

The Executive Bylaws  
Module Two

**Capital Markets Authority**



هَذَا كِتَابٌ أَنْبَأَ اللَّهُ الْمَلَائِكَةَ

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## Chapter One

### The Authority, its Objectives, Competences and Functions

1

#### Article 1-1

#### The Authority's Corporate Personality

The Authority is a corporate entity and it is independent financially and administratively. It is supervised by the Competent Minister. The Authority has the right to litigate, conclude contracts, own real estate and movable assets and to conduct all legal acts in order to achieve its objectives.

#### Article 1-2

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#### The Authority's Objectives

The Authority aims to achieve the following:

1. Regulate Securities Activities in a fair, transparent and efficient manner.
2. Grow the capital markets, and diversify and develop investment instruments thereof in accordance with best international practice.
3. Enhance investor protection.
4. Reduce Systemic Risks Arising from Securities Activities.
5. Impose requirements of full disclosure in order to achieve fairness and transparency, and to prevent conflicts of interests and the use of Inside Information.
6. Ensure compliance with the rules and regulations related to Securities Activities.
7. Enhance public awareness of Securities Activities and of the benefits, risks and obligations arising from investments in Securities and encourage their development.

#### Article 1-3

#### The Authority's Competences

The Authority is competent to undertake all the necessary works to achieve its objectives set out in Article (1-2) of this Module. The said competences are not limited by the competences stated in the Law or these Bylaws.

The Authority shall practice its competences in order to realize and enhance those objectives.

#### Article 1-4

#### The Authority's Functions

The Authority's functions are:

1. Preparing rules, regulations and issuing instructions to execute the Law. Moreover, it works to issue recommendations and studies necessary to develop laws to help achieve its objectives.
2. Giving guidance by virtue of these Bylaws.
3. Determining the general policy and principles by reference to which it performs functions under these Bylaws.

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| <b>Article 1-5</b>  | <p>In discharging its functions stated in the <u>Law</u>, the <u>Authority</u> must have regard to the following principles:</p> <ol style="list-style-type: none"><li>1. The need to use the resources of the <u>Authority</u> in an optimal way.</li><li>2. Achieving growth in the capital markets in particular, and sustainable growth in the economy in general.</li><li>3. The investors shall be responsible for their decisions.</li><li>4. The principle that a burden or a restriction should be proportionate to the benefits, which are expected to result from the imposition of that restriction.</li><li>5. The <u>Authority</u> should exercise its functions transparently.</li></ol> |
| <b>Article 1-6</b>  | <p>The <u>Authority</u> shall take all precautionary measures in order to prevent crimes and <u>Violations</u> that may take place in the capital markets or when practicing <u>Securities Activities</u>.</p>  |
| <b>Article 1-7</b>  | <p>The <u>Authority</u> shall work for the orderly operation of the capital markets, the <u>Securities Activities</u> and other activities related to achieving its objectives.</p>   |
| <b>Article 1-8</b>  | <p>The <u>Authority</u> shall secure appropriate protection for investors in <u>Securities</u>, Persons who are provided with services from <u>Licensed Persons</u> or <u>Registered Persons</u> and who have relevant rights in relation to <u>Securities</u>, or <u>Securities Activities</u>.</p>  |
| <b>Article 1-9</b>  | <p>The <u>Authority</u> shall take all necessary procedures to enhance the integrity of the capital markets in order to maintain their stability, strength, flexibility and the continuity of orderly operation to ensure transparency of the price formation process in the markets, and to limit illegitimate practices.</p>  |
| <b>Article 1-10</b> | <p>The <u>Authority's</u> rules may include regulation of the relationship among the <u>Licensed Persons</u> and those who deal with them or others.</p>  |

**Article 1-11**

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The Authority shall carry out all the work necessary to achieve its objectives, and in particular the following:

1. File civil, commercial and administrative lawsuits related to the application of the provisions of Law, regulations, instructions and rules issued by virtue of the Law, or others relevant to the Authority
2. Receive complaints on Violations and crimes, and perform administrative investigation of them and refer them to the Disciplinary Board if so it deems.
3. Carry out all the procedures that may lead to uncovering crimes and refer criminal complaints to public prosecution in case of any incident which is suspected to be an offense under the purview of the Authority or in respect of those who are engaged in Securities Activities.
4. Conduct inspections and supervise Dealing in Securities and the activities of the Licensed Persons.
5. Purchase, acquire and dispose of any kind of property, and initiate all forms of legal action.
6. Print and publish materials related to Securities Activities.
7. Impose fees corresponding to the services provided, and collect fines within the framework of the Authority's Law. The Authority shall perform all the necessary procedures which enable it to perform its duties and achieve its objectives as set out in the Law.
8. Set up rules to regulate Dealing in Securities and the transfer of ownership. Such dealings shall not be subject to the provisions of Articles (508), (992) and (1053) of the Civil Law and Articles (231), (232), (233) and (237) of the Commerce Law. The Authority shall also set up rules to regulate the settlement of Securities, without being limited to the provisions provided for in Section Three of the Law of Pleadings and the Executive Bylaws of the Companies Law.
9. Issue rules to regulate Special Purpose Vehicle Companies that issue Securities without being limited to the provisions provided for in the Companies Law.
10. If it so decides, to establish or contribute to establishing an educational or training institution related to the field of securities markets, such a body being a corporate entity which is subject to the Authority's sole supervision, and which shall be regulated in accordance with rules and bylaws issued by the Authority.

**Article 1-12**

The Authority may regulate the activities of the Licensed Persons, Registered Persons and traders in Securities and other activities so as to achieve the Authority's objectives.

**Article 1-13**

**Power of the Authority to Issue Guidance**

The Authority may issue guidance including information or instructions regarding the following:

1. Applying the Law and these Bylaws or any rules or instructions issued by the Authority.
2. Procedures of the Authority's work and the way of practicing its competences and functions.
3. Any other issues as deemed necessary by the Authority.

**Competencies of the Board of Commissioners of the Authority**

**Article 1-14**

The Board shall:

1. Issue necessary bylaws and instructions to execute the Law. It shall also work on issuing recommendations and the necessary studies needed to develop the regulations which assist in achieving its objectives.
2. With consideration to the provisions of Article (33) of the Law, the Board shall issue licenses to Securities Exchanges and for related activities, and shall supervise their activities.
3. Issue licenses to Clearing Agencies and for related activities, and shall supervise their activities.
4. Approve the rules and controls set by an Exchange or a Clearing Agency to conduct their work and endorse the same.
5. Terminate, amend or cancel the decisions and works issued by an Exchange and a Clearing Agency.
6. Issue licenses for Securities Exchanges' membership, and licenses to their employees and anyone who works in the management of Securities Activities, including asset management and investment Funds companies, brokerage companies, Securities custody companies, advisory services institutions, etc.
7. Renew, amend, suspend, restrict or revoke licenses.
8. Issue the approval by the Authority of Registered Persons as well as issuing the rules and conditions of their registration.
9. Regulate the promotion of investment Funds and other Collective Investment Schemes.
10. Regulate Public Subscriptions or Initial Public Offerings (IPOs) and Private Placements for Kuwaiti and non-Kuwaiti Securities and supervise them.
11. Regulate the processes of Mergers and Acquisition Offers and supervise them.
12. Set up rules of supervision and for any self-regulatory organization in Securities activities.
13. Approve the rules and regulations proposed by an Exchange management prior to commencement of its business.
14. Set up rules for compliance with professional ethics, for competence and integrity of Licensed Persons, and approve the same.
15. Provide appropriate systems to protect traders and work towards minimizing improper and unfair practices in the Securities Activities.
16. Cooperate with supervisory authorities and foreign counterpart institutions with regards to organizing, coordinating and participating in joint activities.



17. Carry out all duties and authorities entrusted to it in the Law or any other law with regard to reducing market instability.
18. Issue all necessary decisions which fall within the Authority's competences and are deemed necessary to implement the Law and these Bylaws. It may delegate some of these authorities.
19. Set up special rules, regulations and procedures needed by the Licensed Persons who work in accordance with Islamic Sharia.
20. Issue rules for Market Makers.
21. Take all necessary measures to manage market risks including ceasing the trading in the markets or of one or more Securities or suspending one or more Traders as well as coordinating with other Regulatory Bodies.
22. Issue a decision of cancelling the listing of a Security.
23. Set measures to supervise and monitor Licensed Persons.
24. Set governance rules of Licensed Persons and Listed Companies in the Exchange.
25. Issue rules that set out the duties and liabilities of Listed Companies, their Members of the Boards of Directors, executive management and their Insiders.
26. Approve accounting standards, performance evaluation criteria and internal audit obligations of Licensed Persons and to determine the criteria and conditions required in Auditors and External Sharia Auditing Offices that are registered at the Authority.
27. Approve lists of fees, commissions and charges paid to Licensed Persons in return to the services offered to their Clients.
28. Determine fees to be received by the Authority in return for issuing or renewing licenses or Dealing in Securities and other fees.

## Chapter Two

### Coordination and Cooperation with Local and Foreign Regulators

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| <b>Article 2-1</b> | The <u>Authority</u> shall coordinate and cooperate with all local <u>Regulatory Bodies</u> , particularly the <u>Central Bank</u> and the <u>Ministry</u> . It may sign memoranda of understanding that illustrate the scope, mechanisms and determinants of that coordination and cooperation.   |
| <b>Article 2-2</b> | Within the framework of cooperation and coordination between the <u>Authority</u> and similar <u>Regulatory Bodies</u> and foreign counterpart institutions, the <u>Authority</u> may sign memoranda of understanding with those entities that illustrate the scope, mechanisms and determinants of that coordination and cooperation. Those memoranda of understanding may stipulate that each party may request from each other to conduct an investigation into a certain matter or take precautionary measures to prevent crimes or <u>Violations</u> or to avoid their effects.   |
| <b>Article 2-3</b> | <p>The <u>Authority</u> may not respond to a request made by the entities mentioned in Article (2-2) of this Module with regard to cooperation, coordination and exchange of information in the following cases:</p> <ol style="list-style-type: none"> <li>1. If attending to the request would offend the sovereignty of the State of Kuwait, or contradict laws, regulations or rules applicable in the State of Kuwait.</li> <li>2. If attending to the request would harm bona fide investors or <u>Traders</u>, or adversely impact the market's operation or <u>Securities Activities</u>.</li> <li>3. If the request relates to a matter that is subject to existing judicial procedures.</li> </ol> |
| <b>Article 2-4</b> | <p><b>Participation in International or Regional Organizations</b></p> <p>The <u>Authority</u> may join or participate in relevant international or regional organizations whether those organizations are governmental or non-governmental.</p>   |
| <b>Article 2-5</b> | <p><b>Holding Meetings and Conferences</b></p> <p>The <u>Authority</u> may hold meetings or conferences or issue studies, and undertake and issue research and work papers in relation to its work.</p>  |

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## Chapter Three Consultation

**Article 3-1** The Authority may publish draft decisions and instructions for consultation in accordance with the rules set by the Authority provided that they shall include an explanation of the purpose of the proposed rules as well as the timeframe for submitting comments and suggestions.

### **Mechanism of Consultation**

**Article 3-2** Consultation on draft decisions and regulations issued by the Authority shall be conducted in accordance with the mechanism approved by the Authority including meetings and mutual correspondence with concerned entities.

**Article 3-3** In selecting a sample for a consultation, multiple entities shall be considered so there shall not be less than three. Moreover, diversity of size, specialization and activities shall be taken into consideration. The expertise of the entities in the subject matter of the consultation shall also be taken into consideration.

**Article 3-4** The Authority shall consider submitted comments and suggestions and determine what can be taken into consideration to issue the final rules. Those comments and suggestions are not binding on the Authority.

**Article 3-5** Submission and approval of the draft of any final decision and instructions shall be made in accordance with the procedures approved by the Authority.

## Chapter Four

### The Board of Commissioners of the Authority

#### Article 4-1

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#### Forming the Board of Commissioners

The Authority is run by a board named the Board of Commissioners of the Capital Markets Authority. It consists of five full time commissioners named by an Amiri decree based by the nomination of the Competent Minister. The decree shall determine the name of the chairman and his deputy among the members.

#### Article 4-2

#### Powers of the Board of Commissioners

The Board is pre-eminent within the authority and shall be responsible for all of the Authority's decisions.

#### Article 4-3

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#### Conditions of Being a Commissioner

The commissioner shall be a Kuwaiti natural individual of integrity, with experience or being specialized in fields related to the functions of the Authority. He shall not have been the subject of a final judgment of bankruptcy or penalized with restriction of freedom in a felony or in a crime of breach of honor or trust.

#### Article 4-4

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#### Term and Renewal of the Membership and the Vacancy of Commissioner's Position

The term of membership is four years, renewable for one term only, except for the first board members, where only three of them can be renewed for a third term. A commissioner's position becomes vacant by death, disability or resignation. Furthermore, a commissioner shall lose his capacity and the seat thereof become vacant and a decree shall be issued to end his membership in the following cases:

1. If a final judgment of his bankruptcy is issued.
2. If he is charged with a definitive crime related to breach of honor or trust or with a freedom restricting penalty in a crime.
3. If within one year he does not attend three consecutive meeting or six non-consecutive meetings without good reason acceptable to the Board of Commissioners.
4. If he violates the provisions of Article (27) or Article (29) of the Law.
5. If he deliberately violates the code of ethics set by the Board of Directors by virtue of which it set the rules, conducts and ethics of commissioners.

### Chairman's Capacities

#### Article 4-5

The chairman represents the Authority before third parties and the court. He assumes the position of the managing director and executes the decisions of the Board. He supervises all the technical and administrative bodies affiliated to the Authority. He exercises his authorities in accordance with the laws, regulations, and decisions acknowledged by the Board as set in the structure of authorities approved by the Board. He shall also be responsible, along with other commissioners, for the management of the Authority. He may delegate one of the commissioners with some of his administrative authorities or to an administrative unit in the Authority.

### Absence of the Chairman and his Deputy

#### Article 4-6

In the absence of the chairman or where the chairman's seat becomes vacant, all his competences, including chairmanship of the meetings of the Board, shall devolve to the vice-chairman.

#### Article 4-7

If the chairman is absent or his seat is vacant, and his deputy is unable to undertake the chairman's tasks for any reason whatsoever, the Board shall convene within two weeks to designate a person to carry out the functions of the chairman in the capacity of an acting chairman.

### Salaries and Remunerations of Commissioners

#### Article 4-8

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A decree shall set the salaries and remunerations of the chairman, his deputy and the rest of the commissioners, as well as any allowances or privileges paid from the Authority's funds, upon a proposal by the Competent Minister and the consent of the Council of Ministers.

### Meetings of Commissioners

#### Article 4-9

The Board shall convene at least eight times a year upon an invitation from the chairman or a request filed in writing by at least two commissioners determining the subject and date of the meeting. The meeting shall be held on the set date to discuss only the subject matter of the invitation.

#### Article 4-10

An invitation for a meeting shall include the date and place of the meeting. The invitation may be delivered by hand, via email or fax and shall be despatched at least twenty-four hours before the date. The invitation shall include the agenda and all related documents and papers for the items of the agenda.

#### Article 4-11

A meeting of the Board shall be valid if the majority of the commissioners are present, including the chairman or his deputy, except the meeting stipulated in Article (9) of the Law. Decisions shall be made by a majority vote of the Board's members. The Board and the committees derived from it may accept members' attendance via modern communication means/media.

**Article 4-12**

Each meeting shall start when in quorum. If it is known prior to the meeting date that a quorum will not eventuate, the chairman shall postpone the commencement of the meeting for half an hour and if a quorum is not then completed the meeting shall be postponed to another date. It is necessary that a quorum be maintained throughout each meeting.

**Items for the Board's Agenda**

**Article 4-13**

During its meeting, the Board shall consider the following subjects:

1. Approving the agenda and any suggested amendments.
2. Previous minutes of meetings to be approved by the Board.
3. Subject matters submitted by the party who called the meeting.

**Inviting other Persons to Attend the Board's Meeting**

**Article 4-14**

The Board may call any person to participate in the discussions and deliberations of the Board without having the right to participate in voting over the decisions.

**Board's Secretariat**

**Article 4-15**

The Board shall have a secretariat for the administrative arrangement of the meetings and for providing members with documents and papers related to the agenda's topics.

**Article 4-16**

The secretariat shall keep the disclosures of the Authority's commissioners referred to in the Law.

**Article 4-17**

The secretariat shall take the minutes of the meetings and send these to the members of the Board to receive their amendments before minutes may be approved, provided that the minutes shall include the summary of the deliberations and discussions which took place in the meeting and the resulting decisions.

**Urgent Decisions of the Board**

**Article 4-18**

In emergencies, the chairman may obtain the approval of commissioners on a decision of urgent nature via fax, email or any other communication means approved by the Authority which can record written evidence of the commissioner's approval. The said decision shall be valid and enforceable upon the approval of all the Board's members. Such decisions shall be submitted to the Board in the first following meeting for ratification.

### Organizational Structure of the Authority

#### Article 4-19

The Board is the only entity authorised to set and approve the organizational structure of the Authority and the arrangements of financial and administrative competences. It may make necessary amendments when necessary.

### Delegation of Competences

#### Article 4-20

The Board may delegate some of its competences to the chairman, or one of its members, a committee in the Authority or the managing director. The managing director may authorize one of the heads of the sectors or departments some of his competences.

#### Article 4-21

An entity with delegated responsibilities in accordance with Article (4-20) may authorize a lower entity to bear those responsibilities if the delegating entity permits it.

#### Article 4-22

Delegation shall be issued and cancelled by the delegating entity and the delegated entity shall be notified accordingly. A delegating entity which has delegated some of its competences to another entity in accordance to Articles (4-20) and (4-21) may not practice them while the delegation is in effect.

#### Article 4-23

The chairman may delegate signing authority to one of the commissioners. The managing director may delegate signing authority to heads of sectors or departments.

### Advisory Committees

#### Article 4-24

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The Board may establish permanent or temporary advisory committees and entrust them with studying a certain topic falling within its authorities as stated in the Law. The Board may appoint experts from outside the Authority to accomplish the committees' tasks.

#### Article 4-25

Advisory Committees shall set a plan for its work and submit their reports to the Board. Those committees shall meet by an invitation of its chairman or at least two of its members.

## Chapter Five

### Confidentiality and Conflicts of Interest

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| <b>Article 5-1</b> | <p><b>Confidential Information of the Authority</b></p> <p>All data and information related to the work of the <u>Authority</u> are confidential. They may not be disclosed without the consent of the <u>Authority</u> or pursuant to a court order. Memoranda of understanding concluded by the <u>Authority</u> with local <u>Regulatory Bodies</u> and foreign authorities may include agreement upon exchanging information and data related to the <u>Authority's</u> work with conditions to ensure its confidentiality and for its use to be solely for regulatory purposes.</p>   |
| <b>Article 5-2</b> | <p><b>Confidential Information Related to Licensed Persons and Traders in the Markets</b></p> <p>All data and information related to the <u>Licensed Persons</u> and persons who deal in the markets shall enjoy the protection extended to personal and confidential information and may not be disclosed except in the following conditions.</p> <ol style="list-style-type: none"><li>1. Exchanging information and documents related to violations concerning <u>Securities</u> between the <u>Authority</u> and corresponding entities and authorities in other countries, as the <u>Authority</u> may deem appropriate in each case individually, in light of the public interest subject to applying the principle of reciprocity by virtue of memoranda of understanding or any other mechanism.</li><li>2. By virtue of court order.</li><li>3. In other cases permitted by the <u>Law</u>.</li></ol> |
| <b>Article 5-3</b> | <p><b>Confidentiality Obligation</b></p> <p>Commissioners or any employee or person working in or with the <u>Authority's</u> committees with or without remuneration shall maintain the confidentiality of the information received by him by virtue of his position as well as keeping documents unrevealed except to authorized persons at the <u>Authority</u>.</p>  |
| <b>Article 5-4</b> | <p>Disclosure of information in accordance to the terms and conditions stipulated in Articles (5-1) and (5-2) of this Module is not considered as violation of the confidentiality obligation stipulated in Articles (5-2) and (5-3).</p>  |



### Conflicts of Interest

#### Article 5-5

No commissioner or employee in the Authority invited to attend a meeting in the area of the Authority's competence and who has a direct or indirect interest in the topic submitted for deliberation shall be allowed to participate in its discussion, or express an opinion or vote thereon. Such commissioner or employee must disclose this interest, if any, at the beginning of the meeting, and shall leave the meeting prior to commencing the discussion of the topic. If the person of interest has voting capacity concerning any decision that shall be taken in respect of the said topic, that person shall not be included within the quorum for making decisions.

Each person invited to a meeting on any area of the Authority's competence and who has a direct or indirect interest in a topic submitted for deliberation must disclose such interest, if any, at the beginning of the meeting and before participating in the discussion or expressing opinion.

In all cases, the chairman of the meeting must notify the attendants of the importance of the disclosure indicated in the two previous paragraphs.

### Prohibition of Commercial Transactions

#### Article 5-6

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No commissioner or employee, holding a position at the Authority, may conduct any commercial transaction for himself or as an agent, guardian or custodian. Moreover, they may not engage in any other profession, occupation or job in public or private sector, or provide any direct or indirect services or advice, and shall not be a Member of a Board of Directors of any entity that is subject to the Authority's supervision, or any party related thereto.

### Disclosure of Securities

#### Article 5-7

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Each member of the Board and the employees shall declare in writing to the Authority, upon commencement of their duties, their ownership of any Securities listed on Kuwait Stock Exchange owned by them or minors who are under their guardianship, and shall also disclose, in writing, any updates on any changes thereof as per the procedures laid down by the Board.

Members of the Board are prohibited from dealing in the shares of companies which are subject to the Authority's supervision throughout their period of membership of the Board.

### Code of Ethics

#### Article 5-8

Commissioners of the Authority and the employees shall adhere to the code of ethics set by the Authority.

## Chapter Six

### Boards and Committees of the Authority

#### Article 6-1

##### Article 6-1-1

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#### Disciplinary Board

One or more Disciplinary Boards shall be established within the Authority, composed of three members headed by a judge delegated by the Supreme Judiciary Council and two members who are experienced in financial, economic, and legal affairs. The term of membership of the Disciplinary Board shall be three years and may be renewed. The Disciplinary Board shall address the following matters:

1. Deciding on the disciplinary matters referred and submitted by the Authority concerning the violation of the provisions of the Law or these Bylaws or any other decisions or instructions issued in connection therewith
2. Deciding on the appeals filed against Exchange decisions and the decisions taken by the Violations Committee thereat. The Disciplinary Board, when hearing these appeals, shall be deemed to act as an appellate body and its rulings with regard thereto shall be final.
3. Considering the disciplinary procedures taken by an Exchange towards any of its members referred to the Disciplinary Board from the Authority.

##### Article 6-1-2

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A member of the Disciplinary Board is prohibited from having any direct or indirect interest in any entity subject to the Law, nor may he be Ally with such entity during the time of his said work.

#### Article 6-2

##### Article 6-2-1

#### Complaints and Grievances Committee

A Complaints and Grievances Committee shall be formed by virtue of a decision from the Board. The committee shall be composed of not more than six members who are experts in financial, economic and legal affairs, among which shall be appointed the chairman and the vice chairman of the committee for three years renewable once. The committee shall receive complaints from any person with interest about any wrongful act committed by a Licensed Person. Moreover, it shall receive grievances concerning decisions issued by the Authority. The committee's deliberations shall be confidential and its decisions shall be issued in majority.

##### Article 6-2-2

It is forbidden for any member of the Complaints and Grievances Committee to have any direct or indirect interest nor may he be Ally with any entity subject to the provisions of the Law during the time of his said work.

#### Article 6-3

#### Advisory Board of the Capital Markets Authority

##### Formation of the Advisory Board

##### Article 6-3-1

By a decision of the Board, an Advisory Board shall be formed and named Advisory Board of the Capital Markets Authority; it shall be considered as an advisory committee and shall report to the Board.

**Article 6-3-2** The advisory board is formed at least of five members. Members are appointed by a decision of the Board for two renewable years.

#### **Terms of the Membership of the Advisory Board**

**Article 6-3-3** For membership of the advisory board, the following requirements shall be fulfilled:

1. Members shall have sufficient expertise in the field of capital markets as specialists and local and international academics of expertise and experience.
2. To be aware of the latest regulations in capital markets around the world.
3. To have an awareness of future trends that may affect the capital markets.
4. To be able to communicate with international entities to transfer their best practices to the Authority.
5. They shall be of good reputation, and have not received any final sentence of bankruptcy or have been convicted of a crime or felony involving a breach of honor or trust.

#### **Charter of the Advisory Board**

**Article 6-3-4** The Board shall set the charter of the advisory board and it shall set its remunerations.

#### **Competences of the Advisory Board**

**Article 6-3-5** The Advisory Board shall:

1. Review the Authority's long – term strategy and its accomplishments and assist in planning them.
2. Study the Authority's practices and keep up with the developments and trends in the regulation of the global capital markets.
3. Submit recommendations and studies related to developing the Authority's works in order to increase its efficiency in accordance with best international practice.
4. Conduct specialized studies and researches on any subject that the Board may require in order to develop the infrastructure of the Kuwaiti capital markets.
5. Provide the necessary technical advice.

**Article 6-4**

**Advisory Council for Sharia Supervision**

**Formation of the Advisory Council for Sharia Supervision**

**Article 6-4-1**

By a resolution of the Board, an Advisory Council for Sharia Supervision shall be established and it shall report to the Board. The Council shall be the reference in all matters related to the Authority's resolutions in the Sharia compliant activities.

**Article 6-4-2**

The Advisory Council for Sharia Supervision shall be composed of at least of five experts specialized in the jurisprudence of Islamic financial transactions, law, economics and administrative sciences. The majority of the council members shall be specialists in Sharia. The Board shall issue a resolution of their appointment for two renewable years.

**Hiring Experts**

**Article 6-4-3**

The Advisory Council for Sharia Supervision may refer to external experts after obtaining the approval of the managing director.

**Charter of the Advisory Council for Sharia Supervision**

**Article 6-4-4**

The Board shall set the charter of the advisory council for Sharia supervision and the Board shall set its remunerations.

### Competences of the Advisory Council for Sharia Supervision

#### Article 6-4-5

The Advisory Council for Sharia Supervision shall:

1. Express the Sharia opinion with regard to matters pertaining to the Authority's business with respect to Licensed Persons who operate in accordance with the Islamic Sharia provisions.
2. Express the Sharia opinion in creating new Islamic financial products and instruments launched in the capital markets by the Authority or approved by the Authority.
3. Express the Sharia opinion on matters referred to it by the Board.
4. Express the Sharia opinion on complaints submitted by Traders against Licensed Persons with regard to non-compliance with Islamic Sharia provisions.
5. Express the Sharia opinion in applying Sharia standards, decisions, regulations stipulated to organize the Licensed Persons' business.
6. Propose the bylaws, and regulations regarding the Sharia supervisory regulations of Licensed Persons who operate in accordance with the provisions of the Islamic Sharia.
7. Propose bylaws, regulations and policies regulating the profession of internal and external Sharia revision and audit for Licensed Persons.
8. Propose bylaws and regulations pertaining to the conditions which shall be met by the executive officials of the Licensed Persons operating in accordance with the provisions of the Islamic Sharia, and their obligations and responsibilities.
9. Propose the rules for supervision and the controls for the Sharia compliant securities markets with regard to all instructions and decisions which shall be issued by the Authority with regard to organization and monitoring of business of the Licensed Persons operating in accordance with the Islamic Sharia provisions.
10. Propose the necessary criteria to apply any investment index for Listed Companies and the Collective Investment Schemes that operate in accordance with the provisions of the Islamic Sharia issued by the Authority or any of the licensed Securities Exchanges.
11. Express the Sharia opinion on the activities of Sharia compliant Licensed Persons.
12. Propose plans and methodologies which may develop the capital market in accordance with Islamic Sharia provisions in the State of Kuwait.
13. Propose research and studies which may contribute to developing the components of the capital market in accordance with the Islamic Sharia provisions.
14. Propose templates of contracts and financial instruments approved by the Authority to operate in accordance with the provisions of the Islamic Sharia.

**Article 6-5**

The Authority shall form a permanent committee called “Benefits and Personnel Affairs Committee”. It shall be formed by a Board’s resolution. It shall consist of three members of the Board, provided that the Board chairman is not one of them.

The rest of the Board’s members have the right to attend the committee’s meetings without voting on any of its decisions.

The committee shall review and develop policies, regulations, rules, organizational decisions and plans related to human resources in the Authority in all its aspects to ensure their compatibility with the aspirations and requirements of the Authority and in line with best practices.

The committee shall prepare its internal regulations and submit them to the Board for approval.

**Article 6-6**

The Authority shall form a permanent committee called the “Risk Management Committee”, formed by Board resolution. It shall consist of three members of the Board, provided that the Chairman of the Board is not amongst them. The rest of the Board’s members have the right to attend the committee’s meetings without voting on any of its decisions.

The committee shall review the existing or expected operational risks resulting from employee behavior and performance, defects in electronic systems or internal procedures, or the negative impact of external events on the Authority, and its resulting legal and information security risks. It shall determine the means to address them in order to prevent or reduce their impact, or transfer, or secure or deal with and accepting them, and following up the results of implementing plans and procedures to address them and the extent to which they have achieved their goals.

The committee shall prepare its internal regulations and submit them to the Board for approval.

**Article 6-7**

The Authority shall have a permanent committee called “Internal Audit Committee” to be formed by a Board’s resolution. It shall consist of three members of the Board provided that the Board’s chairman shall not be one of them. The rest of the Board’s members have the right to attend the committee’s meetings without voting on any of its decisions.

The committee shall ensure the existence of an effective financial and accounting control system at the Authority, review the internal control systems established by executive management, and review internal and external audit works, provided that all its recommendations or decisions are submitted to the Board.

The committee shall prepare its internal regulations and submit them to the Board for approval.

## Chapter Seven

### Administrative Affairs of the Authority

#### Article 7-1

L 17

The Authority's Board shall set the administrative and financial bylaws for its employees without abiding by the provisions set for civilian employees in the Civil Service Law and its system, provided that the latter law and its system shall be applied if there are no provisions otherwise in this regard.

The chairman of the Authority's Board of Commissioners shall have the competences of the Minister and the Civil Service Commission (CSC) on what pertains to the Authority's employees.

## Chapter Eight

### Authority's Financial Affairs

**Article 8-1** The Authority shall have an independent budget promulgated by a law, to be prepared in accordance with the rules to be set out in these Bylaws taking into account the provisions of Decree-Law No. (31) of 1978 on the Rules for Preparing Public Budgets, Monitoring their Execution and Closing Account.

**Article 8-2** Board's chairman shall have the competences of the Minister of Finance pursuant to Decree-Law No. (31) of 1978 on the Rules for Preparing Public Budgets, Monitoring their Execution and Closing Account.

**Article 8-3** The financial year of the Authority shall commence on April 1st and conclude on March 31st every year.

#### **Budget Preparation**

**Article 8-4** The Authority's budget shall be prepared in accordance with commercial principles to be suitable for the nature of the Authority's activity and the requirements of executing its strategic plan and the latest developments in that area.

**Article 8-5** By a resolution of the Board's chairman, a committee shall be formed to prepare the annual budget. It shall include representatives of the main organizational units and the organizational units concerned with the preparation of the budget. The resolution shall define the competences, duties and dates of accomplishing of the committee's work. The committee shall complete the budget and submit it to the Board's chairman. The financial regulations of the Authority shall regulate the detailed procedures of preparing the budget and dates for its completion.

**Article 8-6** The financial regulations of the Authority shall define the systems, forms and procedures for preparing the annual budget of the Authority.

**Article 8-7** The Board's chairman shall submit the annual budget and its appendices to the Board for approval. It shall then be submitted to the Council of Ministers to be approved and shall be submitted to the legislative authority at least two months before the end of the financial year.



**Article 8-8**

The annual budget shall include a statement of the financial projections for its revenues and expenditures for the following financial year. The projections shall include the total revenues and expenditures allocated to the various items in accordance with the regulating rules in this concern in the financial regulations of the Authority and the relevant approved decisions.

The budget shall be accompanied by a statement which includes a general presentation of the bases of the budget and the goals to be achieved in execution of it.

**Article 8-9**

If the approving law of the Authority's annual budget was not issued before the beginning of the financial year, the previous budget shall be enforced until it is issued. A circular shall be issued by the Board's chairman. If some items of the new budget were approved by the legislative authority, those items shall be enforced.

**Financial Resources of the Authority**

**Article 8-10**

The financial resources of the Authority consist of the following:

1. Fees and charges collected for the Authority by virtue of laws and regulations or organizational decisions issued by it.
2. All allocations to the Authority from the State's budget.
3. Revenues earned from the investment of the financial reserves of the Authority.
4. Fines imposed by the Law by virtue of judicial rulings or decisions of the Disciplinary Board of the Authority.
5. Funds from the settlement of criminal lawsuits filed regarding capital markets crimes.
6. Any other revenues stipulated by laws or bylaws.

**Reserves and Capital of the Authority**

**Article 8-11**

L 21

The Authority shall have financial reserves to ensure financial stability in the long term in order to face the Systemic Risk Expected to Occur in the Securities Activities. The amount and means of creating such reserves shall be determined by a decision issued by the Council of Ministers upon the Board's proposal. The Authority shall manage such reserves, and if these reserves reach the determined amount, the surplus shall be transferred to the Public Treasury of the State. If at any time the reserves become less than the determined amount, then the Government shall supplement and pay the lacking amount.

The Authority shall also have a pre-determined operational capital of KD 40,000,000, from which the expenses of all the Authority activities shall be paid. Expenses shall be paid and covered directly from the Authority's cash reserves, in accordance with the rules of the Bylaws. The Authority's capital may be increased through a decree.

**Article 8-12**

Within two months of the issuance of these Bylaws, the Board shall submit a proposal to the Council of Ministers of the amount and means of creating the cash reserves referred to in Article (21) of the Law.

**Article 8-13** The Authority may use the cash reserves in order to:

1. Pay and cover the operational capital of the Authority stipulated in Article (21) of the Law.
2. Cover any deficiency of the capital.
3. Pay and cover any necessary liabilities in the occurrence of any risks that may lead to a cessation of business continuity and due operations of the market, an Exchange or a Clearing Agency in accordance with the regulations and conditions prescribed by the Board when taking its decision to pay and cover those liabilities.

**Article 8-14** The Authority shall transfer any surplus of the operational capital (after deducting the total expenditures) and its operational revenues to the cash reserves at the end of each financial year.

**Article 8-15** Any surplus shall be transferred to cash reserves if it be more than the amount defined by a decision of the Council of Ministers to the State's Treasury.

**Article 8-16** If at any time the reserves become less than the determined amount, then the Government shall supplement and pay the lacking amount pursuant to a decision of the Council of Ministers.

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#### **Budget Implementation**

**Article 8-17** The allocations of the annual budget of the Authority shall be used to fulfil the financial liabilities legally due on the Authority without prejudice to sums which may become due by Authority in cases of advanced payment of its legal or contractual liabilities.

**Article 8-18** The financial allocations in the balance sheet shall be used during the financial year. Only amounts of money which were actually collected during that year shall be entered to the revenues and expenditures of the financial year. Amounts the Authority is due to pay for supplies, works, or services that were actually provided but for which the procedures for paying them were not completed prior to the end of the financial year shall be considered expenditures for that year.

**Article 8-19** The financial regulations of the Authority shall regulate the procedures related to financial contracts, agreements and engagements that the Authority enters into to manage its requirements for supplies, or services or others in accordance to the special nature of its activities. The legal department of the Authority shall be consulted regarding those contracts, agreements and engagements. The Authority is not subject to the provisions of Public Tenders Law No. 37 of 1964 as amended.

3

**Article 8-20**

The financial regulations of the Authority shall define the rules records and forms necessary for the accounting entries and the procedures of collection and payment as well as other financial and accounting procedures and rules. Moreover, it shall regulate the methods of auditing and types of reports.

**Article 8-21**

The Authority shall establish a financial control office which reports directly to the Chairman of the Board/the Managing Director, along with the proper number of financial controllers and administrative assistants which report to the office director. The office director and the financial controllers shall be appointed by the Chairman of the Board/the Managing Director, the office shall have the following competences:

1. Prepare the policies and rules governing the work of the financial control office in the Authority and to proceed with the implementation procedures after being approved by the competent authority and work to develop them in line with the best practices within the framework of the approved laws, bylaws and standards.
2. Study the internal control systems governing the work and its efficiency and adequacy to tighten control over financial operations and to make the necessary recommendations.
3. Prepare the plans and programs necessary to manage the financial control operations prior to the financial actions of the Authority, and the implementation of these plans and programs after their approval by the competent authority and prepare the necessary reports and data thereon.
4. Review and audit all draft contracts, agreements or engagements that the Authority enters into and that have a financial impact before approving their conclusion by the competent authority, in accordance with the tables of powers to ensure the soundness and validity of its procedures and compatibility with the rules applicable, and the soundness of the Authority's position.
5. Supervise the revenues, expenditures and investment of the budget as well as the assets and the liabilities in accordance with the applicable laws, bylaws and approved systems, and the adopted accounting standards, including the system of engagements, and study the objectives of uses and resources.
6. Review and audit the documents of all financial transactions, settlements and accounting entries in all fields (disbursement, revenue, investment), the supporting documents, verifying their validity and the validity of their procedures, and their conformity with the legal rules, bylaws, and financial systems and polices adopted and followed in preparing, proving and documenting them in the Authority's records, and the soundness of accounting guidance, and clearance before disbursement in preparation for the final approval.
7. Review the records, books and accounting systems to ensure the regularity of information therein, verify compliance with accounting standards adopted in the implementation of financial operations and proper completion of accounting entries.

8. Attend the meetings of the annual budget preparation committee without the right to vote or give an opinion on the draft budget prior to submitting it to the Board of Commissioners.
9. Give an opinion on the final account, and financial data and statements for the ending financial year, which is prepared by the Authority, prior to the submission to the Board of Commissioners.
10. Verify the collection and payment of the Authority's revenues in accordance with the financial laws, bylaws and regulations.
11. Attend the meetings of the committee for the examination of offers to verify the validity of its procedures and its conformity with the rules, policies and procedures applicable, and to express opinion and comments without participating in the award decision.
12. Follow-up on the payments of suppliers and contractors and ensure the signing of penalty conditions in case of non-compliance with the terms of the contract.
13. Supervise the disbursement of petty cash and participate in the inventory committees.
14. Participate in the study and research of incidents of theft, embezzlement or fire, and propose ways to avoid them.
15. Prepare the necessary reports on the results of the prior financial control works on the Authority.
16. Preparation of memorandums or reports necessary to complete the work of the office, submit them to the higher level, and implement decisions issued by the Authority's in this regard.
17. Coordinate cooperation with other organizational units of the Authority in the areas of joint activities.
18. Participate and contribute to the Authority's activities related to the work of the office.
19. Provide its technical opinion on the queries raised in the areas of the office's work.
20. All other competences assigned to the office.

**Article 8-22**

The Authority shall have one or more independent Auditors to be chosen from the Auditors registered with the Authority by a Board's resolution upon the recommendation of the Audit Committee. The Auditors shall have the right to review documents, information and data necessary to perform their tasks whilst maintaining the confidentiality of the Authority's information.

**Article 8-23**

Without prejudice to the State Audit Bureau's subsequent supervision of the Authority, the Authority is not subject to prior supervision by the State Audit Bureau nor to the provisions of Public Tenders Law No. 37 of 1964 as amended.

**The Annual Report and the Closing Account**

**Article 8-24**

The Authority shall submit to the Competent Minister an annual report for submission to the Council of Ministers within 120 days at the end of each financial year regarding its activities, work and accomplishments in developing and growing the market within the lapsed year. The report shall include the Authority's accounts and the Auditor's report.

**The Nature of the Authority's Funds**

**Article 8-25**

Any amounts of money due to the Authority from third parties are public funds and shall be treated as debts due to the State's Treasury. They shall be collected in accordance to the procedures followed in collecting debts to the State's Treasury.

**Prohibition of Practicing Commercial Transaction**

**Article 8-26**

Without prejudice to the provision of the Law, the Authority shall not engage in any commercial transaction. It may not lend monies, issue Securities or invest therein.

## Chapter Nine

### Protection of Personal Data

|                      |   |
|----------------------|---|
| <b>Article 9-1</b>   | The provisions of this Chapter shall apply to natural persons recorded and registered at the Authority, those are dealing in the capital markets, and others subject to the Authority's supervision according to the Law and these Bylaws.  |
| <b>Article 9-2</b>   | <b>Dealing and Exchanging Personal Data with Foreign Entities</b>   |
| <b>Article 9-2-1</b> | Personal data exchanges must take place in a manner that ensures the confidentiality of information and integrity according to the protections specified in Article (150) of the Law.   |
| <b>Article 9-2-2</b> | The process of collecting personal data and storing them in the Database shall be according to the provisions of the Law and these Bylaws. No unlawful means may be used to collect and store those data.   |
| <b>Article 9-2-3</b> | <p>The Authority may exchange personal data with foreign entities with which it has signed memoranda of understanding or agreements related to this. Transfer of personal data to any of those entities is not permitted, unless a sufficient level of data protection is ensured.</p> <p>Exchange of personal data shall not be for other purposes, such as for marketing or commercial reasons.</p> |
| <b>Article 9-2-4</b> | Personal data retention in the Database shall not be for a period longer than is necessary for its use.   |
| <b>Article 9-3</b>   | <b>Personal Data Subjects Rights</b>  |
| <b>Article 9-3-1</b> | The Authority may process the personal data according to a request submitted by the Personal Data Subjects whose information are available on the Database, in accordance with the Right of Access, the Right of Erasure, the Right to Request Information, the Right of Objection, the Right of Rectification, and the Right of Restriction of Processing set out in this article.                   |

**Article 9-3-2**

**Right of Access and Right to Request Information**

The Authority shall notify the Personal Data Subjects in the event of receiving a request of personal data exchange from any foreign entities. The following shall be stated as minimum:

- Purpose of the request of processing the personal data.
- Description of the required personal data.
- Legal basis to requesting personal data by the requesting entity.
- Rights available for the Personal Data Subjects that are specified in this Module.

**Article 9-3-3**

**Right of Objection**

Personal Data Subjects may submit to the Authority an objection request on the exchange of their personal data in accordance with the form attached to Appendix (1) of this Module, within two working days from the date of notifying them of the personal data request, together with the reasons for objecting, the evidence, and proof of identity. The Authority shall notify the applicant of its decision regarding the objection and, in the event of rejection, the decision shall be justified.

If Personal Data Subjects do not request an objection during the legally specified period mentioned in the previous paragraph, the Authority has the right to continue with the execution of the personal data request, and the Personal Data Subjects will not have the right to object later.

**Article 9-3-4**

**Right of Erasure, Rectification or Restriction**

The Personal Data Subjects may submit to the Authority a request to erase, rectify, or restrict the processing of their personal data on the Database as the case may be, in accordance with the forms attached to Appendix (1), (2) and (3) of this Module, if the processing violated the provisions of the Law, or if the data was incorrect, incomplete, or not updated, or if the processing was illegal. The request shall be submitted together with the reasons, evidence, and proof of identity of the Personal Data Subject.

The Authority shall notify the applicant of its decision regarding the request within ten working days from the date of receiving the request, and, in the event of rejection, the decision shall be justified.

**Article 9-4**

**Submitting a Complaint**

The Personal Data Subjects, or those in their capacity, may submit to the Authority a complaint according to the procedures mentioned in Module Three of these Bylaws.



**DISCLAIMER:**

This “translation” of the Bylaws of the Capital Markets Authority from Arabic into English is provided solely for reference. No translation can exactly reflect every aspect of an original text and accordingly this “translation” may be used for guidance but not for legal purposes. Only the Arabic original shall be considered for legal proceedings and legal actions before the competent courts of jurisdiction and in any arbitration mechanism agreed upon by contracting parties to any transaction made under the Law and the Bylaws thereof. The Capital Markets Authority shall not be responsible for any mistake, error and/or misinterpretation made or given by any party based on that party’s interpretation of the Law and the Bylaws whether arising from a reading of the Arabic text or, specifically in the context of this document, the English “translation”. The original Arabic versions, as approved and accordingly published by the Authority, shall constitute the only source of the provisions and regulations of the Law and its Bylaws.

## **Appendix 1**

### **Application to Request an Objection for Providing Personal Data to a Third Party or Restricting Data Processing**

| Application to Request an Objection for Providing Personal Data for a Third Party or Restricting Data Processing |                                       |                   |                               |                             |  |
|--|---------------------------------------|-------------------|-------------------------------|-----------------------------|--|
| Request type   | Objection for providing personal data |                   | Restricting data processing   |                             |  |
| Details of the data request  |                                       |                   |                               |                             |  |
| The date of the data request   |                                       |                   |                               |                             |  |
| The entity requesting the data   |                                       |                   |                               |                             |  |
| The required data  |                                       |                   |                               |                             |  |
| Summary of the reasons of requesting the data  |                                       |                   |                               |                             |  |
| Data of the natural person   |                                       |                   |                               |                             |  |
| Name of the natural person subject to the request  |                                       |                   |                               |                             |  |
| Identity type and number   | Type of Identity                      |                   | Identity Number               |                             |  |
| Contact information  | Email                                 |                   | Telephone                     |                             |  |
| Employer   | Entity name                           |                   | None                          |                             |  |
| Employer's nature  | Licensed Person                       | Listed company    | Others                        | None                        |  |
| Job/Registered Employment Position   | The job                               |                   | None                          |                             |  |
| Details of the request of the objection of providing personal data   |                                       |                   |                               |                             |  |
| Reasons of the objection for providing personal data   | Incorrect data                        | Confidential data | Profiling                     | Others                      |  |
| Details of the request of the objection for providing personal data/ restricting data processing                 |                                       |                   |                               |                             |  |
| The required procedure   | Data rectification                    | Data update       | Refusal to providing the data | Restricting data processing |  |
| Application date   |                                       |                   |                               |                             |  |
| Signature  |                                       |                   |                               |                             |  |

## **Appendix 2**

### Application to Request Data Erasure

| Application to Request Data Erasure               |                  |                   |                                      |      |
|---|------------------|-------------------|--------------------------------------|------|
| Request type                                      | Data Erasure     |                   |                                      |      |
| Data of the natural person                        |                  |                   |                                      |      |
| Name of the natural person subject to the request |                  |                   |                                      |      |
| Identity type and number                          | Type of Identity |                   | Identity Number                      |      |
| Contact information                               | Email            |                   | Telephone                            |      |
| Employer  | Entityname       |                   | None                                 |      |
| Employer's nature                                 | Licensed Person  | Listed company    | Others                               | None |
| Job/Registered Employment Position                | The job          |                   | None                                 |      |
| Details of the request of data erasure            |                  |                   |                                      |      |
| Reasons of the request of data erasure            | Incorrect data   | Confidential data | There is no reason to store the data |      |
| Details of the request of data erasure            |                  |                   |                                      |      |
| Application date                                  |                  |                   |                                      |      |
| Signature   |                  |                   |                                      |      |

**Appendix 3**  
Application to Request Data Rectification

| Application to Request Data Rectification         |                    |                      |                 |      |
|---|--------------------|----------------------|-----------------|------|
| Request type                                      | Data Rectification |                      |                 |      |
| Details of the data request                       |                    |                      |                 |      |
| The date of the data request                      |                    |                      |                 |      |
| The entity requesting the data                    |                    |                      |                 |      |
| The required data                                 |                    |                      |                 |      |
| Summary of the reasons of requesting the data     |                    |                      |                 |      |
| Data of the natural person                        |                    |                      |                 |      |
| Name of the natural person subject to the request |                    |                      |                 |      |
| Identity type and number                          | Type of Identity   |                      | Identity Number |      |
| Contact information                               | Email              |                      | Telephone       |      |
| Employer  | Entity name        |                      | None            |      |
| Employer's nature                                 | Licensed Person    | Listed company       | Others          | None |
| Job/Registered Employment Position                | The job            |                      | None            |      |
| Details of the request of data Rectification      |                    |                      |                 |      |
| Reasons of the request of data erasure            | Incorrect data     | Data are not updated | Other Reasons   |      |
| Details of the request of data rectification      |                    |                      |                 |      |
| Application date                                  |                    |                      |                 |      |
| Signature   |                    |                      |                 |      |