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Disclosure of Ultimate Beneficial Ownership in Kuwait: An Overview

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In Kuwait, the concept of Ultimate Beneficial Ownership (UBO) was first introduced through Law No. 106 of 2013 on Anti-Money Laundering and Combating the Financing of Terrorism (the “**AML/CTA Law**”). Recently, the Ministry of Commerce and Industry in Kuwait (“**MOCI**”) issued Resolution No. 4 of 2023, later amended as per Resolution No. 41 of 2023 (together, the “**Resolution**”) which requires Kuwaiti companies to identify and disclose their UBOs.

What is the Scope of the Resolution?

The scope of the Resolution applies towards all Kuwaiti companies with the exception of (a) companies wholly owned by the state or companies owned by such wholly owned companies; and (b) companies subject to the Capital Markets Authority.

Who is Considered a UBO?

The UBO is an individual or entity that has direct or indirect ownership of 25% or more (or voting rights equal to 25% or more) of the company or has the ability to control the company.

Should Companies have a Record of their UBOs?

Companies subject to this Resolution must create a UBO record (the “**UBO Record**”) within 60 days from the date the law comes into force. This means that the UBO Record must be ready before or on the 30th of May 2023¹. The UBO Record must

¹ The Resolution identified the 1st of April as the date this Resolution comes into force, which means the 60-day period ends on the 30th of May 2023.

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include the full name (and legal form if an entity²), nationality, birth date/place, place of residence, passport or civil ID details, date of becoming a UBO, the basis of such UBO Status, and the date the person(s) ceased to be a UBO.

Is There Any Requirement on The Companies to Maintain and Update the UBO Record? If So, Will They Be Required to Notify the Authorities of Such Change?

The companies are also required to update the UBO Record within 15 days should there be any change in the information/date included. Once amended, the companies will be required to notify the authorities of the change.

Is the UBO Record Considered Public Information?

The MOCI may make the UBO Record public and share it with other governmental or foreign authorities. However, it is still not clear what would be the modality of such publication/sharing.

Tax and other considerations?

At present, it is unclear how the Resolution will impact tax implications and other factors, including foreign UBOs and how they will be impacted by the Resolution. Additionally, the specific manner in which the Resolution will be implemented is yet to be determined.

What Are the Penalties in the event of non-Compliance?

Failing to comply with the requirements outlined in this Resolution may result in penalties, as described in Article 15 of the AML/CTA Law. These penalties could range from a written warning to the revocation of the company's license. In addition, non-compliance may also result in the non-renewal or refusal to grant licenses.

² While providing the company with the articles of association of the entity (including any amendments thereto).

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ICB Assistance?

ICB provides its clients with the best localized practical knowledge and global experience in relation to matters concerning compliance and regulatory obligations. When required, ICB would be more than happy to assist in providing more detailed and further information regarding the subject matter of this client notice. Moreover, ICB can also create, and support our client's internal compliance teams in adequately holding and maintaining their envisaged UBO Records.

Contact Information?

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