ($364,931) or more to report all payments made to Kuwaiti agents or advisors while securing the contract. The law similarly requires entities and individuals in Kuwait to report any payments they received as compensation for securing government contracts.

Transparency International's 2013 Corruption Perceptions Index (CPI) ranked Kuwait 69 out of 177 countries. Kuwait was ranked eighth in the Arab region out of 19 countries and the sixth among the Gulf Nations after UAE, Qatar, Bahrain, Oman, and Saudi Arabia. Kuwait's CPI score of 43 (out of 100) indicates it has a "serious corruption problem," according to Transparency International.

Corruption and Government Transparency - Report by Global Security

Political Climate

Corruption was one of the maino triggers of the popular revolutions that spread through North African and Middle Eastern countries and these outcries have been the source of unrest in Kuwait since 2011. According to Freedom House 2012, tensions between the government and the public persisted throughout the year and sparked regular protests demanding the resignation of the Prime Minister and the eradication of systematic corruption within the government. The country is a constitutional hereditary monarchy, in which political power is concentrated in the hands of the Emir and the ruling Al-Sabah family. As a response to the unrest, the Emir dissolved parliament in December 2011, after Prime Minister Al-Sabah and his cabinet had submitted their resignation. Formerly, according to the Bertelsmann Foundation 2012, parliament had forced Al-Sabah to resign four times, each on the context of corruption allegations, yet the Emir continued to re-appointed him after each resignation. Parliament was dissolved again in October 2012 after the Constitutional Court had declared the dissolution of parliament in 2011 unconstitutional, yet no date was set for future elections. Fuelling the unrest in the country was a high profile corruption scandal involving members of Parliament, which emerged in August 2011. According to a September 2011 article by the New York Times, two members of parliament were suspected of receiving bribes, after USD 92 million suspiciously appeared in their bank accounts. According to the US Department of State 2011, the public prosecutor was investigating 15 parliamentarians in connection with the case by the end of 2011.

Corruption is considered a serious problem in Kuwait and has been a part of the political debate in the recent years; however, according to the Bertelsmann Foundation 2012, the executive does not seem to go beyond its rhetoric. Nevertheless, the National Assembly plays a much more active role in the fight against corruption, and has often questioned key ministers on public spending and contracting. In 2005, a group of MPs launched a local chapter of the Global Organization of Parliamentarians against Corruption (GOPAC) to combat corruption and educate the public about its societal dangers. The government accepted in late March 2011 draft laws for setting up a national anti-corruption authority under the Ministry of Justice to investigate graft and illegal profiteering in the public sector, according to a March 2011 article by Kuwait Times. In January 2013, the National Assembly passed the anti-corruption and wealth disclosure decree, which also calls for setting up a national anti-corruption authority. The decree stipulates that ministers, MPs, senior bureaucrats must submit a disclosure of their wealth before and after taking their posts in order to effectively scrutinise their assets, as reported by a January 2013 article by Kuwait Times. A draft law dealing with corruption was passed in 2011, and includes articles on financial disclosure and money-laundering with penalties of up to seven years in prison, according to an Arab Times' 2011 news article. Nevertheless, the article notes that Kuwait's money-laundering framework was criticised by the International Monetary Fund as weak, when it comes to preventive measures for financial institutions and lacks supervision and monitoring.

According to Transparency International Global Corruption Barometer 2009, households perceive public officials and civil servants to be the most corrupt entity in Kuwait, while the judiciary and the Parliament are perceived as the two least corrupt institutions. Petty corruption appears to be common, with 20% of respondents reporting that they or a member of their household have paid a bribe in 2008. However, Kuwaitis appear to be supportive of the government's anti-corruption efforts, with 68% of the household respondents perceiving the government's efforts in the fight against corruption as 'effective', versus 23% perceiving it as 'ineffective'. However the Bertelsmann Foundation 2012 comments that corruption is a growing problem in Kuwait, and that the country appears to experience more corruption problems compared to other Gulf states.

Business and Corruption

Over the past several years, Kuwait has opened its economy and adopted a more positive attitude towards foreign investment. According to the US Department of State 2013, however, the government can interfere at times, mostly to benefit Kuwait citizens and domestic companies. Business executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013 identify corruption as the fifth most problematic factor for doing business in Kuwait, after issues related to insufficient government bureaucracy, access to financing and restrictive labour regulations. According to the Bertelsmann Foundation 2012, the ruling family and a few long-established merchant families control key economic activities and sectors. Informal monopolies and oligopolies exist, and connections between the administration and private companies result in uneven market competition. Administrative decisions related to market activity can be arbitrary and sometimes involve corruption.

According to the Global Competitiveness Report 2012-2013, business executives report that public funds are sometimes diverted to companies, individuals or groups due to corruption, and that government officials are sometimes favouring well-connected companies and individuals when deciding on policies and contracts. This is further illustrated in GOPAC Kuwait's National Anti-Corruption Strategy 2009, in which it is reported that government officials distribute grants and benefits and assign funds to certain companies, based on tribal or regional considerations for political gain. According to the US Department of State 2013, companies bidding in the public procurement process in Kuwait have at times been accused of attempted bribery or the offering of other inducements. Since 1996, companies securing contracts with the government valued at KWD 100,000 or more are required to report all payments made to agents or advisors during the public procurement process. Furthermore, GOPAC Kuwait's National Anti-Corruption Strategy 2009 also reports that criteria and standards for the government bidding system are unclear, which do not encourage real competitions and the equality of opportunities. Foreign investors considering bidding on public tenders are therefore advised to use a specialised public procurement due diligence tool on public procurement, in order to help mitigate the corruption risks associated with public procurement in Kuwait.

According to Transparency International Global Corruption Barometer 2009, Kuwaiti households give the business and private sector a score of 3 on a 5-point scale (1 being 'not and all corrupt' and 5 'extremely corrupt'). Expatriate workers account for 90% of the work force in the private sector in Kuwait and corruption in the issuance and renewal of work permits is well known. According to Global Integrity 2008, employees of the Ministry of Social Affairs & Labour (MOSAL) are known for forging documents to allow the importation of foreign workers. According to the US Department of State 2012, companies should also be aware that individuals having a civil or criminal case against them might be prevented from leaving the country until the case is settled or a guarantee is offered. Companies are strongly advised to develop, implement and strengthen integrity systems and to conduct extensive due diligence when planning to invest and when already doing business in Kuwait.

Regulatory Environment

Legislation in Kuwait is friendly towards foreign direct investment; however, some significant restrictions and high oil prices have allowed the government to delay economic reforms and market diversification. The Kuwait Commercial Code states that foreign companies may not engage in commercial activities in Kuwait, unless the Kuwaiti share of the business or joint venture equals or exceeds 51% of the total capital of the company. According to the US Department of State 2013, the Direct Foreign Capital Investment Law (DFCI Law) and the Foreign Investment Bureau (FIB) promote investment in Kuwait. The law authorises foreign-majority ownership in joint ventures and 100% ownership in certain industries, however foreign investment in the upstream petroleum and downstream gas and petroleum sectors remains restricted. Other initiatives to attract foreign investment are the reduction of the corporate tax rate from 55% to 15% for foreign companies, and new foreign investors can be exempted from all taxes for up to 10 years under the new DFCI Law. Furthermore, in 2009, the Kuwaiti government announced a five-year Economic Development Plan (2009-2014), which includes different reforms and incentives to attract private investment. The DFCI Law also provided long-term protection to foreign investors against nationalisation or confiscation, and eliminated the requirement for foreign companies to have a Kuwaiti sponsor or partner. However, according to the US Department of State 2013, the DFCI Law does not seem to have changed the investment climate in any significant way and foreign companies still experience delays in getting authorisation, some waiting up to 18 months for approval. This is supported by the Heritage Foundation 2013, which notes that there has been mixed progress in Kuwait's efforts to enhance the business regulatory framework.

Inconsistent and sometimes contradictory policies and lack of transparency in the decision-making process can be a problem for foreign investors in Kuwait. This is supported by the Bertelsmann Foundation 2012, which notes that administrative decisions related to market economy can be arbitrary and sometimes involve corruption. Business executives surveyed by the World Economic Forum Global Competitiveness Report 2012-2013 indicate inefficient government bureaucracy as the most problematic factor for doing business in Kuwait and that the level of government regulation is quite burdensome, scoring 2.4 on a 7-point scale (1 being 'burdensome' and 7 'not burdensome'). Moreover, business executives surveyed indicate that it is quite challenging to obtain information about changes to government policies and regulations affecting their industries. This is supported by the Heritage Foundation 2013, which reports that Kuwait's bureaucracy is often inefficient, non-transparent, and can be biased in favour of domestic interests, while the US Department of State 2013 reports that the country's bureaucracy is frequently like that of a developing country. Starting a company in Kuwait is a long and bureaucratic process, which, according to the World Bank & IFC Doing Business 2013, takes an average of 32 days and 12 procedures at a cost of 56.7% of the GNI per capita, which is more time consuming compared to the regional average.

Property rights are reasonably well defined, yet according to the Heritage Foundation 2013, they are not effectively protected. There are restrictions on non–Gulf Cooperation Council citizens' right to own land in Kuwait. This restriction is cited by some foreign investors as a major deterrent to foreign direct investment and starting businesses in Kuwait, as reported by the US Department of State 2013. Intellectual property rights are protected by a number of different laws; however Kuwait's IP laws are not fully in compliance with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. In 2008, the US listed Kuwait in its Special 301 Watch List for failing to update its IP legislation and was re-listed in April 2011. The Heritage Foundation 2013 notes that the enforcement of intellectual property rights in Kuwait is seriously deficient. The Kuwaiti judicial system is well developed and familiar with international commercial laws. Nevertheless, dispute resolution in the Kuwait courts can be very time consuming and enforcement of court rulings is still a problem. Arbitration is also a possible form for dispute resolution; however few contracts contain an arbitration clause. Kuwait is a member of the International Centre for the Settlement of Investment Disputes (ICSID) and has ratified the New York Convention 1958. Access the Lexadin World Law Guide for a collection of laws in Kuwait.

Section 3 - Economy

Kuwait has a geographically small, but wealthy, relatively open economy with crude oil reserves of about 102 billion barrels - more than 6% of world reserves. Kuwaiti officials plan to increase oil production to 4 million barrels per day by 2020. Petroleum accounts for over half of GDP, 94% of export revenues, and 90% of government income.

In 2015, Kuwait, for the first time in 15 years, realized a budget deficit after decades of high oil prices. Kuwaiti authorities have tried to reduce the deficit by decreasing spending on subsidies for the local population, but with limited success. Despite Kuwait's dependence on oil, the government has cushioned itself against the impact of lower oil prices, by saving annually at least 10% of government revenue in the Fund for Future Generations.

Kuwait has failed to diversify its economy or bolster the private sector, because of a poor business climate, a large public sector that crowds out private employment of Kuwaiti nationals, and an acrimonious relationship between the National Assembly and the executive branch that has stymied most economic reforms. The Kuwaiti Government has made little progress on its long-term economic development plan first passed in 2010. While the government planned to spend up to $104 billion over four years to diversify the economy, attract more investment, and boost private sector participation in the economy, many of the projects did not materialize because of an uncertain political situation.

Agriculture - products:

fish

Industries:

petroleum, petrochemicals, cement, shipbuilding and repair, water desalination, food processing, construction materials

Exports - commodities:

oil and refined products, fertilizers

Exports - partners:

South Korea 14.5%, China 12.1%, India 12.1%, Japan 10.4%, US 7.6%, Pakistan 5.9%, Singapore 4.3% (2015)

Imports - commodities:

food, construction materials, vehicles and parts, clothing

Imports - partners:

China 13.2%, US 9.6%, Saudi Arabia 7.7%, Japan 6.5%, Germany 5.1%, France 4.3%, India 4.2% (2015)

Banking

Banks are under the supervision of Kuwait Central Bank. The banking sector is fundamentally sound. Kuwait has eleven local commercial banks, which include five Islamic banks. The largest bank is the National Bank of Kuwait (NBK). Following an amendment to the Banking Law of 1968, the National Assembly allowed foreign banks to establish operations in Kuwait. Currently, ten foreign banks have branches in Kuwait. Well-known financial conglomerates such as Citigroup, BNP-Paribas, and Hong Kong Shanghai Bank (HSBC) operate in Kuwait. While foreign banks operate in Kuwait, they are restricted to opening only one branch, offering only investment banking services, and are prohibited from competing in the retail banking sector. Foreign banks are also subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank, and are expressly prohibited from directing clients to borrow from external branches of their bank or taking any other measures to facilitate such borrowing.

Two specialized government-owned banks provide medium and long-term financing. The Industrial Bank of Kuwait offers financing for industrial and agricultural related projects. The Credit and Savings Bank facilitates the purchase of single-family or multi-family residential units.

Stock Exchange

Established after the 1982 stock market crash, the Kuwait Stock Exchange (KSE) is the third largest bourse in the GCC (after Saudi Arabia and the UAE's combined stock markets), with a market capitalization of USD 128.3 billion as of December 31, 2010. Currently, 203 Kuwaiti companies and 20 companies from other Arab countries are listed on the KSE. In February 2010, the Kuwaiti Parliament passed legislation with overwhelming support to establish the first ever Capital Markets Authority (CMA) to oversee the KSE's operations and procedures. The CMA's Board of Directors was appointed in September, and is currently creating the CMA's bylaws, which are expected to be implemented in 2011.

Section 4 - Investment Climate

Executive Summary

Kuwait has continued to make strides over the past year to improve its investment climate. The ongoing implementation of the 2013 Foreign Direct Investment (FDI) law continued to ease constraints on doing business in Kuwait. The stock exchange was privatized in April 2016. The government is considering a phased privatization of the management and operations of the air and sea ports. After years of delays, the state oil companies awarded several high-value contracts to foreign consortia to upgrade refineries and power plants. Despite the sharp decline in oil prices, Kuwait's economy – most notably its oil sector and pension and sovereign wealth funds – remained robust.

Nevertheless, Kuwait is a difficult place in which to invest and do business, and challenges to operating in the country remain. Kuwait ranked 101st out of 189 in the world, and lowest in the Gulf Cooperation Council (GCC), on the World Bank's 2016 "Ease of Doing Business" survey. Implementation of the FDI law has lagged and obstacles to foreign investment remain, including regulations barring foreign entities from the upstream petroleum and real estate sectors, bureaucratic hurdles that delay the start of new enterprises, and a business culture based on clan and family ties that can be difficult for foreigners to penetrate. Kuwaiti law continues to restrict foreign banks from offering investment banking services and prohibits them from competing in the retail sector. While the new Kuwait Direct Investment Promotion Authority (KDIPA) ramped up its operations, its "one-stop shop" to assist investors is not yet fully operational. Kuwait's copyright legislation is most likely not consistent with its World Trade Organization (WTO) obligations. The U.S. Trade Representative's (USTR) 2014 and 2015 Special 301 Reports listed Kuwait on the Priority Watch List. The application and enforcement of labor laws are not consistent.

According to the U.S. Department of Commerce, Kuwait was ranked 37th in 2014 as a source of investment in the United States, with an FDI position of USD 1.4 billion. The actual investment into the United States from Kuwaiti sources is very likely to be many orders of magnitude larger and diversified across several sectors. Two major announcements in early 2016 included Gatehouse Capital's purchase of ten select service hotels in the upper Midwest for USD 137 million and MEGlobal's planned construction of a new world-scale monoethylene glycol manufacturing facility in Texas worth over USD one billion.

Kuwait has attracted little FDI, in part because of legal and bureaucratic impediments. Despite the many challenges to doing business in Kuwait, however, several U.S. companies have won lucrative contracts and operate successfully in the country. U.S. engineering firms such as Fluor figure largely in the execution of infrastructure development projects, including the USD 16 billion Al-Zour Refinery Project. General Electric is a major vendor to power generation and desalination facilities. Citibank has a branch, and numerous U.S. retail chains operate franchises successfully. Dow Chemical Company owns 42.5% of the EQUATE Petrochemical Company joint venture.

Table 1

Measure	Year	Index or Rank	Website Address

TI Corruption Perceptions index	2015	55 of 175	http://www.transparency.org/cpi2015#results
World Bank's Doing Business Report "Ease of Doing Business"	2016	101 of 189	http://www.doingbusiness.org/data/exploreeconomies/kuwait/
Global Innovation Index	2015	77 of 141	https://www.globalinnovationindex.org/content/page/data-analysis/
U.S. FDI in partner country ($M USD, stock positions)	2014	USD 315	http://www.bea.gov/international/factsheet/factsheet.cfm?Area=506
World Bank GNI per capita	2014	USD 49,300	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD/countries/KW--XR?display=graph

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

In 2015, Kuwait announced that it had attracted USD 1.2 billion of FDI under the umbrella of the new law. Despite that, the level of inward FDI remains low and diversification of the economy away from the petroleum sector remains a national goal. Barriers to foreign investment exist, including long bureaucratic delays in starting new enterprises, agency and sponsorship requirements, a constricted local real estate market, impediments to obtaining visas for expatriate workers and a local business culture heavily based on clan and family relationships that often preclude foreign participation.

Direct investment in the upstream petroleum and real estate sectors is not open to foreign firms. The FDI law does permit 100% foreign ownership in certain industries, including: infrastructure (water, power, waste water treatment, and communications); insurance; information technology and software development; hospitals and pharmaceuticals; air, land, and sea freight; tourism, hotels, and entertainment; housing projects and urban development; and investment management.

Other Investment Policy Reviews

The WTO conducted its latest policy review of Kuwait in 2012. The WTO's findings noted that Kuwait was pursuing trade liberalization to reduce the economy's high dependence on crude oil, which accounts for nearly half of GDP, 95 percent of export revenues, and more than 80 percent of government income. The WTO stated that steps were being taken to improve the country's business environment, increase the productivity and growth of non-energy sectors, and increase the participation of the private sector (local and foreign) in the economy from its low level of about 25 percent in 2012.

Laws/Regulations on Foreign Direct Investment

In December 2013, Kuwait's Law No. 116 of 2013, regarding the promotion of direct investment, came into effect, to replace its 2001 Direct Investment Promotion Law, as part of the Kuwait Development Plan (KDP). Spanning 2009 to 2035, the KDP aims to reduce oil dependency by transforming the state into a diversified commercial and financial hub. The KDP comprises five separate five-year plans; the current plan provides USD 116 billion for a broad range of projects, including 45,000 new housing units, metro and railway systems, and a new refinery. In the KDP, Kuwait is seeking to propel the private sector's share of the economy to 41.9 percent, from its current level of 26.4 percent.

The new FDI law established KDIPA (http://kdipa.gov.kw/en/home-2) to facilitate licensing and incorporation procedures. In April 2015, IBM received KDIPA's first investment license, allowing the company to establish a 100 percent foreign-owned company in Kuwait and to benefit from the incentives and exemptions granted under the new law. Since IBM, KDIPA has granted foreign ownership licenses to Huawei, GE, and Berkeley Research Group.

Other recent legal measures to facilitate FDI and economic growth include Law No. 116 of 2014 regarding public-private partnerships (PPP), and a new Commercial Companies Law No. 25 of 2012, as amended by Law No. 97 of 2013. The PPP law changed the Partnerships Technical Bureau to the Kuwait Authority for Partnership Projects (KAPP) [http://www.ptb.gov.kw/en/Home]. KAPP expects to award many of the upcoming large infrastructure projects using the PPP framework.

The court system does not appear to be subject to executive or other interference against foreign investors or companies. Nonetheless, the business climate favors Kuwaiti- and GCC-owned enterprises.

Business Registration

While Kuwait does not yet have a website for online business registrations, a government site provides information about starting a business in Kuwait, http://e.gov.kw/sites/kgoenglish/Pages/Business/InfoSubPages/StartingABusiness.aspx). The *Doing Business* project provides information on the steps required to start a business in Kuwait, although the 'time-to-complete' estimates are optimistic. Typically, starting a new business in Kuwait requires a minimum of six months to a year.

KDIPA is establishing a "one-stop shop" unit to streamline registration and licensing procedures for investors, thereby reducing the bureaucracy that had caused concerns in the past. Its most recent license e met the deadline of approving a license within 30 days of the completed application.

While the World Bank defines a small and medium enterprise (SME) as any business employing fewer than 100 people, the Kuwait Small Projects Development Company (KSPDC), a state-financed fund established in 1997 to promote SME development, considers projects with capital up to KD 150,000 (USD 495,000) as small, and less than KD 500,000 (USD 1.65m) as medium-sized. The April 2013 Law No. 98 established the National Fund for the Support and Development of SMEs (enterprises that employ up to 50 Kuwaitis and require less than KD 500,000 in financing); however, the financing is limited to enterprises set up by Kuwaiti citizens.

Industrial Promotion

KDIPA places emphasis on attracting investment in modern and sophisticated technologies, means of production and operations, management methods, and technical and marketing expertise that foster the objectives of development. Kuwait's increasing need for engineering, design, construction, and management firms to execute planned infrastructure projects, as outlined in the KDP, may attract additional FDI to Kuwait.

Limits on Foreign Control and Right to Private Ownership and Establishment

As per KDIPA's "negative list" issued in February 2015, foreign firms are barred from investment in the following sectors: extraction of crude petroleum, extraction of natural gas, manufacture of coke oven products, manufacture of fertilizers and nitrogen compounds, manufacture of gas, distribution of gaseous fuels through mains, real estate (excluding privately operated building development projects), security and investigation activities, public administration and defense, compulsory social security, activities of membership organizations, and activities of hiring labor including domestic labor.

The Commercial Companies Law intended to simplify the process for registering new companies in Kuwait and reduce wait-times associated with starting a new business, but a law mandating that a Kuwaiti national own at least 51 percent of all local companies remains in place, unless foreign investors apply through KDIPA.

Privatization Program

The National Assembly has passed several privatization laws in the past eight years. The laws stipulated that privatizing any public service would begin with a transition to a public shareholding company. Under the law, 40 percent of any such company's shares will be sold to citizens in an initial public offering, while 20 percent of the shares will be held by the government, and 5 percent will be distributed to current and former Kuwaiti employees. The remaining 35 percent will be sold at an auction to a local or foreign investor. Kuwaiti employees will have the right to retain their jobs in the privatized service for at least five years with the same salary and benefits.

Kuwait privatized its stock exchange in April 2016 and recently proposed privatizing the management and operations of their air and sea ports. The Kuwait Stock Exchange (KSE) is the fourth-largest in the GCC (after Saudi Arabia, UAE's combined stock markets, and Qatar), with a market capitalization of KD 24.36 billion (USD 80 billion) as of March 10, 2016, down by 20 percent in the past year. [Note: All currency conversions reflect an April 2016 rate of KD 1= USD 3.3.] In February 2010, the National Assembly passed legislation to establish Kuwait's first Capital Markets Authority (CMA) to oversee the KSE's operations and procedures. The KSE began the several-year privatization process by creating a shareholding company in 2014 funded with KD 60 million (USD 198 million). In July 2015, the KSE was renamed the Kuwait Bourse Company, which began operations as a private company in April 2016 and is expected to be fully operational by December 2016. Ownership of its building was transferred to the CMA.

Kuwait has terminated the privatization plan of Kuwait Airways (KAC) and decided to maintain it as a national carrier. A new restructuring plan, introduced to the National Assembly in June 2015, was to retain 75 percent state ownership, sell 20 percent to Kuwaiti citizens, and transfer 5 percent to current and retired employees, excluding potential investors. The Assembly's Financial & Economic Committee approved the plan in January 2016, as well as an additional KD 600 million to finance a new fleet of 25 Airbus and 10 Boeing jets. Kuwait has also abandoned plans to privatize their postal services.

Kuwait's telecom sector is the largest source of revenue after the oil sector. Three private mobile telephone companies provide services with the government maintaining significant minority interests in all, and foreign companies own the majority stakes in two. In April 2014, the National Assembly passed legislation creating the independent Communication and Information Technology Regulatory Authority (CITRA) to liberalize markets in the mobile communications and Internet industries, and privatize some elements of the telecom market now handled by the Ministry of Communication (MOC), such as fixed telephone lines. CITRA officially commenced its duties in February 2016, by taking on some responsibilities of the MOC and receiving applications to hire specialized staff.

In September 2014, the MOC announced that the postal service would be transformed into a state-owned corporation. As of April 2016, the MOC had introduced a new bill regarding the postal services to the Council of Ministers for approval.

Screening of FDI

KDIPA screens and licenses proposed branches and representative offices of foreign companies. The process requires the submission of legal and financial documents by the applying company's head office, as well as a certification of its commitment to fulfill obligations by the branch or representative office in Kuwait. In reviewing requests for licensing, KDIPA places emphasis on creating jobs and training/education opportunities for Kuwaitis, technology transfer, diversification of national income sources, increasing Kuwaiti exports, support for local SMEs, and utilization of Kuwaiti products and services.

Competition Law

Kuwait lacks comprehensive competition protection mechanisms. The government passed Protection of Competition Law No. 10 in 2007. It enacted by-laws in 2012 through the establishment of a Competition Protection Bureau (CPB) intended to safeguard free commerce, bar monopolies, investigate complaints, and refer to prosecution acts determined to undermine competition, supervise mergers and acquisitions, and fix commodity prices. As of April 2016, however, the CPB was not yet fully functional. The World Bank is working with Kuwait to amend the law and redefine the CPB's mission.

Under the 1964 Public Tenders Law, all bids for government-funded infrastructure projects (excluding military and security programs) in excess of KD 5,000 (USD 16,500) must be submitted to the Central Tenders Committee (CTC). Unless licensed through KDIPA, foreign companies may only bid on these contracts through a Kuwaiti partner (holding a minimum 51 percent share). The National Assembly's Financial Committee is reviewing a new CTC bill that calls for increasing the existing ceiling for direct contracts that do not require CTC approval to KD 20,000 (USD 66,600), provides for a 15 percent cost differential preference for domestic companies, and mandates that a single tender not be allowed to be redistributed as a sub-tender.

2. Conversion and Transfer Policies

Foreign Exchange

The Kuwaiti dinar has been linked to an undisclosed basket of major world currencies since May 2007. The only restriction on current or capital account transactions is that all foreign exchange purchases process through a bank or licensed foreign exchange dealer. Equity, loan capital, interest, dividends, profits, royalties, fees, and personal savings can be transferred in or out of Kuwait without hindrance. The FDI law permits investors to transfer all or part of their investment to another foreign or domestic investor, including cash transfers.

Remittance Policies

Kuwait imposes no foreign exchange restrictions on remittances for investments. Nevertheless, each investee must ensure compliance with the Anti-Money Laundering policies of the CBK if making direct investments or dealing with counterparties. Time limitations or wait periods do not apply to remittances. No restrictions exist on the inflow or outflow of funds for remittances of profits or revenue, and foreign investors may remit through a legal parallel market, including one utilizing convertible, negotiable instruments. Kuwait is not known to engage in currency manipulation tactics. The CBK advises buy, sell, and middle rates on a daily basis. In February 2015, Financial Action Task Force removed Kuwait from FATF's list of jurisdictions that require monitoring for Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) compliance.

3. Expropriation and Compensation

Kuwait has had no recent cases of expropriation or nationalization involving foreign investments. As a safeguard, the FDI law guarantees against expropriation or nationalization, except for the public benefit, in accordance with existing laws. In such cases, Kuwait would compensate for the real economic value of the project at the time of expropriation. The last case of nationalization occurred in 1974, when the oil industry was nationalized, and the government negotiated with BP and American Gulf Oil Company to purchase the 40 percent share owned by the two companies.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Kuwait has a developed legal system that is influenced by Islamic law. As a traditional trading nation, Kuwait's judiciary is familiar with international commercial laws. Kuwait has been a member of the General Agreement on Tariffs and Trade (GATT) since 1963 and joined the WTO in January 1995. Kuwait, however, is not a signatory to the WTO Government Procurement Code.

Kuwaitis and non-Kuwaitis, including U.S. citizens, who have been charged with criminal offenses, placed under investigation, or are involved in unresolved financial disputes with local business partners, are subject to travel bans. These bans are rigidly enforced and prevent the individual from leaving Kuwait until the matter is resolved. Travel bans can be initiated by requests for legal action and may remain in place for a substantial period while the case is being investigated.

To protect their interests, U.S. firms are advised to consult with a Kuwaiti or locally based foreign law firm when executing contracts with local parties. Contracts between local and foreign parties serve as the basis for resolving any future commercial disputes. The process of resolving disputes in the Kuwaiti legal system can take years depending on complexity and the parties involved.

Bankruptcy

Kuwait is working with the World Bank to draft bankruptcy legislation designed to assist businesses in recovering from financial difficulties rather than being liquidated. As of April 2016, the Ministry of Finance had referred this draft law to the Council of Ministers for its review. Bankruptcy is still governed under Law No. 68 of 1980, which does not meet international standards in covering the full range of companies, or in restructuring debt. Bankrupt individuals are not criminalized by the 1980 law, but their political rights become limited upon a proclamation of bankruptcy. A bankrupt individual may not serve as a candidate or elector in any political position, be appointed to a public post or assignment, or serve as director or chairman in any company until the individual's rights are reinstated in accordance with law.

Investment Disputes

The FDI law stipulates that Kuwaiti courts alone are responsible for adjudicating any disputes involving a foreign investor and other parties, although arbitration is permitted. Few contracts contain clauses specifying recourse to traditional commercial arbitration. The Kuwaiti judicial system recognizes and enforces foreign judgments only when reciprocal arrangements are in place.

International Arbitration

The recognition and enforcement of foreign arbitral awards is comparatively simpler when compared to the enforcement of foreign judgments. Enforcement of the former, however, must meet with the same reciprocity and procedural criteria of enforcing foreign judgments under Articles 199 and 200 of the Civil and Commercial Procedure Code No. 38 of 1980, according to which an award passed by a foreign arbitral panel or tribunal may be enforced in Kuwait provided that: A) the country where the award has been rendered is a member of the New York Convention; B) the foreign award is rendered by a competent arbitrator in accordance with the laws if the country in which it was awarded; C) the parties have been promptly summoned to appear and duly represented before the arbitral tribunal; D) the award must become a res judicata according to the laws of the country in which it was awarded; and E) the award must not be in conflict with an order judgment that has been rendered by a local court in Kuwait and additionally does not contradict mandatory provisions or constitutes a criminal conduct, or violations to morality or public policy, under Kuwaiti Laws.

Kuwait and the United States signed a bilateral agreement on investment guarantees in April 1989, as well as a Trade Investment Framework Agreement (TIFA) in February 2006.

Alternative Dispute Resolution (ADR) mechanisms include conciliation, negotiation, and mediation. These mechanisms depend on the parties' goodwill to settle their disputes with or without the help of a third party.

Law No. 11 of 1995 on Judicial Arbitration for Civil and Commercial Articles, the relevant organizing and explanatory Ministerial Resolutions thereof, and Civil and Commercial Procedure Code No. 38 of 1980 outline the formation, operation, jurisdiction, and procedures of the arbitral panel, and the issuance of arbitral awards. They also define regulations for international conventions, free trade agreements, and the due application of the reciprocal clause between parties.

ICSID Convention and New York Convention

Kuwait is a signatory to the International Center for the Settlement of Investment Disputes (ICSID Convention) and to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Duration of Dispute Resolution – Local Courts

Resolution of an investment or commercial domestic dispute can take three months to a year. Factors that determine the length of dispute resolution litigated in local courts include the service of notices to parties, the nomination of the elected arbitrators, the timely payment of the arbitrators' fees, hearings dates and postponements, and the due presentation of documentary evidence and witnesses.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Kuwait is a member of the WTO, and does not maintain measures that are inconsistent with Trade-Related Investment Measures (TRIMS) requirements. However, Kuwait requires a 10 percent preference for national products in public tenders, mandates that a minimum percentage of employees in listed companies are Kuwaiti (variable by industry), and may prohibit the export of certain goods if market shortages prevail.

Investment Incentives

The FDI law's incentives include: tax benefits, customs duties relief, land and real estate allocations, and permissions to recruit required foreign labor.

Other exemptions exist. For example, entities incorporated in the GCC that are 100 percent owned by GCC nationals pay no corporate tax. Capital gains arising from trading in securities listed on Kuwait's stock market are exempt from tax. Foreign principals selling goods through Kuwaiti distributors are not subject to tax. Kuwait does not have personal income, property, inheritance, or sales taxes, although discussions regarding adopting a value-added tax (VAT) are ongoing.

Research and Development

No specific restrictions exist on foreign participation, public or private, in government-financed or subsidized research and development. Various U.S. governmental and non-governmental entities are engaged in scientific cooperation in Kuwait. The Kuwait Institute for Scientific Research (KISR) has expressed interest in working with foreign firms and national laboratories in establishing new renewable energy and energy efficiency programs. KISR is also discussing the possibility of establishing a national laboratory that will involve foreign institutions and firms in shared research projects, including renewable energy, energy efficiency, water technologies, and geological studies.

Performance Requirements

The government requires foreign firms to hire a mandated percentage of Kuwaitis in their work force; the percentage varies by industry. The banking, communications, investment and finance, petrochemicals, and refining industries require 66 percent, 62 percent, 40 percent, and 30 percent, respectively. The manufacturing and agriculture sectors have the lowest minimum quotas at three percent.

Foreign employees require work visas prior to arriving in the country. The Ministry of Social Affairs and Labor (MOSAL) controls the issuance of work permits and in recent years has been more inclined to limit perceived non-essential employment of expatriates.

Law No. 37 of 1964 (Articles 43 and 44) specifies the use of local products, when available, in manufacturing processes and prescribes a 10 percent price advantage for local firms in government tenders.

In 2015, the Cabinet rescinded the Counter-Trade Offset Program and transferred legacy responsibilities to KDIPA.

Data Storage

Kuwait does not force local data storage nor require foreign investors to use Kuwaiti domestic content in locally manufactured goods and technologies. Only banks and other financial institutions are required by the AML/CFT Law 106 of 2013 to maintain their data for five years. Otherwise, each private or public entity may choose if and how to store data. Most governmental agencies follow International Organization for Standardization (ISO) certificate standards, which mandate the storage of data for five years.

6. Protection of Property Rights

Real Property

Non-GCC citizens may not own land. Kuwait ranks 68 out of 189 in “Ease of Registering a Property” in the World Bank’s “Ease of Doing Business” 2016 report.

Intellectual Property Rights

Kuwait is a member of the World Intellectual Property Organization (WIPO) and of the WTO; thus, it is a signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). However, intellectual property rights (IPR) in Kuwait are protected nominally by a series of copyright and trademark laws adopted in 1999 and 2001.

Largely due to its non-WTO-compliant copyright law and its cessation of most copyright and trademark enforcement actions in recent years, an out-of-cycle USTR review in November 2014 resulted in moving Kuwait from the Special 301 Watch List to the Priority Watch List. Kuwait’s copyright law does not provide for deterrent criminal penalties and there are insufficient resources allocated to enforcement. The U.S. government has provided technical assistance on several iterations of a new copyright draft law to address these issues;

however, the U.S. government remains deeply concerned that the draft does not yet meet WTO requirements. In June 2015, the draft copyright law was approved by the Council of Ministers and presented to the National Assembly. In May 2016, the National Assembly passed the Copyright and Related Rights Law. Until the law is reviewed and found to meet international standards and Kuwait resumes effective and consistent enforcement efforts, it is unlikely that its Special 301 status will change.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en.

Embassy point of contact: KuwaitDirectLine@state.gov

Resources for Rights Holders

Ms. Aisha Y. Salem
Intellectual Property Attaché for the Middle East & North Africa, Embassy Kuwait
Tel: +965 2259 1455
Aisha.Salem@trade.gov
American Business Council Kuwait - www.abckw.org
Embassy list of local lawyers: http://kuwait.usembassy.gov/attorneys.html

7. Transparency of the Regulatory System

While Kuwait's open economy has generally promoted a competitive market, Kuwait has not developed effective antitrust laws to foster competition. When government intervention occurs, it is most frequently to the benefit of Kuwaiti citizens and Kuwaiti-owned firms.

Kuwait does not participate in the Extractive Industries Transparency Initiative (EITI). Neither does Kuwait have any domestic transparency measures requiring the disclosure of payments made to governments for projects related to the commercial development of oil, natural gas, or minerals.

8. Efficient Capital Markets and Portfolio Investment

Foreign financial investment firms operating in Kuwait characterize the government's attitude toward foreign portfolio investment as welcoming. An effective regulatory system exists to encourage and facilitate portfolio investment. Financial investment firms have told the Embassy that the Kuwait Stock Exchange (KSE) does not attract sufficient liquidity, except in the trading of large-capitalization company stocks, which comprise 15 of KSE's 184 companies. Existing policies and infrastructure facilitate the free flow of financial resources into the capital market. Government bodies comply with guidelines outlined by IMF Article VIII and refrain from restrictions on payments and transfers for current international transactions. The debt market is not developed in Kuwait; however, banks have the capacity to fulfill this function.

Financial investment firms characterize government authorities as slow, particularly in comparison to regional players perceived to be more active in encouraging foreign portfolio investment. The CMA in November 2015 issued a regulation on portfolio management, but it does not cover foreign investments. Over the past three years, KSE has been illiquid, and observers are not optimistic it will gain liquidity in the short term.

Credit is allocated on market terms. Foreign investors are able to obtain credit on the local market on terms determined by the foreign investor's collateral level and the intended use of the financing. The private sector has access to a variety of credit instruments.

Money and Banking System, Hostile Takeovers

In January 2016, the CBK reported that the total assets for the banking sector equaled KD 58.6 billion (USD 193 billion). Twenty-three banks currently operate in Kuwait: five conventional local banks, five Islamic banks, 12 foreign banks, and one specialized bank. Conventional banks include: market-leader National Bank of Kuwait, Commercial Bank of Kuwait, Gulf Bank, Al-Ahli Bank of Kuwait, and Burgan Bank. Sharia-compliant banks include Kuwait Finance House, Boubyan Bank, Kuwait International Bank, Al-Ahli United Bank, and Warba Bank. The government-owned Industrial Bank of Kuwait provides medium- and long-term financing to industrial companies and Kuwaiti citizens through customized financing packages.

Confidence in the local banking sector was affected by the global financial crisis and Gulf Bank's announcement in October 2008 that it had incurred large losses. Following this announcement, the Council of Ministers and the National Assembly promulgated legislation guaranteeing deposits at local banks in an effort to rebuild confidence in Kuwaiti banks. The Central Bank worked with Gulf Bank and key shareholders to orchestrate a USD 1.4 billion recapitalization subscription, with the Kuwait Investment Authority acting as the buyer of last resort. Since 2008, the banking sector, including Gulf Bank, has seen a steady recovery and regained liquidity.

The banking sector opened to foreign investment under the Direct Foreign Capital Investment Law. The CBK has granted licenses to 12 foreign banks thus far: BNP Paribas and HSBC, both of which began operations in 2005; Citibank and the National Bank of Abu Dhabi, which commenced operations in 2006; Qatar National Bank, which began operations in 2007; Doha Bank, which opened an office in 2008; Dubai-based Mashreq Bank, which commenced operations in 2009; the Bank of Muscat, and the Riyadh-based Al Rajhi Bank (the largest Sharia-compliant bank in the world) in 2010. The Bank of Bahrain and Kuwait (BBK) has operated in Kuwait since 1977. In September 2014, the Industrial and Commercial Bank of China (ICBC) officially opened its first, and so far only, branch in Kuwait City. Additionally, Union National Bank, which received its license to operate in Kuwait in 2011, started its operations in 2015.

In March 2013, the CBK announced that foreign banks would be able to open multiple branches in Kuwait on a case-by-case basis. Until this time, foreign banks could only open one branch. The new rules also allow foreign lenders to open representative offices. Kuwaiti law restricts foreign banks from offering investment banking services, and prohibits them from competing in the retail sector. Foreign banks are also subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank, and are expressly prohibited from directing clients to borrow from external branches of their bank or taking any other measures to facilitate such borrowing.

In April 2013, the National Assembly passed a law requiring banks to write off interest on personal and consumer loans for Kuwaiti citizens, and to reschedule the principal debt over a minimum of 10 years, in exchange for government deposits. Under the law, both government and parliament reached a settlement to refer borrowers to the Family Support Fund, a public debt-relief program that allows the government to purchase outstanding loans acquired by Kuwaiti citizens prior to June 2013. Media reported that by 2014, the program had helped to relieve more than 18,000 borrowers through restructuring debt terms without interest, resulting in KD 122 million (USD 403 million) in restructured loans by 2014.

9. Competition from State-Owned Enterprises

Kuwait has few fully state-owned enterprises (SOEs) outside the oil sector, with the exception of Kuwait Airways. No published list of SOEs exists. The government owns shares in Kuwaiti shareholding companies across the spectrum of the economy, through either KIA or Kuwait's Public Institution for Social Security. Its stake in such companies varies from 24 percent to 100 percent.

SOEs benefit from tax exemptions and a 10 percent preference on national products in tendered projects. SOEs, furthermore, have independent budgets and are not subject to the same market constraints facing private companies. SOEs are, however, subject to strict government tendering rules and the oversight of the State Audit Bureau and National Assembly.

OECD Guidelines on Corporate Governance of SOEs

Kuwait is not a member of the OECD, but Kuwaiti SOEs are guaranteed by the government. Each SOE has board members reporting to a relevant minister. Political influence factors strongly in the appointment of board members. The judicial system does not appear to favor SOEs.

Sovereign Wealth Funds

Kuwait's Sovereign Wealth Fund, the Kuwait Investment Authority (KIA), manages the Kuwait General Reserve Fund and the Kuwait Fund for Future Generations. In March 2012, the Amir enacted a budgetary decree to increase the portion of state oil revenues allocated to the Future Generations Fund from 10 percent to 25 percent. Given the sharp decline in oil prices since 2014, however, this figure was cut back to 10 percent in the state's FY 2015/2016 budget. KIA's management reports to a Board of Directors, the members of which are appointed by the Council of Ministers. The Board is chaired by the Minister of Finance and includes seats allocated to the Minister of Oil, the Central Bank Governor, the Undersecretary of the Ministry of Finance, and five representatives from Kuwait's private sector, three of whom are not allowed to hold any other public office. The five-member Executive Committee, of whom at least three are private sector appointees, is formed by the Board. The Chairman of the Executive Committee is the Managing Director, who is appointed by the Board. The primary role of the Executive Committee is to assist the Board of Directors in setting strategic goals and objectives for KIA.

KIA maintains both an internal audit office (which reports directly to the Board of Directors) and an external audit team. Additionally, KIA is overseen by a Board Audit Committee comprising two private sector Board members and chaired by the Minister of Finance. The Managing Director participates in Board Audit Committee meetings as an observer. The external auditor, the State Audit Bureau (SAB), audits KIA on a continuous basis and issues an annual report to the National Assembly. Various committees in the National Assembly, such as the Finance and Economic Committee, the Budget Committee, and the Closing Accounts Committee, review the comments of the SAB audits.

KIA is prohibited by law from publicly discussing the size of its holdings and avoids any but the most general discussions of asset allocation. KIA holds closed-door presentations on the full details of all funds under its management, including its strategic asset allocation, benchmarks, and rates of return, for the Council of Ministers and the National Assembly. The Sovereign Wealth Fund Institute estimated that KIA manages over USD 592 billion in assets.

10. Responsible Business Conduct

Kuwait has a general awareness of expectations of or standards for responsible business conduct (RBC), including environmental, social, and governance issues. No specific government program is in place to require or encourage compliance.

The FDI law obligates the investor "not to violate the laws and regulations applicable in the country, especially the duty to protect the environment and regulations relating to security, public health, public order and not to expose others to risk."

One aspect of responsible business conduct (RBC) in Kuwait is largely manifested through contributions to local charities and causes. For example, during 2015, Zain, the leading telecommunication company in Kuwait, was awarded the Gold Award for Excellence in Corporate Social Responsibility from the Arab Organization for Social Responsibility in Dubai. The company was recognized for its series of local initiatives and programs including the annual Breast Cancer Awareness Campaign, supporting the Rijeemy health program, internal blood donation campaigns, the internal Health Week initiative, celebrating Earth Day, supporting the Environment Public Authority's awareness campaign, activities that were assessed to have had a deep and meaningful impact on many groups, institutions, and agencies across multiple communities.

The Kuwait Environment Protection Authority has been active in enforcing compliance and actively addressing environmental violations.

OECD Guidelines for Multinational Enterprises

Although Kuwait is not a member of OECD, local laws require all enterprises to respect residency laws for foreigners and the human rights of employees.

11. Political Violence

Spontaneous and planned demonstrations take place in Kuwait occasionally in response to world events or local developments. At times, even demonstrations intended to be peaceful can turn confrontational, resulting in violence. American citizens are encouraged to remain in contact with the Embassy for up-to-date information. As the Department of State continues to develop information on potential security threats to American citizens overseas, it shares credible threat information through its Consular Information Program documents, including Travel Warnings, Travel Alerts, Country Specific Information, and Emergency and Security Messages, all of which are available on the Bureau of Consular Affairs website at http://travel.state.gov.

12. Corruption

The often lengthy procurement process in Kuwait occasionally results in accusations of attempted bribery or the offering of other inducements by bidders. Corruption is criminalized, and several investigations and trials involving current or former government officials accused of malfeasance are underway. In 1996, the government passed Law No. 25, which requires all companies securing contracts with the government valued at KD 100,000 (USD 330,000) or more to report all payments made to Kuwaiti agents or advisors while securing the contract. The law similarly requires entities and individuals to report any payments they received as compensation for securing government contracts.

In December 2015, the Constitutional Court ruled that Law No. 24 of 2012 (on the establishment of the Anti-Corruption Authority and provisions pertinent to financial disclosure) was unconstitutional. Later the same month, the Council of Ministers approved a new anti-corruption bill which was approved by the National Assembly in January 2016.

Transparency International's 2015 Corruption Perceptions Index (CPI) ranked Kuwait 55 out of 175 countries, making it fifth within the Gulf Cooperation Council after Qatar, UAE, Saudi Arabia, and Bahrain. Kuwait's CPI score of 49 (out of 100) indicates it has a “serious corruption problem,” according to Transparency International.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Kuwait signed the UN Anticorruption Convention in 2003 and ratified it in 2007. Kuwait is not a participating country in the OECD Convention on Combating Bribery.

Resources to Report Corruption

Mr. Abdulrahman Al-Namash
President
Kuwait Anti-Corruption Authority
Shamia, Block 2, Opposite Wahran Park, Kuwait City, Kuwait
Tel: +965 2464-0200
info@kancor.gov.kw

13. Bilateral Investment Agreements

Kuwait has signed bilateral investment treaties with 75 partners and 14 other International Investment Agreements
[http://investmentpolicyhub.unctad.org/IIA/CountryBits/112#iiaInnerMenu].

In 2013, the United States and Kuwait initiated exploratory discussions toward a potential bilateral investment treaty. Discussions continued in 2015. Kuwait signed a Trade and Investment Framework Agreement (TIFA) with the United States in 2004, which aimed to deepen trade relations and to strengthen the overall U.S.-Kuwait economic relationship. The TIFA provided for periodic technical discussions on issues including intellectual property rights, standards-related issues, taxation, and service and investment requirements. The last bilateral TIFA Council meeting took place in 2008. In October 2012, the United States signed a TIFA with the GCC; the National Assembly ratified it in April 2014.

Bilateral Taxation Treaties

Kuwait does not have a bilateral taxation treaty with the United States. In April 2015, Kuwait and the United States signed an intergovernmental Foreign Account Tax Compliance Act (FATCA) agreement.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

From late 1999, the MOCI supervised a 50 square-kilometer Kuwait Free Trade Zone (KFTZ) at Shuwaikh port. Many restrictions normally faced by foreign firms, such as corporate taxes, technically do not apply to offices or plants within the KFTZ. Some 90 percent of space within the KFTZ has been leased and the majority of firms operating in the zone are Kuwaiti. However, both Kuwaiti and foreign businesses report irregularities on the part of central and municipal government officials. Frequent management and operational disputes have plagued the KFTZ over the years. In December 2013, MOCI finalized a new master plan for the KFTZ area and began issuing new commercial licenses.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Kuwaiti investment abroad consists of portfolio investment by KIA and direct investment by other government entities. According to the 2015 World Investment Report published by the secretariat of the United Nations Conference on Trade and Development (UNCTAD), Kuwait attracted USD 486 million in FDI in 2014, compared with FDI outflows of USD 13.1 billion, making Kuwait the highest overseas investor in the GCC. U.S. enterprises invested USD 315 million in Kuwait in 2014, up from 301 million in 2013. Despite the many challenges to doing business in Kuwait, several U.S. companies have won lucrative contracts and operate successfully in the country. According to the U.S. Department of Commerce, Kuwait was ranked 37th in 2014 as a source of investment in the United States, with an FDI position of USD 1.4 billion. The actual investment into the United States from Kuwaiti sources is very likely to be many orders of magnitude larger. Kuwaiti investment in the United States is diversified across several sectors. Two major announcements in early 2016 included Gatehouse Capital's purchase of ten select service hotels in the upper Midwest for USD 137 million and MEGlobal's planned construction of a new world-scale monoethylene glycol manufacturing facility in Texas worth over USD one billion.

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	KD 45,654 $163,602	2014	$163,612	www.cbk.gov.kw http://data.worldbank.org/indicator/NY.GDP.MKTP.CD/countries/KW?display=graph

Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2014	N/A	2014	$315	https://bea.gov/international/factsheet/factsheet.cfm?Area=506
Host country's FDI in the United States ($M USD, stock positions)	2014	N/A	2014	$1,418	http://go.usa.gov/cztA9
Total inbound stock of FDI as % host GDP	2014	N/A	2014	0.0019	N/A

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data (2014)					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			Outward Direct Investment		
Total Inward	15,362	100%	Total Outward	36,531	100%
Qatar	5,269	34%	Saudi Arabia	5,017	14%
Bahrain	1,131	7%	Cayman Islands	4,969	14%
United Arab Emirates	678	4%	Iraq	3,469	9%
Saudi Arabia	612	4%	Bahrain	3,444	9%
Oman	523	3%	Turkey	2,050	6%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Host country data are not made publicly available.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets (June 2015)								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	16,206	100%	All Countries	11,321	100%	All Countries	4,886	100%
Bahrain	4,027	25%	Bahrain	3,773	33%	United Arab Emirates	1,059	22%
United Arab Emirates	2,427	15%	Saudi Arabia	1,600	14%	Cayman Islands	587	16%
United States	1,978	12%	United Arab Emirates	1,369	12%	Qatar	546	11%
Saudi Arabia	1,713	11%	United States	1,206	11%	Malaysia	407	8%
Cayman Islands	988	6%	United Kingdom	505	4%	Bahrain	254	5%

Source: IMF Coordinated Portfolio Investment Survey

Host country data are not made publicly available.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

mixed legal system consisting of English common law, French civil law, and Islamic religious law

International organization participation:

ABEDA, AfDB (nonregional member), AFESD, AMF, BDEAC, CAEU, CD, FAO, G-77, GCC, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IDB, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAS, MIGA, NAM, OAPEC, OIC, OPCW, OPEC, Paris Club (associate), PCA, UN, UNCTAD, UNESCO, UNIDO, UNRWA, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Kuwait does not enforce any exchange controls.

Treaty and non-treaty withholding tax rates

Kuwait has entered into tax treaties with several countries for avoidance of double taxation. Kuwait is a signatory of the Arab Tax treaty and the GCC Joint Agreement, both of which allow for avoidance of double taxation in most areas. Comprehensive double taxation treaties are available with Austria, Belarus, Belgium, Canada, China, Cyprus, Croatia, Ethiopia, France, Germany, Hungary, Indonesia, Italy, Jordan, Korea, Lebanon, Mauritius, Mongolia, Netherlands, Pakistan, Poland, Romania, Russia, Serbia and Montenegro, Singapore, Switzerland, Syria, Tunisia, Turkey,
Ukraine and United Kingdom. Kuwait has also concluded limited double taxation agreements in respect of income arising from international sea and/or air transport with several countries.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	**Medium Risk**	**Higher Risk**
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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