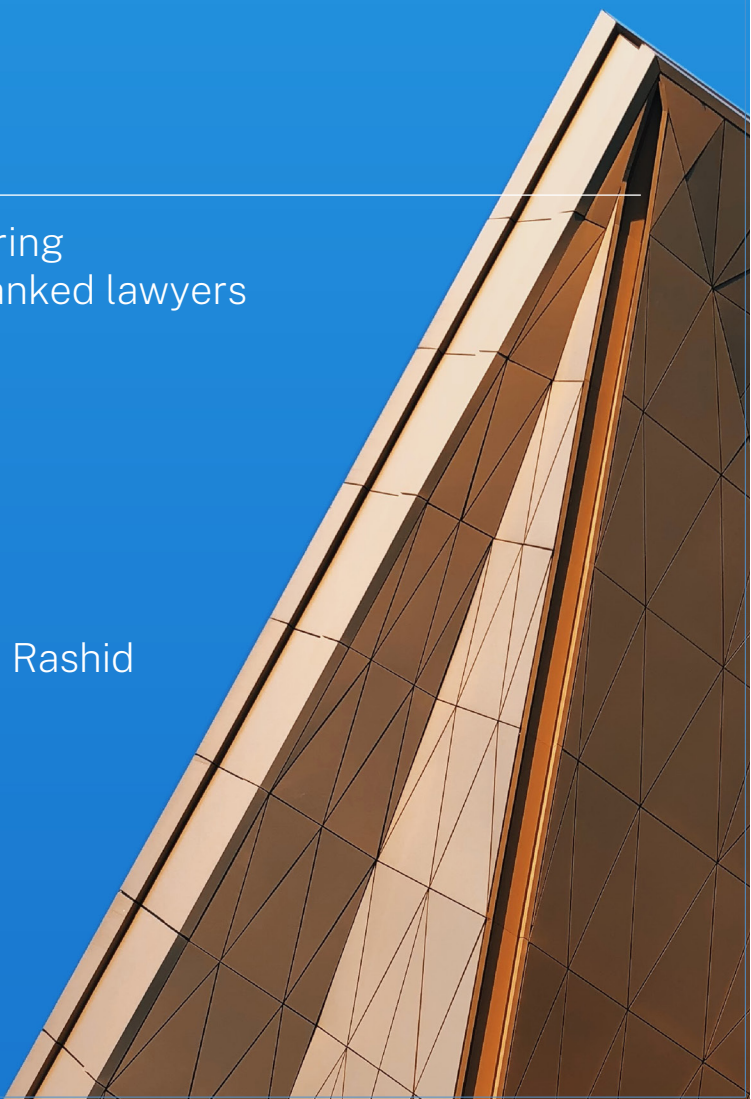

CHAMBERS GLOBAL PRACTICE GUIDES

Merger Control 2025

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Kuwait: Law & Practice

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GLA & Company provides strategic, cost-effective and forward-thinking legal representation for companies seeking to do business in the Middle East. The firm's practice encompasses all legal issues companies will likely encounter in the global business environment. With extensive experience in advising clients in the Gulf Cooperation Council (GCC) states of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE, it provides unique insights to companies seeking to establish or expand business opera-

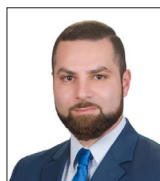
tions in these nations. The firm's emphasis is on getting deals cleared with the local competition authority and it has excellent relationships with regulators in the GCC. It has been successful in securing no objections from these bodies to clear deals. The firm's lawyers are intimately familiar with the governing sources of authority and routinely work with the relevant agencies, departments and committees on behalf of clients.

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1. Legislation and Enforcing Authorities

1.1 Merger Control Legislation

Merger control issues in Kuwait are governed by Law No 72 of 2020, which came into force on 1 November 2020. They are also governed by its regulations, which were ratified by the Kuwait Competition Protection Agency (the “Kuwait CPA”) under Resolutions No 14 of 2021, No 26 of 2021 and No 25 of 2022. Law No 72 of 2020 and its regulations are together referred to as the “Kuwait Competition Law”.

The Kuwait Competition Law repealed its predecessor, Law No 10 of 2007 and expanded on the governing rules that impact competition in the State of Kuwait. The Kuwait Competition Law does not prejudice the international treaties and agreements in force in the State of Kuwait. This means that those treaties and agreements with the Kuwaiti government supersede any provisions that would otherwise apply pursuant to the Kuwait Competition Law.

1.2 Legislation Relating to Particular Sectors

In addition to the Kuwait Competition Law, the following apply.

- The executive by-laws of the Kuwait Capital Markets Authority (the “Kuwait CMA”). These include particular disclosure requirements and other restrictions impacting transactions that are also subject to the Kuwait Competition Law. The Kuwait CMA governs companies that:
 - (a) are listed on the Kuwait stock exchange (the Boursa); or
 - (b) carry licences, such as investing, which are governed by the Kuwait CMA.

- The Central Bank of Kuwait (CBK) governs certain activities of financial institutions in Kuwait and carries its own set of regulations that must be complied with when the transaction concerns a bank or other financial institution regulated by the CBK.

1.3 Enforcement Authorities

The Kuwait CPA is an independent body established in line with the Kuwait Competition Law and is supervised by the Kuwait Minister of Commerce and Industry. The Kuwait CPA is the sole body responsible for reviewing and determining applications to approve economic concentrations or other anti-competitive practices. It is also solely responsible for enforcing the Kuwait Competition Law.

2. Jurisdiction

2.1 Notification

The Kuwait Competition Law requires an application to be submitted to the Kuwait CPA by persons involved in economic concentrations within at least 60 days from the date of the contract or agreement regarding the transaction, where the economic concentration meets specific thresholds established by the Kuwait CPA. The application must be submitted to the Kuwait CPA in the required form and the requirements under the Kuwait Competition Law. It must be approved by the Kuwait CPA before the economic concentration may be lawfully implemented. The Kuwait Competition Law provides relatively conservative thresholds for determining whether an application is required. These are as follows:

- where one of the parties to the concentration achieves annual sales in Kuwait exceeding KWD500,000, according to the audited finan-

- cial statements of the last fiscal year before the concentration;
- where the parties to the concentration collectively achieve aggregate annual sales exceeding KWD750,000, according to the audited financial statements of the last fiscal year before the concentration; and
- where the value of the registered assets of the parties to the concentration in Kuwait exceeds the value of KWD2.5 million, according to the audited financial statements of the last fiscal year before the concentration.

The Kuwait Competition Law exempts specific activities from being considered economic concentrations. These are as follows:

- banks, insurance companies and financial institutions whose activities include trading in securities are exempt, provided they do not exercise the substantive voting rights conferred by these securities. In order to be exempt, the security must generally be disposed of within one year from the date of acquisition;
- acquisitions resulting from insolvencies, defaults, debt restructuring, compositions with creditors or similar transactions are exempt; and
- restructuring within the same group of companies is exempt.

These activities will also not be considered economic concentrations.

- In cases of acquisition of control as a result of insolvency, default, debt rescheduling, settlements with creditors or analogous proceedings.
- In cases where the persons that form one economic group perform restructuring procedures within the same group.

Based on the authors' practical experience, an exemption for a client on the basis of restructuring procedures taking place within the same group may also be successfully obtained.

It is important to note that the persons desiring to perform an economic concentration, where an application is required, are forbidden from performing any actions or procedures to complete the concentration operations before the Kuwait CPA's determination is issued under the Kuwait Competition Law.

If the Kuwait CPA becomes aware of any steps taken towards completing a transaction before the appropriate clearance is obtained from the Kuwait CPA, penalties may be imposed.

2.2 Failure to Notify

The Kuwait CPA has the authority to independently initiate research, investigations, evidence collection and inquiries in line with the provisions of the Kuwait Competition Law. Any person may report any agreements, acts or actions that violate the Kuwait Competition Law.

The Kuwait Competition Law established a disciplinary board, which is responsible for deciding disciplinary actions referred to it by the Kuwait CPA in relation to violations of the Kuwait Competition Law and complaints filed by various stakeholders. The disciplinary board may impose financial penalties of no more than 10% of the total revenues earned by the parties to the economic concentration during the previous fiscal year in the event of failure to submit the application for concentration or for providing misleading or incorrect information on an application.

Since the issuance of the Kuwait Competition Law, the Kuwait CPA has consistently increased

its level of investigative activity, including, in one case, fining a steel distribution company KWD250,000. This was equivalent to 1% of the company's total revenues achieved during the fiscal year 2020/2021 and was imposed for the company's non-compliance with the Kuwait CPA's requests and persistent failure to provide the data and information requested for more than one month. In addition, the Kuwait CPA published a sanction on 30 March 2023 fining various food associations for abusing their dominant position.

The authors are aware of a local company that submitted their filing with inaccurate information, and that, as a result, the Kuwait CPA overseeing the matter appropriately disregarded the erroneous submission and directed the company to resubmit their filing with accurate information. This resulted in a major delay in obtaining clearance from the Kuwait CPA. The firm was engaged following the misfiling by another law firm in Kuwait and assisted the non-compliant company with making an appropriate filing with the Kuwait CPA.

Through the firm's relationship with the CPA, they are aware of instances where the CPA has sent out inquiry letters to companies outside of Kuwait, with no local presences, for potential gun jumping investigations.

While these sanctions are not specifically related to merger control, they serve as evidence of the Kuwait CPA's proactive approach to identifying violations and imposing penalties.

2.3 Types of Transactions

The following types of transaction are considered an economic concentration under the Kuwait Competition Law.

- The merger of two or more persons by amalgamation or by a combination or merger of parts of persons, resulting in acquiring control or acquiring more control (see 2.4 **Definition of "Control"**).
- The acquisition, by one or more persons, or direct or indirect control over the entire or parts of another, person or persons, whether by acquisition of any assets, property rights or usufructs by purchase of shares or liabilities or by any other means.
- The joint venture of two or more persons, resulting in performing, on a lasting basis, an autonomous economic or commercial activity, regardless of its legal form or the activity to be practised.

2.4 Definition of "Control"

Article 1 of the Kuwait Competition Law defines control as "the legal or contractual relationship which, either separately or in combination, results in exercising decisive influence".

2.5 Jurisdictional Thresholds

Article 3 of the Kuwait Competition Law applies to acts committed inside or outside the State of Kuwait whenever these acts prevent, restrict or distort free competition in the State of Kuwait.

Under Resolution No 26 of 2021, the current jurisdictional thresholds are as follows.

- Where one of the parties to the concentration achieves annual sales in Kuwait exceeding KWD500,000, according to the audited financial statements of the last fiscal year before the concentration.
- Where the parties to the concentration collectively achieve aggregate annual sales exceeding KWD750,000, according to the audited financial statements of the last fiscal year before the concentration.

- Where the value of the registered assets of the parties to the concentration in Kuwait exceeds the value of KWD2.5 million, according to the audited financial statements of the last fiscal year before the concentration.

2.6 Calculations of Jurisdictional Thresholds

The calculation of the thresholds appears to be based on the audited financial statements of the persons involved in the economic concentration, which will generally be the participants to the transaction. The Kuwait Competition Law does not specifically address the issue of currency conversion or whether to rely on the book or fair market value of the assets being appraised. In the authors' experience, clients have provided the value of assets on the basis of the audited financial statements submitted to the Kuwait CPA.

2.7 Businesses/Corporate Entities Relevant for the Calculation of Jurisdictional Thresholds

Based on the authors' experience, the Kuwait CPA primarily requires audited financial statements of the entities involved in a transaction to ensure the accuracy of the amounts provided. As a result, the authors recommend their clients provide precise audited financial statements, as the Kuwait CPA has zero tolerance for misleading or false information and will impose penalties.

2.8 Foreign-to-Foreign Transactions

In short, foreign-to-foreign transactions are subject to merger control and other measures. The Kuwait Competition Law applies to acts committed inside or outside the State of Kuwait whenever the acts prevent, restrict or distort free competition in the State of Kuwait.

2.9 Market Share Jurisdictional Threshold

The Kuwait Competition Law does not specify a market share jurisdictional threshold. However, disclosure of estimated market share is part of the notice application to the Kuwait CPA.

2.10 Joint Ventures

Joint ventures are subject to merger control. A joint venture of two or more persons, resulting in performing, on a lasting basis, an autonomous economic or commercial activity, regardless of its legal form or the activity to be practised, is considered an economic concentration. There are no other special rules provided for in the Kuwait Competition Law in terms of joint ventures.

2.11 Power of Authorities to Investigate a Transaction

The Kuwait Competition Law confers the capacity of law enforcement officers upon the employees of the Kuwait CPA. These officers are entitled to enter individual premises and workplaces to investigate violations of the Kuwait Competition Law. They are also entitled to access records, books and documents as well as to obtain information, data, documents and access to physical or electronic files held by a government or non-governmental body. In addition, they may seek the assistance of police officers when necessary.

2.12 Requirement for Clearance Before Implementation

Implementation of a transaction may not lawfully proceed before an approval is issued by the Kuwait CPA.

2.13 Penalties for the Implementation of a Transaction Before Clearance

The Kuwait CPA is entitled to take corrective action for violations of the Kuwait Competition

Law. Unfortunately, specific consequences for implementing a concentration before an approval from the Kuwait CPA, where an application is required, are not stated in the Kuwait Competition Law. The Kuwait CPA may order the unwinding of a transaction for failing to comply with the procedures stipulated in the Kuwait Competition Law.

The authors witnessed a situation in which a company that should have filed an application nonetheless proceeded to fulfil the completion obligations outlined under the transaction agreement, specifically regarding the transfer of shares, without filing with the Kuwait CPA. The Kuwait CPA became aware of this, and, as a consequence, that company is likely to be fined between 1% to 10% of its annual turnover. The matter is being referred to the disciplinary board of the Kuwait CPA for their deliberation.

2.14 Exceptions to Suspensive Effect

Unfortunately, there are no reliable sources of publicly available information on this issue.

2.15 Circumstances Where Implementation Before Clearance Is Permitted

While possible, the circumstances where the authorities will permit closing before clearance are not specifically laid out in the Kuwait Competition Law.

3. Procedure: Notification to Clearance

3.1 Deadlines for Notification

An application must be filed at least 60 days from the date of the contract or agreement regarding the transaction.

3.2 Type of Agreement Required Prior to Notification

No binding agreement is required before notification. It is sufficient for parties to file on the basis of a less formal agreement such as a letter of intent, memorandum of understanding or good faith intent by the parties to reach an agreement.

3.3 Filing Fees

There are filing fees and applications must be accompanied by a receipt of payment of a fee equal to the lesser of:

- one-tenth (0.1%) of the paid-up capital of both parties to the economic concentration; or
- of the combined assets of both parties in Kuwait, whichever is less and not exceeding KWD100,000.

It is worth noting the filing fees cannot be zero.

3.4 Parties Responsible for Filing

Persons directly involved in the economic concentration have to submit the application to the Kuwait CPA. These are typically the parties to the transaction agreement. Legal counsels usually handle the filing procedures on behalf of their clients through the use of powers of attorney.

3.5 Information Included in a Filing

An application requires a considerable amount of information and detail on the entities involved in the transaction and the subsequent financial consequences. An application requires the following information to be included (to the extent it is available and appropriate).

- An asset appraiser report provided that it belongs to one of the auditing offices approved by the CMA, with the relevant pay-

able fee being included (see 3.3 Filing Fees). However, this will only be required if the parties choose to submit filing fees based on their combined assets in Kuwait.

- The memorandum of association, articles of association, commercial register and commercial licences of the parties to the economic concentration.
- The names of the board members of each of the parties to the concentration or their legal representatives.
- Financial statements for the last two fiscal years for all relevant persons in the economic concentration's operation and their branches.
- A copy of the contract executed or in draft form and any other documents of a public or private offering and information on the number of shares or assets that will be acquired.
- A report containing the economic details of the proposed transaction.
- Fully completing the economic concentration application which must include:
 - (a) information about the concentration parties:
 - (i) the names of the parties of the concentration operation, memorandum of association, articles of association (if any), commercial licences and the commercial register;
 - (ii) the activity of the parties of the concentration operation;
 - (iii) the addresses, phone numbers and email addresses of the parties of the concentration operation;
 - (iv) the name, title, copy of ID, phone number and email address of the liaison officer for the parties of the concentration;
 - (v) the capital;
 - (vi) the most important customers and their percentages in the market;
 - (vii) the volume, value and percentage of

sales in the market; and
(viii) a description of competitors and their shares in the market.

(b) Data of the concentration operation:

- (i) the type of transaction (ie, merger, acquisition or joint venture);
- (ii) a description of whether the transaction relates to all or some parts of the parties to the economic concentration;
- (iii) a brief explanation of the economic and financial structure of the economic concentration;
- (iv) the proposed or estimated dates of any important procedures aimed at the completion of the concentration operation;
- (v) the proposed ownership structure and the decisive influence post-completion;
- (vi) the relevant products of the economic concentration, its volume and percentage of sale;
- (vii) the relevant market and its volume;
- (viii) the products in which the applicants deal;
- (ix) the positive economic impacts of the transaction;
- (x) the negative effects of the transaction and the proposed procedures to mitigate these effects;
- (xi) the markets affected by the transaction;
- (xii) the factors influencing market access;
- (xiii) the nature of the distribution channels;
- (xiv) the factors affecting price fixation over the last five years;
- (xv) the volume of available productive capacity and percentage of usage;
- (xvi) the volume of demand for products

- and its structure;
- (xvii) alternative products; and
- (xviii) the concentration value in Kuwaiti dinars, provided that it includes the purchase rate and the value of all relevant assets.

(c) Ownership and decisive influence:

- (i) all persons who have a decisive influence on participants in the economic concentration, directly or indirectly, will be determined and the nature of the influence and its methods will be described; and
- (ii) all persons dealing in any affected market where participants in the concentration operation or any other person, enjoy a decisive influence on that market, directly or indirectly, the nature and methods of the influence will be described.

3.6 Penalties/Consequences of Incomplete Notification

The Kuwait CPA will typically notify the applicants of additional information required. Otherwise, failure to provide a complete application may result in the Kuwait CPA issuing a denial or other corrective action it considers appropriate.

When the Kuwait CPA requests additional information, the duration of the review process of the concentration application pauses and resumes once the information is received and is accepted by the Kuwait CPA.

3.7 Penalties/Consequences of Inaccurate or Misleading Information

The disciplinary board may impose financial penalties of no more than 10% of the total revenues earned by the parties to the concentration during the previous fiscal year in the event that

the application contains misleading or incorrect information.

3.8 Review Process

Once an application is submitted, the chairman of the Kuwait CPA must refer the application to the executive director of the Kuwait CPA within five days, plus any additional time if additional information is requested from the applicants.

The executive director then has 90 days to study the application and prepare a report which will then be submitted to the board of the Kuwait CPA. The board of the Kuwait CPA may extend this 90-day limit if they receive a request from the executive director of the Kuwait CPA. During this phase, the executive director:

- ensures that the fees paid are consistent with the requirements;
- may require additional documents, information or data considered necessary for studying the application;
- notifies persons the executive director considers to be affected by the approval of the economic concentration application to enable them to submit any objections or documents they may have;
- publishes a summary of the economic concentration application on the website of the Kuwait CPA and in the official gazette and two local daily Arabic newspapers for any potential third-party objections;
- holds hearings with the applicants (and others as appropriate); and
- seeks the help of any expert and local or international companies that are specialised in examining the application or obtains any information from third parties as appropriate.

In the event of an objection from a third party, the time to consider and decide on this does

not count towards the 90-day period otherwise imposed on the executive director of the Kuwait CPA during their review phase.

Following completion of the executive director's review, a report will be issued to the chairman of the Kuwait CPA containing details of the application, a description of all facts and procedures taken with respect to the application, an evaluation of the application from both a legal and economic standpoint and a recommendation.

The chairman of the Kuwait CPA presents the application to the Kuwait CPA's board, who will in turn decide on the application within 30 days of the date of the chairman's presentation. The board may decide to:

- approve the economic concentration application;
- conditionally approve the economic concentration application; or
- reject the economic concentration application, provided that the decision is justified.

Once a decision is made, the executive director must inform the stakeholders within 15 days of the date of the board's decision.

The total timeframe for a decision to be rendered from the time an application is properly submitted is estimated to be four months. However, the actual time, may vary depending on follow-up requests for additional information, requests for additional time by the executive director or objections raised by third parties.

3.9 Pre-Notification Discussions With Authorities

Pre-notification discussions with authorities can be engaged in. Any person who desires to enter into an economic concentration may apply for a

meeting before submitting an application. There is no particular obligation of confidentiality provided for in the Kuwait Competition Law. Under Resolution No 24 of 2021, the pre-notification fee is KWD250.

3.10 Requests for Information During the Review Process

Requests for information are common and are expected depending on the extent of the application submitted. These types of requests will effectively suspend the time otherwise imposed on the Kuwait CPA to process an application.

3.11 Accelerated Procedure

There is no formal method for expediting or accelerating the procedure of review of an economic concentration application.

4. Substance of the Review

4.1 Substantive Test

When considering an application, the Kuwait CPA considers the following standards.

- Maintaining and encouraging effective competition amongst competitors in the market.
- Enhancing the interests of consumers with respect to quality and price of the relevant products.
- Encouraging, through competition, the reduction of costs, developing new products and facilitating access to the market for new competitors.

The executive director, during their review, takes the following elements into account.

- Studying the products according to the following:

- (a) comparing the products subject to the transaction with other similar products in the market; and
- (b) the availability of substitute products to consumers.
- Determining the possibility of competition within a relevant geographical area with the following standards in mind:
 - (a) the ability of the consumer to move from one geographical area to another;
 - (b) the ability of vendors to make changes based on the movement of purchasers between various geographical areas due to the relative change in the prices or other competitive factors;
 - (c) barriers to entering the relevant market;
 - (d) costs of moving between geographical areas; and
 - (e) customs and administrative restrictions at the local and foreign levels.
- The market share of the relevant persons.
- Revenues and assets of relevant persons.
- Actual or possible competitiveness in the relevant market.
- The extent of ease of entry into the relevant market.
- The possible influence on prices of relevant commodities or services.
- The barriers to entry affecting new or potential competitors.
- The possibility that a dominant position in the relevant market is created.
- The possible influence on creativity, innovation and technological efficiency.
- The extent of the impact on investment or export encouragement.
- The impact on consumers' interests.

4.2 Markets Affected by a Transaction

Unfortunately, at this stage the regulations do not provide much guidance on this issue. The Kuwait Competition Law provides that the rel-

evant geographical area is the area where the products regarded as interchangeable are substituted. It also provides that the relevant products are products which are regarded as interchangeable or substitutable in terms of meeting the needs of the recipient of the service or the commodity.

4.3 Reliance on Case Law

Unfortunately, at this stage the regulations do not provide guidance on this issue. However, it is likely that case law will play a relatively small role in influencing the enforcement of the Kuwait Competition Law.

4.4 Competition Concerns

See 4.1 Substantive Test.

4.5 Economic Efficiencies

The Kuwait CPA considers the possible influence of economic efficiencies. However, the extent of this consideration is not apparent.

4.6 Non-Competition Issues

There are no formally approved additional considerations that the Kuwait CPA may take into account where the considerations fall outside of the scope of the application of the Kuwait Competition Law.

4.7 Special Consideration for Joint Ventures

There are no other special rules provided for in the Kuwait Competition Law pertaining to joint ventures in particular.

5. Decision: Prohibitions and Remedies

5.1 Authorities' Ability to Prohibit or Interfere With Transactions

The Kuwait CPA has the authority to take corrective actions for violations of the Kuwait Competition Law.

5.2 Parties' Ability to Negotiate Remedies

The Kuwait CPA may, at any stage of the procedures taken against the violator and until a decision is issued by the disciplinary board or a final judgment, offer settlement or accept it according to the template prepared for this purpose with any person who committed one of the violations stipulated in the law, for the payment of an amount that is not less than the dedicated minimum fine and will not exceed the maximum fine.

The Kuwait CPA will determine the period during which the violator should fulfil the settlement conditions. Where the settlement is completed, the procedures taken against the violator expire.

A settlement request may also be submitted by the violator or their legal representative to the Kuwait CPA. The Kuwait CPA will examine the request and assess its value without affecting the rights of the person who is affected by the violation.

5.3 Legal Standard

In order to offer or accept a settlement, the following conditions must be met.

- No violation decision must have been issued unless a final judgment has been issued for the violation where the violator appeals the

disciplinary board decision (in a timely manner).

- The value of the settlement must not be less than half of, or greater than, the maximum penalty.

5.4 Negotiating Remedies With Authorities

There is no formal initiation point for when parties may begin negotiating remedies with the authorities. The Kuwait CPA may propose its own remedy and may also impose other remedies it has the authority to even if they have not been agreed to by the parties.

5.5 Conditions and Timing for Divestitures

Unfortunately, there are no reliable sources of publicly available information on this issue.

5.6 Issuance of Decisions

Formal decisions permitting or prohibiting transactions are made publicly available. The decisions of the Kuwait CPA are generally published on the CPA's website.

5.7 Prohibitions and Remedies for Foreign-to-Foreign Transactions

Unfortunately, there are no reliable sources of publicly available information on this issue.

6. Ancillary Restraints and Related Transactions

6.1 Clearance Decisions and Separate Notifications

Unfortunately, there are no reliable sources of publicly available information on this issue. The Kuwait CPA, in the event it issues a conditional approval, will outline the conditions regarding this.

7. Third-Party Rights, Confidentiality and Cross-Border Co-Operation

7.1 Third-Party Rights

During the review process by the Kuwait CPA, a summary of the application is published on the website of the Kuwait CPA and in the official gazette and two local daily Arabic newspapers.

Every interested party is entitled to submit a justified objection to the Kuwait CPA against the economic concentration application within 15 days of the date of notice or publication. If an objection is filed, the applicant has 15 days from the date of notice of the objection, to provide its statements and documents in reply to the objection. The review process and timeframe are effectively paused from the time an objection is filed to the time a decision is reached by the Kuwait CPA on the matter.

7.2 Contacting Third Parties

During the review process by the Kuwait CPA, a summary of the application is published on the website of the Kuwait CPA as well as in the official gazette and two local daily Arabic newspapers.

The Kuwait CPA is also permitted to notify persons it considers to be affected by the approval of the economic concentration application. These persons will then have 15 days from the date of being notified, or the date of publication of the summary of the application, whichever is earlier, to lodge any objections they may have.

7.3 Confidentiality

The economic concentration applicant may want the data included in the application and the attached documents to be treated as confidential. On this basis, they may mark the appli-

cation as “Confidential” and attach a statement in support of keeping the application or its contents confidential. In these circumstances, they should provide non-confidential summaries that provide a sufficient understanding of the content of the confidential data and mark these summaries as “Not Confidential”.

The Kuwait CPA ultimately determines whether, or to what extent, to hold information contained in an application as confidential in line with controls set by its board of directors.

7.4 Co-Operation With Other Jurisdictions

There is no clear indication of the level or extent of co-operation between the Kuwait CPA and other jurisdictions. However, the Kuwait Competition Law is subject to international treaties or agreements entered into by the State of Kuwait (see 1.1 Merger Control Legislation).

Therefore, to the extent a treaty provides for the co-operation by the State of Kuwait with other jurisdictions and to the extent relevant to the Kuwait Competition Law, those conditions will apply.

8. Appeals and Judicial Review

8.1 Access to Appeal and Judicial Review

A final decision by the Kuwait CPA may be appealed through the judicial system in Kuwait by way of a formal writ of summons against the Kuwait CPA. There is a dedicated department within the court system which is devoted to complaints filed involving governmental authorities.

8.2 Typical Timeline for Appeals

The timeframe for a case filed against a governmental authority varies on a case-by-case basis. However, it may last more than one year in the court system.

8.3 Ability of Third Parties to Appeal Clearance Decisions

Assuming that a third party made a proper objection during the review phase of an application, the decision made by the Kuwait CPA may be appealed by that third party. However, it is highly unlikely that the appeal will pause the review process.

9. Foreign Direct Investment/ Subsidies Review

9.1 Legislation and Filing Requirements

There are no other special rules provided for in the Kuwait Competition Law pertaining to foreign direct investment or foreign subsidies legislation with respect to economic concentration filing.

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